

# STATE OF NEW YORK

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2679

2023-2024 Regular Sessions

## IN SENATE

January 24, 2023

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Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT in relation to authorizing and empowering CREF to combine with TIAA, with TIAA continuing in existence as the surviving entity following such combination and with CREF ceasing to be a corporate entity; and to repeal chapter 124 of the laws of 1952, relating to incorporating the college retirement equities fund for the benefit of the teaching profession

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Chapter 124 of the laws of 1952, relating to incorporating  
2 the college retirement equities fund for the benefit of the teaching  
3 profession, is REPEALED.
- 4 § 2. Definitions. For purposes of this act the following terms shall  
5 have the following meanings:
- 6 (a) "CREF" shall mean the College Retirement Equities Fund, formed  
7 pursuant to chapter 124 of the laws of 1952 as a companion organization  
8 to TIAA for the issuance of variable annuity contracts;
- 9 (b) "CREF Board of Governors" shall mean the individuals designated as  
10 governors of CREF, pursuant to chapter 124 of the laws of 1952, who are  
11 the sole members of CREF;
- 12 (c) "Plan of Combination" shall mean the agreement and plan of combi-  
13 nation of TIAA and CREF adopted and approved in accordance with the  
14 provisions of this act;
- 15 (d) "Superintendent" shall mean the superintendent of the New York  
16 state department of financial services;
- 17 (e) "TIAA" shall mean the Teachers Insurance and Annuity Association  
18 of America, an insurance company formed pursuant to the laws of New  
19 York;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (f) "TIAA Board of Governors" shall mean the corporation formed pursu-  
2 ant to chapter 880 of the laws of 1937, which is the sole owner of the  
3 issued and outstanding stock of TIAA; and

4 (g) "TIAA Separate Account" shall mean the separate account of TIAA  
5 created in connection with the Plan of Combination.

6 § 3. (a) Subject to the provisions of this act and the terms set forth  
7 in the Plan of Combination, CREF is hereby authorized and empowered to  
8 combine with TIAA, with TIAA continuing in existence as the surviving  
9 entity following such combination and with CREF ceasing to be a corpo-  
10 rate entity. TIAA shall continue to be an insurance company established  
11 pursuant to the laws of the state of New York. The TIAA Separate Account  
12 shall be subject to the insurance laws of the state of New York, and  
13 neither the combination nor any transactions contemplated by the Plan of  
14 Combination shall subject TIAA, as the surviving entity, or the TIAA  
15 Separate Account, to the not-for-profit corporation law. The TIAA Board  
16 of Governors shall remain subject to the not-for-profit corporation law.

17 (b) Such combination shall be deemed a merger under the laws of the  
18 state of New York, including any laws applicable to insurance companies  
19 or not-for-profit corporations, and shall be approved by not less than  
20 two-thirds of the individual governors of the CREF Board of Governors as  
21 the sole members of CREF, and not less than two-thirds of the individual  
22 members of the TIAA Board of Governors as the sole shareholder of TIAA.  
23 Thereafter, the Plan of Combination shall be submitted to the Super-  
24 intendent for approval. Following the receipt of all necessary corpo-  
25 rate and regulatory approvals, including authorization by the TIAA and  
26 CREF Boards of Governors and TIAA and CREF boards of trustees, a certi-  
27 fied copy of the Plan of Combination with the approval of the Super-  
28 intendent endorsed thereon shall be filed in the office of the clerk of  
29 New York County, and upon such filing the combination shall become  
30 effective.

31 § 4. (a) At the effective time of and pursuant to the Plan of Combina-  
32 tion, all assets and liabilities of CREF including causes of action and  
33 defenses thereto, shall vest by operation of law in TIAA, and all vari-  
34 able annuity contracts and certificates issued by CREF and in force at  
35 the effective time of the combination, shall be and become TIAA variable  
36 annuity contracts and certificates as of the effective time of the  
37 combination; provided, however, that at the effective time of the combi-  
38 nation (i) without further act or deed, the assets and liabilities of  
39 CREF relating to the outstanding variable annuity contracts and certif-  
40 icates of CREF shall immediately be assets and liabilities of and allo-  
41 cated to the TIAA Separate Account without such assets becoming general  
42 account assets of TIAA; and (ii) each investment account of CREF imme-  
43 diately prior to the combination shall comprise an investment sub-ac-  
44 count of the TIAA Separate Account, with the assets and liabilities of  
45 each such investment account vesting immediately and directly in that  
46 investment sub-account.

47 (b) At the effective time, TIAA shall assume the obligations of the  
48 CREF contracts and certificates, and all holders of CREF contracts and  
49 certificates shall be notified of the combination.

50 (c) At all times, the assets of the TIAA Separate Account, and of each  
51 investment sub-account, shall be segregated from the assets of the  
52 general account of TIAA and any other TIAA separate account and invest-  
53 ment sub-account. That portion of the assets of the TIAA Separate  
54 Account, and of each investment sub-account, not exceeding the reserves  
55 and other contract liabilities with respect to the TIAA Separate Account  
56 and each investment sub-account, shall not be chargeable with liabil-

ities arising out of any other business of TIAA. The income, gains and losses, whether or not realized, from assets allocated to the TIAA Separate Account, and each investment sub-account, shall be credited to or charged against the TIAA Separate Account and each investment sub-account without regard to other income, gains or losses of TIAA.

§ 5. This act shall take effect immediately, provided, however, that section one of this act shall take effect at the effective time of the combination of TIAA and CREF pursuant to this act, and provided further, that the Superintendent of the New York state department of financial services shall notify the legislative bill drafting commission upon the occurrence of such effective time in order that the commission may maintain an accurate and timely database of the official text of the laws of the State of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.