

CHAPTER 784/51

NEW YORK STATE **DEFENSE EMERGENCY ACT**

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ARTICLE 1

Short Title; Definitions

Section 1. Short title.

2. Declaration of purpose and findings.

2-a. Further declaration of purpose and findings relating to the protection of the people in the event of nuclear attack and recovery and rehabilitation after attack.

3. Definitions.

Section 1. Short title. This act shall be known and may be cited and referred to as the "New York state defense emergency act."

§ 2. Declaration of purpose and findings. The legislature hereby finds that there exists a serious danger that this state will be subjected to enemy attack, including attack by atomic bombs or other radiological weapons.

On December sixteenth, nineteen hundred fifty, because of the grave threat to national security, the president of the United States declared

a state of national emergency, summoning all state and local leaders and officials to cooperate fully with the military and civil defense agencies of the United States.

The federal civil defense act of nineteen hundred fifty passed by congress on January second, nineteen hundred fifty-one and signed by the president on January twelfth, nineteen hundred fifty-one, as amended by public law eighty-five-six hundred six declares it to be the policy and intent of the congress that the responsibility for civil defense shall be vested jointly in the federal government and the states and their political subdivisions.

Nations with communist governments presently dominate one-third of the population of the world. Some of these nations have aided and assisted the nations which have perpetrated aggression in Korea. Acts of communist aggression have occurred in other parts of Asia and in Europe.

These communist governments have conducted incessant propaganda attacks upon the United States and have engaged in repeated demonstrations of hostility. The president of the United States has stated that in one of these nations there has occurred an atomic explosion. Our military leaders have informed us that these nations possess bombers capable of flying an atomic bomb to any point in the state of New York.

The national security resources board has in its plan for organizing civil defense stated that an atomic bomb exploded in a large city can destroy virtually all property and lives within a radius of three-fourths of a mile from the point of explosion and cause great damage at even greater distance. It is estimated that a single such explosion would kill nearly eighty thousand persons and severely injure many more.

In view of the professed determination of the government of the United States to resist further communist aggression, and because of the likelihood of resort to atomic and radiological weapons in the event of further conflict between this nation and communist aggressors, the peril

to the people of this state is sufficiently great that the precautions embodied in this act must be taken.

The present inadequate size of our armed forces, their lack of equipment, critical shortages in essential goods and certain production facilities make necessary intensified mobilization to the end that the defense of the United States be strengthened as speedily as possible. Under all of the circumstances it is obvious that the enormity of the defense effort which must be made by the United States will cause great dislocation to its normal economy. One of the further purposes of this act is to minimize the hardship resulting from these dislocations, and to permit the fullest participation by the people of this state in the defense effort.

It is the purpose of this legislation to meet these dangers and problems with the least possible interference with the existing division of the powers of the government and the least possible infringement of the liberties of the people, including the freedom of speech, press and assembly.

§ 2-a. Further declaration of purpose and findings relating to the protection of the people in the event of nuclear attack and recovery and rehabilitation after attack. The legislature hereby finds and declares that the aggressive forces of communism are employing threats of nuclear attack to achieve their plan and purpose of world domination and to confound the aspirations of free people everywhere. It is increasingly apparent that effective fallout protection as an integral part of a strong civil defense is essential to the nation's military defense, to our negotiating strength, to the deterrence of nuclear aggression and to our resistance to nuclear blackmail. In the event of attack, fallout protection and a comprehensive civil defense program are essential to minimize injury and loss of life and to make possible the recovery of the people, the restoration and rehabilitation of the state's economy and the preservation of the spiritual, cultural and political heritage of our nation.

The entire population of the state is now exposed and vulnerable to death or disability from any nuclear attack that might be launched against us. While the radioactive fallout which follows the explosion of nuclear weapons would create the most widespread danger faced by our population in the event of a nuclear attack, the means for protecting the state's population from such fallout are known and are feasible.

In furtherance of the national goal declared by the president of the United States to reach for fallout protection for every American as rapidly as possible and as an integral part of the state's comprehensive civil defense program, a major objective of the state is to have for each person in the state of New York fallout protection ready and adequate for survival, which will make possible recovery and rehabilitation in the event of nuclear attack.

This objective can be achieved only by a cooperative effort which mobilizes the resources of individuals, business, labor, agriculture and other private groups and government at every level--federal, state and local. All levels of government must recognize and accept their mutual obligations to plan, encourage and assist the orderly establishment of adequate fallout shelters, readily accessible to all the people, but the effectiveness of the joint effort, public and private, to protect against the dangers of nuclear attack will depend in large measure on the success and vigor with which local communities and families organize for their survival.

The state must give leadership and direction in this important task of establishing a strong civil defense and achieving fallout protection for each person in the state. To this end the legislature has established a broad coordinated civil defense program.

A primary consideration in this program for survival and recovery of our state following a nuclear attack is the necessity for preservation of our young people. Therefore, as an essential part of the coordinated civil defense effort in each community, the authorities of public and private schools, colleges and universities should provide fallout protection in or near their buildings and the state should encourage and

assist financially through state civil defense aid the development of such fallout protection. The state, by fostering fallout protection at the schools, colleges and universities scattered over the length and breadth of the state in every community, will not only aid in providing protection for our young people but will also thereby provide a direction and an awareness of the need for public and private action in support of the civil defense effort.

In addition, as a part of this program, the state should

- encourage and assist private individuals to provide adequate shelter protection for their families, either singly or in groups;

- encourage and foster the construction of shelters in all publicly-assisted housing;

- encourage and assist landlords and employers to provide shelter protection for their tenants and employees;

- encourage local officials and community leaders, within the framework of a coordinated civil defense plan, to take positive steps to promote and assist the development of shelter protection by the citizens individually and collectively in each locality; and

- construct and install shelters on state-owned property to provide protection for state workers and other occupants.

Furthermore, the state must cooperatively supplement the program being provided and developed by the federal government and the state must share with the federal government the responsibility of insuring that all protective measures adopted reflect the latest techniques and developments available.

At all times the objectives and planning of civil defense should be directed to the survival not only of the people of the state but of their way of life. Intensive efforts must be made to establish the means and methods which will, in the event of nuclear attack, make possible the recovery of the people and the rehabilitation of the economic and social life of the state following any such attack.

§ 3. Definitions. As used in this act the following terms shall mean

and include:

1. "Agency." An office, department, division, bureau, board or commission of the state or of a political subdivision thereof, including volunteer agencies.

2. "Attack." Any attack, actual or imminent, or series of attacks by an enemy or a foreign nation upon the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, shellfire, or nuclear, radiological, chemical, bacteriological, or biological means or other weapons or processes.

3. "City director." The director of civil defense heading a city office.

4. "City office." A city office of civil defense or a consolidated city office of civil defense.

5. "Civil defense." All those activities and measures designed or undertaken (1) to minimize the effects upon the civilian population caused or which would be caused by an attack, (2) to deal with the immediate emergency conditions which would be created by any such attack, and (3) to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by any such attack. Such term shall include, but shall not be limited to, (A) measures to be taken in preparation for anticipated attack (including the establishment of appropriate organizations, operational plans, and the supporting agreements; the recruitment and training of personnel; the conduct of research; the procurement and stockpiling of materials necessary to the survival, recovery and rehabilitation of the state and of its inhabitants; the provision of suitable warning systems; the construction or preparation of shelters and control centers; provisions for the continuity of state and local governments; and, when appropriate, the non-military evacuation of civil population); (B) measures to be taken during attack (including the enforcement of passive defense regulations prescribed by duly established military or civil

authorities; the movement of personnel to shelters; the control of traffic and panic; and the control and use of lighting and civil communications); and (C) measures to be taken following attack (including but not limited to activities for fire fighting; rescue, emergency medical, health and sanitation services; monitoring for radiation and other specific hazards of special weapons; decontamination procedures; unexploded bomb reconnaissance; essential debris clearance; emergency welfare measures; immediately essential emergency repair or restoration of damaged vital facilities; the implementation of the means and methods for the recovery and rehabilitation of the state; effective utilization of all persons and materials; care and shelter for those made homeless; distribution of stockpiled food, water, medical supplies, machinery and other equipment; the preservation of raw materials; the restoration of essential community services, industrial and manufacturing capacity, and commercial and financial activities in the state; and the resumption of educational programs).

6. "Civil defense forces." Agencies, public officers, employees, and enrolled civil defense volunteers, all having duties and responsibilities under or pursuant to this act in connection with civil defense.

7. "Commission." The state civil defense commission created by article three of this act.

8. "Communication facility" or "communication device" shall not mean or include a newspaper.

9. "Council." The New York state defense council created by article two of this act.

10. "County director." The director of civil defense heading a county office.

11. "County office." A county office of civil defense or a consolidated county office of civil defense.

12. "Defense effort." The preparation of the United States and other nations cooperating with it for defense against attack and for the conduct of war.

13. "Defense emergency." The period beginning with the effective date of this act and ending upon the termination of the national emergency as proclaimed by the president of the United States on December sixteenth, nineteen hundred fifty.

14. "Drill." Any duly authorized activity of the state civil defense commission or a local office of civil defense, or subdivision, service or unit thereof, with or without the participation of the general public, held in training or preparation for enemy attack or for rehabilitation and recovery procedures following an attack. Drill is synonymous with authorized test, training, or training or practice exercise. Drill includes assistance by civil defense forces in combating natural or peacetime disasters upon the direction of a public officer authorized by law to call upon a civil defense director for assistance in protecting human life or property.

15. "Facilities." Buildings, shelters, utilities, and land.

16. "Fallout shelter." A building, structure or other real property, or an area or portion thereof, so constructed, altered or improved as to provide protection against harmful radiation resulting from radioactive fallout in accordance with the plan, regulations or orders of the commission pertaining thereto, including such plumbing, heating, electrical, ventilating, conditioning, filtrating and refrigerating equipment and other mechanical additions or installations, if any, as may be an integral part thereof.

17. "Law." A general or special statute, law, city or village charter, local law, ordinance, resolution, rule, regulation, order or rule of common law.

18. "Local director." A county director or a city director.

19. "Local office." A county office or a city office.

20. "Materials." Raw materials, food, water, supplies, medicines, machinery, equipment, component parts and technical information and processes necessary for civil defense.

21. "Municipal agency." An agency of a political subdivision responsible for police, fire, sanitation, public works, street, sewer, water, health, emergency or other services involving duties and responsibilities in connection with civil defense.

22. "Political subdivision." A county, town, city, village, school district or other district, district corporation or public benefit corporation.

23. "Shelter." A building, structure or other real property, or an area or portion thereof, which is to be used for the protection of persons during or after an attack, including such services, utilities and equipment, if any, as may be an integral part thereof.

24. "State director." The New York state director of civil defense.

25. "Volunteer agencies." Agencies sponsored or authorized by the commission or local offices of civil defense the personnel of which are in major part selected from among volunteer persons serving without compensation and may include wardens, shelter captains, warning services, auxiliary police, auxiliary firemen, bomb squads, radiological units and personnel, rescue squads, emergency medical units and other medical forces, nurses' aides, repair crews, monitoring and decontamination squads, demolition crews and all other similar forces and services having duties and responsibilities in connection with civil defense.

ARTICLE 1-A

§ 5. Persons eligible to succeed governor. If, as a result of an attack or a natural or peacetime disaster, the office of governor becomes vacant and each of the lieutenant governor, the temporary president of the senate and the speaker of the assembly is unable to discharge the powers and duties of the office of governor or is absent from the state, then the officer of the state who is (a) highest in order of the following list, (b) not otherwise unable to discharge such powers and duties, and (c) not absent from the state, shall act as governor: attorney general, comptroller, commissioner of transportation, commissioner of health, commissioner of commerce, industrial commissioner, chairman of the public service commission, secretary of state.

§ 6. An individual who is acting as governor under this article shall continue to do so until the vacancy in the office of governor shall be filled by election or by the qualification of the lieutenant governor, the temporary president of the senate or the speaker of the assembly. The removal of a disability or the termination of an absence from the state of an officer higher on the list contained in section one of this article shall not terminate the service in the office of governor of such individual who is acting as governor.

ARTICLE 2

State Defense Council

Section 10. State defense council established.

11. Organization.

12. Powers of council.

13. Utilization of existing services and facilities.

14. Assistance of political subdivisions.

15. Local defense councils.

§ 10. State defense council established. There is hereby created and established a temporary state commission to be known as the New York state defense council.

§ 11. Organization. 1. a. The council shall consist of the governor, the lieutenant-governor and the attorney-general; the temporary president of the senate, the minority leader of the senate and the chairman of the senate finance committee; the speaker of the assembly, the majority leader of the assembly, the minority leader of the assembly and the chairman of the assembly ways and means committee; the chairman of the state civil defense commission; and twelve persons to be appointed by the governor by and with the advice and consent of the senate. Except as hereinafter provided in this subdivision, such temporary president and minority leader of the senate, chairman of the senate finance committee, speaker, majority leader and minority leader of the assembly and chairman of the assembly ways and means committee shall each hold office until his successor has been elected or appointed, as the case may be. Such members appointed by the governor shall hold office during the pleasure of the governor. The governor shall serve as chairman of the council and he may designate a member of the council to act as vice-chairman.

b. Within ten days after the date this paragraph becomes effective, and annually thereafter on or before the fifteenth day of January, the temporary president of the senate shall file with the governor (1) a list containing the names of three members of the senate designated by the temporary president to act in his place and stead as a member of the council, in the order in which such names appear on the list, in the event a vacancy shall occur in the office of temporary president, or he is unable to discharge the powers and duties of his office or is absent from the state, and (2) a list containing the names of three members of the senate designated by the temporary president to act in the place and stead of the chairman of the senate finance committee as a member of the council, in the order in which such names appear on the list, in the event a vacancy shall occur in the office of such chairman, or he is unable to discharge the powers and duties of his office or is absent from the state. A member of the senate who is acting as a member of the council pursuant to this paragraph shall possess and discharge all the powers and duties of his principal, provided, however, that he shall be

disqualified from so acting upon the occurrence of either of the following events: (1) that he has vacated, or is unable to discharge the powers and duties of, the office of member of the senate or is absent from the state, or (2) that the vacancy, disability or absence of his principal or of the member of the senate in whose place he is serving, as the case may be, has ceased to exist.

c. Within ten days after the date this paragraph becomes effective, and annually thereafter on or before the fifteenth day of January, the minority leader of the senate shall file with the governor a list containing the names of three members of the senate designated by the minority leader to act in his place and stead as a member of the council, in the order in which such names appear on the list, in the event a vacancy shall occur in the office of minority leader, or he is unable to discharge the powers and duties of his office or is absent from the state. A member of the senate who is acting as a member of the council pursuant to this paragraph shall possess and discharge all the powers and duties of his principal, provided, however, that he shall be disqualified from so acting upon the occurrence of either of the following events: (1) that he has vacated, or is unable to discharge the powers and duties of, the office of member of the senate or is absent from the state, or (2) that the vacancy, disability or absence of his principal or of the member of the senate in whose place he is serving, as the case may be, has ceased to exist.

d. Within ten days after the date this paragraph becomes effective, and annually thereafter on or before the fifteenth day of January, the speaker of the assembly shall file with the governor (1) a list containing the names of three members of the assembly designated by the speaker to act in his place and stead as a member of the council, in the order in which such names appear on the list, in the event a vacancy shall occur in the office of speaker, or he is unable to discharge the powers and duties of his office or is absent from the state, and (2) a list containing the names of three members of the assembly designated by the speaker to act in the place and stead of the majority leader of the assembly as a member of the council, in the order in which such names appear on the list, in the event a vacancy shall occur in the office of

majority leader, or he is unable to discharge the powers and duties of his office or is absent from the state, and (3) a list containing the names of three members of the assembly designated by the speaker to act in the place and stead of the chairman of the assembly ways and means committee as a member of the council, in the order in which such names appear on the list, in the event a vacancy shall occur in the office of such chairman, or he is unable to discharge the powers and duties of his office or is absent from the state. A member of the assembly who is acting as a member of the council pursuant to this paragraph shall possess and discharge all the powers and duties of his principal, provided, however, that he shall be disqualified from so acting upon the occurrence of either of the following events: (1) that he has vacated, or is unable to discharge the powers and duties of, the office of member of the assembly, or is absent from the state, or (2) that the vacancy, disability or absence of his principal or of the member of the assembly in whose place he is serving, as the case may be, has ceased to exist.

e. Within ten days after the date this paragraph becomes effective, and annually thereafter on or before the fifteenth day of January, the minority leader of the assembly shall file with the governor a list containing the names of three members of the assembly designated by the minority leader to act in his place and stead as a member of the council, in the order in which such names appear on the list, in the event a vacancy shall occur in the office of minority leader, or he is unable to discharge the powers and duties of his office or is absent from the state. A member of the assembly who is acting as a member of the council pursuant to this paragraph shall possess and discharge all the powers and duties of his principal, provided, however, that he shall be disqualified from so acting upon the occurrence of either of the following events: (1) that he has vacated, or is unable to discharge the powers and duties of, the office of member of the assembly or is absent from the state, or (2) that the vacancy, disability or absence of his principal or of the member of the assembly in whose place he is serving, as the case may be, has ceased to exist.

2. The members of the council shall serve without compensation, but shall be reimbursed for their traveling and other expenses, within and

without the state, actually and necessarily incurred by them in the performance of their duties under this act.

3. The council may employ such officers, including counsel, and such other technical, clerical, stenographic and other employees or assistants as it may require, prescribe their powers and duties, and fix their compensation within available appropriations.

4. The council shall meet on the first Wednesday of each month, if called by the chairman, and at such other times and at such places as the chairman may direct. The council may prescribe the manner in which it may be convened in case the chairman is unable to discharge the duties of his office. A majority of the members of the council shall constitute a quorum, excepting that in the event of attack any number of members attending a meeting shall constitute a quorum with the consent of the governor.

5. No part of any moneys appropriated to the council may be expended except pursuant to resolution of the council. The council may allocate out of the appropriations made available to it moneys for functions, activities, facilities or services authorized by it and authorize the expenditure of such moneys by the executive officer or officers having charge of such function, activity, facility or service with the approval of the chairman or vice-chairman of the council, or of an officer of the council designated by the chairman.

6. For the purpose of meeting unforeseen emergencies within the purview of this act, the council is authorized (a) to allocate to the governor from time to time sums to be expended pursuant to his direction in the event of attack, and (b) to empower the governor or a subcommittee to take administrative action in its behalf. The governor and each such subcommittee shall report to the council at each meeting of such expenditures or actions theretofore made, authorized or taken by him or it since the preceding report.

§ 12. Powers of council. Notwithstanding the provisions of any other

law, but subject to the state constitution, the federal constitution and the federal statutes and regulations made pursuant to it, during the defense emergency the council shall provide (a) for unanticipated or emergency needs for the protection of the safety and health of the people of the state in event of attack, and (b) for the mobilization and efficient utilization of all the resources and facilities in the state in aid of the defense effort. Without prejudice to the generality of such powers the council may to the extent necessary or expedient for either of such purposes:

1. Make studies and surveys with respect to all activities, matters and things related thereto.

2. Cooperate with agencies established by or pursuant to laws of the United States and of the several states to promote the defense effort, and coordinate the work or activities of all state and local agencies and of all other groups having substantially similar objects and purposes.

3. Authorize cooperative relationships between agencies of the state, between such agencies and agencies of political subdivisions and between agencies of the same or different political subdivisions.

4. Restrict, regulate or implement any power or duty which by or pursuant to this act is granted to or imposed upon any agency of the state or of any political subdivision and exercise or perform itself, or restrict, regulate or require the exercise or performance of any such power or duty.

5. Require agencies of the state to act as agencies of the council, or create agencies of the council, to aid and assist in the discharge of one or more of the functions of the council and grant authority to such agencies as may be deemed necessary for the effective accomplishment of any of such functions.

6. Request and obtain such cooperation, assistance, data and personnel from any agency of the state or of any political subdivision as the

council may reasonably require for the consummation of its work.

7. Consolidate, curtail or abolish offices, positions, powers, functions or duties created, performed or imposed pursuant to the authority or requirements of this act.

8. Establish programs to encourage and make effective maximum and efficient production, harvesting, processing and preservation of food and other products essential to the defense effort and efficient and proper transportation, distribution, vending and utilization thereof and to recruit, enroll, train and organize persons for such purposes.

9. When requested by the president or the congress or the head of a federal department, agency or office having duties in connection with the defense effort, or when necessary for the safety and health of the people of the state authorize labor, business or work on Sundays and legal holidays and regulate such labor, business or work to the extent necessary for the safety and health of persons employed in connection therewith and in a manner consistent so far as practicable with the needs of public worship and the quiet and repose of the community.

10. Issue or provide for the issuance for a period or periods not to exceed thirty days each of any license, permit or certificate of registration issued or which may be issued by any agency of the state or of a political subdivision thereof, and extend or vary or provide for the extension or variance for a period or periods of not to exceed thirty days each of the terms, conditions and requirements thereof; provided such license, permit or certificate shall be issued only to a person who holds in some other place or has previously held a similar license, permit or certificate or who is reasonably able to execute the authority and provisions of such license, permit or certificate without danger to the public health or safety.

11. Establish or provide for the establishment of orders of priorities for construction work by the state or by political subdivisions thereof, giving consideration to urgency of need, cost, availability of material and manpower, relation to the defense effort, the practicability of

substitute structures or the use of substitute materials, the time required for construction, the probable date of completion and such other factors as may be deemed relevant by the council.

12. In the event of attack or when as a result of attack such publication is impracticable, suspend requirements of law relating to the publication of notices and prescribe substitute forms of notice.

13. Adopt and make effective rationing, freezing, price-fixing, allocation or other orders or regulations imposed by the authority of the federal government in aid of the defense effort and enforce any such orders or regulations.

14. Restrict and regulate by rationing, freezing, price-fixing, allocation or otherwise, the use, sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods or services which are essential to the health, safety and welfare of the people of the state and which are scarce or as to which there is imminent danger of scarcity, to the extent necessary to prevent danger to the health and safety of the people of the state or to prevent substantial interference with the defense effort. In connection therewith the council may temporarily suspend provisions of law requiring the use of particular kinds of such commodities, materials, goods or services, or prohibiting substitutes therefor when such suspension is consistent with safety and health, and may take such other action as may be necessary to minimize the effect of such scarcity. No regulation or order of the council promulgated pursuant to this subdivision shall remain in effect more than ninety days unless extended by law, provided, however, that if the council or the governor shall determine that because of an attack it is impossible to assemble a quorum in each house of the legislature within such ninety day period, such a regulation or order may remain in effect in accordance with its terms, but in no event longer than thirty days after the council or the governor has determined that it is possible to assemble such quorums.

15. In the event of attack provide for the protection and preservation of property, whether publicly or privately owned, by the owner or person

in control thereof or otherwise.

16. In the event of attack protect the deposits of banking organizations and maintain the banking structure of the state; maintain the business of insurance and protect the interests of holders of insurance policies and contracts and beneficiaries thereunder and the interests of the public in connection therewith.

17. In the event of attack, order the effectiveness of emergency by-laws which may have been previously adopted by a domestic corporation as hereinafter set forth, provided that such emergency by-laws shall cease to be effective when the council declares the end of the period of attack. Emergency by-laws may be adopted in the same manner as that provided for the adoption of ordinary by-laws and may contain provisions applicable only during the period of attack with respect to the number of directors who shall constitute a quorum at a meeting of the board of directors, the number of votes necessary for action by such board, the procedure for holding a special election of directors, the manner in which vacancies on the board of directors shall be filled, and the interim management of the affairs of the corporation. Emergency by-laws need not comply with the provisions of the certificate of incorporation or other certificate of such corporation filed pursuant to law or with any provision of the general corporation law, the stock corporation law, the business corporation law or the membership corporation law related to the matters specifically authorized by the immediately preceding sentence to be the subject matter of such by-laws. This subdivision, however, shall not apply to domestic corporation, which, other than insurance premium finance agencies and sales finance agencies, are formed under or licensed pursuant to the banking law or which are bank holding companies or which are insurance organizations as defined in subdivision one of section ninety-six of this act.

The council shall have power to adopt, promulgate, supplement, rescind and modify plans, regulations and orders to make effective such powers. Any such plan, regulation or order shall have the force and effect of law ten days after filing in the office of the department of state except that upon a finding by the council that an earlier effective date

is necessary to the safety and health of the people of the state such a plan, regulation or order may be effective at such time after it is filed in such office as the council shall provide. Any such plan, regulation or order shall remain in effect during such period or periods of time as it shall provide. The secretary of state shall as soon as possible after any such plan, regulation or order has been so filed mail a copy thereof to the clerk of each county, town, city and village who shall keep it on file in his office during the effective period thereof but failure to mail such copy to any such clerk or the failure of any such clerk to file it shall not affect the validity of any such plan, regulation or order. The council shall make adequate provision for publication of such plans, regulations and orders, which provision may include publication in the state bulletin or periodic circulars to be issued by the department of state.

§ 13. Utilization of existing services and facilities. In carrying out their functions under this act, the council and each political subdivision of the state shall utilize, so far as possible, the services, equipment, supplies and facilities of existing agencies of the state and of the political subdivisions thereof. All such officers and agencies, and the personnel thereof, shall cooperate and extend such services, equipment, supplies and facilities as are required of them.

§ 14. Assistance of political subdivisions. 1. Every political subdivision shall have power to (a) assist in the effectuation of any matter undertaken by the council, (b) provide such assistance through existing agencies or new agencies, and (c) expend money therefor.

2. No political subdivision or any agency thereof shall have power to adopt or enforce any local law, ordinance, resolution, order, rule or regulation which is inconsistent with a plan, regulation or order of the council.

§ 15. Local defense councils. Any county, city, town or village may

provide for the establishment of a defense council to assist in such planning, advisory, coordinating and educational activities as the local legislative body may determine and within the amount of the appropriation available therefor.

ARTICLE 3

Civil Defense

- Section 20. Civil defense commission established; state director.
- 21. Powers and duties of commission.
 - 22. Local civil defense.
 - 23. Specific requirements in cities and counties.
 - 23-a. Authority of political subdivisions to provide facilities and materials essential to public safety.
 - 23-b. State civil defense aid for counties and cities.
 - 23-c. Purchase of civil defense resources, materials and facilities through the federal government.
 - 23-d. Taking necessary steps for continuing the operation of essential railroads.
 - 24. Special provisions relating to cities of over one hundred thousand.
 - 25. Powers in event of attack.
 - 25-a. Defense emergency aid.
 - 26. Conscription for civil defense forces.
 - 27. Consolidation of local offices.
 - 28. Mutual aid.
 - 29. Local financial provisions.
 - 29-a. Continuity of political subdivisions.
 - 30. Removal or suspension of public officers.
 - 31. Utilization of existing services and facilities.
 - 32. Privileges and immunities.
 - 33. Administration of civil defense oaths.

§ 20. Civil defense commission established; state director. 1. There is hereby continued in the division of military and naval affairs in the executive department a state civil defense commission to consist of the

same members as the members of the disaster preparedness commission as established in article two-B of the executive law. In addition, the superintendent of financial services, the chairperson of the workers' compensation board and the commissioner of the department of veterans' services shall be members. The governor shall designate one of the members of the commission to be the chairperson thereof. The commission may provide for its division into subcommittees and for action by such subcommittees with the same force and effect as action by the full commission. The members of the commission, except for those who serve ex officio, shall be allowed their actual and necessary expenses incurred in the performance of their duties under this article but shall receive no additional compensation for services rendered pursuant to this article.

2. The commission may from time to time establish, alter, or abolish civil defense districts in the state and establish or abolish district offices of civil defense.

3. The commission may appoint and at its pleasure remove a state director, who may be a member of the commission, prescribe his duties and fix his compensation within the appropriation made available therefor, provided, however, that if the director so appointed is receiving compensation for services as an officer or employee of the state he shall receive no additional compensation for services rendered pursuant to this article but shall be allowed his actual and necessary expenses incurred in the performance of his duties under this article. Such state director, subject to the supervision and control of the commission, shall exercise all of the functions, powers and duties of the commission which may be delegated to him by the commission.

4. The state director, with the approval of the commission, shall appoint and may remove such deputies, assistants, counsel and employees as may be deemed necessary and fix their salaries within the appropriation made available therefor.

§ 21. Powers and duties of commission. Because of the existing danger

of disasters of unprecedented size and destructiveness resulting from attack and in order to insure that the preparations of the state will be adequate to deal with such disasters and generally to provide for the civil defense, and to assist other states and the federal government to achieve these objectives throughout the nation, the commission shall have the following powers and perform the following duties:

1. To obtain from any public officer and any other person any and all information necessary for civil defense, including but not limited to the nature, extent, location and availability for use, of manpower, skilled and unskilled; municipal agencies; land; food, fuel, feed and water; housing, shelter and related facilities; hospitals, clinics and other health and welfare facilities; schools and other educational facilities; sanitation facilities; recreation facilities; organizations, materials, power, plants and other facilities for production, manufacturing, transportation, finance, agriculture, commerce and public health and safety.

2. Hold hearings and conduct investigations; the chairman, director or the commission may issue a subpoena requiring a person to attend before the commission and be examined in reference to any matter relating to civil defense and in a proper case to bring with him a book, paper, or thing. The provisions of article twenty-three of the civil practice law and rules shall apply with respect to a subpoena issued pursuant to this section. Any member of the commission or the director may administer an oath to a witness.

3. Adopt, promulgate, supplement, rescind, modify and make effective a comprehensive plan for the civil defense of the state, including but not limited to provisions for:

- A. In General.

- a. Medical treatment, food, clothing and shelter and other items necessary in the event of attack and during the period of rehabilitation and recovery following attack.

b. Location, procurement, construction, processing, transportation, storing, maintenance, renovation or distribution of materials and facilities.

c. Protection for every person in the state from fallout radiation and other dangers resulting from attack.

d. Construction, installation and maintenance by owners and users of property of shelters and other devices and facilities essential to public safety during and subsequent to attack.

B. Organization and Administration.

e. Programs for the training and information of the public, including but not limited to the achievement of protection from fallout radiation and other dangers resulting from attack, practice blackouts, drills or tests, mobilization of civil defense forces, the shutting off of water mains, gas mains, electric power connections and the suspension of other utility services.

f. Recruitment, organization, staffing, maintenance, equipment, training, mobilization and utilization of volunteer agencies either directly or through political subdivisions of the state.

g. Equipment, training and utilization of municipal agencies.

h. Establishment of control and report centers and other operational headquarters and facilities.

i. Warning systems and signals.

j. Assignment, recruitment, organization, training and mobilization, in conjunction with the commissioner of transportation and the commissioner of health, of all publicly owned construction and health service equipment and publicly employed construction, radiological, health service and sanitation personnel into public works, public utility, monitoring, decontamination, rescue and health service teams.

k. Identification, location and planning for the integration with such publicly equipped and publicly employed teams of all privately owned construction and health service equipment, all privately employed construction, radiological, health service and sanitation personnel and all public utility installation and maintenance personnel.

l. Evacuation of certain persons in the event of or anticipation of attack, including the establishment of temporary housing and schools and other emergency facilities.

C. Continuity of Government.

m. Recruitment, training and equipment of radiological control center personnel, decontamination specialists and radiological monitors and maintenance of the necessary radiological staff, materials and facilities.

n. Continuity of government of the state and of political subdivisions of the state.

o. Storage of essential governmental records of the state and of political subdivisions of the state in conjunction with the public officers having responsibilities therefor under other provisions of law.

D. Public Order.

p. Enforcement of all laws relating to civil defense and the regulations or orders of the council and commission in the event of attack and during the period of rehabilitation and recovery following an attack.

q. Control of pedestrian and vehicular traffic, transportation and communication facilities, public utilities and the conduct of persons other than members of the armed services or military forces in the event of an attack, during drills and tests and immediately prior and subsequent thereto, and during the period of rehabilitation and recovery

following an attack.

r. Guarding and protection of water supplies, railroads, public utility property, bridges, docks, highways, airports, landing fields, public buildings, factories, plants, stockpiles, vital and strategic materials and other focal points of possible attack, the loss or destruction of which might menace or endanger the security and safety of the civilian population, impede the military forces or impede the defense effort.

s. The effective screening and extinguishing of lights, lighting devices and appliances.

t. Protection and preservation of property in the event of attack and during the period of rehabilitation and recovery following an attack.

E. Intergovernmental Relations.

u. Cooperation and liaison with officers and agencies of this state and its political subdivisions, of other states and their political subdivisions and of the federal government and, through the commission, by the officers and agencies of this state and its political subdivisions and those of other states and their subdivisions and those of the federal government.

v. Mutual aid arrangements between political subdivisions of the state.

w. Consolidation of local offices of civil defense, provided, however, that no order requiring consolidation of two or more local offices shall be adopted by the commission unless it shall have held a public hearing thereon and shall have sent written notices of its intention to hold such hearing to the chief executive officers and the local legislative bodies of the county or city or cities to be affected thereby at least ten days prior to the date fixed therefor.

F. Recovery and Rehabilitation.

x. Civil defense measures to be taken following attack, such as monitoring for radiation and other specific hazards of special weapons; decontamination procedures; essential debris clearance; immediately essential emergency repair or restoration of damaged vital facilities; implementation of the means and methods for the recovery and rehabilitation of the state; effective utilization of all persons and materials; distribution of stockpiled food, water, medical supplies, machinery and other equipment; the preservation of raw materials; the restoration of essential community services, industrial and manufacturing capacity, and commercial and financial activities in the state; the resumption of educational programs and the termination of emergency measures taken pursuant to the plan, orders or regulations of the commission after an attack.

y. The continued operation of all utilities, sources of power, essential railroads and other transportation facilities.

z. Care for the injured and needy and identification and disposition of the dead after attack.

4. Adopt, promulgate, supplement, rescind, and modify regulations necessary to execute and implement its powers and duties which are not inconsistent with any plan, regulation or order of the council. Any such regulation shall have the force and effect of law ten days after filing in the office of the department of state except that upon a finding by the commission that an earlier effective date is necessary to the safety and health of the people of the state, such a regulation may be made effective at such time after it is filed in such office as the commission shall provide. Any such regulation shall remain in effect during such period or periods of time as it shall provide. The secretary of state shall, as soon as possible after such a regulation has been so filed, mail a copy thereof to the clerk of each county, town, city and village who shall keep it on file in his office during the effective period thereof, but failure to mail such a copy to any such clerk or the failure of any such clerk to file it shall not affect the validity of any such regulation. The commission shall make adequate provision for

publication of such regulations, which provision may include publication in the state bulletin or periodic circulars to be issued by the department of state.

5. Subject to the approval of the governor, enter into mutual aid agreements, compacts or arrangements in relation to civil defense with other states, their political subdivisions or their civil defense authorities.

6. Notwithstanding the provisions of sections twenty-two and twenty-three or any other provision of this act, by order, direct the performance of specific duties under the plan, regulations or orders of the commission and require compliance with standards established by such plan, regulations or orders by agencies, local directors and other public officers having administrative responsibilities under this act, including full or partial mobilization of civil defense forces in advance of attack. The commission is authorized to vary or modify in whole or part any provision or requirement of sections twenty-two and twenty-three of this act where strict compliance with such provision or requirement would entail practical difficulties or cause unnecessary hardship or is otherwise found to be unwarranted.

7. Remove any member of any volunteer agency for incompetence, misconduct, neglect of duty, disloyalty or subversive activity.

8. Require reports from agencies and public officers at such times and in the form prescribed by the commission.

9. To appropriate, through the commissioner of transportation or otherwise, real property or any interest therein in accordance with the method provided in section thirty of the highway law.

10. Report to the governor and to the legislature concerning its activities at least once a year and whenever requested.

§ 22. Local civil defense. 1. Every county, except those contained in

the city of New York, and every city shall prepare and make effective a plan of civil defense conforming to the plan, regulations and orders of the commission. The chief executive officer of each county, including in counties not having an executive the chairman or other presiding officer of the legislative body of the county as defined in subdivision seven of section two of the municipal home rule law, and the chief executive officer of each city shall be responsible for developing and making effective such plan, and for the execution and implementation of the provisions of this article relating to such county or city, as the case may be, and of the regulations or orders issued by the commission. Notwithstanding any other law, to the extent of appropriations available therefor, he may authorize any expenditure necessary to effectuate such organization, plan or orders.

2. Such chief executive officer shall create an office of civil defense to perform his duties and execute his powers under this section. The head of such office shall be the local director of civil defense. The chief executive officer may be the local director or he may appoint and at pleasure remove a local director. Except as otherwise provided by section twenty-seven of this act, a local director heading a county office shall have jurisdiction throughout the territorial limits of the county for which he is appointed, exclusive of the areas within the cities therein, and a local director heading a city office shall have jurisdiction throughout the territorial limits of the city for which he is appointed. The director, if other than the chief executive officer, may be paid a salary by the county or city for which he is appointed and, notwithstanding the provisions of section two hundred of the county law, or of any other law, a county may pay compensation to a member of its board of supervisors, other than the chief executive officer, for service as the director of its county office. The director may appoint and at pleasure remove deputies, assistants and employees and prescribe their duties. The salaries of such director, deputies, assistants and employees shall be fixed in the manner generally applicable to the fixing of salaries of officers and employees of the county or city, as the case may be. Within the amount of the appropriation therefor and subject to the terms and conditions of such appropriation, such director shall have power to hire persons whose services are temporarily required

to perform the powers and duties granted to or imposed upon the county or city by this act.

A county director may appoint the mayor of a village in the county to be the deputy director for such village and may appoint the supervisor of a town in the county to be the deputy director for the portion of the town outside the village or villages therein. In the event such a mayor or supervisor declines to serve as such deputy, the county director may appoint a person residing in the village or town, as the case may be, to serve as the deputy director therefor. Such a deputy director, if other than the mayor or supervisor, may receive a salary for his service as such and, if the county does not pay a salary to him, the village or town for which he is appointed may do so. A village or town may pay salaries to persons employed in the office of such a deputy and the expenses of such office in the event the county does not do so.

With the approval of the governing bodies of a town and of one or more villages therein, a county director may appoint a person to be the deputy director for such village or villages and the portion of such town, outside the other village or villages therein. Such deputy director, if not the supervisor of the town or the mayor of a village, may receive a salary for his services as such and, if the county does not provide a salary for him, the town may do so. Such town may pay salaries to the persons employed in the office of such deputy and the expenses of such office in the event the county does not do so.

3. The chief executive officer of every county outside of the city of New York and of every city, town or village shall by order direct the performance by agencies and public officers of such county, city, town or village as the case may be, of specific duties to execute and implement the provisions of this article and the plan, regulations or orders of the commission and council, relating to the political subdivision. Such order shall be consistent with and shall conform to the plan, regulations or orders of the commission and council and those of the local office of civil defense.

4. To execute the purposes of this article the local director shall

have the following powers and duties:

a. To require reports from agencies and public officers of the county or city at such times and in the form prescribed by him.

b. To remove any member of any volunteer agency for incompetence, misconduct, neglect of duty, disloyalty or subversive activity.

c. To adopt, amend and rescind regulations consistent with and necessary to execute and implement the provisions of this article relating to counties and cities and the plans, regulations and orders of the commission; such regulations shall, when filed with the commission, and the clerk of the county or city, as the case may be, have the force and effect of law.

d. Report to the commission and the local legislative body of the county or city, as the case may be, at least once a year and whenever such report is requested by such body.

§ 23. Specific requirements in cities and counties. In furtherance of its responsibility under section twenty-two, and not in limitation thereof, each county, except those contained in the city of New York, and each city shall in conformity with the plan, regulations or orders of the commission, in order to prepare for attack and for the period of rehabilitation and recovery following an attack:

A. In General.

1. a. Within sixty days after request by the commission pursuant to this act, submit to the commission a plan in the form requested by it providing for the full integration of existing resources, of manpower, materials, facilities and services into a civil defense force and a detailed plan for civil defense operations in the event of attack, specifying all proposed units, installations, materials, facilities, proposed assembly points, routes, standard operating procedures and such other information as may be required by the commission.

b. Upon receipt of such plan, the commission shall approve or disapprove the plan as soon as possible. If supplemental information is required, the county or city shall so furnish it within the time specified by the commission. If the commission does not approve the plan, it shall inform the local director and the chief executive officer of the county or city of the reason for disapproval. After giving such director and the chief executive officer an opportunity to be heard the commission may reject the plan or amend it as it deems necessary. When approved, such plan shall become the plan of civil defense of such city or county.

c. If the plan is rejected, such city or county shall, in conformance with the requirements of the commission and within the time fixed by the commission, submit a superseding plan. If the commission disapproves the superseding plan or if it is not submitted within the time fixed by the commission, the commission shall report the matter to the governor.

2. Acquire, construct, install, store and maintain facilities and materials in accordance with the provisions of section twenty-three-a of this act.

B. Organization and Administration.

3. Institute public information programs to keep residents informed with respect to achieving protection from fallout radiation and other dangers resulting from attack and with respect to all other matters necessary to personal and public safety during and subsequent to attack.

4. Equip and train the members of all municipal agencies for the performance of specific civil defense duties during and subsequent to attack.

5. Organize, approve, recruit, equip and train volunteer agencies for civil defense purposes.

6. Classify buildings, structures and other real property in

accordance with their suitability for shelter use and for the safety and health of the people during and subsequent to attack, and designate such thereof as may be appropriate and feasible for such purposes.

7. Establish, equip and operate control centers for use in directing civil defense activities during and subsequent to attack.

8. Establish, staff and operate such observation posts, warning centers and similar facilities as may be required by the commission.

9. Conduct tests and drills necessary to train civil defense forces and to acquaint the public with civil defense procedures.

10. Establish such communication systems as are necessary for prompt and effective transmission of orders and information.

11. Recruit and train physicians, nurses and auxiliary medical personnel to provide medical care during and subsequent to attack.

12. Establish emergency facilities to increase the capacity of existing hospitals within such city or county.

13. Organize, staff and equip all medical laboratories as emergency blood procurement centers.

14. Assign, recruit and organize all publicly owned construction and health service equipment and publicly employed construction, radiological, health service and sanitation personnel into public works, public utility, monitoring, decontamination, rescue and health service teams.

15. Identify, locate and plan for integration with such teams all privately owned construction and health service equipment, all trained construction, radiological, health service and sanitation personnel and all public utility installation and maintenance personnel.

16. Assign, and equip publicly owned vehicles for civil defense

purposes.

17. Survey all housing facilities to determine maximum capacity to receive homeless persons and evacuees.

C. Continuity of Government.

18. Recruit, train and equip radiological control center personnel, decontamination specialists and radiological monitors and maintain the necessary supporting staff, materials and facilities.

19. Provide protected emergency operating centers for the continuation of local government operations during and subsequent to an attack.

20. Provide, in accordance with the provisions of section twenty-nine-a of this act, for the continuity of political subdivisions during and subsequent to an attack by

(a) establishing lines of succession of elected and appointed officers, and

(b) modifying the quorum requirements of legislative or governing bodies to permit the continuance of official action under emergency conditions.

21. Make provision for the storage of essential governmental records.

D. Public Order.

22. Recruit, equip and train auxiliary police or special deputy sheriffs in sufficient number to maintain order and control traffic in the event of an attack and to perform such other police and emergency civil defense functions as may be required during and subsequent to attack.

23. Control pedestrian and vehicular traffic during tests and drills and during and subsequent to attack.

24. Recruit, equip and train either directly or through other

political subdivisions of the state auxiliary firemen in sufficient numbers to permit the most effective utilization of all fire apparatus and to perform such other fire fighting and emergency civil defense functions as may be required during and subsequent to attack.

E. Recovery and Rehabilitation.

25. Provide means and methods for the recovery and rehabilitation of such city or county following an attack.

26. Recruit, train and equip an organization to care for persons in need of defense emergency aid as a result of attack.

§ 23-a. Authority of political subdivisions to provide facilities and materials essential to public safety. Each political subdivision of the state, the board of higher education in the city of New York, and, with respect to property located in the state of New York, the port of New York authority and the waterfront commission of New York harbor, shall have power:

a. To acquire, construct, install and maintain shelters, including fallout shelters, and other civil defense facilities and to acquire, store and maintain materials, such shelters, facilities and materials being for the protection, safety and health of students, faculty, administrative staff, employees and the public at large during and subsequent to attack, provided

i. such acquisition, construction, installation, maintenance and storage is not inconsistent with the plan, regulations or orders of the commission or with the applicable local plan promulgated pursuant to subdivision one of section twenty-three of this act; and

ii. such acquisition, construction, installation, maintenance and storage is effected by contract, let in the manner provided by law, by employees of such political subdivision, board, authority or commission, by agreement for the effectuation thereof by the owner of the building,

structure or real property to be used in connection therewith or in any manner authorized by other provisions of law.

b. To utilize any publicly owned building, structure, real property or personal property in connection with such acquisition, construction, installation, maintenance and storage with the approval of the appropriate officer or agency having control thereof, subject to such terms and conditions as may be agreed to by such officer or agency.

c. To acquire in connection with such acquisition, construction, installation, maintenance and storage any real or personal property, or any interest therein, or the right to use the same for a temporary period by purchase, lease or other agreement with the owner thereof or by authorization to use without consideration. Nothing contained in this section shall limit the power of such political subdivision, board, authority or commission to condemn or otherwise acquire real or personal property for such purposes under other provisions of law.

§ 23-b. State civil defense aid for counties and cities. 1. Subject to the conditions prescribed in this section, counties, except those contained in the city of New York, and cities shall be eligible to receive state civil defense aid for expenditures made pursuant to the provisions of section twenty-three-a of this act for the acquisition, construction and installation of protected emergency operating centers.

2. To the extent that the federal government shall provide aid for at least one-half of such expenditures, state civil defense aid in an amount equal to one-half of the difference between such expenditures and such federal aid shall be paid to such counties and cities, provided that such expenditures shall have been made with the prior approval of the state comptroller and the commission and in accordance with section twenty-three-a of this act.

3. Claims for such state aid shall be certified by the local director and submitted to the state director on such dates, with such information and in such form as he may prescribe. Such state aid shall be paid upon

such claims as are approved by the state director and after audit by and on warrant of the state comptroller.

4. Where the county or city has issued obligations pursuant to paragraph (a) of subdivision two of section twenty-nine of this act for the acquisition, construction and installation of protected emergency operating centers, state civil defense aid received pursuant to this section shall be applied to the payment of the interest on and principal of any such obligations as may be outstanding.

5. Subject to the provisions of paragraph u. of subdivision three of section twenty-one and section one hundred fifteen of this act, the department of taxation and finance shall have power to receive any and all moneys made available by the federal government for such aid or for other civil defense or defense effort purposes. The moneys so received shall be deposited by the department of taxation and finance in a special fund or funds and shall be paid out or used by the state exclusively for the purposes and subject to the terms and conditions specified by the appropriate federal officer or agency. Moneys shall be paid out from such fund or funds in the same manner as is applicable to the payment out of state moneys.

6. In addition to any moneys appropriated or made available therefor and in the event of the necessity therefor in order to defend the people of the state, the state comptroller shall have power to issue notes to pay the costs incurred by the state for the acquisition, construction, installation, storage and maintenance of facilities and materials essential for shelter use and the safety and health of the people in the event of attack and for the payment of state civil defense aid to counties and cities pursuant to this section. Each such note shall mature within a period of not to exceed two years from the date of original issue thereof, but may contain provision for payment thereof within such two year period. Unless the legislature shall provide for the issuance of bonds to redeem such notes, such notes shall be paid not later than their respective maturity dates. The comptroller shall report to the legislature at the opening of its next regular or extraordinary session all action taken by him pursuant to this subdivision.

§ 23-c. Purchase of civil defense resources, materials and facilities through the federal government. Notwithstanding any inconsistent provision of law, with the approval of the director of the budget and the commission, the state commissioner of general services, on behalf of the commission or of a political subdivision, may contract to purchase resources, materials and facilities for civil defense through any federal agency authorized to so purchase on their behalf; provided, that no purchase may be made on behalf of a political subdivision, pursuant to the authority here granted, unless such political subdivision accepts sole responsibility for any liability arising pursuant to such contract, and for the payment of all moneys due or which may become payable pursuant thereto. For the purpose of this section, each political subdivision is hereby empowered, notwithstanding any inconsistent provision of law, to purchase resources, materials and facilities for civil defense pursuant to this section.

§ 23-d. Taking necessary steps for continuing the operation of essential railroads. If cessation of operation of a railroad, whose continued operation is essential in order that it will be available as an operating transportation facility for materials and otherwise, in the interest of the public safety and security and the health of the people in the event of attack, has occurred or is impending, such railroad being in receivership by order of a court having jurisdiction of an action or proceeding in which receivers have been appointed for such railroad, the state civil defense commission may take all necessary steps for the continued operation of such railroad, and for such purpose the commission shall employ the moneys appropriated to it by this act.

§ 24. Special provisions relating to cities of over one hundred thousand. In addition to the requirements of sections twenty-two and twenty-three every city having a population of over hundred thousand shall:

1. Recruit, train and equip shelter captains in a ratio based upon maximum shelter occupancies available in the city to be approved by the commission as consistent with reasonable requirements for the safety and welfare of shelter occupants.

2. Organize and train an emergency mortuary service capable of dealing effectively with conditions probable in the event of attack.

3. Designate, prepare and integrate emergency medical facilities, including supply depots, emergency hospitals, clearing stations and mobile medical units and recruit and train the medical staff required for each such facility.

4. Install, maintain and operate a public warning system capable of disseminating quickly throughout such city warnings established by the commission.

§ 25. Powers in event of attack. 1. Notwithstanding any other law, in the event of attack within the state or a state with which this state has a mutual aid compact for civil defense, to the extent it deems it necessary or proper, the commission may: (a) assume direct operational control of any or all civil defense forces; (b) order, direct, require and use the personnel, materials, facilities and services of any agency, public officer, or political subdivision of the state, or any part thereof, at any place within the state where in the opinion of the commission they are needed to effect the purposes of this article; (c) with the approval of the governor, order, direct, require and use such personnel, materials, facilities and services without the state to implement any mutual aid arrangement, agreement or compact; (d) take, use or destroy any and all real or personal property, or any interest therein, necessary or proper for the purposes of civil defense; (e) execute any or all of the civil defense powers and duties of any county or city after notifying the chief executive officer of such county or city if such notification is possible.

2. Notwithstanding any other law, subject to the plans, regulations

and orders of the council and commission: (a) in the event of or in anticipation of attack within such county or city or so near thereto that it jeopardizes the safety or health of the people thereof or within a county or city with which it has agreements or arrangements for mutual aid, a county or city may provide for and compel the evacuation of any person if such person has no home or if the continued use of his home jeopardizes his own safety or that of others; (b) in the event of such attack such county or city shall control all pedestrian and vehicular traffic, transportation and communication facilities and public utilities; provide medical treatment, food, clothing, shelter and care for the injured and needy; provide for public safety and the protection and conservation of property; provide for the identification and disposition of the dead; and provide for the restoration of essential services and facilities; (c) in the event of such attack and to the extent necessary to perform such functions, and as authorized by the council or commission, it may take, use or destroy real or personal property and impress persons into service for the performance of such work.

3. The taking of private property pursuant to this section by or at the express order of the commission, whether for temporary or permanent use or for destruction, shall be in the name of and payment shall be made by the state. An appropriate record, in the form prescribed by the commission, shall be kept and a copy thereof furnished, whenever possible, to the owner from whom the property is taken. Each such owner shall be entitled to just compensation for the taking and may file a claim, to be designated as an "emergency claim," pursuant to the court of claims act, against the state for such compensation. To the extent necessary to expedite the hearing, determination and payment of such claims, the governor shall appoint, as emergency claims referees, one or more qualified attorneys admitted to practice before the courts of this state. Such referees shall be paid out of funds appropriated for such purpose at a rate to be fixed by the governor within the amount of the appropriation or allocation therefor.

When an emergency claim has been filed with the court of claims, the presiding judge forthwith may refer it to an emergency claims referee.

The referee forthwith and on notice to the claimant and to the attorney-general shall set a date and place for the hearing and determination of the claim. The referee shall have all the powers now vested in the court of claims, or in a judge thereof, in the hearing and determination of the claim. His determination shall be in writing and shall be made within thirty days after the hearing shall have been closed. It shall be filed forthwith in the office of the clerk of the court of claims and shall be entered in the official records as a judgment or order of that court. Any claimant or the state shall have the right to appeal, as now provided by law, from such determination and judgment. The provisions of the court of claims act, with respect to real property taken by appropriation, shall apply to the taking of real property pursuant to this section so far as practicable.

The procedure herein provided shall not be deemed exclusive and no claim shall be required to be filed, heard and determined as an "emergency claim" if the claimant elects to proceed as otherwise provided by the court of claims act.

Such court or referee may defer action on any emergency claim pursuant to this section pending consideration by the federal civil defense administrator or any agency of the federal government of a claim based on the same taking. The award by such court or referee shall take into consideration any moneys that may be made available by the federal government with respect to such taking.

4. Except as provided in subdivision three of this section, the taking of private property by a county or city pursuant to this section shall be in the name of such county or city. An appropriate record, in the form prescribed by the commission, shall be kept and a copy thereof furnished, whenever possible, to the owner from whom the property is taken. Such county or city shall make just compensation to the owner thereof in the manner provided by law for the determination of compensation to be paid for the taking of real property by such county or city.

§ 25-a. Defense emergency aid. 1. As used in this section:

(a) "Defense emergency aid" shall mean food, shelter, clothing, care or treatment furnished pursuant to the provisions of this section.

(b) "Local social services official" shall mean the county commissioner of social services, a city commissioner of social services, a town social services or service officer or city social services or service officer who in a particular case would be authorized to make a grant of home relief.

2. In the event of attack and pursuant to rules promulgated by the commission, each local social services official shall, out of any funds available therefor, including funds made available for home relief, furnish defense emergency aid to persons residing or found in his territory and in need thereof because of such attack. Such aid may be furnished wholly or partially by cash, order or in kind.

3. Local social services officials in performing their duties under this section, shall cooperate with each other and seek the cooperation of all local and volunteer agencies and coordinate their efforts with the activities of other agencies, public and private, concerned with the health and welfare of persons under their jurisdiction, in order that there may be no duplication of effort and that the work of agencies, both public and private, may be united in an effort to relieve the distress caused by an attack.

4. A county, town or city may finance the local share of the cost of furnishing defense emergency aid by the issuance of obligations pursuant to the local finance law, from the proceeds of taxes raised for such purpose or from any funds available thereof. The period of probable usefulness of such object or purpose for which any such expenditure may be made is determined to be ten years. The limitations of paragraph d of section 25.00 of the local finance law, with respect to the amount of revenue anticipation notes which may be issued in anticipation of moneys to be received from the state or the United States government in connection with such aid, shall not be applicable; provided, however, that such notes shall not be issued in anticipation of such revenues in an amount greater than the amount reasonably estimated to be received by

the county, town or city from such sources.

5. Subject to the provisions of this section, the state shall reimburse counties, towns and cities for expenditures for defense emergency aid, made out of any funds appropriated by such municipalities, provided such expenditures shall have been approved by the state department of social services, to the extent of eighty per centum of the amount expended for persons who resided or were found in such county, town or city on the date of the attack and to the extent of one hundred per centum of the amount expended for persons who came or were brought into such county, town or city after such date; provided, however, that the state commissioner of social services, with the approval of the council, may make such grant or additional reimbursement, out of funds available therefor, as he may deem equitable in exceptional circumstances.

6. The comptroller, upon audit and warrant, shall pay from the state treasury, out of funds made available for home relief or for defense emergency aid, such grants and reimbursements on claims certified by the state department of social services. Payments shall be made by the comptroller to the fiscal officer of the county or city and, in the case of towns such payments shall be to the fiscal officer of the county for the account of and reimbursement to the towns therein. No state reimbursement shall be payable under this section for administrative costs nor for expenditures for which agencies of local government other than the local social services officials are normally responsible or may become responsible under an emergency; nor for defense emergency aid payments made from or in anticipation of the receipt of federal funds.

§ 26. Conscription for civil defense forces. 1. When authorized by regulation of the council, a county or a city may conscript persons to perform the duties specified in sections twenty-three and twenty-four of this chapter. Selection of such personnel shall be on a fair and impartial basis and in accordance with the regulations of the council.

2. A regulation of the council authorizing such action shall be

effective only under the following circumstances:

a. If after the effective date of this act the United States declares war, or

b. If an attack occurs upon any part of the United States, or its bases, territories or possessions, or

c. If the personnel necessary to make effective a plan of civil defense of any county or city is not supplied by volunteers in accordance with the following schedule: within three months after the approval of such plan, twenty-five per cent; within six months after such approval, fifty per cent; within twelve months after such approval, seventy-five per cent.

3. Such regulation by the council shall provide for selection of personnel on a fair and impartial basis by age, training, occupation, ability or such other classification as the council finds appropriate and shall specify any exceptions to such classifications in connection with physical condition, family needs, callings, vocations or professions which must be followed or performed during or after attack, unusual occupational demands, or similar matters.

4. Whenever practicable the appropriate selective service officers and other state and federal agencies having powers and duties with respect to manpower shall be informed of action taken pursuant to this section and such action shall be coordinated with the action of those agencies.

5. If the legislature is in regular session the council through the governor shall within five days transmit to the legislature for its consideration a report of any action taken pursuant to this section. If the legislature is not in session and consideration of such report has not been included in the governor's call for an extraordinary session of the legislature, the governor shall transmit such report to the legislature at the opening of its next regular session.

6. Regular or duly ordained ministers of religion and members of

recognized religious orders shall be exempt from the application of the powers granted by this section.

§ 27. Consolidation of local offices. 1. With the approval of their governing bodies and of the commission, the chief executive officer of any county not within a city, including in counties not having an executive the chairman or other presiding officer of the legislative body of the county as defined in subdivision seven of section two of the municipal home rule law, and the chief executive officer or officers of any city or cities within the county may agree to create a consolidated county office of civil defense for the purpose of performing any or all civil defense functions for both the county and such city or cities. The jurisdiction of a consolidated county office shall include the territory of the county outside the cities therein, and the territory of any such city or cities which join in the consolidation to the extent necessary for the performance of its functions in such city or cities. Such an office shall be in charge of a county director, who may be the chief executive officer of the county or one of the cities, who may be appointed and at pleasure removed by the chief executive officer of the county. The county may pay a salary to such director and, notwithstanding the provisions of section two hundred of the county law, or of any other law, a county may pay compensation to a member of its legislative body as defined in subdivision seven of section two of the municipal home rule law, other than the chief executive officer, for service as the director of its consolidated county office. Such a county director may appoint and remove, with the approval of the chief executive officer of each city affected, a deputy county director of such city. The salary of such deputy may be paid by the county. Where a consolidated county office is established, unless the county and the city or cities joining in such consolidation otherwise agree, the expenses of such office shall be paid and the deputies, assistants and employees appointed and removed, their duties prescribed and their salaries fixed and paid in the manner prescribed for a county office in sections twenty-two and twenty-nine of this act.

2. With the approval of the governing bodies, the chief executive

officers of two or more adjacent cities within a county may agree to create a consolidated city office of civil defense, the jurisdiction of which office shall include the territory of such cities. Such an office shall be in charge of a city director who shall be appointed jointly by such officers and hold office at their pleasure. Such city director may be paid such compensation as may be fixed by the chief executive officers of such cities within the amount of the appropriations made therefor.

3. In the event of the creation of a consolidated office by order of the commission pursuant to section twenty-one of this act, the chief executive officers of the county and of all cities in the county affected by the order shall appoint and remove, at their pleasure, a county director. Such county director may be the chief executive officer of the county or one of the cities affected by the order. The provisions of subdivision one shall be applicable to a consolidated county office so created.

4. With the approval of their respective governing bodies and of the commission, the chief executive officer of a county, including in counties not having an executive the chairman or other presiding officer of the legislative body of the county as defined in subdivision seven of section two of the municipal home rule law, and the chief executive officer or officers of a city or cities, or the chief executive officers of two or more cities may agree to dissolve a consolidated county or a consolidated city office of civil defense as the case may be or, upon one hundred eighty days notice to the other participants and to the commission, such an officer, with the approval of the governing body of his county or city, may unilaterally withdraw from such an office. Upon the effective date of such dissolution of or withdrawal from a consolidated office of civil defense, the chief executive officer of each affected county or city shall forthwith re-establish an office of civil defense for such county or city, which office shall be headed by a local director as required by this act and which office shall have jurisdiction, powers and duties as provided in this act and other applicable provisions of law.

§ 28. Mutual aid. Subject to the approval of the commission, two or more political subdivisions of the state may enter into mutual aid agreements for reciprocal aid and assistance to effectuate any purpose of this article. State agencies, with the approval of the director of the budget, may participate in such agreements.

§ 29. Local financial provisions. 1. All civil defense expenditures of a city, including but not limited to the cost of maintenance and operation of its city office, if any, shall be a city charge. All civil defense expenditures of a county, including but not limited to the cost of maintenance and operation of a county office, shall be a general county charge, provided however that where a city, town or village has provided facilities pursuant to section twenty-three-a of this act, the charge for the expenditures thereafter made by such county for providing facilities pursuant to section twenty-three-a of this act shall be equitably allocated by the legislative body of the county as defined in subdivision seven of section two of the municipal home rule law. All civil defense expenditures of a town shall be a general town charge, provided however that where a deputy director for a village not wholly within one town is appointed pursuant to subdivision two of section twenty-two of this act, the expenditures made by such town pursuant to such subdivision shall be a charge against the area of the town exclusive of such village. Where a village has provided facilities pursuant to section twenty-three-a of this act, the charge for the expenditures thereafter made by such town for providing facilities pursuant to section twenty-three-a of this act shall be equitably allocated by the town board. All civil defense expenditures of a village shall be a village charge.

2. Each political subdivision of the state shall have the power:

(a) To appropriate and spend money in the manner provided by law for the acquisition, construction and installation of shelters, fallout shelters and other civil defense facilities and the acquisition of materials pursuant to section twenty-three-a of this act. Any expenditure by a political subdivision having power to contract

indebtedness pursuant to the local finance law for such shelters, fallout shelters, civil defense facilities and materials may be financed by the issuance of obligations pursuant to such law, from the proceeds of taxes raised for such purpose or from any available funds of the political subdivision. The period of probable usefulness of any such shelter or fallout shelter is determined to be twenty years unless a longer period is prescribed by the local finance law and the period of probable usefulness of any other civil defense facilities and materials is determined to be ten years unless a longer period is prescribed by the local finance law. The provisions of section 107.00 of the local finance law shall not apply to the financing of any such object or purpose.

(b) To appropriate and spend money in the manner provided by law for other civil defense measures contemplated by this article or by section thirty-four of this act, provided such expenditures are not inconsistent with the plan, regulations or orders of the commission or with the applicable local plan promulgated under this act. The limitations of section 29.00 of the local finance law, with respect to the amount of budget notes which may be issued in any fiscal year, shall not apply to budget notes issued to finance such measures and, notwithstanding any provision of the local finance law, budget notes for such measures may be authorized by at least a majority vote of the voting strength of the finance board. In addition to the issuance of budget notes for such measures, a political subdivision having the power to contract indebtedness pursuant to the local finance law, with the approval of the commission, shall have power to issue serial bonds or capital notes pursuant to such law in an amount not to exceed one hundred thousand dollars in any fiscal year. The commission shall not give any approval pursuant to this paragraph until after it shall have obtained the advice of the state comptroller with respect to the financial condition of the political subdivision. If no period of probable usefulness is provided in the local finance law for any such measures, the period of probable usefulness therefor shall be three years. The provisions of section 107.00 of the local finance law shall not apply to the financing of any such object or purpose.

(c) To participate in providing shelter protection against radioactive fallout for the inhabitants of such political subdivision by cooperating

with the commission and with schools, colleges and universities located within such political subdivision in the acquisition, construction or installation of fallout shelter at such schools, colleges and universities for which state civil defense aid is payable pursuant to section thirty-five of this act and by paying in consideration for such shelter protection for its inhabitants a portion of the cost of such fallout shelters, provided that no such payment shall exceed the aggregate cost of such fallout shelters less the amount of state civil defense aid payable pursuant to that section.

3. Indebtedness contracted or proposed to be contracted by a school district, other than a school district coterminous with, or partly within, or wholly within a city, to finance the acquisition, construction and installation of a shelter or fallout shelter by such school district pursuant to section twenty-three-a of this act may be excluded from the indebtedness of such school district in ascertaining its power under section 104.00 of the local finance law to contract indebtedness, but only to the extent to which such indebtedness, at the time it was contracted or is to be contracted, did not or will not exceed fifty dollars multiplied by the planned shelter occupancy of such shelter.

4. In addition to powers otherwise conferred by law and notwithstanding any inconsistent provision of law:

a. Each political subdivision of the state shall have the power to appropriate and spend money to demolish unsafe structures owned by it or under its care, custody or control, to remove debris from any property owned by it or under its care, custody or control, and to reconstruct, replace or repair capital improvements, equipment, machinery, apparatus and furnishings, when such demolition, removal, reconstruction, replacement or repair is necessitated because of attack. Any such reconstruction or replacement of a capital improvement may be made upon a new site or upon the same site.

b. Any city, town or village shall have the power to appropriate and spend money to demolish any unsafe structures, whether publicly or

privately owned, and may remove debris from any property, whether publicly or privately owned, if the governing board of the municipality determines such structures or debris to be a peril to the lives and property of the citizens of the municipality, when such demolition or removal is necessitated because of attack, except that such expenditures shall not be made by a town within a city located in such town or by a town within a village located in whole or part in such town.

Any expenditure for an object or purpose described in this subdivision by a political subdivision having power to contract indebtedness pursuant to the local finance law may be financed by the issuance of obligations pursuant to such law, from the proceeds of taxes raised for such purpose or from any available funds of the political subdivision. The period of probable usefulness of the objects and purposes for which any such expenditure may be made is determined to be ten years unless a longer period is prescribed by the local finance law. The provisions of section 107.00 of the local finance law shall not apply to the financing of any such object or purpose. Any provisions of law:

(1) Requiring the holding of hearings on or the publication of notices in relation to the effectuation of any such purpose or work or the financing thereof,

(2) Requiring that the effectuation of any such purpose or work or the financing thereof be subject to a vote at any election, to a mandatory or permissive referendum, or to the voting of a tax to be collected in one or more installments,

(3) Requiring that the effectuation of any such purpose or work or the financing thereof be initiated only upon petition,

(4) Permitting the issuance of obligations only after the completion of the effectuation of any such purpose or work or the levy of assessments therefor,

(5) Requiring the approval of any public board or body other than the governing board or the finance board, for the effectuation of any such purpose or work or the financing thereof, the advertisement for bids or the letting of contracts therefor after competitive bidding, and any other provisions of law insofar as they tend to prevent, hamper or delay the effectuation of any such purpose or work or the financing thereof, shall be inoperative for the purposes of this subdivision, except that

the provisions of sections 57.00, 58.00, 59.00, 60.00, 60.10, 60.20, 63.00, 81.00, 82.00, 83.00, 102.00, 104.00, 104.10, other than subdivision one thereof, 109.00, 150.00, 151.00, 152.00 and 165.10 of the local finance law shall continue to be applicable to the financing thereof when obligations are issued.

Notwithstanding the fact that the effectuation of any such purpose or work may be required pursuant to law to be undertaken wholly or partly at the expense of the real property especially benefited thereby, it may be undertaken at the expense of the political subdivision at large without charging any part of the cost thereof to real property especially benefited.

§ 29-a. Continuity of political subdivisions. In conformity with the plan, regulations or orders of the commission, every county, except those contained within the city of New York, every city, every town and every village shall have power to provide by local law, and every other political subdivision shall have power to provide by resolution, for its continuity and that of its elective and appointive officers, including members of its legislative or governing body, where, as a result of an attack, any of such officers is unable to discharge the powers and duties of his office or is absent from the political subdivision. In any such local law or resolution, provision may be made that the removal of a disability or the termination of an absence from the political subdivision of an officer higher on a list or order of succession to an office shall not terminate the service in such office of an individual lower on such list or order of succession who is temporarily filling such office. Notwithstanding the provisions of any law, a local law or resolution adopted pursuant to this section may be made effective without approval at a mandatory or permissive referendum but in no case shall such local law or resolution become effective until one certified copy thereof has been filed with the clerk of the political subdivision or other appropriate official designated for such purpose by the respective legislative or governing body, one certified copy thereof has been filed in the office of the state comptroller and three certified copies thereof have been filed in the office of the secretary of state.

No provision of this section shall be construed or interpreted as affecting the validity of any ordinance enacted prior to July first, nineteen hundred sixty-six, or actions taken thereunder by the government of any county, city, town or village.

§ 30. Removal or suspension of public officers. 1. A local director may be removed by the governor after such director has been given a copy of the charges against him and an opportunity to be heard in his defense. Pending the preparation and disposition of charges, the governor may suspend such director for a period not exceeding thirty days. The power of removal provided for in this subdivision shall be deemed to be in addition to the power of removal otherwise provided for in this act or in any other law and shall apply notwithstanding any inconsistent provisions of this act or of any other law.

2. Notwithstanding any provision of law, and in addition to any other penalty fixed by law, willful failure by a public officer having administrative responsibilities under this article to obey an order or regulation adopted or made pursuant to this article relating to his administrative responsibilities shall be cause for removal from office. Subject to the provisions of the state constitution, such removal shall be by the governor upon charges by the council or commission after service upon such public officer of a copy of the charges and giving him an opportunity to be heard in his defense. Pending the preparation and disposition of charges, the governor may suspend such public officer for a period not exceeding thirty days.

3. A vacancy resulting from removal pursuant to this section shall be filled by the governor until it is filled as otherwise provided by law.

4. In the event of attack or in the event of the failure of a county or city to carry out the provisions of this act or the plan, regulations or orders adopted pursuant thereto, the governor may direct the commission to assume direct operational control of any or all agencies or public offices having administrative responsibilities pursuant to

this act to the extent necessary for the performance of such responsibilities and in such event, the officers in charge of such agencies and offices shall only exercise such powers and perform such duties as are required of them by the commission or the person managing and conducting such agencies or offices pursuant to order of the commission. In all such cases all expenses incurred by the commission to conduct such agencies or offices, including the salary or other compensation of all persons employed, shall be a charge upon the political subdivision or subdivisions of the state otherwise liable for the expense of such agency or office.

§ 31. Utilization of existing services and facilities. The commission and each local director shall utilize as far as possible the services, resources, materials and facilities of existing officers and agencies and all such officers and agencies shall cooperate with the commission and such directors.

§ 32. Privileges and immunities. Notwithstanding any inconsistent provision of law, members of civil defense forces in the state and members of the civil defense forces of other states or of the federal government or of the dominion of Canada or of a province or subdivision thereof performing civil defense services at any place in this state pursuant to any law, any rule, regulation or order duly promulgated or issued pursuant to this act, any federal law, or any agreement, compact, or arrangement for mutual aid and assistance, to which the state or a political subdivision thereof is a party, shall possess the same powers, duties, immunities and privileges they would ordinarily possess if performing their duties in the jurisdiction in which normally employed or rendering services.

§ 33. Administration of civil defense oaths. 1. The commission and each local director shall have power by regulation or order to designate or provide for the designation of members of civil defense forces under their respective jurisdictions to administer the written oath which the

federal civil defense act of nineteen hundred fifty requires persons in state or local organizations for civil defense to take before entering upon their duties therein.

2. Each such designation of a person serving under the jurisdiction of the commission shall be filed in the department of state. Each such designation of a person serving under the jurisdiction of a county director shall be filed in the office of the clerk of the county and each such designation of a person serving under the jurisdiction of a city director shall be filed in the office of the city clerk.

3. Designations so made may be revoked in the same manner in which they may be made pursuant hereto, provided that notice thereof is given to each person whose designation is so revoked.

4. In addition to the requirements of any other law, the certificate of a person administering an oath pursuant to such a designation shall specify (a) county clerk's or city clerk's office in which his designation was filed and (b) that such designation has not been revoked.

ARTICLE 3-A

SHELTER PROTECTION

Section 34. Responsibilities of commission and local directors for shelter protection.

35. State civil defense aid for fallout protection at schools, colleges and universities.

36. Implied warranty in contracts for shelters.

37. Consumer protection against substandard shelters.

38. Compliance with local building regulations and restrictive covenants.

§ 34. Responsibilities of commission and local directors for shelter protection. 1. The commission shall:

a. Include in the comprehensive plan for the civil defense of the state provision for the protection of every inhabitant thereof against fallout radiation resulting from attack and against such other dangers resulting from attack as the commission may deem necessary.

b. Provide, through local offices or otherwise, an information and counseling service available to the public generally and to those concerned with providing shelter protection for others, including all political subdivisions, schools, colleges and universities, employers, landlords, architects, engineers, contractors, hospitals, voluntary institutions and places of public assembly. The service to be provided shall include, among other things, detailed information and technical advice relating to

i. the achievement of fallout protection which will meet the standards for fallout shelters set forth in the plan, regulations or orders of the commission relating thereto;

ii. the financial assistance available for the construction of shelters from governmental sources or private lending institutions, including insured mortgage loans, and the usual terms thereof;

iii. the financial assistance, if any, available from governmental sources or private lending institutions for equipping and provisioning shelters, and the usual terms thereof;

iv. the exemption from local real property taxation, special ad valorem levies and special assessments provided in section four hundred seventy-nine of the real property tax law for the increase in value attributable to the construction or installation of a fallout shelter;

v. the maximum and minimum shelter occupancies which will qualify for state civil defense aid and any comparable federal aid; and

vi. the materials recommended by federal civil defense authorities or by the commission for inclusion in shelters, which information and advice may include the names of specific trade products and their

manufacturers so long as the commission makes clear that other products of comparable quality and meeting the same standards are included within the general recommendations although not specified by name.

c. Have power to test, approve and recommend materials for inclusion in shelters.

d. Upon the request of a political subdivision, board, authority or commission which desires to acquire, construct or install a shelter pursuant to section twenty-three-a of this act, review the plans and specifications of such shelter and certify whether it will comply with the plan, regulations or orders of the commission.

e. Publicize the availability of the detailed information and technical advice described in this section.

f. Specifically urge county and city governments which do not yet have protected emergency operating centers constructed or under way to initiate the construction of such centers promptly pursuant to the provisions of federal law and section twenty-three-b of this act.

g. Report to the governor and the legislature annually on or before February first as to:

i. The action taken by it and by others to meet the objectives set forth in this act of assuring the availability of effective shelter protection for every inhabitant of the state and the rehabilitation and recovery of the state and its inhabitants after attack.

ii. Its recommendations, if any, for changes in the provisions of this act relating to shelter protection and to rehabilitation and recovery after attack, including changes considered by it to be necessary or desirable to stimulate and encourage the further acquisition, construction or installation of shelters and protected stockpiles of materials in accordance with its plan, regulations or orders.

2. Local directors, in accordance with the regulations and orders of

the commission, shall:

a. Participate in the information and counseling service referred to in paragraph b. of subdivision one of this section and in publicizing the availability of such service.

b. Assist the state director in any investigation conducted by him pursuant to section thirty-seven of this act.

c. Have power to inspect from time to time at reasonable hours completed shelters within the area under the jurisdiction of the local office.

d. Report to the state director the results of inspections of completed shelters in such form and detail as the state director may from time to time require.

§ 35. State civil defense aid for fallout protection at schools, colleges and universities. 1. Subject to the limitations and conditions prescribed in this section, the trustees or board of education of every school district, the board of higher education in the city of New York and the governing body, by whatever name known, of all other elementary schools, secondary schools, colleges and universities in the state shall be eligible to receive state civil defense aid, within the amounts appropriated to the commission for this purpose, in consideration for the provision by such schools, colleges and universities of shelter protection against radioactive fallout for inhabitants of the state.

2. The amount of state civil defense aid payable pursuant to this section with respect to a fallout shelter acquired, constructed or installed at any school, college or university after the effective date of this section shall be twenty-five dollars multiplied by the maximum reimbursable shelter occupancy, but in no event shall such amount exceed fifty per cent of the cost of such shelter.

3. For purposes of this section, the "maximum reimbursable shelter

occupancy" shall mean

a. In the case of a fallout shelter acquired, constructed or installed at existing schools, colleges and universities:

i. the largest number of students enrolled plus faculty, administrative staff and other personnel employed at the school, college or university who are reasonably estimated to have been present at any one time during any day within one year prior to the date of application for the payment of state civil defense aid under this section minus the planned shelter occupancy of all other fallout shelters at the school, college or university, for which occupancy state civil defense aid has been approved by the state director pursuant to this section, or

ii. the planned shelter occupancy of the fallout shelter with respect to which the application for state civil defense aid under this section is made,

whichever is less.

b. In the case of a fallout shelter acquired, constructed or installed at a new school:

i. the largest number of students plus faculty, administrative staff and other personnel which the school is designed to accommodate at any one time minus the planned shelter occupancy of all other fallout shelters at the school, for which occupancy state civil defense aid has been approved by the state director pursuant to this section, or

ii. the planned shelter occupancy of the fallout shelter with respect to which the application for state civil defense aid under this section is made,

whichever is less.

4. No payment of any state civil defense aid shall be made with respect to any fallout shelter pursuant to this section unless:

a. The plans and specifications for the shelter, and any modifications thereof, are certified by the commission to be in compliance with the provisions of this act and the plan, regulations or orders of the commission promulgated thereunder; provided, however, that the commission may designate the state commissioner of education or the commissioner of public works of the city of New York as its agent for the purpose of certifying such compliance with respect to shelters acquired, constructed or installed by school districts, public colleges or public universities which are required under other provisions of law to submit plans and specifications for school buildings to the officer designated.

b. The shelter is completed in accordance with the plans and specifications, and any modifications thereof, certified by the commission or its designated agent pursuant to the immediately preceding paragraph a.

c. The trustees, board or governing body of the school, college or university at which the fallout shelter is located shall by written agreement grant to the commission, and to such local directors as the commission may designate, exclusive control of the use of such shelter at any time for civil defense purposes, the right to schedule civil defense drills involving the use of such shelter at any time after consultation with the appropriate school authorities and to supervise such drills, and the right to inspect the shelter from time to time for compliance with the storage, preparedness and other standards set forth in the plan, regulations or orders of the commission. The grant shall be in such form and detail as the commission may by regulation prescribe and shall specify that any use of the shelter for purposes unrelated to civil defense shall not interfere with the use or readiness thereof for civil defense purposes and shall conform with the plan, regulations or orders of the commission relating thereto.

5. At any time within five years of the date of the original application for state civil defense aid for a specified fallout shelter pursuant to this section, an application may be submitted for

recomputation of the amount of state civil defense aid payable with respect thereto and in such case the date of application for the recomputation shall be used in determining the maximum reimbursable shelter occupancy of such shelter. If the amount of state civil defense aid payable upon recomputation exceeds the amount paid upon the original application, the difference shall be payable as state civil defense aid pursuant to this section.

6. Applications for payments of state civil defense aid pursuant to this section shall be certified by the local director and submitted to the state director on such dates, with such information and in such form as he may prescribe; provided, however, that nothing contained in this section shall be deemed to prevent two or more schools, colleges and universities from submitting a joint application for state civil defense aid with respect to any fallout shelter jointly acquired, constructed or installed. State civil defense aid pursuant to this section shall be paid upon applications approved by the state director after audit by and on warrant of the state comptroller.

7. Where a school district has issued obligations pursuant to paragraph a of subdivision two of section twenty-nine of this act, state civil defense aid received pursuant to this section shall be applied to the payment of the interest on and principal of any such obligations as may be outstanding.

8. In addition to any moneys appropriated or made available therefor and in the event of the necessity therefor in order to defend the people of the state, the state comptroller shall have power to issue notes to pay the costs incurred by the state in the acquisition, construction, installation, storage and maintenance of facilities and materials essential for shelter use and the safety and health of the people in the event of attack and for the payment of state civil defense aid pursuant to this section. Each such note shall mature within a period of not to exceed two years from the date of original issue thereof, but may contain provision for payment thereof within such two year period. Unless the legislature shall provide for the issuance of bonds to redeem such notes, such notes shall be paid not later than their respective

maturity dates. The comptroller shall report to the legislature at the opening of its next regular or extraordinary session all action taken by him pursuant to this subdivision.

§ 36. Implied warranty in contracts for shelters. 1. In any sale of or in any contract

(a) to sell,

(b) to construct, or

(c) to alter or improve any area or portion of a building, structure, or other real property in order to provide any facility represented, expressly or impliedly, to reduce the intensity of fallout radiation, there is an implied warranty or condition that such facility complies with the plan, regulations or orders of the commission which are in effect pertaining to shelters, unless there is prompt and full disclosure in accordance with the regulations of the commission of the fact that such facility does not comply in this respect with such plan, regulations or orders of the commission.

2. For purposes of this section, the plan, regulations or orders of the commission pertaining to shelters and to the form and manner by which disclosure is to be made shall take effect thirty days after filing by the commission in the office of the department of state.

§ 37. Consumer protection against substandard shelters. 1. It shall be unlawful for any person, firm, association or corporation, or for any agent, officer, employee or member thereof to fail to make prompt and full disclosure of the fact that a facility does not comply with the plan, regulations or orders of the commission which are in effect pertaining to shelters:

(a) in selling or in offering for sale,

(b) in constructing or in offering to construct, or

(c) in altering or improving or in offering to alter or improve any area or portion of a building, structure or other real property in order to provide

any facility which is represented, either expressly or impliedly, to reduce the intensity of fallout radiation and which fails to comply in this respect with such plan, regulations or orders of the commission. Such disclosure shall be made in such form and manner as the commission may by regulation prescribe.

2. For purposes of this section, the plan, regulations or orders of the commission pertaining to shelters and to the form and manner by which disclosure is to be made shall take effect thirty days after filing by the commission in the office of the department of state.

3. Any person, firm, association or corporation, or any agent, officer, employee or member thereof, who violates the provisions of subdivision one of this section shall be guilty of a misdemeanor and on conviction thereof shall, if a natural person, be punished by a fine not exceeding five hundred dollars, or by imprisonment for not longer than six months; and if a firm, association or a corporation by a fine of not exceeding five thousand dollars.

4. In the alternative, any person, firm, association or corporation, or any agent, officer, employee or member thereof, who violates any of the provisions of subdivision one of this section shall be subject, if a natural person, to a civil penalty not exceeding five hundred dollars, and, if a firm, association or corporation to a civil penalty not exceeding five thousand dollars.

5. Whenever the state director shall know or have a reasonable basis to believe that there has been a violation of the provisions of subdivision one of this section, he shall report all facts supporting such knowledge or belief to the attorney general unless he determines to proceed administratively pursuant to subdivision eight of this section.

The attorney general may prosecute any person, firm, association or corporation, or any agent, officer, employee or member thereof, charged with violating the provisions of subdivision one of this section. In all such criminal proceedings the attorney general may appear in person or by his deputy before any court of record or any grand jury and exercise

all the powers and perform all the duties in respect thereof which the district attorney would otherwise be authorized or required to exercise or perform; or the attorney general may in his discretion transmit evidence, proof and information as to such offense to the district attorney of the county in which the accused resides or has its principal office or to the district attorney of the county in which the alleged violation has occurred, and every district attorney to whom such evidence, proof and information is so transmitted shall forthwith proceed to prosecute the person, firm, association or corporation, or any agent, officer, employee or member thereof charged with such violation. In any proceeding wherein the attorney general has appeared in person or by deputy, the district attorney shall exercise only such powers and perform only such duties as are required of him by the attorney general or his deputy.

Alternatively, the attorney general may cause an action or proceeding to be brought in the name and in behalf of the people of the state against any person, firm, association or corporation, or any agent, officer, employee or member thereof for the recovery of the civil penalty referred to in subdivision four of this section. Such action may be brought in the county where the defendant resides or has its principal office or in the county where the alleged violation has occurred.

Every action or proceeding, criminal or civil, brought pursuant to this section must be commenced within three years after the commission of the acts upon which the action or proceeding is based.

6. All moneys recovered as penalties or fines pursuant to this section shall be the property of the state.

7. A violation of the provisions of this section shall not be considered an infraction for purposes of this act.

8. (a) The state director may, on his own motion, investigate or make inquiry as to any suspected failure to comply with the provisions of subdivision one of this section.

(b) Whenever it shall appear to the state director, after investigation, that there has been a violation of the provisions of subdivision one of this section, he may give written notice to the alleged violator or violators

(i) setting forth the circumstances upon which the alleged violation is based, and

(ii) requiring each respondent to appear in person or by attorney before the state director or his duly designated representative, at the time and place specified and answer the charges set forth.

At least twenty days notice of such hearing shall be given.

(c) The state director, or any person designated by him for this purpose, may issue subpoenas and administer oaths in connection with any investigation or hearing conducted pursuant to this subdivision, and it shall be the duty of the state director and any persons designated by him for such purpose to issue subpoenas at the request of and in behalf of any respondent.

(d) The state director, or any person designated by him for this purpose, shall not be bound by the law of evidence in conducting the hearing, but any determination shall be founded upon sufficient legal evidence to sustain it.

(e) In the hearing, each respondent shall have the right to cross examine witnesses against him and to produce witnesses and evidence in his defense.

(f) Upon the conclusion of the hearing, the state director or other person conducting the hearing shall make such findings and determinations as he deems warranted by the legal evidence before him and if a violation of the provisions of subdivision one of this section is found and determined, the state director may assess a penalty not exceeding five hundred dollars for each such violation if the respondent is a natural person and not exceeding five thousand dollars for each such violation if the respondent is a firm, association or corporation. The state director shall notify the respondent personally of such decision in writing or by certified mail.

(g) All findings, determinations and assessments of the state director pursuant to this subdivision shall be subject to review as provided in article seventy-eight of the civil practice law and rules. Application for such review must be made within sixty days after receipt by the

respondent of notification of the decision of the state director.

9. In construing and enforcing the provisions of this section the action of an agent, officer, employee or member of a person, firm, association or corporation shall be presumed to be the act of such person, firm, association or corporation.

§ 38. Compliance with local building regulations and restrictive covenants. 1. As used in this section:

"Department" shall mean the department, bureau, division, agency or person, including any joint agency, of a county, city, town or village, charged with the enforcement of the applicable building code, multiple dwelling law, multiple residence law or other law, as defined in section three of this act, relating to the construction, maintenance and use of buildings, structures or other real property and to the control of land uses in such county, city, town or village.

"Owner" shall mean the owner or owners of the freehold of the premises or any lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, a receiver, executor, trustee, lessee, agent or other person, firm or corporation directly or indirectly in control of a building, structure or other real property.

2. Notwithstanding any inconsistent provision of law, as defined in section three of this act, any shelter constructed or installed or proposed to be constructed or installed in accordance with the plan, regulations or orders of the commission pertaining to shelters shall be deemed to comply with all provisions of law relating to the construction, maintenance and use of buildings, structures, or other real property and to the control of land uses, and the owner shall be entitled to apply for and obtain, and the department shall issue, upon a showing of compliance with such plan, regulations or orders of the commission and upon payment of the appropriate fees, if any, any permit, license, certificate, authorization or other document for such construction, maintenance or use required by such provisions of law; provided, however, that no such shelter constructed or installed or proposed to be constructed or installed in accordance with the plan,

regulations or orders of the commission pertaining to shelters shall be deemed to comply with such provisions of law nor shall any such permit, license, certificate, authorization or other document be issued if the department shall determine that such shelter will, because of its structural arrangement, location design or other factor, substantially deviate from the reasonable requirements of such provisions of law and that such substantial deviation is unnecessary, at approximately the same cost to the owner, to effectuate the purposes of this act with respect to the provision of shelter protection.

3. Each county, city, town or village shall have power to adopt local laws, and each department shall have power, in the manner provided by law, to adopt rules and regulations, not inconsistent with this act and the plan, regulations or orders of the commission promulgated thereunder, necessary to execute and implement the powers granted and the duties imposed by this section.

No provision of this subdivision shall be construed or interpreted as affecting the validity of any ordinance enacted prior to July first, nineteen hundred sixty-six, or actions taken thereunder by the government of any county, city, town or village.

4. (a) The failure to grant an application for such permit, license, certificate, authorization or document within sixty days after submission thereof, may be reviewed by an owner in the manner provided by law for appeals from determinations of the department made in enforcing the multiple dwelling law, the multiple residence law, the state building construction code or any other provision of law relating to the construction, maintenance or use of buildings, structures or other real property or to the control of land uses.

(b) On any such appeal wherein a party relies for ground of relief or defense or raises issue or brings into question the construction or validity of any of the provisions of this act or the plan, regulations or orders of the commission promulgated thereunder relating to shelters, the court or agency having jurisdiction of the appeal, action or proceeding may at any stage certify such fact to the commission. The commission may intervene in any such appeal, action or proceeding.

5. The construction, installation or maintenance of a shelter in accordance with the plan, regulations or orders of the commission pertaining to shelters shall not be deemed a breach of a restriction on the use of land heretofore or hereafter created by a covenant, promise, negative easement, special limitation or condition subsequent and no reverter shall occur, no possessory estate shall result and no right of entry shall accrue by reason of such construction. No action or proceeding may be commenced in any court in the state where such action or proceeding is based on a claim or allegation that such construction, installation or maintenance (a) constitutes a breach of such restriction, (b) causes such a reverter, or (c) results in the creation of such a possessory estate or the accrual of such a right of entry.

ARTICLE 4

POWERS OF AGENCIES

Section 40. Powers of certain state officers and agencies.

- 41. Waiver of type, weight and size limitations for certain vehicles.
- 42. Contracts for research work in health matters related to the defense emergency.
- 43. Emergency health and sanitation areas.
- 44. Emergency measures to protect milk supply.
- 46. Production and sale of prison-made articles and materials essential to the defense effort.

§ 40. Powers of certain state officers and agencies. Notwithstanding the provisions of any law, for the purpose of providing during the defense emergency (a) for unanticipated or emergency needs for the protection of the safety and health of the people of the state in the event of attack, or (b) for the mobilization and efficient utilization of all of the resources and facilities in the state in aid of the defense effort, or (c) for the orderly conduct of public or private affairs in a manner consistent with the requirements of the defense effort, the following officers or agencies of the state shall have power

to take action or to adopt, promulgate and make effective plans, regulations or orders, consistent with the provisions of this act and with any actions taken or plans, regulations or orders adopted and promulgated by the council, with respect to the following matters:

1. The civil service commission, upon a finding that because of the manpower requirements of the armed services and the defense effort vacancies exist which cannot otherwise be readily, equitably and satisfactorily filled, shall have such power with respect to (a) extension of provisional appointments until lists are established and appointments are made therefrom; (b) extension of eligible lists; (c) waiver of residence or citizenship requirements relating to public offices or employments; (d) restriction of leaves of absence except for illness, entrance into the armed forces of the United States, or for other reasons which are in the public interest; (e) employment for temporary periods of officers or employees in agencies other than those in which they are regularly employed; (f) authorization of the employment of public officers and employees in additional public offices or employment; and (g) authorization of compensated employment as public officers or employees, of persons receiving pensions or retirement allowances where such compensated employment is not already authorized by law, provided that adequate provision is made whereby the value of the pension or retirement allowance is deducted from the compensation paid for such employment. The commission may determine that it will exercise any such power with respect to municipal civil service administration only upon the written request of the appropriate civil service commission.

2. The comptroller (a) upon a finding that because of shortage of supply or because of danger to health and safety immediate action is necessary, shall have such power with respect to suspension of provisions of law relating to public purchasing or letting of public contracts and regulation of the manner in which such purchasing or letting is to be accomplished during the period of such suspension; and (b) in the event of attack, shall have power to issue notes for the purpose of paying expenses incurred by the state or, to the extent authorized by the legislature, by any political subdivision of the

state, for the purpose of repelling invasion, suppressing insurrection or defending the state in war. Each such note shall mature within a period of not to exceed two years from the date of original issue thereof, but may contain provision for payment thereof within such two year period. Unless the legislature shall provide for the issuance of bonds to redeem such notes, such notes shall be paid not later than their respective maturity dates. The comptroller shall report to the legislature at the opening of its regular or extraordinary session all action taken by him pursuant to this subdivision.

3. The industrial commissioner shall have such power with respect to safety and record of manufacture, sale, possession, use or ownership of fireworks or explosives and the manufacture and transportation of firearms, but such powers shall not apply to the personal possession, use or ownership of firearms and ammunition therefor.

4. The public service commission, upon a finding that it is necessary for public health or safety, shall have such power with respect to (a) maintenance, restriction, limitation, extension or interconnection of public utility services, whether privately or publicly owned; and (b) means or devices of communication other than those exclusively regulated by federal authorities.

5. The secretary of state shall have such power with respect to (a) extension or restriction of the hours during which public business may be conducted, public offices kept open, and officers and employees required to perform their powers and duties therein; and (b) designation of substitute places where public offices may be located or public business conducted.

6. The commissioner of transportation, upon a finding that there is a shortage of equipment, gasoline, oil or other supplies necessary for the use of motor vehicles or upon the request of the president of the United States or of the head of a federal department or agency having responsibility relative to the defense effort, or upon a finding that it is necessary for public health or safety, shall have such power with respect to transportation or travel subject to his jurisdiction,

including the speeds at which and the conditions under which such transportation or travel may be conducted.

7. Heads of departments in charge of institutions shall have such power with respect to health or safety of incarcerated individuals thereof, including transportation of incarcerated individuals to, from and between such institutions.

§ 41. Waiver of type, weight and size limitations for certain vehicles. 1. As used in this section "public highway" shall mean and include any highway, road, street, avenue, alley, public place, public driveway, parkway, bridge or any other public way in the state.

2. Notwithstanding any inconsistent provision of law, the state commissioner of transportation, whenever he deems it necessary in the interest of the defense effort, may issue permits subject to such conditions as he deems necessary for safety for the operation or movement upon any public highway in the state of vehicles or the combinations thereof, the types, weights or dimensions of which are inconsistent with or exceed the restrictions of limitations prescribed by or pursuant to law.

§ 42. Contracts for research work in health matters related to the defense emergency. The state commissioner of health and the state commissioner of mental hygiene shall have power, individually and collectively, to contract for the accomplishment of research work for the armed forces of the United States or in connection with health matters related to the defense emergency. They shall for such purpose have power, subject to the approval of the director of the budget, to obtain and provide the necessary personnel, facilities, material, equipment and supplies for such work by contract, on the open market and without advertising or competitive bidding.

§ 43. Emergency health and sanitation areas. 1. Whenever the governor

shall determine that (a) because of the existence of any military or naval establishment of the United States, or of any other establishment or facility constructed, enlarged or placed in operation subsequent to June twenty-fifth, nineteen hundred fifty for the purposes of or in connection with the defense effort, there has been an increase in the population of any area in the state to such an extent as to produce problems of health and sanitation, or (b) an emergency exists as the result of attack, or (c) as a result of conditions created directly or indirectly by the defense effort, insufficient or inadequate medical or health personnel or facilities are available in any area, he may, upon the recommendation of the state commissioner of health or whenever he determines that such action is deemed necessary for the protection of public health, designate any area in the state so affected as an emergency health and sanitation area and fix the boundaries thereof.

2. Whenever a special emergency health and sanitation area is established, as herein provided, it shall be the duty of the local board or boards of health of the territory within such area, to make and enforce rules and regulations consistent with the provisions of the public health law (a) to prevent or limit the introduction or spread of any contagious or infectious disease and (b) to protect the public health within the area.

3. If in the judgment of the governor, any local board of health in the territory within such area is unable or fails to make and enforce adequate rules and regulations for the protection of the public health therein, he may direct the state commissioner of health to make and enforce such rules and regulations, and for this purpose the state commissioner of health is authorized and empowered to assume any or all of the powers and authority now or hereafter conferred by law upon local boards of health.

4. Any local board of health having jurisdiction over territory within an emergency health and sanitation area may, by application in writing, request the commissioner of health to undertake the protection of the area over which the local board has jurisdiction. Upon his approval of any such request, the state commissioner of health is hereby authorized

and empowered to make and enforce rules and regulations in such area and for this purpose, the state commissioner of health is authorized and empowered to assume any and all power and authority now or hereafter conferred by law upon local boards of health.

5. Whenever the governor has designated an emergency health and sanitation area because of the insufficiency or inadequacy of medical or other health personnel or facilities, the state commissioner of health is authorized, directed and empowered to designate, appoint, employ for service therein and supervise necessary medical and health personnel and to make such other provisions as may be necessary or desirable for the protection of public health.

6. The commissioner of health is hereby authorized to cooperate with and utilize the services of local, state and federal health and welfare agencies in formulating and effectuating state, interstate and federal health and sanitation programs.

§ 44. Emergency measures to protect milk supply. When in the opinion of the commissioner of health a milk or cream supply has been so contaminated as to be potentially dangerous to health or serious curtailment of such a supply is threatened as a result of accident, sabotage or enemy action, he is hereby authorized to embargo any part of any such milk or cream supply pending investigation and, notwithstanding any contrary provisions of law, to authorize the transfer of milk and cream from one plant to another or from one political subdivision to another for pasteurization, bottling or sale, and to waive or modify any requirements, regulations or standards pertaining to or affecting the production, processing, handling, storage, transportation, sale, resale or distribution of milk and cream, or any operations or procedures incident thereto until conditions warrant normal operation.

§ 46. Production and sale of prison-made articles and materials essential to the defense effort. Notwithstanding any inconsistent provision of law, and during the defense emergency, under and pursuant

to such regulations as may be adopted jointly by the state commissioner of correction, the state commissioner of commerce and the state commissioner of general services which they determine will best utilize the labor of prisoners to aid the defense effort, equipment, goods, products, articles and materials essential to the defense effort may be manufactured, produced, processed, reprocessed, treated, altered or repaired in any prison, reformatory, penitentiary or jail or other correctional institution in the state with the labor of prisoners therein and distributed or sold in accordance with such regulations. Such regulations may be amended or repealed from time to time but no such regulation or amendment or repeal thereof shall become effective until approved by the council. All of the provisions of article seven of the correction law, not inconsistent with the provisions of this section or inconsistent with the regulations adopted pursuant to this section, shall be applicable to the work performed and actions taken under the provisions of this section.

ARTICLE 5

POWER OF DISPENSATION FROM CERTAIN LIMITATIONS OF LAW

Section 70. Definition.

- 71. Dispensing power.
- 72. Dispensing power on public work.
- 73. Legislative standards and limits of dispensing power.
- 74. Application for dispensation.
- 75. Appeals.
- 76. Misrepresentation.
- 77. Liabilities under dispensation.
- 78. Temporary restriction of jurisdiction of the board of standards and appeals.

§ 70. Definition. As used in this article: "Defense work" shall mean noncombatant service performed in connection with (a) the manufacture, production and distribution of articles and materials for defense on or for contracts for the armed forces of the United States, or for any other agency of the United States, or for any associated power of the

United States, (b) any other work related thereto, or (c) any other occupation, activity or employment essential to the defense effort or necessary to promote and protect the public health and welfare and the safety and security of the people of the state.

§ 71. Dispensing power. Notwithstanding any inconsistent provision of law the industrial commissioner is hereby authorized, during the defense emergency and subject to the provisions of this article, to grant dispensations to employers engaged in defense work from requirements imposed by or pursuant to law which prevent or interfere with maximum possible production in defense work and to permit operation or employment in such defense work (a) on a seven day basis; (b) on a multiple shift basis; (c) under waiver of section two hundred one-a of the labor law; or (d) under waiver of such other provisions of law as may regulate or restrict operation, hours, equipment, places or conditions of employment, persons that may be employed, or types of work in which certain persons may engage.

§ 72. Dispensing power on public work. During the existence of the defense emergency and subject to the provisions of this article, the industrial commissioner and, on appeal, the New York state board of standards and appeals are hereby authorized to grant dispensations to prevent the provisions of subdivision two of section two hundred twenty of the labor law from interfering with speedy construction of public work related to the defense effort and necessary for the success of the defense effort. Conditions and restrictions with respect to hours, wages, equipment, places or conditions of employment, persons that may be employed, or types of work in which certain persons may engage may be imposed in connection with such dispensations. Such an application by an agency of the state or of a political subdivision which will be a party to a public work contract may be made only prior to the letting of such contract.

§ 73. Legislative standards and limits of dispensing power. The

granting of dispensations pursuant to this article shall be subject to the following standards and limits:

(a) No dispensation shall be granted to any employer with respect to the employment of minors under the age of sixteen;

(b) No dispensation shall be granted for a period in excess of six months, provided, however, that upon reconsideration of all of the facts and circumstances of a particular case, a continuance of a dispensation may be granted.

(c) No dispensation shall be granted which does not safeguard the health and welfare of the worker and which is not demanded by the necessities of adjusting state policy to requirements of the defense effort.

(d) No dispensation shall be granted to any employer who can by utilization of available labor supply or by organizational or other reasonable adjustments maintain maximum efficiency and production without such dispensation.

(e) No dispensation shall be granted except where necessary to prevent the normal restrictions of law from interfering with the paramount duty of maximum possible production in defense work.

§ 74. Application for dispensation. 1. Employers in defense work may make applications for dispensation pursuant to this article in such manner and upon such forms as the commissioner of labor shall prescribe. The commissioner of labor may, after hearing upon due notice, revoke dispensations not necessary to maintain maximum possible production in defense work.

2. Where immediate dispensation is necessary in order to prevent interference with maximum possible production in defense work, the commissioner of labor may grant such dispensation provisionally for a period not to exceed one month. Such a provisional dispensation may be revoked upon notice if subsequent investigation demonstrates that the dispensation is unwarranted.

§ 75. Appeals. Any person in interest who is aggrieved by any

determination of the industrial commissioner with respect to an application for or grant, denial or revocation of a dispensation under this article may appeal to the New York state board of standards and appeals. Such an appeal may be taken within twenty days after the date notice of such determination is given to the applicant by such commissioner. The applicant for the dispensation shall have the burden of proving that the granting or continuance of a dispensation is warranted in his particular case. The board is hereby authorized to affirm, reverse or modify any determination of the industrial commissioner under this article. The board shall order a hearing if it deems a hearing necessary in order to enable it to decide the issues raised. In a case where a hearing is not so ordered, the board may decide the appeal upon written submissions. The determinations of the board upon questions of fact shall be conclusive. Within twenty days after notice of the determination of the board is given to the applicant, an appeal may be taken upon questions of law to the appellate division of the supreme court, third department. The filing of a petition of appeal with the board of standards and appeals in accordance with that board's rules of procedure, or the filing of a notice of appeal with such court, shall not stay the determination of the industrial commissioner under this article.

§ 76. Misrepresentation. Any person who wilfully makes a material misrepresentation of fact or purpose to the industrial commissioner or to the board of standards and appeals in an application or appeal for dispensation under this article is guilty of a misdemeanor and any dispensation issued upon the basis of such misrepresentation shall not constitute a defense for any violation of the law from which dispensation was thus obtained.

§ 77. Liabilities under dispensation. Except as provided in section seventy-six of this act, no person, firm or corporation engaged in defense work to whom a dispensation granted pursuant to this article is in effect, shall be liable, under any penal or civil law, for operation or employment as authorized in such dispensation.

§ 78. Temporary restriction of jurisdiction of the board of standards and appeals. For the limited purposes and duration of this article, subdivision five of section one hundred sixty-one of the labor law is hereby modified so as to relieve the board of standards and appeals of jurisdiction to grant variations thereunder to employers engaged in defense work and sole authority to grant dispensations hereunder to such employers is hereby vested in the industrial commissioner subject to appeal as provided in section seventy-five hereof. In other respects the jurisdiction of the board of standards and appeals remains as established.

ARTICLE 6

CLOSING OR RESTRICTING USE OF HIGHWAYS; POSTING OF PROPERTY

Section 80. Definitions.

- 81. Petition to close or restrict use of travel upon highways or to post property.
- 82. Order of commissioner closing or restricting use of highways.
- 83. Authority to post.
- 84. Violations; penalty.
- 85. Powers of peace officers.
- 86. Construction.

§ 80. Definitions. As used in this article the following terms shall mean and include:

- 1. "Highway." Any private or public highway, street, way, waterway, or other place used for travel.
- 2. "Commissioner." The state commissioner of transportation.

§ 81. Petition to close or restrict use of travel upon highways or to

post property. (a) Any agency of the United States engaged in or concerned with the defense effort, (b) any agency of the state, (c) the chief executive officer or the governing body of any political subdivision of the state or (d) an individual, partnership, association or corporation using or preparing to use real property in connection with the operation of a public utility, an airport, a dock, or a wharf, or the manufacture, transportation, distribution or storage of explosives, firearms, inflammable liquids, gas, oil, coal, electricity, water or any product to be used in the defense effort by this state, of any state of the United States, or a political subdivision, by the United States or any associated power thereof, may petition the commissioner for an order to close or to direct the appropriate official or body to close to public use and travel and to restrict public use and travel upon, any highway or part thereof or to post property, on which such use and travel or entrance by the general public is deemed dangerous to the public safety and security or to the defense effort, or to the safety of property of the petitioner.

§ 82. Order of commissioner closing or restricting use of highways. 1. If the commissioner is satisfied that the public safety and security, the defense effort, or the safety of property of the petitioner so require, he shall, in the case of a highway under his supervision and control, make an order closing to public use and travel or reasonably restricting the use of and travel upon such highway or part thereof; in the case of a highway not under his supervision and control he shall make an order directing the appropriate official or body having supervision and control of such highway or part thereof to close to public use and travel or restrict the use of and travel upon such highway or part thereof, in accordance with the terms of such order.

2. Copies of the order shall be filed as follows:

(a) One copy in the office of the council, one copy in the office of the state department of transportation, and one copy in the office of the department of state;

(b) If any portion of such a highway is part of a county road, one copy of the order shall be filed in the office of the county

superintendent of highways and one in the office of the clerk of the board of supervisors of the county affected by the order;

(c) If any portion of such a highway is part of a town highway, one copy of the order shall be filed in the office of the town superintendent of highways and one in the office of the town clerk of the town affected by the order;

(d) If any portion is a city street or part of a city street, the copy of such order shall be filed in the office of the city clerk of the city affected by the order; and

(e) If any portion is a village street or part of a village street, the copy of such order shall be filed in the office of the village clerk of the village affected by the order.

3. The commissioner shall post and keep posted or authorize and direct the appropriate official or body having such supervision and control to post and keep posted appropriate notices in letters at least three inches high reading "Closed By Order Under State Defense Emergency Act." Such notices shall be posted conspicuously at each end and intersection of any highway or part thereof so closed or restricted by such order; in the case of a waterway such notices shall be posted conspicuously at such locations and in such manner as in the opinion of the commissioner will reasonably place the public on notice of such closing or restriction. The commissioner, in addition, in a proper case may in his discretion order, authorize and direct the petitioner or the appropriate office or body having such supervision and control to erect and maintain suitable and sufficient barricades across any highway or portion thereof to close and prevent individuals from entering the same or to restrict public use and travel thereon; in the case of a highway under his supervision and control, such an order may provide for such barricades.

4. The commissioner may revoke or modify any order theretofore made and shall cause or require copies of such a revocation or modification to be filed in the same offices as the original order.

5. In the case of any order to close and barricade a highway or part thereof within, adjacent to or in the vicinity of a reservation, installation or facility maintained by the armed forces of the United

States, the provisions of any law relating to the maintenance and repair of streets and highways in the state and applicable to the state, or to any political subdivision of the state, shall be deemed to be suspended from the date notices are so posted and barricades, if any, are so erected until the order of the commissioner shall be revoked or the reservation, installation or facility shall cease to be maintained under the jurisdiction of such armed forces. Neither the state, nor any political subdivision shall be liable for damages to persons or property sustained on any such highway or portion thereof from and after the date of posting of such notices and the erection of such barricades, if any, until the order of the commissioner is revoked or such reservation, installation or facility shall cease to be maintained under the jurisdiction of such armed forces; provided that during such period such notices and barricades, if any, shall continue to be maintained suitably in accordance with the order of the commissioner.

6. Nothing in this section shall prevent the lawful temporary closing of any highway or part thereof otherwise authorized by or pursuant to law.

§ 83. Authority to post. If the commissioner is satisfied that the public safety or security, the defense effort or the safety of property of the petitioner so require, he may grant a petition to post property and issue an order authorizing the petitioner to post any part of or all such property, whether enclosed or not, with a sign or signs reading "No Entry Without Permission By Order Under State Defense Emergency Act." Such sign or signs shall be placed in such locations and in such manner as the commissioner shall approve as reasonably to place the public on notice that such premises so posted are not to be entered without permission of the owner or person in charge thereof.

§ 84. Violations; penalty. 1. Any person who wilfully violates an order made pursuant to this article shall be guilty of a misdemeanor and be punished upon conviction by an imprisonment for not more than ten days, or a fine of not more fifty dollars, or both.

§ 85. Powers of peace officers. Any peace officer or any person employed as watchman, guard or in a supervisory capacity on premises posted in accordance with the provisions of section eighty-three of this act may stop any person found on any premises so posted and may detain him for the purpose of demanding, and may demand, of him his name, address and reason for being in such place. If such peace officer or employee has reason to believe from the answers of the person so interrogated or from his behavior or other attendant facts or circumstances that such person does not have permission to be in such place, such peace officer may forthwith arrest such person without a warrant on the charge of violating the provisions of such section or such employee may forthwith turn him over to a peace officer, who may arrest him without a warrant on the charge of violating the provisions of such section.

§ 86. Construction. Nothing in this article shall impair, curtail or destroy the rights of employees or their representatives to self-organization, to form, join or assist labor organizations to bargain collectively through representatives of their own choosing or to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aids or protection.

ARTICLE 7

Banking

Section 90. Definitions.

- 91. Change of location.
- 92. Emergency boards of directors.
- 93. Powers of the superintendent.
- 95. General provisions.

§ 90. Definitions. 1. "Institution," when used in this article, shall mean and include any banking organization or licensed lender within the

meaning of such terms as defined in section two of the banking law, any branch or agency of a foreign banking corporation licensed to do business in this state pursuant to article two of such law, any casher of checks licensed pursuant to article nine-A of such law, any bank holding company within the meaning of such term as defined in section one hundred forty-one of such law, the New York business development corporation created by article five-A of such law, the savings and loan bank of the state of New York organized pursuant to article ten-B of such law, any mutual trust investment company organized pursuant to article twelve-A of such law, any fund as defined in subdivision two of this section, and any branch or office of any institution.

2. "Fund," when used in this article, shall mean any fund established pursuant to article six-B, article ten-A or article eleven-A of such law, of which fund there is a board of individual trustees.

3. "Corporate institution," when used in this article, shall mean any institution which is a corporation organized under the laws of the state of New York and, insofar as the provisions of this article may appropriately apply thereto, any fund.

4. "Charter," when used in this article, shall mean and include the certificate of organization or incorporation or special law incorporating a corporation together with its bylaws, or the agreement establishing a fund.

5. "Acute emergency," when used in this article, shall mean a condition in which, by reason of loss of life, epidemic disease, destruction or damage of property, contamination of property by radiological, chemical or bacteriological means, or disruption of the means of transportation and communication, resulting from an attack, it is impossible or impracticable for any institution to conduct its ordinary business in compliance with the laws other than this article and, if a corporate institution, in compliance with the provisions of its charter.

6. "Director" and "board of directors," when used in this article,

shall include respectively "trustee" and "board of trustees," including an individual trustee and a board of individual trustees of any fund.

7. "Acting director" and "acting officer" when used in this article, shall mean, respectively, an acting director or acting officer elected or appointed in accordance with the provisions of this article.

8. "Quorum," when used in this article, shall mean with respect to any item of business which may come before any meeting of directors of a corporate institution the minimum number of directors required by the provisions of law other than this article and by the charter of such institution to be present for valid action to be taken at such meeting with respect to such business.

9. "Superintendent," when used in this article, shall mean the superintendent of financial services.

§ 91. Change of location. Any institution, without complying with any provision of law requiring approval or application for approval of a change of location of its place or places of business, may from time to time change the location of any of its places of business with respect to which an acute emergency exists to another location within this state which shall be as near as practicable to the place at which such place of business was located at the commencement of the period of acute emergency, and may carry on its business at such new location during such period of acute emergency and thereafter for a reasonable time. Any institution changing the location of any place of business pursuant to the provisions of this paragraph shall notify the superintendent thereof in writing as soon as practicable before or after the date of such change, stating the address of the place of business whose location is being changed, the address of the location to which such place of business is being changed, and the dates when the institution is ceasing to do business at the former location and commencing to do business at the latter location.

§ 92. Emergency boards of directors. 1. Notwithstanding any other law or any provision of the charter of any corporate institution to the contrary, if at any time during a period of acute emergency with respect to any corporate institution, no person otherwise empowered to call meetings of the board of directors of such institution shall be present and capable of acting, meetings of directors and acting directors may be called by any director or acting director, or if no director or acting director be present and capable of acting, by any officer or acting officer. If it shall be impracticable or impossible to give notice of a meeting of directors or acting directors of such an institution in the manner otherwise prescribed, the person calling such a meeting may give notice thereof by making such reasonable efforts as circumstances may permit to notify each director and acting director of the meeting. Such notification may be oral or written, and shall specify the time and place of the meeting, but need not specify the purposes thereof. Failure of any director or acting director to receive actual notice of a meeting of directors and acting directors shall not affect the power of the directors and acting directors present at such meeting to exercise the powers of an emergency board of directors as prescribed in this section. Nothing contained in this article shall be construed as requiring a meeting of directors of such an institution to be convened in any manner different from that prescribed by its charter and by the provisions of law other than this article.

2. The directors and acting directors of any corporate institution, if three or more in number, who are present at any meeting convened during a period of acute emergency affecting such institution pursuant to call made or notice given in the manner described in subdivision one of this section or at any meeting convened during such period pursuant to other lawful call and notice at which a quorum is not present, shall constitute an emergency board of directors which, notwithstanding any provision of the charter of such institution or any provision of law other than this article to the contrary, shall have the power, subject to the limitations prescribed in this article, by a majority of such persons present, to take any and every action which may be necessary to meet the exigencies of the acute emergency or to enable such institution to conduct its business during such period, but no other powers. The

powers of an emergency board of directors shall include but shall not be limited to the following powers:

(a) At any meeting, to elect such acting directors as it may deem necessary, without regard to the number of directors which would otherwise be required, to serve in any positions on such board which are vacant or in place of any directors or acting directors who are absent from such meeting, but not to elect any director on a permanent basis.

(b) To elect such acting officers as it may deem necessary, without regard to the number of officers which would otherwise be required, to serve in any offices which are vacant or in place of any officers or acting officers who fail to appear and assume their duties, to fix the compensation and determine the powers and duties of acting officers and to remove acting officers but not to remove any officer or to fill any vacancy on a permanent basis or to cause the institution to enter into any contract of employment for a term of over one year.

(c) To cause the institution to change the location of any of its places of business pursuant to section ninety-one of this chapter, and to authorize such action as it may deem appropriate to acquire space and facilities at the new locations, but not to acquire any property in fee or for a term of over one year.

(d) To postpone any meeting of the stockholders or members or directors of such institution, or any directors' examination of such institution if, in the judgment of the majority of the members of such emergency board of directors, it would be impracticable to hold such meeting or conduct such examination at the time it would otherwise have been held or conducted.

(e) If it shall appear to an emergency board of directors that a quorum of the board of directors cannot be assembled within a reasonable time, to call a meeting of the stockholders or members of the institution to be held as soon as the circumstances may reasonably permit, at a place to be designated by the emergency board of directors within this state or a contiguous state, for the purpose of electing directors to fill vacancies on the board of directors, but for no other purpose, and to propose nominees for such election. No meeting of stockholders or members shall be held pursuant to such call except upon notice given in accordance with the provisions of law other than this article and the charter of the institution.

3. As soon as practicable after each meeting of an emergency board of directors, the person who presided thereat shall notify the superintendent in writing of the time and place of such meeting, of the efforts made to give notice thereof to the directors and acting directors who failed to appear, of the persons present at such meeting, of any changes in the directors, acting directors, officers and acting officers and of all actions taken at such meeting.

4. No person prohibited by law or by the charter of a corporate institution from serving as a director of such institution shall be eligible to serve as an acting director except that no person shall be disqualified to serve as an acting director by reason of his not being a stockholder of such institution, by reason of his not being a resident of this state or of a contiguous state, or by reason of the number of the directors or acting directors who are officers, acting officers or employees of the institution. Any person may serve as an acting director of a fund who is a director, acting director, officer or acting officer of an institution which is a party to the agreement creating the fund. No oath of acting directors shall be required.

5. Acting directors elected pursuant to the provisions of this section or appointed pursuant to the provisions of section ninety-three of this chapter shall be entitled to notice of and to vote at all meetings of an emergency board of directors equally with directors. Acting directors shall not be entitled to take part in the deliberations or to vote at any meeting of directors duly convened in accordance with the applicable provisions of law other than this section and with the provisions of the charter of the institution at which a quorum of the directors is present. Each acting director shall serve until the director or acting director in whose place he was elected or appointed shall attend a meeting or until a director is duly elected to fill the vacancy in which such acting director has been serving, whichever event occurs the earlier. Acting directors shall be entitled to any compensation payable to directors.

6. Acting officers elected pursuant to this subdivision shall have

such powers and duties and receive such compensation as may from time to time be determined by the board of directors or an emergency board of directors. Each acting officer shall serve until the officer in whose place he was elected shall appear and assume his duties or until his successor officer or acting officer shall be elected, whichever event occurs the earlier.

§ 93. Powers of the superintendent. 1. In the event that at any time during a period of acute emergency, the number of directors or acting directors of an institution which is a corporation who are present and capable of acting shall be less than three, the superintendent shall have the power to designate additional acting directors in such number as will bring to three the number of directors and acting directors who are present and capable of acting.

2. Upon a determination that such action will tend to promote the safe and sound and orderly conduct of the business of any institution or to prevent controversy as to the power of any group of persons purporting to act as an emergency board of directors so to act, the superintendent shall have power to issue orders declaring that any such group shall or shall not have the powers of an emergency board of directors, or confirming, modifying or vacating in whole or in part any action taken or purportedly taken by any such group or removing any acting director.

3. (a) At any time after an attack, upon his determination that such action will tend to promote certainty as to the powers of institutions or individuals pursuant to this article or that such action is desirable to enable institutions to take preparatory precautions prior to the occurrence of an acute emergency, the superintendent shall have power to declare that any provision of this article which he may specify shall be operative with respect to any institution which he may designate. Upon such declaration such institution and its directors, officers, acting directors and acting officers shall have all powers conferred by such provisions of this article. The failure of the superintendent so to declare shall not be deemed to limit the powers of any institution or its directors, officers, acting directors or acting officers where an

acute emergency exists in fact.

(b) At any time after the commencement of an acute emergency or after the superintendent shall have declared any provision of this article operative pursuant to paragraph (a) of this subdivision, upon his determination that an institution is able, in whole or in part, to carry on its business in compliance with its charter and the laws other than this article, the superintendent shall have power to declare that any provision of this article which he may specify shall be inoperative with respect to any institution which he may designate. Upon such declaration, such institution shall be governed by its charter and the provisions of law other than this article, except insofar as other provisions of this article remain operative.

4. Upon his determination that, as a result of an acute emergency, the business and affairs of an institution cannot otherwise be conducted in a safe and sound manner, the superintendent may forthwith take possession of the institution and its business and property. The provisions of section six hundred six through six hundred thirty-two, inclusive, of the banking law shall be applicable in any case in which the superintendent takes possession of an institution pursuant to this subdivision as though the institution were a banking organization or foreign banking corporation of which the superintendent had taken possession pursuant to section six hundred six of such law, except that no such provision shall be applicable which the superintendent shall have declared inapplicable pursuant to this subdivision. The superintendent shall have power to declare inapplicable any such provision upon his determination that the same is inappropriate or unnecessary to protect the interests of the public or the stockholders or creditors of the institution, in view of the acute emergency and the nature of the institution. This subdivision shall not be construed as conferring upon the superintendent the power to declare inapplicable the provisions of section six hundred seven of such law.

5. The superintendent shall have power to issue general and specific regulations, directives and orders consistent with and in furtherance of the purposes of this article.

§ 94. The superintendent of financial services. 1. During a period of acute emergency affecting any area within this state, the superintendent shall have power to call meetings of the superintendent of financial services created by section thirteen of the banking law upon such period of notice as he may deem appropriate in view of the condition of acute emergency and the urgency of the business to be transacted at such meeting. The superintendent shall give notice of such meeting by making such reasonable efforts as in his judgment circumstances may permit to notify each member of the superintendent of financial services of the time and place of such meeting. Failure of any member of the superintendent of financial services to receive actual notice of such a meeting shall not affect the power of the members present thereat or the superintendent to act as prescribed in subdivision two of this section.

2. At any meeting of the superintendent of financial services convened during a period of acute emergency affecting any area within this state, the members present, if three or more in number, may, by the vote of a majority of such members present, take any action which the superintendent of financial services is empowered to take pursuant to the banking law. If less than three members shall appear pursuant to notice given by the superintendent in accordance with subdivision one of this section, the superintendent may by general or specific regulation, directive or order, take any action which the superintendent of financial services is empowered to take pursuant to the banking law.

§ 95. General provisions. 1. In any action or proceeding it shall be presumed that a condition of acute emergency existing within any city or county within the state constitutes a condition of acute emergency with respect to every institution within such city or county.

2. The board of directors of every corporate institution shall, during any period of acute emergency, have all of the powers of an emergency board of directors as provided by this article. This article shall not be construed as limiting the powers of any institution or of the stockholders or members or board of directors of any corporate

institution.

3. This article shall not be construed as permitting or requiring any corporation organized under the laws of any other state of the United States or of any foreign country, or of Puerto Rico, or any branch, office, or agency of such corporation, or the board of directors, officers, or stockholders of any such corporation to do anything which they could not lawfully and validly do under the laws of the jurisdiction under whose laws such corporation was organized.

ARTICLE 7-A

Insurance

Section 96. Definitions; interpretation of article.

97. Emergency by-laws.

98. Changes of location; emergency boards of directors.

99. Powers of the superintendent.

99-a. General provisions.

§ 96. Definitions; interpretation of article. 1. When used in this article, the following terms shall mean and include the following:

(a) "Organization"--any insurer, rating organization, service or advisory organization, joint underwriting association, welfare or pension fund, which is subject, in whole or in part, to the insurance law of this state.

(b) "Domestic organization"--any "organization" which is domiciled in this state, including, insofar as the provisions of this article may appropriately apply thereto, any welfare or pension fund or United States branch of an alien insurer.

(c) "Charter"--the certificate of organization or incorporation or special law incorporating a corporation together with its by-laws, or the agreement establishing a fund or association together with its constitution and by-laws.

(d) "Acute emergency"--a period in which, by reason of loss of life, epidemic disease, destruction or damage of property, contamination of property by radiological, chemical or bacteriological means, or

disruption of the means of transportation and communication, resulting from an attack, as defined in subdivision two of section three of this chapter, it is impossible or impracticable for the business of insurance in this state to be conducted in strict accord with the provisions of law or "charters" applicable thereto.

(e) "Board"--the board of directors, board of trustees, committee or similar body having control of the affairs of an "organization."

(f) "Director"--a director, trustee, or member of a "board".

(g) "Acting director"--an acting "director" elected or appointed in accordance with this article.

(h) "Officer"--an officer of a "domestic organization".

(i) "Acting officer"--an acting "officer" appointed in accordance with this article.

(j) "Quorum"--the minimum number of "directors" required by charter and law other than this article, to be present for valid action to be taken at a meeting of a "board" with respect to each particular item of business which may come before such meeting.

(k) "Superintendent"--the superintendent of financial services or person duly designated to exercise the powers of that office during an "acute emergency".

2. This article does not, and shall not be construed to, limit the powers of any organization or permit or require any organization which is not domiciled in this state or any branch, office, or agency of such organization or the directors, officers, members, policyholders or stockholders of any such organization to act, or fail to act, in such fashion as would violate the laws of the jurisdiction wherein such organization has its domicile.

§ 97. Emergency by-laws. 1. With the approval of the superintendent, any domestic organization may, at any time, adopt, in the same manner as in the case of ordinary by-laws, emergency by-laws to become operative during a period of acute emergency. Emergency by-laws may contain provisions with respect to the number of directors capable of acting which shall constitute its board, the number of such directors which shall constitute a quorum at a meeting of the board, the number of votes

necessary for action by such board, the manner in which vacancies on the board shall be filled, the line of succession of its officers, and the interim management of the affairs of the organization; such provisions, if approved by the superintendent, need not comply with the requirements of the charter of such domestic organization or of the general corporation law, the stock corporation law, the business corporation law, the membership corporation law and the insurance law.

2. Except as provided in subdivision two of section ninety-nine-a, the provisions of subdivisions two through seven of section ninety-eight and the subdivisions two and three of section ninety-nine shall not be applicable, during a period of acute emergency, to any domestic organization operating in accordance with emergency by-laws approved by the superintendent to the extent that the procedures set forth in such emergency by-laws relate to subject matter contained in subdivisions two through seven of section ninety-eight.

§ 98. Change of location; emergency boards of directors. 1.

Notwithstanding any provision of its charter, any domestic organization, without complying with any provision of law requiring approval or application for approval of a change of location of its principal office, may from time to time change the location thereof during an acute emergency to a suitable location within the United States, and may carry on its business at such new location during such acute emergency and for a reasonable time thereafter. Any organization which changes the location of its principal office during an acute emergency shall notify the superintendent thereof in writing as soon as practicable, stating the address of the new location, the address of the former location, and the dates when business is ceasing at the former location and commencing at the latter location.

2. Notwithstanding any contrary provision of law or of its charter, if at any time during an acute emergency affecting any domestic organization, no person otherwise empowered to call meetings of its board is capable of acting, a meeting thereof may be called by any director or acting director, or if no director or acting director is

capable of acting, by any officer or acting officer. If it shall be impracticable or impossible to give notice of a meeting of the board in the manner prescribed by charter and law other than this article, the person calling such a meeting may give notice thereof by making such reasonable efforts as circumstances may permit to notify each director and acting director of the time and place of the meeting, but need not specify the purposes thereof. Failure of any director or acting director to receive actual notice of a meeting of directors and acting directors shall not affect the power of the directors and acting directors present at such meeting to exercise the powers of an emergency board of directors as prescribed in this section. Nothing contained in this article shall be construed as requiring a meeting of the board of such an organization to be convened in any manner different from that prescribed by its charter and by the provisions of law other than this article.

3. If three or more directors and/or acting directors of any domestic organization are present at any meeting of its board duly convened during an acute emergency affecting such domestic organization, they shall constitute its emergency board of directors which, notwithstanding any contrary provision of law or of its charter, shall have the power, subject to the limitations prescribed in this article, by a majority of those present, to take any and every action which may be necessary to enable such domestic organization to meet the exigencies of the acute emergency and conduct its business during such period, but no other powers. The powers of an emergency board of directors shall include but shall not be limited to the following powers:

(a) At any meeting, to elect such acting directors as it may deem necessary, without regard to the number of directors which would otherwise be required, to serve in any positions on such board which are vacant or in place of any directors or acting directors who are absent from such meeting, but not to elect any director on a permanent basis.

(b) To elect such acting officers as it may deem necessary, without regard to the number of officers which would otherwise be required, to serve in any offices which are vacant or in place of any officers or acting officers who fail to appear and assume their duties, to fix the compensation and determine the powers and duties of acting officers and

to remove acting officers but not to remove any officer or to fill any vacancy on a permanent basis or to cause the organization to enter into any contract of employment for a term of over one year.

(c) To cause the organization to change the location of its principal office, pursuant to subdivision one hereof, or any of its places of business, and to authorize such action as it may deem appropriate to acquire space and facilities at the new locations, but not to acquire for use as its principal office property in fee or for a term of over one year.

(d) To postpone any meeting of the stockholders, policyholders or members or directors of such organization if, in the judgment of the majority of the members of such emergency board of directors, it would be impracticable to hold such meeting at the time it would otherwise have been held or conducted.

(e) If it shall appear to an emergency board of directors that a quorum of the board cannot be assembled within a reasonable time, to call a meeting of the stockholders, policyholders, or members of the organization to be held as soon as the circumstances may reasonably permit, at a place to be designated by the emergency board of directors within this state or a contiguous state, for the purpose of electing directors to fill vacancies on the board, but for no other purpose, and to propose nominees for such election. Any such meeting of stockholders, policyholders, or members shall be held upon notice given in accordance with the charter of the organization and applicable law other than this article.

4. As soon as practicable after each meeting of an emergency board of directors, the person who presided thereat shall notify the superintendent in writing of the time and place of such meeting, of the manner in which notice thereof was given, of the persons present, and of all actions taken at such meeting.

5. No person prohibited by law or by the charter of a domestic organization from serving as a member of its board shall be eligible to serve as an acting director except that no person shall be disqualified to serve as an acting director by reason of his not being a stockholder, policyholder or member of such organization, by reason of his not being

a resident of this state or of a contiguous state, or by reason of the number of the directors or acting directors who are officers, acting officers or employees of the organization. Any person may serve as an acting director of a fund who is a director, acting director, officer or acting officer of an organization which is a party to the agreement creating the fund. No oath of acting directors shall be required.

6. Acting directors elected pursuant to the provisions of this section or appointed pursuant to the provisions of section ninety-nine of this article shall be entitled to notice of and to vote at all meetings of an emergency board of directors equally with directors. Acting directors shall not be entitled to take part in the deliberations or to vote at any meeting of the board which is duly convened in accordance with the applicable provisions of its charter and of law other than this article and at which a quorum is present. Each acting director shall serve until the director or acting director in whose place he was elected or appointed shall attend a meeting of the board or until a director is duly elected to fill the vacancy in which such acting director has been serving, whichever event occurs earlier. An acting director shall be entitled to the compensation, if any, payable to a director.

7. Acting officers elected pursuant to this section shall have such powers and duties and receive such compensation as may from time to time be determined by the board or emergency board of directors. Each acting officer shall serve until the officer in whose place he was elected shall appear and assume his duties or until his successor officer or acting officer shall be elected, whichever event occurs earlier.

§ 99. Powers of the superintendent. 1. If at any time during an acute emergency, the number of directors or acting directors of a domestic organization who are capable of acting shall be less than three, the superintendent shall have the power to designate additional acting directors in such number as will bring to three the number of directors and acting directors who are capable of acting.

2. To resolve controversy as to the power of any group of persons

purporting to act as an emergency board of directors so to act, the superintendent shall, upon a determination that such action will tend to promote the safe and sound and orderly conduct of the business of any domestic organization, have power to issue orders declaring that any such group shall or shall not have the powers of an emergency board of directors, or confirming, modifying or vacating in whole or in part any action taken or purportedly taken by any such group or removing any acting director.

3. (a) At any time after an attack, upon his determination that such action will tend to promote certainty as to the powers of organizations or individuals pursuant to this article or that such action is desirable to enable organizations to take preparatory precautions prior to the occurrence of an acute emergency, the superintendent shall have power to declare that any provision of this article which he may specify shall be operative with respect to any domestic organization or to the New York business of any other organization which he may designate. Upon such declaration such organization and its directors, officers, acting directors and acting officers shall have all powers conferred by such provisions of this article. The failure of the superintendent so to declare shall not be deemed to limit the powers of any organization or its directors, officers, acting directors or acting officers where an acute emergency exists in fact.

(b) At any time after the commencement of an acute emergency or after the superintendent shall have declared any provision of this article operative pursuant to paragraph (a) of this subdivision, upon his determination that an organization is able, in whole or in part, to carry on its business in compliance with its charter and the laws other than this article, the superintendent shall have power to declare that any provision of this article which he may specify shall be inoperative with respect to any domestic organization or to the New York business of any other organization which he may designate. Upon such declaration, such organization shall be governed by its charter and the provisions of law other than this article, except insofar as other provisions of this article remain operative.

4. Upon his determination that, as a result of an acute emergency, the

business and affairs of an organization cannot otherwise be conducted in a safe and sound manner, the superintendent may forthwith take possession of the business and property of the organization within this state or, if a domestic organization its business and property wherever situated. The provisions of sections five hundred seventeen through five hundred twenty-four, inclusive, of the insurance law shall be applicable in any case in which the superintendent takes possession of an organization pursuant to this subdivision as though the organization were an insurer which the superintendent had taken possession pursuant to sections five hundred twelve and five hundred sixteen of such law, except that no such provision shall be applicable which the superintendent shall have declared inapplicable pursuant to this subdivision. The superintendent shall have power to declare inapplicable any such provision upon his determination that the same is inappropriate or unnecessary to protect the interests of the public or the stockholders or creditors of the organization, in view of the acute emergency and the nature of the organization.

5. The powers given the superintendent by subdivisions two and four of this section shall be exercised by him only in the event that there is no court of competent jurisdiction available to which an application can be made for an order permitting him to exercise such powers with respect to a particular organization; provided, further, that the powers conferred by subdivision four shall not be exercised in the case of an organization which is not insolvent within the meaning of section ninety-three of the insurance law, unless the superintendent finds that such organization lacks personnel able to manage its business in the interests of the public, its stockholders and policyholders.

6. The superintendent shall have power to issue general and specific regulations, directives and orders consistent with and in furtherance of the purposes of this article.

§ 99-a. General provisions. 1. In any action or proceeding it shall be presumed that an acute emergency existing within any city or county within the state constitutes an acute emergency affecting every

organization doing business within such city or county.

2. During an acute emergency (a) the board of a domestic organization which has adopted emergency by-laws approved by the superintendent shall have the powers conferred by such by-laws and, except as provided in section ninety-nine, subdivision three (a), shall, to the extent that such by-laws relate to the subject matter contained in subdivisions two through seven of section ninety-eight have no other or different powers with respect to such subject matter, and (b) the board of a domestic organization which has not adopted emergency by-laws approved by the superintendent shall have all of the powers of an emergency board of directors pursuant to section ninety-eight of this article.

ARTICLE 8

Violations and Penalties; Peace Officers

Section 100. Definitions.

101. Violations and penalties.

102. Jurisdiction of courts concerning violations.

103. Punishment for infractions.

104. Peace officers.

105. Powers of auxiliary police.

106. Powers of members of municipal and volunteer agencies to detain for misdemeanors or infractions.

§ 100. Definitions. As used in this article the following terms shall mean and include:

1. "Exempt person." A member of a municipal or volunteer agency or a member of the armed forces and military services acting within the scope and in the proper performance of his duties as such; a clergyman or a member of a religious order while engaged in duties for a recognized church or religious organization; and such other class of persons as may be exempted by regulation of the commission or the council.

2. "Person duly authorized." A member of a municipal or volunteer

agency wearing or displaying a distinguishing brassard or other insignia indicative of authority.

3. "Peace officer." An officer mentioned in subdivision thirty-three of section 1.20 of the criminal procedure law and such other officers duly authorized pursuant to this act to act as peace officers during attack or drill.

4. "Infraction." A violation of any law or duly promulgated regulation or order (a) which is expressly declared to be an infraction by this act, or (b) which is not expressly declared by this act to be either a misdemeanor or an infraction but where a penalty or other punishment is prescribed by this act. An infraction is not a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment, and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person convicted thereof.

§ 101. Violations and penalties. 1. Any person who shall wilfully violate or disobey any regulation or order concerning the guarding and protection of water supplies, railroads, public utility property, bridges, docks, highways, landing fields, airports, public buildings, factories, plants, stockpiles, vital and strategic materials, and other focal points of possible attack, the loss or destruction of which might menace or endanger the security and safety of the civilian population, impede the military forces or impede the defense effort, shall be guilty of a misdemeanor.

2. Any person who shall violate or disobey any duly promulgated regulation or order, or who shall wilfully violate or disobey any official order by a person duly authorized, concerning (a) the effective screening or extinguishment of all lights, lighting devices and appliances, or (b) the conduct of civilians and the movement and cessation of pedestrian and vehicular traffic shall be guilty of a misdemeanor.

3. Any person who shall without authority wear or display any official brassard or insignia indicative of membership in a municipal or volunteer agency shall be guilty of a misdemeanor.

4. Except for the purpose of any authorized test or drill, any person who shall wilfully utter any false air raid alarm, signal or warning or who shall wilfully simulate any official air raid signal or warning or who shall wilfully break, injure or remove any mechanical warning or signal devices used therefor, shall be guilty of a felony.

5. Any person who shall wilfully violate or disobey any regulation or order duly promulgated pursuant to this act, for which a person is not declared to be guilty of either a misdemeanor or an infraction by this act shall be guilty of an infraction.

6. The provisions of this section shall not apply to exempt persons to the extent prescribed by regulation or order of the council or commission.

§ 102. Jurisdiction of courts concerning violations. Courts of special sessions outside of the city of New York and the criminal court in the city of New York, in the first instance, shall have exclusive jurisdiction to hear and determine charges of violations constituting misdemeanors or infractions under this act or under any rule, regulation or order duly promulgated pursuant to this act, committed within the territorial jurisdiction of such courts. Such exclusive jurisdiction in the case of misdemeanors shall be subject to removal to another court or to divestment on account of indictment or otherwise in the same manner and to the same extent as is now or may hereafter be provided by law with respect to charges of misdemeanors generally in such respective courts.

§ 103. Punishment for infractions. Any person convicted of an infraction as defined by this act shall be punished by a fine of not more than twenty-five dollars or five days in jail or both. All such

finer for infractions committed in a city shall be the property of such city and shall be credited to the general fund thereof; all such fines for infractions committed in a town or village shall be the property of such town or village in accordance with section twenty hundred twenty-one of the uniform justice court act.

§ 104. Peace officers. A peace officer shall have the powers set forth in section 2.20 of the criminal procedure law.

§ 105. Powers of auxiliary police. The local legislative body of any county, town, city or village may by resolution confer or authorize the conferring upon members of the auxiliary police the powers of peace officers, subject to such restrictions as such body shall impose, and subject to the provisions of subdivision twenty-six of section 2.10 and section 2.20 of the criminal procedure law.

§ 106. Powers of members of municipal and volunteer agencies to detain for misdemeanors or infractions. Any person who is a member of a municipal or volunteer agency, in the course of his duty as such and while wearing or displaying a distinguishing brassard or other insignia indicative of authority, may stop and detain any person on account of a misdemeanor or infraction committed by such person in the presence of such member, and may forthwith turn him over to a peace officer who may arrest him without a warrant on the charge of committing the violation constituting the misdemeanor or infraction.

ARTICLE 9

Miscellaneous Provisions; Construction and Duration of Act

Section 110. Additional powers and duties.

111. Powers of the governor and the military forces of the state.

112. Eligibility for appointment.

113. Immunity from liability.

- 114. Judicial notice of plans, regulations and orders.
- 115. Acceptance of gifts, grants and loans.
- 116. Renewal of licenses of members of armed forces.
- 117. Authorization to act as issuing agents for United States obligations.
- 118. Unlawful possession and use of identification cards and badges.
- 119. Repealer; continuity of commission and local offices.
- 120. Separability clause.
- 122. When to take effect.

§ 110. Additional powers and duties. Powers and duties granted or imposed by this act shall be deemed to be in addition to powers and duties granted or imposed by any other law.

§ 111. Powers of the governor and the military forces of the state. No provision of this act shall be construed or interpreted as expressing a limitation directly or indirectly of the power of the governor or of the military forces of the state to effectuate any or all of the purposes of this act or to execute the powers and duties otherwise vested in either of them. To the extent necessary for the implementation or coordination of any such powers or duties, the governor may execute or require or provide for the execution of any of the powers, granted by this act to any agency or officer, in such manner as he deems necessary or proper.

§ 112. Eligibility for appointment. No person shall be ineligible for any appointment made under or pursuant to this act because he holds any other public office, employment, or trust, nor shall any person be made ineligible to or forfeit his right to any public office, employment or trust by reason of such an appointment under this act, notwithstanding any inconsistent provision of law.

§ 113. Immunity from liability. 1. The state, any political subdivision, municipal or volunteer agency, or another state or a civil defense force thereof or of the federal government or of another country or province or subdivision thereof, performing civil defense services in this state pursuant to an arrangement, agreement or compact for mutual aid and assistance, or any agency, member, agent or representative of any of them, or any individual, partnership, corporation, association, trustee, receiver or any of the agents thereof, in good faith carrying out, complying with or attempting to comply with any law, any rule, regulation or order duly promulgated or issued pursuant to this act, any federal law, or any arrangement, agreement or compact for mutual aid and assistance or any order issued by federal or state military authorities, relating to civil defense, including but not limited to activities pursuant thereto, in preparation for anticipated attack, during attack, or following attack or false warning thereof, or in connection with an authorized drill or test, shall not be liable for any injury or death to persons or damage to property as the result thereof.

1-a. The state, any political subdivision, or any individual, partnership, corporation, association, trustee, receiver, or any agent, agency, representative, officer or employee of any of them, who or which owns, maintains, occupies, operates or controls all or part of any building, structure or premises shall not be liable for any injury or death sustained by any person or damage caused to any property (a) while such person or property is in such building, structure or premises, or part thereof, for shelter purposes during an attack, drill, test or false warning thereof or is entering therein or thereon for such purposes or departing therefrom thereafter, and (b) as the result of any condition in or on such building, structure or premises, or part thereof, or of any act or omission with respect thereto, except a wilful act intended to cause injury or damage.

2. The provisions of this section shall not affect the right of any person to receive benefits to which he may be entitled under the workers' compensation law, volunteer firefighters' benefit law, volunteer ambulance workers' benefit law, any pension law or the general municipal law, nor the right of any person to receive any benefits or

compensation under any act of congress or under any law of this state.

3. The provisions of section seventy-one of the general municipal law shall be inoperative and shall not apply with respect to property destroyed or injured by mobs or riots.

§ 114. Judicial notice of plans, regulations and orders. 1. All courts shall take judicial notice of all plans, regulations and orders adopted pursuant to this act and promulgated pursuant to law.

2. Such a plan, regulation or order may be read in evidence, at any time, from a copy thereof, if there is contained on the same page or in the same publication in which such copy is contained, a printed certificate of the secretary of state or of the clerk of the political subdivision that such copy is a correct transcript of the text of the original thereof.

§ 115. Acceptance of gifts, grants and loans. 1. Whenever the United States, or any agency or officer thereof, or any person, firm or corporation, shall offer to the state or to any political subdivision thereof, services, materials, facilities or funds for civil defense or to aid the defense effort, the state, acting through the director of the budget, or such political subdivision, acting through its chief executive officer or governing body, may accept such offer and upon such acceptance the director of the budget of the state or the chief executive of such political subdivision may authorize any officer of the state or political subdivision, as the case may be, to receive such services, materials, facilities or funds on behalf of the state or such political subdivision, subject to the terms of the offer and to the rules and regulations, if any, of the offeror. In the event that any federal law provides that any such services, materials, facilities or funds shall be made available to political subdivisions subject to some action by a state officer or agency, the director of the budget shall have the power to take such action or to designate an appropriate officer or agency of the state to do so.

2. Where an offer of services, materials, facilities or funds for civil defense or to aid the defense effort, is made to the state and where a political subdivision of the state, acting through its chief executive officer or governing body, agrees to assume the obligations of and comply with the terms of the offer and the rules and regulations, if any, of the offeror, the director of the budget may accept such offer and, if consistent therewith, (a) make or agree to make the services available to such political subdivision, (b) authorize or agree to authorize the acquisition of the materials or facilities pursuant to section twenty-three-c of this act, on behalf of and for conveyance to such political subdivision, or (c) approve or agree to approve the transfer or payment of the funds to or on behalf of such political subdivision.

§ 116. Renewal of licenses of members of armed forces. 1. As used in this section the following terms shall mean and include:

a. "Military service." Service as a member of the armed forces of the United States.

b. "Licensee." The holder of a license.

c. "License." An original certificate or other document first issued to a licensee entitling him to practice the profession or engage in the business, work or activity specified therein.

d. "Renewal license." Any renewal or reissuance of a license or any certificate of annual or periodic registration or re-registration of a licensee required by or pursuant to law to permit him lawfully to continue to practice the profession or engage in the business, work or activity specified in the license.

e. "Expired." Normal expiration, or annulment, suspension or revocation solely because of failure of a licensee to apply for a renewal license within the time prescribed therefor.

2. Any person who was in military service on or after June twenty-fifth, nineteen hundred fifty, or who thereafter shall have entered military service, and who at the time of entry into such service is a licensee, may, within three months after the termination of such military service by honorable discharge or by release from such service under honorable circumstances, apply for and be entitled to a renewal license without any examination, re-examination, fine or penalty which would not have been required or imposed if timely application for such renewal license had been made. The officer, board or department empowered by law to issue such renewal license is hereby authorized to issue the same without examination, re-examination or the exaction of any fine or penalty. The issuance of such renewal license shall in all other respects be subject to the provisions of law relating thereto.

3. Notwithstanding any other provision of law, a license to drive, issued pursuant to the provisions of article nineteen of the vehicle and traffic law, which would expire prior to either of the dates set forth in this subdivision, of any person who was in military service on or after June twenty-fifth, nineteen hundred fifty, or who thereafter shall have entered military service, shall expire six months from either the expiration date of this act or the holder's separation from service, whichever occurs first. Notwithstanding the provisions of this subdivision, the commissioner of motor vehicles may refuse to renew the expired driver's license of any person who has failed to notify the commissioner of his entry into military service.

§ 117. Authorization to act as issuing agents for United States obligations. Notwithstanding the provisions of any law, all individuals, partnerships, associations or corporations organized, operating, or doing business under the laws of this state are hereby authorized, upon designation by and qualification with the secretary of the treasury of the United States or under his authority, to act as issuing agents for the sale and issue of obligations of the United States.

§ 118. Unlawful possession and use of identification cards and badges

1. As used in this section the following terms shall mean and include:

(a) "Identification card." Any card or pass issued for the purpose of establishing the identity of any person and the right of such person to be in or on any premises described in this section.

(b) "Identification badge." Any badge of metal or other composition, to be worn by any person for the purpose of establishing his identity or right to be in or on any premises described in this section.

2. Any person to whom there has been issued an identification card or identification badge by any agency of the state or of any political subdivision thereof or by any corporation, firm or individual operating any factory, warehouse, storage house, manufacturing, printing or publishing establishment, mechanical or mercantile establishment, or any plant of any kind, or any mine, colliery or quarry, or any electric railway, steam railway, water, sewage, gas, electric light, power, transmission, heating, refrigerating, telephone, telegraph or other public service property in this state, in which or upon which any person is required to have a special identification card or identification badge before entering therein or thereon as an employee or visitor, shall, upon the termination of his or her employment or the expiration of the time limits of an authorized visit, immediately surrender the same to the issuer thereof, and it shall be unlawful for any person to possess or use any such identification card or identification badge after the termination of such employment or the expiration of the time limits of an authorized visit.

3. Any person finding or coming into possession of an identification card or identification badge, except through authorized issuance, shall immediately surrender the same to any peace officer or the officer in charge of the nearest police station.

4. Any person who wilfully violates any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof be punished by imprisonment of not more than ten days or a fine of not more than fifty dollars, or both.

§ 119. Repealer; continuity of commission and local offices. Article sixteen of the executive law, as added by chapter six hundred ninety of the laws of nineteen hundred fifty, is hereby repealed. The commission and all local offices established pursuant to this act and all local offices in existence on the date this act shall take effect shall, subject to the provisions of this act, be deemed continuations of the state civil defense commission and local offices established pursuant to such former article sixteen of the executive law and such commission and local offices are hereby continued. All appropriations and allocations heretofore made available to the state civil defense commission and all appropriations heretofore made by any political subdivision pursuant to such article sixteen are hereby made available hereunder. All plans, regulations, orders, and other actions taken and obligations incurred pursuant to such article shall continue with full force and effect as plans, regulations, orders, actions and obligations hereunder.

§ 120. Separability clause. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 122. When to take effect. This act shall take effect immediately.