CHAPTER 576

AN ACT to reconsolidate laws relating to the creation, definition, enforcement, transfer, modification, discharge and revival of various civil obligations, constituting chapter twenty-four-a of the consolidated laws

Became a law April 23, 1963, with the approval of the Governor. Passed, by a majority vote, three-fifths being present

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

CHAPTER TWENTY-FOUR-A OF THE CONSOLIDATED LAWS

GENERAL OBLIGATIONS LAW

ARTICLE 1

SHORT TITLE; CONSTRUCTION; APPLICABILITY OF CERTAIN SECTIONS

TITLE 1

SHORT TITLE

§ 1-101. Short title. This chapter shall be known and may be cited as the "General Obligations Law."

TITLE 2

CONSTRUCTION; APPLICABILITY OF CERTAIN SECTIONS

§ 1-201. Construction of act of reconsolidation. 1. This chapter shall be construed as a continuation and re-enactment of the provisions repealed by article nineteen hereof as such provisions existed on December thirty-first, nineteen hundred sixty-two.

2. The repeal by this chapter of provisions specified in article nineteen hereof and the enactment of this chapter shall not affect any action or proceeding pending under any such provision at the time this chapter shall take effect.

3. Any act of the legislature of the year nineteen hundred sixty-three or nineteen hundred sixty-four which in form amends or repeals or purports to amend or repeal any provision or provisions repealed by

article nineteen of this chapter shall be legally effective notwithstanding the repeal of such provision or provisions and shall be construed as an amendment or repeal, as the case may be, of the corresponding provision or provisions of this chapter, and such corresponding provisions shall be construed to be amended, modified, changed or repealed as though they had been expressly and in terms so amended or repealed.

4. Reference by any law, general or special, in force on December thirty-first, nineteen hundred sixty-two, or in any act of the legislature of the year nineteen hundred sixty-three or nineteen hundred sixty-four, to a provision repealed by article nineteen of this chapter, as in force immediately before the time this chapter shall take effect, shall be construed to refer to the corresponding provision of this chapter.

§ 1-202. Definition. As used in this chapter, the term "infant" or "minor" means a person who has not attained the age of eighteen years.

§ 1-203. Provisions excluding application of certain sections to matters previous to dates of their original enactment. 1. Section 1-202 applies to all obligations arising on or after September first, nineteen hundred seventy-four.

2. Section 3-101 applies to contracts made on or after April thirteenth, nineteen hundred forty-one.

3. Section 3-107 applies to contracts made on or after September first, nineteen hundred sixty-one.

5. Section 3-311 does not affect any interest or right of survivorship existing prior to April twentieth, nineteen hundred fifty-nine.

7. Subdivision two of section 3-313 does not affect any right, cause of action or defense existing prior to September first, nineteen hundred

thirty-seven.

9. Section 5-301 applies to undertakings or promises made on or after January twenty-fifth, nineteen hundred thirty-five.

11. Section 5-903 applies to contracts executed or renewed after October first, nineteen hundred sixty-one.

13. Section 5-1103 applies to agreements made on or after April sixth, nineteen hundred thirty-six; sections 5-1105, 5-1107 and 5-1109 apply to assignments, promises or offers made on or after September first, nineteen hundred forty-one.

15. Section 5-1115 applies to deeds or conveyances delivered on or after September first, nineteen hundred forty-four.

17. Section 5-1311 applies to contracts made after May twenty-sixth, nineteen hundred thirty-six.

19. Section 9-101 applies to injuries sustained after September first, nineteen hundred forty-six.

21. Section 13-107 applies to transfers made after September first, nineteen hundred fifty.

23. Title 1 of Article 15 applies to obligations arising on or after April sixth, nineteen hundred twenty-eight.

25. a. Subdivision one of section 15-301 applies to agreements or instruments executed on or after September first, nineteen hundred forty-one.

b. Subdivisions two, three and four of section 15-301 apply to agreements or instruments executed on or after September first, nineteen hundred fifty-two.

c. Subdivision five of section 15-301 applies to agreements, evidences of termination, notices of termination or waivers with respect to agreements or other instruments executed on or after April fifth, nineteen hundred forty-four.

27. Section 15-303 applies to written instruments executed on or after April third, nineteen hundred thirty-six.

29. Section 15-501 applies to executory accords made on or after March eighteenth, nineteen hundred thirty-seven.

31. Subdivision one of section 15-503 applies to offers made on or after March eighteenth, nineteen hundred thirty-seven.

33. Section 17-103 applies to promises made on or after September first, nineteen hundred sixty-one.

35. Section 17-105 applies to waivers, promises, agreements, recitals and acknowledgments made on or after September first, nineteen hundred sixty-one.

37. Section 17-107 applies to payments made on or after September first, nineteen hundred sixty-one.

ARTICLE 3
CAPACITY; EFFECT OF STATUS OR OF CERTAIN RELATIONSHIPS OR OCCUPATIONS UPON THE CREATION, DEFINITION OR ENFORCEMENT OF OBLIGATIONS

TITLE 1
INFANCY

§ 3-101. When contracts may not be disaffirmed on ground of infancy. 1. A contract made on or after September first, nineteen hundred seventy-four by a person after he has attained the age of eighteen years may not be disaffirmed by him on the ground of infancy.

2. A contract made on or after April thirteenth, nineteen hundred forty-one, and before September first, nineteen hundred seventy-four, by a person after he has attained the age of eighteen years, may not be disaffirmed by him on the ground of infancy, where the contract was made in connection with a business in which the infant was engaged and was reasonable and provident when made.

In any action or proceeding in which the right to disaffirm on the ground of infancy a contract made by an infant after he has attained the age of eighteen years is in issue, the burden of proof on the question whether the contract was made in connection with a business in which the infant was engaged, and also on the question whether the contract was reasonable and provident when made, shall be upon the person seeking to deny or defeat such disaffirmance or to enforce the contract.

3. A husband and wife, with respect only to real property they occupy or which they affirm they are about to occupy as a home, regardless of the minority of either or both and without limitation of the powers of any such person who is of full age, shall each have power (a) to enter

into and contract for a loan or loans with a bank, trust company, private banker, national bank, branch or agency of a foreign banking corporation licensed pursuant to article two, or branch of an out-of-state depository institution authorized pursuant to article five-C of the banking law, savings bank or savings and loan association whose home office is located in this state, with any insurance company authorized to do business in this state, with the United States government and its agencies, with respect to such real property and take any other action and execute any other document or instrument to the extent necessary or appropriate to effect any such loan, provide security therefor, carry out or modify the terms thereof, and effect any compromise or settlement of any such loan or of any claim with respect thereto; (b) to receive, hold and dispose of such real property, make and execute contracts, notes, deeds, mortgages, agreements and other instruments necessary and appropriate to acquire such property; and (c) to dispose of such real property so acquired, and make and execute contracts, deeds, agreements and other instruments necessary and appropriate to dispose of such property.

Notwithstanding any contrary provision or rule of law, no such husband or wife shall have the power to disaffirm, because of minority, any act or transaction which he or she is hereinabove empowered to perform or engage in, nor shall any defense based upon minority be interposed in any action or proceeding arising out of any such act or transaction.

The above provision, however, shall affect only transactions entered into subsequent to September first, nineteen hundred sixty-five.

4. A person who has attained the age of eighteen years shall have the power, regardless of his or her minority to enter into a binding and enforceable contract for a loan or loans with a bank, trust company, private banker, national bank, branch or agency of a foreign banking corporation licensed pursuant to article two, or branch of an out-of-state depository institution authorized pursuant to article five-C, of the banking law or savings bank, or with a savings and loan association or credit union which is chartered under the laws of this state or under the provisions of federal law and is authorized to do

business in this state and, in the case of a credit union, if said person is within the field of membership of the credit union, and to take any other action and execute any other document or instrument to the extent necessary or appropriate to effect any such loan, provide security therefor, carry out or modify the terms thereof, and effect any compromise or settlement of any loan or of any claim with respect thereto.

Notwithstanding any contrary provision or rule of law, no such person who has attained the age of eighteen years shall have the power to disaffirm or renounce solely because of his minority any act or transaction which he or she is hereinabove empowered to perform or engage in, nor shall any defense based upon minority be interposed in any action or proceeding arising out of such act or transaction.

The above provision shall affect only transactions entered into on or after June twenty-third, nineteen hundred seventy-three and before September first, nineteen hundred seventy-four.

§ 3-102. Obligations of certain minors for hospital, medical and surgical treatment and care. 1. An obligation incurred by a married minor for hospital, medical and surgical treatment and care for such minor or such minor's children shall not be voidable because of minority. For the purpose of this section only, subsequent judgment of divorce or annulment shall not alter the obligation previously incurred.

§ 3-103. Contracts pursuant to the "Servicemen's Readjustment Act of 1944" as amended; when they may not be disaffirmed. 1. A veteran, eligible for the benefits provided for in Section 1801 and following of Title 38 of the United States Code, and the spouse of such veteran, regardless of the minority of either or both and without limitation of the powers of any such person who is of full age, shall each have power (a) to enter into and contract for a loan or loans to such veteran pursuant to such title; (b) to receive, hold and dispose of real or personal property, make and execute contracts, notes, deeds, mortgages, agreements and other instruments, and take any other action, to the extent necessary or appropriate to effect any such loan, provide security therefor, carry out or modify the terms thereof, and effect any compromise or settlement of any such loan or of any claim with respect thereto; and (c) to dispose of real or personal property so acquired and make and execute contracts, deeds, agreements and other instruments necessary or appropriate for such purpose.

2. Notwithstanding any contrary provision or rule of law, no such veteran or spouse shall have the power to disaffirm, because of minority, any act or transaction which he or she is hereinabove empowered to perform or engage in, nor shall any defense based upon minority be interposed in any action or proceeding arising out of any such act or transaction.

§ 3-107. Certain contracts of parents or guardians respecting employment of infants not enforceable unless approved. Where a contract providing for performance or rendering of services by an infant is one which the supreme court or surrogate's court has jurisdiction to approve as provided in section 3-105 of this chapter, no parent or guardian of the infant with respect to whose services the contract is made shall, unless the contract is so approved, be liable on the contract either as a party or as a guarantor of its performance:

1. If the infant was a resident of the state at the time the contract was made or at the time of the event by reason of which liability is sought to be imposed, by reason of any disaffirmance, repudiation or breach of the contract or any term thereof, or any failure or refusal of the infant to perform, or

2. In any other case, by reason of any failure or refusal of the infant to perform or render services required or permitted by the contract to be performed or rendered in this state or any failure or refusal of the parent or guardian to cause such services to be rendered or performed.

§ 3-109. Payment of wages to minor; when valid. Where a minor is in the employment of a person other than his parent or guardian, payment to such minor of his wages is valid, unless such parent or guardian notify the employer in writing, within thirty days after the commencement of such service, that such wages are claimed by such parent or guardian, but whenever such notice is given at any time payments to the minor shall not be valid for services rendered thereafter.

§ 3-111. Negligence of parent or other custodian not imputed to infant. In an action brought by an infant to recover damages for personal injury the contributory negligence of the infant's parent or other custodian shall not be imputed to the infant.

§ 3-112. Liability of parents and legal guardians having custody of an infant for certain damages caused by such infant. 1. The parent or legal guardian, other than the state, a local social services department or a foster parent, of an infant over ten and less than eighteen years of age, shall be liable to any public officer, organization or authority, having by law the care and/or custody of any public property of the state or of any political subdivision thereof, or to any private individual or organization having by law the care, custody and/or ownership of any private property, for damages caused by such infant, where such infant has willfully, maliciously, or unlawfully damaged, defaced or destroyed such public or private property, whether real or personal, or, where such infant, with intent to deprive the owner and/or custodian of such property or to appropriate the same to himself or herself or to a third person, has knowingly entered or remained in a building and has wrongfully taken, obtained or withheld such public or private personal property from such building which personal property is owned or maintained by the state or any political subdivision thereof or which is owned or maintained by any individual, organization or authority, or where such infant has falsely reported an incident or placed a false bomb as defined in section 240.50, subdivision one or two of section 240.55, section 240.60 or section 240.61 of the penal law.

Such public officer, organization or authority, or private individual or organization, as the case may be, may bring an action for civil damages in a court of competent jurisdiction for a judgment to recover such damages from such parent or legal guardian other than the state or a local social services department or a foster parent. For the purposes of this subdivision, damages for falsely reporting an incident or placing a false bomb shall mean the funds reasonably expended by a victim in responding to such false report, as set forth in subdivision eleven of section 60.27 of the penal law. In no event shall such damages portion of a judgment authorized by this section, as described in this subdivision, exceed the sum of five thousand dollars.

2. Notwithstanding the provisions of subdivision one of this section, prior to the entering of a judgment under this section in the sum total of five hundred dollars or more, the court shall provide such parent or legal guardian of such infant with an opportunity to make an application to the court based upon such parent's or legal guardian's financial inability to pay any portion or all of the amount of such sum total which is in excess of five hundred dollars, and upon the return date of such application, or any adjournment thereof, the court shall, in summary fashion, hear and consider all evidence of financial hardship presented tending to establish the inability of such parent or legal guardian to pay any or all of the amount of the sum total in excess of five hundred dollars, and the court shall render its decision as to such party's inability to make such payment based upon a preponderance of the evidence presented. Upon a decision that such party has established his or her inability to make such payment, the court shall enter the judgment authorized by this section but in an amount within the financial capacity of such parent or legal guardian, provided, however, that since the original of the sum total exceeded five hundred dollars, no such judgment shall be entered for an amount which is less than five hundred dollars.

3. It shall be a defense to an action brought under this section that restitution has been paid pursuant to section seven hundred fifty-eight-a or 353.6 of the family court act, or paragraph (g) of subdivision two of section 65.10 of the penal law. It shall also be a

defense to an action brought under this section that such infant had voluntarily and without good cause abandoned the home of the parent or guardian and without good cause refused to submit to the guidance and control of the parent or guardian prior to and at the time of the occurrence of such damages or destruction. In no event shall it be a defense that the parent or legal guardian has exercised due diligent supervision over the activities of such infant, provided, however, that in the interests of justice, the court may consider mitigating circumstances that bear directly upon the actions of the parent or legal guardian in supervising such unemancipated infant.

4. For the purposes of this section the following definitions shall apply:

a. The terms "enters or remains unlawfully" and "building" shall have the same meaning as ascribed to such terms in section 140.00 of the penal law.

b. "Public officer, organization or authority" shall include but not be limited to: those having by law the care and custody of a municipal district or corporation; those having by law the care and custody of the public property of the state or of any agency, department, board, bureau, commission, division, office, council, committee of the state, or of a public benefit corporation or public authority; and the board of education or trustees of any city, union free or common school district or the city board of any New York City community school district.

c. "Private individual or organization" shall include, but not be limited to: any individual, private or public corporation or partnership or sole proprietorship, organized church, synagogue or temple, not-for-profit organization or corporation, cemetery corporation, or, if such liability is as a result of damage upon any cemetery plot or mausoleum, the next of kin of a person upon whose gravesite such damage or destruction occurred.

TITLE 3

HUSBAND AND WIFE

§ 3-301. Powers of married woman. 1. A married woman has all the rights in respect to property, real or personal, and the acquisition, use, enjoyment and disposition thereof, and to make contracts in respect thereto with any person, including her husband, and to carry on any business, trade or occupation, and to exercise all powers and enjoy all rights in respect thereto and in respect to her contracts, and be liable on such contracts, as if she were unmarried.

2. All sums that may be recovered in actions or special proceedings by a married woman to recover damages to her person, estate or character shall be the separate property of the wife.

3. Judgment for or against a married woman, may be rendered and enforced, in a court of record, or not of record, as if she was single. A married woman may confess a judgment.

§ 3-303. Contracts in contemplation of marriage. A contract made between persons in contemplation of marriage, remains in full force after the marriage takes place.

§ 3-305. Contract of married woman not to bind husband. A contract made by a married woman does not bind her husband or his property.

§ 3-307. Liability of husband for antenuptial debts. A husband who acquires property of his wife by antenuptial contract or otherwise, is liable for her debts contracted before marriage, but only to the extent of the property so acquired.

§ 3-309. Husband and wife may convey to each other or make partition. Husband and wife may convey or transfer real or personal property directly, the one to the other, without the intervention of a third person; and may make partition or division of any real property held by them as tenants in common, joint tenants or tenants by the entireties. If so expressed in the instrument of partition or division, such instrument bars the wife's right to dower in such property, and also, if so expressed, the husband's tenancy by curtesy.

§ 3-311. Marriage relationship not to affect construction of instruments and transactions involving personal property. 1. Where an instrument or transaction creating or transferring an interest in personal property would create a joint tenancy or a tenancy in common in persons not husband and wife, it shall create a joint tenancy or a tenancy in common, as the case may be, in persons who are husband and wife.

2. An instrument or transaction which does not create a right of survivorship in personal property between persons who are not husband and wife shall not create a right of survivorship in personal property between persons who are husband and wife.

3. This section applies without regard to the identity of the person who makes the transfer or at whose instance it is had, or from whom the consideration for the instrument or transaction proceeds.

§ 3-313. Right of action by or against married woman, and by husband or wife against the other, for torts. 1. A married woman has a right of action for an injury to her person, property or character or for an injury arising out of the marital relation, as if unmarried. She is liable for her wrongful or tortious acts; her husband is not liable for such acts unless they were done by his actual coercion or instigation; and such coercion or instigation shall not be presumed, but must be proved.

2. A married woman has a right of action against her husband for his wrongful or tortious acts resulting to her in any personal injury as defined in section thirty-seven-a of the general construction law, or resulting in injury to her property, as if they were unmarried, and she is liable to her husband for her wrongful or tortious acts resulting in any such personal injury to her husband or to his property, as if they were unmarried.

§ 3-315. Married woman's right of action for wages. 1. A married woman shall have a cause of action in her own sole and separate right for all wages, salary, profits, compensation or other remuneration for which she may render work, labor or services or which may be derived from any trade, business or occupation carried on by her, and her husband shall have no right of action therefor unless she or he with her knowledge and consent has otherwise expressly agreed with the person obligated to pay such wages, salary, profits, compensation or other remuneration.

2. In any action or proceeding in which a married woman or her husband shall seek to recover wages, salary, profits, compensation or other remuneration for which such married woman has rendered work, labor or services or which was derived from any trade, business or occupation carried on by her or in which the loss of such wages, salary, profits, compensation or other remuneration shall be an item of damage claimed by a married woman or her husband, the presumption of law in all such cases shall be that such married woman is alone entitled thereto, unless the contrary expressly appears.

TITLE 5
CERTAIN OCCUPATIONS

§ 3-501. Effect of death upon power of attorney given by persons engaged in certain occupations. 1. No agency created by a power of attorney in writing given by a principal who is at the time of execution, or who, after executing such power of attorney, becomes, either

a. a person serving in the armed forces of the United States, or

b. a person serving as a merchant seaman outside the continental limits of the United States; or

c. a person outside such continental limits by permission, assignment or direction of any department or official of the United States government, in connection with any activity pertaining to or connected with the prosecution of any war or any campaign of a military nature in which the armed forces of the United States are participating or have been ordered to participate;

shall be revoked or terminated by the death of the principal as to the attorney-in-fact, agent or other person who, without actual knowledge or actual notice of the death of the principal shall have acted or shall act, in good faith, under or in reliance upon such power of attorney or agency, and any action so taken, unless otherwise invalid or unenforceable, shall be binding on the heirs, devisees, legatees or personal representatives of the principal.

2. An affidavit, executed by the attorney-in-fact or agent, setting

forth that he has not or had not, at the time of doing any act pursuant to the power of attorney, received actual knowledge or actual notice of revocation or termination of the power of attorney, by death or otherwise, or notice of any facts indicating the same, shall, in the absence of fraud, be conclusive proof of the nonrevocation or nontermination of the power at such time. If the exercise of the power requires execution and delivery of any instrument which is recordable under the laws of this state, such affidavit when authenticated for record in the manner prescribed by law shall likewise be recordable.

3. No report or listing, either official or otherwise, of "missing" or "missing in action", as such words are used in military parlance, shall constitute or be interpreted as constituting actual knowledge or actual notice of the death of such principal or notice of any facts indicating the same, or shall operate to revoke the agency.

4. This section shall not be construed so as to alter or affect any provision for revocation or termination contained in such power of attorney.

5. If any provision of this section or the application thereof to any person or circumstance be held invalid, such invalidity shall not affect any other provision or application of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

§ 3-503. Required information and statement in applications for licenses to conduct occupations; fulfillment of child support obligations. 1. As used in this section:

a. "Agency" means the legal authority or entity responsible for determining whether or not a license shall be issued or renewed.

b. "Application" means the form or statements required to be completed or supplied in order to obtain a license.

c. "License" means any certificate, license, permit or grant of permission required by the laws of this state, its political subdivisions or instrumentalities as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession, and shall also include any registration required by law or agency regulation as a condition for such lawful practice.

2. Every applicant for a license or renewal thereof shall provide his or her social security number on the application. Additionally, every applicant for a license or renewal thereof shall certify in the application in a written statement under oath, duly sworn and subscribed, that as of the date the application is filed he or she is (or is not) under obligation to pay child support and that if he or she is under such an obligation, that he or she does (or does not) meet one of the following requirements:

a. he or she is not four months or more in arrears in the payment of child support; or

b. he or she is making payments by income execution or by court agreed payment or repayment plan or by plan agreed to by the parties; or

c. the child support obligation is the subject of a pending court proceeding; or

d. he or she is receiving public assistance or supplemental security income.

3. If the applicant is not under an obligation to pay child support, the agency may issue or renew such license. If the applicant is under an obligation to pay child support and is not four months or more in arrears in the payment of child support, or meets the conditions of paragraphs b, c and d of this subdivision, the agency may issue or renew such license. If the applicant does not meet one of the above requirements, the agency may issue or renew such license but such license shall expire in six months unless before that time the applicant submits a written certification under oath, duly sworn and subscribed

that he or she:

a. is no longer in arrears in the payment of child support; or

b. is making payments by income execution or by court agreed payment or repayment plan or by plan agreed to by the parties or repayment plan with the appropriate support collection unit; or

c. the child support obligation is the subject of a pending court proceeding; or

d. he or she is receiving public assistance or supplemental security income.

Upon the submission of such certification, the expiration date of such license shall be governed by the agency's customary practice and no fee, in addition to the initial license application fee, shall be charged unless the six month period has expired.

4. Every application shall state in bold face that persons who are four months or more in arrears in child support or who have failed to comply with a summons, subpoena or warrant relating to a paternity or child support proceeding may be subject to suspension of their business, professional, drivers and/or recreational licenses and permits including, but not limited to, licences issued pursuant to section 11-0713 of the environmental conservation law.

5. Every application shall state that the intentional submission of false written statements for the purpose of frustrating or defeating the lawful enforcement of support obligations is punishable pursuant to section 175.35 of the penal law.

ARTICLE 5

CREATION, DEFINITION AND ENFORCEMENT OF CONTRACTUAL OBLIGATIONS

TITLE 1

DEFINITIONS OF TERMS

§ 5-101. Definitions of terms as used in certain sections. 1. As used in sections 5-331, 5-703 and 5-1115, the term "conveyance" includes every instrument, in writing, except a will, by which any estate or interest in real property is created, transferred, assigned or surrendered.

2. As used in sections 5-703, 5-1111 and 5-1115, the terms "estate" and "interest in real property" include every such estate and interest, freehold or chattel, legal or equitable, present or future, vested or contingent.

3. As used in sections 5-321, 5-323, 5-331, 5-703 and 5-1115, the term

"real property" is co-extensive in meaning with lands, tenements and hereditaments.

4. As used in section 5-335 of this article, the term "insurer" means any insurance company or other entity which provides for payment or reimbursement of health care expenses, health care services, disability payments, lost wage payments or any other benefits under a policy of insurance or an insurance contract with an individual or group.

TITLE 3

CERTAIN PROHIBITED CONTRACTS AND PROVISIONS OF CONTRACTS

§ 5-301. Certain employment contracts void. Every undertaking or promise, whether written or oral, express or implied, constituting or contained, in any contract or agreement of hiring or employment between any individual, firm, company, association or corporation and any employee or prospective employee of the same, whereby (a) any employee or prospective employee undertakes or promises to join, become or remain a member of a company union; or (b) either party to such contract or agreement undertakes or promises not to join, become, or remain a member of any labor organization or any organization of employers; or (c) either party to such contract or agreement undertakes or promises that he will withdraw from the employment relation in the event that he joins, becomes or remains a member of any labor organization or of any organization of employers, is hereby declared to be contrary to public policy and wholly void and shall not afford any basis for the granting of legal or equitable relief by any court against a party to such undertaking or promise, or against any other persons who may advise, urge or induce, without fraud, violence, or threat thereof, either party thereto to act in disregard of such undertaking or promise.

§ 5-302. 1. Contracts for the creation and use of digital replicas. Any provision in an agreement between an individual and any other person or entity for the performance of personal or professional services is contrary to public policy and shall be void and unenforceable as it relates to a new performance by digital replication if the provision meets all of the following conditions:

(a) The provision allows for the creation and use of a digital replica of the individual's voice or likeness in place of work the individual would otherwise have performed in person.

(b) The provision does not include a reasonably specific description of the intended use of the digital replica. Failure to include a reasonably specific description of the intended uses of a digital replica shall not render the provision unenforceable when the uses are consistent with the terms of the contract for the performance of personal or professional services and consistent with the fundamental character of the photography or sound track as recorded or performed.

(c) The individual was not:

(i) represented by legal counsel who negotiated on behalf of the individual licensing the individual's digital replica rights and the licensing terms are not stated clearly and conspicuously in an employment contract that is separately signed or initialed by the individual or in a separate writing that is signed by the individual; or

(ii) represented by a labor organization representing workers who do the proposed work and the terms of their collective bargaining agreement expressly address uses of digital replicas.

2. This section shall not affect provisions of a contract other than a provision that falls under subdivision one of this section.

3. As used in this section, "digital replica" means a digital simulation of the voice or likeness of an individual that so closely resembles the individual's voice or likeness that a layperson would not be able to readily distinguish the digital simulation from the individual's authentic voice or likeness.

§ 5-311. Certain agreements between husband and wife void. Except as provided in section two hundred thirty-six of the domestic relations law, a husband and wife cannot contract to alter or dissolve the marriage or to relieve either of his or her liability to support the other in such a manner that he or she will become incapable of self-support and therefore is likely to become a public charge. An agreement, heretofore or hereafter made between a husband and wife, shall not be considered a contract to alter or dissolve the marriage unless it contains an express provision requiring the dissolution of the marriage or provides for the procurement of grounds of divorce.

§ 5-321. Agreements exempting lessors from liability for negligence void and unenforceable. Every covenant, agreement or understanding in or in connection with or collateral to any lease of real property exempting the lessor from liability for damages for injuries to person or property caused by or resulting from the negligence of the lessor, his agents, servants or employees, in the operation or maintenance of the demised premises or the real property containing the demised premises shall be deemed to be void as against public policy and wholly unenforceable.

§ 5-322. Agreements exempting caterers and catering establishments from liability for negligence void and unenforceable. Every covenant, agreement or understanding in or in connection with or collateral to any contract entered into with any caterer or catering establishment exempting the said caterer or catering establishment from liability for damages caused by or resulting from the negligence of the caterer or catering establishment, his agents, servants, employees or patrons at the affair contracted therefor, shall be deemed to be void as against public policy and wholly unenforceable.

§ 5-322.1. Agreements exempting owners and contractors from liability for negligence void and unenforceable; certain cases. 1. A covenant, promise, agreement or understanding in, or in connection with or collateral to a contract or agreement relative to the construction, alteration, repair or maintenance of a building, structure, appurtenances and appliances including moving, demolition and excavating connected therewith, purporting to indemnify or hold harmless the promisee against liability for damage arising out of bodily injury to persons or damage to property contributed to, caused by or resulting from the negligence of the promisee, his agents or employees, or indemnitee, whether such negligence be in whole or in part, is against public policy and is void and unenforceable; provided that this section shall not affect the validity of any insurance contract, workers' compensation agreement or other agreement issued by an admitted insurer. This subdivision shall not preclude a promisee requiring indemnification for damages arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of a party other than the promisee, whether or not the promisor is partially negligent.

2. A covenant, promise, agreement or understanding in, or in connection with or collateral to a contract or agreement relative to the construction, alteration, repair or maintenance of a building, structure, appurtenances and appliances including moving, demolition and excavating connected therewith, purporting to condition a subcontractor's or materialman's right to file a claim and/or commence an action on a payment bond on exhaustion of another legal remedy is against public policy and is void and unenforceable; provided that this subdivision shall not affect the validity of any insurance contract, workers' compensation agreement or other agreement issued by an admitted insurer.

3. The provisions of this section shall only apply to covenants, promises, agreements or understandings in, or in connection with or collateral to a contract or agreement, as enumerated in subdivision one hereof, entered into on or after the thirtieth day next succeeding the date on which it shall have become a law.

§ 5-322.2. Contents of certain construction contracts. 1. Every written contract or agreement executed by an owner providing for the building, construction, repair or renovation of buildings, structures, or improvements upon real property owned by him other than contracts involving public improvements as defined in the lien law and contracts involving residential property with housing accommodations for less than five families, shall contain a clause requiring such owner to set forth in said contract the following information:

(a) the full name and address of the owner or owners;

(b) the full name and address of the owner of the land and the owner of the building or improvements if the owner of the land and the owner of the building or improvements shall be different persons or entities; and

(c) a description by street address; or section, block, and lot numbers; or reference to a deed book and page number;

In the event the names required to be set forth as hereinabove provided shall be changed after the execution of any such contract or agreement and during the period of such construction, the owner shall within five days notify the contractor of such change in writing sent to the contractor by certified mail to the address of the contractor as set forth in said contract.

2. Every written subcontract or agreement executed by a contractor for performance of any portion of the said construction, shall contain the same information required to be provided to the contractor by the owner described in subdivision one of this section.

3. The provisions of this section shall apply only to contracts or agreements as enumerated in subdivision one of this section, entered into on or after the date on which the provisions of this section become effective.

4. Any failure to comply with the provisions of this section shall not render any agreement or contract hereof, enumerated in subdivision one hereof, void or voidable nor shall it otherwise impair any obligations or rights under any such agreement or contract.

§ 5-322.3. Payment bonds to be filed. A copy of any payment bond executed in connection with a contract for the improvement of real property other than a contract for a public improvement, shall be filed within thirty days of such execution by the owner of the improvement in the office of the county clerk in the county in which the improvement is to be undertaken; provided, however, that such filing shall be required only where the contract for the improvement of real property is for an amount in excess of one hundred thousand dollars. Any owner failing to file such payment bond as provided herein shall be liable for the reasonable attorney's fees, as determined by the court, of any claimant successfully bringing an action or proceeding on the bond.

§ 5-323. Agreements exempting building service or maintenance contractors from liability for negligence void and unenforceable. Every covenant, agreement or understanding in or in connection with or collateral to any contract or agreement affecting real property made or entered into, whereby or whereunder a contractor exempts himself from liability for injuries to person or property caused by or resulting from the negligence of such contractor, his agent, servants or employees, as a result of work performed or services rendered in connection with the construction, maintenance and repair of real property or its appurtenances, shall be deemed to be void as against public policy and wholly unenforceable.

§ 5-324. Agreements by owners, contractors, subcontractors or suppliers to indemnify architects, engineers and surveyors from liability caused by or arising out of defects in maps, plans, designs and specifications void and unenforceable. Every covenant, agreement or understanding in, or in connection with any contract or agreement made and entered into by owners, contractors, subcontractors or suppliers whereby an architect, engineer, surveyor or their agents, servants or employees are indemnified for damages arising from liability for bodily injury to persons or damage to property caused by or arising out of defects in maps, plans, designs or specifications, prepared, acquired or used by such architect, engineer, surveyor or their agents, servants or employees shall be deemed void as against public policy and wholly uneforceable.

§ 5-325. Garages and parking places. 1. No person who conducts or maintains for hire or other consideration a garage, parking lot or other similar place which has the capacity for the housing, storage, parking, repair or servicing of four or more motor vehicles, as defined by the vehicle and traffic law, may exempt himself from liability for damages for injury to person or property resulting from the negligence of such person, his agents or employees, in the operation of any such vehicle, or in its housing, storage, parking, repair or servicing, or in the conduct or maintenance of such garage, parking lot or other similar place, and, except as hereinafter provided, any agreement so exempting such person shall be void.

2. Damages for loss or injury to property may be limited by a provision in the storage agreement limiting the liability in case of loss or damage by theft, fire or explosion and setting forth a specific liability per vehicle, which shall in no event be less than twenty-five thousand dollars, beyond which the person owning or operating such garage or lot shall not be liable; provided, however, that such liability may on request of the person delivering such vehicle be increased, in which event increased rates may be charged based on such increased liability.

§ 5-326. Agreements exempting pools, gymnasiums, places of public amusement or recreation and similar establishments from liability for negligence void and unenforceable. Every covenant, agreement or understanding in or in connection with, or collateral to, any contract, membership application, ticket of admission or similar writing, entered into between the owner or operator of any pool, gymnasium, place of amusement or recreation, or similar establishment and the user of such facilities, pursuant to which such owner or operator receives a fee or other compensation for the use of such facilities, which exempts the said owner or operator from liability for damages caused by or resulting from the negligence of the owner, operator or person in charge of such establishment, or their agents, servants or employees, shall be deemed to be void as against public policy and wholly unenforceable.

§ 5-327. Consumers' right to recover attorney's fees in actions arising out of consumer contracts. 1. As used in this section, the following terms shall have the following meanings:

(a) "Consumer contract" means a written agreement entered into between a creditor, seller or lessor as one party with a natural person who is the debtor, buyer or lessee as the second party, and the money, other personal property or services which are the subject of the transaction are primarily for personal, family or household purposes;

(b) "Creditor" means a person who regularly extends, or arranges for the extension of, credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required;

(c) "Seller" means a person who sells or provides or agrees to sell or provide the subject of a consumer transaction.

(d) "Lessor" means a person who regularly leases, or arranges for the lease of, personal property which is the subject of a consumer contract.

2. Whenever a consumer contract provides that the creditor, seller or lessor may recover attorney's fees and expenses incurred as the result of a breach of any contractual obligation by the debtor, buyer or lessee, it shall be implied that the creditor, seller or lessor shall pay the attorney's fees and expenses of the debtor, buyer or lessee incurred as the result of a breach of any contractual obligation by the creditor, seller or lessor, or in the successful defense of any action arising out of the contract commenced by the creditor, seller or lessor. Any limitations on attorney's fees recoverable by the creditor, seller or lessor shall also be applicable to attorney's fees recoverable by the debtor, buyer or lessee under this section. Any waiver of this section shall be void as against public policy.

§ 5-328. Processing fee by holder of dishonored check. 1. As used in this section the following terms shall have the following meanings:

(a) "Holder of a check" means the holder or its assignee, representative or any other person retained by the holder to seek collection of the face value of a dishonored check.

(b) "Dishonored check" means a check, draft or like instrument drawn on a bank or depository institution as full or partial payment for an unpaid balance on an account, or for other extensions of credit or payments of money in connection with a consumer transaction, which is not paid or is dishonored or is returned by such institution due to insufficient funds or other cause not attributable to the holder.

(c) "Consumer transaction" means a transaction in which a natural person is extended credit for, or purchases or leases, personal property, money or services primarily for personal, family or household purposes.

(d) "Account" means a loan account, a retail credit account or an obligation under a retail lease agreement, retail instalment contract or retail instalment obligation or a retail instalment credit agreement, as defined in sections three hundred one, three hundred thirty-one and four hundred one of the personal property law.

2. Notwithstanding the provisions of any law:

(a) The holder of a dishonored check given in payment for a consumer transaction or an account may collect from, charge, or add to the outstanding balance of the account of, the person from whom such check was received or to whom such credit was extended, a dishonored check charge of not more than the lesser of the amount agreed upon, if contracted for, or twenty dollars.

(b) A dishonored check charge shall not be deemed a credit service charge, interest or an incident to or a condition to the extension of credit, for any purpose of law.

3. (a) Notwithstanding any other provision of law, any person to whom a check, draft or like instrument, other than a money order, bank cashier's check or certified check, is tendered for any transaction, other than a consumer transaction, may, if such instrument is dishonored charge or collect from the maker or drawer the amount of twenty dollars for the return of such unpaid or dishonored instrument.

(b) Notwithstanding any other provision of this subdivision, a landlord, lessor, sub-lessor or grantor to whom a check, draft or like instrument, other than a money order, bank cashier's check or certified check, is tendered for payment of rent, may if such instrument is dishonored charge or collect from the maker or drawer the amount of actual costs, charges or fees incurred by such landlord, lessor, sub-lessor or grantor for the return of such dishonored check or the amount set forth in paragraph (a) of this subdivision, whichever is greater, provided that:

(i) if the payment, fee or charge exceeds the amount set forth in paragraph (a) of this subdivision the landlord, lessor, sub-lessor or grantor shall provide to the tenant upon request evidence substantiating the equivalence between the payment, fee or charge and the amount of actual costs, charges or fees incurred for the return of the dishonored check; and

(ii) such dishonored check charge was contracted for in the lease agreement between the tenant and landlord, lessor, sub-lessor or grantor in accordance with the requirements of subdivision two-a of section two hundred thirty-eight-a of the real property law. The provisions of this paragraph shall not apply to a shareholder of a cooperative housing corporation, provided, however, that the provisions of this paragraph shall apply with respect to any tenant or subtenant of such a shareholder.

§ 5-331. Certain covenants and restrictions in conveyances and other agreements affecting real property void as against public policy. Any promise, covenant or restriction in a contract, mortgage, lease, deed or conveyance or in any other agreement affecting real property, heretofore or hereafter made or entered into, which limits, restrains, prohibits or otherwise provides against the sale, grant, gift, transfer, assignment, conveyance, ownership, lease, rental, use or occupancy of real property to or by any person because of race, creed, color, national origin, or ancestry, is hereby declared to be void as against public policy, wholly unenforceable, and shall not constitute a defense in any action, suit or proceeding. No such promise, covenant or restriction shall be listed as a valid provision affecting such property in public notices concerning such property. The invalidity of any such promise, covenant or restriction in any such instrument or agreement shall not affect the validity of any other provision therein, but no reverter shall occur, no possessory estate shall result, nor any right of entry or right to a penalty or forfeiture shall accrue by reason of the disregard of such promise, covenant or restriction. This section shall not apply to conveyances or devises to religious associations or corporations for religious purposes, but, such promise, covenant or restriction shall cease to be enforceable and shall otherwise become subject to the provisions of this section when the real property affected shall cease to be used for such purpose.

§ 5-332. Unsolicited and voluntarily sent merchandise deemed unconditional gift. 1. No person, firm, partnership, association or corporation, or agent or employee thereof, shall, in any manner, or by any means, offer for sale goods, wares, or merchandise, where the offer includes the voluntary and unsolicited sending of such goods, wares, or merchandise not actually ordered or requested by the recipient, either orally or in writing. The receipt of any such goods, wares, or merchandise shall for all purposes be deemed an unconditional gift to the recipient who may use or dispose of such goods, wares, or merchandise in any manner he sees fit without any obligation on his part to the sender.

If after any such receipt deemed to be an unconditional gift under this section, the sender continues to send bill statements or requests for payment with respect thereto, an action may be brought by the recipient to enjoin such conduct, in which action there may also be awarded reasonable attorney's fees and costs to the prevailing party.

2. If a person is a member of an organization which makes retail sales of any goods, wares, or merchandise to its members, and the person notifies the organization of his termination of membership by certified mail, return receipt requested, any unordered goods, wares, or merchandise which are sent to the person after thirty days following execution of the return receipt for the certified letter by the organization, shall for all purposes be deemed unconditional gifts to the person, who may use or dispose of the goods, wares, or merchandise

in any manner he sees fit without any obligation on his part to the organization.

If the termination of a person's membership in such organization breaches any agreement with the organization, nothing in this section shall relieve the person from liability for damages to which he might be otherwise subjected to pursuant to law, but he shall not be subject to any damages with respect to any goods, wares, or merchandise which are deemed unconditional gifts to him under this section.

If after any receipt deemed to be an unconditional gift under this section, the sender continues to send bill statements or requests for payment with respect thereto, an action may be brought by the recipient to enjoin such conduct, in which action there may also be awarded reasonable attorneys' fees and costs to the prevailing party.

§ 5-333. Validity of oil, gas or mineral land leases. 1. Any oil, gas or mineral land lease given on land situated in this state shall be deemed to incorporate subdivisions two and three of this section and any provisions to the contrary shall be void and unenforceable.

2. Any oil, gas or mineral land lease which provides for delay rental payments, such payments being periodic payments to the lessor for the right to delay drilling or excavation upon the leased property, shall provide that the first such payment shall be due and payable no later than one hundred eighty days after the effective date of the lease. Any bonus or up front payment made by the lessee equal to or greater than the first delayed rental payment shall constitute compliance with this subdivision.

3. Any oil, gas or mineral land lease shall contain a statement advising the lessor of the provisions of section 15-304 of this chapter. Such statement shall be printed in at least ten point bold type and shall read as follows:

IF THIS LEASE BECOMES FORFEITED, TERMINATED OR EXPIRES, THE LESSEE, OR

IF THE LEASE HAS BEEN ASSIGNED, THE ASSIGNEE IS REQUIRED TO PROVIDE A DOCUMENT CANCELLING THE LEASE AS OF RECORD, AT NO COST TO THE CURRENT LANDOWNER. IF THE LESSEE OR ASSIGNEE FAILS TO CANCEL THE LEASE, THE CURRENT LANDOWNER MAY COMPEL A CANCELLATION PURSUANT TO SECTION 15-304 OF THE GENERAL OBLIGATIONS LAW.

4. For the purposes of this section, the term "mineral" shall not include salt, as defined by subdivision eighteen of section 23-0101 of the environmental conservation law.

5. On or after January first, two thousand six, any oil or gas lease shall contain the following statement printed in at least ten point bold type:

THIS IS A LEASE OF OIL AND GAS RIGHTS, NOT A SALE, CONTAINING TERMS THAT MAY BE NEGOTIATED BY YOU. YOU HAVE THE RIGHT TO CANCEL THIS LEASE WITHIN THREE BUSINESS DAYS AFTER EXECUTION OF THE LEASE BY NOTIFYING THE LESSEE THAT YOU HAVE CANCELED THIS CONTRACT. IN ORDER TO CANCEL THIS LEASE, YOU MUST EXECUTE A NOTICE OF CANCELLATION IN THE FORM PROVIDED BELOW, MAIL IT TO THE LESSEE AND REFUND ALL AMOUNTS PAID TO YOU BY THE LESSEE WITHIN THE THREE-DAY CANCELLATION PERIOD. THE MAILING MUST BE POSTMARKED WITHIN THE THREE-DAY CANCELLATION PERIOD TO BE EFFECTIVE.

NOTICE OF CANCELLATION

I/WE HEREBY CANCEL THIS LEASE.

DATED:

SIGNATURE(S):

THE PERSON PRESENTING THIS LEASE TO YOU IS [ ] NOT [ ] A MEMBER OF (name of organization) AND THEREFORE IS [ ] IS NOT [ ] SUBJECT TO A CODE OF CONDUCT. IF THE PERSON PRESENTING THIS LEASE TO YOU IS SUBJECT TO A CODE OF CONDUCT, A COPY OF THE CODE OF CONDUCT MUST BE PRESENTED TO YOU WITH THIS LEASE. IF APPLICABLE, THE CODE OF CONDUCT PROVIDES A DISPUTE RESOLUTION MECHANISM FOR ANY DISPUTE THAT YOU MAY HAVE REGARDING THE MANNER BY WHICH THIS LEASE WAS PRESENTED TO YOU. IF

YOU HAVE ANY SUCH DISPUTE, YOU MAY INVOKE THE DISPUTE RESOLUTION MECHANISM OF THE CODE OF CONDUCT BY CONTACTING THE PERSON OR PERSONS DESIGNATED IN THE CODE OF CONDUCT. THE FAILURE OF THE LESSEE TO PAY ANY ROYALTIES TO YOU AS REQUIRED UNDER THE TERMS OF THE LEASE FOR A PERIOD OF FOUR CONSECUTIVE MONTHS OR MORE SHALL BE A DEFAULT UNLESS OTHERWISE PROVIDED BY LAW, AND WILL RESULT IN CANCELLATION OF THE LEASE APPLICABLE TO THE TARGET FORMATION OF THE WELL WITHIN THE SPACING UNIT, FOLLOWING WRITTEN NOTIFICATION TO THE LESSEE OF YOUR INTENT TO CANCEL AND SIXTY DAYS FOR THE LESSEE TO CURE THE DEFAULT. IF THE LESSEE HAS A BONA FIDE DISPUTE REGARDING THE GROUNDS FOR CANCELLATION, SUCH DISPUTE AND THE REASONS THEREFOR MUST BE PROVIDED TO YOU IN WRITING OR THE DEFAULT MUST BE CURED WITHIN SUCH SIXTY DAY PERIOD, OTHERWISE THE LEASE SHALL BE CANCELLED.

6. The provisions of subdivisions one, two, three and four of this section shall apply to leases entered into on or after January first, nineteen hundred eighty-five and the provisions of subdivision five of this section shall apply to leases entered into on or after January first, two thousand six.

§ 5-334. Option or right to acquire interest in property. 1. An option or right to acquire an equity or other ownership interest in property or in a partnership, corporation, trust or other entity that owns property shall not be unenforceable because the owner of such interest grants such option or right to the holder of a mortgage which is a lien on such property or to the holder of a security interest in such property, simultaneously with or in connection with any loan or forbearance of money secured by such mortgage or security interest, if (a) the power to exercise such option or right is not dependent upon the occurrence of a default with respect to such loan, forbearance, mortgage or security interest, and (b) such loan or forbearance is for the principal sum of two million five hundred thousand dollars or more when the option or right is granted. Loans or forbearances aggregating two million five hundred thousand dollars or more which are to be made or advanced to any one borrower in one or more installments pursuant to a written agreement by one or more lenders shall be deemed a single loan or forbearance for the total amount which the lender or lenders have agreed to make or advance pursuant to such agreement.

2. This section shall not be construed to limit, impair or otherwise affect the power of the holder of any option or right to acquire an equity or other ownership interest in property or in a partnership, corporation, trust or other entity that owns property, if such option or right is or would be enforceable without reference to this section.

3. This section shall apply to all options or rights which are exercised on or after the effective date of this section, notwithstanding the date when such options or rights were granted.

§ 5-335. Limitation of reimbursement and subrogation claims in personal injury and wrongful death actions. (a) When a person settles a claim, whether in litigation or otherwise, against one or more other persons for personal injuries, medical, dental, or podiatric malpractice, or wrongful death, it shall be conclusively presumed that the settlement does not include any compensation for the cost of health care services, loss of earnings or other economic loss to the extent those losses or expenses have been or are obligated to be paid or reimbursed by an insurer. By entering into any such settlement, a person shall not be deemed to have taken an action in derogation of any right of any insurer that paid or is obligated to pay those losses or expenses; nor shall a person's entry into such settlement constitute a violation of any contract between the person and such insurer.

No person entering into such a settlement shall be subject to a subrogation claim or claim for reimbursement by an insurer and an insurer shall have no lien or right of subrogation or reimbursement against any such settling person or any other party to such a settlement, with respect to those losses or expenses that have been or are obligated to be paid or reimbursed by said insurer.

(b) This section shall not apply to a subrogation claim for recovery of additional first-party benefits provided pursuant to article fifty-one of the insurance law. The term "additional first-party benefits", as used in this subdivision, shall have the same meaning given it in section 65-1.3 of title 11 of the codes, rules and regulations of the state of New York as of the effective date of this statute.

(c) This section shall not apply to a subrogation or reimbursement claim for recovery of benefits provided by Medicare or Medicaid, specifically authorized pursuant to article fifty-one of the insurance law, or pursuant to a policy of insurance or an insurance contract providing workers' compensation benefits.

§ 5-336. Nondisclosure agreements. 1. (a) Notwithstanding any other law to the contrary, no employer, its officers or employees shall have the authority to include or agree to include in any settlement, agreement or other resolution of any claim, the factual foundation for which involves discrimination, harassment, or retaliation, in violation of laws prohibiting discrimination, including discriminatory harassment or retaliation, including but not limited to, article fifteen of the executive law, any term or condition that would prevent the disclosure of the underlying facts and circumstances to the claim or action unless the condition of confidentiality is the complainant's preference.

(b) Any such term or condition must be provided in writing to all parties in plain English, and, if applicable, the primary language of the complainant, and the complainant shall have up to twenty-one days to consider such term or condition. If confidentiality is the complainant's preference, such preference shall be memorialized in an agreement signed by all parties. For a period of at least seven days following the execution of such agreement, the complainant may revoke the agreement, and the agreement shall not become effective or be enforceable until such revocation period has expired.

(c) Any such term or condition shall be void to the extent that it prohibits or otherwise restricts the complainant from: (i) initiating, testifying, assisting, complying with a subpoena from, or participating in any manner with an investigation conducted by the appropriate local, state, or federal agency; or (ii) filing or disclosing any facts necessary to receive unemployment insurance, Medicaid, or other public benefits to which the complainant is entitled.

2. Notwithstanding any provision of law to the contrary, any provision in a contract or other agreement between an employer or an agent of an employer and any employee, potential employee, or independent contractor of that employer entered into on or after January first, two thousand twenty, that prevents the disclosure of factual information related to any future claim of discrimination is void and unenforceable unless such provision notifies the employee, potential employee, or independent contractor that it does not prohibit the complainant from speaking with law enforcement, the equal employment opportunity commission, the state division of human rights, the attorney general, a local commission on human rights, or an attorney retained by the employee or potential employee.

3. Notwithstanding any other law to the contrary, no release of any claim, the factual foundation for which involves unlawful discrimination, including discriminatory harassment, or retaliation, shall be enforceable, if as part of the agreement resolving such claim:

(a) the complainant is required to pay liquidated damages for violation of a nondisclosure clause or nondisparagement clause;

(b) the complainant is required to forfeit all or part of the consideration for the agreement, for violation of a nondisclosure clause or nondisparagement clause; or

(c) it contains or requires any affirmative statement, assertion, or disclaimer by the complainant that the complainant was not in fact subject to unlawful discrimination, including discriminatory harassment, or retaliation.

§ 5-337. Agreements requiring contractees to waive their rights in relation to expressing certain opinions about contractors void and unenforceable. 1. (a) A contract or proposed contract for the sale or lease of consumer goods or services may not include a provision waiving the consumer's right to make any statement regarding the seller or lessor or its employees or agents, or concerning the goods or services.

(b) It shall be unlawful to threaten or to seek to enforce a provision made unlawful under this section, or to otherwise penalize a consumer for making any statement protected under this section.

2. Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

3. Any person or entity that violates this section shall be subject to a civil penalty not to exceed two thousand five hundred dollars for the first violation, and five thousand dollars for the second and for each subsequent violation, to be assessed and collected in a civil action brought by the consumer or by the attorney general. In addition, for a willful or intentional violation of this section, a consumer or the attorney general may recover a civil penalty not to exceed ten thousand dollars. Under this section, when the civil action is brought by the consumer, the civil penalty shall be payable to the consumer and when the civil action is brought by the attorney general, such civil penalty shall be payable to the state.

4. The penalty provided by this section is not an exclusive remedy, and does not affect any other relief or remedy provided by law. This section shall not be construed to prohibit or limit a person or business that hosts online consumer reviews or comments from removing a statement that is otherwise lawful to remove.

TITLE 4
CONTRACTS RELATING TO WAGERING; FORFEITURE AND RECOVERY OF CERTAIN PROPERTY

5-423. Money paid for lottery tickets may be recovered by action.

§ 5-401. Illegal wagers, bets and stakes. All wagers, bets or stakes, made to depend upon any race, or upon any gaming by lot or chance, or upon any lot, chance, casualty, or unknown or contingent event whatever, shall be unlawful.

§ 5-411. Contracts on account of money or property wagered, bet or staked are void. All contracts for or on account of any money or property, or thing in action wagered, bet or staked, as provided in section 5-401, shall be void.

§ 5-413. Securities for money lost at gaming, void. All things in action, judgments, mortgages, conveyances, and every other security whatsoever, given or executed, by any person, where the whole or any part of the consideration of the same shall be for any money or other valuable thing won by playing at any game whatsoever, or won by betting on the hands or sides of such as do play at any game, or where the same shall be made for the repaying any money knowingly lent or advanced for the purpose of such gaming or betting aforesaid, or lent or advanced at the time and place of such play, to any person so gaming or betting aforesaid, or to any person who during such play, shall play or bet, shall be utterly void, except where such securities, conveyances or mortgages shall affect any real estate, when the same shall be void as to the grantee therein, so far only as hereinafter declared.

When any securities, mortgages or other conveyances, executed for the whole or part of any consideration specified in the preceding paragraph shall affect any real estate, they shall inure for the sole benefit of such person as would be entitled to the said real estate, if the grantor or person incumbering the same, had died, immediately upon the execution of such instrument, and shall be deemed to be taken and held to and for the use of the person who would be so entitled. All grants, covenants and conveyances, for preventing such real estate from coming to, or devolving upon, the person hereby intended to enjoy the same as aforesaid, or in any way incumbering or charging the same, so as to prevent such person from enjoying the same fully and entirely, shall be deemed fraudulent and void.

§ 5-415. Certain transfers of property in pursuance of lottery, void. Every grant, bargain, sale, conveyance, or transfer of any real estate, or of any goods, chattels, things in action, or any personal property, which shall hereafter be made in pursuance of any lottery, or for the purpose of aiding and assisting in such lottery, game or other device, to be determined by lot or chance is hereby declared void and of no effect.

§ 5-417. Contracts, agreements and securities on account of raffling, void. All contracts, agreements and securities given, made or executed, for or on account of any raffle, or distribution of money, goods or things in action, for the payment of any money, or other valuable thing, in consideration of a chance in such raffle or distribution, or for the delivery of any money, goods or things in action, so raffled for, or agreed to be distributed as aforesaid, shall be utterly void.

§ 5-419. Property staked may be recovered. Any person who shall pay, deliver or deposit any money, property or thing in action, upon the event of any wager or bet prohibited, may sue for and recover the same of the winner or person to whom the same shall be paid or delivered, and of the stakeholder or other person in whose hands shall be deposited any such wager, bet or stake, or any part thereof, whether the same shall have been paid over by such stakeholder or not, and whether any such wager be lost or not.

§ 5-421. Losers of certain sums may recover them. Every person who shall, by playing at any game, or by betting on the sides or hands of such as do play, lose at any time or sitting, the sum or value of twenty-five dollars or upwards, and shall pay or deliver the same or any part thereof, may, within three calendar months after such payment or delivery, sue for and recover the money or value of the things so lost and paid or delivered, from the winner thereof.

§ 5-423. Money paid for lottery tickets may be recovered by action. Any person who shall purchase any share, interest, ticket, certificate of any share or interest, or part of a ticket, or any paper or instrument purporting to be a ticket or share or interest in any ticket, or purporting to be a certificate of any share or interest in any ticket, or in any portion of any lottery, may sue for and recover double the sum of money, and double the value of goods or things in action, which he may have paid or delivered in consideration of such purchase, with double costs of suit.

Any person who shall have paid any money, or valuable thing, for a chance or interest in any lottery or distribution, prohibited by the penal law, may sue for and recover the same of the person to whom such payment or delivery was made.

TITLE 5

INTEREST AND USURY; BROKERAGE ON LOANS

§ 5-501. Rate of interest; usury forbidden. 1. The rate of interest, as computed pursuant to this title, upon the loan or forbearance of any money, goods, or things in action, except as provided in subdivisions five and six of this section or as otherwise provided by law, shall be six per centum per annum unless a different rate is prescribed in section fourteen-a of the banking law.

2. No person or corporation shall, directly or indirectly, charge, take or receive any money, goods or things in action as interest on the loan or forbearance of any money, goods or things in action at a rate exceeding the rate above prescribed. The amount charged, taken or received as interest shall include any and all amounts paid or payable, directly or indirectly, by any person, to or for the account of the lender in consideration for making the loan or forbearance as defined by the superintendent of financial services pursuant to subdivision three of section fourteen-a of the banking law except such fee as may be fixed by the commissioner of taxation and finance as the cost of servicing loans made by the property and liability insurance security fund.

3. If the rate of interest charged, taken or received on any loan or forbearance secured primarily by either (i) an interest in real property improved by a one to six family residence occupied by the owner or (ii) certificates of stock or other evidence of an ownership interest in a corporation or partnership formed for the purpose of the cooperative ownership of real estate taken as security for a loan under subdivision five of section one hundred three of the banking law, subdivision eight-a of section two hundred thirty-five of such law or subdivision two-a of section three hundred eighty of such law, exceeds six per centum per annum,

a. in the case of a loan referred to by clause (i) of this subdivision, the term of such loan or forbearance may extend five years beyond the maximum maturity of such loan otherwise prescribed by law, and

b. notwithstanding any other provision of law, the unpaid balance of the loan or forbearance may be prepaid, in whole or in part, at any time. If prepayment is made on or after one year from the date the loan or forbearance is made, no penalty may be imposed. If prepayment is made prior to such time, no penalty may be imposed unless provision therefor is expressly made in the loan contract, provided that no penalty may be imposed if prohibited by sections six-l and six-m of the banking law. In all cases, the right of prepayment shall be stated in the instrument evidencing the loan or forbearance, provided, however, that the provisions of this subdivision shall not apply to the extent such provisions are inconsistent with any federal law or regulation.

4. Except as otherwise provided by law, interest shall not be charged, taken or received on any loan or forbearance at a rate exceeding such rate of interest as may be authorized by law at the time the loan or forbearance is made, whether or not the loan or forbearance is made pursuant to a prior contract or commitment providing for a greater rate of interest, provided, however, that no change in the rate of interest prescribed in section fourteen-a of the banking law shall affect (a) the validity of a loan or forbearance made before the date such rate becomes effective, or (b) the enforceability of such loan or forbearance in accordance with its terms, except that if any loan or forbearance provides for an increase in the rate of interest during the term of such loan or forbearance, the increased rate shall not exceed such rate of interest as may have been authorized by law at the time such loan or forbearance was made.

4-a. Notwithstanding the provisions of subdivision four of this section, a loan or forbearance repayable on demand may provide for changes, reflecting variations in lending rates, from time to time in the rate of interest payable on such loan or forbearance up to the rate of interest authorized by law at the time of such change and in such case the rate of interest may be so changed in accordance with the terms of the contract or loan commitment relating thereto; provided, however, that the rate of interest charged, taken or received on such a loan or forbearance shall not exceed the rate of interest authorized by law as it may subsequently be reduced from time to time; and further provided, however, that in no event shall such a loan or forbearance by subject to an authorized rate of interest less than that applicable at the time such loan or forbearance was made. The provisions of this subdivision shall apply only to a loan or forbearance repayable on demand which has an initial principal of more than five thousand dollars and which the borrower has the right to repay at any time in whole or in part, together with accrued interest on the principal so repaid, without any penalty. With respect to a loan or forbearance covered by this subdivision, the lender shall disclose to the borrower in writing not less often than annually the amount of interest accrued or payable as of the date of such disclosure and the manner by which such amount was computed.

5. No law regulating the maximum rate of interest which may be charged, taken or received shall apply to any loan or forbearance insured by the federal housing commissioner or for which a commitment to insure has been made by the federal housing commissioner or to any loan or forbearance insured or guaranteed pursuant to the provisions of an act of congress entitled "Servicemen's Readjustment Act of 1944."

6. a. No law regulating the maximum rate of interest which may be charged, taken or received, except section 190.40 and section 190.42 of the penal law, shall apply to any loan or forbearance in the amount of two hundred fifty thousand dollars or more, other than a loan or a forbearance secured primarily by an interest in real property improved by a one or two family residence. A loan of two hundred fifty thousand dollars or more which is to be advanced in installments pursuant to a written agreement by a lender shall be deemed to be a single loan for the total amount which the lender has agreed to advance pursuant to such agreement on the terms and conditions provided therein.

b. No law regulating the maximum rate of interest which may be charged, taken or received, including section 190.40 and section 190.42

of the penal law, shall apply to any loan or forbearance in the amount of two million five hundred thousand dollars or more. Loans or forbearances aggregating two million five hundred thousand dollars or more which are to be made or advanced to any one borrower in one or more installments pursuant to a written agreement by one or more lenders shall be deemed to be a single loan or forbearance for the total amount which the lender or lenders have agreed to advance or make pursuant to such agreement on the terms and conditions provided therein.

7. Except as otherwise expressly provided by law, in the event of prepayment in full of a loan, any refund of unearned interest to which the borrower may be entitled may not be computed by a sum of the balances or similar method but must be determined according to a generally accepted actuarial method.

§ 5-511. Usurious contracts void. 1. All bonds, bills, notes, assurances, conveyances, all other contracts or securities whatsoever, except bottomry and respondentia bonds and contracts, and all deposits of goods or other things whatsoever, whereupon or whereby there shall be reserved or taken, or secured or agreed to be reserved or taken, any greater sum, or greater value, for the loan or forbearance of any money, goods or other things in action, than is prescribed in section 5-501, shall be void, except that the knowingly taking, receiving, reserving or charging such a greater sum or greater value by a savings bank, a savings and loan association or a federal savings and loan association shall only be held and adjudged a forfeiture of the entire interest which the loan or obligation carries with it or which has been agreed to be paid thereon. If a greater sum or greater value has been paid, the person paying the same or his legal representative may recover from the savings bank, the savings and loan association or the federal savings and loan association twice the entire amount of the interest thus paid.

2. Except as provided in subdivision one, whenever it shall satisfactorily appear by the admissions of the defendant, or by proof, that any bond, bill, note, assurance, pledge, conveyance, contract, security or any evidence of debt, has been taken or received in

violation of the foregoing provisions, the court shall declare the same to be void, and enjoin any prosecution thereon, and order the same to be surrendered and cancelled.

§ 5-513. Recovery of excess. Every person who, for any such loan or forbearance, shall pay or deliver any greater sum or value than is allowed to be received pursuant to section 5-501, and his personal representatives, may recover in an action against the person who shall have taken or received the same, and his personal representatives, the amount of the money so paid or value delivered, above the rate aforesaid.

§ 5-515. Borrower bringing an action need not offer to repay. Whenever any borrower of money, goods or things in action, shall begin an action for the recovery of the money, goods or things in action taken in violation of the foregoing provisions of this title, it shall not be necessary for him to pay or offer to pay any interest or principal on the sum or thing loaned; nor shall any court require or compel the payment or deposit of the principal sum or interest, or any portion thereof, as a condition of granting relief to the borrower in any case of usurious loans forbidden by the foregoing provisions of this title.

§ 5-517. Transfer of cause of action for usury. A cause of action to cancel, or otherwise affect, an instrument executed, or an act done, as security for a usurious loan or forbearance, can be transferred, where the instrument or act creates a specific charge upon property, which is also transferred in disaffirmance thereof, and not otherwise; but, in that case, the transferee does not succeed to the right, conferred by statute upon the borrower, to procure relief, without paying, or offering to pay, any part of the sum or thing loaned.

§ 5-519. Return of excess a bar to further penalties. Every person who shall repay or return the money, goods or other things so taken, accepted or received, or the value thereof, shall be discharged from any other or further forfeiture or penalty which he may have incurred under sections 5-511 or 5-513, by taking or receiving the money, goods or other thing so repaid, or returned, as aforesaid.

§ 5-521. Corporations prohibited from interposing defense of usury. 1. No corporation shall hereafter interpose the defense of usury in any action. The term corporation, as used in this section, shall be construed to include all associations, and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships.

2. The provisions of subdivision one of this section shall not apply to a corporation, the principal asset of which shall be the ownership of a one or two family dwelling, where it appears either that the said corporation was organized and created, or that the controlling interest therein was acquired, within a period of six months prior to the execution, by said corporation of a bond or note evidencing indebtedness, and a mortgage creating a lien for said indebtedness on the said one or two family dwelling; provided, that as to any such bond, note or mortgage executed by such a corporation and effective prior to April sixth, nineteen hundred fifty-six, the defense of usury may be interposed only in an action or proceeding instituted for the collection, enforcement or foreclosure of such note, bond or mortgage.

Any provision of any contract, or any separate written instrument executed prior to, simultaneously with or within sixty days after the delivery of any moneys to any borrower in connection with such indebtedness, whereby the defense of usury is waived or any such corporation is estopped from asserting it, is hereby declared to be contrary to public policy and absolutely void.

3. The provisions of subdivision one of this section shall not apply to any action in which a corporation interposes a defense of criminal usury as described in section 190.40 of the penal law.

§ 5-523. Interest permitted on advances on collateral security. In any case in which advances of money, repayable on demand, to an amount not less than five thousand dollars, are made upon documents of title within article seven of the uniform commercial code or negotiable instruments within article three or article eight of the uniform commercial code pledged as collateral security for such repayment, it shall be lawful to receive or to contract to receive and collect, as compensation for making such advances, any sum to be agreed upon in writing, by the parties to such transaction, provided that there shall not be received or contracted to be received and collected on such advances any amount which would be in violation of section 190.40 of the penal law.

§ 5-524. Taking security upon certain property for usurious loans. A person who takes security, upon any household furniture, sewing machines, plate or silverware in actual use, tools or implements of trade, wearing apparel or jewelry, for a loan or forbearance of money, or for the use or sale of his personal credit, conditioned upon the payment of a greater rate than the rate prescribed by the superintendent of financial services pursuant to section fourteen-a of the banking law, or, if no rate has been so prescribed, six per centum per annum, or who as security for such loan, use or sale of personal credit as aforesaid, makes a pretended purchase of such property from any person, upon the like condition, and permits the pledgor to retain the possession thereof is guilty of a misdemeanor.

§ 5-525. Interest charged by a registered broker or dealer for carrying debit balances. Interest charged by a broker or dealer registered under the securities exchange act of nineteen hundred thirty-four, as amended, for carrying a debit balance including a debit balance arising out of a non-purpose loan, in an account for a customer shall not be subject to the limitations of this title, including the limitations contained in subdivision two of section 5-527 of this title, if such debit balance is payable on demand and secured by securities or commodities upon which credit can be extended by a broker or dealer, and if, on the date when the interest is charged or accrued, such interest is not greater than eight percentage points above the prime rate. For the purposes of this section, the prime rate shall equal the average prime rate on short term business loans which is published by the board of governors of the federal reserve system for the most recent week which was publicly available from the board of governors of the federal reserve system on the previous business day.

§ 5-526. Interest on secured loans or forbearances. 1. Interest charged on loans or forbearances made to corporations for business or commercial purposes in the amount of one hundred thousand dollars or more and secured in compliance with the uniform commercial code shall not be subject to the limitations of this title or sections 190.40 and 190.42 of the penal law, if on the date when the interest is charged or accrued, such interest is not greater than eight percentage points above the prime rate.

2. Such secured loans or forbearances which are made or advanced to any one corporate borrower in one or more installments pursuant to a written agreement which provides for either discretionary or mandatory advances by one or more lenders shall be deemed to be a single loan or forbearance for the total amount which the lender or lenders have advanced, if such advances are discretionary, or have agreed to advance, if such advances are mandatory, pursuant to such agreement on the terms and conditions provided therein.

3. For purposes of this section, the loan or forbearance transaction must create a security interest as set forth in section 9--109 of the uniform commercial code and must be filed pursuant to article nine of such code unless filing is not required pursuant to section 9--310 of such code, or (b) must create a security interest set forth in section 9--110 of such code.

4. For purposes of this section, the prime rate shall equal the average prime rate on short term business loans which is published by

the board of governors of the federal reserve system for the most recent week which was publicly available from the board of governors of the federal reserve system on the previous business day.

§ 5-527. Enforceability of compound interest. 1. A loan or other agreement providing for compound interest shall be enforceable notwithstanding the date that such loan or other agreement providing for such compound interest shall have been executed; provided, however, that such compound interest shall begin to accrue and become due and payable on the later to occur of (a) June twenty-fourth, nineteen hundred eighty-nine or (b) the date that any obligation to pay such compound interest may have arisen, including, but not limited to, the date of any default or event of default under such loan or other agreement. For purposes of this subdivision, the term "compound interest" shall mean the accruing of interest upon unpaid interest irrespective of whether such unpaid interest is added to the principal debt.

2. The provisions of this section shall not be applicable to any loan or other financing agreement where the original principal debt is in an amount of two hundred fifty thousand dollars or less, or to any loan or other financing agreement secured primarily by a one or two family owner-occupied residence. For purposes of this subdivision the term "residence" shall include a lessee's interest in a proprietary lease granted by a cooperative housing corporation.

3. Notwithstanding the provisions of subdivision two of this section, nothing in this section shall affect the maximum rate of interest which may be charged, taken or received as provided by law, or be construed to limit, impair or otherwise affect any loan or other agreement which is, or would be, enforceable without reference to this section, including but not limited to an agreement made pursuant to section six-f of the banking law.

§ 5-531. Brokerage on loans; recovery of excess; effect of restitution. 1. No person shall, directly or indirectly, take or receive more than fifty cents for a brokerage, soliciting, driving or procuring the loan or forbearance of one hundred dollars, and in that proportion for a greater or less sum, except loans on real estate security; nor more than thirty-eight cents for making or renewing any bond, bill, note or other security given for such loan or forbearance, or for any counter bond, bill, note or other security concerning the same.

2. For the purposes of this section:

a. "Consumer" means a natural person.

b. "Loan broker" means any individual, firm, corporation, or partnership who agrees for a fee to obtain a loan or credit for a consumer or to assist a consumer in obtaining a loan or credit, other than a loan or credit on real estate security.

c. No loan broker shall solicit, receive or collect from a consumer the fee authorized by subdivision one of this section in advance of the disbursement of loan proceeds or the extension of credit to a consumer.

d. No loan broker shall solicit, receive or collect from a consumer any fee, advance payment or compensation of any nature other than the fee authorized by subdivision one of this section.

3. a. Every person who shall pay, deliver or deposit any money, property or thing in action, over and above the rate aforesaid, and his personal representatives may, within three years after such payment, delivery or deposit, sue for and recover the same of the person so taking or receiving such money, property or thing in action, or of his personal representatives. Judgment may be entered in favor of a consumer in an amount not to exceed three times the actual damages plus reasonable attorneys' fees.

b. In case such suit shall not be brought within the time above prescribed, in good faith, or in case it shall be discontinued, or willfully delayed, then the public welfare officials of the city or town where the offense was committed, may, within one year after such neglect, discontinuance or delay, sue for and recover the money, property or thing in action, so received, delivered or deposited, from the person receiving the same, or his personal representatives, for the use of the poor of the county.

c. In addition to the other remedies provided, whenever there shall be a violation of subdivision two of this section, application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this article, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this article has occurred, the court may impose a civil penalty of not more than one thousand dollars for each violation. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

TITLE 6
INTEREST ON CERTAIN DEPOSITS

§ 5-601. Interest on deposits in escrow with mortgage investing institutions. Any mortgage investing institution which maintains an escrow account pursuant to any agreement executed in connection with a mortgage on any one to six family residence occupied by the owner or on any property owned by a cooperative apartment corporation, as defined in subdivision twelve of section three hundred sixty of the tax law, (as such subdivision was in effect on December thirtieth, nineteen hundred sixty), and located in this state shall, for each quarterly period in which such escrow account is established, credit the same with dividends or interest at a rate of not less than two per centum per year based on the average of the sums so paid for the average length of time on deposit or a rate prescribed by the superintendent of financial services pursuant to section fourteen-b of the banking law and pursuant to the terms and conditions set forth in that section whichever is higher. The superintendent of financial services shall prescribe by regulation the method or basis of computing any minimum rate of interest required by this section and any such minimum rate shall be a net rate over and above any service charge that may be imposed by any mortgage lending institution for maintaining an escrow account. No mortgage investing institution shall impose a service charge in connection with the maintenance of an escrow account unless provision therefor was expressly made in a loan contract executed prior to the effective date of this section.

§ 5-602. Interest on insurance draft deposits in escrow with mortgage investing institutions. Any mortgage investing institution which maintains an escrow account pursuant to any agreement executed in connection with a mortgage or any loan, secured by a lien on any one to six family residence occupied by the owner or on any property owned by a cooperative apartment corporation, as defined in subdivision twelve of section three hundred sixty of the tax law, (as such subdivision was in effect on December thirtieth, nineteen hundred sixty), and located in this state and which residence or cooperative apartment corporation received from an insurance carrier a draft, forwarded to a mortgage investing institution, as compensation for damage done to a residence shall, for each quarterly period in which such escrow account is established, credit the same with dividends or interest at a rate of not less than two per centum per year based on the average of the sums so paid for the average length of time on deposit or a rate prescribed by the superintendent of financial services pursuant to section fourteen-b of the banking law and pursuant to the terms and conditions set forth in that section whichever is higher. The superintendent of financial services shall prescribe by regulation the method or basis of computing any minimum rate of interest required by this section and any such minimum rate shall be a net rate over and above any service charge that may be imposed by any mortgage lending institution for maintaining an escrow account. No mortgage investing institution shall impose a service charge in connection with the maintenance of an escrow account unless provision therefor was expressly made in a loan contract executed prior to the effective date of this section.

TITLE 7
REQUIREMENTS OF WRITING, EXECUTION OR ACKNOWLEDGMENT FOR EFFECTIVENESS OR ENFORCEABILITY

§ 5-701. Agreements required to be in writing. a. Every agreement, promise or undertaking is void, unless it or some note or memorandum thereof be in writing, and subscribed by the party to be charged therewith, or by his lawful agent, if such agreement, promise or undertaking:

1. By its terms is not to be performed within one year from the making thereof or the performance of which is not to be completed before the end of a lifetime;

2. Is a special promise to answer for the debt, default or miscarriage

of another person;

3. Is made in consideration of marriage, except mutual promises to marry;

5. Is a subsequent or new promise to pay a debt discharged in bankruptcy;

6. Notwithstanding section 2-201 of the uniform commercial code, if the goods be sold at public auction, and the auctioneer at the time of the sale, enters in a sale book, a memorandum specifying the nature and price of the property sold, the terms of the sale, the name of the purchaser, and the name of the person on whose account the sale was made, such memorandum is equivalent in effect to a note of the contract or sale, subscribed by the party to be charged therewith;

9. Is a contract to assign or an assignment, with or without consideration to the promisor, of a life or health or accident insurance policy, or a promise, with or without consideration to the promisor, to name a beneficiary of any such policy. This provision shall not apply to a policy of industrial life or health or accident insurance.

10. Is a contract to pay compensation for services rendered in negotiating a loan, or in negotiating the purchase, sale, exchange, renting or leasing of any real estate or interest therein, or of a business opportunity, business, its good will, inventory, fixtures or an interest therein, including a majority of the voting stock interest in a corporation and including the creating of a partnership interest. "Negotiating" includes procuring an introduction to a party to the transaction or assisting in the negotiation or consummation of the transaction. This provision shall apply to a contract implied in fact or in law to pay reasonable compensation but shall not apply to a contract to pay compensation to an auctioneer, an attorney at law, or a duly licensed real estate broker or real estate salesman.

b. Notwithstanding paragraph one of subdivision a of this section:

1. An agreement, promise, undertaking or contract, which is valid in other respects and is otherwise enforceable, is not void for lack of a note, memorandum or other writing and is enforceable by way of action or defense provided that such agreement, promise, undertaking or contract is a qualified financial contract as defined in paragraph two of this subdivision and (a) there is, as provided in paragraph three of this subdivision, sufficient evidence to indicate that a contract has been made, or (b) the parties thereto, by means of a prior or subsequent written contract, have agreed to be bound by the terms of such qualified financial contract from the time they reach agreement (by telephone, by exchange of electronic messages, or otherwise) on those terms.

2. For purposes of this subdivision, a "qualified financial contract" means an agreement as to which each party thereto is other than a natural person and which is:

(a) for the purchase and sale of foreign exchange, foreign currency, bullion, coin or precious metals on a forward, spot, next-day value or other basis;

(b) a contract (other than a contract for the purchase and sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade) for the purchase, sale or transfer of any commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or any product or byproduct thereof, with a maturity date more than two days after the date the contract is entered into;

(c) for the purchase and sale of currency, or interbank deposits denominated in United States dollars;

(d) for a currency option, currency swap or cross-currency rate swap;

(e) for a commodity swap or a commodity option (other than an option contract traded on, or subject to the rules of a contract market or board of trade);

(f) for a rate swap, basis swap, forward rate transaction, or an interest rate option;

(g) for a security-index swap or option or a security (or securities) price swap or option;

(h) an agreement which involves any other similar transaction relating to a price or index (including, without limitation, any transaction or agreement involving any combination of the foregoing, any cap, floor, collar or similar transaction with respect to a rate, commodity price, commodity index, security (or securities) price, security-index or other price index);

(i) for the assignment, sale, trade, participation or exchange of indebtedness or claims relating thereto arising in the course of the claimant's business or profession (including but not limited to commercial and/or bank loans, choses in action arising under or in connection with loan agreements and private notes, and including forward sales), but only to the extent that such indebtedness or obligation was not incurred by a natural person primarily for personal, family or household purposes; or

(j) an option with respect to any of the foregoing.

3. There is sufficient evidence that a contract has been made if:

(a) There is evidence of electronic communication (including, without limitation, the recording of a telephone call or the tangible written text produced by computer retrieval), admissible in evidence under the laws of this state, sufficient to indicate that in such communication a contract was made between the parties;

(b) A confirmation in writing sufficient to indicate that a contract has been made between the parties and sufficient against the sender is received by the party against whom enforcement is sought no later than the fifth business day after such contract is made (or such other period of time as the parties may agree in writing) and the sender does not receive, on or before the third business day after such receipt (or such other period of time as the parties may agree in writing), written objection to a material term of the confirmation; for purposes of this subparagraph, a confirmation or an objection thereto is received at the time there has been actual receipt by an individual responsible for the transaction or, if earlier, at the time there has been constructive receipt which is the time actual receipt by such an individual would have occurred if the receiving party, as an organization, has exercised reasonable diligence; and a "business day" for the purposes of this subparagraph is a day on which both parties are open and transacting business of the kind involved in that qualified financial contract which is the subject of the confirmation;

(c) The party against whom enforcement is sought admits in its pleading, testimony or otherwise in court that a contract was made; or

(d) There is a note, memorandum or other writing sufficient to indicate that a contract has been made, signed by the party against whom enforcement is sought or by its authorized agent or broker.

For purposes of this paragraph evidence of an electronic communication indicating the making therein of a contract or a confirmation, admission, note, memorandum or writing is not insufficient because it omits or incorrectly states one or more material terms agreed upon, so long as such evidence provides a reasonable basis for concluding that a contract was made.

4. For purposes of this subdivision, the tangible written text produced by telex, telefacsimile, computer retrieval or other process by which electronic signals are transmitted by telephone or otherwise shall constitute a writing and any symbol executed or adopted by a party with the present intention to authenticate a writing shall constitute a signing. The confirmation and notice of objection referred to in subparagraph (b) of paragraph three of this subdivision may be communicated by means of telex, telefacsimile, computer or other similar process by which electronic signals are transmitted by telephone or otherwise, provided that a party claiming to have communicated in such a manner shall, unless the parties have otherwise agreed in writing, have the burden of establishing actual or constructive receipt by the other party as set forth in subparagraph (b) of paragraph three of this subdivision.

§ 5-702. Requirements for use of plain language in consumer transactions. a. Every written agreement entered into after November first, nineteen hundred seventy-eight, for the lease of space to be occupied for residential purposes, for the lease of personal property to be used primarily for personal, family or household purposes or to which a consumer is a party and the money, property or service which is the subject of the transaction is primarily for personal, family or household purposes must be:

1. Written in a clear and coherent manner using words with common and every day meanings;

2. Appropriately divided and captioned by its various sections.

Any creditor, seller or lessor who fails to comply with this subdivision shall be liable to a consumer who is a party to a written agreement governed by this subdivision in an amount equal to any actual damages sustained plus a penalty of fifty dollars. The total class action penalty against any such creditor, seller or lessor shall not exceed ten thousand dollars in any class action or series of class actions arising out of the use by a creditor, seller or lessor of an agreement which fails to comply with this subdivision. No action under this subdivision may be brought after both parties to the agreement have fully performed their obligation under such agreement, nor shall any creditor, seller or lessor who attempts in good faith to comply with this subdivision be liable for such penalties. This subdivision shall not apply to a good faith attempt to describe the constant yield or other method of determining the lease charge and depreciation portions of each base rental payment under a lease of personal property. It also shall not apply to agreements involving amounts in excess of two hundred fifty thousand dollars nor prohibit the use of words or phrases or forms of agreement required by state or federal law, rule or regulation or by a governmental instrumentality.

b. A violation of the provisions of subdivision a of this section shall not render any such agreement void or voidable nor shall it constitute:

1. A defense to any action or proceeding to enforce such agreement; or

2. A defense to any action or proceeding for breach of such agreement.

c. In addition to the above, whenever the attorney general finds that there has been a violation of this section, he may proceed as provided in subdivision twelve of section sixty-three of the executive law.

§ 5-703. Conveyances and contracts concerning real property required to be in writing. 1. An estate or interest in real property, other than a lease for a term not exceeding one year, or any trust or power, over or concerning real property, or in any manner relating thereto, cannot be created, granted, assigned, surrendered or declared, unless by act or operation of law, or by a deed or conveyance in writing, subscribed by the person creating, granting, assigning, surrendering or declaring the same, or by his lawful agent, thereunto authorized by writing. But this subdivision does not affect the power of a testator in the disposition of his real property by will; nor prevent any trust from arising or being extinguished by implication or operation of law, nor any declaration of trust from being proved by a writing subscribed by the person declaring the same.

2. A contract for the leasing for a longer period than one year, or for the sale, of any real property, or an interest therein, is void unless the contract or some note or memorandum thereof, expressing the consideration, is in writing, subscribed by the party to be charged, or by his lawful agent thereunto authorized by writing.

3. A contract to devise real property or establish a trust of real property, or any interest therein or right with reference thereto, is void unless the contract or some note or memorandum thereof is in writing and subscribed by the party to be charged therewith, or by his lawfully authorized agent.

4. Nothing contained in this section abridges the powers of courts of equity to compel the specific performance of agreements in cases of part performance.

§ 5-705. Execution and acknowledgment of assumption of mortgage debt by grantee of mortgaged real property. No grantee of real property shall be liable upon any indebtedness secured by a mortgage thereon executed prior to the time of the conveyance of the real property to the grantee, nor shall he be liable for any deficiency that may remain upon the foreclosure and sale of real property covered by such a mortgage, after application of the proceeds of sale, unless such grantee shall simultaneously with the conveyance to him of such real property execute and acknowledge, before an officer authorized to take acknowledgments of deeds, a statement in writing stating in substance that such grantee assumes and agrees to pay such mortgage debt and giving the specific amount of the debt assumed. The execution and acknowledgment by a grantee of the deed of conveyance to him containing such written statement shall be sufficient compliance with the provisions of this section. This section shall not apply, however, where, subsequent to the conveyance and upon an extension or modification of the indebtedness secured by the mortgage, the grantee shall execute and acknowledge, before an officer authorized to take acknowledgments of deeds, a statement in writing stating that such grantee assumes and agrees to pay such mortgage debt, and giving the specific amount of the debt assumed.

TITLE 9
REQUIREMENTS OF NOTICE FOR EFFECTIVENESS OR ENFORCEABILITY

§ 5-901. Certain provisions of leases of personal property inoperative unless notice thereof given to lessee. No provision of a lease of any personal property which states that the term thereof shall be deemed renewed for a specified additional period unless the lessee gives notice to the lessor of his intention to release the property at the expiration of such term, shall be operative unless the lessor, at least fifteen days and not more than thirty days previous to the time specified for the furnishing of such notice to him, shall give to the lessee written notice, served personally or by mail, calling the attention of the lessee to the existence of such provision in the lease. Nothing herein contained shall be construed to apply to a contract in which the automatic renewal period specified is one month or less.

§ 5-903. Automatic renewal provision of contract for service, maintenance or repair unenforceable by contractor unless notice thereof given to recipient of services. 1. As used in this section, "person" means an individual, firm, company, partnership or corporation.

2. No provision of a contract for service, maintenance or repair to or for any real or personal property which states that the term of the contract shall be deemed renewed for a specified additional period unless the person receiving the service, maintenance or repair gives notice to the person furnishing such contract service, maintenance or repair of his intention to terminate the contract at the expiration of such term, shall be enforceable against the person receiving the service, maintenance or repair, unless the person furnishing the service, maintenance or repair, at least fifteen days and not more than thirty days previous to the time specified for serving such notice upon him, shall give to the person receiving the service, maintenance or repair written notice, served personally or by certified mail, calling the attention of that person to the existence of such provision in the contract.

3. Nothing herein contained shall be construed to apply to a contract in which the automatic renewal period specified is one month or less.

§ 5-905. Certain provisions of leases to be inoperative unless express notice thereof is given to tenant. No provision of a lease of any real property or premises which states that the term thereof shall be deemed renewed for a specified additional period of time unless the tenant gives notice to the lessor of his intention to quit the premises at the expiration of such term shall be operative unless the lessor, at least fifteen days and not more than thirty days previous to the time specified for the furnishing of such notice to him, shall give to the tenant written notice, served personally or by registered or certified mail, calling the attention of the tenant to the existence of such provision in the lease.

TITLE 11
CONSIDERATION; EFFECT OF WRITING ON REQUIREMENT OF CONSIDERATION

§ 5-1101. Agreements relating to securities. An agreement, promise or undertaking for the purchase, sale, transfer, assignment or delivery of a certificate or other evidence of debt, issued by the United States or by any state, or a municipal or other corporation, or of any share or interest in the stock of any bank corporation or joint stock association, incorporated or organized under the laws of the United States or of any state, is not void or voidable, for want of consideration, or because of the nonpayment of consideration, or because the vendor, at the time of making such contract, is not the owner or possessor of the certificate or certificates or other evidence of debt, share or interest.

§ 5-1103. Written agreement for modification or discharge. An agreement, promise or undertaking to change or modify, or to discharge in whole or in part, any contract, obligation, or lease, or any mortgage or other security interest in personal or real property, shall not be invalid because of the absence of consideration, provided that the agreement, promise or undertaking changing, modifying, or discharging such contract, obligation, lease, mortgage or security interest, shall be in writing and signed by the party against whom it is sought to enforce the change, modification or discharge, or by his agent.

§ 5-1105. Written promise expressing past consideration. A promise in writing and signed by the promisor or by his agent shall not be denied effect as a valid contractual obligation on the ground that consideration for the promise is past or executed, if the consideration is expressed in the writing and is proved to have been given or performed and would be a valid consideration but for the time when it was given or performed.

§ 5-1107. Written assignment. An assignment shall not be denied the effect of irrevocably transferring the assignor's rights because of the absence of consideration, if such assignment is in writing and signed by the assignor, or by his agent.

§ 5-1109. Written irrevocable offer. Except as otherwise provided in section 2-205 of the uniform commercial code with respect to an offer by a merchant to buy or sell goods, when an offer to enter into a contract is made in a writing signed by the offeror, or by his agent, which states that the offer is irrevocable during a period set forth or until a time fixed, the offer shall not be revocable during such period or until such time because of the absence of consideration for the assurance of irrevocability. When such a writing states that the offer is irrevocable but does not state any period or time of irrevocability, it shall be construed to state that the offer is irrevocable for a reasonable time.

§ 5-1111. Execution by agent in real property transactions; written

authorization required. If executed by an agent, any agreement, promise, undertaking, assignment or offer required by section 5-1103, 5-1105, 5-1107 or 5-1109 to be in writing, which affects or relates to real property or an interest therein in any manner stated in subdivisions one or two of section 5-703 of this chapter, shall be void unless such agent was thereunto authorized in writing.

§ 5-1113. Written or published promise or reward. A promise to pay a reward for return of lost or mislaid property is not unenforceable because of absence of consideration if the promise was made in writing or the promisor caused it to be published.

§ 5-1115. Promises and warranties in conveyances made without consideration. A promise or warranty by the grantor in a deed or conveyance of an estate or interest in real property and acknowledged or proved in the manner prescribed by law to entitle it to be recorded shall not be denied effect because of the absence of consideration, if no consideration was intended.

TITLE 13
CONSTRUCTION OF PARTICULAR TERMS IN CONTRACTUAL TRANSACTIONS

§ 5-1301. How interest calculated. Whenever, in any statute, act, deed, written or verbal contract, or in any public or private instrument whatever, any certain rate of interest is or shall be mentioned, and no period of time is stated for which such rate is to be calculated, interest shall be calculated at the rate mentioned, by the year, in the same manner as if the words "per annum" or "by the year" had been added to such rate.

§ 5-1311. Uniform vendor and purchaser risk act. 1. Any contract for the purchase and sale or exchange of realty shall be interpreted, unless the contract expressly provides otherwise, as including an agreement that the parties shall have the following rights and duties:

a. When neither the legal title nor the possession of the subject matter of the contract has been transferred to the purchaser: (1) if all or a material part thereof is destroyed without fault of the purchaser or is taken by eminent domain, the vendor cannot enforce the contract, and the purchaser is entitled to recover any portion of the price that he has paid; but nothing herein contained shall be deemed to deprive the vendor of any right to recover damages against the purchaser for any breach of contract by the purchaser prior to the destruction or taking; (2) if an immaterial part thereof is destroyed without fault of the purchaser or is taken by eminent domain, neither the vendor nor the purchaser is thereby deprived of the right to enforce the contract; but there shall be, to the extent of the destruction or taking, an abatement of the purchase price.

b. When either the legal title or the possession of the subject matter of the contract has been transferred to the purchaser, if all or any part thereof is destroyed without fault of the vendor or is taken by eminent domain, the purchaser is not thereby relieved from a duty to pay the price, nor is he thereby entitled to recover any portion thereof that he has paid; but nothing herein contained shall be deemed to deprive the purchaser of any right to recover damages against the vendor for any breach of contract by the vendor prior to the destruction or taking.

2. This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

3. This section may be cited as the uniform vendor and purchaser risk act.

TITLE 14

ENFORCEABILITY OF CLAUSES RESPECTING CHOICE OF LAW AND CHOICE OF FORUM IN CERTAIN TRANSACTIONS

§ 5-1401. Choice of law. 1. The parties to any contract, agreement or undertaking, contingent or otherwise, in consideration of, or relating to any obligation arising out of a transaction covering in the aggregate not less than two hundred fifty thousand dollars, including a transaction otherwise covered by subsection (a) of section 1--301 of the uniform commercial code, may agree that the law of this state shall govern their rights and duties in whole or in part, whether or not such contract, agreement or undertaking bears a reasonable relation to this state. This section shall not apply to any contract, agreement or undertaking (a) for labor or personal services, (b) relating to any transaction for personal, family or household services, or (c) to the extent provided to the contrary in subsection (c) of section 1--301 of the uniform commercial code.

2. Nothing contained in this section shall be construed to limit or deny the enforcement of any provision respecting choice of law in any other contract, agreement or undertaking.

§ 5-1402. Choice of forum. 1. Notwithstanding any act which limits or affects the right of a person to maintain an action or proceeding, including, but not limited to, paragraph (b) of section thirteen hundred fourteen of the business corporation law and subdivision two of section two hundred-b of the banking law, any person may maintain an action or proceeding against a foreign corporation, non-resident, or foreign state where the action or proceeding arises out of or relates to any contract, agreement or undertaking for which a choice of New York law has been made in whole or in part pursuant to section 5-1401 and which (a) is a contract, agreement or undertaking, contingent or otherwise, in consideration of, or relating to any obligation arising out of a transaction covering in the aggregate, not less than one million dollars, and (b) which contains a provision or provisions whereby such foreign corporation or non-resident agrees to submit to the jurisdiction of the courts of this state.

2. Nothing contained in this section shall be construed to affect the enforcement of any provision respecting choice of forum in any other contract, agreement or undertaking.

TITLE 15

STATUTORY SHORT FORM AND OTHER POWERS OF ATTORNEY FOR FINANCIAL AND ESTATE PLANNING

§ 5-1501. Application and definitions. 1. This title shall apply to all powers of attorney except powers of attorney excluded from this title by section 5-1501C of this title.

2. As used in this title the following terms shall have the following meanings:

(a) "Agent" means a person granted authority to act as attorney-in-fact for the principal under a power of attorney, and includes the original agent and any co-agent or successor agent. Unless the context indicates otherwise, an "agent" designated in a power of attorney shall mean "attorney-in-fact" for the purposes of this title. An agent acting under a power of attorney has a fiduciary relationship with the principal.

(b) "Benefits from governmental programs or civil or military service" means any benefit, program or assistance provided under a statute or governmental regulation, including social security, medicare and medicaid.

(c) "Capacity" means ability to comprehend the nature and consequences of the act of executing and granting, revoking, amending or modifying a power of attorney, any provision in a power of attorney, or the authority of any person to act as agent under a power of attorney.

(d) "Compensation" means reasonable compensation authorized to be paid to the agent from assets of the principal for services actually rendered by the agent pursuant to the authority granted in a power of attorney.

(e) "Financial institution" means a financial entity, including, but not limited to: a bank, trust company, national bank, savings bank, federal mutual savings bank, savings and loan association, federal savings and loan association, federal mutual savings and loan association, credit union, federal credit union, branch of a foreign banking corporation, public pension fund, retirement system, securities broker, securities dealer, securities firm, and insurance company.

(f) "Incapacitated" means to be without capacity.

(g) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended. Such references, however, shall be deemed to constitute references to any corresponding provisions of any subsequent federal tax code.

(h) "Monitor" means a person appointed in the power of attorney who has the authority to request, receive, and seek to compel the agent to provide a record of all receipts, disbursements, and transactions entered into by the agent on behalf of the principal.

(i) "Person" means an individual, whether acting for himself or herself, or as a fiduciary or as an official of any legal, governmental or commercial entity (including, but not limited to, any such entity identified in this subdivision), corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, government agency, government entity, government instrumentality, public corporation, or any other legal or commercial entity.

(j) "Power of attorney" means a written document, other than a document referred to in section 5-1501C of this title, by which a principal with capacity designates an agent to act on his or her behalf and includes both a statutory short form power of attorney and a non-statutory power of attorney.

(k) "Principal" means an individual who is eighteen years of age or older, acting for himself or herself and not as a fiduciary or as an official of any legal, governmental or commercial entity, who executes a power of attorney.

(l) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(m) "Sign" means to place any memorandum, mark or sign, written, printed, stamped, photographed, engraved or otherwise upon an instrument or writing, or to use an electronic signature as that term is defined in subdivision three of section three hundred two of the state technology law, with the intent to execute the instrument, writing or electronic record. In accordance with the requirements of section three hundred seven of the state technology law, a power of attorney or any other instrument executed by the principal or agent that is recordable under the real property law shall not be executed with an electronic signature.

(n) "Statutory short form power of attorney" means a power of attorney that meets the requirements of paragraphs (a), (b) and (c) of subdivision one of section 5-1501B of this title, and that substantially conforms to the wording of the form set forth in section 5-1513 of this title; provided however, that any section indicated as "Optional" that is not used may be omitted and replaced by the words "Intentionally Omitted". A given power of attorney substantially conforms to the form required pursuant to section 5-1513 of this title notwithstanding that the form contains (i) an insignificant mistake in wording, spelling, punctuation or formatting, or the use of bold or italic type; or (ii) uses language that is essentially the same as, but is not identical to, the statutory form, including utilizing language from a previous statute. The determination of whether there is substantial conformity with the form set forth in section 5-1513 of this title shall not depend on the presence or absence of a particular clause. Failing to include clauses that are not relevant to a given power of attorney shall not in itself cause such power of attorney to be found to not substantially conform with the requirements of such form. The use of the form set forth in section 5-1513 of this title is lawful and when used, it shall be construed as a statutory short form power of attorney. A statutory short form power of attorney may be used to grant authority provided in sections 5-1502A through 5-1502N of this title. A "statutory short form power of attorney" may contain modifications or additions as provided in section 5-1503 of this title.

(o) "Non-statutory power of attorney" means a power of attorney that is not a statutory short form power of attorney.

(p) "Third party" means a financial institution or person other than a principal or an agent.

§ 5-1501A. Power of attorney not affected by incapacity. 1. A power of attorney is durable unless it expressly provides that it is terminated by the incapacity of the principal.

2. The subsequent incapacity of a principal shall not revoke or terminate the authority of an agent who acts under a durable power of attorney. All acts done during any period of the principal's incapacity by an agent pursuant to a durable power of attorney shall have the same effect and inure to the benefit of and bind a principal and his or her distributees, devisees, legatees and personal representatives as if such principal had capacity. If a guardian is thereafter appointed for such principal, such agent, during the continuance of the appointment, shall account to the guardian rather than to such principal.

§ 5-1501B. Creation of a valid power of attorney; when effective. 1. To be valid, except as otherwise provided in section 5-1512 of this title, a statutory short form power of attorney, or a non-statutory power of attorney, executed in this state by a principal, must:

(a) Be typed or printed using letters which are legible or of clear type no less than twelve point in size, or, if in writing, a reasonable equivalent thereof.

(b) Be signed, initialed and dated by a principal with capacity, or in the name of such principal by another person, other than a person designated as the principal's agent or successor agent, in the principal's presence and at the principal's direction, in either case with the signature of the person signing duly acknowledged in the manner prescribed for the acknowledgment of a conveyance of real property and witnessed by two persons who are not named in the instrument as agents or as permissible recipients of gifts, in the manner described in subparagraph two of paragraph (a) of section 3-2.1 of the estate, powers and trusts law in the presence of the principal. The person who takes the acknowledgement under this paragraph may also serve as one of the witnesses. When a person signs at the direction of a principal he or she shall sign by writing or printing the principal's name, and printing and signing his or her own name.

(c) Be signed and dated by any agent acting on behalf of the principal with the signature of the agent duly acknowledged in the manner prescribed for the acknowledgment of a conveyance of real property. A power of attorney executed pursuant to this section is not invalid solely because there has been a lapse of time between the date of acknowledgment of the signature of the principal and the date or dates of acknowledgment of the signature or signatures of any agent or agents or successor agent or successor agents authorized to act on behalf of the principal or because the principal became incapacitated during any such lapse of time.

(d) Substantially conform to the wording of the:

(1) "Caution to the Principal" in paragraph (a) of subdivision one of section 5-1513 of this title; and

(2) "Important Information for the Agent" in paragraph (n) of subdivision one of section 5-1513 of this title.

2. Insubstantial variation in the wording of the "Caution to the Principal" of paragraph (a) of subdivision one of section 5-1513 of this title or of the "Important Information for the Agent" of paragraph (n) of subdivision one of section 5-1513 of this title shall not prevent a power of attorney from being deemed a statutory short form power of attorney or a non-statutory power of attorney.

3. (a) The date on which an agent's signature is acknowledged is the effective date of the power of attorney as to that agent; provided, however, that if two or more agents are designated to act together, the power of attorney takes effect when all the agents so designated have signed such power of attorney with their signatures acknowledged.

(b) If the power of attorney states that it takes effect upon the occurrence of a date or a contingency specified in the document, then the power of attorney takes effect only when the date or contingency identified in the document has occurred, and the signature of the agent acting on behalf of the principal has been acknowledged. If the document requires that a person or persons named or otherwise identified therein declare, in writing, that the identified contingency has occurred, such a declaration satisfies the requirement of this paragraph without regard to whether the specified contingency has occurred.

4. Nothing of this title shall be construed to bar the use or validity of any other or different form of power of attorney desired by a person other than a principal as the term principal is defined in section 5-1501 of this title.

5. (a) Notwithstanding any other provision of this section, any statutory short form power of attorney and any statutory gift rider executed by a principal in the manner conforming with the law in effect at the time shall remain valid and enforceable pursuant to section 5-1504 of this title, even if signed by an agent at a later date, including but not limited to, being signed on or after June thirteenth, two thousand twenty-one.

(b) Any revocation of a power of attorney that was delivered to an agent shall remain in effect pursuant to this subdivision.

6. Nothing in this title shall prohibit the execution of a valid power of attorney for the purpose of transferring a salvage certificate of title and the execution of an odometer and damage disclosure statement in connection with such title by electronic means pursuant to article three of the state technology law.

§ 5-1501C. Powers of attorney excluded from this title. The provisions of this title shall not apply to the following powers of attorney:

1. a power of attorney given primarily for a business or commercial purpose, including without limitation:

(a) a power to the extent it is coupled with an interest in the subject of the power;

(b) a power given to or for the benefit of a creditor in connection with a loan or other credit transaction;

(c) a power given to facilitate transfer or disposition of one or more specific stocks, bonds or other assets, whether real, personal, tangible or intangible;

2. a proxy or other delegation to exercise voting rights or management

rights with respect to an entity;

3. a power created on a form prescribed by a government or governmental subdivision, agency or instrumentality for a governmental purpose;

4. a power authorizing a third party to prepare, execute, deliver, submit and/or file a document or instrument with a government or governmental subdivision, agency or instrumentality or other third party;

5. a power authorizing a financial institution or employee of a financial institution to take action relating to an account in which the financial institution holds cash, securities, commodities or other financial assets on behalf of the person giving the power;

6. a power given by an individual who is or is seeking to become a director, officer, shareholder, employee, partner, limited partner, member, unit owner or manager of a corporation, partnership, limited liability company, condominium or other legal or commercial entity in his or her capacity as such;

7. a power contained in a partnership agreement, limited liability company operating agreement, declaration of trust, declaration of condominium, condominium bylaws, condominium offering plan or other agreement or instrument governing the internal affairs of an entity authorizing a director, officer, shareholder, employee, partner, limited partner, member, unit owner, manager or other person to take lawful action relating to such entity;

8. a power given to a condominium managing agent to take action in connection with the use, management and operation of a condominium unit;

9. a power given to a licensed real estate broker to take action in connection with a listing of real property, mortgage loan, lease or management agreement;

10. a power authorizing acceptance of service of process on behalf of the principal; and

11. a power created pursuant to authorization provided by a federal or state statute, other than this title, that specifically contemplates creation of the power, including without limitation a power to make health care decisions or decisions involving the disposition of remains.

Nothing in this section shall be deemed to prohibit use of a statutory short form power of attorney or a nonstatutory power of attorney in connection with any of the transactions described in this section.

§ 5-1502A. Construction--real estate transactions. In a statutory short form power of attorney, the language conferring general authority with respect to "real estate transactions," must be construed to mean that the principal authorizes the agent:

1. To accept as a gift, or as security for a loan, to reject, to demand, to buy, to lease, to receive, or otherwise to acquire either ownership or possession of any estate or interest in land;

2. To sell, to exchange, to convey either with or without covenants, to quit-claim, to release, to surrender, to mortgage, to incumber, to partition or to consent to the partitioning, to create, modify or revoke a trust to grant options concerning, to lease or to sublet, or otherwise to dispose of, any estate or interest in land;

3. To release in whole or in part, to assign the whole or a part of, to satisfy in whole or in part, and to enforce by action, proceeding or otherwise, any mortgage, incumbrance, lien or other claim to land which exists, or is claimed to exist, in favor of the principal;

4. To do any act of management or of conservation with respect to any estate or interest in land owned, or claimed to be owned, by the principal, including by way of illustration, but not of restriction, power to insure against any casualty, liability or loss, to obtain or to

regain possession or to protect such estate or interest by action, proceeding or otherwise, to pay, to compromise or to contest taxes or assessments, to apply for refunds in connection therewith, to purchase supplies, to hire assistance or labor and to make repairs or alterations in the structures or lands;

5. To utilize in any way, to develop, to modify, to alter, to replace, to remove, to erect or to install structures or other improvements upon any land in which the principal has, or claims to have, any estate or interest;

6. To demand, to receive, to obtain by action, proceeding or otherwise, any money, or other thing of value to which the principal is, or may become, or may claim to be entitled as the proceeds of an interest in land or of one or more of the transactions enumerated in this section, to conserve, to invest, to disburse or to utilize anything so received for purposes enumerated in this section, and to reimburse the agent for any expenditures properly made by him in the execution of the powers conferred on him by the statutory short form power of attorney;

7. To participate in any reorganization with respect to real property and to receive and to hold any shares of stock or instrument of similar character received in accordance with such plan of reorganization, and to act with respect thereto, including by way of illustration, but not of restriction, power to sell or otherwise to dispose of such shares, or any of them, to exercise or to sell any option, conversion or similar right with respect thereto, and to vote thereon in person or by the granting of a proxy;

8. To agree and to contract, in any manner, and with any person and on any terms, which the agent may select, for the accomplishment of any of the purposes enumerated in this section, and to perform, to rescind, to reform, to release or to modify any such agreement or contract or any other similar agreement or contract made by or on behalf of the principal;

9. To execute, to acknowledge, to seal and to deliver any deed, creation, modification or revocation of a trust, mortgage, lease, notice, check or other instrument which the agent may think useful for the accomplishment of any of the purposes enumerated in this section;

10. To prosecute, to defend, to submit to alternative dispute resolution, to settle, and to propose or to accept a compromise with respect to, any claim existing in favor of, or against, the principal based on or involving any real estate transaction or to intervene in any action or proceeding relating thereto;

11. To hire, to discharge, and to compensate any attorney, accountant, expert witness or other assistant or assistants when the agent shall think such action to be desirable for the proper execution by him of any of the powers described in this section, and for the keeping of needed records thereof; and

12. In general, and in addition to all the specific acts in this section enumerated, to do any other act or acts, which the principal can do through an agent, with respect to any estate or interest in land.

All powers described in this section 5-1502A of the general obligations law shall be exercisable equally with respect to any estate or interest in land owned by the principal at the giving of the power of attorney or thereafter acquired, and whether located in the state of New York or elsewhere.

§ 5-1502B. Construction--chattel and goods transactions. In a statutory short form power of attorney, the language conferring general authority with respect to "chattel and goods transactions," must be construed to mean that the principal authorizes the agent:

1. To accept as a gift, or as security for a loan, to reject, to demand, to buy, to receive, or otherwise to acquire either ownership or possession of, any chattel or goods or any interest in any chattel or goods;

2. To sell, to exchange, to convey either with or without covenants, to release, to surrender, to mortgage, to incumber, to pledge, to hypothecate, to pawn, to create, modify or revoke a trust to grant options concerning, to lease or to sublet to others, or otherwise to dispose of any chattel or goods or any interest in any chattel or goods;

3. To release in whole or in part, to assign the whole or a part of, to satisfy in whole or in part, and to enforce by action, proceeding or otherwise, any mortgage, incumbrance, lien or other claim, which exists, or is claimed to exist, in favor of the principal, with respect to any chattel or goods or any interest in any chattel or goods;

4. To do any act of management or of conservation, with respect to any chattel or goods or to any interest in any chattel or goods owned, or claimed to be owned, by the principal, including by way of illustration, but not of restriction, power to insure against any casualty, liability or loss, to obtain or to regain possession, or to protect such chattel or goods or interest in any chattel or goods, by action, proceeding or otherwise, to pay, to compromise or to contest taxes or assessments, to apply for refunds in connection therewith, to move from place to place, to store for hire or on a gratuitous bailment, to use, to alter, and to make repairs or alterations of any such chattel or goods, or interest in any chattel or goods;

5. To demand, to receive, to obtain by action, proceeding or otherwise, any money or other thing of value to which the principal is, or may become, or may claim to be entitled as the proceeds of a chattel or goods or of any interest in any chattel or goods, or of one or more of the transactions enumerated in this section, to conserve, to invest, to disburse or to utilize anything so received for purposes enumerated in this section, and to reimburse the agent for any expenditures properly made by him in the execution of the powers conferred on him by the statutory short form power of attorney;

6. To agree and to contract, in any manner, and with any person and on any terms, which the agent may select, for the accomplishment of any of

the purposes enumerated in this section, and to perform, to rescind, to reform, to release or to modify any such agreement or contract or any other similar agreement or contract made by or on behalf of the principal;

7. To execute, to acknowledge, to seal and to deliver any conveyance, mortgage, lease, creation, revocation or modification of a trust, notice, check or other instrument which the agent may think useful for the accomplishment of any of the purposes enumerated in this section;

8. To prosecute, to defend, to submit to alternative dispute resolution, to settle, and to propose or to accept a compromise with respect to, any claim existing in favor of, or against, the principal based on or involving any chattel or goods transaction or to intervene in any action or proceeding relating thereto;

9. To hire, to discharge, and to compensate any attorney, accountant, expert witness or other assistant or assistants when the agent shall think such action to be desirable for the proper execution by him of any of the powers described in this section, and for the keeping of needed records thereof; and

10. In general, and in addition to all the specific acts in this section enumerated, to do any other act or acts, which the principal can do through an agent, with respect to any chattel or goods or interest in any chattel or goods.

All powers described in this section 5-1502B of the general obligations law shall be exercisable equally with respect to any chattel or goods or interest in any chattel or goods owned by the principal at the giving of the power of attorney or thereafter acquired, and whether located in the state of New York or elsewhere.

§ 5-1502C. Construction--bond, share and commodity transactions. In a statutory short form power of attorney, the language conferring general authority with respect to "bond, share and commodity transactions," must be construed to mean that the principal authorizes the agent:

1. To accept as a gift, or as security for a loan, to reject, to demand, to buy, to receive, or otherwise to acquire either ownership or possession of, any bond, share, instrument of similar character, commodity interest or any instrument with respect thereto, together with the interest, dividends, proceeds or other distributions connected therewith;

2. To sell (including short sales), to exchange, to transfer either with or without a guaranty, to release, to surrender, to hypothecate, to pledge, to create, modify or revoke a trust to grant options concerning, to loan, to trade in, or otherwise to dispose of any bond, share, instrument of similar character, commodity interest or any instrument with respect thereto;

3. To release in whole or in part, to assign the whole or a part of, to satisfy in whole or in part, and to enforce by action, proceeding or otherwise, any pledge, incumbrance, lien or other claim as to any bond, share, instrument of similar character, commodity interest or any interest with respect thereto, when such pledge, incumbrance, lien or other claim is owned, or claimed to be owned, by the principal;

4. To do any act of management or of conservation with respect to any bond, share, instrument of similar character, commodity interest or any instrument with respect thereto, owned or claimed to be owned by the principal or in which the principal has or claims to have an interest, including by way of illustration, but not of restriction, power to insure against any casualty, liability or loss, to obtain or to regain possession or to protect the principal's interest therein by action, proceeding or otherwise, to pay, to compromise or to contest taxes or assessments, to apply for refunds in connection therewith, to consent to and to participate in any reorganization, recapitalization, liquidation, merger, consolidation, sale or lease, or other change in or revival of a corporation or other association, or in the financial structure of any corporation or other association, or in the priorities, voting rights or other special rights with respect thereto, to become a depositor with

any protective, reorganization or similar committee of the bond, share, other instrument of similar character, commodity interest or any instrument with respect thereto, belonging to the principal, to make any payments reasonably incident to the foregoing, to exercise or to sell any option, conversion or similar right, to vote in person or by the granting of a proxy (with or without the power of substitution), either discretionary, general or otherwise, for the accomplishment of any of the purposes enumerated in this section;

5. To carry in the name of a nominee selected by the agent any evidence of the ownership of any bond, share, other instrument of similar character, commodity interest or instrument with respect thereto, belonging to the principal;

6. To employ, in any way believed to be desirable by the agent, any bond, share, other instrument of similar character, commodity interest or any instrument with respect thereto, in which the principal has or claims to have any interest, for the protection or continued operation of any speculative or margin transaction personally begun or personally guaranteed, in whole or in part, by the principal;

7. To demand, to receive, to obtain by action, proceeding or otherwise, any money or other thing of value to which the principal is, or may become, or may claim to be entitled as the proceeds of any interest in a bond, share, other instrument of similar character, commodity interest or any instrument with respect thereto, or of one or more of the transactions enumerated in this section, to conserve, to invest, to disburse or to utilize anything so received for purposes enumerated in this section, and to reimburse the agent for any expenditures properly made by him in the execution of the powers conferred on him by the statutory short form power of attorney;

8. To agree and to contract, in any manner, and with any broker or other person, and on any terms, which the agent may select, for the accomplishment of any of the purposes enumerated in this section, and to perform, to rescind, to reform, to release or to modify any such agreement or contract or any other similar agreement made by or on

behalf of the principal;

9. To execute, to acknowledge, to seal and to deliver any consent, agreement, authorization, creation, modification or revocation of a trust, assignment, notice, waiver of notice, check, or other instrument which the agent may think useful for the accomplishment of any of the purposes enumerated in this section;

10. To execute, to acknowledge and to file any report or certificate required by law or governmental regulation;

11. To prosecute, to defend, to submit to alternative dispute resolution, to settle and to propose or to accept a compromise with respect to, any claim existing in favor of, or against, the principal based on or involving any bond, share or commodity transaction or to intervene in any action or proceeding relating thereto;

12. To hire, to discharge, and to compensate any attorney, accountant, expert witness or other assistant or assistants when the agent shall think such action to be desirable for the proper execution by him of any of the powers described in this section, and for the keeping of needed records thereof; and

13. In general, and in addition to all the specific acts in this section enumerated, to do any other act or acts, which the principal can do through an agent, with respect to any interest in any bond, share or other instrument of similar character, commodity, or instrument with respect to a commodity.

All powers described in this section 5-1502C of the general obligations law shall be exercisable equally with respect to any interest in any bond, share or other instrument of similar character, commodity, or instrument with respect to a commodity owned by the principal at the giving of the power of attorney or thereafter acquired, whether located in the state of New York or elsewhere.

§ 5-1502D. Construction--banking transactions. In a statutory short form power of attorney, the language conferring general authority with respect to "banking transactions," must be construed to mean that the principal authorizes the agent:

1. To continue, to modify, to terminate and to make deposits to and withdrawals from any deposit account, including any joint account with the agent or totten trust for the benefit of the agent, or other banking arrangement made by or on behalf of the principal prior to the creation of the agency, provided, however, that:

(a) with respect to joint accounts existing at the creation of the agency, the authority granted hereby shall not include the power to change the title of the account by the addition of a new joint tenant or the deletion of an existing joint tenant, unless the authority to make such changes is expressly stated otherwise in the "Modifications" section of a statutory short form power of attorney or in a non-statutory power of attorney signed and dated by the principal with the signature of the principal duly acknowledged in the manner prescribed for the acknowledgement of a conveyance of real property, and which is executed pursuant to the requirements of section 5-1501B of this title, and

(b) with respect to totten trust accounts existing at the creation of the agency, the authority granted hereby shall not include the power to add, delete, or otherwise change the designation of beneficiaries in effect for any such accounts, unless the authority to make such additions, deletions or changes is expressly stated otherwise in the "Modifications" section of a statutory short form power of attorney or in a non-statutory power of attorney signed and dated by the principal with the signature of the principal duly acknowledged in the manner prescribed for the acknowledgment of a conveyance of real property, and which is executed pursuant to the requirements of section 5-1501B of this title.

2. To open in the name of the principal or on behalf of the principal a deposit account of any type with any banker or in any banking institution selected by the agent, to make deposits to and withdrawals from any such deposit account, to hire such safe deposit box or vault

space and to make such other contracts for the procuring of other services made available by any such banker or banking institution as the agent shall think to be desirable;

3. To make, to sign and to deliver checks or drafts for any purpose, to withdraw by check, order or otherwise any funds or property of the principal deposited with, or left in the custody of, any banker or banking institution, wherever located, either before or after the creation of the agency;

4. To prepare from time to time financial statements concerning the assets and liabilities or income and expenses of the principal, and to deliver statements so prepared to any banker, banking institution or other person, whom the agent believes to be reasonably entitled thereto;

5. To receive statements, vouchers, notices or other documents from any banker or banking institution and to act with respect thereto;

6. To have free access at any time or times to any safe deposit box or vault to which the principal might have access, if personally present;

7. To borrow money by bank overdraft, or by promissory note of the principal given for such period and at such interest rate as the agent shall select, to give such security out of the assets of the principal as the agent shall think to be desirable or necessary for any such borrowing, to pay, to renew or to extend the time of payment of any note so given or given by or on behalf of the principal, and to procure for the principal a loan from any banker or banking institution by any other procedure made available by such banker or institution;

8. To make, to assign, to indorse, to discount, to guarantee, and to negotiate, for any and all purposes, all promissory notes, bills of exchange, checks, drafts or other negotiable or non-negotiable paper of the principal, or payable to the principal or to his order, to receive the cash or other proceeds of any such transactions, to accept any bill of exchange or draft drawn by any person upon the principal, and to pay it when due;

9. To receive for the principal and to deal in and to deal with any trust receipt, warehouse receipt or other negotiable or non-negotiable instrument, in which the principal has or claims to have an interest;

10. To apply for and to receive letters of credit or travelers checks from any banker or banking institution selected by the agent, giving such indemnity or other agreements in connection therewith as the agent shall think to be desirable or necessary;

11. To consent to an extension in the time of payment with respect to any commercial paper or any banking transaction in which the principal has an interest or by which the principal is, or might be, affected in any way;

12. To pay, to compromise or to contest taxes or assessments and to apply for refunds in connection therewith;

13. To demand, to receive, to obtain by action, proceeding, or otherwise any money or other thing of value to which the principal is, or may become, or may claim to be entitled as the proceeds of any banking transaction conducted by the principal himself, or by the agent in the execution of any of the powers described in this section, or partly by the principal and partly by the agent so acting, to conserve, to invest, to disburse or to utilize anything so received for purposes enumerated in this section, and to reimburse the agent for any expenditures properly made by him in the execution of the powers conferred upon him by the statutory short form power of attorney;

14. To execute, to acknowledge, to seal and to deliver any instrument of any kind, in the name of the principal or otherwise, which the agent may think useful for the accomplishment of any of the purposes enumerated in this section;

15. To prosecute, to defend, to submit to alternative dispute resolution, to settle, and to propose or to accept a compromise with respect to, any claim existing in favor of, or against, the principal

based on or involving any banking transaction or to intervene in any action or proceeding relating thereto;

16. To hire, to discharge, and to compensate any attorney, accountant, expert witness or other assistant or assistants when the agent shall think such action to be desirable for the proper execution by him of any of the powers described in this section, and for the keeping of needed records thereof; and

17. In general, and in addition to all the specific acts in this section enumerated, to do any other act or acts, which the principal can do through an agent, in connection with any banking transaction which does or might in any way affect the financial or other interests of the principal.

18. If a power of attorney requires that two or more agents act together as co-agents, one or more agents may delegate to the co-agent the authority to conduct banking transactions if the principal initialed subject (o) in the grant of authority provisions of paragraph (f) of the statutory short form set forth in section 15-1513 of this title.

All powers described in this section 5-1502D of the general obligations law shall be exercisable equally with respect to any banking transaction engaged in by the principal at the giving of the power of attorney or thereafter engaged in, and whether conducted in the state of New York or elsewhere.

§ 5-1502E. Construction--business operating transactions. In a statutory short form power of attorney, the language conferring general authority with respect to "business operating transactions," must be construed to mean that the principal authorizes the agent:

1. To the extent that an agent is permitted by law thus to act for a principal, to discharge and to perform any duty or liability and also to exercise any right, power, privilege or option which the principal has, or claims to have, under any contract of partnership whether the

principal is a general or special partner thereunder, to enforce the terms of any such partnership agreement for the protection of the principal, by action, proceeding or otherwise, as the agent shall think to be desirable or necessary, and to defend, submit to alternative dispute resolution, settle or compromise any action or other legal proceeding to which the principal is a party because of his membership in said partnership;

2. To exercise in person or by proxy or to enforce by action, proceeding or otherwise, any right, power, privilege or option which the principal has as the holder of any bond, share, or other instrument of similar character and to defend, submit to alternative dispute resolution, settle or compromise any action or other legal proceeding to which the principal is a party because of any such bond, share, or other instrument of similar character;

3. With respect to any business enterprise which is owned solely by the principal

a. to continue, to modify, to renegotiate, to extend and to terminate any contractual arrangements made with any person, firm, association or corporation whatsoever by or on behalf of the principal with respect thereto prior to the creation of the agency;

b. to determine the policy of such enterprise as to the location of the site or sites to be utilized for its operation, as to the nature and extent of the business to be undertaken by it, as to methods of manufacturing, selling, merchandising, financing, accounting and advertising to be employed in its operation, as to the amount and types of insurance to be carried, as to the mode of securing, compensating and dealing with accountants, attorneys, servants and other agents and employees required for its operation, to agree and to contract, in any manner, and with any person and on any terms, which the agent thinks to be desirable or necessary for effectuating any or all of such decisions of the agent as to policy, and to perform, to rescind, to reform, to release or to modify any such agreement or contract or any other similar agreement or contract made by or on behalf of the principal;

c. to change the name or form of organization under which such business is operated and to enter into such partnership agreement with other persons or to organize such corporation to take over the operation of such business, or any part thereof, as the agent shall think to be desirable or necessary;

d. to demand and to receive all moneys which are, or may become, due to the principal, or which may be claimed by the principal or on his behalf, in the operation of such enterprise, and to control and to disburse such funds in the operation of such enterprise in any way which the agent shall think to be desirable or necessary, to engage in any banking transactions which the agent shall think to be desirable or necessary for effectuating the execution of any of the powers of the agent described in this subdivision;

4. To prepare, to sign, to file and to deliver all reports, compilations of information, returns or other papers with respect to any business operating transaction of the principal, which are required by any governmental agency, department or instrumentality or which the agent shall think to be desirable or necessary for any purpose, and to make any payments with respect thereto;

5. To pay, to compromise or to contest taxes or assessments and to do any act or acts which the agent shall think to be desirable or necessary to protect the principal from illegal or unnecessary taxation, fines, penalties or assessments in connection with his business operations, including power to attempt to recover, in any manner permitted by law, sums paid before or after the creation of the agency as taxes, fines, penalties or assessments;

6. To demand, to receive, to obtain by action, proceeding or otherwise, any money, or other thing of value to which the principal is, or may become, or may claim to be entitled as the proceeds of any business operation of such principal, to conserve, to invest, to disburse or to utilize anything so received for purposes enumerated in this section, and to reimburse the agent for any expenditures properly

made by him in the execution of the powers conferred upon him by the statutory short form power of attorney;

7. To execute, to acknowledge, to seal and to deliver any deed, assignment, mortgage, lease, notice, consent, agreement, authorization, check or other instrument which the agent may think useful for the accomplishment of any of the purposes enumerated in this section;

8. To prosecute, to defend, to submit to alternative dispute resolution, to settle, and to propose or to accept a compromise with respect to, any claim existing in favor of, or against, the principal based on or involving any business operating transaction or to intervene in any action or proceeding relating thereto;

9. To hire, to discharge, and to compensate any attorney, accountant, expert witness or other assistant or assistants when the agent shall think such action to be desirable for the proper execution by him of any of the powers described in this section, and for the keeping of needed records thereof; and

10. In general, and in addition to all the specific acts in this section enumerated, to do any other act or acts, which the principal can do through an agent, in connection with any business operated by the principal, which the agent shall think to be desirable or necessary for the furtherance or protection of the interests of the principal.

All powers described in this section 5-1502E of the general obligations law shall be exercisable equally with respect to any business in which the principal is interested at the creation of the agency or in which the principal shall thereafter become interested, and whether operated in the state of New York or elsewhere.

§ 5-1502F. Construction--insurance transactions. In a statutory short form power of attorney, the language conferring general authority with respect to "insurance transactions," must be construed to mean that the principal authorizes the agent:

1. To continue, to pay the premium or assessment on, to modify, to rescind, to release or to terminate any contract of life, accident, health, disability or liability insurance or any combination of such insurance procured by or on behalf of the principal prior to the creation of the agency which insures either the principal or any other person, without regard to whether the principal is or is not a beneficiary thereunder; provided, however, with respect to life insurance contracts existing at the creation of the agency, the authority granted hereby shall not include the power to add, delete or otherwise change the designation of beneficiaries in effect for any such contract, unless the authority to make such additions, deletions or changes is stated otherwise in the "Modifications" section of a statutory short form power of attorney or in a non-statutory power of attorney signed and dated by the principal with the signature of the principal duly acknowledged in the manner prescribed for the acknowledgment of a conveyance of real property, and which is executed pursuant to the requirements of section 5-1501B of this title;

2. To procure new, different or additional contracts of insurance protecting the principal with respect to ill-health, disability, accident or liability of any sort, to select the amount, the type of insurance contract and the mode of payment under each such policy, to pay the premium or assessment on, to modify, to rescind, to release or to terminate, any contract so procured by the agent;

3. To apply for and to receive any available loan on the security of the contract of insurance, whether for the payment of a premium or for the procuring of cash, to surrender and thereupon to receive the cash surrender value, to exercise an election as to beneficiary or mode of payment, to change the manner of paying premiums, and to change or to convert the type of insurance contract, with respect to any contract of life, accident, health, disability or liability insurance as to which the principal has, or claims to have, any one or more of the powers described in this section; provided, however, that the authority granted hereby shall not include the power to add, delete or otherwise change the designation of beneficiaries in effect for any such contract, unless

the authority to make such additions, deletions or changes is expressly stated otherwise in the "Modifications" section of a statutory short form power of attorney or in a non-statutory power of attorney signed and dated by the principal with the signature of the principal duly acknowledged in the manner prescribed for the acknowledgment of a conveyance of real property, and which is executed pursuant to the requirements of section 5-1501B of this title;

4. To demand, to receive, to obtain by action, proceeding or otherwise, any money, dividend, or other thing of value to which the principal is, or may become, or may claim to be entitled as the proceeds of any contract of insurance or of one or more of the transactions enumerated in this section, to conserve, to invest, to disburse or to utilize anything so received for purposes enumerated in this section, and to reimburse the agent for any expenditures properly made by him in the execution of the powers conferred on him by the statutory short form power of attorney;

5. To apply for and to procure any available governmental aid in the guaranteeing or paying of premiums of any contract of insurance on the life of the principal;

6. To sell, to assign, to hypothecate, to borrow upon, or to pledge the interest of the principal in any contract of insurance;

7. To pay, from such proceeds or otherwise, to compromise or to contest, and to apply for refunds in connection with, any tax or assessment levied by a taxing authority with respect to any contract of insurance or the proceeds thereof or liability accruing by reason of such tax or assessment;

8. To agree and to contract, in any manner, and with any person and on any terms, which the agent may select for the accomplishment of any of the purposes enumerated in this section, and to perform, to rescind, to reform, to release or to modify any such agreement or contract;

9. To execute, to acknowledge, to seal and to deliver any consent,

demand, request, application, agreement, indemnity, authorization, assignment, pledge, notice, check, receipt, waiver or other instrument which the agent may think useful for the accomplishment of any of the purposes enumerated in this section;

10. To continue, to procure, to pay the premium or assessment on, to modify, to rescind, to release, to terminate or otherwise to deal with any contract of insurance, other than those enumerated in subdivisions one or two of this section, whether fire, marine, burglary, compensation, disability, liability, hurricane, casualty, or other type, or any combination of insurance, to do any act or acts with respect to any such contract or with respect to its proceeds or enforcement which the agent thinks to be desirable or necessary for the promotion or protection of the interests of the principal;

11. To prosecute, to defend, to submit to alternative dispute resolution, to settle, and to propose or to accept a compromise with respect to any claim existing in favor of, or against, the principal based on or involving any insurance transaction or to intervene in any action or proceeding relating thereto;

12. To hire, to discharge, and to compensate any attorney, accountant, expert witness or other assistant or assistants when the agent shall think such action to be desirable for the proper execution by him of any of the powers described in this section and for the keeping of needed records thereof; and

13. In general, and in addition to all the specific acts in this section enumerated, to do any other act or acts, which the principal can do through an agent, in connection with procuring, supervising, managing, modifying, enforcing and terminating contracts of insurance in which the principal is the insured or is otherwise in any way interested.

All powers described in this section 5-1502F of the general obligations law shall be exercisable with respect to any contract of insurance in which the principal is in any way interested, whether made in the state of New York or elsewhere.

§ 5-1502G. Construction--estate transactions. In a statutory short form power of attorney, the language conferring general authority with respect to "estate transactions," must be construed to mean that the principal authorizes the agent:

1. To the extent that an agent is permitted by law thus to act for a principal, to apply for and to procure, in the name of the principal, letters of administration, letters testamentary, letters of trusteeship, or any other type of authority, either judicial or administrative, to act as a fiduciary of any sort;

2. To the extent that an agent is permitted by law thus to act for a principal, to represent and to act for the principal in all ways and in all matters affecting any estate of a decedent, absentee, infant or incompetent, or any trust or other fund, out of which the principal is entitled, or claims to be entitled, to some share or payment, or with respect to which the principal is a fiduciary;

3. Subject to the provisions of paragraph (d) of section 2-1.11 of the estates, powers and trusts law, to accept, to reject, to receive, to receipt for, to sell, to assign, to release, to pledge, to exchange, or to consent to a reduction in or modification of, any share in or payment from any estate, trust or other fund;

4. To demand, to obtain by action, proceeding or otherwise any money, or other thing of value to which the principal is, or may become, or may claim to be entitled by reason of the death testate or intestate of any person or of any testamentary disposition or of any trust or by reason of the administration of the estate of a decedent or absentee or of the guardianship of an infant or incompetent or the administration of any trust or other fund, to initiate, to participate in and to oppose any proceeding, judicial or otherwise, for the ascertainment of the meaning, validity or effect of any deed, will, declaration of trust, or other transaction affecting in any way the interest of the principal, to

initiate, to participate in and to oppose any proceeding, judicial or otherwise, for the removal, substitution or surcharge of a fiduciary, to conserve, to invest, to disburse or to utilize anything so received for purposes enumerated in this section, and to reimburse the agent for any expenditures properly made by him in the execution of the powers conferred on him by the statutory short form power of attorney;

5. To prepare, to sign, to file and to deliver all reports, compilations of information, returns or papers with respect to any interest had or claimed by or on behalf of the principal in any estate, trust, or other fund, to pay, to compromise or to contest, and to apply for refunds in connection with, any tax or assessment, with respect to any interest had or claimed by or on behalf of the principal in any estate, trust or other fund or by reason of the death of any person, or with respect to any property in which such interest is had or claimed;

6. To agree and to contract, in any manner, and with any person and on any terms, which the agent may select, for the accomplishment of the purposes enumerated in this section, and to perform, to rescind, to reform, to release, or to modify any such agreement or contract or any other similar agreement or contract made by or on behalf of the principal;

7. To execute, to acknowledge, to verify, to seal, to file and to deliver any consent, designation, pleading, notice, demand, election, conveyance, release, assignment, check, pledge, waiver, admission of service, notice of appearance or other instrument which the agent may think useful for the accomplishment of any of the purposes enumerated in this section;

8. To submit to alternative dispute resolution or to settle, and to propose or to accept a compromise with respect to any controversy or claim which affects the estate of a decedent, absentee, infant or incompetent, or the administration of a trust or other fund, in any one of which the principal has, or claims to have, an interest, and to do any and all acts which the agent shall think to be desirable or necessary in effectuating such compromise;

9. To hire, to discharge, and to compensate any attorney, accountant, expert witness or other assistant or assistants, when the agent shall think such action to be desirable for the proper execution by him of any of the powers described in this section, and for the keeping of needed records thereof; and

10. In general, and in addition to all the specific acts in this section enumerated, to do any other act or acts, which the principal can do through an agent, with respect to the estate of a decedent, absentee, infant or incompetent, or the administration of a trust or other fund, in any one of which the principal has, or claims to have, an interest, or with respect to which the principal is a fiduciary.

All powers described in this section shall be exercisable equally with respect to any estate of a decedent, absentee, infant or incompetent, or the administration of any trust or other fund, in which the principal is interested at the giving of the power of attorney or may thereafter become interested, regardless of whether the estate, trust or other fund is specifically identified at the giving of the power of attorney and whether located in the state of New York or elsewhere.

§ 5-1502H. Construction--claims and litigation. In a statutory short form power of attorney, the language conferring general authority with respect to "claims and litigation," must be construed to mean that the principal authorizes the agent:

1. To assert and to prosecute before any court, administrative board, department, commissioner or other tribunal, any cause of action, claim, counterclaim, offset or defense, which the principal has, or claims to have, against any individual, partnership, association, corporation, government, or other person or instrumentality, including, by way of illustration and not of restriction, power to sue for the recovery of land or of any other thing of value, for the recovery of damages sustained by the principal in any manner, for the elimination or modification of tax liability, for an injunction, for specific

performance, or for any other relief;

2. To bring an action of interpleader or other action to determine adverse claims, to intervene or to interplead in any action or proceeding, and to act in any litigation as amicus curiae;

3. In connection with any action or proceeding or controversy, at law or otherwise, to apply for and, if possible, to procure a libel, an attachment, a garnishment, an order of arrest or other preliminary, provisional or intermediate relief and to resort to and to utilize in all ways permitted by law any available procedure for the effectuation or satisfaction of the judgment, order or decree obtained;

4. In connection with any action or proceeding, at law or otherwise, to perform any act which the principal might perform, including by way of illustration and not of restriction, acceptance of tender, offer of judgment, admission of any facts, submission of any controversy on an agreed statement of facts, consent to examination before trial, and generally to bind the principal in the conduct of any litigation or controversy as seems desirable to the agent;

5. To submit to alternative dispute resolution, to settle, and to propose or to accept a compromise with respect to, any claim existing in favor of or against the principal, or any litigation to which the principal is, or may become or be designated a party;

6. To waive the issuance and service of a summons, citation or other process upon the principal, to accept service of process, to appear for the principal, to designate persons upon whom process directed to the principal may be served, to execute and to file or deliver stipulations on the principal's behalf, to verify pleadings, to appeal to appellate tribunals, to procure and to give surety and indemnity bonds at such times and to such extent as the agent shall think to be desirable or necessary, to contract and pay for the preparation and printing of records and briefs, to receive and to execute and to file or deliver any consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument which the agent shall

think to be desirable or necessary in connection with the prosecution, settlement or defense of any claim by or against the principal or of any litigation to which the principal is or may become or be designated a party;

7. To appear for, to represent and to act for the principal with respect to bankruptcy or insolvency proceedings, whether voluntary or involuntary, whether of the principal or of some other person, with respect to any reorganization proceeding, or with respect to any receivership or application for the appointment of a receiver or trustee which, in any way, affects any interest of the principal in any land, chattel, bond, share, commodity interest, chose in action or other thing of value;

8. To hire, to discharge, and to compensate any attorney, accountant, expert witness or other assistant or assistants when the agent shall think such action to be desirable for the proper execution by him of any of the powers described in this section;

9. To pay, from funds in his control or for the account of the principal, any judgment against the principal or any settlement which may be made in connection with any transaction enumerated in this section, and to receive and conserve any moneys or other things of value paid in settlement of or as proceeds of one or more of the transactions enumerated in this section, and to receive and endorse checks and to deposit the same; and

10. In general, and in addition to all the specific acts in this section enumerated, to do any other act or acts, which the principal can do through an agent, in connection with any claim by or against the principal or with litigation to which the principal is or may become or be designated a party.

All powers described in this section 5-1502H of the general obligations law shall be exercisable equally with respect to any claim or litigation existing at the giving of the power of attorney or thereafter arising, and whether arising in the state of New York or elsewhere.

§ 5-1502I. Construction--personal and family maintenance. In a statutory short form power of attorney, the language conferring general authority with respect to "personal and family maintenance" must be construed to mean that the principal authorizes the agent:

1. To do all acts necessary for maintaining the customary standard of living of the spouse and children, and other dependents of the principal, including by way of illustration and not by way of restriction, power to provide living quarters by purchase, lease or by other contract, or by payment of the operating costs, including interest, amortization payments, repairs and taxes, of premises owned by the principal and occupied by his family or dependents, to provide normal domestic help for the operation of the household, to provide usual vacations and usual travel expenses, to provide usual educational facilities, and to provide funds for all the current living costs of such spouse, children and other dependents, including, among other things, shelter, clothing, food and incidentals;

2. To provide, whenever necessary, medical, dental and surgical care, hospitalization and custodial care for the spouse, children and other dependents of the principal;

3. To continue whatever provision has been made by the principal, prior to the creation of the agency or thereafter, for his spouse, children and other dependents, with respect to automobiles, or other means of transportation, including by way of illustration but not by way of restriction, power to license, to insure and to replace any automobiles owned by the principal and customarily used by the spouse, children or other dependents of the principal;

4. To continue whatever charge accounts have been operated by the principal prior to the creation of the agency or thereafter, for the convenience of his spouse, children or other dependents, to open such new accounts as the agent shall think to be desirable for the

accomplishment of any of the purposes enumerated in this section, and to pay the items charged on such accounts by any person authorized or permitted by the principal to make such charges prior to the creation of the agency;

5. To continue the discharge of any services or duties assumed by the principal, prior to the creation of the agency or thereafter, to any parent, relative or friend of the principal;

6. To supervise and to enforce, to defend or to settle any claim by or against the principal arising out of property damages or personal injuries suffered by or caused by the principal, or under such circumstances that the loss resulting therefrom will, or may fall on the principal;

7. To continue payments incidental to the membership or affiliation of the principal in any church, club, society, order or other organization or to continue contributions thereto;

8. To demand, to receive, to obtain by action, proceeding or otherwise any money or other thing of value to which the principal is or may become or may claim to be entitled as salary, wages, commission or other remuneration for services performed, or as a dividend or distribution upon any stock, or as interest or principal upon any indebtedness, or any periodic distribution of profits from any partnership or business in which the principal has or claims an interest, and to endorse, collect or otherwise realize upon any instrument for the payment so received;

9. To prepare, to execute and to file all tax, social security, unemployment insurance and information returns required by the laws of the United States, or of any state or subdivision thereof, or of any foreign government, to prepare, to execute and to file all other papers and instruments which the agent shall think to be desirable or necessary for the safeguarding of the principal against excess or illegal taxation or against penalties imposed for claimed violation of any law or other governmental regulation, and to pay, to compromise, or to contest or to apply for refunds in connection with any taxes or assessments for which

the principal is or may be liable;

10. To utilize any asset of the principal for the performance of the powers enumerated in this section, including by way of illustration and not by way of restriction, power to draw money by check or otherwise from any bank deposit of the principal, to sell any land, chattel, bond, share, commodity interest, chose in action or other asset of the principal, to borrow money and to pledge as security for such loan, any asset, including insurance, which belongs to the principal;

11. To execute, to acknowledge, to verify, to seal, to file and to deliver any application, consent, petition, notice, release, waiver, agreement or other instrument which the agent may think useful for the accomplishment of any of the purposes enumerated in this section;

12. To prosecute, to defend, to submit to alternative dispute resolution, to settle, and to propose or to accept a compromise with respect to, any claim existing in favor of, or against, the principal based on or involving any transaction enumerated in this section or to intervene in any action or proceeding relating thereto;

13. To hire, to discharge, and to compensate any attorney, accountant, expert witness or other assistant or assistants when the agent shall think such action to be desirable for the proper execution by him of any of the powers described in this section, and for the keeping of needed records thereof;

14. To continue gifts that the principal customarily made to individuals and charitable organizations prior to the creation of the agency, provided that in any one calendar year all such gifts shall not exceed five thousand dollars in the aggregate; and

15. In general, and in addition to all the specific acts in this section enumerated, to do any other act or acts, which the principal can do through an agent, for the welfare of the spouse, children or dependents of the principal or for the preservation and maintenance of the other personal relationships of the principal to parents, relatives,

friends and organizations.

All powers described in this section 5-1502I of the general obligations law shall be exercisable equally whether the acts required for their execution shall relate to real or personal property owned by the principal at the giving of the power of attorney or thereafter acquired and whether such acts shall be performable in the state of New York or elsewhere.

§ 5-1502J. Construction--benefits from governmental programs or civil or military service. In a statutory short form power of attorney, the language conferring general authority with respect to "benefits from governmental programs or civil or military service," or in a statutory short form power of attorney properly executed in accordance with the laws in effect at the time of its execution, the language conferring authority with respect to "military service," must be construed to mean that the principal authorizes the agent:

1. To execute vouchers in the name of the principal for allowances and reimbursements payable by the United States, or a foreign government or by a state or subdivision of a state, to the principal, including but not limited to allowances and reimbursements for transportation of the principal and of the principal's spouse, children and other dependents, and for shipment of household effects, to receive, to indorse and to collect the proceeds of any check payable to the order of the principal drawn on the treasurer or other fiscal officer or depositary of the United States or a foreign government or of any state or subdivision thereof;

2. To take possession and to order the removal and shipment of property of the principal from a post, warehouse, depot, dock or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate or other instrument for such purpose;

3. To enroll in, apply for, select, reject, change, amend, or

discontinue a benefit or program on the principal's behalf;

4. To prepare, file and prosecute a claim of the principal to any benefit or assistance, financial or otherwise, to which the principal is, or claims to be, entitled, under a statute or governmental regulation, including any benefit or assistance which arises from or is based upon military service performed prior to or after the creation of the agency by the principal or by any person related by blood or by marriage to the principal, to execute any receipt or other instrument which the agent shall think to be desirable or necessary for the enforcement or for the collection of such claim;

5. To receive the financial proceeds of any claim of the type described in this section, conserve, invest, disburse or use anything so received for a lawful purpose;

6. To prosecute, defend, submit to alternative dispute resolution, settle, and propose or accept a compromise with respect to any benefit or assistance described in subdivision four of this section;

7. To communicate with any representative or employee of a government, governmental subdivision, agency, or instrumentality on behalf of the principal;

8. To hire, discharge, and compensate any attorney, accountant, expert witness, or other assistant or assistants when the agent shall think such action to be desirable for the proper execution of any of the powers described in this section; and

9. In general, and in addition to all the specific acts in this section enumerated, to do any other act or acts, which the principal can do through an agent, and which the agent shall think to be desirable or necessary, to assure to the principal, and to the dependents of the principal, the maximum possible benefit from governmental programs or from civil or military service performed prior to or after the creation of the agency by the principal or by any person related by blood or marriage to the principal.

All powers described in this section shall be exercisable equally with respect to any benefits from governmental programs or civil or military service existing at the giving of the power of attorney or thereafter accruing, and whether accruing in the state of New York or elsewhere.

§ 5-1502K. Construction--matters related to health care. In a statutory short form power of attorney, the language conferring general authority with respect to "matters related to health care," or in a statutory short form power of attorney properly executed in accordance with the laws in effect at the time of its execution, the language conferring authority with respect to "records, reports and statements," must be construed to mean that the principal authorizes the agent:

1. To be responsible for matters relating to the principal's health care, including, but not limited to, benefit entitlements and payment obligations, and in so doing, notwithstanding any law to the contrary, to receive from "health care providers" and "health plans," information, including, but not limited to, "protected health information" as defined in federal and state law, rules and regulations, in order to ascertain the benefits to which the principal is entitled and to determine the legitimacy and accuracy of charges for health care provided to the principal; to obtain for the principal the health care benefits to which the principal is entitled; to meet the principal's financial obligations, and pay bills due and owing, for health care provided to the principal; and to represent the principal, and to act as the principal's personal representative, with respect to matters pertaining to the principal's health care. The authority granted by this subdivision is limited to health care financial matters and shall not include authorization for the agent to make health care decisions for the principal;

2. To keep records of all cash received and disbursed for or on account of the principal, of all credits and debits to the account of the principal, and of all transactions affecting in any way the assets and liabilities of the principal;

3. To prepare, to execute and to file all tax, social security, unemployment insurance and information returns, required by the laws of the United States, of any state or of any subdivision thereof or of any foreign government, to prepare, to execute and to file all other papers and instruments which the agent shall think to be desirable or necessary for the safeguarding of the principal against excess or illegal taxation or against penalties imposed for claimed violation of any law or other governmental regulation;

4. To prepare, to execute and to file any record, report, statement, or other document to safeguard or promote the principal's interest, under a statute or governmental regulation;

5. To hire, to discharge, and to compensate any attorney, accountant, or other assistant or assistants when the agent shall think such action to be desirable for the proper execution by him of any of the powers described in this section; and

6. In general, and in addition to all the specific acts in this section enumerated, to do any other act or acts, which the principal can do through an agent, in connection with the preparation, execution, filing, storage or other utilization of any records, reports or statements of or concerning the principal's affairs.

All powers described in this section shall be exercisable equally with respect to any health care billing and payment matters, and records, reports or statements of or concerning the affairs of the principal existing at the giving of the power of attorney or thereafter arising, and whether arising in the state of New York or elsewhere.

§ 5-1502L. Construction--retirement benefit transactions. In a statutory short form power of attorney, the language conferring general authority with respect to "retirement benefit transactions" must be construed to mean that the principal authorizes the agent:

1. To contribute to, withdraw from and deposit funds in any type of retirement benefit or plan (including, but not limited to, any tax qualified or nonqualified pension, profit sharing, stock bonus, employee savings and retirement plan, deferred compensation plan, individual retirement account, or any public pension fund or retirement system);

2. To make investment directions, to select and change payment options, and to exercise any other election for the principal with regard to any retirement benefit or plan in which the principal has an interest, provided, however, that the authority granted hereby shall not include the authority to add, delete, or otherwise change the designation of beneficiaries in effect for any such retirement benefit or plan, unless the authority to make such additions, deletions or changes is expressly stated otherwise in the "Modifications" section of a statutory short form power of attorney or in a non-statutory power of attorney signed and dated by the principal with the signature of the principal duly acknowledged in the manner prescribed for the acknowledgment of a conveyance of real property, and which is executed pursuant to the requirements of section 5-1501B of this title;

3. To make rollover contributions from any retirement benefit or plan to other retirement benefits or plans;

4. To prepare, execute and deliver any application, agreement, trust agreement, authorization, check or other instrument or document which may be required under the terms of any retirement benefit or plan in which the principal has an interest or by the administrator thereof, or which the agent deems useful for the accomplishment of any of the purposes enumerated in this section;

5. To represent the principal in any matter or thing relating to any interest that the principal has or may become entitled to under any retirement benefit or plan;

6. To prosecute, defend, submit to alternative dispute resolution, settle, and propose or accept a compromise with respect to any claim existing in favor of, or against, the principal based upon or involving

any retirement benefit or plan and to intervene in any action or proceeding relating thereto;

7. To hire, discharge, and compensate any attorney, accountant, expert witness or other assistant or assistants when the agent deems such action to be desirable for the proper execution by the agent of the powers described in this section or for the keeping of required records thereof; and

8. In general, and in addition to all the specific acts in this section enumerated, to do any other act or acts, which the principal can do through an agent, with respect to any retirement benefit or plan maintained by the principal or in which the principal has an interest or may thereafter have an interest.

All powers described in this section 5-1502L of the general obligations law shall be exercisable with respect to any retirement benefit or plan in which the principal has any interest, whether in the state of New York or elsewhere.

The powers explicitly authorized in the provisions of this section 5-1502L of the general obligations law shall not be construed to diminish any like powers authorized in any other section of title 15 of article 5 of the general obligations law. Accordingly, such powers as are authorized in any other section of title 15 of article 5 of the general obligations law shall be construed as if the provisions of this section do not exist.

§ 5-1502M. Construction--tax matters. In a statutory short form power of attorney, the language conferring general authority with respect to "tax matters", must be construed to mean that the principal authorizes the agent:

1. To prepare, sign, and file federal, state, local, and foreign income, gift, payroll, federal insurance contributions act returns, and other tax returns, claims for refunds, requests for extension of time,

petitions regarding tax matters, and any other tax-related documents, including receipts, offers, waivers, consents (including consents and agreements under United States Internal Revenue Code Section 2032A or cognate provisions of any successor statute), closing agreements, and any power of attorney required by the federal internal revenue service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and with respect to the tax year in which the power of attorney was executed and with respect to any subsequent tax year;

2. To pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the United States Internal Revenue Service or other taxing authority;

3. To exercise any election available to the principal under federal, state, local, or foreign tax law; and

4. To represent the principal, or to designate another person to represent the principal, in all tax matters for all tax periods before the United States Internal Revenue Service and any other taxing authority.

The powers explicitly authorized in the provisions of this section shall not be construed to diminish any like powers authorized in any other section of this title, such as, but not limited to, those authorized in subdivision 9 of section 5-1502I of this title. Accordingly, such powers as are authorized in any other section of this title shall be construed as if the provisions of this section do not exist.

§ 5-1502N. Construction--all other matters. In a statutory short form power of attorney, the language conferring general authority with respect to "all other matters" must be construed to mean that the principal authorizes the agent to act as an alter ego of the principal with respect to any and all possible matters and affairs which are not enumerated in sections 5-1502A to 5-1502M, inclusive, of this title, and which the principal can do through an agent; provided, however, that such authority shall not include authorization for the agent to designate a third party to act as agent for the principal or to make medical or other health care decisions for the principal, except as otherwise provided in subdivision one of section 5-1502K of this title.

§ 5-1503. Modifications of the statutory short form power of attorney. A power of attorney which satisfies the requirements of paragraphs (a), (b) and (c) of subdivision one of section 5-1501B and section 5-1513 of this title is not prevented from being a "statutory short form power of attorney", by the fact that it also contains additional language at the section labeled "modifications" which:

1. Eliminates from the statutory short form power of attorney one or more of the powers enumerated in one or more of the constructional sections of this title with respect to a subdivision of the statutory short form power of attorney, affirmatively chosen by the principal; or

2. Supplements one or more of the powers enumerated in one or more of the constructional sections in this title with respect to a subdivision of the statutory short form power of attorney, affirmatively chosen by the principal, by specifically listing additional powers of the agent; or

3. Makes some additional provision which is not inconsistent with the other provisions of the statutory short form power of attorney, including a provision revoking one or more powers of attorney previously executed by the principal.

§ 5-1504. Acceptance of and reliance upon acknowledged and witnessed statutory short form power of attorney. 1. (a) For purposes of this section, "acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgements. For purposes of this section, "witnessed" means purportedly witnessed by two persons who are not named in the instrument as agents or as permissible recipients of gifts.

(b) A person that in good faith accepts an acknowledged and witnessed power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption that the signature is genuine.

(c) A person that in good faith accepts an acknowledged and witnessed power of attorney without actual knowledge that the power of attorney is void, invalid, or terminated, that the purported agent's authority is void, invalid, or terminated, or that the agent is exceeding or improperly exercising the agent's authority may rely upon the power of attorney as if the power of attorney were genuine, valid and still in effect, the agent's authority were genuine, valid and still in effect, and the agent had not exceeded and had properly exercised the authority.

(d) A person that is asked to accept an acknowledged and witnessed power of attorney may request, and rely upon, without further investigation:

(1) an agent's certification under penalty of perjury of any factual matter concerning the principal, agent or power of attorney; and

(2) an opinion of counsel as to any matter of law concerning the power of attorney if the person making the request provides in a writing or other record the reason for the request.

(e) An opinion of counsel requested under this section must be provided at the principal's expense unless the request is made more than ten business days after the power of attorney is presented for acceptance.

(f) For purposes of this section, a person that conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal, or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact after making reasonable inquiry with respect thereto.

2. No third party located or doing business in this state shall refuse, without reasonable cause, to honor a statutory short form power of attorney properly executed in accordance with section 5-1501B of this title, or a statutory short form power of attorney properly executed in accordance with the laws in effect at the time of its execution.

(a) Reasonable cause under this subdivision shall include, but not be limited to:

(1) the refusal by the agent to provide an original power of attorney or a copy certified by an attorney pursuant to section twenty-one hundred five of the civil practice law and rules, or by a court or other government entity;

(2) the third party's good faith referral of the principal and the agent or a person acting for or with the agent to the local adult protective services unit;

(3) actual knowledge of a report having been made by any person to the local adult protective services unit alleging physical or financial abuse, neglect, exploitation or abandonment of the principal by the agent or a person acting for or with the agent;

(4) actual knowledge of the principal's death or a reasonable basis for believing the principal has died;

(5) actual knowledge of the incapacity of the principal or a reasonable basis for believing that the principal is incapacitated where the power of attorney tendered is a nondurable power of attorney;

(6) actual knowledge or a reasonable basis for believing that the principal was incapacitated at the time the power of attorney was executed;

(7) actual knowledge or a reasonable basis for believing that the power of attorney was procured through fraud, duress or undue influence;

(8) actual notice, pursuant to subdivision five of this section, of the termination or revocation of the power of attorney;

(9) the refusal by a title insurance company to underwrite title insurance for a gift of real property made pursuant to a statutory short form power of attorney or non-statutory power of attorney that does not contain express instructions or purposes of the principal with respect to gifts in the modifications section of the statutory short form power of attorney or in the non-statutory power of attorney; or

(10) the refusal of a request for a certification or an opinion of counsel under paragraph (d) of subdivision one of this section.

(b) It shall be deemed unreasonable for a third party to refuse to honor a statutory short form power of attorney properly executed in accordance with section 5-1501B of this title or a statutory short form power of attorney properly executed in accordance with the laws in effect at the time of its execution, if the only reason for the refusal is any of the following:

(1) the power of attorney is not on a form prescribed by the third party to whom the power of attorney is presented.

(2) there has been a lapse of time since the execution of the power of attorney.

(3) on the face of the statutory short form power of attorney, there is a lapse of time between the date of acknowledgment of the signature of the principal and the date of acknowledgment of the signature of any agent.

3. (a) Not later than the tenth business day after presentation of an original or attorney certified copy of a statutory short form power of attorney properly executed in accordance with section 5-1501B of this title or in accordance with the laws in effect at the time of its execution to a third party for acceptance, such third party shall either (a) honor the statutory short form power of attorney, or (b) reject the statutory short form power of attorney in a writing that sets forth the reasons for such rejection, which writing shall be sent to the principal and the agent at the addresses on the power of attorney and such other addresses as provided by the principal or the agent, or (c) request the agent to execute an acknowledged affidavit pursuant to subdivision seven of this section stating that the power of attorney is in full force and effect if the statutory short form power of attorney was not submitted for acceptance together with such an acknowledged affidavit. Such reasons for rejection may include, but not be limited to non-conforming form, missing or wrong signature, invalid notarization, or unacceptable identification. In the event that the statutory short form power of attorney presented is not an original or attorney certified copy, as part of the initial rejection, such short form power of attorney may be rejected for such reason, provided, however, in explaining the reason for rejecting the short form power of attorney, the third party shall also identify such other provisions of the short form power of attorney, if any, that would otherwise constitute cause for rejection of the statutory short form power of attorney. If the third party initially rejects the statutory short form power of attorney in a writing that sets forth the reasons for such rejection, the third party shall within seven business days after receipt of a writing in response to the

reasons for such rejection (i) honor the statutory short form power of attorney, or (ii) finally reject the statutory short form power of attorney in a writing that sets forth the reasons for such rejection. Such writing shall be sent to the address provided on the power of attorney, to the address of the agent, if any, and may also be sent to such other address as shall be provided on the account documents, or to the address of the attorney as provided in an opinion of counsel pursuant to this section. If the third party requests the agent to execute such an acknowledged affidavit, the third party shall honor such statutory short form power of attorney within seven business days after receipt by the third party of an acknowledged affidavit which complies with the provisions of subdivision seven of this section, stating that the power of attorney is in full force and effect unless reasonable cause exists as described in paragraph (a) of subdivision two of this section. For the purposes of this subdivision, notice shall be considered delivered at the time such notice is mailed and the time requirements in which to honor or reject the statutory short form power of attorney or request the agent to execute an acknowledged affidavit shall not apply to the department of audit and control, a public retirement system of the state as defined in subdivision six of section one hundred fifty-two of the retirement and social security law, or the department of health, including social services districts, in the administration of the medical assistance "Medicaid" program pursuant to title XIX of the federal social security act or other public health insurance programs.

(b) Notice to the agent as required by paragraph (a) of this subdivision shall not be sent until after a determination is made by adult protective services if the reason for rejection is a reason set forth in subdivision two of this section and is otherwise prohibited by law or regulation.

4. (a) Once reasonably accepted, if a third party conducts a transaction in reliance on a properly executed statutory short form power of attorney, the third party shall be held harmless from liability for the transaction.

(b) Except as provided in subdivision five of this section, it shall be deemed unlawful for a third party to unreasonably refuse to honor a properly executed statutory short form power of attorney executed in accordance with section 5-1501B of this title or a statutory short form power of attorney properly executed in accordance with the laws in effect at the time of its execution. If a special proceeding as authorized by section 5-1510 of this title is brought to compel the third party to honor the statutory short form power of attorney, the court may award damages, including reasonable attorney's fees and costs, if the court finds that the third party acted unreasonably in refusing to honor the agent's authority under the statutory short form power of attorney. Such special proceeding shall be the exclusive remedy for a violation of this section.

5. In the absence of actual knowledge that the principal lacked capacity to execute a statutory short form power of attorney or that the statutory short form power of attorney was procured through fraud, duress or undue influence, no third party receiving and retaining a statutory short form power of attorney properly executed in accordance with section 5-1501B of this title, or a statutory short form power of attorney properly executed in accordance with the laws in effect at the time of its execution, or a complete photostatic copy of the properly executed original thereof, nor any officer, agent, attorney-in-fact or employee of such third party shall incur any liability by reason of acting upon the authority thereof unless the third party shall have received actual notice of the revocation or termination of such power of attorney.

If a principal maintains an account at a financial institution, the financial institution is deemed to have actual notice after it has had a reasonable opportunity to act on a written notice of the revocation or termination following its receipt of the same at its office where such account is located.

6. If the application of the provisions of subdivision two or four of this section shall be held invalid to any third party the application of such provisions to any third party other than those to which it is held invalid, shall not be affected thereby.

7. When the power of attorney is presented to a third party, it shall not be deemed unreasonable for a third party to require the agent to execute an acknowledged affidavit pursuant to this subdivision stating that the power of attorney is in full force and effect. Such an affidavit is conclusive proof to the third party relying on the power of attorney that the power of attorney is valid and effective, and has not been terminated, revoked or modified, except as to any third party who had actual notice that the power of attorney had terminated, been revoked or been modified prior to the execution of the affidavit. Such affidavit shall state that:

(a) the agent does not have, at the time of the transaction, actual notice of the termination or revocation of the power of attorney, or notice of any facts indicating that the power of attorney has been terminated or revoked;

(b) the agent does not have, at the time of the transaction, actual notice that the power of attorney has been modified in any way that would affect the ability of the agent to authorize or engage in the transaction, or notice of any facts indicating that the power of attorney has been so modified;

(c) if the agent was named as a successor agent, the prior agent is no longer able or willing to serve; and

(d) if the agent has been the principal's spouse, the power of attorney expressly provides that divorce or annulment as defined in subparagraph two of paragraph (f) of section 5-1.4 of the estates, powers and trusts law does not terminate the agent's authority thereunder, or the agent does not have actual notice that the marriage has been terminated by divorce or annulment as defined in subparagraph two of paragraph (f) of section 5-1.4 of the estates, powers and trusts law at the time of the transaction.

8. Nothing in this section shall require the acceptance of a form that is not a statutory short form power of attorney.

9. A statutory short form power of attorney or a non-statutory power of attorney that meets the requirements of subdivision one of section 5-1501B of this title shall be accepted for recording so long as it has been signed by one agent named therein whose signature has been

acknowledged. If two or more agents acting on behalf of the principal are required to act together, the power of attorney shall be accepted for recording as long as their signatures have been acknowledged. When a successor or co-agent authorized to act separately from any other agents presents a certified copy of a recorded statutory short form power of attorney or non-statutory power of attorney with the agent's signature acknowledged, the instrument shall be accepted for recording.

§ 5-1505. Standard of care; fiduciary duties; compelling disclosure of record. 1. Standard of care. In dealing with property of the principal, an agent shall observe the standard of care that would be observed by a prudent person dealing with property of another.

2. Fiduciary duties. (a) An agent acting under a power of attorney has a fiduciary relationship with the principal. The fiduciary duties include but are not limited to each of the following obligations:

(1) To act according to any instructions from the principal or, where there are no instructions, in the best interest of the principal, and to avoid conflicts of interest.

(2) To keep the principal's property separate and distinct from any other property owned or controlled by the agent, except for property that is jointly owned by the principal and agent at the time of the execution of the power of attorney, and property that becomes jointly owned after the execution of the power of attorney as the result of the agent's acquisition of an interest in the principal's property by reason of the agent's exercise of authority granted in the modifications section of a statutory short form power of attorney or in a non-statutory power of attorney. The agent may not make gifts of the principal's property to himself or herself without specific authorization in a power of attorney.

(3) To keep a record of all receipts, disbursements, and transactions entered into by the agent on behalf of the principal and to make such record and power of attorney available to the principal or to third parties at the request of the principal. The agent shall make such record and a copy of the power of attorney available within fifteen days of a written request by any of the following:

(i) a monitor;
(ii) a co-agent or successor agent acting under the power of attorney;
(iii) a government entity, or official thereof, investigating a report that the principal may be in need of protective or other services, or investigating a report of abuse or neglect;
(iv) a court evaluator appointed pursuant to section 81.09 of the mental hygiene law;
(v) a guardian ad litem appointed pursuant to section seventeen hundred fifty-four of the surrogate's court procedure act;
(vi) the guardian or conservator of the estate of the principal, if such record has not already been provided to the court evaluator or guardian ad litem; or
(vii) the personal representative of the estate of a deceased principal if such record has not already been provided to the guardian or conservator of the estate of the principal.

The failure of the agent to make the record available pursuant to this paragraph may result in a special proceeding under subdivision one of section 5-1510 of this title.
(b) The agent may be subject to liability for conduct or omissions which violate any fiduciary duty.
(c) The agent is not liable to third parties for any act pursuant to a power of attorney if the act was authorized at the time and the act did not violate subdivision one or two of this section.

3. Resignation. (a) An agent who has signed the power of attorney may resign by giving written notice to the principal and the agent's co-agent, successor agent or the monitor, if one has been named, or the principal's guardian if one has been appointed. If no co-agent, successor agent, monitor or guardian is known to the agent and the principal is incapacitated or the agent has notice of any facts indicating the principal's incapacity, the agent may give written notice to a government entity having authority to protect the welfare of the principal, or may petition the court to approve the resignation.
(b) The principal may provide for alternative means for an agent's resignation in the power of attorney.

§ 5-1506. Compensation. 1. An agent is not entitled to receive compensation from the assets of the principal for responsibilities performed under a power of attorney unless the principal specifically provides for compensation in the power of attorney.

2. An agent shall be entitled to receive reimbursement from the assets of the principal for reasonable expenses actually incurred in connection with the performance of the agent's responsibilities.

§ 5-1507. Signature of agent. 1. (a) In any transaction where the agent is acting pursuant to a power of attorney and where the hand-written signature of the agent or principal is required, the agent shall disclose the principal and agent relationship by:

(1) signing "(name of agent) as agent for (name of principal)"; or

(2) signing "(name of principal) by (name of agent), as agent"; or

(3) any similar written disclosure of the principal and agent relationship.

(b) A third party shall incur no liability for accepting a signature that does not meet the requirements of this subdivision.

2. When the agent engages in a transaction on behalf of the principal, the agent is attesting that:

(a) the agent has actual authority to engage in the transaction;

(b) the agent does not have, at the time of the transaction, actual notice of the termination or revocation of the power of attorney, or notice of any facts indicating that the power of attorney has been terminated or revoked;

(c) if the power of attorney is one which terminates upon the principal's incapacity, the agent does not have, at the time of the transaction actual notice of the principal's incapacity, or notice of any facts indicating the principal's incapacity.

(d) the agent does not have, at the time of the transaction, actual notice that the power of attorney has been modified in any way that would affect the ability of the agent to engage in the transaction, or notice of any facts indicating that the power of attorney has been so modified.

3. The attestation of the agent pursuant to subdivision two of this section is not effective as to any third party who had actual notice that the power of attorney had terminated or been revoked prior to the transaction.

§ 5-1508. Co-agents and successor agents. 1. A principal may designate two or more persons to act as co-agents. Unless the principal provides otherwise in the power of attorney, the co-agents must act jointly. However, if prompt action is required to accomplish a purpose of the power of attorney and to avoid irreparable injury to the principal's interest and a co-agent is unavailable because of absence, illness or other temporary incapacity, the other co-agent or co-agents may act for the principal. Unless the principal provides otherwise in the power of attorney, if a vacancy occurs because of the death, resignation or incapacity of a co-agent, the remaining agent or agents may act for the principal.

2. A principal may designate one or more successor agents to serve, if any initial or predecessor agent resigns, dies, becomes incapacitated, is not qualified to serve or declines to serve. Unless the principal provides otherwise in the power of attorney, a successor agent has the same authority as that granted to an initial agent. A principal may provide for specific succession rules.

3. A co-agent or a successor agent acting under a power of attorney shall have the authority to request, receive and seek to compel a co-agent or predecessor agent to provide a record of all receipts, disbursements and transactions entered into by the agent on behalf of the principal.

4. Any person, other than an estate or a trust, may act as an agent, co-agent or successor agent under a power of attorney.

§ 5-1509. Appointment of monitor. A principal may appoint a monitor or monitors in the power of attorney who shall have the authority to request, receive and compel the agent to provide a record of all receipts, disbursements and transactions entered into by the agent on behalf of the principal, to request and receive such records held by third parties, and to request and receive a copy of the power of attorney. Nothing in this title shall be construed to impose a fiduciary duty on the monitor.

§ 5-1510. Special proceedings. 1. If the agent has failed to make available a copy of the power of attorney and/or a record of all receipts, disbursements, and transactions entered into by the agent on behalf of a principal to a person who may request such record pursuant to subparagraph three of paragraph (a) of subdivision two of section 5-1505 of this title, that person may commence a special proceeding to compel the agent to produce a copy of the power of attorney and such record.

2. A special proceeding may be commenced pursuant to this section for any of the following additional purposes:

(a) to determine whether the power of attorney is valid;

(b) to determine whether the principal had capacity at the time the power of attorney was executed;

(c) to determine whether the power of attorney was procured through duress, fraud or undue influence;

(d) to determine whether the agent is entitled to receive compensation or whether the compensation received by the agent is reasonable for the responsibilities performed;

(e) to approve the record of all receipts, disbursements and transactions entered into by the agent on behalf of the principal;

(f) to remove the agent upon the grounds that the agent has violated, or is unfit, unable, or unwilling to perform, the fiduciary duties under the power of attorney;

(g) to determine how multiple agents must act;

(h) to construe any provision of a power of attorney; or

(i) to compel acceptance of the power of attorney.

A special proceeding may also be commenced by an agent who wishes to obtain court approval of his or her resignation.

3. A special proceeding may be commenced pursuant to subdivision two of this section by any person identified in subparagraph three of paragraph (a) of subdivision two of section 5-1505 of this title, the agent, the spouse, child or parent of the principal, the principal's successor in interest, or any third party who may be required to accept a power of attorney.

4. If a power of attorney is suspended or revoked under this section, or the agent is removed by the court, the court may require the agent to provide a record of all receipts, disbursements and transactions entered into by the agent on behalf of the principal and to deliver any property belonging to the principal and copies of records concerning the principal's property and affairs to a successor agent, a government entity or the principal's legal representative.

§ 5-1511. Termination or revocation of power of attorney; notice. 1. A power of attorney terminates when:

(a) the principal dies;

(b) the principal becomes incapacitated, if the power of attorney is not durable;

(c) the principal revokes the power of attorney;

(d) the principal revokes the agent's authority and there is no co-agent or successor agent, or no co-agent or successor agent who is willing or able to serve;

(e) the agent dies, becomes incapacitated or resigns and there is no co-agent or successor agent or no co-agent or successor agent who is willing or able to serve;

(f) the authority of the agent terminates and there is no co-agent or successor agent or no co-agent or successor agent who is willing or able to serve;

(g) the purpose of the power of attorney is accomplished; or

(h) a court order revokes the power of attorney as provided in section

5-1510 of this title or in section 81.29 of the mental hygiene law.

2. An agent's authority terminates when:

(a) the principal revokes the agent's authority;

(b) the agent dies, becomes incapacitated or resigns;

(c) the agent's marriage to the principal is terminated by divorce or annulment, as defined in subparagraph two of paragraph (f) of section 5-1.4 of the estates, powers and trusts law, unless the power of attorney expressly provides otherwise. If the authority of an agent is revoked solely by this subdivision, it shall be revived by the principal's remarriage to the former spouse; or

(d) the power of attorney terminates.

3. A principal may revoke a power of attorney:

(a) in accordance with the terms of the power of attorney; or

(b) by delivering a revocation of the power of attorney to the agent in person or by sending a signed and dated revocation by mail, courier, electronic transmission or facsimile to the agent's last known address. The agent must comply with the principal's revocation notwithstanding the actual or perceived incapacity of the principal unless the principal is subject to a guardianship under article eighty-one of the mental hygiene law.

4. Where a power of attorney has been recorded pursuant to section two hundred ninety-four of the real property law, the principal shall also record the revocation in the office in which the power of attorney is recorded pursuant to section three hundred twenty-six of the real property law, provided the revocation complies with section three hundred seven of the state technology law.

5. (a) Termination of an agent's authority or of the power of attorney is not effective as to any third party who has not received actual notice of the termination and acts in good faith under the power of attorney. Any action so taken, unless otherwise invalid or unenforceable, shall bind the principal and the principal's successors in interest. A financial institution is deemed to have actual notice after it has had a reasonable opportunity to act on a written notice of

the revocation or termination following receipt of the same at its office where an account is located.

(b) Termination of an agent's authority or of the power of attorney is not effective as to the agent until the agent has received a revocation as required by subdivision three of this section. An agent is deemed to have received a revocation when it has been delivered to the agent in person, or within a reasonable time after it has been sent by mail, courier, electronic transmission or facsimile in accordance with subdivision three of this section.

6. The execution of a power of attorney does not revoke any power of attorney previously executed by the principal.

§ 5-1512. Powers of attorney executed in other jurisdictions. Notwithstanding the provisions of section 5-1501B of this title, a power of attorney executed in another state or jurisdiction in compliance with the law of that state or jurisdiction or the law of this state is valid in this state, regardless of whether the principal is a domiciliary of this state. A power of attorney that complies with section 5-1501B of this title and is executed in another state or jurisdiction by a domiciliary of this state is valid in this state. A power of attorney executed in this state by a domiciliary of another state or jurisdiction in compliance with the law of that state or jurisdiction or the law of this state is valid in this state.

§ 5-1513. Statutory short form power of attorney. The use of the following form, or one which substantially conforms to the following form, in the creation of a power of attorney is lawful, and, when used, and executed in accordance with subdivision one of section 5-1501B of this title, it shall be construed as a statutory short form power of attorney in accordance with the provisions of this title; provided however, that any section indicated as "Optional" which is not used may be omitted and replaced by the words "Intentionally Omitted":

"POWER OF ATTORNEY NEW YORK STATUTORY SHORT FORM

(a) CAUTION TO THE PRINCIPAL: Your Power of Attorney is an important document. As the "principal," you give the person whom you choose (your "agent") authority to spend your money and sell or dispose of your property during your lifetime without telling you. You do not lose your authority to act even though you have given your agent similar authority.

When your agent exercises this authority, he or she must act according to any instructions you have provided or, where there are no specific instructions, in your best interest. "Important Information for the Agent" at the end of this document describes your agent's responsibilities.

Your agent can act on your behalf only after signing the Power of Attorney before a notary public.

You can request information from your agent at any time. If you are revoking a prior Power of Attorney, you should provide written notice of the revocation to your prior agent(s) and to any third parties who may have acted upon it, including the financial institutions where your accounts are located.

You can revoke or terminate your Power of Attorney at any time for any reason as long as you are of sound mind. If you are no longer of sound mind, a court can remove an agent for acting improperly.

Your agent cannot make health care decisions for you. You may execute a "Health Care Proxy" to do this.

The law governing Powers of Attorney is contained in the New York General Obligations Law, Article 5, Title 15. This law is available at a law library, or online through the New York State Senate or Assembly websites, www.nysenate.gov or www.nyassembly.gov.

If there is anything about this document that you do not understand, you should ask a lawyer of your own choosing to explain it to you.

(b) DESIGNATION OF AGENT(S):

I, ____, hereby appoint:

name and address of principal

____as my agent(s)

name(s) and address(es) of agent(s)

If you designate more than one agent above and you do not initial the statement below, they must act together.

( ) My agents may act SEPARATELY.

(c) DESIGNATION OF SUCCESSOR AGENT(S): (OPTIONAL)

If any agent designated above is unable or unwilling to serve, I appoint as my successor agent(s):

____

name(s) and address(es) of successor agent(s)

If you do not initial the statement below, successor agents designated above must act together.

( ) My successor agents may act SEPARATELY.

You may provide for specific succession rules in this section. Insert specific succession provisions here:

(d) This POWER OF ATTORNEY shall not be affected by my subsequent incapacity unless I have stated otherwise below, under "Modifications".

(e) This POWER OF ATTORNEY DOES NOT REVOKE any Powers of Attorney previously executed by me unless I have stated otherwise below, under "Modifications."

(f) GRANT OF AUTHORITY:

To grant your agent some or all of the authority below, either

(1) Initial the bracket at each authority you grant, or

(2) Write or type the letters for each authority you grant on the blank line at (P), and initial the bracket at (P). If you initial (P), you do not need to initial the other lines.

I grant authority to my agent(s) with respect to the following subjects as defined in sections 5-1502A through 5-1502N of the New York General Obligations Law:

( ) (A) real estate transactions;

( ) (B) chattel and goods transactions;

( ) (C) bond, share, and commodity transactions;

( ) (D) banking transactions;

( ) (E) business operating transactions;

( ) (F) insurance transactions;

( ) (G) estate transactions;

( ) (H) claims and litigation;

( ) (I) personal and family maintenance. If you grant your agent this authority, it will allow the agent to make gifts that you customarily have made to individuals, including the agent, and charitable organizations. The total amount of all such gifts in any one calendar year cannot exceed five thousand dollars;

( ) (J) benefits from governmental programs or civil or military service;

( )(K) financial matters related to health care; records, reports, and statements;

( )(L) retirement benefit transactions;

( )(M) tax matters;

( )(N) all other matters;

( )(O) full and unqualified authority to my agent(s) to delegate any or all of the foregoing powers to any person or persons whom my agent(s) select;

( )(P) EACH of the matters identified by the following letters______.

You need not initial the other lines if you initial line (P).

(g) CERTAIN GIFT TRANSACTIONS: (OPTIONAL)

In order to authorize your agent to make gifts in excess of an annual total of $5,000 for all gifts described in (I) of the grant of authority section of this document (under personal and family maintenance), and/or to make changes to interest in your property, you must expressly grant that authorization in the Modifications section below. If you wish to authorize your agent to make gifts to himself or herself, you must expressly grant such authorization in the Modifications section below. Granting such authority to your agent gives your agent the authority to take actions which could significantly reduce your property and/or change how your property is distributed at your death. Your choice to grant such authority should be discussed with a lawyer.

( ) I grant my agent authority to make gifts in accordance with the terms and conditions of the Modifications that supplement this Statutory Power of Attorney.

(h) MODIFICATIONS: (OPTIONAL)

In this section, you may make additional provisions, including, but not limited to, language to limit or supplement authority granted to your agent, language to grant your agent the specific authority to make gifts to himself or herself, and/or language to grant your agent the specific authority to make other gift transactions and/or changes to interests in your property. Your agent is entitled to be reimbursed from your assets for reasonable expenses incurred on your behalf. In this section, you may make additional provisions if you ALSO wish your agent(s) to be compensated from your assets for services rendered on your behalf, and you may define "reasonable compensation."

(i) DESIGNATION OF MONITOR(S): (OPTIONAL)

If you wish to appoint monitor(s), initial and fill in the section below:

( ) I wish to designate ______________________, whose address(es) is (are) ____, as monitor(s). Upon the request of the monitor(s), my agent(s) must provide the monitor(s) with a copy of the power of attorney and a record of all transactions done or made on my behalf. Third parties holding records of such transactions shall provide the records to the monitor(s) upon request.

(j) COMPENSATION OF AGENT(S):

Your agent is entitled to be reimbursed from your assets for reasonable expenses incurred on your behalf. If you ALSO wish your agent(s) to be compensated from your assets for services rendered on your behalf, and/or you wish to define "reasonable compensation", you may do so above, under "Modifications".

(k) ACCEPTANCE BY THIRD PARTIES: I agree to indemnify the third party for any claims that may arise against the third party because of reliance on this Power of Attorney. I understand that any termination of this Power of Attorney, whether the result of my revocation of the Power of Attorney or otherwise, is not effective as to a third party until the third party has actual notice or knowledge of the termination.

(l) TERMINATION: This Power of Attorney continues until I revoke it or it is terminated by my death or other event described in section 5-1511 of the General Obligations Law.

Section 5-1511 of the General Obligations Law describes the manner in which you may revoke your Power of Attorney, and the events which terminate the Power of Attorney.

(m) SIGNATURE AND ACKNOWLEDGMENT: In Witness Whereof I have hereunto signed my name on ___________,20___.

PRINCIPAL signs here: ==>____

(acknowledgment)

(n) SIGNATURES OF WITNESSES:

By signing as a witness, I acknowledge that the principal signed the Power of Attorney in my presence and in the presence of the other witness, or that the principal acknowledged to me that the principal's signature was affixed by him or her or at his or her direction. I also acknowledge that the principal has stated that this Power of Attorney reflects his or her wishes and that he or she has signed it voluntarily. I am not named herein as an agent or as a permissible recipient of gifts.

Signature of Witness 1	Signature of Witness 2
Date	Date
Print name	Print name
Address	Address
City, State, Zip Code	City, State, Zip Code

(o) IMPORTANT INFORMATION FOR THE AGENT:

When you accept the authority granted under this Power of Attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal responsibilities that continue until you resign or the Power of Attorney is terminated or revoked. You must:

(1) act according to any instructions from the principal, or, where there are no instructions, in the principal's best interest;

(2) avoid conflicts that would impair your ability to act in the principal's best interest;

(3) keep the principal's property separate and distinct from any assets you own or control, unless otherwise permitted by law;

(4) keep a record of all transactions conducted for the principal or keep all receipts of payments and transactions conducted for the principal; and

(5) disclose your identity as an agent whenever you act for the principal by writing or printing the principal's name and signing your own name as "agent" in either of the following manners: (Principal's Name) by (Your Signature) as Agent, or (your signature) as Agent for (Principal's Name).

You may not use the principal's assets to benefit yourself or anyone else or make gifts to yourself or anyone else unless the principal has specifically granted you that authority in the modifications section of this document or a Non-Statutory Power of Attorney. If you have that authority, you must act according to any instructions of the principal or, where there are no such instructions, in the principal's best interest. You may resign by giving written notice to the principal and to any co-agent, successor agent, monitor if one has been named in this document, or the principal's guardian if one has been appointed. If there is anything about this document or your responsibilities that you do not understand, you should seek legal advice.

Liability of agent:

The meaning of the authority given to you is defined in New York's General Obligations Law, Article 5, Title 15. If it is found that you have violated the law or acted outside the authority granted to you in the Power of Attorney, you may be liable under the law for your violation.

(p) AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:

It is not required that the principal and the agent(s) sign at the same time, nor that multiple agents sign at the same time.

I/we, ____, have read the foregoing Power of Attorney. I am/we are the person(s) identified therein as agent(s) for the principal named therein.

I/we acknowledge my/our legal responsibilities.

In Witness Whereof I have hereunto signed my name on ________________ 20_____.

Agent(s) sign(s) here:==>____

(acknowledgment(s))

(q) SUCCESSOR AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:

It is not required that the principal and the SUCCESSOR agent(s), if any, sign at the same time, nor that multiple SUCCESSOR agents sign at the same time. Furthermore, successor agents can not use this power of attorney unless the agent(s) designated above is/are unable or unwilling to serve.

I/we, ____, have read the foregoing Power of Attorney. I am/we are the person(s) identified therein as SUCCESSOR agent(s) for the principal named therein.

In Witness Whereof I have hereunto signed my name on ________________ 20_____.

Successor Agent(s) sign(s) here:==>______________________________________

(acknowledgment(s))"

TITLE 15-A

DESIGNATION OF PERSON IN PARENTAL RELATION

5-1555. Effect of designation.

§ 5-1551. Power of parent to designate a person in parental relation. A parent of a minor or incapacitated person may designate another person as a person in parental relation to such minor or incapacitated person pursuant to sections twenty-one hundred sixty-four and twenty-five hundred four of the public health law and sections two and thirty-two hundred twelve of the education law for a period not exceeding twelve months provided that there is no prior order of any court in any jurisdiction currently in effect that would prohibit such parent from himself or herself exercising the same or similar authority, and provided further, that, in the case where a court has ordered that both parents must agree on education or health decisions regarding the child, a designation pursuant to this subdivision shall not be valid unless both parents have consented thereto. Such designation shall be in the form prescribed by section 5-1552 of this title, and may be presented to any school, health care provider or health plan that requires such designation by either the parent or the designee.

§ 5-1552. Form of designation. 1. Designations in general. A designation of a person in parental relation pursuant to this title shall be in writing and shall include: the name of the parent, the name of the designee, the name of each minor or incapacitated person with respect to whom such designation is made, the parent's signature, and the date of such signature. The designation may specify a period of time less than twelve months for which such designation shall be valid unless earlier revoked by such parent pursuant to section 5-1554 of this title, provided that any designation specifying a period of more than thirty days shall also conform to the provisions of subdivision two of this section.

2. Designations for more than thirty days. A designation specifying a period of more than thirty days shall also include: an address and telephone number where the parent can be reached, an address and telephone number where the designee can be reached, the date of birth of

each minor or incapacitated person with respect to whom such designation is made, the date or contingent event on which the designation commences, the written consent of the designee to such designation, and a statement that there is no prior order of any court in any jurisdiction currently in effect prohibiting such parent from making the designation. A designation specifying a period of more than thirty days shall be notarized.

3. Designations not specifying a time period. If no time period is specified in a designation, it shall be valid until the earlier of revocation or the expiration of thirty days from the date of signature if the designation does not meet the requirements of subdivision two of this section, or twelve months from the date of commencement specified therein if the designation meets the requirements of subdivision two of this section.

§ 5-1553. Scope of designation. A designation pursuant to this title may specify: the treatment, diagnosis or activities for which consent is authorized; any treatment, diagnosis or activity for which consent is not authorized; or any other limitation on the duties and responsibilities conveyed by the designation.

§ 5-1554. Revocation of designation. A parent may revoke a designation by notifying, either orally or in writing, the designee or a school, health care provider, or health plan to which the designation has been presented, or by any other act evidencing a specific intent to revoke the designation. A designation shall also be revoked upon the execution by the parent of a subsequent designation. Revocation by one parent authorized to execute such a designation shall be deemed effective and complete revocation of a designation pursuant to this title. A designee who receives notification from a parent of any such revocation shall forthwith notify any school, health care provider or health plan to which a designation pursuant to this title has been presented. A parent may directly notify any such school, health care provider or health plan of the revocation, in which case the failure of the designee to notify such entities of the revocation shall not make revocation ineffective.

§ 5-1555. Effect of designation. 1. A designee shall possess all the powers and duties of a person in parental relation pursuant to sections twenty-one hundred sixty-four and twenty-five hundred four of the public health law and sections two and thirty-two hundred twelve of the education law, unless otherwise specified in the designation.

2. A designation shall not impose upon a designee a duty to support pursuant to section four hundred thirteen of the family court act.

3. A designation shall not cause a change in the school district of residence of the child for purposes of the education law, and during the period of validity of the designation, the child shall be presumed to be a resident of the school district in which the parent resided at the time the designation was made.

4. A designation shall terminate and be deemed revoked upon the death or incapacity of the parent who signed the designation.

5. The decision of a designee shall be superseded by a contravening decision of a parent.

6. A person who acts based upon the consent of a designee reasonably and in the good faith belief that the parent has in fact authorized the designee to provide such consent pursuant to the provisions of this title, may not be deemed to have acted negligently, unreasonably or improperly in accepting the designation and acting upon such consent; provided, however, that any such person may be deemed to have acted negligently, unreasonably or improperly if he or she has knowledge of facts indicating that the designation was never given, or did not extend to an act or acts in question, or was revoked.

7. No provision of this title shall be construed to require designation of a person in parental relation as provided in this title where such designation is not otherwise required by law, rule or

regulation.

TITLE 16

CONTINUITY OF CONTRACT

§ 5-1601. Definitions. As used in this title the following terms shall have the following meanings:

1. "Euro" shall mean the currency of participating member states of the European Union that adopt a single currency in accordance with the treaty on European Union signed February seventh, nineteen hundred ninety-two.

2. "Introduction of the euro" shall mean and include the implementation from time to time of economic and monetary union in member states of the European Union in accordance with the treaty on European Union signed February seventh, nineteen hundred ninety-two.

3. "ECU" or "European Currency Unit" shall mean the currency basket that is from time to time used as the unit of account of the European Community as defined in European Council Regulation No. 3320/94. When the euro first becomes the monetary unit of participating member states of the European Union, references to the ECU in a contract, security or instrument that also refers to such definition of the ECU shall be replaced by references to the euro at a rate of one euro to one ECU. References to the ECU in a contract, security or instrument without such a definition of the ECU shall be presumed, unless either demonstrated or proven to the contrary by the intention of the parties, to be references to the currency basket that is from time to time used as the unit of account of the European Community.

§ 5-1602. Continuity of contract. 1. (a) If a subject or medium of payment of a contract, security or instrument is a currency that has been substituted or replaced by the euro, the euro will be a commercially reasonable substitute and substantial equivalent that may be either: (i) used in determining the value of such currency; or (ii) tendered, in each case at the conversion rate specified in, and otherwise calculated in accordance with, the regulations adopted by the council of the European Union.

(b) If a subject or medium of payment of a contract, security or instrument is the ECU, the euro will be a commercially reasonable substitute and substantial equivalent that may be either: (i) used in determining the value of the ECU; or (ii) tendered, in each case at the conversion rate specified in, and otherwise calculated in accordance with, the regulations adopted by the Council of the European Union.

(c) Performance of any of the obligations described in paragraph (a) or (b) of this subdivision may be made in the currency or currencies originally designated in such contract, security or instrument (so long as such currency or currencies remain legal tender) or in euro, but not in any other currency, whether or not such other currency (i) has been substituted or replaced by the euro or (ii) is a currency that is considered a denomination of the euro and has a fixed conversion rate with respect to the euro.

2. None of: (a) the introduction of the euro; (b) the tendering of euros in connection with any obligation in compliance with paragraph (a) or (b) of subdivision one of this section; (c) the determining of the value of any obligation in compliance with paragraph (a) or (b) of subdivision one of this section; or (d) the calculating or determining of the subject or medium of payment of a contract, security or instrument with reference to interest rate or other basis has been substituted or replaced due to the introduction of the euro and that is a commercially reasonable substitute and substantial equivalent, shall either have the effect of discharging or excusing performance under any contract, security or instrument, or give a party the right to unilaterally alter or terminate any contract, security or instrument.

§ 5-1603. Effect of agreements. The provisions of this title shall not alter or impair and shall be subject to any agreements between parties with specific reference to or agreement regarding the introduction of the euro.

§ 5-1604. Application. 1. Notwithstanding the uniform commercial code or any other law of this state, this title shall apply to all contracts, securities and instruments, including contracts with respect to commercial transactions, and shall not be deemed to be displaced by any other law of this state.

2. In circumstances of currency alteration, other than the introduction of the euro, the provisions of this title shall not be interpreted as creating any negative inference or negative presumption regarding the validity or enforceability of contracts, securities or instruments denominated in whole or in part in a currency affected by such alteration.

TITLE 17

STRUCTURED SETTLEMENT PROTECTION ACT

§ 5-1701. Definitions. For purposes of this title:

(a) "annuity issuer" means an insurer that has issued an insurance contract used to fund periodic payments under a structured settlement;

(b) "dependents" include a payee's spouse and minor children and all other persons for whom the payee is legally obligated to provide support, including alimony or maintenance;

(c) "discounted present value" means the present value of future payments, as determined by discounting such payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service;

(d) "gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration;

(e) "independent professional advice" means advice of an attorney, certified public accountant, actuary or other licensed professional adviser:

(i) who is engaged by a claimant or payee to render advice concerning the legal, tax and financial implications of a structured settlement or a transfer of structured settlement payment rights;

(ii) who is not in any manner affiliated with or compensated by the defendant in such settlement or the transferee of such transfer; and

(iii) whose compensation for rendering such advice is not affected by whether a settlement or transfer occurs or does not occur;

(f) "interested parties" means, with respect to any structured settlement, the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party that has continuing rights or obligations under such structured settlement;

(g) "net advance amount" means the gross advance amount less the aggregate amount of the expenses required to be disclosed under subdivision (f) of section 5-1703 of this title;

(h) "payee" means an individual who is receiving tax free payments under a structured settlement and proposes to make a transfer of payment rights thereunder;

(i) "periodic payments" includes both recurring payments and scheduled future lump sum payments;

(j) "qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of section 130 of the United States Internal Revenue Code, United States Code Title 26, as amended from time to time;

(k) "settled claim" means the original tort claim resolved by a structured settlement;

(l) "structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim;

(m) "structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement;

(n) "structured settlement obligor" means, with respect to any structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement;

(o) "structured settlement payment rights" means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where:

(i) the payee is domiciled in, or the domicile or principal place of business of the structured settlement obligor or the annuity issuer is located in, this state;

(ii) the structured settlement agreement was approved by a court in this state; or

(iii) the structured settlement agreement is expressly governed by the laws of this state;

(p) "terms of the structured settlement" include, with respect to any structured settlement, the terms of the structured settlement agreement, the annuity contract, any qualified assignment agreement and any order or approval of any court authorizing or approving such structured settlement;

(q) "transfer means any sale, assignment, pledge, hypothecation or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration; provided that the term "transfer" does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to redirect the structured settlement payments to such insured depository institution, or an agent or successor in interest thereof, or otherwise to enforce such blanket security interest against the structured settlement payment rights;

(r) "transfer agreement" means the agreement providing for transfer of structured settlement payment rights from a payee to a transferee;

(s) "transfer expenses" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, without limitation, court filing fees, attorneys fees, escrow fees, lien recordation fees, judgment and lien search fees, finders' fees, commissions, and other payments to a broker or other intermediary; "transfer expenses" do not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer; and

(t) "transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer or restructuring.

§ 5-1702. Initial disclosure of structured settlement terms. In negotiating a structured settlement of claims brought by or on behalf of a claimant who is domiciled in this state, the defendant or defendant's legal representative shall disclose in writing to the claimant or the claimant's legal representative all of the following information that is not otherwise specified in the structured settlement agreement:

(a) the amounts and due dates of the periodic payments to be made under the structured settlement agreement. In the case of payments that will be subject to periodic percentage increases, the amounts of future payments may be disclosed by identifying the base payment amount, the amount and timing of scheduled increases, and the manner in which increases will be compounded;

(b) the amount of the premium payable to the annuity issuer;

(c) the nature and amount of any cost that may be deducted from any of the periodic payments;

(d) where applicable, that any transfer of the periodic payments is prohibited by the terms of the structured settlement and may otherwise be prohibited or restricted under applicable law; and

(e) a statement that the claimant is advised to obtain independent professional advice relating to the legal, tax and financial implications of the settlement, including any adverse consequences and that the defendant or defendant's legal representative may not refer any advisor, attorney or firm for such purpose.

§ 5-1703. Required disclosures to payee. Not less than ten days prior to the date on which the payee signs a transfer agreement, the transferee shall provide to the payee by first class mail and certified mail, return receipt requested or United States postal service priority mail, a separate disclosure statement, in bold type no smaller than fourteen points, setting forth:

(a) the amounts and due dates of the structured settlement payments to be transferred;

(b) the aggregate amount of such payments;

(c) the discounted present value of the payments to be transferred, which shall be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities", and the amount of the applicable federal rate used in calculating such discounted present value;

(d) the price quote from the original annuity issuer or, if such price quote is not readily available from the original annuity issuer, then a price quote from two other annuity issuers that reflects the current cost of purchasing a comparable annuity for the aggregate amount of payments to be transferred;

(e) the gross advance amount and the annual discount rate, compounded monthly, used to determine such figure;

(f) an itemized listing of all commissions, fees, costs, expenses and charges payable by the payee or deductible from the gross amount otherwise payable to the payee and the total amount of such fees;

(g) the net advance amount including the statement: "The net cash payment you receive in this transaction from the buyer was determined by applying the specified discount rate to the amount of future payments received by the buyer, less the total amount of commissions, fees, costs, expenses and charges payable by you";

(h) the amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee; and

(i) a statement that the payee has the right to cancel the transfer agreement, without penalty or further obligation, not later than the third business day after the date the agreement is signed by the payee.

§ 5-1704. Provisions prohibited in transfer agreement. No transfer agreement or other document or agreement executed in association with the transfer shall contain any provision described in this section. To the extent that a prohibited provision is included in a transfer agreement such provision shall be void and unenforceable. A prohibited provision is:

(a) any provision that waives the payee's right to sue under any law, or where the payee agrees not to sue, or which waives jurisdiction or standing to sue under the transfer agreement;

(b) any provision that requires the payee to indemnify and hold harmless the transferee, or to pay the transferee's costs of defense, in any claim or action brought by the payee on or the payee's behalf contesting the transfer for any reason;

(c) any provision that requires the payee to pay the transferee's attorney's fees or costs if the transfer contemplated by the transfer agreement is not completed; and

(d) any provision that requires the payee to pay any tax liability arising under federal tax laws, other than the seller's own tax liability, if any, that results from the transfer.

§ 5-1705. Procedure for approval of transfers. (a) An action for approval of a transfer of a structured settlement shall be by a special proceeding brought on only by order to show cause.

(b) Such proceeding shall be commenced to obtain approval of a transfer of structured settlement payment rights. Such proceeding shall be commenced:

(i) in the supreme court of the county in which the payee resides; or

(ii) in any court which approved the structured settlement agreement.

(c) A copy of the order to show cause and petition shall be served upon all interested parties at least twenty days before the time at which the petition is noticed to be heard. A response shall be served at least seven days before the petition is noticed to be heard.

(d) A petition for approval of a transfer of structured settlement payment rights shall include:

(i) a copy of the transfer agreement;

(ii) a copy of the disclosure statement and proof of notice of that statement required under section 5-1703 of this title;

(iii) a listing of each of the payee's dependents, together with each dependent's age; and

(iv) a statement setting forth whether there have been any previous transfers or applications for transfer of the structured settlement payment rights and giving details of all such transfers or applications for transfer.

(e) On the hearing, the payee shall attend before the court unless attendance is excused for good cause.

§ 5-1706. Approval of transfers of structured settlement payment rights. No direct or indirect transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been authorized in advance in a final order of a court of competent jurisdiction based upon express findings by such court that:

(a) the transfer complies with the requirements of this title;

(b) the transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependants; and whether the transaction, including the discount rate used to determine the gross advance amount and the fees and expenses used to determine the net advance amount, are fair and reasonable. Provided the court makes the findings as outlined in this subdivision, there is no requirement for the court to find that an applicant is suffering from a hardship to approve the transfer of structured settlement payments under this subdivision;

(c) the payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received such advice or knowingly waived such advice in writing;

(d) the transfer does not contravene any applicable statute or the order of any court or other government authority; and

(e) is written in plain language and in compliance with section 5-702 of this article.

§ 5-1707. Effects of transfer of structured settlement payment rights. Following a transfer of structured settlement payment rights under this title:

(a) The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments;

(b) The transferee shall be liable to the structured settlement obligor and the annuity issuer:

(i) if the transfer contravenes the terms of the structured settlement, for any taxes incurred by such parties as a consequence of the transfer; and

(ii) for any other liabilities or costs, including reasonable costs and attorneys' fees, arising from compliance by such parties with the order of the court or arising as a consequence of the transferee's failure to comply with this title;

(c) Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two or more transferees or assignees; and

(d) Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this title.

§ 5-1708. General provisions; construction. (a) The provisions of this title may not be waived by any payee.

(b) Any transfer agreement entered into on or after the effective date of this title by a payee who resides in this state shall provide that disputes under such transfer agreement, including any claim that the payee has breached the agreement, shall be determined in and under the laws of this state. No such transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

(c) No transfer of structured settlement payment rights shall extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for (i) periodically confirming the payee's survival, and (ii) giving the annuity issuer and the structured settlement obligor prompt written notice in the even of the payee's death.

(d) No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on any failure of such transfer to satisfy the conditions of this title.

(e) Nothing contained in this title shall be construed to authorize any transfer of structured settlement payment rights in contravention of any statute or to imply that any transfer under a transfer agreement entered into prior to the effective date of this title is valid or invalid.

(f) Compliance with the requirements set forth in section 5-1703 of this title and fulfillment of the conditions set forth in section 5-1705 of this title shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for, or any liability arising from, non-compliance with such requirements or failure to fulfill such conditions.

(g) The assignee of any transfer agreement or any agreement executed in connection therewith, shall be subject to all claims and defenses of the payee against the transferee arising from such transfer agreement notwithstanding any agreement to the contrary. Recovery hereunder by the payee shall not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee. Rights of the payee under this provision can be asserted affirmatively against a claim by the assignee.

§ 5-1708-a. Waiver for families of victims of terrorist attacks. Notwithstanding the provisions of section four thousand two hundred twenty-four of the insurance law:

(a) An annuity issuer, or an employee or other representative of such issuer, shall be permitted to waive or offer to waive the commission or other compensation otherwise payable thereto as a result of the sale of a policy or contract subject to the provisions of section four thousand two hundred twenty-four of the insurance law to a member of the immediate family of a person who was a victim of the September eleventh, two thousand one terrorist attacks against the United States or any terrorist attack as defined by subdivision (e) of this section; and

(b) In connection with such waiver, the insurance company may, at the election of the policyowner or contract owner:

(i) contribute the amount of such waived commission or other compensation to a charitable organization that meets the requirements of section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and is organized for the benefit of families of victims of terrorist attacks; or

(ii) deduct from the premium an amount equal to such waived commission or other compensation otherwise payable thereto as a result of the sale.

(c) For purposes of this section, the term "victim" shall mean a decedent who died as a result of wounds or injury incurred as a result of any terrorist attacks, but shall not include any individual identified by the United States attorney general to have been a participant or conspirator in such attack or a representative of such an individual.

(d) An issuer seeking to avail itself of the provisions of this section shall first submit its plan of implementation to the superintendent of financial services for prior approval. If the plan is approved, such issuer shall thereafter, upon request of such superintendent, submit a report to such superintendent regarding its experience in the implementation of such provisions.

(e) For purposes of this section, the term "terrorist attack" shall mean premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents, listed on the U.S. Department of State's list of Foreign Terrorist Organizations or listed at the time of such attack.

§ 5-1709. Enforcement. (a) In addition to the other remedies provided, whenever there shall be a violation of this title, application may be made by the attorney general in the name of the people of the state of New York to a court of competent jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this title, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceedings, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this title has occurred, the court may impose a civil penalty of not more than one thousand dollars for each violation. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

(b) Any payee injured by a violation of this title may bring an action for the recovery of damages. The court may award reasonable attorney's fees to the prevailing plaintiff.

ARTICLE 7

OBLIGATIONS RELATING TO PROPERTY RECEIVED AS SECURITY

TITLE 1

MONEY DEPOSITED AS SECURITY TO BE HELD IN TRUST IN CERTAIN CASES

§ 7-101. Money deposited or advanced for use or rental of personal property; waiver void. 1. Whenever money shall be deposited or advanced on a contract for the use or rental of personal property as security for performance of the contract or to be applied to payments upon such contract when due, such money, with interest accruing thereon, if any, until repaid or so applied, shall continue to be the money of the person making such deposit or advance and shall be a trust fund in the possession of the person with whom such deposit or advance shall be made and shall be deposited in a bank or trust company and shall not be mingled with other funds or become an asset of such trustee, excepting, however, that such trust funds may be deposited with other funds that have been deposited or advanced to the trustee as security for performance of a contract for the use or rental of personal property or be applied to payments upon such contract when due. If the money being deposited or advanced is for the use or rental of personal property and the money deposited or advanced is seven hundred fifty dollars or more and is for the use or rental of personal property for a period equal to or greater than one hundred twenty days, the person receiving such money shall deposit it pursuant to the provisions of subdivision one-a of this section.

1-a. Whenever the money so deposited or advanced is seven hundred fifty dollars or more and is for the use or rental of personal property for a period equal to or greater than one hundred twenty days, the person receiving such money shall, subject to the provisions of this section, deposit it in an interest bearing account in a banking organization within the state which account shall earn interest at a rate which shall be the prevailing rate earned by other such deposits made with banking organizations in such area. Such person shall not be required to keep the funds of the separate persons from whom security deposits or advances have been received in separate depository accounts, provided his books of account shall clearly show the allocation of the funds deposited in his general or special depository account. The person depositing such security money shall be entitled to receive, as administration expenses, a sum equivalent to one per cent per annum upon the security money so deposited, which shall be deducted from the interest earned on such security money from the banking organization and shall be in lieu of all other administrative and custodial expenses relating to the security deposit or advance. The balance of the interest paid by the banking organization shall be the money of the lessee making the deposit or advance and shall either be held in trust by the person with whom such deposit or advance shall be made, until repaid or applied for the use or rental of the personal property, or annually paid to the lessee making the deposit of security money.

1-b. This section shall not be applicable to any advance payment of money under or with respect to any contract for the use or rental of personal property that, in accordance with the terms applicable to such payment, either (a) is not revocable by the person making such payment and is not otherwise subject to being returned or refunded to such person, or (b) otherwise satisfies or discharges an equivalent liability under such contract when such payment is made, whether or not such liability is otherwise then due and payable under the terms of such contract.

1-c. This section shall apply to money deposited or advanced on contracts for the use or rental of personal property as security for performance of the contract or to be applied to payments upon such contract when due, only if (a) such contract is governed by the laws of this state as the result of a choice of law provision in such contract, in accordance with section 1--301 of the uniform commercial code (subject to the limitations on choice of law by the parties to a consumer lease under section 2-A-106 of the uniform commercial code), or such contract is otherwise governed by the laws of this state in accordance with applicable conflict of laws rules, and (b) the lessee under such contract is located within this state, within the meaning of the uniform commercial code (with respect to the location of debtors), except that a foreign air carrier under the Federal Aviation Act of 1958, as amended, shall not be deemed located in this state solely as a result of having a designated office of an agent upon whom service of process may be made located in this state.

2. Any provision of a contract whereby a person who has deposited or advanced money on a contract for the use or rental of personal property as security for the performance of the contract waives any provision of this section is absolutely void.

3. This section shall not be applicable to any deposit or advance of money made in connection with the borrowing of securities for any lawful purpose.

§ 7-103. Money deposited or advanced for use or rental of real property; waiver void; administration expenses. 1. Whenever money shall be deposited or advanced on a contract or license agreement for the use or rental of real property as security for performance of the contract or agreement or to be applied to payments upon such contract or agreement when due, such money, with interest accruing thereon, if any, until repaid or so applied, shall continue to be the money of the person making such deposit or advance and shall be held in trust by the person with whom such deposit or advance shall be made and shall not be mingled with the personal moneys or become an asset of the person receiving the same, but may be disposed of as provided in section 7-105 of this chapter.

2. Whenever the person receiving money so deposited or advanced shall deposit such money in a banking organization, such person shall thereupon notify in writing each of the persons making such security deposit or advance, giving the name and address of the banking organization in which the deposit of security money is made, and the amount of such deposit. Deposits in a banking organization pursuant to the provisions of this subdivision shall be made in a banking organization having a place of business within the state. If the person depositing such security money in a banking organization shall deposit same in an interest bearing account, he shall be entitled to receive, as administration expenses, a sum equivalent to one per cent per annum upon the security money so deposited, which shall be in lieu of all other administrative and custodial expenses. The balance of the interest paid by the banking organization shall be the money of the person making the deposit or advance and shall either be held in trust by the person with whom such deposit or advance shall be made, until repaid or applied for the use or rental of the leased premises, or annually paid to the person making the deposit of security money.

2-a. Whenever the money so deposited or advanced is for the rental of property containing six or more family dwelling units, the person receiving such money shall, subject to the provisions of this section, deposit it in an interest bearing account in a banking organization within the state which account shall earn interest at a rate which shall be the prevailing rate earned by other such deposits made with banking organizations in such area.

2-b. In the event that a lease terminates other than at the time that a banking organization in such area regularly pays interest, the person depositing such security money shall pay over to his tenant such interest as he is able to collect at the date of such lease termination.

3. Any provision of such a contract or agreement whereby a person who so deposits or advances money waives any provision of this section is absolutely void.

4. The term "real property" as used in this section is co-extensive in meaning with lands, tenements and hereditaments.

§ 7-105. Landlord failing to turn over deposits made by tenants or licensees and to notify tenants or licensees thereof in certain cases. 1. Any person, firm or corporation and the employers, officers or agents thereof, whether the owner or lessee of the property leased, who or which has or hereafter shall have received from a tenant or licensee a sum of money or any other thing of value as a deposit or advance of rental as security for the full performance by such tenant or licensee of the terms of his lease or license agreement, or who or which has or shall have received the same from a former owner or lessee, shall, upon conveying such property or assigning his or its lease to another, or upon the judicial appointment and qualifying of a receiver in an action to foreclose a mortgage or other lien of record affecting the property leased, or upon the conveyance of such property to another person, firm or corporation by a referee in an action to foreclose a mortgage or other lien of record affecting the property leased if a receiver shall not have been appointed and qualified in such action, at the time of the delivery of the deed or instrument or assignment or within five days thereafter, or within five days after the receiver shall have qualified, deal with the security deposit as follows:

Turn over to his or its grantee or assignee, or to the receiver in the foreclosure action, or to the purchaser at the foreclosure sale if a receiver shall not have been appointed and qualified the sum so deposited, and notify the tenant or licensee by registered or certified mail of such turning over and the name and address of such grantee, assignee, purchaser or receiver.

2. Any owner or lessee turning over to his or its grantee, assignee, to a purchaser of the leased premises at a foreclosure sale, or to the

receiver in the foreclosure action the amount of such security deposit is hereby relieved of and from liability to the tenant or licensee for the repayment thereof; and the transferee of such security deposit is hereby made responsible for the return thereof to the tenant or licensee, unless he or it shall thereafter and before the expiration of the term of the tenant's lease or licensee's agreement, transfer such security deposit to another, pursuant to subdivision one hereof and give the requisite notice in connection therewith as provided thereby. A receiver shall hold the security subject to such disposition thereof as shall be provided in an order of the court to be made and entered in the foreclosure action. The provisions of this section shall not apply if the agreement between the landlord and tenant or licensee is inconsistent herewith.

3. Any failure to comply with this section is a misdemeanor.

§ 7-106. Money deposited or advanced for certain installations; waiver void. 1. Whenever any non-public moneys shall be deposited or advanced by the owner of an occupied residential dwelling on a contract for the installation of a private connection to a public sewer line as security for payments or to be applied to payments upon such contract when due, such money, with interest accruing thereon, if any, until repaid or so applied, shall continue to be the money of the person making such deposit or advance and shall be a trust fund in the possession of the person with whom such deposit or advance shall be made and shall be deposited in a bank, trust company, savings bank, savings and loan association, federal savings and loan association or federal mutual savings bank and shall not be mingled with other funds or become an asset of such trustee.

2. Any provision of a contract whereby a person who has deposited or advanced money on a contract for the installation of a private connection to a public sewer line as security for payments or to be applied to payments upon such contract when due waives any provision of this section is absolutely void.

§ 7-107. Deposits made by tenants of rent stabilized dwelling units. 1. This section shall apply only to dwelling units subject to the New York city rent stabilization law of nineteen hundred sixty-nine or the emergency tenant protection act of nineteen seventy-four.

2. No deposit or advance shall exceed the amount of one month's rent, under any contract for the lease or tenancy of a dwelling unit subject to this section.

3. The entire amount of the deposit or advance, shall be refundable to the tenant upon the tenant's vacating of the premises except for an amount lawfully retained for the reasonable and itemized costs due to non-payment of rent, damage caused by the tenant beyond normal wear and tear, non-payment of utility charges payable directly to the landlord under the terms of the lease or tenancy, and moving and storage of the tenant's belongings. The landlord may not retain any amount of the deposit for costs relating to ordinary wear and tear of occupancy or damage caused by a prior tenant.

4. After initial lease signing but before the tenant begins occupancy, the landlord shall offer the tenant the opportunity to inspect the premises with the landlord or the landlord's agent to determine the condition of the property. If the tenant requests such inspection, the parties shall execute a written agreement before the tenant begins occupancy of the unit attesting to the condition of the property and specifically noting any existing defects or damages. Upon the tenant's vacating of the premises, the landlord may not retain any amount of the deposit or advance due to any condition, defect, or damage noted in such agreement. The agreement shall be admissible as evidence of the condition of the premises at the beginning of occupancy only in proceedings related to the return or amount of the security deposit.

5. Within a reasonable time after notification of either party's intention to terminate the tenancy, unless the tenant terminates the tenancy with less than two weeks' notice, the landlord shall notify the tenant in writing of the tenant's right to request an inspection before

vacating the premises and of the tenant's right to be present at the inspection. If the tenant requests such an inspection, the inspection shall be made no earlier than two weeks and no later than one week before the end of the tenancy. The landlord shall provide at least forty-eight hours written notice of the date and time of the inspection. After the inspection, the landlord shall provide the tenant with an itemized statement specifying repairs or cleaning that are proposed to be the basis of any deductions from the tenant's deposit. The tenant shall have the opportunity to cure any such condition before the end of the tenancy. Any statement produced pursuant to this subdivision shall only be admissible in proceedings related to the return or amount of the security deposit.

6. Within fourteen days after the tenant has vacated the premises, the landlord shall provide the tenant with an itemized statement indicating the basis for the amount of the deposit retained, if any, and shall return any remaining portion of the deposit to the tenant. If a landlord fails to provide the tenant with the statement and deposit within fourteen days, the landlord shall forfeit any right to retain any portion of the deposit.

7. In any action or proceeding disputing the amount of any portion of the deposit retained, the landlord shall bear the burden of proof as to the reasonableness of the amount retained.

8. Any person who violates the provisions of this section shall be liable for actual damages, provided a person found to have willfully violated this section shall be liable for punitive damages of up to twice the amount of the deposit or advance.

9. (a) In circumstances where any sum of money or any other thing of value deposited as security for the full performance by a tenant of the terms of their lease is not turned over to a successor in interest pursuant to section 7-105 of this title, the grantee or assignee of the leased premises shall also be liable to such tenant, upon conveyance of such leased premises, for the repayment of any such security deposit, plus accrued interest, as to which such grantee or assignee has actual

knowledge.

(b) For purposes of this section, a grantee or assignee of the leased premises shall be deemed to have actual knowledge of any security deposit which is (i) deposited at any time during the six months immediately prior to closing or other transfer of title in any banking organization pursuant to subdivision two-a of section 7-103 of this title, or (ii) acknowledged in any lease in effect at the time of closing or other transfer of title, or (iii) supported by documentary evidence provided by the tenant or lessee as set forth in paragraph (c) of this subdivision.

(c) With respect to any leased premises for which there is no record of security deposit pursuant to subparagraph (i) or (ii) of paragraph (b) of this subdivision, the grantee or assignee of the leased premises shall be obligated to notify the tenant thereof in writing no later than thirty days following the closing or other transfer of title to the fact that there is no record of a security deposit for said leased premises and that unless the tenant within thirty days after receiving notice provides them or it with documentary evidence of deposit, the tenant shall have no further recourse against them or it for said security deposit. For purposes of this subdivision, "documentary evidence" shall be limited to any cancelled check drawn to the order of, a receipt from, or a lease signed by any predecessor in interest, if such predecessor's interest in the leased premises existed on or after the effective date of this paragraph. Except as otherwise provided by subparagraphs (i) and (ii) of paragraph (b) of this subdivision, the grantee or assignee of the leased premises shall not be charged with actual knowledge of the security deposit where the tenant fails within the thirty-day period to provide such documentary evidence. Where the grantee or assignee of the leased premises fails to notify the tenant as specified in this paragraph within thirty days following the closing or other transfer of title, the tenant shall be entitled to produce documentary evidence at any time.

(d) The grantee or assignee of the leased premises shall have the right to demand that the grantor or assignor thereof establish an escrow account equal to one month's rent for any leased premises for which there is no record of a security deposit pursuant to paragraph (b) of this subdivision to be used for the purpose of holding harmless the grantee or assignee in any case where, at a date subsequent to the closing or other transfer of title, the tenant gives notice pursuant to paragraph (c) of this subdivision.

(e) The liability of a receiver for payment of any security deposit plus accrued interest pursuant to this subdivision shall be limited to the amount of such deposit actually turned over to them or it pursuant to subdivision one of section 7-105 of this title and to the operating income in excess of expenses generated during their or its period of receivership.

10. Any agreement by a lessee or tenant of a dwelling waiving or modifying their rights as set forth in this section shall be absolutely void.

§ 7-108. Deposits made by tenants of non-rent stabilized dwelling units. 1. This section shall apply to all dwelling units in residential premises, unless such dwelling unit is specifically referred to in section 7-107 of this title.

1-a. Except in dwelling units subject to the city rent and rehabilitation law or the emergency housing rent control law, continuing care retirement communities licensed pursuant to article forty-six or forty-six-A of the public health law, assisted living providers licensed pursuant to article forty-six-B of the public health law, adult care facilities licensed pursuant to article seven of the social services law, senior residential communities that have submitted an offering plan to the attorney general, or not-for-profit independent retirement communities that offer personal emergency response, housekeeping, transportation and meals to their residents:

(a) No deposit or advance shall exceed the amount of one month's rent, unless the deposit or advance is for a seasonal use dwelling unit as provided for in subdivisions four and five of this section, or unless the deposit or advance is for an owner-occupied cooperative apartment as provided for in subdivision six of this section.

(b) The entire amount of the deposit or advance shall be refundable to the tenant upon the tenant's vacating of the premises except for an amount lawfully retained for the reasonable and itemized costs due to non-payment of rent, damage caused by the tenant beyond normal wear and tear, non-payment of utility charges payable directly to the landlord under the terms of the lease or tenancy, and moving and storage of the tenant's belongings. The landlord may not retain any amount of the deposit for costs relating to ordinary wear and tear of occupancy or damage caused by a prior tenant.

(c) After initial lease signing but before the tenant begins occupancy, the landlord shall offer the tenant the opportunity to inspect the premises with the landlord or the landlord's agent to determine the condition of the property. If the tenant requests such inspection, the parties shall execute a written agreement before the tenant begins occupancy of the unit attesting to the condition of the property and specifically noting any existing defects or damages. Upon the tenant's vacating of the premises, the landlord may not retain any amount of the deposit or advance due to any condition, defect, or damage noted in such agreement. The agreement shall be admissible as evidence of the condition of the premises at the beginning of occupancy only in proceedings related to the return or amount of the security deposit.

(d) Within a reasonable time after notification of either party's intention to terminate the tenancy, unless the tenant terminates the tenancy with less than two weeks' notice, the landlord shall notify the tenant in writing of the tenant's right to request an inspection before vacating the premises and of the tenant's right to be present at the inspection. If the tenant requests such an inspection, the inspection shall be made no earlier than two weeks and no later than one week before the end of the tenancy. The landlord shall provide at least forty-eight hours written notice of the date and time of the inspection. After the inspection, the landlord shall provide the tenant with an itemized statement specifying repairs or cleaning that are proposed to be the basis of any deductions from the tenant's deposit. The tenant shall have the opportunity to cure any such condition before the end of the tenancy. Any statement produced pursuant to this paragraph shall only be admissible in proceedings related to the return or amount of the security deposit.

(e) Within fourteen days after the tenant has vacated the premises, the landlord shall provide the tenant with an itemized statement indicating the basis for the amount of the deposit retained, if any, and shall return any remaining portion of the deposit to the tenant. If a landlord fails to provide the tenant with the statement and deposit within fourteen days, the landlord shall forfeit any right to retain any portion of the deposit.

(f) In any action or proceeding disputing the amount of any amount of the deposit retained, the landlord shall bear the burden of proof as to the reasonableness of the amount retained.

(g) Any person who violates the provisions of this subdivision shall be liable for actual damages, provided a person found to have willfully violated this subdivision shall be liable for punitive damages of up to twice the amount of the deposit or advance.

2. (a) In circumstances where any sum of money or any other thing of value deposited as security for the full performance by a tenant of the terms of his lease is not turned over to a successor in interest pursuant to section 7-105 of this chapter, the grantee or assignee of the leased premises shall also be liable to such tenant, upon conveyance of such leased premises, for the repayment of any such security deposit, plus accrued interest, as to which such grantee or assignee has actual knowledge.

(b) For purposes of this section, a grantee or assignee of the leased premises shall be deemed to have actual knowledge of any security deposit which is (i) deposited at any time during the six months immediately prior to closing or other transfer of title in any banking organization pursuant to subdivision two-a of section 7-103 of this chapter, or (ii) acknowledged in any lease in effect at the time of closing or other transfer of title, or (iii) supported by documentary evidence provided by the tenant or lessee as set forth in paragraph (c) of this subdivision.

(c) With respect to any leased premises for which there is no record of security deposit pursuant to subparagraph (i) or (ii) of paragraph (b) of this subdivision, the grantee or assignee of the leased premises shall be obligated to notify the tenant thereof in writing no later than thirty days following the closing or other transfer of title to the fact that there is no record of a security deposit for said leased premises and that unless the tenant within thirty days after receiving notice provides him or it with documentary evidence of deposit, the tenant shall have no further recourse against him or it for said security deposit. For purposes of this subdivision, "documentary evidence" shall be limited to any cancelled check drawn to the order of, a receipt from, or a lease signed by any predecessor in interest, if such predecessor's interest in the leased premises existed on or after the effective date of this section. Except as otherwise provided by subparagraphs (i) and (ii) of paragraph (b) of this subdivision the grantee or assignee of the leased premises shall not be charged with actual knowledge of the security deposit where the tenant fails within the thirty-day period to provide said documentary evidence. Where the grantee or assignee of the leased premises fails to notify the tenant as specified in this paragraph within thirty days following the closing or other transfer of title, the tenant shall be entitled to produce documentary evidence at any time.

(d) The grantee or assignee of the leased premises shall have the right to demand that the grantor or assignor thereof establish an escrow account equal to one month's rent for any leased premises for which there is no record of a security deposit pursuant to paragraph (b) of this subdivision to be used for the purpose of holding harmless the grantee or assignee in any case where, at a date subsequent to the closing or other transfer of title, the tenant gives notice pursuant to paragraph (c) of this subdivision.

(e) The liability of a receiver for payment of any security deposit plus accrued interest pursuant to this subdivision shall be limited to the amount of such deposit actually turned over to him or it pursuant to subdivision one of section 7-105 of this chapter and to the operating income in excess of expenses generated during his or its period of receivership.

3. Any agreement by a lessee or tenant of a dwelling waiving or modifying his rights as set forth in this section shall be absolutely void.

4. A dwelling unit shall qualify as a seasonal use dwelling unit for the purpose of paragraph (a) of subdivision one-a of this section if it meets all of the following conditions:

(a) The lease expressly provides that: (i) the dwelling unit is registered as a seasonal use dwelling unit, indicating the local or county government agency with which it is registered; (ii) the occupancy of the tenant is only for seasonal use not to exceed one hundred twenty days or a shorter period provided for in the lease; and (iii) such tenant has a primary residence to return to, the address of which is expressly provided in the lease.

(b) Such dwelling unit is registered with the appropriate local government or county registry as a seasonal use dwelling as provided for in subdivision five of this section.

(c) Such dwelling unit is not rented as a seasonal use dwelling unit for more than one hundred twenty days during each calendar year.

5. In order for a dwelling unit to qualify as a seasonal use dwelling unit for the purpose of paragraph (a) of subdivision one-a of this section, the local government with jurisdiction for building administration over such unit or the county in which such unit is located shall have adopted a seasonal use dwelling unit registry and such unit shall be registered by filing a copy of the seasonal use lease and such additional information as the local government or county that administers such registry may require. Such local government or county shall revoke the seasonal use dwelling unit registration of any dwelling unit that does not adhere to the conditions provided for in subdivision four of this section.

6. A dwelling unit shall qualify as an owner-occupied cooperative apartment for the purpose of paragraph (a) of subdivision one-a of this section if it meets all of the following conditions:

(a) the tenant is the dwelling unit owner, purchaser or shareholder of such a cooperative housing corporation;

(b) such tenant has or will have after purchase exclusive occupancy of such dwelling unit individually and with the permitted occupants pursuant to a proprietary lease or occupancy agreement and established and delimited rights under such lease or agreement; and

(c) such dwelling unit is not subject to the provisions of article two, article four, article five, or article eleven of the private housing finance law. For the purposes of this paragraph, "deposit or advance", as used in paragraph (a) of subdivision one-a of this section, shall not include any payments or advances that are part of the purchase price of the unit or shares.

§ 7-109. Commencement of a proceeding or action by the attorney general to compel compliance. If it appears to the attorney general that any person, association, or corporation has violated or is violating any of the provisions of this title, an action or proceeding may be instituted by the attorney general in the name of the people of the state of New York to compel compliance with such provisions and enjoin any violation or threatened violation thereof.

In connection with the institution of any such action or proceeding, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

If in such action or proceeding, the court finds that a respondent has committed such violation the court in its discretion may award to the attorney general a sum not exceeding two thousand dollars with respect to each such respondent as costs of investigation.

TITLE 2

SALE OF CERTAIN LICENSED TAXICABS

§ 7-201. Sale of certain licensed taxicabs. Notwithstanding any other law a bank, trust company, national bank, licensed lender or credit union which has made a loan to the owner of a licensed taxicab, and has taken as collateral a security agreement wherein the debtor pledges the licensed taxicab as security for the repayment of the loan as prescribed by the uniform commercial code, and in turn the secured party has filed a financing statement in the proper filing offices, and default has occurred in payment of the debt by the debtor, the secured party, if possession has been had of the licensed taxicab must dispose of said licensed taxicab for use and operation as a licensed taxicab pursuant to law. When the secured party takes possession of such licensed taxicab it shall immediately notify the licensing agency.

The purchaser of such licensed taxicab at sale hereunder, or his vendee shall have the same rights in respect of the use and operation thereof as a licensed taxicab as he would be entitled to under the law pursuant to which such taxicab was licensed if he were the purchaser thereof at a voluntary sale. Said sale shall be conditioned upon the approval by the licensing or supervisory agency of the purchaser as an owner of such taxicab. In making such determination, the licensing or supervisory agency shall use the same procedure and standards as if the purchaser thereof was a purchaser at a voluntary sale and such approval shall not be arbitrarily withheld by the licensing or supervisory agency. In the event such approval is not granted by the licensing or supervisory agency, said sale shall be declared a nullity, all monies paid hereunder, shall be returned to the purchaser at said sale. Such sale shall continue until a purchaser acceptable to the licensing or supervisory agency is obtained or the vehicle is otherwise disposed of according to law.

As used herein the term licensed taxicab shall mean a vehicle carrying passengers for hire and licensed by any county, city, town, village or any other such licensing agency, to operate as a taxicab within any such jurisdiction.

TITLE 3.
BONDS AND UNDERTAKINGS

§ 7-301. Liability of surety on an undertaking. When any undertaking executed within or without the state specifies that it is to be void upon payment of an amount or performance of an act, the undertaking shall be deemed to contain a covenant either to pay the amount or to perform the act specified. In the event of payment, the amount recoverable from a surety shall not exceed the amount specified in the undertaking except that interest in addition to this amount shall be awarded from the time of default by the surety.

TITLE 4

BUYER'S RIGHT OF REDEMPTION

§ 7-401. Buyer's right of redemption. 1. No note or security agreement used in connection with a loan for the purpose of financing the purchase of a motor vehicle, used primarily for personal or household purposes, shall contain any provision for acceleration of payment which would prevent the buyer's right of redemption pursuant to section three hundred two of the personal property law. Any such provision shall be void but shall not otherwise affect the validity of the note or security agreement.

2. Within seventy-two hours after the repossession or surrender of such motor vehicle the holder shall personally deliver or mail to the borrower at his last known address a written notice setting forth the right granted to redeem the vehicle, the dollar amount necessary to redeem, and the name, address and telephone number of the holder where information may be obtained regarding redemption of the vehicle.

ARTICLE 9

OBLIGATIONS OF CARE

TITLE 1

CONDITIONS ON REAL PROPERTY

§ 9-101. Liability of receiver of rents and profits appointed in mortgage foreclosure. A receiver of rents and profits appointed in an action to foreclose a mortgage upon real property shall be liable, in his official capacity, for injury to person or property sustained by reason of conditions on the premises, in a case where an owner would have been liable. Nothing herein contained shall be construed to enlarge the liability of the receiver in his personal capacity.

§ 9-103. No duty to keep premises safe for certain uses; responsibility for acts of such users. 1. Except as provided in subdivision two,

a. an owner, lessee or occupant of premises, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep the premises safe for entry or use by others for hunting, fishing, organized gleaning as defined in section seventy-one-y of the agriculture and markets law, canoeing, boating, trapping, hiking, cross-country skiing, tobogganing, sledding, speleological activities, horseback riding, bicycle riding, hang gliding, motorized vehicle operation for recreational purposes, snowmobile operation, cutting or gathering of wood for non-commercial purposes or training of dogs, or to give warning of any hazardous condition or use of or structure or activity on such premises to persons entering for such purposes;

b. an owner, lessee or occupant of premises who gives permission to another to pursue any such activities upon such premises does not thereby (1) extend any assurance that the premises are safe for such purpose, or (2) constitute the person to whom permission is granted an invitee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.

c. an owner, lessee or occupant of a farm, as defined in section six hundred seventy-one of the labor law, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep such farm safe for entry or use by a person who enters or remains in or upon such farm without consent or privilege, or to give warning of any hazardous condition or use of or structure or activity on such farm to persons so entering or remaining. This shall not be interpreted, or construed, as a limit on liability for acts of gross negligence in addition to those other acts referred to in subdivision two of this section.

2. This section does not limit the liability which would otherwise exist

a. for willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity; or

b. for injury suffered in any case where permission to pursue any of the activities enumerated in this section was granted for a consideration other than the consideration, if any, paid to said landowner by the state or federal government, or permission to train dogs was granted for a consideration other than that provided for in section 11-0925 of the environmental conservation law; or

c. for injury caused, by acts of persons to whom permission to pursue any of the activities enumerated in this section was granted, to other persons as to whom the person granting permission, or the owner, lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

3. Nothing in this section creates a duty of care or ground of liability for injury to person or property.

§ 9-105. Right of entry for professional land surveyor performing surveying services. 1. When performing surveying services as a professional land surveyor licensed under article one hundred forty-five of the education law, the land surveyor and authorized agents or employees of any such land surveyor may enter upon or cross any lands necessary to perform surveying services provided that the surveyor and authorized agents or employees of such land surveyor:

a. makes reasonable efforts to notify the landowner or, in the case of a lease, the lessee thereof of his or her intention to enter upon the owner's or lessee's land to make a land survey;

b. operates upon such lands during reasonable hours;

c. operates within a reasonable distance from the property line of the land being surveyed; and

d. carries proper identification as to their registration or employment and displays such identification to anyone requesting identification.

2. Nothing in this section shall be construed to:

a. remove civil liability for damage to land, chattels, crops or personal property; or

b. authorized any professional land surveyor, authorized agent or employee to enter any building or structure used as a residence or for storage.

§ 9-107. Genetically engineered or genetically modified organisms; affirmative defense. Any party who is sued for damages for any claim on the ground that the party possessed or used seeds or plants that contained genetically engineered or genetically modified organisms without entering into an agreement or paying fees to the manufacturer or licensed distributor of such genetically engineered or genetically modified organisms shall have an affirmative defense against any liability if the party shall show that he or she did not knowingly and intentionally introduce the genetically engineered or genetically modified organisms into his or her plants or seeds or onto his or her property and he or she did not knowingly gain from the distinctive traits due to genetic modification or genetic engineering.

ARTICLE 11

OBLIGATIONS TO MAKE COMPENSATION OR RESTITUTION

TITLE 1

COMPENSATION

§ 11-100. Compensation for injury or damage caused by the intoxication of a person under the age of twenty-one years. 1. Any person who shall be injured in person, property, means of support or otherwise, by reason of the intoxication or impairment of ability of any person under the age of twenty-one years, whether resulting in his death or not, shall have a right of action to recover actual damages against any person who knowingly causes such intoxication or impairment of ability by unlawfully furnishing to or unlawfully assisting in procuring alcoholic beverages for such person with knowledge or reasonable cause to believe that such person was under the age of twenty-one years.

2. In case of the death of either party, the action or right of action established by the provisions of this section shall survive to or against his or her executor or administrator, and the amount so recovered by either a husband, wife or child shall be his or her sole and separate property.

3. Such action may be brought in any court of competent jurisdiction.

4. In any case where parents shall be entitled to such damages, either of such parents may bring an action therefor; but that recovery by either one of such parties shall constitute a bar to suit brought by the other.

§ 11-101. Compensation for injury caused by the illegal sale of intoxicating liquor. 1. Any person who shall be injured in person, property, means of support, or otherwise by any intoxicated person, or by reason of the intoxication of any person, whether resulting in his death or not, shall have a right of action against any person who shall, by unlawful selling to or unlawfully assisting in procuring liquor for such intoxicated person, have caused or contributed to such intoxication; and in any such action such person shall have a right to recover actual and exemplary damages.

2. In case of the death of either party, the action or right of action given by this section shall survive to or against his or her executor or administrator, and the amount so recovered by either a husband, wife or child shall be his or her sole and separate property.

3. Such action may be brought in any court of competent jurisdiction.

4. In any case where parents shall be entitled to such damages, either the father or mother may sue alone therefor, but recovery by one of such parties shall be a bar to suit brought by the other.

§ 11-102. Liability of utilities for compensation for damages caused by interfering with, or delaying the progress of work under state public construction contracts. 1. No utility shall interfere with, or delay the progress of work under any contract with the state department, agency, division or board, for the construction, reconstruction or improvement of any highway, street, road, railroad grade crossing, bridge, tunnel, underpass, overpass or other state contract work, by failing to remove or relocate its poles, wires, cables, conduits, pipes or any other facilities or structures within the time schedule therefor by an agreement or under the terms of an agreement between the department, agency, division or board and the utility, or if no time is fixed by such an agreement or under the terms of such an agreement, within the time fixed by the department, agency, division or board, by notice served upon such utility by such state department, agency, division or board.

2. If such notice is utilized, it shall describe the public improvement and the geographical location thereof, the date of commencement and the date of completion, if any, provided for by the contract, the contractor's name and address, the manner in which and the extent to which the facilities and structures of the utility obstruct or prevent the contractor from progressing or performing the work comprehended by the contract, and shall fix the date or time within such utility is required to remove or relocate its facilities or structures, specifying the same, in order to provide the contractor with the site when required by the contractor for progressing or performing the work pursuant to such state contract. Such notice shall be in writing and shall be served upon such utility either personally or by certified mail at its principal office or place of business in the county where the work under such contract is to be performed, or, if there be no such

principal office or place of business in such county, at the nearest principal office or place of business of such utility, outside of such county. In the event the utility to whom the aforesaid notice was directed is for any reason unable, within the prescribed period, to remove or relocate said facilities or structures specified in the notice, said utility shall immediately advise said department, agency, division or board and the contractor, in writing, of such inability, and in the same communication so advise said department, agency, division or board, and the contractor of the approximate date that such removal or relocation of facilities or structures could be effected; and shall further state the basis for the inability of said utility to remove or relocate said facilities or structures within the time specified by the notice served thereon by said department, agency, division or board. The department, agency, division or board, after examining and considering the utility's basis for establishing a different schedule for such removal or relocation, shall, if such basis is reasonable, establish and notify the utility of a revised schedule for completing such removal or relocation.

3. In cases where the utility has been reimbursed for removal, relocation, replacement or reconstruction pursuant to subdivision twenty-four-b of section ten of the highway law, a utility failing to complete the removal or relocation of such structures or facilities within a period of thirty days beyond the time fixed therefor by the latest time schedule established in accordance with this section, shall be liable and responsible to any such contractor for any damages, direct or consequential, sustained by any such contractor as the result thereof, in an action to be brought by such contractor against such utility in a court of competent jurisdiction within two years from the time fixed for the removal or relocation of such structures or facilities. If an action is commenced against a utility, as heretofore provided, said utility may interpose in its answer in such action any defense available under the provisions of the civil practice law and rules. The unreasonableness of the time schedule imposed by the state department, agency, division or board shall be an absolute defense by the utility to any such action by the contractor. If, in any such action, the utility is found to owe nothing to the contractor, or if an

offer of settlement is made by the utility which is not accepted by the contractor and the resulting verdict against the utility is less than the offer of settlement, then in either such event the total cost of the utility of litigation, including reasonable attorney's fees, shall be paid to the utility by the contractor.

§ 11-103. Compensation for injury caused by the illegal sale of controlled substances. 1. (a) Any person who is injured in person, property, means of support or otherwise by a person whose abilities are impaired by the use of a controlled substance, or by reason of such person's impairment, shall have a right of action against any person who caused or contributed to such impairment by unlawfully selling to or unlawfully assisting in procuring a controlled substance for such person.

(b) In any such action, the injured person shall have a right to recover actual and exemplary damages.

2. In case of the death of either party, the action or right of action given by this section shall survive to or against his or her executor or administrator, and the amount so recovered by either a husband, wife or child shall be his or her sole and separate property.

3. Such action may be brought in any court of competent jurisdiction.

4. In any case where parents shall be entitled to such damages, either the father or mother may sue alone therefor, but recovery by one of such parties shall be a bar to suit brought by the other.

5. The term "controlled substance" when used in this section, means and includes any substance listed in section thirty-three hundred six of the public health law.

§ 11-104. Additional liability of drawer. 1. Notwithstanding any contrary provision of law, a drawer negotiating a check who knows or should know that payment of such check will be refused by the drawee bank either because the drawer has no account with such bank or because the drawer has insufficient funds on deposit with such bank shall be liable, except as provided in subdivision four of this section, to the payee who has presented such check for payment, not only for the face amount of the check but also for additional, liquidated damages, where the check is dishonored and the drawer fails to pay the face amount of such check within thirty days following the date of mailing by the payee of the second written demand for payment as provided in this section.

2. In the case of a drawer negotiating a check who knows or should know that payment of such check will be refused by the drawee bank because the drawer has no account with such bank, such additional, liquidated damages shall be in an amount to be determined by the court in light of the circumstances, but in no event shall such amount be greater than twice the face amount of the check or seven hundred fifty dollars, whichever is less.

3. In the case of a drawer negotiating a check who knows or should know that payment of such check will be refused by the drawee bank because the drawer has insufficient funds on deposit with such bank, such additional, liquidated damages shall be in an amount to be determined by the court in light of the circumstances, but in no event shall such amount be greater than twice the face amount of the check or four hundred dollars, whichever is less.

4. The drawer shall not be liable to the payee for the additional, liquidated damages provided for by this section if:

(a) The drawer gave such check as payment for the rental of residential premises; or

(b) The drawer gave such check as payment for residential service supplied by a gas, electric, steam, telephone or water corporation; or

(c) The drawer gave such check as repayment of all, or a portion of, a debt secured by collateral which the payee has repossessed.

5. Defenses which may be asserted against any person not having the rights of a holder in due course, as specified in sections 3-306 and 3-408 of the uniform commercial code, shall be available to a defendant

in any action or proceeding in which additional liability is claimed under this section.

6. The additional liquidated damages provided for in this section shall be available only to those persons or entities which post or otherwise give conspicuous notice to the public of the additional, liquidated damages which may be imposed pursuant to this section. Such notice shall set forth the additional liquidated damages that may be imposed if a check is dishonored and the section of law authorizing imposition of such damages, and provide notice that criminal penalties also may apply.

7. The first written demand for payment on the dishonored check shall be in the form prescribed by subdivision eight of this section and shall be sent to the drawer's last known residence address or last known place of business by first class mail and by certified mail return receipt requested with delivery restricted to the drawer, on or after the date the payee received notice that such check had been dishonored. The second written demand for payment on the dishonored check shall be in the form provided in subdivision eight of this section and shall be sent to the drawer at the drawer's last known residence address or last known place of business by first class mail on or after the fifteenth day following the date of receipt of the first written demand for payment.

8. The written demands for payment required by subdivision seven of this section, shall be in the following form and shall be printed in at least ten point type in both the English and Spanish languages:

DEMAND FOR PAYMENT OF DISHONORED CHECK

DATE:	1ST NOTICE
	2ND AND FINAL NOTICE
TO: ______________________	WARNING: YOU MAY BE
NAME OF DRAWER	SUED 30 DAYS AFTER
______________________	THE DATE OF THIS
______________________	NOTICE IF YOU DO
______________________	NOT MAKE PAYMENT
LAST KNOWN RESIDENCE ADDRESS OR PLACE OF BUSINESS	

YOUR CHECK IN THE AMOUNT OF $___________ DATED____________________

PAYABLE TO THE ORDER OF__________________ HAS BEEN DISHONORED BY THE BANK UPON WHICH IT WAS DRAWN, BECAUSE:

________YOU HAD NO ACCOUNT WITH THAT BANK.

________YOU HAD INSUFFICIENT FUNDS ON DEPOSIT WITH THAT BANK.

IF YOU DO NOT MAKE PAYMENT, YOU MAY BE SUED UNDER SECTION 11-104 OF THE GENERAL OBLIGATIONS LAW TO RECOVER PAYMENT. IF A JUDGMENT IS RENDERED AGAINST YOU IN COURT, IT MAY INCLUDE NOT ONLY THE ORIGINAL FACE AMOUNT OF THE CHECK, BUT ALSO ADDITIONAL LIQUIDATED DAMAGES, AS FOLLOWS:

--IF YOU HAD NO ACCOUNT WITH THE BANK UPON WHICH THE CHECK WAS DRAWN, AN ADDITIONAL SUM WHICH MAY BE EQUIVALENT TO TWICE THE FACE AMOUNT OF THE CHECK OR SEVEN HUNDRED FIFTY DOLLARS, WHICHEVER IS LESS; OR

--IF YOU HAD INSUFFICIENT FUNDS ON DEPOSIT WITH THE BANK UPON WHICH THE CHECK WAS DRAWN, AN ADDITIONAL SUM WHICH MAY BE EQUIVALENT TO TWICE THE FACE AMOUNT OF THE CHECK OR FOUR HUNDRED DOLLARS, WHICHEVER IS LESS.

PLEASE MAKE PAYMENT IN THE AMOUNT OF_______ TO:

____

NAME OF PAYEE

____

____

____

ADDRESS TO WHICH PAYMENT SHOULD BE DELIVERED

IF YOU DISPUTE ANY OF THE FACTS LISTED ABOVE, CONTACT THE PAYEE IMMEDIATELY.

9. The public service commission shall study the extent to which checks given in payment for residential service supplied by a gas, electric, steam, telephone or water corporation are dishonored either because the drawer had no account with the bank on which the check was written or because the drawer had insufficient funds on deposit with such bank, including the extent of chronic payment with checks that

are dishonored and the impact of such dishonored checks on the operating costs of these corporations and their requests for rate increases, and whether any penalty for dishonored checks, in addition to recovery of the utilities' administrative costs, is necessary. The commission shall report to the governor and the legislature no later than one year after the effective date of this section.

§ 11-105. Larceny in mercantile establishments. 1. When used in this section, the term "mercantile establishment" shall mean a place or vehicle where goods, wares or merchandise are offered for sale or a place or vehicle from which deliveries of goods, wares or merchandise are made.

2. When used in this section, the term "larceny" is an act heretofore defined or known as common law larceny by trespassory taking as defined in paragraph (a) of subdivision two of section 155.05 of the penal law committed against the property of a mercantile establishment.

3. When used in this section, the term "emancipated minor" shall mean a person who was over the age of sixteen at the time of the alleged larceny and who was no longer a dependent of or in the custody of a parent or legal guardian.

4. In any proceeding brought under this section the burden of proof shall be by a preponderance of the evidence.

5. An adult or emancipated minor who commits larceny against the property of a mercantile establishment shall be civilly liable to the operator of such establishment in an amount consisting of:

(a) the retail price of the merchandise if not recovered in merchantable condition up to an amount not to exceed fifteen hundred dollars; plus

(b) a penalty not to exceed the greater of five times the retail price of the merchandise or seventy-five dollars; provided, however, that in no event shall such penalty exceed five hundred dollars.

6. Parents or legal guardians of an unemancipated minor shall be civilly liable for said minor who commits larceny against the property of a mercantile establishment to the operator of such establishment in an amount consisting of:

(a) the retail price of the merchandise if not recovered in merchantable condition up to an amount not to exceed fifteen hundred dollars; plus

(b) a penalty not to exceed the greater of five times the retail price of the merchandise or seventy-five dollars; provided, however, that in no event shall such penalty exceed five hundred dollars.

7. A conviction or a plea of guilty for committing larceny is not a prerequisite to the bringing of a civil suit, obtaining a judgment, or collecting that judgment under this section.

8. The fact that an operator of a mercantile establishment may bring an action against an individual as provided in this section shall not limit the right of such merchant to demand, orally or in writing, that a person who is liable for damages and penalties under this section remit the damages and penalties prior to the commencement of any legal action.

9. In any action brought under subdivision six of this section, the court shall consider in the interest of justice mitigating circumstances that bear directly upon the actions of the parent or legal guardian in supervising the unemancipated minor who committed the larceny.

10. An action for recovery of damages and penalties under this section may be brought in any court of competent jurisdiction.

11. The provisions of this section shall not be construed to prohibit or limit any other cause of action which an operator of a mercantile

establishment may have against a person who unlawfully takes merchandise from the mercantile establishment.

12. Any testimony or statements of the defendant or unemancipated minor child of the defendant or any evidence derived from an attempt to reach a civil settlement or from a civil proceeding brought under this section shall be inadmissible in any other court proceeding relating to such larceny.

§ 11-106. Compensation for injury or death to police officers and firefighters or their estates. 1. In addition to any other right of action or recovery otherwise available under law, whenever any police officer or firefighter suffers any injury, disease or death while in the lawful discharge of his official duties and that injury, disease or death is proximately caused by the neglect, willful omission, or intentional, willful or culpable conduct of any person or entity, other than that police officer's or firefighter's employer or co-employee, the police officer or firefighter suffering that injury or disease, or, in the case of death, a representative of that police officer or firefighter may seek recovery and damages from the person or entity whose neglect, willful omission, or intentional, willful or culpable conduct resulted in that injury, disease or death.

2. Nothing in this section shall be deemed to expand or restrict the existing liability of an employer or co-employee at common-law or under sections two hundred five-a and two hundred five-e of the general municipal law for injuries or death sustained in the line-of-duty by any police officer or firefighter.

§ 11-107. Compensation for harm to a guide, hearing or service dog. In addition to any other right of action or recovery otherwise available under law, a disabled person whose guide, hearing or service dog is injured due to the negligence of the owner of another dog in handling that other dog may recover damages from the owner or custodian of the non-guide, hearing or service dog that causes injury to the guide, hearing or service dog. Such damages may include, but are not limited to veterinarian fees, the cost of retraining or replacing the guide, hearing or service dog, and lost wages or damages due to loss of mobility incurred while retraining or replacement is taking place.

ARTICLE 12

DRUG DEALER LIABILITY ACT

§ 12-101. Short title. This article shall be known and may be cited as "the drug dealer liability act".

§ 12-102. Definitions. As used in this article:

1. "Illegal drug" means any controlled substance the possession of which is an offense under the public health law or the penal law.

2. "Drug market" means the support system of illegal drug-related operations, from production to retail sales, through which an illegal drug reaches a drug user.

3. "Drug user" means the individual whose illegal drug use is the basis of an action brought pursuant to this article.

4. "Grade one violation" means possession of one-quarter ounce or

more, but less than four ounces, or distribution of less than one ounce of an illegal drug.

5. "Grade two violation" means possession of four ounces or more, but less than eight ounces, or distribution of one ounce or more, but less than two ounces, of an illegal drug.

6. "Grade three violation" means possession of eight ounces or more, but less than sixteen ounces, or distribution of two ounces or more, but less than four ounces, of a specified illegal drug.

7. "Grade four violation" means possession of sixteen ounces or more or distribution of four ounces or more of a specified illegal drug.

8. "Participate in a drug market" means to distribute, possess with intent to distribute, commit an act intended to facilitate or in furtherance of the marketing or distribution of, or agree to distribute, possess with an intent to distribute, or commit an act intended to facilitate or in furtherance of the marketing and distribution of an illegal drug. "Participate in a drug market" does not include the purchase, receipt or possession of an illegal drug for personal use only.

9. "Person" means an individual, a governmental entity, corporation, firm, trust, partnership, or incorporated or unincorporated association, existing under or authorized by the laws of this state, another state, or a foreign country.

10. "Period of drug use" means, in relation to an individual drug user, the time of first use by an individual of an illegal drug to the accrual of the cause of action.

11. "Place of drug activity" means, in relation to an individual drug user, each county in which the individual purchases, receives, possesses or uses an illegal drug or in which the individual resides, attends school, or is employed during the period of the illegal drug use of the individual, unless the defendant proves otherwise by clear and

convincing evidence.

12. "Place of participation" means, in relation to a defendant in an action brought under this article, each county in which such defendant is alleged to have participated in a drug market or in which such defendant resides, attends school, or is employed during the period of the participation in a drug market by such defendant.

13. "Drug trafficker" means a person convicted of a class A or class B felony controlled substance who, in connection with the criminal conduct for which he or she stands convicted, possessed, distributed, sold or conspired to sell a controlled substance which, by virtue of its quantity, the person's prominent role in the enterprise responsible for the sale or distribution of such controlled substance and other circumstances related to such criminal conduct indicate that such person's criminal possession, sale or conspiracy to sell such substance was not an isolated occurrence and was part of an ongoing pattern of criminal activity from which such person derived substantial income or resources and in which such person played a leadership role.

§ 12-103. Liability established. A person who knowingly participates in a drug market within this state and has been convicted of a crime for such participation in a drug market and is a drug trafficker shall be liable for civil damages as provided in this article.

§ 12-104. Recovery by persons other than illegal drug users. 1. One or more of the following persons may bring an action for and recover damages caused by use of an illegal drug by an individual:

(a) A parent, legal guardian, child, or spouse of an individual drug user;

(b) An employer of an individual drug user; and

(c) A medical facility, insurer, governmental entity, employer, or other entity that funds a drug treatment program or employee assistance program for the individual drug user.

2. A person entitled to bring an action pursuant to subdivision one of this section may be awarded damages from a person who knowingly participated in the chain of distribution of an illegal drug actually used by the individual drug user.

3. A person knowingly participates in a drug market if:

(a) the place of the illegal drug use by the individual drug user is within a drug market target community of the defendant;

(b) the participation of the defendant in such drug market was connected with the same type of illegal drug used by the individual user; and

(c) the defendant participated in such drug market at any time during the illegal drug use by the individual user.

4. A person entitled to bring an action under this section may recover the following damages:

(a) Economic damages including, but not limited to, the cost of treatment and rehabilitation, medical expenses, loss of economic potential, loss of productivity, and support expenses;

(b) Non-economic damages, including, but not limited to, physical and emotional pain and suffering, disfigurement, loss of companionship and consortium;

(c) Reasonable attorney fees;

(d) Reasonable expert consultant and expert witness fees; and

(e) Costs and disbursements as provided for in the civil practice law and rules.

§ 12-105. Recovery by illegal drug users. 1. An individual drug user may not bring an action for damages caused by the use of an illegal drug, unless all of the following conditions are met:

(a) The individual discloses to law enforcement authorities, more than six months before filing the action, information known to the individual regarding their source of illegal drugs;

(b) The individual has not used an illegal drug within the six month period preceding filing the action.

2. A person entitled to bring an action under this section may be awarded damages only from a person who knowingly participated in the chain of distribution of an illegal drug that was actually used by the individual drug user.

3. A person entitled to bring an action under this section may recover economic damages, including but not limited to the cost of treatment, rehabilitation, and medical expenses, loss of economic potential, and loss of productivity.

§ 12-106. Scope of defendant's liability established. A person shall be deemed to have affected a target community based upon the following grades of offenses:

1. For a grade one violation, the county in which the place of participation by the defendant is situated;

2. For a grade two violation, the community described in subdivision one of this section along with all counties with a border contiguous to such community;

3. For a grade three violation, the community described in subdivision two of this section plus all counties with a border contiguous to such community; and

4. For a level four offense, the entire state.

§ 12-107. Joinder. Two or more persons may join in one cause of action under this article as plaintiffs if each action has at least one place of illegal drug activity in common and if any portion of the period of illegal drug use overlaps with the period of illegal drug use for every other plaintiff.

§ 12-108. Culpable conduct; contribution. 1. An action by an individual drug user shall be governed by the provisions of article fourteen-A of the civil practice law and rules. An action by a person other than an individual drug user shall not be governed by the provisions of article fourteen-A of the civil practice law and rules.

2. The defendant shall bear the burden of proving the comparative culpable conduct of the plaintiff.

3. Comparative culpable conduct shall not be attributed to a plaintiff who is not an individual drug user.

4. A person subject to liability under this article shall have a right of action for contribution against another person subject to liability under this article pursuant to article fourteen of the civil practice law and rules. A plaintiff may seek recovery in accordance with this article and any other appropriate provision of law from a person against whom a defendant has asserted a right of contribution.

§ 12-109. Judgments; execution and enforcement. 1. The provisions of the civil practice law and rules relating to the exemption of certain real and personal property from execution and enforcement of civil judgments shall not apply to judgment rendered in favor of the plaintiff under this article.

2. Any assets subject to an administrative, civil or criminal forfeiture proceeding under state or federal law or which have been seized for forfeiture by any state or federal agency may not be used to satisfy a judgment under this article unless and until such assets have been released following the conclusion of the forfeiture action or released by the agency that seized such assets.

§ 12-110. Periods of limitation. 1. Notwithstanding any provision of law to the contrary, a claim under this article may not be brought more than two years after the cause of action accrues. A cause of action accrues under this article when a person who may recover has reason to know of the harm from illegal drug use that is the basis for the cause of action and has reason to know that the illegal drug use is the cause of such harm.

2. Notwithstanding any other provision of law to the contrary for a plaintiff, the statute of limitations under this section shall be tolled when an individual potential plaintiff is incapacitated by the use of an illegal drug to the extent that such individual cannot reasonably be expected to seek recovery under this article or as otherwise provided for by law. For a defendant, the statute of limitations under this section shall be tolled until six months after the individual potential defendant is convicted of a crime involving participation in a drug market.

ARTICLE 13
TRANSFER OF OBLIGATIONS AND RIGHTS

TITLE 1
TRANSFERABILITY; EFFECT OF TRANSFER

§ 13-101. Transfer of claims. Any claim or demand can be transferred, except in one of the following cases:

1. Where it is to recover damages for a personal injury;

2. Where it is founded upon a grant, which is made void by a statute of the state; or upon a claim to or interest in real property, a grant of which, by the transferrer, would be void by such a statute;

3. Where a transfer thereof is expressly forbidden by: (a) a statute of the state, or (b) a statute of the United States, or (c) would contravene public policy.

§ 13-103. Transfer of judgment for sum of money. A judgment for a sum of money, or directing the payment of a sum of money, recovered upon any cause of action, may be transferred; but if it is vacated or reversed, the transfer thereof does not transfer the cause of action unless the latter was transferable before the judgment was recovered. A person who executes such a transfer without acknowledging his signature before an officer authorized to take the acknowledgment of a deed must so acknowledge it at the request of his assignee or of a subsequent assignee or of the judgment debtor upon payment of the officer's fees.

§ 13-105. Effect of transfer of claim or demand. Where a claim or demand can be transferred, the transfer thereof passes an interest, which the transferee may enforce by an action or special proceeding, or interpose as a defense or counter-claim, in his own name, as the transferrer might have done; subject to any defense or counter-claim, existing against the transferrer, before notice of the transfer, or against the transferee. But this section does not apply, where the rights or liabilities of a party to a claim or demand, which is transferred, are regulated by special provision of law; nor does it vary the rights or liabilities of a party to a negotiable instrument, which is transferred.

§ 13-107. Claims or demands transferred with bond unless reserved. 1. Unless expressly reserved in writing, a transfer of any bond shall vest in the transferee all claims or demands of the transferrer, whether or not such claims or demands are known to exist, (a) for damages or rescission against the obligor on such bond, (b) for damages against the trustee or depositary under any indenture under which such bond was issued or outstanding, and (c) for damages against any guarantor of the obligation of such obligor, trustee or depositary.

2. As used in this section, "bond" shall mean and include any and all shares and interests in an issue of bonds, notes, debentures or other evidences of indebtedness of individuals, partnerships, associations or corporations, whether or not secured.

3. As used in this section, "indenture" means any mortgage, deed of trust, trust or other indenture, or similar instrument or agreement (including any supplement or amendment to any of the foregoing), under which bonds as herein defined are issued or outstanding, whether or not any property, real or personal, is, or is to be, pledged, mortgaged, assigned, or conveyed thereunder.

§ 13-109. Definition of "transfer." As used in sections 13-101, 13-103, 13-105 and 13-107, the term "transfer" includes sale, assignment, conveyance, deed and gift.

ARTICLE 15

MODIFICATION AND DISCHARGE OF OBLIGATIONS

TITLE 1

DISCHARGE OF JOINT OBLIGORS

§ 15-101. Definitions. In this title, unless otherwise expressly stated, "obligation" does not include a liability in tort; "obligor" does not include a person liable for a tort; "obligee" does not include a person having a right based on a tort. "Several obligors" means obligors severally bound for the same performance.

§ 15-102. Co-obligor not a party. A judgment against one or more of several obligors, or against one or more of joint, or of joint and several obligors shall not discharge a co-obligor who was not a party to the proceeding wherein the judgment was rendered.

§ 15-103. Consideration to be credited to co-obligor. The amount or value of any consideration received by the obligee from one or more of several obligors, or from one or more of joint, or of joint and several obligors, in whole or in partial satisfaction of their obligations, shall be credited to the extent of the amount received on the obligations of all co-obligors to whom the obligor or obligors giving the consideration did not stand in the relation of a surety.

§ 15-104. Discharge of one obligor, with reservations. Subject to the provisions of section 15-103, the obligee's release or discharge of one or more of several obligors, or of one or more of joint, or of joint and several obligors shall not discharge co-obligors, against whom the obligee in writing and as part of the same transaction as the release or discharge, expressly reserves his rights; and in the absence of such a reservation of rights shall discharge co-obligors only to the extent provided in section 15-105.

§ 15-105. Discharge of one obligor, without reservation. 1. If an obligee releasing or discharging an obligor without express reservation of rights against a co-obligor, then knows or has reason to know that the obligor released or discharged did not pay so much of the claim as he was bound by his contract or relation with that co-obligor to pay, the obligee's claim against that co-obligor shall be satisfied to the amount which the obligee knew or had reason to know that the released or discharged obligor was bound to such co-obligor to pay.

2. If an obligee so releasing or discharging an obligor has not then such knowledge or reason to know, the obligee's claim against the co-obligor shall be satisfied to the extent of the lesser of two amounts, namely (a) the amount of the fractional share of the obligor released or discharged, or (b) the amount that such obligor was bound by his contract or relation with the co-obligor to pay.

§ 15-106. Death of joint obligor. On the death of a joint obligor in contract, his estate shall be bound as such jointly and severally with the surviving obligor or obligors.

§ 15-107. Release of partner. A release of a partner from a partnership liability shall release his co-partners from the same liability to the creditor giving the release, but after a partnership has been dissolved, by consent or otherwise, any partner may make a separate composition or compromise with any partnership creditor, and such composition or compromise shall discharge from such liability the partner making it, and him only.

§ 15-108. Release or covenant not to sue. (a) Effect of release of or covenant not to sue tortfeasors. When a release or a covenant not to sue or not to enforce a judgment is given to one of two or more persons liable or claimed to be liable in tort for the same injury, or the same wrongful death, it does not discharge any of the other tortfeasors from liability for the injury or wrongful death unless its terms expressly so provide, but it reduces the claim of the releasor against the other tortfeasors to the extent of any amount stipulated by the release or the covenant, or in the amount of the consideration paid for it, or in the amount of the released tortfeasor's equitable share of the damages under article fourteen of the civil practice law and rules, whichever is the greatest.

(b) Release of tortfeasor. A release given in good faith by the injured person to one tortfeasor as provided in subdivision (a) relieves him from liability to any other person for contribution as provided in article fourteen of the civil practice law and rules.

(c) Waiver of contribution. A tortfeasor who has obtained his own release from liability shall not be entitled to contribution from any other person.

(d) Releases and covenants within the scope of this section. A release or a covenant not to sue between a plaintiff or claimant and a person who is liable or claimed to be liable in tort shall be deemed a release or covenant for the purposes of this section only if:

(1) the plaintiff or claimant receives, as part of the agreement, monetary consideration greater than one dollar;

(2) the release or covenant completely or substantially terminates the dispute between the plaintiff or claimant and the person who was claimed to be liable; and

(3) such release or covenant is provided prior to entry of judgment.

§ 15-109. Uniformity of interpretation. This title shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 15-110. Inconsistent laws repealed. All acts or parts of acts inconsistent with this title are hereby repealed; but nothing in this title shall be construed as repealing any of the provisions of the civil practice law and rules or the partnership law.

TITLE 3

REQUIREMENTS FOR EFFECTIVENESS OR ENFORCEABILITY OF MODIFICATION OR DISCHARGE

§ 15-301. When written agreement or other instrument cannot be changed by oral executory agreement, or discharged or terminated by oral executory agreement or oral consent or by oral notice. 1. A written agreement or other written instrument which contains a provision to the effect that it cannot be changed orally, cannot be changed by an executory agreement unless such executory agreement is in writing and signed by the party against whom enforcement of the change is sought or by his agent.

2. A written agreement or other written instrument which contains a provision to the effect that it cannot be terminated orally, cannot be discharged by an executory agreement unless such executory agreement is in writing and signed by the party against whom enforcement of the discharge is sought, or by his agent, and cannot be terminated by mutual consent unless such termination is effected by an executed accord and satisfaction other than the substitution of one executory contract for another, or is evidenced by a writing signed by the party against whom it is sought to enforce the termination, or by his agent.

3. a. A discharge or partial discharge of obligations under a written agreement or other written instrument is a change of the agreement or instrument for the purpose of subdivision one of this section and is not a discharge or termination for the purpose of subdivision two, unless all executory obligations under the agreement or instrument are discharged or terminated.

b. A discharge or termination of all executory obligations under a written agreement or other written instrument is a discharge or termination for the purpose of subdivision two even though accrued obligations remaining unperformed at the date of the discharge or termination are not affected by it.

c. If a written agreement or other written instrument containing a provision that it cannot be terminated orally also provides for termination or discharge on notice by one or either party, both subdivision two and subdivision four of this section apply whether or not the agreement or other instrument states specifically that the notice must be in writing.

4. If a written agreement or other written instrument contains a provision for termination or discharge on written notice by one or either party, the requirement that such notice be in writing cannot be waived except by a writing signed by the party against whom enforcement of the waiver is sought or by his agent.

5. If executed by an agent, any agreement, evidence of termination, notice of termination or waiver, required by this section to be in writing, which affects or relates to real property or an interest therein as defined in section 5-101 in any manner stated in subdivisions one or two of section 5-703 of this chapter shall be void unless such agent was thereunto authorized in writing.

6. As used in this section the term "agreement" includes promise and undertaking.

§ 15-303. Release in writing without consideration or seal. A written instrument which purports to be a total or partial release of all claims, debts, demands or obligations, or a total or partial release of any particular claim, debt, demand or obligation, or a release or discharge in whole or in part of a mortgage, lien, security interest or charge upon personal or real property, shall not be invalid because of the absence of consideration or of a seal.

§ 15-304. Forfeiture and cancellation of oil, gas or mineral land leases. 1. When any oil, gas or mineral land lease given on land situated in any county of New York state and recorded therein becomes forfeited, terminates or expires by its own terms, the lessee, or where the lessee has assigned its interest, the assignee, within thirty days after the date of the forfeiture, termination or expiration, shall provide to the current owner of the land which is subject to the lease, without cost to such owner, a document in recordable form cancelling the lease as of record in the county where the leased land is situated.

2. If any lessee, or its assignee fails to cancel a lease, as provided for in subdivision one of this section, the current owner of the land which is subject to the lease may:

(a) serve notice upon the lessee, and if actual or record notice of their identity exists, to its assignee, that such lease be cancelled as of record, and stating that if such release is not executed within thirty days of the service of such notice, the lease will be terminated and no longer of any effect. Such notice shall also state;

(i) the names and addresses of the lessor and lessee if contained in the lease;

(ii) the name and address of the person giving notice and a statement as to his interest;

(iii) the state, county and city or town where the leased premises is located along with the location and a general description of the property as contained in the lease;

(iv) if located in a unit, the name or description of the unit if known;

(v) if there is a well on the leased land, the name or number of the well if known;

(vi) the date of the execution of the lease; and

(vii) the date of termination of the lease and the basis of such termination.

(b) service of such notice demanding a release shall be effected either personally, by certified mail to the lessee's, and where the lease has been assigned, the assignee's, last known business address, or, if service cannot be made with due diligence by the prior two methods, by publication once a week for three weeks in a newspaper of general circulation in the county where the leased land is situated;

(c) If the lessee or its assignee claims that the lease is still in full force and effect, either of these parties shall, within thirty days of the service of such notice of demand to cancel the lease, file an affidavit with the recording offices of the county wherein the land is situated. Such affidavit shall state that the lease is in full force and effect and a copy of such affidavit shall be delivered to the person serving the demand within ten days of the filing of the affidavit;

(d) If such affidavit is not filed within the required time, the current landowner may file a copy of the original notice to the lessee or assignee and an affidavit of service thereof with the recording officer of the county in which the leased land is situated, and by such filing the lease shall be cancelled and of no further effect.

4. For purposes of this section, the term "mineral" shall not include salt, as defined by subdivision eighteen of section 23-0101 of the environmental conservation law.

5. For the purposes of this section, where the landowner is not the owner of the oil, gas or mineral rights, the reference to "landowner" shall be deemed to mean the owner of such oil, gas or mineral rights.

6. This section shall apply to all leases entered into before, on or after the effective date of this section.

TITLE 5
ACCORD AND SATISFACTION

§ 15-501. Executory accord. 1. Executory accord as used in this section means an agreement embodying a promise express or implied to accept at some future time a stipulated performance in satisfaction or discharge in whole or in part of any present claim, cause of action, contract, obligation, or lease, or any mortgage or other security interest in personal or real property, and a promise express or implied to render such performance in satisfaction or in discharge of such claim, cause of action, contract, obligation, lease, mortgage or security interest.

2. An executory accord shall not be denied effect as a defense or as the basis of an action or counterclaim by reason of the fact that the satisfaction or discharge of the claim, cause of action, contract, obligation, lease, mortgage or other security interest which is the subject of the accord was to occur at a time after the making of the accord, provided the promise of the party against whom it is sought to enforce the accord is in writing and signed by such party or by his agent. If executed by an agent, any promise required by this section to be in writing which affects or relates to real property or an interest therein as defined in section 5-101 in any manner stated in subdivisions one or two of section 5-703 of this chapter shall be void unless such agent was thereunto authorized in writing.

3. If an executory accord is not performed according to its terms by one party, the other party shall be entitled either to assert his rights under the claim, cause of action, contract, obligation, lease, mortgage or other security interest which is the subject of the accord, or to assert his right under the accord.

§ 15-503. Offer of accord followed by tender. 1. An offer in writing, signed by the offeror or by his agent, to accept a performance therein designated in satisfaction or discharge in whole or in part of any claim, cause of action, contract, obligation, or lease, or any mortgage or other security interest in personal or real property, followed by tender of such performance by the offeree or by his agent before revocation of the offer, shall not be denied effect as a defense or as the basis of an action or counterclaim by reason of the fact that such tender was not accepted by the offeror or by his agent.

2. If executed by an agent, any offer required by this section to be in writing which affects or relates to real property or an interest therein as defined in section 5-101 in any manner stated in subdivisions one or two of section 5-703 of this chapter shall be void unless such agent was thereunto authorized in writing.

TITLE 7

DISCHARGE OF SURETY

§ 15-701. Surety not discharged by failure or refusal by creditor to sue principal debtor. Unless otherwise agreed between the parties in writing, the failure or refusal by a creditor, after a demand by a person bound as surety, to bring an action against a principal debtor upon a contract hereafter made or an obligation hereafter created for the payment of money or the performance of any act shall not discharge such surety.

§ 15-702. Surety disclosure. 1. As used in this section:

a. "Consumer" means a natural person.

b. "Consumer credit transaction" or "transaction" means a loan or sale pursuant to which credit is extended to a consumer primarily for personal, family, or household purposes. The term does not include transactions pursuant to a consumer credit account.

c. "Consumer credit account" means an account established pursuant to an agreement under which the creditor may permit the consumer to make purchases or obtain loans, for personal, family or household purposes, from time to time, directly from the creditor or indirectly by use of a credit card, check, or other device as the agreement may provide.

d. "Creditor" means a person, partnership, corporation, association, or other entity who, in the ordinary course of business, regularly enters into or acquires evidences of, consumer credit transactions or extends credit pursuant to consumer credit accounts.

e. "Co-signer" means a natural person who (i) in the case of a consumer credit transaction becomes obligated on the transaction as a co-signer, co-maker, guarantor, endorser or surety, but who does not receive the property, services, or money that is the subject of the transaction. The term does not include a seller, holder or lender who becomes obligated to an assignee of such party's rights; or (ii) in the case of a consumer credit account becomes obligated under the agreement as a co-signer, co-maker, guarantor, endorser or surety with respect either to all purchases and loans, or a specified maximum dollar amount of purchases and loans that will be obtained from time to time pursuant to the agreement whether or not it is contemplated that the co-signer may receive any of the property, services or money to be obtained. The term does not include a seller, holder or lender who becomes obligated to an assignee of such party's rights or a joint applicant for credit who is intended to be primarily liable under the agreement.

2. The creditor shall:

a. before a co-signer becomes obligated on a consumer credit transaction, deliver to the co-signer a completed copy of each note, contract, or other writing evidencing the obligation of the consumer or of the co-signer on the transaction, and a written notice that identifies the debt the co-signer may have to pay and reasonably informs the co-signer of his or her obligation with respect to it;

b. before a co-signer becomes obligated on a consumer credit account, deliver to the co-signer a completed copy of the agreement establishing the account, any other writing evidencing the co-signer's obligation and a written notice that identifies the account the co-signer may have to pay and reasonably informs the co-signer of his or her obligation with respect to it.

If the creditor does not comply with the provisions of this section, the co-signer shall not be obligated as a guarantor of payment as described in subdivision one of section 3-416 of the uniform commercial code.

3. The notice must be in at least ten point type and may be on a separate sheet, attached to a guarantee or similar instrument, or part of the note, contract, or other writing evidencing the consumer credit transaction, or agreement establishing the consumer credit account. A separately signed written acknowledgment of receipt in substantially the form below is prima facie proof of such receipt in any action by or against the co-signer. A notice substantially similar to the following complies with this section:

(a) as to a consumer credit transaction:

NOTICE

You agree to pay the debt identified below although you may not personally receive any property, services, or money. You may be sued for payment although the person who receives the property, services, or money is able to pay. You should know that the Total of Payments listed below does not include finance charges resulting from delinquency, late charges, repossession or foreclosure costs, court costs or attorney's fees, or other charges that may be stated in the note or contract. You will also have to pay some or all of these costs and charges if the note or contract, the payment of which you are guaranteeing, requires the borrower to pay such costs and charges. If this debt is ever in default, that fact may become a part of your credit record. This notice is not the note, contract, or other writing that obligates you to pay the debt. Read that writing for the exact terms of your obligation.

IDENTIFICATION OF DEBT(S) YOU MAY HAVE TO PAY

____

(Name of Debtor)

____

(Name of Creditor)

____

(Date)

____________________ $ ____________________

(Kind of Debt) (Total of Payments)

I have been given a completed copy of this notice and of each writing that obligates me or the Debtor on this debt.

____________________ ____________________

(Date) (Signed)

(b) as to a consumer credit account:

NOTICE

You agree to pay the debts incurred from time to time on the account identified below although you may not personally receive any property, services, or money. You may be sued for payment although the person opening the account is able to pay. You should know that the Limit of Liability listed below does not include court costs or attorney's fees, or other costs or charges that may be stated in the agreement. You will also have to pay some or all of these costs and charges if the agreement for the consumer credit account, payment of which you are guaranteeing, requires the borrower to pay such costs and charges. If any debt incurred on the account is ever in default, that fact may become a part of your credit record. This notice is not the agreement, or other writing that obligates you to pay. Read that writing for the exact terms of your obligations and of your rights to limit or end your obligations.

IDENTIFICATION OF ACCOUNT(S) YOU MAY HAVE TO PAY

____

(Name of Debtor)

____

(Name of Creditor)

____

(Date)

____________________ $ ____________________

(Kind of Account) (Limit of Liability)

I have been given a completed copy of this notice and of each writing that obligates me or the Debtor on this account.

____________________ ____________________

(Date) (Signed)

ARTICLE 17

TITLE 1

OBLIGATIONS BARRED BY STATUTES OF LIMITATION

§ 17-101. Acknowledgment or new promise must be in writing. An acknowledgment or promise contained in a writing signed by the party to be charged thereby is the only competent evidence of a new or continuing contract whereby to take an action out of the operation of the provisions of limitations of time for commencing actions under the civil practice law and rules other than an action for the recovery of real property. This section does not alter the effect of a payment of principal or interest.

§ 17-103. Agreements waiving the statute of limitation. 1. A promise to waive, to extend, or not to plead the statute of limitation applicable to an action arising out of a contract express or implied in fact or in law, if made after the accrual of the cause of action and made, either with or without consideration, in a writing signed by the promisor or his agent is effective, according to its terms, to prevent interposition of the defense of the statute of limitation in an action or proceeding commenced within the time that would be applicable if the cause of action had arisen at the date of the promise, or within such shorter time as may be provided in the promise.

2. A promise to waive, to extend, or not to plead the statute of limitation may be enforced as provided in this section by the person to

whom the promise is made or for whose benefit it is expressed to be made or by any person who, after the making of the promise, succeeds or is subrogated to the interest of either of them.

3. A promise to waive, to extend, or not to plead the statute of limitation has no effect to extend the time limited by statute for commencement of an action or proceeding for any greater time or in any other manner than that provided in this section, or unless made as provided in this section.

4. This section

a. does not change the requirements or the effect with respect to the statute of limitation, of an acknowledgment or promise to pay, or a payment or part payment of principal or interest, or a stipulation made in an action or proceeding;

b. does not affect the power of the court to find that by reason of conduct of the party to be charged it is inequitable to permit him to interpose the defense of the statute of limitation; and

c. does not apply in any respect to a cause of action to foreclose a mortgage of real property or a mortgage of a lease of real property, or to a cause of action to recover a judgment affecting the title to or the possession, use or enjoyment of real property, or a promise or waiver with respect to any statute of limitation applicable thereto.

§ 17-105. Promises and waivers affecting the time limited for action to foreclose a mortgage. 1. A waiver of the expiration of the time limited for commencement of an action to foreclose a mortgage of real property or a mortgage of a lease of real property, or a waiver of the time that has expired, or a promise not to plead the expiration of the time limited, or not to plead the time that has expired, or a promise to pay the mortgage debt, if made after the accrual of a right of action to foreclose the mortgage and made, either with or without consideration, by the express terms of a writing signed by the party to be charged is effective, subject to any conditions expressed in the writing, to make the time limited for commencement of the action run from the date of the waiver or promise. If the waiver or promise specifies a shorter period of limitation than that otherwise applicable, the time limited shall be the period specified.

2. a. A statement by a grantee of real property or assignee of a lease of real property, effective under section 5-705 of this chapter as an assumption of or agreement to pay an indebtedness or other sum secured by a mortgage of such property or lease has also, to the extent of the amount specified therein, the same effect as provided in this section with respect to a waiver or promise described in subdivision one, unless it contains language disclaiming an intention to affect the statute of limitation.

b. A recital, in an instrument in which real property is conveyed or a lease is assigned, that the conveyance or assignment is made subject to a mortgage, or provision to that effect in a contract for purchase of real property or purchase of a lease, or an agreement or instrument by which another encumbrance or interest is subordinated to the lien of a mortgage, does not have the effect provided in this section with respect to a waiver or promise described in subdivision one.

3. A waiver or promise made as provided in this section is effective

a. against (1) the person who made it, to the extent of any interest held by him at the date thereof and (2) any person subsequently acquiring from him any such interest, without giving value or with actual notice of the making of the waiver or promise, to the extent of the interest so acquired; and

b. in favor of (1) the mortgagee or his assignee, (2) any other person to whom or for whose benefit it is expressed to be made, and (3) any person who, after the making of the waiver or promise, succeeds or is subrogated to the interest of either of them in the mortgage or otherwise acquires an interest in the enforcement of the mortgage.

4. An acknowledgment, waiver, promise or agreement, express or implied in fact or in law, shall not, in form or effect, postpone, cancel, reset, toll, revive or otherwise extend the time limited for commencement of an action to foreclose a mortgage for any greater time or in any other manner than that provided in this section, unless it is made as provided in this section.

5. This section does not change the requirements or the effect with respect to the accrual of a cause of action, nor the time limited for commencement of an action based upon either:

a. a payment or part payment of the principal or interest secured by the mortgage, or

b. a stipulation made in an action or proceeding.

6. The term "real property" as used in this section is co-extensive in meaning with lands, tenements and hereditaments.

§ 17-107. Effect of part payment on time limited for foreclosure of a mortgage. 1. A payment on account of a mortgage indebtedness, or instalment thereof or interest thereon, which is effective to revive an action to recover such indebtedness, instalment or interest or to extend the time limited for such action, is also effective, between persons described in subdivision two of this section, to make the time limited for commencement of an action to foreclose the mortgage run from the date of payment, unless the payment is accompanied by written disclaimer of intention to affect the time limited for foreclosure of the mortgage.

2. A payment on account of the indebtedness secured by a mortgage of real property as defined in section 17-105, or a mortgage of a lease of real property, or on account of an instalment thereof or interest thereon, is effective as provided in this section:

a. as against (1) the person who made it, to the extent of any interest held by him at the date thereof, and (2) any person subsequently acquiring from him any such interest, without giving value or with actual notice of the making of the payment, to the extent of the interest so acquired; and

b. in favor of (1) the mortgagee or his assignee, and (2) any person who, after the date of the payment, succeeds or is subrogated to the interest of either of them in the mortgage or otherwise acquires an interest in the enforcement of the mortgage.

If the payment is made before expiration of the time limited for the commencement of the action, it is also effective against any subsequent purchaser of the interest of the person who made the payment, to the extent of the interest that the person who made the payment had at the time thereof.

3. No payment described in subdivision one of this section has any greater effect, with respect to the time limited for foreclosure of the mortgage, than that provided in this section.

ARTICLE 18
SAFETY IN SKIING CODE

§ 18-101. Legislative purpose. The legislature hereby finds that alpine or downhill skiing is both a major recreational sport and a major industry within the state of New York. The legislature further finds: (1) that downhill skiing, like many other sports, contains inherent risks including, but not limited to, the risks of personal injury or death or property damage, which may be caused by variations in terrain or weather conditions; surface or subsurface snow, ice, bare spots or areas of thin cover, moguls, ruts, bumps; other persons using the facilities; and rocks, forest growth, debris, branches, trees, roots, stumps or other natural objects or man-made objects that are incidental to the provision or maintenance of a ski facility in New York state; (2) that downhill skiing, without established rules of conduct and care, may result in injuries to persons and property; (3) that it is appropriate, as well as in the public interest, to take such steps as are necessary to help reduce the risk of injury to downhill skiers from undue, unnecessary and unreasonable hazards; and (4) that it is also necessary and appropriate that skiers become apprised of, and understand, the risks inherent in the sport of skiing so that they may make an informed decision of whether or not to participate in skiing notwithstanding the risks. Therefore, the purpose and intent of this article is to establish a code of conduct for downhill skiers and ski area operators to minimize the risk of injury to persons engaged in the sport of downhill skiing and to promote safety in the downhill ski industry.

§ 18-102. Definitions. The following words and phrases when used in this article shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

1. "Lift ticket" means any item issued by a ski area operator to any skier that is intended to be affixed to the outerwear of the skier, or otherwise displayed by a skier, to signify lawful entry upon and use of the passenger tramways or ski slopes or trails maintained by the ski area operator.

2. "Passenger tramway" means a mechanical device intended to transport skiers for the purpose of providing access to ski slopes and trails as defined by the commissioner of labor pursuant to section two hundred two-c or eight hundred sixty-seven of the labor law.

3. "Passenger" means a person in or on or being transported by a

tramway.

4. "Ski area" means all ski slopes, ski trails and passenger tramways administered as a single enterprise within this state.

5. "Ski area operator" means a person, firm or corporation, and its agents and employees, having operational and administrative responsibility for any ski area, including any agency of the state, any political subdivision thereof, and any other governmental agency or instrumentality.

6. "Skier" means any person wearing a ski or skis and any person actually on a ski slope or trail located at a ski area, for the purpose of skiing.

7. "Ski slopes and trails" mean those areas designated by the ski area operator for skiing.

§ 18-103. Duties of ski area operators. Every ski area operator shall have the following duties:

1. To equip all trail maintenance vehicles with such warning implements or devices as shall be specified by the commissioner of labor pursuant to section eight hundred sixty-seven of the labor law. Such implements or devices shall be present and operating whenever the vehicle is within the borders of any slope or trail.

2. To post in a location likely to be seen by all skiers signs of such size and color as will enable skiers to have knowledge of their responsibilities under this article.

3. To hold employee training sessions at least once before the beginning of each season, the contents of which shall be specified by the commissioner of labor upon the recommendation of the passenger tramway advisory council, as follows:

a. for operators of trail maintenance equipment concerning the safe operation of such vehicles in the ski area;

b. for passenger tramway attendants concerning the safe operation of passenger tramways;

c. for ski personnel charged with the responsibility of evacuating passengers from passenger tramways concerning proper evacuation techniques; and

d. for all other personnel charged with on-mountain maintenance, inspection or patrol duties as to methods to be used for summoning aid in emergencies.

4. To conspicuously mark with such implements as may be specified by the commissioner of labor pursuant to section eight hundred sixty-seven of the labor law, the location of such man-made obstructions as, but not limited to, snow-making equipment, electrical outlets, timing equipment, stanchions, pipes, or storage areas that are within the borders of the designated slope or trail, when the top of such obstruction is less than six feet above snow level.

5. To maintain in a central location at the ski area an information board or boards showing at a minimum the following:

a. the location of tramways, slopes or trails;

b. the status of each trail--open or closed;

c. the location of emergency communications or medical equipment and sites designated by the ski area operator for receipt of notice from skiers pursuant to subdivision thirteen of this section;

d. the relative degree of difficulty of each slope or trail (at a minimum easier, more difficult, most difficult); and

e. the general surface condition of each slope and trail as most recently recorded in the log required to be maintained by subdivision six of this section.

6. To inspect each open slope or trail that is open to the public within the ski area at least twice a day, and enter the results of such inspection in a log which shall be available for examination by the commissioner of labor. The log shall note:

a. the general surface conditions of such trail at the time of inspection (powder, packed powder, frozen granular, icy patches or icy surface, bare spots or other surface conditions);

b. the time of inspection and the name of the inspector;

c. the existence of any obstacles or hazards other than those which may arise from:
(i) skier use;
(ii) weather variations including freezing and thawing; or
(iii) mechanical failure of snow grooming or emergency equipment which may position such equipment within the borders of a slope or trail.

7. To develop and maintain a written policy consistent with the regulations of the commissioner of labor upon the advice of the passenger tramway advisory council for situations involving the reckless conduct of skiers, which shall include, but not be limited to:

a. a definition of reckless conduct; and

b. procedures for approaching and warning skiers of reckless conduct and procedures for dealing with such skiers which may include the revocation of the lift tickets of such skiers.

8. To designate personnel to implement the ski area's policy on reckless conduct.

9. To report to the commissioner of labor by telephone within twenty-four hours any fatality or injury resulting in a fatality at the

ski area.

10. To conspicuously post and maintain such ski area signage, including appropriate signage at the top of affected ski slopes and trails, notice of maintenance activities and for passenger tramways as shall be specified by the commissioner of labor pursuant to section two hundred two-c or eight hundred sixty-seven of the labor law.

11. To post in a conspicuous location at each lift line a sign, which shall indicate the degree of difficulty of trails served by that lift with signs as shall be specified by the commissioner of labor pursuant to section two hundred two-c or eight hundred sixty-seven of the labor law.

12. To ensure that lift towers located within the boundaries of any ski slope or trail are padded or otherwise protected and that no protruding metal or wood objects, such as ladders or steps, shall be installed on the uphill or side portion of lift towers within the borders of a ski slope or trail, unless such objects are below the snow line, at least six feet above it, or padded or otherwise protected with such devices as, but not limited to, the following:

a. commercially available tower padding;

b. air or foam filled bags;

c. hay bales encased in a waterproof cover; or

d. soft rope nets properly spaced from the tower.

13. To, within a reasonable amount of time after the inspection required by subdivision six of this section, conspicuously mark with such implements as may be specified by the commissioner of labor pursuant to section eight hundred sixty-seven of the labor law and to provide sufficient warning to skiers by such marking or remove such obstacles or hazards which are located within the boundaries of any ski slope or trail and were noted pursuant to paragraph c of subdivision six

of this section; and to also conspicuously mark with such implements and provide such warning or remove such obstacles or hazards within a reasonable amount of time after receipt of notice by the ski area operator from any skier as to the presence of such obstacles or hazards when notice is given at sites designated by the ski area operator for such receipt and the locations of which are made known to skiers pursuant to paragraph c of subdivision five of this section.

14. To have present at all times when skiing activity is in progress, individuals properly and appropriately trained for the safe operation of on-slope vehicles; trail maintenance equipment; tramways; tramway evacuations; implementation of the reckless skier policy; first aid and outdoor rescue; and, to have present according to a schedule posted for access by skiers, by the ski area operator, personnel appropriately trained in the instruction of skiers and passengers in methods of risk reduction while using ski slopes and passenger tramways and the instruction of skiers with respect to the risks inherent in the sport.

§ 18-104. Duties of passengers. All passengers shall have the following duties:

1. To familiarize themselves with the safe use of any tramway prior to its use;

2. To remain in the tramway if the operation of a passenger tramway, as defined pursuant to section two hundred two-c of the labor law, is interrupted for any reason, until instructions or aid are provided by the ski area operator;

3. To board or disembark from passenger tramways only at points or areas designated by the ski area operator;

4. Not to eject any objects or material from a passenger tramway;

5. To use restraint devices in accordance with posted instructions;

6. To wear retention straps or other devices to prevent runaway skis;

7. Not to interfere with the operation of a passenger tramway;

8. Not to place or caused to be placed on the uphill track of a surface lift any object which may interfere with its normal operation; and

9. Not to wear loose scarves, clothing or accessories or expose long hair which may become entangled with any part of the device.

§ 18-105. Duties of skiers. All skiers shall have the following duties:

1. Not to ski in any area not designated for skiing;

2. Not to ski beyond their limits or ability to overcome variations in slope, trail configuration and surface or subsurface conditions which may be caused or altered by weather, slope or trail maintenance work by the ski area operator, or skier use;

3. To abide by the directions of the ski area operator;

4. To remain in constant control of speed and course at all times while skiing so as to avoid contact with plainly visible or clearly marked obstacles and with other skiers and passengers on surface operating tramways;

5. To familiarize themselves with posted information before skiing any slope or trail, including all information posted pursuant to subdivision five of section 18-103 of this article;

6. Not to cross the uphill track of any surface lift, except at points clearly designated by the ski area operator;

7. Not to ski on a slope or trail or portion thereof that has been

designated as "closed" by the ski area operator;

8. Not to leave the scene of any accident resulting in personal injury to another party until such times as the ski area operator arrives, except for the purpose of summoning aid;

9. Not to overtake another skier in such a manner as to cause contact with the skier being overtaken and to yield the right-of-way to the skier being overtaken;

10. Not to willfully stop on any slope or trail where such stopping is likely to cause a collision with other skiers or vehicles;

11. To yield to other skiers when entering a trail or starting downhill;

12. To wear retention straps or other devices to prevent runaway skis;

13. To report any personal injury to the ski area operator before leaving the ski area; and

14. Not to willfully remove, deface, alter or otherwise damage signage, warning devices or implements, or other safety devices placed and maintained by the ski area operator pursuant to the requirements of section 18-103 of this article.

§ 18-106. Duties of skiers and ski area operators with respect to inherent risks. It is recognized that skiing is a voluntary activity that may be hazardous regardless of all feasible safety measures that can be undertaken by ski area operators. Accordingly:

1. Ski area operators shall have the following additional duties:

a. To post at every point of sale or distribution of lift tickets, whether on or off the premises of the ski area operator, a conspicuous "Warning to Skiers" relative to the inherent risks of skiing in accordance with regulations promulgated by the commissioner of labor pursuant to subdivision four of section eight hundred sixty-seven of the labor law, and to imprint upon all lift tickets sold or distributed, such text and graphics as the commissioner of labor shall similarly specify, which shall conspicuously direct the attention of all skiers to the required "Warning to Skiers";

b. To post at every point of sale or distribution of lift tickets at a ski area notice to skiers and passengers that this article prescribes certain duties for skiers, passengers and ski area operators, and to make copies of this article in its entirety available without charge upon request to skiers and passengers in a central location at the ski area;

c. To make available at reasonable fees, as required by subdivision thirteen of section 18-103 of this article, instruction and education for skiers relative to the risks inherent in the sport and the duties prescribed for skiers by this article, and to conspicuously post notice of the times and places of availability of such instruction and education in locations where it is likely to be seen by skiers; and

d. To post notice to skiers of the right to a refund to the purchaser in the form and amount paid in the initial sale of any lift ticket returned to the ski area operator, intact and unused, upon declaration by such purchaser that he or she is unprepared or unwilling to ski due to the risks inherent in the sport or the duties imposed upon him or her by this article.

2. Skiers shall have the following additional duties to enable them to make informed decisions as to the advisability of their participation in the sport:

a. To seek out, read, review and understand, in advance of skiing, a "Warning to Skiers" as shall be defined pursuant to subdivision five of section eight hundred sixty-seven of the labor law, which shall be displayed and provided pursuant to paragraph a of subdivision one of this section; and

b. To obtain such education in the sport of skiing as the individual skier shall deem appropriate to his or her level of ability, including the familiarization with skills and duties necessary to reduce the risk of injury in such sport.

§ 18-107. Construction. Unless otherwise specifically provided in this article, the duties of skiers, passengers, and ski area operators shall be governed by common law.

§ 18-108. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

ARTICLE 18-A

SPECIFICATIONS OF LIABILITY FOR EMPLOYERS AND EMPLOYEES

§ 18-201. Specifications of liability for employers and employees. 1. As used in this section:

(a) "Person" means any individual, firm, company, partnership, joint venture, joint-stock association, corporation, association, trust or other legal entity.

(b) The words "employer", "employee", "employment", "compensation", "injury" and "death" shall have the same meaning as set forth in section two of the workers' compensation law.

(c) The terms "indemnity" and "contribution" shall not include a claim or cause of action for contribution or indemnification based upon a provision in a written contract entered into prior to the accident or occurrence by which the employer had expressly agreed to contribution to or indemnification of the claimant or person asserting the cause of action for the type of loss suffered.

2. The liability of an employer and his or her employees set forth in sections ten, eleven and twenty-nine of the workers' compensation law shall be exclusive and in place of any other liability whatsoever, to employees, their personal representatives, spouses, parents, dependents, distributees or any person otherwise entitled to recover damages, contribution or indemnity, at common law or otherwise, on account of injury or death or liability arising therefrom, except that if an employer fails to secure the payment of compensation for its injured employees and their dependents as provided in section fifty of the workers' compensation law, an injured employee, or his or her legal representative in case death results from the injury, may, at his or her option, elect to claim compensation under the workers' compensation law, or to maintain an action in the courts for damages against the employer on account of such injury; and in such an action it shall not be necessary to plead or prove freedom from contributory negligence nor may the defendant plead as a defense that the injury was caused by the negligence of a fellow servant nor that the employee assumed the risk of his or her employment, nor that the injury was due to the contributory negligence of the employee.

ARTICLE 18-B

SAFETY IN AGRICULTURAL TOURISM

§ 18-301. Short title. This article shall be known and may be cited as the "safety in agricultural tourism act".

§ 18-302. Definitions. For purposes of this article:

1. "Agricultural tourism" means activities, including the production of maple sap and pure maple products made therefrom, farm and winery tours, equine activities both outdoors and indoors but excluding equine therapy, u-pick Christmas trees, hiking, hunting and other forms of outdoor recreation offered to farm visitors, conducted by a farmer on-farm for the enjoyment and/or education of the public, which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding and awareness of farming and farm life.

2. "Equine therapy" shall include equine activities for children or adults with physical or mental disabilities, post-traumatic stress disorder or other condition for which equine therapy is sought for therapeutic purposes or treatment.

§ 18-303. Responsibilities of operators and visitors of agricultural tourism areas. 1. Operators of agricultural tourism areas shall have the following additional responsibilities:

a. To post and maintain way finding signage to delineate the paths, areas and buildings that are open to the public;

b. To adequately train employees who are actively involved in agricultural tourism activities;

c. To post at every point of sale or distribution of tickets, whether on or off the premises of the agricultural tourism area, a conspicuous "Warning to Visitors" relative to the inherent risks of participating in activities on working farms and to provide written information having such text and graphics as the commissioner of agriculture and markets shall specify, which shall conspicuously direct the attention of all visitors to the required "Warning to Visitors";

d. To post at every point of sale or distribution of tickets at an agricultural tourism area a conspicuous notice to visitors that pursuant to this article such visitors have a responsibility to exercise reasonable care regarding the disclosed risks of the agricultural activity, and reasonably comply with posted way finding signs, reasonably remain in areas designated for the agricultural tourism activity, reasonably follow any and all written and conspicuously posted rules of conduct provided by such operator to visitors or verbal or other communication for persons with disabilities, and not to willfully remove, deface, alter or otherwise damage signage, warning devices or implements, or other safety devices;

e. To take reasonable care to prevent reasonably foreseeable risks to visitors, consistent with the responsibility of a landowner to keep his or her premises reasonably safe for intended and reasonably foreseeable uses and users, and to post conspicuous notice to visitors of the right to a refund to the purchaser in the amount paid in the initial sale of any tickets returned to the operator of the agricultural tourism area, intact and unused, upon declaration by such purchaser that he or she believes that he or she is unprepared or that he or she is unwilling to participate in the agricultural tourism activity due to the risks inherent in the activities or the duties imposed upon him or her by this section; and

f. Owners and operators of agricultural tourism areas shall not be liable for an injury to or death of a visitor if the provisions of this subdivision are complied with.

2. Visitors to agricultural tourism areas have the responsibility to exercise reasonable care regarding the disclosed risks of the agricultural activity and:

a. to reasonably comply with posted way finding signs and reasonably remain in areas designated for the agricultural tourism activity;

b. to reasonably follow any and all written information or conspicuously posted rules of conduct provided by such operator to visitors, or verbal or other form of communication of rules of conduct where needed for effective communication for people with disabilities;

and

c. not to willfully remove, deface, alter or otherwise damage signage, warning devices or implements or other safety devices.

ARTICLE 18-C

LIBOR DISCONTINUANCE

§ 18-400. Definitions. As used in this article the following terms shall have the following meanings:

1. "LIBOR" shall mean, for purposes of the application of this article to any particular contract, security or instrument, U.S. dollar LIBOR (formerly known as the London interbank offered rate) as administered by ICE Benchmark Administration Limited (or any predecessor or successor thereof), or any tenor thereof, as applicable, that is used in making any calculation or determination thereunder.

2. "LIBOR discontinuance event" shall mean the earliest to occur of any of the following:

a. a public statement or publication of information by or on behalf of the administrator of LIBOR announcing that such administrator has ceased or will cease to provide LIBOR, permanently or indefinitely, provided that, at the time of the statement or publication, there is no successor administrator that will continue to provide LIBOR;

b. a public statement or publication of information by the regulatory supervisor for the administrator of LIBOR, the United States Federal Reserve System, an insolvency official with jurisdiction over the administrator for LIBOR, a resolution authority with jurisdiction over the administrator for LIBOR or a court or an entity with similar insolvency or resolution authority over the administrator for LIBOR, which states that the administrator of LIBOR has ceased or will cease to provide LIBOR permanently or indefinitely, provided that, at the time of the statement or publication, there is no successor administrator that will continue to provide LIBOR; or

c. a public statement or publication of information by the regulatory supervisor for the administrator of LIBOR announcing that LIBOR is no longer representative. For purposes of this subdivision two, a public statement or publication of information that affects one or more tenors of LIBOR shall not constitute a LIBOR discontinuance event with respect to any contract, security or instrument that (i) provides for only one tenor of LIBOR, if such contract, security or instrument requires interpolation and such tenor can be interpolated from LIBOR tenors that are not so affected, or (ii) permits a party to choose from more than one tenor of LIBOR and any of such tenors (A) is not so affected or (B) if such contract, security or instrument requires interpolation, can be interpolated from LIBOR tenors that are not so affected.

3. "LIBOR replacement date" shall mean:

a. in the case of a LIBOR discontinuance event described in paragraph a or b of subdivision two of this section, the later of (i) the date of the public statement or publication of information referenced therein; and (ii) the date on which the administrator of LIBOR permanently or indefinitely ceases to provide LIBOR; and

b. in the case of a LIBOR discontinuance event described in paragraph c of subdivision two of this section, the date of the public statement or publication of information referenced therein. For purposes of this subdivision, a date that affects one or more tenors of LIBOR shall not constitute a LIBOR replacement date with respect to any contract, security or instrument that (i) provides for only one tenor of LIBOR, if such contract, security or instrument requires interpolation and such tenor can be interpolated from LIBOR tenors that are not so affected, or (ii) permits a party to choose from more than one tenor of LIBOR and any of such tenors (A) is not so affected or (B) if such contract, security or instrument requires interpolation, can be interpolated from LIBOR tenors that are not so affected.

4. "Fallback provisions" shall mean terms in a contract, security or instrument that set forth a methodology or procedure for determining a benchmark replacement, including any terms relating to the date on which the benchmark replacement becomes effective, without regard to whether a benchmark replacement can be determined in accordance with such methodology or procedure.

5. "Benchmark" shall mean an index of interest rates or dividend rates that is used, in whole or in part, as the basis of or as a reference for calculating or determining any valuation, payment or other measurement under or in respect of a contract, security or instrument.

6. "Benchmark replacement" shall mean a benchmark, or an interest rate or dividend rate (which may or may not be based in whole or in part on a prior setting of LIBOR), to replace LIBOR or any interest rate or dividend rate based on LIBOR, whether on a temporary, permanent or indefinite basis, under or in respect of a contract, security or instrument.

7. "Recommended benchmark replacement" shall mean, with respect to any particular type of contract, security or instrument, a benchmark replacement based on SOFR, which shall include any recommended spread adjustment and any benchmark replacement conforming changes, that shall have been selected or recommended by a relevant recommending body with respect to such type of contract, security or instrument.

8. "Recommended spread adjustment" shall mean a spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that shall have been selected or recommended by a relevant recommending body for a recommended benchmark replacement for a particular type of contract, security or instrument and for a particular term to account for the effects of the transition or change from LIBOR to a recommended benchmark replacement.

9. "Benchmark replacement conforming changes" shall mean, with respect to any type of contract, security or instrument, any technical, administrative or operational changes, alterations or modifications that are associated with and reasonably necessary to the use, adoption, calculation or implementation of a recommended benchmark replacement and that:

a. have been selected or recommended by a relevant recommending body; and

b. if, in the reasonable judgment of the calculating person, the benchmark replacement conforming changes selected or recommended pursuant to paragraph a of this subdivision do not apply to such contract, security or instrument or are insufficient to permit administration and calculation of the recommended benchmark replacement, then benchmark replacement conforming changes shall include such other changes, alterations or modifications that, in the reasonable judgment of the calculating person:

(i) are necessary to permit administration and calculation of the recommended benchmark replacement under or in respect of such contract, security or instrument in a manner consistent with market practice for substantially similar contracts, securities or instruments and, to the extent practicable, the manner in which such contract, security or instrument was administered immediately prior to the LIBOR replacement date; and

(ii) would not result in a disposition of such contract, security or instrument for U.S. federal income tax purposes.

10. "Determining person" shall mean, with respect to any contract, security or instrument, in the following order of priority:

a. any person specified as a "determining person"; or

b. any person with the authority, right or obligation to:

(i) determine the benchmark replacement that will take effect on the LIBOR replacement date,

(ii) calculate or determine a valuation, payment or other measurement based on a benchmark, or

(iii) notify other persons of the occurrence of a LIBOR discontinuance event, a LIBOR replacement date or a benchmark replacement.

11. "Relevant recommending body" shall mean the Federal Reserve Board, the Federal Reserve Bank of New York, or the Alternative Reference Rates Committee, or any successor to any of them.

12. "SOFR" shall mean, with respect to any day, the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark (or a successor administrator), on the Federal Reserve Bank of New York's website.

13. "Calculating person" shall mean, with respect to any contract, security or instrument, any person (which may be the determining person) responsible for calculating or determining any valuation, payment or other measurement based on a benchmark.

14. "Contract, security, or instrument" shall include, without limitation, any contract, agreement, mortgage, deed of trust, lease, security (whether representing debt or equity, and including any interest in a corporation, a partnership or a limited liability company), instrument, or other obligation.

§ 18-401. Effect of LIBOR discontinuance on agreements. 1. On the LIBOR replacement date, the recommended benchmark replacement shall, by operation of law, be the benchmark replacement for any contract, security or instrument that uses LIBOR as a benchmark and:

a. contains no fallback provisions; or

b. contains fallback provisions that result in a benchmark replacement, other than a recommended benchmark replacement, that is based in any way on any LIBOR value.

2. Following the occurrence of a LIBOR discontinuance event, any fallback provisions in a contract, security, or instrument that provide for a benchmark replacement based on or otherwise involving a poll, survey or inquiries for quotes or information concerning interbank lending rates or any interest rate or dividend rate based on LIBOR shall be disregarded as if not included in such contract, security or instrument and shall be deemed null and void and without any force or effect.

3. This subdivision shall apply to any contract, security, or instrument that uses LIBOR as a benchmark and contains fallback provisions that permit or require the selection of a benchmark replacement that is:

a. based in any way on any LIBOR value; or

b. the substantive equivalent of paragraph a, b or c of subdivision one of section 18-402 of this article.

A determining person shall have the authority under this article, but shall not be required, to select on or after the occurrence of a LIBOR discontinuance event the recommended benchmark replacement as the benchmark replacement. Such selection of the recommended benchmark replacement shall be:

(i) irrevocable;

(ii) made by the earlier of either the LIBOR replacement date, or the latest date for selecting a benchmark replacement according to such contract, security, or instrument; and

(iii) used in any determinations of the benchmark under or with respect to such contract, security or instrument occurring on and after the LIBOR replacement date.

4. If a recommended benchmark replacement becomes the benchmark replacement for any contract, security, or instrument pursuant to subdivision one or subdivision three of this section, then all benchmark replacement conforming changes that are applicable (in accordance with the definition of benchmark replacement conforming changes) to such

recommended benchmark replacement shall become an integral part of such contract, security, or instrument by operation of law.

5. The provisions of this article shall not alter or impair:

a. any written agreement by all requisite parties that, retrospectively or prospectively, a contract, security, or instrument shall not be subject to this article without necessarily referring specifically to this article. For purposes of this subdivision, "requisite parties" means all parties required to amend the terms and provisions of a contract, security, or instrument that would otherwise be altered or affected by this article;

b. any contract, security or instrument that contains fallback provisions that would result in a benchmark replacement that is not based on LIBOR, including, but not limited to, the prime rate or the federal funds rate, except that such contract, security or instrument shall be subject to subdivision two of this section;

c. any contract, security, or instrument subject to subdivision three of this section as to which a determining person does not elect to use a recommended benchmark replacement pursuant to subdivision three of this section or as to which a determining person elects to use a recommended benchmark replacement prior to the occurrence of a LIBOR discontinuance event, except that such contract, security, or instrument shall be subject to subdivision two of this section; or

d. the application to a recommended benchmark replacement of any cap, floor, modifier, or spread adjustment to which LIBOR had been subject pursuant to the terms of a contract, security, or instrument.

6. Notwithstanding the uniform commercial code or any other law of this state, this title shall apply to all contracts, securities and instruments, including contracts, with respect to commercial transactions, and shall not be deemed to be displaced by any other law of this state.

§ 18-402. Continuity of contract and safe harbor. 1. The selection or use of a recommended benchmark replacement as a benchmark replacement under or in respect of a contract, security or instrument by operation of section 18-401 of this article shall constitute:

a. a commercially reasonable replacement for and a commercially substantial equivalent to LIBOR;

b. a reasonable, comparable or analogous term for LIBOR under or in respect of such contract, security or instrument;

c. a replacement that is based on a methodology or information that is similar or comparable to LIBOR; and

d. substantial performance by any person of any right or obligation relating to or based on LIBOR under or in respect of a contract, security or instrument.

2. None of: a. a LIBOR discontinuance event or a LIBOR replacement date, b. the selection or use of a recommended benchmark replacement as a benchmark replacement; or c. the determination, implementation or performance of benchmark replacement conforming changes, in each case, by operation of section 18-401 of this article, shall:

(i) be deemed to impair or affect the right of any person to receive a payment, or affect the amount or timing of such payment, under any contract, security, or instrument; or

(ii) have the effect of (A) discharging or excusing performance under any contract, security or instrument for any reason, claim or defense, including, but not limited to, any force majeure or other provision in any contract, security or instrument; (B) giving any person the right to unilaterally terminate or suspend performance under any contract, security or instrument; (C) constituting a breach of a contract, security or instrument; or (D) voiding or nullifying any contract, security or instrument.

3. No person shall have any liability for damages to any person or be

subject to any claim or request for equitable relief arising out of or related to the selection or use of a recommended benchmark replacement or the determination, implementation or performance of benchmark replacement conforming changes, in each case, by operation of section 18-401 of this article, and such selection or use of the recommended benchmark replacement or such determination implementation or performance of benchmark replacement conforming changes shall not give rise to any claim or cause of action by any person in law or in equity.

4. The selection or use of a recommended benchmark replacement or the determination, implementation, or performance of benchmark replacement conforming changes, by operation of section 18-401 of this article, shall be deemed to:

a. not be an amendment or modification of any contract, security or instrument; and

b. not prejudice, impair or affect any person's rights, interests or obligations under or in respect of any contract, security or instrument.

5. Except as provided in either subdivision one or subdivision three of section 18-401 of this article, the provisions of this article shall not be interpreted as creating any negative inference or negative presumption regarding the validity or enforceability of:

a. any benchmark replacement that is not a recommended replacement benchmark;

b. any spread adjustment, or method for calculating or determining a spread adjustment, that is not a recommended spread adjustment; or

c. any changes, alterations or modifications to or in respect of a contract, security or instrument that are not benchmark replacement conforming changes.

§ 18-403. Severability. If any provision of this article or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article shall be severable.

ARTICLE 19

LAWS REPEALED; EFFECTIVE DATE

§ 19-101. Laws repealed. 1. The following sections of the civil rights law are hereby repealed:

Section sixteen, as added by chapter one hundred fifty-seven of the laws of nineteen hundred twenty-one;

Section seventeen, as added by chapter eleven of the laws of nineteen hundred thirty-five.

2. The following section of the conservation law is hereby repealed:

Section three hundred seventy, as added by chapter eight hundred forty-two of the laws of nineteen hundred fifty-six.

3. The following sections of the debtor and creditor law are hereby repealed:

Sections two hundred thirty-one, two hundred thirty-two, two hundred thirty-three, two hundred thirty-four, two hundred thirty-five, two hundred thirty-six, two hundred thirty-seven, two hundred thirty-eight, and two hundred thirty-nine, as added by chapter eight hundred thirty-three of the laws of nineteen hundred twenty-eight;

Section two hundred forty, as amended by chapter three hundred ten of the laws of nineteen hundred sixty-two;

Section two hundred forty-three, as amended by chapter five hundred fifty-two of the laws of nineteen hundred sixty-two;

Section two hundred sixty, as added by chapter three hundred twenty-seven of the laws of nineteen hundred forty-one;

Section two hundred sixty-one, as amended by chapter four hundred five of the laws of nineteen hundred fifty-three.

4. The following sections of the domestic relations law are hereby repealed:

Section fifty-one, as last amended by chapter three hundred thirteen of the laws of nineteen hundred sixty-two;

Sections fifty-three, fifty-four, fifty-five, and fifty-six;

Section fifty-six-a, as added by chapter five hundred eighty of the laws of nineteen hundred fifty-nine;

Section fifty-seven, as amended by chapter six hundred sixty-nine of the laws of nineteen hundred thirty-seven;

Section sixty, as amended by chapter thirteen of the laws of nineteen hundred forty-one;

Section seventy-two;

Section seventy-three, as added by chapter seven hundred ninety-six of the laws of nineteen hundred thirty-five;

Section seventy-four, as added by chapter one hundred thirty-seven of the laws of nineteen hundred sixty-one;

Section seventy-four-a, as added by chapter one hundred thirty-six of the laws of nineteen hundred sixty-one.

5. The following sections of the general business law are hereby repealed:

Section eighty-nine-b, as added by chapter three hundred thirty-two of the laws of nineteen hundred forty-nine;

Sections two hundred twenty, two hundred twenty-one, two hundred twenty-two, two hundred twenty-three, two hundred twenty-four, two hundred twenty-five, two hundred twenty-six, two hundred twenty-seven, two hundred twenty-eight, two hundred twenty-nine, two hundred thirty, two hundred thirty-one, two hundred thirty-two, two hundred thirty-three, and two hundred thirty-four, as added by chapter four hundred twenty-two of the laws of nineteen hundred forty-eight;

Section two hundred thirty-five, as added by chapter seven hundred fifty-seven of the laws of nineteen hundred fifty-four;

Sections three hundred seventy and three hundred seventy-one;

Section three hundred seventy-two, as amended by chapter thirty-nine of the laws of nineteen hundred forty-one;

Section three hundred seventy-three, as amended by chapter nine hundred sixty of the laws of nineteen hundred sixty;

Section three hundred seventy-four, as last amended by chapter nine hundred sixty-eight of the laws of nineteen hundred fifty-seven;

Sections three hundred seventy-five, three hundred seventy-six, three hundred seventy-seven, and three hundred seventy-eight;

Section three hundred seventy-nine, as last amended by chapter five hundred fifty-two of the laws of nineteen hundred sixty-two;

Section three hundred seventy-nine-a, as added by chapter nine hundred seventy-four of the laws of nineteen hundred sixty;

Section three hundred eighty;

Section three hundred eighty-one, as amended by chapter thirty-nine of the laws of nineteen hundred forty-one;

Section three hundred eighty-two;

Section three hundred eighty-two-a, as added by chapter nine hundred thirty-nine of the laws of nineteen hundred twenty;

Section three hundred eighty-two-b, as added by chapter nine hundred forty of the laws of nineteen hundred twenty;

Section three hundred ninety-nine, as added by chapter seven hundred one of the laws of nineteen hundred fifty-three;

Section three hundred ninety-nine-a, as added by chapter five hundred seven of the laws of nineteen hundred sixty-one.

6. The following sections of the personal property law are hereby repealed:

Sections thirty-one and thirty-three, as amended;

Sections thirty-three-a and thirty-three-b, as amended by chapter five hundred eighty-eight of the laws of nineteen hundred forty-four;

Section thirty-three-c, as last amended by chapter eight hundred thirty-one of the laws of nineteen hundred fifty-two;

Section thirty-three-d, as added by chapter three hundred ten of the laws of nineteen hundred sixty-two;

Section thirty-four, as added by chapter nine hundred twenty-five of the laws of nineteen hundred sixty-one;

Section forty-one, as amended.

7. The following sections of the real property law are hereby repealed:

Section two hundred thirty, as last amended by chapter five hundred sixty-four of the laws of nineteen hundred sixty-one;

Section two hundred thirty-three, as last amended by chapter seventy-four of the laws of nineteen hundred sixty-one;

Section two hundred thirty-four, as added by chapter nine hundred seven of the laws of nineteen hundred thirty-seven;

Section two hundred thirty-five, as added by chapter seven hundred sixteen of the laws of nineteen hundred fifty-three;

Section two hundred forty-a, as added by chapter seven hundred thirty-one of the laws of nineteen hundred thirty-six;

Section two hundred forty-two;

Section two hundred fifty-one-a, as amended by chapter three hundred twelve of the laws of nineteen hundred sixty-two;

Section two hundred fifty-one-b, as added by chapter five hundred eighty-one of the laws of nineteen hundred sixty-one;

Section two hundred fifty-nine, as last amended by chapter one hundred ninety-eight of the laws of nineteen hundred forty-four;

Section two hundred fifty-nine-a, as added by chapter five hundred seventy-four of the laws of nineteen hundred thirty-three;

Section two hundred fifty-nine-b, as added by chapter six hundred forty-six of the laws of nineteen hundred sixty-two;

Section two hundred seventy-nine, as last amended by chapter five hundred eighty-eight of the laws of nineteen hundred forty-four;

Sections two hundred eighty and two hundred eighty-one, as amended by chapter five hundred eighty-eight of the laws of nineteen hundred forty-four;

Section two hundred eighty-two, as last amended by chapter eight hundred thirty-one of the laws of nineteen hundred fifty-two;

Section two hundred eighty-three, as added by chapter two hundred fifty of the laws of nineteen hundred forty-four.

8. The following sections of the real property actions and proceedings law are hereby repealed:

Subdivision three of section thirteen hundred twenty-five, as added by chapter three hundred twelve of the laws of nineteen hundred sixty-two;

Section thirteen hundred eighty-one, as added by chapter three hundred twelve of the laws of nineteen hundred sixty-two.

§ 19-103. Effective date. This act shall take effect September twenty-seventh, nineteen hundred sixty-four.