§ 3.09 General functions, powers and duties. The office by and through the commissioner, shall:

1. Acquire and establish historic sites and objects and, except within the sixth park region, state parks, parkways and state recreational facilities.

2. Operate and maintain, either directly, or by contract, lease or license, such historic sites and objects, parks, parkways and recreational facilities.

2-a. Be empowered to encourage investment by the private sector for the provision of equipment and capital improvements for concession facilities operated at historic sites and, except within the sixth park region, state park and recreation facilities by entering into concession license agreements for extended periods not to exceed twenty years in total; provided that any such agreement for a period in excess of ten years must be approved by the director of the budget and must provide for a total capital investment of no less than one million dollars over the contract term. Such extended term shall be for the purpose of assuring a concessionaire of adequate protection against loss of investment in structures, fixtures, equipment, supplies and other improvements, and the length of such term shall have a direct relationship to the period required to amortize the investment. The bid prospectus submitted to prospective bidders shall contain specific information concerning the nature of the capital improvements or equipment to be provided by the successful bidder.

2-b. Be empowered, in addition to any other provision of law authorizing the leasing of property under its jurisdiction, to lease the Gideon Putnam hotel, Lincoln, Washington, Roosevelt I and Roosevelt II bathhouses and provide for reasonable rights of access, utilities and parking located within the boundaries of the Saratoga Spa state park, for reasonable consideration and for a term not to exceed forty years. Such extended term shall be for the purpose of assuring a lessee of adequate protection against loss of investments in structures, fixtures, equipment, supplies and other improvements, and the length of such term

shall have a direct relationship to the period required to amortize the investment. Any such lease shall be entered into only after a finding by the commissioner that such action will encourage investment by the private sector in maintaining and preserving buildings listed on or eligible for the state register of historic places, established pursuant to section 14.07 of this chapter, and is compatible with public enjoyment and participation in adjacent park facilities. In addition, such lease shall contain terms and conditions as the commissioner shall deem necessary to assure preservation and maintenance of the historic quality of any such property, the compatible uses with adjacent park lands and facilities, and otherwise to protect the public interest.

* 2-c. Be empowered, in addition to any other provision of law authorizing the leasing of property under its jurisdiction, to lease Hyde hall historic site and provide for reasonable rights of access, utilities and parking located within the boundaries of the Glimmerglass state park for a term not to exceed thirty years. Such extended term shall be for assuring a lessee of adequate protection against loss of investments in renovations performed on the Hyde hall historic site. Any such lease shall be entered into only after a finding by the commissioner that such action will encourage investment by the private sector in maintaining, preserving and restoring buildings listed on the state register of historic places, established pursuant to section 14.07 of this chapter, and is compatible with public enjoyment and participation in adjacent park facilities. In addition, such lease shall contain terms and conditions as the commissioner shall deem necessary to assure preservation and maintenance of the historic quality of any such property, the compatible uses with adjacent park lands and facilities, and otherwise to protect the public interest.

* NB Repealed January 1, 2047

2-d. Be empowered, in addition to any other provision of law authorizing the leasing or licensing of property under its jurisdiction, to encourage investment by the private sector for the provision of equipment and capital improvements at historic sites, state park and recreation facilities by entering into lease or license agreements for an extended term not to exceed forty years at the following: in the first park region, for services provided at the observation tower, and

for buildings and structures commonly known as the Cave of the Winds building, the Top of the Falls Restaurant, the administration building, the visitor center, the Goat Island center, the snack bar at the Cave of the Winds, the current police building, the original Prospect Point elevator building, the lower landing snack bar and the Schoellkopf Museum, including improvements to structures and facilities appurtenant thereto at Niagara Reservation State Park, the site of the former casino, the former commission house and the eighty-slip boat marina within the boundaries of Beaver Island state park and the structures known as the navy barracks, the post theater, the officers' club and the commandant's house within Fort Niagara state park, buildings and structures at Deveaux Woods state park, and buildings and facilities within Knox Farm state park; in the second park region, the building known as Minturn Mansion within Long Point on Lake Chautauqua state park; in the third park region, for buildings and structures commonly known as the Glen Iris Inn, the Pioneer Museum, the Pinewood Lodge, the Prospect house, the Lauterbrunnen house, the Lower Falls restaurant building, the pool concession stands, the North Entrance visitor center, the administration building, the Commission house and the Stone building, including improvements to structures and facilities appurtenant thereto at Letchworth State park; in the fourth park region, the structures known as the caretaker's house and garage within the Buttermilk Falls state park, and the construction and operation of full service marinas and associated concessions, at Sampson state park and at Seneca Lake state park; in the seventh park region, the structure known as the brick cottage and associated outbuildings at John Jay Homestead state historic site, the structure known as the Hoyt House and the barns at Ogden Mills and Ruth Livingston Mills state park, the outbuildings at Olana state historic site and the building commonly known as the Staatsburg School in Margaret Lewis Norrie state park; in the eighth park region, for buildings and structures commonly known as the Bear Mountain Inn, the A. K. Morgan Overlook Lodge, the Cliff house, the Hilltop lodge, the Summit lodge, the Echo lodge, the Beaver lodge and the Spring lodge, including improvements to structures and facilities appurtenant thereto at Bear Mountain State Park; in the ninth park region, the main house at Caumsett state historic park preserve, the Boardwalk Restaurant at Jones Beach state park and the buildings and

structures at Nissequogue state park; in the eleventh park region, the structure known as La Tour house, the former bottling plant and dormitory for adaptive reuse, and property for the development of a golf course and related facilities within Saratoga Spa state park. Any such lease or license may provide for reasonable rights of access, utilities and parking located within the boundaries of the respective park or historic site. Such extended term shall be for the purpose of assuring a lessee or licensee adequate protection against loss of investments in developing, renovating, improving, furnishing and equipping such properties, and the length of the term of any such lease or license shall have a direct relationship to the period required to amortize the investment. Any such lease or license shall be entered into only after a finding by the commissioner that such action is compatible with public enjoyment and participation in adjacent park facilities, and in the case of structures listed on or eligible for the state register of historic places, that such lease or license will encourage investment by the private sector in restoring, preserving and maintaining such properties. In addition, such lease or license shall contain terms and conditions as the commissioner shall deem necessary to address environmental concerns, including any historic and recreational resources of such property; the compatible uses of adjacent park lands and facilities; and otherwise to protect the public interest. The bid prospectus submitted to prospective bidders shall contain specific information concerning the nature of the capital improvements or equipment to be provided by the successful bidder. Revenues from the lease or license of property pursuant to this section shall be deposited into the state park infrastructure fund established pursuant to section ninety-seven-mm of the state finance law.

* 2-e. Be empowered, in addition to any provision of law authorizing the leasing of property under its jurisdiction, to enter into a cooperative agreement, lease or license within the ninth park region, for parklands, parkway rights-of-way and structures at Cold Spring Harbor, including a library and environmental center. Any such cooperative agreement, lease or license may be for a term not to exceed one hundred years and provide for reasonable rights of access, utilities and parking in association with such facilities. Any such cooperative agreement, lease or license shall be entered into only after a finding

by the commissioner that such action is compatible with public enjoyment and participation in adjacent park facilities, and in the case of structures listed on or eligible for the state register of historic places, that such agreement or lease will encourage investment by the private sector in restoring, preserving and maintaining such properties. In addition, such agreement or lease shall contain terms and conditions as the commissioner shall deem necessary to address environmental concerns, including any historic and recreational resources of such property; the compatible uses of adjacent parklands and facilities; and otherwise to protect the public interest. Revenues from any such agreement or lease of property shall be deposited into the state park infrastructure fund established pursuant to section ninety-seven-mm of the state finance law, as added by section one hundred thirty-two of chapter fifty-five of the laws of nineteen hundred ninety-two.

* NB There are 2 sub 2-e's

* 2-e. Be empowered, in addition to any provision of law authorizing the leasing of property under its jurisdiction, to enter into a cooperative agreement, lease or license to develop, operate and maintain for athletic fields and recreational facilities, parkland located within the twelfth park region to be known as East River State Park. Any such cooperative agreement, lease or license may be for a term not to exceed fifty years and provide for reasonable rights of access, utilities and parking in association with such facilities. Any such cooperative agreement, lease or license shall be entered into only after a finding by the commissioner that such action is compatible with public enjoyment and participation in adjacent park facilities, and in the case of structures listed on or eligible for the state register of historic places, that such agreement or lease will encourage investment by the private sector in restoring, preserving and maintaining such properties. In addition, such agreement or lease shall contain terms and conditions as the commissioner shall deemed necessary to address environmental concerns, including any historic and recreational resources of such property; the compatible uses of adjacent park lands and facilities; and otherwise to protect the public interest. Revenues from any such agreement or lease of property shall be deposited into the state park infrastructure fund established pursuant to section ninety-seven-mm of the state finance law.

* NB There are 2 sub 2-e's

2-f. Cooperate with the office of probation and correctional alternatives by identifying appropriate worksites where persons performing community service as part of a criminal disposition may be assigned to provide cleanup and other maintenance services in order to preserve and enhance the state's natural beauty and human-made scenic qualities. Such sites may include but are not limited to the state's shorelines, beaches, parks, roadways, historic sites and other natural or human-made resources.

2-g. Be empowered, in addition to any provision of law authorizing the leasing or licensing of property under its jurisdiction, to enter into a cooperative agreement, lease or license with the board of education of the school district of the city of Niagara Falls for parklands, parkway rights-of-way, buildings, structures and facilities within the first park region at DeVeaux Woods State Park for use by the school district as administrative offices, maintenance warehousing and related facilities. Such cooperative agreement, lease or license may be for a term not to exceed fifty years and shall provide for reasonable rights of access, utilities and parking in association with such facilities.

Any such cooperative agreement, lease or license shall be entered into only after a finding by the commissioner that such action is compatible with public enjoyment and participation in adjacent park facilities, and in the case of structures listed on or eligible for the state register of historic places, that such cooperative agreement, lease or license will provide for and encourage preserving and maintaining such properties.

In addition, such cooperative agreement, lease or license shall contain terms and conditions such as the commissioner may deem necessary to address environmental concerns, including any historic and recreational resources of such property; the compatible uses of adjacent parklands and facilities; and otherwise to protect the public interest.

Such cooperative agreement, lease or license may provide for the

school district to make capital improvements to the property, including improvements to those spaces to be occupied by the office, and for the joint use of some or all of the buildings, structures and facilities between the school district of the city of Niagara Falls and the office of parks, recreation and historic preservation as well as sharing of capital costs for the improvements made to the buildings, structures and facilities, in which case payments to the office pursuant to such agreement, lease or license by the school district shall be offset by expenses incurred by such school district in making capital improvements or in maintaining the designated building, structures and facilities for the term of any such cooperative agreement, lease or license. Revenues from any such agreement or lease of property shall be deposited into the state park infrastructure fund established pursuant to section ninety-seven-mm of the state finance law, as added by section one hundred thirty-two of chapter fifty-five of the laws of nineteen hundred ninety-two.

2-h. Be empowered, in addition to any other provision of law authorizing the leasing of certain property under its jurisdiction, to establish a resident curator program to encourage investment, restoration and occupancy of at-risk structures by authorizing the leasing of such at-risk structures on a competitive basis pursuant to the issuance of a request for proposal announced publicly including on the office website, for residential use only, as a single family dwelling, to individuals to be known as "resident curators" for terms of up to forty years in exchange for the resident curator assuming liability and financial obligation associated with the rehabilitation, maintenance and use of such buildings and any other property, real or personal, included in the lease. For the purposes of this subdivision, the term "at-risk structure" shall mean a house, building or other roofed structure under the jurisdiction of the office that is or has become functionally isolated from the direct public service mission of the office such that such structure is vacant and at risk of undergoing progressive deterioration and/or functional abandonment because of fiscal or other circumstantial difficulties. The length of the term of leases executed pursuant to this subdivision shall relate to the investment to be made by the resident curator which will be required to

rehabilitate and maintain the at-risk structure for residential occupancy. The amount of rent to be charged, which may be nominal, shall be based on an assessment of fair market value taking into account the projected cost of rehabilitating the at-risk structure invested by the resident curator. Any lease executed pursuant to this section shall: require the resident curator to comply with all laws, rules and regulations and maintain appropriate insurance coverage associated with the rehabilitation, maintenance and use of the leased premises; prohibit the resident curator from using the leased premises except in accordance with criteria to be determined per established rule; prohibit the resident curator from using the leased premises as security for any debt, or from assigning or subletting the premises except as authorized by the commissioner. Upon termination of any lease executed pursuant to this section, full use and enjoyment of the property reverts automatically to the state. No lease entered into in the resident curator program shall result in the displacement of any currently employed worker or loss of position, including the partial displacement such as reduction in the hours of non-overtime labor, wages or employee benefits, the diminishment of benefits, or seniority rights provided to such employee in the civil service law, or result in the impairment of existing collective bargaining agreements. The Commissioner shall consult with the state board for historic preservation, established pursuant to section 11.03 of this title, prior to entering into a resident curator lease for any at risk structure, including those eligible for listing on the state and national registers of historic places. The commissioner shall adopt a plan identifying at risk structures within state parks and historic sites, and shall adopt rules and regulations for the resident curator program, which shall include, but not be limited to, criteria for selecting responsible resident curators, criteria for establishing length of terms for leases, criteria for determining the amount of rent to be charged to resident curators which may be nominal factoring in the capital investment required to rehabilitate and maintain the leased premises and determining appropriate uses and restrictions on use of leased premises in the resident curator program, including whether and under what circumstances public access is appropriate to property in the resident curator program. This plan, as well as the rules and regulations, shall be

presented to and approved by the state board for historic preservation prior to their adoption.

3. Encourage, facilitate and coordinate the planning and implementation of parks, recreational and historic preservation activities and programs of state agencies.

4. Cooperate in the planning, organization, development and operation of municipal and private park, recreational and historic preservation projects and programs.

5. Provide for the health, safety and welfare of the public using facilities under its jurisdiction.

6. Encourage, promote and engage in cooperative recreational, educational, historic and cultural activities, projects and programs undertaken by any federal, state or local governmental agency or private philanthropic or non-profit interest for the benefit of the public.

7. Undertake surveys or analyses deemed appropriate for the performance of the functions, powers and duties of the office through office personnel or consultants, or in cooperation with any public or private agencies.

7-a. Promulgate a comprehensive plan for the establishment of a state-wide trails system. For the purposes of this subdivision "trails" shall include footpaths, bike ways, snowmobile trails, horse trails, cross country ski trails, roads and other rights-of-way suitable for hiking, strolling, cycling, horseback riding, skiing and other means of motorized and non-motorized travel for recreational purposes and shall include combinations and systems of trails, including connecting and side trails, and trails leading to scenic and recreational areas. The commissioner, with the approval of the director of the budget, may, within the appropriations made available by the legislature, purchase such abandoned railroad rights-of-way as can be used in the comprehensive plan, and make improvements where necessary, in order to make them suitable and available for use as trails.

8. Adopt, amend or rescind such rules, regulations and orders as may be necessary or convenient for the performance or exercise of the functions, powers and duties of the office.

9. Enter into contracts with any person and do all things necessary or convenient to carry out the functions, powers and duties of the office.

10. Encourage, promote and provide recreational opportunities for residents of urban as well as suburban and rural areas.

11. When designated by the governor, act as the state agent for the receipt and administration of any federal grant or advance of funds for the assistance of any project, program or activity related to the functions, powers and duties of the office, where the designation of a state agent is required under federal law or regulation, regardless of whether the project, program or activity is undertaken by the office or another person.

12. Conduct hearings and prepare transcripts and records thereof, appoint hearing officers, administer oaths, subpoena witnesses and take depositions with respect to any matter under the jurisdiction or control of the office.

13. Bring or defend such actions, suits or proceedings as the commissioner may deem necessary or proper to perform any of the powers, functions and duties of the office.

14. Exercise and perform such other functions, powers and duties as shall have been or may be from time to time conferred or imposed by or pursuant to law.

15. Enhance the natural resources within the state park, recreation and historic site system by providing habitat for various wildlife species including endangered and threatened species of fauna through practices such as ecological restoration, wetland conservation and the planting of trees, shrubs and herbaceous plants indigenous to the area

which act as food and protective cover for fauna. Selection of plant species or communities of species shall take into consideration the natural, ecological, historic, archeological, aesthetic, and public use resources in the immediate areas as well as the management goals of the park or site.

16. Enter into contracts or other agreements with not-for-profit corporations or foundations to provide, either in whole or in part, for the operation, maintenance or other services for any park, recreational facility, historic site or program. The office may provide facilities for such corporations and foundations to conduct fund-raising activities for the support of such parks, facilities, sites and programs.

17. In consultation with the New York state biodiversity research institute created pursuant to section two hundred thirty-five-a of the education law, within amounts appropriated therefor, by January first, nineteen hundred ninety-five conduct a review of lands currently in state-ownership and under the office's jurisdiction to identify lands and waters that harbor plants, animals, and ecological communities that are rare in New York state.

18. Identify, protect, manage, and conserve important ecological and natural resources, including plants, animals and ecological communities that are rare in New York state, located on state parks, parkways, historic sites, recreational facilities and other lands under the jurisdiction of the commissioner.

19. Offer for sale advertising and corporate sponsorship space in various publications of the office and offer for sale informational and promotional material related to programs, operations, facilities and resources under the jurisdiction of the office. Any proceeds realized from the sale of advertising or corporate sponsorship space or informational or promotional materials shall be deposited in the patron services account of the miscellaneous special revenue fund and shall be used by the office to defray the cost of development and publication of informational and promotional material.

19-a. Prior to offering for sale to the public any merchandise, goods, commodities or food service at parks, recreation facilities, historic sites or other facilities under the jurisdiction of the office, make a written finding that the private sector is unable or unwilling to provide such merchandise, goods, commodities or food service under agreement with the office and under such terms and conditions as the commissioner determines are fair and reasonable to the state and necessary to serve the public interest. Any proceeds realized from the sale of such merchandise, goods, commodities or food service shall be deposited in the patron services account of the miscellaneous special revenue fund and shall be used by the office to defray the cost of operating and maintaining such parks, recreation facilities and historic sites.

20. Provide for the display of the POW/MIA flag wherever the flag of the United States of America is on display at state parks, historic sites, and recreational facilities.

21. Develop, in consultation with the commissioner of health, informational signs and brochures alerting patrons of the dangers of overexposure to the sun and its relationship to skin cancer. The information on such signs and in such brochures shall include methods by which an individual may help prevent exposure to the sun and lessen his or her risk of contracting skin cancer. Such signs and informational brochures shall be placed in appropriate locations at the discretion of the commissioner.

22. Be empowered to enter into an agreement with the New York state thruway authority, which shall allow the office to utilize an electronic toll collection system for the collection of any entrance fee or parking fee at any historic site, park or recreational facility.

23. Establish and implement a program for the collection of recyclable materials that are discarded in state parks, state historic sites and state recreational facilities. Such recyclable materials shall include, but not be limited to, metal, plastic, glass and paper. In each such park, historic site and recreational facility the office shall install

bins for the collection of recyclable materials. The office shall regularly collect and provide for the recycling of the recyclable materials collected.

24. Encourage and promote farmers' markets which offer for sale farm and food products, as such terms are defined in section two hundred sixty of the agriculture and markets law, at state parks when such farmers' market does not harm the natural environment or integrity of the park. Such promotion shall include but not be limited to:

(a) posting information on the office's website pertaining to locations and times of operation for such farmers' markets held in state parks;

(b) identifying opportunities to expand farmers' markets to additional state park locations; and

(c) coordinating with other state agencies, including but not limited to empire state development and the department of agriculture and markets, to further the goals of this subdivision.