

**FY 2018 NEW YORK STATE EXECUTIVE BUDGET
TRANSPORTATION
ECONOMIC DEVELOPMENT AND
ENVIRONMENTAL CONSERVATION
ARTICLE VII LEGISLATION**

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Legislative Bill Drafting Commission
12573-02-7

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

BUDGBI

(Enacts into law major components of
legislation necessary to implement
the state transportation, economic
development and environmental
conservation budget for the
2017-2018 state fiscal year)

A7 TED Pull Together

AN ACT

to amend chapter 62 of the laws of
2003 amending the vehicle and traf-
fic law and other laws relating to
increasing certain motor vehicle
transaction fees, in relation to the
disposition of revenues (Part A); to
amend the vehicle and traffic law,
in relation to divisible load
permits (Part B); to amend the state
finance law and the transportation

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s15 Addabbo	s50 DeFrancisco	s27 Hoylman	s25 Montgomery	s10 Sanders
s52 Akshar	s32 Diaz	s60 Jacobs	s40 Murphy	s23 Savino
s31 Alcantara	s18 Dilan	s09 Kaminsky	s58 O'Mara	s41 Serino
s46 Amedore	s17 Felder	s63 Kennedy	s62 Ortt	s29 Serrano
s11 Avella	s02 Flanagan	s34 Klein	s21 Parker	s51 Seward
s36 Bailey	s55 Funke	s28 Krueger	s13 Peralta	s26 Squadron
s42 Bonacic	s59 Gallivan	s24 Lanza	s30 Perkins	s16 Stavisky
s04 Boyle	s12 Gianaris	s39 Larkin	s19 Persaud	s35 Stewart- Cousins
s44 Breslin	s22 Golden	s37 Latimer	s07 Phillips	
s08 Brooks	s47 Griffo	s01 LaValle	s61 Ranzenhofer	s49 Tedisco
s38 Carlucci	s20 Hamilton	s45 Little	s48 Ritchie	s53 Valesky
s14 Comrie	s06 Hannon	s05 Marcellino	s33 Rivera	s57 Young
s03 Croci	s54 Helming	s43 Marchione	s56 Robach	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a034 DenDekker	a097 Jaffee	a145 Morinello	a009 Saladino
a092 Abinanti	a070 Dickens	a011 Jean-Pierre	a057 Mosley	a111 Santabarbara
a084 Arroyo	a054 Dilan	a116 Jenne	a039 Moya	a140 Schimminger
a035 Aubry	a081 Dinowitz	a135 Johns	a003 Murray	a076 Seawright
a120 Barclay	a147 DiPietro	a115 Jones	a065 Niou	a087 Sepulveda
a030 Barnwell	a016 D'Urso	a077 Joyner	a037 Nolan	a027 Simanowitz
a106 Barrett	a004 Englebright	a074 Kavanagh	a144 Norris	a052 Simon
a060 Barron	a133 Errigo	a142 Kearns	a130 Oaks	a036 Simotas
a082 Benedetto	a109 Fahy	a040 Kim	a069 O'Donnell	a104 Skartados
a042 Bichotte	a071 Farrell	a131 Kolb	a051 Ortiz	a099 Skoufis
a079 Blake	a126 Finch	a105 Lalor	a091 Otis	a022 Solages
a117 Blankenbush	a008 Fitzpatrick	a013 Lavine	a132 Palmesano	a114 Stec
a098 Brabenc	a124 Friend	a134 Lawrence	a002 Palumbo	a110 Steck
a026 Braunstein	a095 Galef	a050 Lentol	a088 Paulin	a127 Stirpe
a119 Brindisi	a137 Gantt	a125 Lifton	a141 Peoples- Stokes	a001 Thiele
a138 Bronson	a007 Garbarino	a102 Lopez		a061 Titone
a093 Buchwald	a148 Giglio	a123 Lupardo	a058 Perry	a031 Titus
a118 Butler	a080 Gjonaj	a010 Lupinacci	a023 Pheffer	a033 Vanel
a094 Byrne	a066 Glick	a121 Magee	Amato	a055 Walker
a103 Cahill	a150 Goodell	a129 Magnarelli	a086 Pichardo	a143 Wallace
a044 Carroll	a075 Gottfried	a064 Malliotakis	a089 Pretlow	a112 Walsh
a062 Castorina	a005 Graf	a090 Mayer	a073 Quart	a146 Walter
a047 Colton	a100 Gunther	a108 McDonald	a019 Ra	a041 Weinstein
a032 Cook	a046 Harris	a014 McDonough	a012 Raia	a024 Weprin
a085 Crespo	a139 Hawley	a017 McKevitt	a006 Ramos	a059 Williams
a122 Crouch	a083 Heastie	a107 McLaughlin	a043 Richardson	a113 Woerner
a021 Curran	a028 Hevesi	a101 Miller, B.	a078 Rivera	a056 Wright
a063 Cusick	a048 Hikind	a038 Miller, M.G.	a068 Rodriguez	a096 Zebrowski
a045 Cymbrowitz	a018 Hooper	a020 Miller, M.L.	a067 Rosenthal	
a053 Davila	a128 Hunter	a015 Montesano	a025 Rozic	
a072 De La Rosa	a029 Hyndman	a136 Morelle	a149 Ryan	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and 4 copies of memorandum in support (single house);
or 4 signed copies of bill and 8 copies of memorandum
in support (uni-bill).

law, in relation to enhancing the ability of the state to enforce state and federal law concerning the safety of public transportation systems under the oversight of the public transportation safety board (Part C); to amend the vehicle and traffic law in relation to compliance with new federal regulations and strengthening requirements for motor carriers (Part D); to amend the penal law, in relation to including the use of any highway, parkway, road, bridge or tunnel without payment of the lawful toll or charge as a theft of services; and to amend the vehicle and traffic law, in relation to liability of vehicle owners for toll collection violations and the penalty imposed upon the operator of a vehicle with an altered or obscured license plate while on a toll highway, bridge or tunnel (Part E); to amend the vehicle and traffic law and the state finance law, in relation to allocation of three million dollars of assessments from the city of New York to the general fund (Part F); to amend the vehicle and traffic law, the insurance law, the executive law, the tax law, and the state finance law, in relation to the regulation of transportation network company services; to establish the New York State TNC Accessibility Task Force; to establish the transportation network company driver's injury compensation fund; and to establish the local transit assistance fund (Part G); to amend the vehicle and traffic law, in relation to the waiver of non-driver identification card fees for crime victims (Part H); to amend the vehicle and traffic law, in relation to the reinstatement fee for non-residents (Part I); to amend the vehicle and traffic law, in relation to increasing fees for original and duplicate certificates of title (Part J); to amend the vehicle and traffic law, in relation to additional fees for certain identification cards (Part K); to amend the vehicle and traffic law, in relation

to the definition of "drug", the scope of the written test, the suspension of a license for driving while impaired by drugs, the license sanctions for refusing to submit to a chemical test and prohibiting the use of mobile telephones and portable electronic devices when a vehicle is not in motion and by persons under 18 (Part L); to amend the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part M); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part N); to amend chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, in relation to the minority and women-owned business enterprise program (Part O); to amend the infrastructure investment act, in relation to the definition of an authorized entity that may utilize design-build contracts, and in relation to the effectiveness thereof (Part P); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending the expiration date thereof (Part Q); to amend the business corporation law, the cooperative corporations law, the executive law, the general associations law, the general business law, the limited liability company law, the not-for-profit corporation law, the partnership law, the private housing finance law, the arts and cultural affairs law, the real property law and the tax law, in relation to streamlining the process by which service of process is served against

a corporate or other entity with the secretary of state; and to repeal certain provisions of the real property law relating thereto (Part R); to amend the real property law, in relation to streamlining the licensing process for real estate professionals (Part S); to amend the environmental conservation law and the executive law, in relation to local waterfront revitalization (Part T); to amend the executive law, in relation to the chairperson of the state athletic commission (Part U); authorizing utility and cable television assessments to provide funds to the department of health from cable television assessment revenues and to the departments of agriculture and markets, environmental conservation, office of parks, recreation and historic preservation, and state from utility assessment revenues (Part V); to amend chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to making permanent certain authority of the dormitory authority of the state of New York (Part W); to amend the insurance law, in relation to administrative supervision (Part X); to amend the banking law, the insurance law, and the financial services law in relation to the enforcement of the banking, insurance, and financial services laws against unlicensed participants (Part Y); to amend the banking law, in relation to the licensing and regulation of student loan servicers (Part Z); to amend the banking law, in relation to protecting vulnerable adults from financial exploitation (Part AA); to amend the financial services law, in relation to the disqualification of bad actors from continued participation in the banking and insurance industries (Part BB); to amend the banking law, in relation to the regulation and authorization of certain lending circle programs (Part CC); to amend the state

finance law, in relation to creating a paid family leave risk adjustment fund (Part DD); to amend the banking law, in relation to licensed lenders (Part EE); to amend the real property action and proceedings law and civil practice law and rules, in relation to reverse mortgages (Part FF); to amend the financial services law, in relation to assessments to defray operating expenses of the department (Subpart A); to amend the insurance law, in relation to the distribution of assets (Subpart B); and to amend the insurance law, in relation to insurers deemed to be in a hazardous financial condition (Subpart C) (Part GG); to amend the navigation law, in relation to establishing the New York environmental protection and spill remediation account (Part HH); to amend the environmental conservation law, the state finance law, the public authorities law, and the soil and water conservation districts law, in relation to the implementation of the "clean water infrastructure act of 2017"; and to repeal certain provisions of the environmental conservation law and the state finance law relating thereto (Part II); to amend the state finance law and the environmental conservation law, in relation to environmental protection fund deposits and transfers (Part JJ); to amend the environmental conservation law, in relation to the donation of excess food and recycling of food scraps (Part KK); to amend the public authorities law and the public officers law, in relation to the sharing of employees, services and resources by the power authority of the state of New York, canal corporation and department of transportation (Part LL); and to authorize the energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY programs, as well as the department of environmental conservation's climate change program and the department of agriculture and

markets' Fuel NY program, from an assessment on gas and electric corporations (Part MM)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2017-2018
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through MM. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. Section 13 of part U1 of chapter 62 of the laws of 2003
14 amending the vehicle and traffic law and other laws relating to increas-
15 ing certain motor vehicle transaction fees, as amended by section 1 of
16 part A of chapter 58 of the laws of 2015, is amended to read as follows:

17 § 13. This act shall take effect immediately; provided however that
18 sections one through seven of this act, the amendments to subdivision 2
19 of section 205 of the tax law made by section eight of this act, and
20 section nine of this act shall expire and be deemed repealed on April 1,
21 2020; [provided further, however, that the amendments to subdivision 3
22 of section 205 of the tax law made by section eight of this act shall
23 expire and be deemed repealed on March 31, 2018;] provided further,
24 however, that the provisions of section eleven of this act shall take
25 effect April 1, 2004 and shall expire and be deemed repealed on April 1,
26 2020.

1 § 2. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after April 1, 2017.

3 PART B

4 Section 1. Paragraph (f) of subdivision 15 of section 385 of the vehi-
5 cle and traffic law, as amended by section 4 of part C of chapter 59 of
6 the laws of 2004, the third undesignated paragraph as amended by chapter
7 277 of the laws of 2014, is amended to read as follows:

8 (f) 1. The department of transportation, or other issuing authority,
9 may issue an annual permit for a vehicle designed and constructed to
10 carry loads that are not of one piece or item, which is registered in
11 this state. Motor carriers having apportioned vehicles registered under
12 the international registration plan must either have a currently valid
13 permit at the time this provision becomes effective or shall have desig-
14 nated New York as its base state or one of the eligible jurisdictions of
15 operation under the international registration plan in order to be
16 eligible to receive a permit issued pursuant to [subparagraph] clause
17 (i), (ii) or (ii-a) of subparagraph eight of this paragraph. No permit
18 issued pursuant to this paragraph shall be valid for the operation or
19 movement of vehicles on any state or other highway within any city not
20 wholly included within one county unless such permit was issued by the
21 city department of transportation of such city.

22 2. Effective January first, two thousand five, no vehicle or combina-
23 tion of vehicles issued a permit pursuant to this paragraph shall cross
24 a bridge designated as an R-posted bridge by the commissioner of trans-
25 portation or any other permit issuing authority absent a determination
26 by such commissioner or permit issuing authority that the permit appli-

1 cant has demonstrated special circumstances warranting the crossing of
2 such bridge or bridges and a determination by such commissioner or
3 permit issuing authority that such bridge or bridges may be crossed
4 safely, provided, however, that in no event shall a vehicle or combina-
5 tion of vehicles issued a permit under this paragraph be permitted to
6 cross a bridge designated as an R-posted bridge if such vehicle or
7 combination of vehicles has a maximum gross weight exceeding one hundred
8 two thousand pounds, and provided further, however, that nothing
9 contained herein shall be deemed to authorize any vehicle or combination
10 of vehicles to cross any such bridge within any city not wholly included
11 within one county unless such vehicle or combination of vehicles has
12 been issued a valid permit by the city department of transportation of
13 such city pursuant to this subdivision.

14 3. No vehicle having a model year of two thousand six or newer shall
15 be issued a permit pursuant to this paragraph unless each axle of such
16 vehicle or combination of vehicles, other than steerable or trackable
17 axles, is equipped with two tires on each side of the axle, any air
18 pressure controls for lift axles are located outside the cab of the
19 vehicle and are beyond the reach of occupants of the cab while the vehi-
20 cle is in motion, the weight on any grouping of two or more axles is
21 distributed such that no axle in the grouping carries less than eighty
22 percent of any other axle in the grouping and any liftable axle is
23 steerable or trackable; and, further provided, after December thirty-
24 first, two thousand nineteen, no permit shall be issued pursuant to this
25 paragraph to a vehicle of any model year that does not meet the require-
26 ments of this provision, except that such permits may be issued prior to
27 January first, two thousand twenty to a vehicle that does not meet the

1 requirement concerning axle grouping weight distribution, but meets all
2 other requirements of this section.

3 4. A divisible load permit may only be transferred to a replacement
4 vehicle by the same registrant or transferred with the permitted vehicle
5 as part of the sale or transfer of the permit holder's business; or, if
6 the divisible load permit is issued pursuant to [subparagraph] clause
7 (iv), (v) or (vi) of subparagraph eight of this paragraph for use within
8 the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange
9 and Dutchess and has been effective for the five years preceding a
10 transfer of such permit, the permit may be transferred with the permit-
11 ted vehicle in the sale of the permitted vehicle to the holder of a
12 permit issued pursuant to [subparagraph] clause (iv), (v) or (vi) of
13 subparagraph eight of this paragraph for use within the counties of
14 Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess.

15 5. If a permit holder operates a vehicle or combination of vehicles in
16 violation of any posted weight restriction, the commissioner of trans-
17 portation may impose a civil penalty as provided by section one hundred
18 forty-five of the transportation law and/or cancel, suspend or revoke
19 the permit issued to such vehicle or combination of vehicles and such
20 permit shall be deemed void as of the next day and shall not be reissued
21 for a period of up to twelve calendar months.

22 6. Until June thirtieth, nineteen hundred ninety-four, no more than
23 sixteen thousand power units shall be issued annual permits by the
24 department for any twelve-month period in accordance with this para-
25 graph. After June thirtieth, nineteen hundred ninety-four, no more than
26 sixteen thousand five hundred power units shall be issued annual permits
27 by the department for any twelve-month period. After December thirty-
28 first, nineteen hundred ninety-five, no more than seventeen thousand

1 power units shall be issued annual permits by the department for any
2 twelve-month period. After December thirty-first, two thousand three, no
3 more than twenty-one thousand power units shall be issued annual permits
4 by the department for any twelve-month period. After December thirty-
5 first, two thousand five, no more than twenty-two thousand power units
6 shall be issued annual permits by the department for any twelve-month
7 period. After December thirty-first, two thousand six, no more than
8 twenty-three thousand power units shall be issued annual permits by the
9 department for any twelve-month period. After December thirty-first, two
10 thousand seven, no more than twenty-four thousand power units shall be
11 issued annual permits by the department for any twelve-month period.
12 After December thirty-first, two thousand eight, no more than twenty-
13 five thousand power units shall be issued annual permits by the depart-
14 ment for any twelve-month period. After December thirty-first, two thou-
15 sand sixteen, no more than twenty-seven thousand power units shall be
16 issued annual permits by the department for any twelve-month period.
17 After December thirty-first, two thousand eighteen, no more than twen-
18 ty-nine thousand power units shall be issued annual permits by the
19 department for any twelve-month period. After December thirty-first, two
20 thousand twenty, no more than thirty thousand power units shall be
21 issued annual permits by the department for any twelve-month period.
22 After December thirty-first, two thousand twenty-two, no more than thir-
23 ty-one thousand power units shall be issued annual permits by the
24 department for any twelve-month period. After December thirty-first, two
25 thousand twenty-three, no more than thirty-two thousand power units
26 shall be issued annual permits by the department for any twelve-month
27 period. After December thirty-first, two thousand twenty-four, no more
28 than thirty-three thousand power units shall be issued annual permits by

1 the department for any twelve-month period. After December thirty-
2 first, two thousand twenty-five, no more than thirty-five thousand power
3 units shall be issued annual permits by the department for any twelve-
4 month period.

5 Whenever permit application requests exceed permit availability, the
6 department shall renew annual permits that have been expired for less
7 than four years which meet program requirements, and then shall issue
8 permit applicants having less than three divisible load permits such
9 additional permits as the applicant may request, providing that the
10 total of existing and new permits does not exceed three. Remaining
11 permits shall be allocated by lottery in accordance with procedures
12 established by the commissioner in rules and regulations. After December
13 thirty-first, two thousand sixteen, the department may permanently
14 increase the maximum number of power units issued an annual permit by no
15 more than two thousand additional permits above the previous year's
16 total in accordance with procedures established by the commissioner in
17 rules and regulations.

18 7. The department of transportation may issue a seasonal agricultural
19 permit in accordance with [subparagraphs] clauses (i), (ii) and (iii) of
20 subparagraph eight of this paragraph that will be valid for four consec-
21 utive months with a fee equal to one-half the annual permit fees estab-
22 lished under this subdivision.

23 8. For a vehicle issued a permit in accordance with [subparagraphs]
24 clauses (iii), (iv), (v) and (vi) of this [paragraph] subparagraph, such
25 a vehicle must have been registered in this state prior to January
26 first, nineteen hundred eighty-six or be a vehicle or combination of
27 vehicles which replace such type of vehicle which was registered in this
28 state prior to such date provided that the manufacturer's recommended

1 maximum gross weight of the replacement vehicle or combination of vehi-
2 cles does not exceed the weight for which a permit may be issued and the
3 maximum load to be carried on the replacement vehicle or combination of
4 vehicles does not exceed the maximum load which could have been carried
5 on the vehicle being replaced or the registered weight of such vehicle,
6 whichever is lower, in accordance with the following [subparagraphs]
7 clauses:

8 (i) A permit may be issued for a vehicle having at least three axles
9 and a wheelbase not less than sixteen feet and for a vehicle with a
10 trailer not exceeding forty-eight feet. The maximum gross weight of such
11 a vehicle shall not exceed forty-two thousand five hundred pounds plus
12 one thousand two hundred fifty pounds for each foot and major fraction
13 of a foot of the distance from the center of the foremost axle to the
14 center of the rearmost axle, or one hundred two thousand pounds, which-
15 ever is more restrictive provided, however, that any four axle group
16 weight shall not exceed sixty-two thousand pounds, any tridem axle group
17 weight shall not exceed fifty-seven thousand pounds, any tandem axle
18 weight does not exceed forty-seven thousand pounds and any single axle
19 weight shall not exceed twenty-five thousand pounds.

20 Any additional special authorizations contained in a currently valid
21 annual permit shall cease upon the expiration of such current annual
22 permit.

23 (ii) A permit may be issued subject to bridge restrictions for a vehi-
24 cle or a combination of vehicles having at least six axles and a wheel
25 base of at least thirty-six and one-half feet. The maximum gross weight
26 of such vehicle or combination of vehicles shall not exceed one hundred
27 seven thousand pounds and any tridem axle group weight shall not exceed

1 fifty-eight thousand pounds and any tandem axle group weight shall not
2 exceed forty-eight thousand pounds.

3 (ii-a) A permit may be issued subject to bridge restrictions for a
4 combination of vehicles having at least seven axles and a wheelbase of
5 at least forty-three feet. The maximum gross weight of such combination
6 of vehicles shall not exceed one hundred seventeen thousand pounds, any
7 four axle group weight shall not exceed sixty-three thousand pounds, any
8 tridem axle group weight shall not exceed fifty-eight thousand pounds,
9 any tandem axle group weight shall not exceed forty-eight thousand
10 pounds, and any single axle weight shall not exceed twenty-five thousand
11 pounds.

12 Each axle of such combination of vehicles, other than steerable or
13 trackable axles, shall be equipped with two tires on each side of the
14 axle, any air pressure controls for lift axles shall be located outside
15 the cab of the combination of vehicles and shall be beyond the reach of
16 occupants of the cab while the combination of vehicles is in motion, the
17 weight on any grouping of two or more axles shall be distributed such
18 that no axle in the grouping carries less than eighty percent of any
19 other axle in the grouping, and any liftable axle of such combination of
20 vehicles shall be steerable or trackable.

21 (iii) A permit may be issued for a vehicle having two axles and a
22 wheelbase not less than ten feet, with the maximum gross weight not in
23 excess of one hundred twenty-five percent of the total weight limitation
24 as set forth in subdivision ten of this section. Furthermore, until
25 December thirty-first, nineteen hundred ninety-four, any single rear
26 axle weight shall not exceed twenty-eight thousand pounds. After Decem-
27 ber thirty-first, nineteen hundred ninety-four, any axle weight shall
28 not exceed twenty-seven thousand pounds.

1 (iv) Within a city not wholly included within one county and the coun-
2 ties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and
3 Dutchess, a permit may be issued for a vehicle having at least three
4 axles and a wheelbase not exceeding forty-four feet nor less than seven-
5 teen feet or for a vehicle with a trailer not exceeding forty feet.

6 Until December thirty-first, nineteen hundred ninety-four, a permit
7 may only be issued for such a vehicle having a maximum gross weight not
8 exceeding eighty-two thousand pounds and any tandem axle group weight
9 shall not exceed sixty-two thousand pounds.

10 After January first, nineteen hundred ninety-five, the operation of
11 such a vehicle shall be further limited and a permit may only be issued
12 for such a vehicle having a maximum gross weight not exceeding seventy-
13 nine thousand pounds and any tandem axle group weight shall not exceed
14 fifty-nine thousand pounds, and any tridem shall not exceed sixty-four
15 thousand pounds.

16 A permit may be issued only until December thirty-first, nineteen
17 hundred ninety-four for a vehicle having at least three axles and a
18 wheelbase between fifteen and seventeen feet. The maximum gross weight
19 of such a vehicle shall not exceed seventy-three thousand two hundred
20 eighty pounds and any tandem axle group weight shall not exceed fifty-
21 four thousand pounds.

22 No vehicle having a model year of two thousand six or newer shall be
23 issued a permit pursuant to this subparagraph for use within the coun-
24 ties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and
25 Dutchess unless it is equipped with at least four axles, and further
26 provided, after December thirty-first, two thousand fourteen, no permit
27 shall be issued pursuant to this [subparagraph] clause for use within
28 the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange

1 and Dutchess to a vehicle of any model year unless the vehicle is
2 equipped with at least four axles.

3 (v) Within a city not wholly included within one county and the coun-
4 ties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange or Dutch-
5 ess, a permit may be issued only until December thirty-first, nineteen
6 hundred ninety-nine for a vehicle or combination of vehicles that has
7 been permitted within the past four years having five axles and a wheel-
8 base of at least thirty-six and one-half feet. The maximum gross weight
9 of such a vehicle or combination of vehicles shall not exceed one
10 hundred five thousand pounds and any tandem axle group weight shall not
11 exceed fifty-one thousand pounds.

12 Within a city not wholly included within one county and the counties
13 of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess,
14 a permit may be issued for a vehicle or combination of vehicles having
15 at least five axles and a wheelbase of at least thirty feet. The maximum
16 gross weight of such vehicle or combination of vehicles shall not exceed
17 ninety-three thousand pounds and any tridem axle group weight shall not
18 exceed fifty-seven thousand pounds and any tandem axle group weight
19 shall not exceed forty-five thousand pounds.

20 (vi) Within a city not wholly included within one county and the coun-
21 ties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and
22 Dutchess, a permit may be issued for a vehicle or combination of vehi-
23 cles having at least five axles or more and a wheelbase of at least
24 thirty-six and one-half feet, provided such permit contains routing
25 restrictions.

26 Until December thirty-first, nineteen hundred ninety-four, the maximum
27 gross weight of a vehicle or combination of vehicles permitted under
28 this [subparagraph] clause shall not exceed one hundred twenty thousand

1 pounds and any tandem or tridem axle group weight shall not exceed
2 sixty-nine thousand pounds, provided, however, that any replacement
3 vehicle or combination of vehicles permitted after the effective date of
4 this [subparagraph] clause shall have at least six axles, any tandem
5 axle group shall not exceed fifty thousand pounds and any tridem axle
6 group shall not exceed sixty-nine thousand pounds.

7 After December thirty-first, nineteen hundred ninety-four, the tridem
8 axle group weight of any vehicle or combination of vehicles issued a
9 permit under this [subparagraph] clause shall not exceed sixty-seven
10 thousand pounds, any tandem axle group weight shall not exceed fifty
11 thousand pounds and any single axle weight shall not exceed twenty-five
12 thousand seven hundred fifty pounds.

13 After December thirty-first, nineteen hundred ninety-nine, all vehi-
14 cles issued a permit under this [subparagraph] clause must have at least
15 six axles.

16 After December thirty-first, two thousand fourteen, all combinations
17 of vehicles issued a permit under this [subparagraph] clause for use
18 within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam,
19 Orange and Dutchess must have at least seven axles and a wheelbase of at
20 least forty-three feet.

21 After December thirty-first, two thousand six, no permits shall be
22 issued under this [subparagraph] clause for use within the counties of
23 Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for
24 a vehicle or combination of vehicles having less than seven axles or
25 having a wheelbase of less than forty-three feet, provided, however,
26 that permits may be issued for use within the counties of Westchester,
27 Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for vehicles or
28 combinations of vehicles where the permit applicant demonstrates that

1 the applicant acquired the vehicle or combination of vehicles prior to
2 December thirty-first, two thousand six, and that if the vehicle or
3 combination of vehicles was acquired by the applicant after the effec-
4 tive date of this provision, such vehicle or combination of vehicles is
5 less than fifteen years old. In instances where the application is for a
6 combination of vehicles, the applicant shall demonstrate that the power
7 unit of such combination satisfies the conditions of this [subparagraph]
8 clause. In no event shall a permit be issued under this [subparagraph]
9 clause for use within the counties of Westchester, Rockland, Nassau,
10 Suffolk, Putnam, Orange and Dutchess for a vehicle or combination of
11 vehicles having less than seven axles or having a wheelbase of less than
12 forty-three feet after December thirty-first, two thousand fourteen.

13 Except as otherwise provided by this subparagraph for the period
14 ending December thirty-first, two thousand fourteen, after December
15 thirty-first, two thousand three, any combination of vehicles issued a
16 permit under this [subparagraph] clause for use within the counties of
17 Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess
18 shall not exceed one hundred twenty thousand pounds, shall have at least
19 seven axles, shall have a wheelbase of at least forty-three feet, and
20 single axle weight shall not exceed twenty-five thousand seven hundred
21 fifty pounds, any tandem axle group weight shall not exceed forty-eight
22 thousand pounds, any tridem axle group weight shall not exceed sixty-
23 three thousand pounds and any four axle group shall not exceed sixty-
24 five thousand pounds.

25 From the date of enactment of this paragraph, permit applications
26 under [subparagraphs] clauses (i), (ii), (ii-a), (iii), (iv), (v) and
27 (vi) of this [paragraph] subparagraph for vehicles registered in this
28 state may be honored by the commissioner of transportation or other

1 appropriate authority. The commissioner of transportation and other
2 appropriate authorities may confer and develop a system through rules
3 and regulations to assure compliance herewith.

4 § 2. This act shall take effect immediately.

5 PART C

6 Section 1. Paragraph (b) of subdivision 5 of section 88-a of the state
7 finance law, as added by chapter 481 of the laws of 1981, is amended to
8 read as follows:

9 (b) Moneys in the public transportation systems operating assistance
10 account shall be paid on a quarterly basis beginning October first,
11 nineteen hundred eighty-one. However, if there is a demonstrated cash
12 shortfall in any eligible system, payments to such system may be accel-
13 erated. Such payments shall be made in accordance with a schedule as
14 specified by appropriation for the payment of operating costs of public
15 mass transportation systems outside the metropolitan commuter transpor-
16 tation district as defined by section twelve hundred sixty-two of the
17 public authorities law, eligible to receive operating assistance pursu-
18 ant to section eighteen-b of the transportation law. Provided, however
19 that no payment shall be made to any public transportation system that
20 is operating in violation of an order by the public transportation safe-
21 ty board pursuant to subdivision nine of section two hundred seventeen
22 of the transportation law until such time that said public transporta-
23 tion system has fully complied with said order or unless the order is
24 otherwise lifted.

1 § 2. Paragraph (b) of subdivision 7 of section 88-a of the state
2 finance law, as amended by chapter 56 of the laws of 1993, is amended to
3 read as follows:

4 (b) Moneys in the metropolitan mass transportation operating assist-
5 ance account shall be paid on a quarterly basis beginning October first,
6 nineteen hundred [eight-one] eighty-one. However, if there is a demon-
7 strated cash shortfall in any eligible system, payments to such system
8 may be accelerated. Such moneys shall be paid in accordance with sched-
9 ules as specified by appropriations for payment of operating costs of
10 public transportation systems in the metropolitan transportation commu-
11 ter district in order to meet the operating expenses of such systems,
12 provided, however, with respect to the metropolitan transportation
13 authority, its affiliates and subsidiaries, and notwithstanding any
14 general or special law to the contrary, other than such a law which
15 makes specific reference to this section, and subject to the provisions
16 of section twelve hundred seventy-c of the public authorities law, so
17 long as the metropolitan transportation authority dedicated tax fund
18 established by section twelve hundred seventy-c of the public authori-
19 ties law shall exist, any such appropriation to the metropolitan trans-
20 portation authority, its affiliates or its subsidiaries shall be deemed
21 to be an appropriation to the metropolitan transportation authority and
22 the total amount paid pursuant to such appropriation or appropriations
23 shall be deposited to such metropolitan transportation authority dedi-
24 cated tax fund and distributed in accordance with the provisions of
25 section twelve hundred seventy-c of the public authorities law. Nothing
26 contained in this subdivision shall be deemed to restrict the right of
27 the state to amend, repeal, modify or otherwise alter statutes imposing
28 or relating to the taxes producing revenues for deposit in the metropol-

1 itan mass transportation operating assistance account or the appropri-
2 ations relating thereto. The metropolitan transportation authority shall
3 not include within any resolution, contract or agreement with holders of
4 the bonds or notes issued under section twelve hundred sixty-nine of the
5 public authorities law any provision which provides that a default
6 occurs as a result of the state exercising its right to amend, repeal,
7 modify or otherwise alter such taxes or appropriations. Provided,
8 however that no payment shall be made to any public transportation
9 system that is operating in violation of an order by the public trans-
10 portation safety board pursuant to subdivision nine of section two
11 hundred seventeen of the transportation law until such time that said
12 public transportation system has fully complied with said order or
13 unless the order is otherwise lifted.

14 § 3. The opening paragraph of subdivision 4 of section 88-b of the
15 state finance law, as added by chapter 13 of the laws of 1987, is
16 amended to read as follows:

17 Moneys of the fund shall be made available for financing any of the
18 following types of capital projects within the counties comprising the
19 metropolitan commuter transportation district, except those counties
20 comprising the city of New York, but only to the extent that such
21 projects are on an adopted transportation plan and approved by a desig-
22 nated transportation coordinating committee, if one exists, or by the
23 metropolitan planning organization as created pursuant to section
24 fifteen-a of the transportation law if no designated transportation
25 coordinating committee exists: capacity and infrastructure improvements
26 to state, county, town, city, village roads, highways, parkways and
27 bridges; or state, county, town, city or village mass transportation
28 projects; provided, however, that in Nassau and Suffolk counties such

1 moneys shall be available only for capacity improvements to state roads,
2 highways, parkways and bridges. The amount of state funds historically
3 appropriated statewide, other than bond funds, for transportation capi-
4 tal purposes from other sources shall not be reduced because of the
5 availability of such moneys made available pursuant to this chapter, nor
6 shall such moneys be used to match federal aid. Prior to the allocation
7 of state advance funds appropriated pursuant to this section, the muni-
8 cipality responsible for the project shall certify to the commissioner
9 of transportation that the amount of funds appropriated for transporta-
10 tion capital purposes by that municipality shall not be reduced because
11 of the availability of such state advance funds, and that such moneys
12 shall not be used to match federal aid. Provided, however that no
13 payment shall be made to any public transportation system that is oper-
14 ating in violation of an order by the public transportation safety board
15 pursuant to subdivision nine of section two hundred seventeen of the
16 transportation law until such time that said public transportation
17 system has fully complied with said order or unless the order is other-
18 wise lifted.

19 § 4. Paragraph a of subdivision 2 of section 18-b of the transporta-
20 tion law, as added by chapter 56 of the laws of 1975, is amended to read
21 as follows:

22 a. The commissioner shall pay to each public transportation system
23 that makes an application therefor, in quarterly installments, a mass
24 transportation operating assistance service payment. For the purposes of
25 this section, the quarters shall be April through June, July through
26 September, October through December and January through March.
27 Provided, however that no payment shall be made to any public transpor-
28 tation system that is operating in violation of an order by the public

1 transportation safety board pursuant to subdivision nine of section two
2 hundred seventeen of this chapter until such time that said public
3 transportation system has fully complied with said order or unless the
4 order is otherwise lifted.

5 § 5. Section 217 of the transportation law is amended by adding seven
6 new subdivisions 9, 10, 11, 12, 13, 14 and 15 to read as follows:

7 9. To comply with the requirements of the national public transporta-
8 tion safety plan, as provided by section 5329 of title 49 of the United
9 States code and to provide the state safety oversight program required
10 thereby.

11 10. To review, approve, oversee and enforce the implementation by the
12 rail fixed guideway public transportation agency of the public transpor-
13 tation agency safety plan that is approved by the board.

14 11. To investigate and enforce the safety of rail fixed guideway
15 public transportation systems with the public transportation agency
16 safety plan approved by the board.

17 12. To perform audits, at least once triennially, for the compliance
18 of the rail fixed guideway public transportation systems with the feder-
19 al transit administration.

20 13. To provide, at least once annually, a status report on the safety
21 of rail fixed guideway public transportation systems that the board
22 oversees.

23 14. To review, approve, oversee and enforce the implementation of
24 public transportation system safety plans.

25 15. To issue such advisories, directives or orders that may be deemed
26 necessary to assure safety in the operation of public transportation
27 systems.

28 § 6. This act shall take effect immediately.

1

PART D

2 Section 1. Paragraph (g) of subdivision 3 of section 385 of the vehi-
3 cle and traffic law, as added by chapter 303 of the laws of 2014, is
4 amended to read as follows:

5 (g) The length of a tow truck or car carrier, inclusive of load and
6 bumpers, shall be not more than forty feet, except that a car carrier
7 may have an overhang that extends beyond the rear bumper of such car
8 carrier by not more than [~~three~~] four feet and except, further, that a
9 wheel lift that is less than fifteen feet in length shall not be
10 included as part of the length of a tow truck or car carrier when such
11 wheel lift is in use by such tow truck or car carrier to tow another
12 motor vehicle.

13 § 2. Subparagraphs 5 and 6 of paragraph (b) of subdivision 4 of
14 section 385 of the vehicle and traffic law, subparagraph 5 as amended by
15 chapter 669 of the laws of 2005, and subparagraph 6 as amended by chap-
16 ter 26 of the laws of 2002, are amended and a new subparagraph 7 is
17 added to read as follows:

18 5. A vehicle or combination of vehicles which is disabled and unable
19 to proceed under its own power and is being towed for a distance not in
20 excess of ten miles for the purpose of repairs or removal from the high-
21 way, except that the distance to the nearest exit of a controlled-access
22 highway shall not be considered in determining such ten mile distance;
23 [and]

24 6. Stinger-steered automobile transporters or stinger-steered boat
25 transporters, while operating on qualifying and access highways. Such
26 vehicles shall not, however, exceed [~~seventy-five~~] eighty feet exclusive

1 of an overhang of not more than [three] four feet on the front and
2 [four] six feet on the rear of the vehicle[.]; and

3 7. A combination of vehicles operating on any qualifying or access
4 highways consisting of a power unit and two trailers or semitrailers
5 with a total weight that shall not exceed twenty-six thousand pounds
6 when the overall length is greater than sixty-five feet but shall not
7 exceed eighty-two feet; and in which the trailers or semitrailers carry
8 no property and constitute inventory property of a manufacturer,
9 distributor, or dealer of such trailers or semitrailers.

10 § 3. Paragraph (c) of subdivision 4 of section 385 of the vehicle and
11 traffic law, as amended by chapter 26 of the laws of 2002, is amended to
12 read as follows:

13 (c) Notwithstanding the provisions of paragraph (a) of this subdivi-
14 sion, an overhang of not more than three feet on the front and four feet
15 on the rear of an automobile transporter or an overhang of not more than
16 four feet on the front and six feet on the rear of a stinger-steered
17 automobile transporter or a boat transporter or stinger-steered boat
18 transporter shall be permitted.

19 § 4. Subdivision 10 of section 385 of the vehicle and traffic law, as
20 amended by chapter 1008 of the laws of 1983, is amended to read as
21 follows:

22 10. A single vehicle or a combination of vehicles having three axles
23 or more and equipped with pneumatic tires, when loaded, may have a total
24 weight on all axles not to exceed thirty-four thousand pounds, plus one
25 thousand pounds for each foot and major fraction of a foot of the
26 distance from the center of the foremost axle to the center of the rear-
27 most axle. Axles to be counted as provided in subdivision five of this
28 section. In no case, however, shall the total weight exceed eighty thou-

1 sand pounds except for a vehicle if operated by an engine fueled prima-
2 rily by natural gas which may have a maximum gross weight of eighty-two
3 thousand pounds. For any vehicle or combination of vehicles having a
4 total gross weight less than seventy-one thousand pounds, the higher of
5 the following shall apply:

6 (a) the total weight on all axles shall not exceed thirty-four thou-
7 sand pounds plus one thousand pounds for each foot and major fraction of
8 a foot of the distance from the center of the foremost axle to the
9 center of the rearmost axle, or

10 (b) the overall gross weight on a group of two or more consecutive
11 axles shall not exceed the weight produced by application of the follow-
12 ing formula:

$$13 \quad W = 500 \left(\frac{L \times N}{N-1} + (12 \times N) + 36 \right)$$

14 where W equals overall gross weight on any group of two or more consec-
15 utive axles to the nearest five hundred pounds, L equals distance in
16 feet from the center of the foremost axle to the center of the rearmost
17 axle of any group of two or more consecutive axles, and N equals number
18 of axles in group under consideration, except that two consecutive sets
19 of tandem axles may carry a gross load of thirty-four thousand pounds
20 each providing the overall distance between the first and last axles of
21 such consecutive sets of tandem axles is thirty-six feet or more.

22 For any vehicle or combination of vehicles having a total gross weight
23 of seventy-one thousand pounds or greater, paragraph (b) shall apply to
24 determine maximum gross weight which is permitted hereunder.

25 § 5. Section 385 of the vehicle and traffic law is amended by adding a
26 new subdivision 24 to read as follows:

27 24. The provisions of subdivisions six, seven, eight, nine, ten, elev-
28 en and twelve of this section shall not apply to any tow truck that is

1 transporting a disabled vehicle from the place where the vehicle became
2 disabled to the nearest appropriate repair facility and has a gross
3 vehicle weight that is equal to or exceeds the gross vehicle weight of
4 the disabled vehicle being transported.

5 § 6. Subparagraph (iii) of paragraph (b) of subdivision 2 of section
6 510 of the vehicle and traffic law, as amended by chapter 349 of the
7 laws of 1993, is amended to read as follows:

8 (iii) such registrations shall be suspended when necessary to comply
9 with subdivision nine of section one hundred forty or subdivision four
10 of section one hundred forty-five of the transportation law or when the
11 motor carrier has been issued an out of service order by the United
12 States department of transportation. The commissioner shall have the
13 authority to deny a registration or renewal application to any other
14 person for the same vehicle and may deny a registration or renewal
15 application for any other motor vehicle registered in the name of the
16 applicant where it has been determined that such registrant's intent has
17 been to evade the purposes of this subdivision and where the commission-
18 er has reasonable grounds to believe that such registration or renewal
19 will have the effect of defeating the purposes of this subdivision. Any
20 suspension issued pursuant to this subparagraph shall remain in effect
21 until such time as the commissioner is notified by the United States
22 department of transportation or the New York state department of trans-
23 portation that the out of service order resulting in the suspension is
24 no longer in effect.

25 § 7. This act shall take effect immediately.

1 Section 1. Subdivision 3 of section 165.15 of the penal law is amended
2 to read as follows:

3 3. With intent to obtain railroad, subway, bus, air, taxi or any other
4 public transportation service or to use any highway, parkway, road,
5 bridge or tunnel without payment of the lawful charge or toll therefor,
6 or to avoid payment of the lawful charge or toll for such transportation
7 service which has been rendered to him or for such use of any highway,
8 parkway, road, bridge or tunnel, he obtains or attempts to obtain such
9 service or use or avoids or attempts to avoid payment therefor by force,
10 intimidation, stealth, deception or mechanical tampering, or by unjusti-
11 fiable failure or refusal to pay; or

12 § 2. The vehicle and traffic law is amended by adding a new section
13 518 to read as follows:

14 § 518. Reciprocal agreements concerning suspension or revocation of
15 registration of a motor vehicle for violations of toll collection regu-
16 lations. a. The commissioner may execute a reciprocal compact or agree-
17 ment regarding toll collection violations with the motor vehicle admin-
18 istrator or other authorized official of another state not inconsistent
19 with the provisions of this chapter. Such compact or agreement shall
20 provide that if a registration of a motor vehicle would be suspended or
21 revoked pursuant to paragraph d of subdivision three of section five
22 hundred ten of this chapter, or pursuant to a comparable law or regu-
23 lation of another state, because an owner of a motor vehicle failed to
24 pay tolls and violation fees, or have them dismissed or transferred,
25 then the state issuing the registration shall likewise suspend or revoke
26 the registration or bar renewal of such registration, until such regis-
27 trant or applicant has paid such tolls and fees or complied with the
28 rules and regulations.

1 b. Such compact or agreement shall also provide such terms and proce-
2 dures as are necessary and proper to facilitate its administration. Any
3 such compact or agreement shall specify the violations subject to the
4 compact or agreement, and shall include a determination of comparable
5 violations in each state if any such violations are of a substantially
6 similar nature but are not denominated or described in precisely the
7 same words in each party state.

8 c. The word "state" when used in this section shall mean any state,
9 territory, a possession of the United States, the District of Columbia
10 or any province of Canada.

11 § 3. Subdivision 1 of section 402 of the vehicle and traffic law is
12 amended by adding a new paragraph (c) to read as follows:

13 (c) It shall be unlawful for any person to operate, drive or park a
14 motor vehicle on a toll highway, bridge and/or tunnel facility, under
15 the jurisdiction of the tolling authority, if such number plate is not
16 easily readable, nor shall any number plate be covered by glass or any
17 plastic material, and shall not be knowingly covered or coated with any
18 artificial or synthetic material or substance that conceals or obscures
19 such number plates or that distorts a recorded or photographic image of
20 such number plates, and the view of such number plates shall not be
21 obstructed by any part of the vehicle or by anything carried thereon,
22 except for a receiver-transmitter issued by a publicly owned tolling
23 facility in connection with electronic toll collection when such receiv-
24 er-transmitter is affixed to the exterior of a vehicle in accordance
25 with mounting instructions provided by the tolling facility. For
26 purposes of this paragraph, "tolling authority" shall mean every public
27 authority which operates a toll highway, bridge and/or tunnel facility
28 as well as the port authority of New York and New Jersey, a bi-state

1 agency created by compact set forth in chapter one hundred fifty-four of
2 the laws of nineteen hundred twenty-one, as amended.

3 § 4. Subdivision 8 of section 402 of the vehicle and traffic law, as
4 amended by chapter 61 of the laws of 1989 and renumbered by chapter 648
5 of the laws of 2006, is amended to read as follows:

6 8. The violation of this section shall be punishable by a fine of not
7 less than twenty-five nor more than two hundred dollars except for
8 violations of paragraph (c) of subdivision one of this section, which
9 shall be punishable by a fine of not less than one hundred nor more than
10 five hundred dollars.

11 § 5. This act shall take effect immediately.

12 PART F

13 Section 1. Subdivision 5 of section 227 of the vehicle and traffic
14 law, as amended by section 3 of part CC of chapter 58 of the laws of
15 2015, is amended to read as follows:

16 5. All penalties and forfeited security collected pursuant to the
17 provisions of this article shall be paid to the department of audit and
18 control to the credit of the justice court fund and shall be subject to
19 the applicable provisions of section eighteen hundred three of this
20 chapter. After such audit as shall reasonably be required by the comp-
21 troller, such penalties and forfeited security shall be paid quarterly
22 or, in the discretion of the comptroller, monthly, to the appropriate
23 jurisdiction in which the violation occurred in accordance with the
24 provisions of section ninety-nine-a of the state finance law, except
25 that the sum of four dollars for each violation occurring in such juris-
26 diction for which a complaint has been filed with the administrative

1 tribunal established pursuant to this article shall be retained by the
2 state. Notwithstanding any law to the contrary an additional annual sum
3 of three million dollars collected from fines and assessed to the city
4 of New York, shall be deposited into the general fund in accordance with
5 the provisions of section ninety-nine-a of the state finance law. The
6 amount distributed during the first three quarters to the city of
7 Rochester in any given fiscal year shall not exceed seventy percent of
8 the amount which will be otherwise payable. Provided, however, that if
9 the full costs of administering this article shall exceed the amounts
10 received and retained by the state for any period specified by the
11 commissioner, then such additional sums as shall be required to offset
12 such costs shall be retained by the state out of the penalties and
13 forfeited security collected pursuant to this article.

14 § 2. Paragraph c of subdivision 1 of section 1803 of the vehicle and
15 traffic law, as amended by chapter 385 of the laws of 1999, is amended
16 to read as follows:

17 c. for compliance with or violations of subdivision nineteen of
18 section three hundred eighty-five of this chapter, notwithstanding any
19 inconsistent provision of law, except as provided in section ninety of
20 the state finance law, the fees and fines collected by the state pursu-
21 ant to sections two hundred twenty-seven, three hundred eighty-five and
22 eighteen hundred three of this chapter and section ninety-nine-a of the
23 state finance law, shall be made available to the state comptroller for
24 deposit in the general fund except that fines collected within a city
25 not wholly included within one county shall be paid to such city in
26 accordance with the procedures set forth in subdivision four of section
27 two hundred twenty-seven of this chapter for deposit into the general
28 fund of such city, and except that an annual amount of three million

1 dollars of fines collected within the city of New York pursuant to arti-
2 cle two-A of this chapter be deposited by the comptroller to the general
3 fund.

4 § 3. Subdivision 3 of section 99-a of the state finance law, as
5 amended by section 10 of part CC of chapter 58 of the laws of 2015, is
6 amended to read as follows:

7 3. The comptroller is hereby authorized to implement alternative
8 procedures, including guidelines in conjunction therewith, relating to
9 the remittance of fines, penalties, forfeitures and other moneys by town
10 and village justice courts, and by the Nassau and Suffolk counties traf-
11 fic and parking violations agencies, and by the city of Buffalo traffic
12 violations agency, and by the city of New York pursuant to article two-A
13 of the vehicle and traffic law, to the justice court fund and for the
14 distribution of such moneys by the justice court fund. Notwithstanding
15 any law to the contrary, the alternative procedures utilized may
16 include:

17 a. electronic funds transfer;

18 b. remittance of funds by the justice court to the chief fiscal office
19 of the town or village, or, in the case of the Nassau and Suffolk coun-
20 ties traffic and parking violations agencies, to the county treasurer,
21 or, in the case of the Buffalo traffic violations agency, to the city of
22 Buffalo comptroller, for distribution in accordance with instructions by
23 the comptroller or, in the case of the city of New York, pursuant to
24 article two-A of the vehicle and traffic law to the city comptroller;
25 and/or

26 c. monthly, rather than quarterly, distribution of funds.

27 The comptroller may require such reporting and record keeping as he or
28 she deems necessary to ensure the proper distribution of moneys in

1 accordance with applicable laws. A justice court or the Nassau and
2 Suffolk counties traffic and parking violations agencies or the city of
3 Buffalo traffic violations agency or the city of New York pursuant to
4 article two-A of the vehicle and traffic law may utilize these proce-
5 dures only when permitted by the comptroller, and such permission, once
6 given, may subsequently be withdrawn by the comptroller on due notice.

7 § 4. This act shall take effect immediately.

8 PART G

9 Section 1. Legislative intent. The purpose of this act is to expand
10 access to important and enhanced transportation options for residents
11 and visitors throughout the State, while ensuring the safety, reliabil-
12 ity, and cost-effectiveness of those services within the State of New
13 York.

14 § 2. The vehicle and traffic law is amended by adding a new article
15 44-B to read as follows:

16 ARTICLE 44-B

17 TRANSPORTATION NETWORK COMPANY SERVICES

18 Section 1691. Definitions.

19 1692. General provisions.

20 1693. Financial responsibility of transportation network compa-
21 nies.

22 1694. Disclosures.

23 1695. Insurance provisions.

24 1696. Driver and vehicle requirements.

25 1697. Maintenance of records.

26 1698. Audit procedures; confidentiality of records.

1 1699. Criminal history background check of transportation
2 network company drivers.

3 1700. Controlling authority.

4 § 1691. Definitions. As used in this article: 1. "Transportation
5 network company vehicle" or "TNC vehicle" means a vehicle that is:

6 (a) used by a transportation network company driver to provide a TNC
7 prearranged trip originating in the state of New York;

8 (b) owned, leased or otherwise authorized for use by the transporta-
9 tion network company driver and shall not include:

10 (i) a taxicab, as defined in section one hundred forty-eight-a of this
11 chapter and section 19-502 of the administrative code of the city of New
12 York, or as otherwise defined in local law;

13 (ii) a livery vehicle, as defined in section one hundred twenty-one-e
14 of this chapter, or as otherwise defined in local law;

15 (iii) a black car, limousine, or luxury limousine, as defined in
16 section 19-502 of the administrative code of the city of New York, or as
17 otherwise defined in local law;

18 (iv) a for-hire vehicle, as defined in section 19-502 of the adminis-
19 trative code of the city of New York, or as otherwise defined in local
20 law;

21 (v) a bus, as defined in section one hundred four of this chapter;

22 (vi) any motor vehicle weighing more than six thousand five hundred
23 pounds unloaded;

24 (vii) any motor vehicle having a seating capacity of more than seven
25 passengers; and

26 (viii) any motor vehicle subject to section three hundred seventy of
27 this chapter.

1 2. "Digital network" means any system or service offered or utilized
2 by a transportation network company that enables TNC prearranged trips
3 with transportation network company drivers.

4 3. "Transportation network company" or "TNC" means a person, corpo-
5 ration, partnership, sole proprietorship, or other entity that is
6 licensed pursuant to this article and is operating in New York state
7 exclusively using a digital network to connect transportation network
8 company passengers to transportation network company drivers who provide
9 TNC prearranged trips.

10 4. "Transportation network company driver" or "TNC driver" means an
11 individual who:

12 (a) Receives connections to potential passengers and related services
13 from a transportation network company in exchange for payment of a fee
14 to the transportation network company; and

15 (b) Uses a TNC vehicle to offer or provide a TNC prearranged trip to
16 transportation network company passengers upon connection through a
17 digital network controlled by a transportation network company in
18 exchange for compensation or payment of a fee.

19 5. "Transportation network company passenger" or "passenger" means a
20 person or persons who use a transportation network company's digital
21 network to connect with a transportation network company driver who
22 provides TNC prearranged trips to the passenger in the TNC vehicle
23 between points chosen by the passenger.

24 6. "TNC prearranged trip" means the provision of transportation by a
25 transportation network company driver to a passenger provided through
26 the use of a TNC's digital network:

1 (a) beginning when a transportation network company driver accepts a
2 passenger's request for a trip through a digital network controlled by a
3 transportation network company;

4 (b) continuing while the transportation network company driver trans-
5 ports the requesting passenger in a TNC vehicle; and

6 (c) ending when the last requesting passenger departs from the TNC
7 vehicle.

8 (d) The term "TNC prearranged trip" does not include transportation
9 provided through any of the following:

10 (i) shared expense carpool or vanpool arrangements, including those as
11 defined in section one hundred fifty-eight-b of the vehicle and traffic
12 law;

13 (ii) use of a taxicab, livery, luxury limousine, or other for-hire
14 vehicle, as defined in the vehicle and traffic law, section 19-502 of
15 the New York city administrative code, or as otherwise defined in local
16 law; and

17 (iii) a regional transportation provider.

18 7. "Group policy" means an insurance policy issued pursuant to section
19 three thousand four hundred fifty-five of the insurance law.

20 § 1692. General provisions. 1. A TNC or a TNC driver is not a common
21 carrier, as defined in subdivision six of section two of the transporta-
22 tion law; a contract carrier of passengers by motor vehicle, as defined
23 in subdivision nine of section two of the transportation law; or a motor
24 carrier, as defined in subdivision seventeen of section two of the
25 transportation law; nor do they provide taxicab or for-hire vehicle
26 service. Moreover, a TNC driver shall not be required to register the
27 TNC vehicle such TNC driver uses for TNC prearranged trips as a commer-

1 cial or for-hire vehicle, as set forth in article fourteen of this chap-
2 ter.

3 2. A TNC may not operate in the state of New York without first having
4 obtained a license issued by the department in a form and manner and
5 with applicable fees as provided for by regulations promulgated by the
6 commissioner. As a condition of obtaining a license, a TNC shall be
7 required to submit to the department proof of a group policy issued
8 pursuant to section three thousand four hundred fifty-five of the insur-
9 ance law. Failure of a TNC to obtain a license before operation, pursu-
10 ant to this subdivision shall constitute a misdemeanor. No license
11 shall be suspended or revoked except upon notice to the TNC and after an
12 opportunity to be heard.

13 3. A TNC must maintain an agent for service of process in the state of
14 New York.

15 4. On behalf of a TNC driver, a TNC may charge a fare for the services
16 provided to passengers; provided that, if a fare is collected from a
17 passenger, the TNC shall disclose to the passengers the fare or fare
18 calculation method on its website or within the application service. The
19 TNC shall also provide the passengers with the applicable rates being
20 charged and an estimated fare before the passenger enters the TNC vehi-
21 cle.

22 5. A TNC's digital network shall display a picture of the TNC driver,
23 and the make, model, color and license plate number of the TNC vehicle
24 utilized for providing the TNC prearranged trip before the passenger
25 enters the TNC vehicle.

26 6. Within a reasonable period of time following the completion of a
27 trip, a TNC shall transmit an electronic receipt to the passenger on
28 behalf of the TNC driver that lists:

1 (a) The origin and destination of the trip;

2 (b) The total time and distance of the trip; and

3 (c) An itemization of the total fare paid, if any.

4 7. A TNC driver shall not solicit or accept street hails.

5 8. A TNC shall adopt a policy prohibiting solicitation or acceptance
6 of cash payments for the fares charged to passengers for TNC prearranged
7 trips and notify TNC drivers of such policy. TNC drivers shall not
8 solicit or accept cash payments from passengers.

9 9. Nothing in this article shall apply to cities with a population of
10 one million or more.

11 § 1693. Financial responsibility of transportation network companies.

12 1. A TNC driver, or TNC on the TNC driver's behalf through a group poli-
13 cy, shall maintain insurance that recognizes that the driver is a TNC
14 driver and provides financial responsibility coverage:

15 (a) while the TNC driver is logged onto the TNC's digital network; and

16 (b) while the TNC driver is engaged in a TNC prearranged trip.

17 2. (a) The following automobile financial responsibility insurance
18 requirements shall apply while a TNC driver is logged onto the TNC's
19 digital network and is available to receive transportation requests but
20 is not engaged in a TNC prearranged trip: insurance against loss from
21 the liability imposed by law for damages, including damages for care and
22 loss of services, because of bodily injury to or death of any person,
23 and injury to or destruction of property arising out of the ownership,
24 maintenance, use or operation of a personal vehicle or vehicles within
25 this state, exclusive of interest and costs, with respect to each such
26 occurrence, of at least fifty thousand dollars because of bodily injury
27 to or death of one person in any one accident and, subject to said limit
28 for one person, to a limit of at least one hundred thousand dollars

1 because of bodily injury to or death of two or more persons in any one
2 accident, and to a limit of at least twenty-five thousand dollars
3 because of injury to or destruction of property of others in any one
4 accident provided, however, that such policy need not be for a period
5 coterminous with the registration period of the personal vehicle
6 insured, and coverage in satisfaction of the financial responsibility
7 requirements set forth in section three thousand four hundred twenty of
8 the insurance law, article fifty-one of the insurance law, and such
9 other requirements or regulations that may apply for the purposes of
10 satisfying the financial responsibility requirements with respect to the
11 use or operation of a motor vehicle.

12 (b) The coverage requirements of paragraph (a) of this subdivision may
13 be satisfied by any of the following:

14 (i) insurance maintained by the TNC driver; or

15 (ii) insurance provided through a group policy maintained by the TNC;
16 or

17 (iii) a combination of subparagraphs (i) and (ii) of this paragraph.

18 3. (a) The following automobile financial responsibility insurance
19 requirements shall apply while a TNC driver is engaged in a TNC prear-
20 ranged trip: insurance against loss from the liability imposed by law
21 for damages, including damages for care and loss of services, because of
22 bodily injury to or death of any person, and injury to or destruction of
23 property arising out of the ownership, maintenance, use, or operation of
24 a personal vehicle or vehicles within this state, subject to a limit,
25 exclusive of interest and costs, with respect to each such occurrence,
26 of at least one million dollars because of bodily injuries, death and
27 property damage, provided, however, that such policy need not be for a
28 period coterminous with the registration period of the personal vehicle

1 insured, and coverage in satisfaction of the financial responsibility
2 requirements set forth in section three thousand four hundred twenty of
3 the insurance law, article fifty-one of the insurance law, and such
4 other requirements or regulations that may apply for the purposes of
5 satisfying the financial responsibility requirements with respect to the
6 use or operation of a motor vehicle.

7 (b) The coverage requirements of paragraph (a) of this subdivision may
8 be satisfied by any of the following:

9 (i) insurance maintained by the TNC driver; or

10 (ii) insurance provided through a group policy maintained by the TNC;
11 or

12 (iii) a combination of subparagraphs (i) and (ii) of this paragraph.

13 4. A TNC shall, upon entering into a contractual agreement with a TNC
14 driver, provide notice to the TNC driver that he or she may need addi-
15 tional insurance coverage including motor vehicle physical damage cover-
16 age as described in paragraph nineteen of subsection (a) of section one
17 thousand one hundred thirteen of the insurance law if the TNC vehicle
18 being used by the TNC driver is subject to a lease or loan. A TNC shall
19 also post this notice on its website.

20 5. If insurance maintained by a TNC driver pursuant to subdivisions
21 two and three of this section has lapsed or does not provide the
22 required coverage, then the group policy maintained by a TNC shall
23 provide the coverage required by this section beginning with the first
24 dollar of a claim and have the duty to defend such claim.

25 6. Coverage under a group policy maintained by the TNC shall not be
26 dependent on the denial of a claim by the insurer that issued the insur-
27 ance policy used to register the TNC vehicle, nor shall that insurer be
28 required to first deny a claim.

1 7. (a) Except as provided in subdivision two of this section, a group
2 policy maintained by a TNC pursuant to subparagraph (ii) of paragraph
3 (b) of subdivisions two or three of this section shall be placed with an
4 insurer authorized to write insurance in this state.

5 (b) If a TNC is unable to purchase a group policy pursuant to subpara-
6 graph (ii) of paragraph (b) of subdivisions two or three of this section
7 because such insurance is unavailable from authorized insurers the TNC
8 may acquire such group insurance with an excess line broker pursuant to
9 section two thousand one hundred eighteen of the insurance law.

10 (c) The obligation to determine whether the insurance required by this
11 section is unavailable from insurers authorized to write insurance in
12 this state shall be made prior to the initial placement and each renewal
13 of a policy.

14 8. Insurance satisfying the requirements of this section may be used,
15 when the TNC vehicle is being used or operated during the period speci-
16 fied in subdivision one of this section, to satisfy the financial
17 responsibility requirements set forth in subdivision four of section
18 three hundred eleven of this chapter, and any other requirements or
19 regulations that may apply for the purposes of satisfying the financial
20 responsibility requirements with respect to the use or operation of a
21 motor vehicle.

22 9. A TNC driver shall carry proof of coverage satisfying subdivisions
23 two and three of this section with him or her at all times during his or
24 her use or operation of a TNC vehicle in connection with a TNC's digital
25 network. Such proof of coverage shall be in such form as the commission-
26 er shall prescribe, which may be in the form of an insurance identifica-
27 tion card as defined in section three hundred eleven of this chapter.
28 Any insurance identification card issued pursuant to the provisions of

1 this article shall be in addition to the insurance identification card
2 required pursuant to article six of this chapter, and nothing contained
3 in this article shall be deemed to supersede the requirements of such
4 article six. Whenever the production of an insurance identification card
5 is required by law, a TNC driver shall (a) produce the insurance iden-
6 tification card issued pursuant to article six of this chapter and, (b)
7 if such driver either (i) was logged onto the TNC's digital network or
8 (ii) was engaged in a TNC prearranged trip and the activity under this
9 subdivision is being covered primarily by insurance purchased by a TNC
10 such driver shall also produce the insurance identification card
11 required pursuant to this article.

12 10. The superintendent of financial services is authorized to issue
13 such rules and regulations necessary to implement this section.

14 11. Nothing in this section shall impose financial responsibility
15 requirements upon any entities operating as vehicles for hire in a city
16 with a population of one million or more.

17 12. A group policy placed by an excess line broker under paragraph
18 (b) of subdivision seven of this section shall not include a mandatory
19 arbitration clause in a policy issued pursuant to this section. Nothing
20 in this section supercedes the mandatory arbitration requirements
21 contained in section five thousand one hundred five of the insurance
22 law.

23 § 1694. Disclosures. A TNC shall disclose in writing to TNC drivers
24 the following before they are allowed to accept a request for a TNC
25 prearranged trip on the TNC's digital network:

26 1. The insurance coverage, including the types of coverage and the
27 limits for each coverage, that the TNC provides while the TNC driver
28 uses a TNC vehicle in connection with a TNC's digital network;

1 2. That the TNC driver's own automobile insurance policy might not
2 provide any coverage while the TNC driver is logged on to the TNC's
3 digital network and is available to receive transportation requests or
4 is engaged in a TNC prearranged trip, depending on its terms; and

5 3. That, if a TNC vehicle has a lien against it, then the continued
6 use of such TNC vehicle by its TNC driver without physical damage cover-
7 age may violate the terms of the contract with the lienholder.

8 § 1695. Insurance provisions. 1. Insurers that write motor vehicle
9 insurance in this state may, in the insurance policy, exclude any and
10 all coverage afforded under the policy issued to an owner or operator of
11 a TNC vehicle for any loss or injury that occurs while a TNC driver is
12 logged on to a TNC's digital network or while a driver provides a prear-
13 ranged trip, including:

14 (a) liability coverage for bodily injury and property damage;

15 (b) coverage provided pursuant to article fifty-one of the insurance
16 law;

17 (c) uninsured and underinsured motorist coverage; and

18 (d) motor vehicle physical damage coverage as described in paragraph
19 nineteen of subsection (a) of section one thousand one hundred thirteen
20 of the insurance law.

21 2. Such exclusions shall apply notwithstanding any requirement under
22 the law to the contrary. Nothing in this section implies or requires
23 that an owner's policy of liability insurance or other motor vehicle
24 insurance policy provide coverage while the TNC driver is logged on to
25 the TNC's digital network, while the TNC driver is engaged in a TNC
26 prearranged trip or while the TNC driver otherwise uses or operates a
27 TNC vehicle to transport passengers for compensation.

1 3. Nothing shall be deemed to preclude an insurer from providing
2 primary, excess, or umbrella coverage for the TNC driver's TNC vehicle,
3 if it chose to do so by contract or endorsement.

4 4. Motor vehicle insurers that exclude the coverage described in this
5 article shall have no duty to defend or indemnify any claim expressly
6 excluded thereunder. Nothing in this article shall be deemed to invali-
7 date or limit an exclusion contained in a policy including any policy in
8 use or approved for use in this state prior to the effective date of
9 this section.

10 5. A motor vehicle insurer that defends or indemnifies a claim against
11 a TNC driver that is excluded under the terms of its policy shall have a
12 right of contribution against other insurers that provide motor vehicle
13 insurance to the same driver in satisfaction of the coverage require-
14 ments of the provisions of the chapter of the laws of two thousand
15 seventeen which added this article at the time of loss.

16 6. In a claims coverage investigation, a TNC and any insurer poten-
17 tially providing coverage under this article shall, within fifteen days
18 after a claim has been filed, facilitate the exchange of relevant infor-
19 mation with directly involved parties and any insurer of the TNC driver
20 if applicable, including the precise times that a TNC driver logged on
21 and off of the TNC's digital network in the twelve hour period imme-
22 diately preceding and in the twelve hour period immediately following
23 the accident and disclose to one another a clear description of the
24 coverage, exclusions and limits provided under any motor vehicle insur-
25 ance maintained under this article.

26 7. (a) The commissioner shall promulgate regulations for the provision
27 of relevant insurance coverage information required by this article to
28 the following persons upon request:

1 (i) a person to whom an accident report pertains or who is named in
2 such report, or his or her authorized representative; and

3 (ii) any other person or his or her authorized representative who has
4 demonstrated to the satisfaction of the commissioner that such person is
5 or may be a party to a civil action arising out of the conduct described
6 in such accident report.

7 (b) Except as provided under paragraph (a) of this subdivision, the
8 name of a TNC driver associated with such insurance information is
9 designated confidential whether or not so marked, is not subject to
10 disclosure by a third party by the department of motor vehicles without
11 prior consent of the TNC, and is exempt from disclosure pursuant to
12 article six of the public officers law. Nothing in this section shall be
13 considered as limiting the applicability of any other exemptions under
14 article six of the public officers law.

15 § 1696. Driver and vehicle requirements. 1. (a) At all times, an indi-
16 vidual acting as a TNC driver shall be permitted by the TNC as follows:

17 (i) The individual shall submit an application to the TNC, which shall
18 include information regarding his or her address, age, driver's license,
19 motor vehicle registration, automobile liability insurance, and other
20 information required by the TNC;

21 (ii) The TNC shall conduct or have a third party conduct, a local and
22 national, criminal background check for each applicant in accordance
23 with section sixteen hundred ninety-nine of this article and that shall
24 review:

25 (A) Whether the applicant is listed on the publicly available New York
26 state sex offender registry pursuant to section one hundred
27 sixty-eight-q of the correction law; and

1 (B) The United States Department of Justice National Sex Offender
2 public website;

3 (iii) The TNC shall obtain and review, or have a third party obtain
4 and review, a driving history research report for such individual.

5 (b) The TNC shall not permit an applicant where such applicant:

6 (i) fails to meet all qualifications pursuant to section sixteen
7 hundred ninety-nine of this article;

8 (ii) is a match in the United States Department of Justice National
9 Sex Offender Public Website;

10 (iii) does not possess a valid New York driver's license, unless such
11 applicant does possess a valid out of state driver's license and proof
12 that such applicant is an active duty member of the armed services of
13 the United States stationed in this state or is a family or household
14 member of such an active duty member;

15 (iv) does not possess proof of registration for the motor vehicle(s)
16 used to provide TNC prearranged trips;

17 (v) does not possess proof of automobile liability insurance for the
18 motor vehicle(s) used to provide TNC prearranged trips as a TNC vehicle;
19 or

20 (vi) is not at least nineteen years of age.

21 (c) Upon review of all information received and retained by the TNC
22 and upon verifying that the individual is not disqualified pursuant to
23 this section from receiving a TNC driver permit, a TNC may issue a TNC
24 driver permit to the applicant. The TNC shall review all information
25 received relating to such applicant and hold such information for six
26 years along with a certification that such applicant qualifies to
27 receive a TNC driver permit.

1 (d) A TNC that issues a TNC driver's permit pursuant to this section
2 shall participate in the New York License Event Notification Service
3 (LENS) established by the department to obtain timely notice when any of
4 the following violations are added to a TNC driver's driving record:

5 (i) unlawfully fleeing a police officer in a motor vehicle in
6 violation of sections 270.25, 270.30 or 270.35 of the penal law;

7 (ii) reckless driving in violation of section one thousand two hundred
8 twelve of this chapter;

9 (iii) operating while license or privilege is suspended or revoked in
10 violation of section five hundred eleven of this chapter, excluding
11 subdivision seven of such section;

12 (iv) operating a motor vehicle under the influence of alcohol or drugs
13 in violation of section one thousand one hundred ninety-two of this
14 chapter; and

15 (v) leaving the scene of an incident without reporting in violation of
16 subdivision two of section six hundred of this chapter.

17 (e) The name of a TNC driver associated with enrollment in the depart-
18 ment's LENS reporting system is designated confidential whether or not
19 so marked, is not subject to disclosure to a third party by the depart-
20 ment without prior consent of the TNC, and is exempt from disclosure
21 pursuant to article six of the public officers law. Nothing in this
22 section shall be construed as limiting the applicability of any other
23 exemptions under article six of the public officers law.

24 (f) No person shall operate a TNC vehicle or operate as a TNC driver
25 unless such person holds a valid TNC driver permit issued pursuant to
26 this section. A violation of this paragraph shall be a traffic infrac-
27 tion punishable by a fine of not less than seventy-five nor more than

1 three hundred dollars, or by imprisonment for not more than fifteen
2 days, or by both such fine and imprisonment.

3 2. A TNC shall implement a zero-tolerance policy regarding a TNC driv-
4 er's activities while accessing the TNC's digital network. Such policy
5 shall address the issue of operating a vehicle under the influence of
6 alcohol or drugs while a TNC driver is providing TNC prearranged trips
7 or is logged onto the TNC's digital network but is not providing TNC
8 prearranged trips, and the TNC shall provide notice of this policy on
9 its digital network, as well as procedures to report a complaint about a
10 TNC driver with whom a TNC prearranged trip was commenced and whom the
11 passenger reasonably suspects was operating a vehicle under the influ-
12 ence of alcohol or drugs during the course of the TNC prearranged trip.

13 3. (a) A TNC shall adopt a policy of non-discrimination on the basis
14 of destination, race, color, national origin, religious belief, practice
15 or affiliation, sex, disability, age, sexual orientation, gender identi-
16 ty, or genetic predisposition with respect to passengers and potential
17 passengers and notify TNC drivers of such policy.

18 (b) TNC drivers shall comply with all applicable laws regarding non-
19 discrimination against passengers or potential passengers on the basis
20 of destination, race, color, national origin, religious belief, practice
21 or affiliation, sex, disability, age, sexual orientation, gender identi-
22 ty, or genetic predisposition.

23 (c) TNC drivers shall comply with all applicable laws relating to
24 accommodation of service animals.

25 (d) A TNC shall implement and maintain a policy of providing accessi-
26 bility to passengers or potential passengers with a disability and
27 accommodation of service animals as such term is defined in section one
28 hundred twenty-three-b of the agriculture and markets law and shall to

1 the extent practicable adopt findings established by the New York state
2 TNC accessibility task force adopted pursuant to section eighteen of the
3 chapter of the laws of two thousand seventeen that added this section.
4 A TNC shall not impose additional charges for providing services to
5 persons with physical disabilities because of those disabilities.

6 4. A TNC shall require that any motor vehicle(s) that a TNC driver
7 will use as a TNC vehicle to provide TNC prearranged trips meets appli-
8 cable New York state vehicle safety and emissions requirements, as set
9 forth in section three hundred one of this chapter, or the vehicle safe-
10 ty and emissions requirements of the state in which the vehicle is
11 registered.

12 5. A TNC driver shall display a consistent and distinctive trade dress
13 consisting of a removable logo, insignia, or emblem at all times the
14 driver is providing TNC services. The trade dress shall be:

15 (a) Sufficiently large and color contrasted so as to be readable
16 during daylight hours at a distance of fifty feet; and

17 (b) Reflective, illuminated, or otherwise patently visible in the
18 darkness.

19 § 1697. Maintenance of records. A TNC shall maintain the following
20 records:

21 1. individual trip records for at least six years from the date each
22 trip was provided; and

23 2. individual records of TNC drivers at least until the six year anni-
24 versary of the date on which a TNC driver's relationship with the TNC
25 has ended.

26 § 1698. Audit procedures; confidentiality of records. 1. For the sole
27 purpose of verifying that a TNC is in compliance with the requirements
28 of this article and no more than biannually, the department shall

1 reserve the right to visually inspect a sample of records that the TNC
2 is required to maintain, upon request by the department that shall be
3 fulfilled in no less than thirty business days by the TNC. The sample
4 shall be chosen randomly by the department in a manner agreeable to both
5 parties. The audit shall take place at a mutually agreed location in New
6 York. Any record furnished to the department may exclude information
7 that would tend to identify specific drivers or passengers.

8 2. (a) The TNC shall establish a complaint procedure that allows
9 passengers to file complaints with the TNC through the TNC's website,
10 mobile application, email address, or phone number.

11 (b) The TNC's website shall also provide a passenger complaint tele-
12 phone number and/or website address for the department, if applicable.

13 (c) In response to a specific complaint against any TNC driver or TNC,
14 the department is authorized to inspect records held by the TNC that are
15 necessary to investigate and resolve the complaint. The TNC and the
16 department shall endeavor to have the inspection take place at a mutual-
17 ly agreed location in New York. Any record furnished to the department
18 may exclude information that would tend to identify specific drivers or
19 passengers, unless the identity of a driver or passenger is relevant to
20 the complaint.

21 (d) Any records inspected by the department under this section are
22 designated confidential, are not subject to disclosure to a third party
23 by the department without prior consent of the TNC, and are exempt from
24 disclosure under article six of the public officers law. Nothing in this
25 section shall be construed as limiting the applicability of any other
26 exemption under article six of the public officers law.

27 3. The department shall promulgate regulations for the filing of
28 complaints pursuant to this section.

1 § 1699. Criminal history background check of transportation network
2 company drivers. 1. A TNC shall conduct a criminal history background
3 check using a lawful method approved by the department pursuant to para-
4 graph (a) of subdivision two of this section for persons applying to
5 drive for such company.

6 2. (a) The method used to conduct a criminal history background check
7 pursuant to subdivision one of this section shall be established in
8 regulations adopted by the department within thirty days of the effec-
9 tive date of this subdivision. Such regulations shall establish the
10 method used to conduct such background checks and any processes and
11 operations necessary to complete such checks. The review of criminal
12 history information and determinations about whether or not an applicant
13 is issued a TNC driver permit shall be controlled by paragraphs (b), (c)
14 and (d) of this subdivision.

15 (b) An applicant shall be disqualified to receive a TNC driver permit
16 where he or she:

17 (i) stands convicted in the last three years of: unlawful fleeing a
18 police officer in a motor vehicle in violation of sections 270.35,
19 270.30 or 270.25 of the penal law, reckless driving in violation of
20 section twelve hundred twelve of this chapter, operating while license
21 or privilege is suspended or revoked in violation of section five
22 hundred eleven of this chapter, excluding subdivision seven of such
23 section, a misdemeanor offense of operating a motor vehicle while under
24 the influence of alcohol or drugs in violation of section one thousand
25 one hundred ninety-two of this chapter, or leaving the scene of an acci-
26 dent in violation of subdivision two of section six hundred of this
27 chapter. In calculating the three year period under this subparagraph,
28 any period of time during which the person was incarcerated after the

1 commission of such offense shall be excluded and such three year period
2 shall be extended by a period or periods equal to the time spent incar-
3 cerated and shall be determined in a manner consistent with regulations
4 established by the department; or

5 (ii) stands convicted in the last seven years of: a sex offense
6 defined in subdivision two of section one hundred sixty-eight-a of the
7 correction law, a felony offense defined in article one hundred twenty-
8 five of the penal law, a violent felony offense defined in section 70.02
9 of the penal law, a class A felony offense defined in the penal law,
10 vehicular assault as defined in section 120.03, 120.04 or 120.04-a of
11 the penal law, a felony offense defined in section eleven hundred nine-
12 ty-two of this chapter, an offense for which registration as a sex
13 offender is required pursuant to article six-C of the correction law, or
14 any conviction of an offense in any other jurisdiction that has all the
15 essential elements of an offense listed in this subparagraph. In calcu-
16 lating the seven year period under this subparagraph, any period of time
17 during which the person was incarcerated after the commission of such
18 offense shall be excluded and such seven year period shall be extended
19 by a period or periods equal to the time spent incarcerated and shall be
20 determined in a manner consistent with regulations established by the
21 department.

22 (c) A criminal history record that contains criminal conviction infor-
23 mation that does not disqualify an applicant pursuant to subparagraphs
24 (i) or (ii) of paragraph (b) of this subdivision, shall be reviewed and
25 considered according to the provisions of article twenty-three-A of the
26 correction law and subdivisions fifteen and sixteen of section two
27 hundred ninety-six of the executive law in determining whether or not
28 the applicant should be issued a TNC driver's permit.

1 (d) Upon receipt of criminal conviction information pursuant to this
2 section for any applicant, such applicant shall promptly be provided
3 with a copy of such information as well as a copy of article twenty-
4 three-A of the correction law. Such applicant shall also be informed of
5 his or her right to seek correction of any incorrect information
6 contained in such criminal history information pursuant to the regu-
7 lations and procedures established by the division of criminal justice
8 services.

9 (e) The department shall promulgate regulations consistent with the
10 provisions of this subdivision.

11 3. A TNC shall update the criminal history background check yearly
12 during the period in which the person is authorized to drive for the
13 company, however, the commissioner may require, pursuant to regulation,
14 more frequent criminal history background checks.

15 4. A TNC shall be responsible for all fees associated with the crimi-
16 nal history check pursuant to subdivision one of this section.

17 5. Any TNC found to have negligently, recklessly, or intentionally
18 violated any requirements established pursuant to this section, shall on
19 the first instance, be subject to a civil penalty of not more than ten
20 thousand dollars. For any subsequent instance within the period of two
21 years from any initial violation, such TNC shall be subject to a civil
22 penalty of not more than fifty thousand dollars, or the suspension or
23 revocation of its TNC license or both.

24 § 1700. Controlling authority. 1. Notwithstanding any other provision
25 of law, the regulation of TNCs and TNC drivers is governed exclusively
26 by the provisions of the chapter of the laws of two thousand seventeen
27 which added this section and any rules promulgated by the state through
28 its agencies consistent with such chapter. No county, town, city or

1 village may enact a tax or any fee or other surcharge on a TNC, a TNC
2 driver, or a TNC vehicle used by a TNC driver or require a license,
3 permit, or additional insurance coverage or any other limitations or
4 restrictions, where such fee, surcharge, unauthorized tax, license,
5 permit, insurance coverage, limitation or restriction, relates to facil-
6 itating or providing TNC prearranged trips, or subjects a TNC, a TNC
7 driver, or a TNC vehicle used by a TNC driver to operational, or other
8 requirements.

9 2. Nothing in this article shall authorize any TNC driver to pick-up a
10 passenger for purposes of a TNC prearranged trip in a city with a popu-
11 lation of one million or more.

12 3. Nothing in this article shall: (a) limit the ability of a county,
13 town, city or village to adopt or amend generally applicable limitations
14 or restrictions relating to local traffic or parking control as author-
15 ized by state law; or (b) to preempt any reciprocity agreements, includ-
16 ing agreements entered into pursuant to section four hundred ninety-
17 eight of this chapter, between a county, town, city or village that
18 relates to services regulated by section one hundred eighty-one of the
19 general municipal law.

20 § 3. Section 370 of the vehicle and traffic law is amended by adding a
21 new subdivision 8 to read as follows:

22 8. Notwithstanding any other provision of this article, an individual
23 shall not be deemed to be engaged in the business of carrying or trans-
24 porting passengers for hire if the individual does so solely as a trans-
25 portation network company driver in accordance with article forty-four-B
26 of this chapter.

1 § 4. Subdivision 1 of section 312-a of the vehicle and traffic law, as
2 amended by chapter 781 of the laws of 1983, is amended to read as
3 follows:

4 1. Upon issuance of an owner's policy of liability insurance or other
5 financial security required by this chapter or the article forty-four-B
6 of this chapter, an insurer shall issue proof of insurance in accordance
7 with the regulations promulgated by the commissioner pursuant to para-
8 graph (b) of subdivision two of section three hundred thirteen of this
9 article.

10 § 5. Section 600 of the vehicle and traffic law, as amended by chapter
11 49 of the laws of 2005, is amended to read as follows:

12 § 600. Leaving scene of an incident without reporting. 1. Property
13 damage. a. Any person operating a motor vehicle who, knowing or having
14 cause to know that damage has been caused to the real property or to the
15 personal property, not including animals, of another, due to an incident
16 involving the motor vehicle operated by such person shall, before leav-
17 ing the place where the damage occurred, stop, exhibit his or her
18 license and insurance identification card for such vehicle, when such
19 card is required pursuant to articles six and eight of this chapter, and
20 give his or her name, residence, including street and number, insurance
21 carrier and insurance identification information including but not
22 limited to the number and effective dates of said individual's insurance
23 policy, and license number to the party sustaining the damage, or in
24 case the person sustaining the damage is not present at the place where
25 the damage occurred then he or she shall report the same as soon as
26 physically able to the nearest police station, or judicial officer. In
27 addition to the foregoing, any such person shall also: (i) produce the
28 proof of insurance coverage required pursuant to article forty-four-B of

1 this chapter if such person is a TNC driver operating a TNC vehicle
2 while the incident occurred who was either (A) logged on to the TNC's
3 digital network and available to receive transportation requests but not
4 engaged in a TNC prearranged trip or (B) was logged on to the TNC's
5 digital network and was engaged in a TNC prearranged trip; and (ii)
6 disclose whether he or she, at the time such incident occurred, was
7 either (A) logged on to the TNC's digital network and available to
8 receive transportation requests but not engaged in a TNC prearranged
9 trip or (B) was logged on to the TNC's digital network and was engaged
10 in a TNC prearranged trip.

11 b. It shall be the duty of any member of a law enforcement agency who
12 is at the scene of the accident to request the said operator or opera-
13 tors of the motor vehicles, when physically capable of doing so, to
14 exchange the information required hereinabove and such member of a law
15 enforcement agency shall assist such operator or operators in making
16 such exchange of information in a reasonable and harmonious manner.

17 A violation of the provisions of paragraph a of this subdivision shall
18 constitute a traffic infraction punishable by a fine of up to two
19 hundred fifty dollars or a sentence of imprisonment for up to fifteen
20 days or both such fine and imprisonment.

21 2. Personal injury. a. Any person operating a motor vehicle who,
22 knowing or having cause to know that personal injury has been caused to
23 another person, due to an incident involving the motor vehicle operated
24 by such person shall, before leaving the place where the said personal
25 injury occurred, stop, exhibit his or her license and insurance iden-
26 tification card for such vehicle, when such card is required pursuant to
27 articles six and eight of this chapter, and give his or her name, resi-
28 dence, including street and street number, insurance carrier and insur-

1 ance identification information including but not limited to the number
2 and effective dates of said individual's insurance policy and license
3 number, to the injured party, if practical, and also to a police offi-
4 cer, or in the event that no police officer is in the vicinity of the
5 place of said injury, then, he or she shall report said incident as soon
6 as physically able to the nearest police station or judicial officer.
7 In addition to the foregoing, any such person shall also: (i) produce
8 the proof of insurance coverage required pursuant to article
9 forty-four-B of this chapter if such person is a TNC driver operating a
10 TNC vehicle at the time of the incident who was either (A) logged on to
11 the TNC's digital network and available to receive transportation
12 requests but not engaged in a TNC prearranged trip or (B) was logged on
13 to the TNC's digital network and was engaged in a TNC prearranged trip;
14 and (ii) disclose whether he or she, at the time such incident occurred,
15 was either (A) logged on to the TNC's digital network and available to
16 receive transportation requests but not engaged in a TNC prearranged
17 trip or (B) was logged on to the TNC's digital network and was engaged
18 in a TNC prearranged trip.

19 b. It shall be the duty of any member of a law enforcement agency who
20 is at the scene of the accident to request the said operator or opera-
21 tors of the motor vehicles, when physically capable of doing so, to
22 exchange the information required hereinabove and such member of a law
23 enforcement agency shall assist such operator or operators in making
24 such exchange of information in a reasonable and harmonious manner.

25 c. A violation of the provisions of paragraph a of this subdivision
26 resulting solely from the failure of an operator to exhibit his or her
27 license and insurance identification card for the vehicle or exchange
28 the information required in such paragraph shall constitute a class B

1 misdemeanor punishable by a fine of not less than two hundred fifty nor
2 more than five hundred dollars in addition to any other penalties
3 provided by law. Any subsequent such violation shall constitute a class
4 A misdemeanor punishable by a fine of not less than five hundred nor
5 more than one thousand dollars in addition to any other penalties
6 provided by law. Any violation of the provisions of paragraph a of this
7 subdivision, other than for the mere failure of an operator to exhibit
8 his or her license and insurance identification card for such vehicle or
9 exchange the information required in such paragraph, shall constitute a
10 class A misdemeanor, punishable by a fine of not less than five hundred
11 dollars nor more than one thousand dollars in addition to any other
12 penalties provided by law. Any such violation committed by a person
13 after such person has previously been convicted of such a violation
14 shall constitute a class E felony, punishable by a fine of not less than
15 one thousand nor more than two thousand five hundred dollars in addition
16 to any other penalties provided by law. Any violation of the provisions
17 of paragraph a of this subdivision, other than for the mere failure of
18 an operator to exhibit his or her license and insurance identification
19 card for such vehicle or exchange the information required in such para-
20 graph, where the personal injury involved (i) results in serious phys-
21 ical injury, as defined in section 10.00 of the penal law, shall consti-
22 tute a class E felony, punishable by a fine of not less than one
23 thousand nor more than five thousand dollars in addition to any other
24 penalties provided by law, or (ii) results in death shall constitute a
25 class D felony punishable by a fine of not less than two thousand nor
26 more than five thousand dollars in addition to any other penalties
27 provided by law.

1 3. For the purposes of this article, the terms "TNC", "TNC driver",
2 "TNC vehicle", "TNC prearranged trip" and "digital network" shall have
3 the same meanings as such terms are defined in article forty-four-B of
4 this chapter.

5 § 5-a. Section 601 of the vehicle and traffic law, as amended by chap-
6 ter 672 of the laws of 2004, is amended to read as follows:

7 § 601. Leaving scene of injury to certain animals without reporting.
8 Any person operating a motor vehicle which shall strike and injure any
9 horse, dog, cat or animal classified as cattle shall stop and endeavor
10 to locate the owner or custodian of such animal or a police, peace or
11 judicial officer of the vicinity, and take any other reasonable and
12 appropriate action so that the animal may have necessary attention, and
13 shall also promptly report the matter to such owner, custodian or offi-
14 cer (or if no one of such has been located, then to a police officer of
15 some other nearby community), exhibiting his or her license and insur-
16 ance identification card for such vehicle, when such card is required
17 pursuant to articles six and eight of this chapter, giving his or her
18 name and residence, including street and street number, insurance carri-
19 er and insurance identification information and license number. In addi-
20 tion to the foregoing, any such person shall also: (i) produce the proof
21 of insurance coverage required pursuant to article forty-four-B of this
22 chapter is such person is a TNC driver operating a TNC vehicle at the
23 time of the incident who was either (A) logged on to the TNC's digital
24 network and available to receive transportation requests but not engaged
25 in a TNC prearranged trip or (B) was logged on to the TNC's digital
26 network and was engaged in a TNC prearranged trip and (ii) disclose
27 whether he or she, at the time such incident occurred, was either (A)
28 logged on to the TNC's digital network and available to receive trans-

1 portation requests but not engaged in a TNC prearranged trip or (B) was
2 logged on to the TNC's digital network and was engaged in a TNC prear-
3 ranged trip. Violation of this section shall be punishable by a fine of
4 not more than one hundred dollars for a first offense and by a fine of
5 not less than fifty nor more than one hundred fifty dollars for a second
6 offense and each subsequent offense; provided, however where the animal
7 that has been struck and injured is a guide dog, hearing dog or service
8 dog, as such terms are defined in section forty-seven-b of the civil
9 rights law which is actually engaged in aiding or guiding a person with
10 a disability, a violation of this section shall be [publishable] punish-
11 able by a fine of not less than fifty nor more than one hundred fifty
12 dollars for a first offense and by a fine of not less than one hundred
13 fifty dollars nor more than three hundred dollars for a second offense
14 and each subsequent offense.

15 § 6. The insurance law is amended by adding a new section 3455 to read
16 as follows:

17 § 3455. Transportation network company group insurance policies. (a)
18 For purposes of this section, the following definitions shall apply:

19 (1) "Transportation network company" shall have the same meaning as
20 set forth in article forty-four-B of the vehicle and traffic law.

21 (2) "Certificate" or "certificate of insurance" means any policy,
22 contract or other evidence of insurance, or endorsement thereto, issued
23 to a group member under a transportation network company group policy.

24 (3) "Transportation network company group policy" or "group policy"
25 means a group policy, including certificates issued to the group
26 members, where the group policyholder is a transportation network compa-
27 ny and the policy provides insurance to the transportation network
28 company and to group members:

1 (A) in accordance with the requirements of article forty-four-B of the
2 vehicle and traffic law;

3 (B) of the type described in paragraph thirteen, fourteen, or nineteen
4 of subsection (a) of section one thousand one hundred thirteen of this
5 chapter; and

6 (C) in satisfaction of the financial responsibility requirements set
7 forth in section three thousand four hundred twenty of this article,
8 subdivision four of section three hundred eleven of the vehicle and
9 traffic law, article fifty-one of this chapter, and such other require-
10 ments or regulations that may apply for the purposes of satisfying the
11 financial responsibility requirements with respect to the use or opera-
12 tion of a motor vehicle.

13 (4) "Group member" means a transportation network company driver as
14 defined in article forty-four-B of the vehicle and traffic law.

15 (5) "Group policyholder" means a transportation network company.

16 (6) "TNC vehicle" shall have the meaning set forth in article forty-
17 four-B of the vehicle and traffic law.

18 (b) An insurer may issue or issue for delivery in this state a trans-
19 portation network company group policy to a transportation network
20 company as a group policyholder only in accordance with the provisions
21 of this section.

22 (c) (1) A transportation network company group policy shall provide
23 coverage for a TNC vehicle in accordance with the requirements of arti-
24 cle forty-four-B of the vehicle and traffic law.

25 (2) A transportation network company group policy may provide:

26 (A) coverage for limits higher than the minimum limits required pursu-
27 ant to article forty-four-B of the vehicle and traffic law.

1 (B) supplementary uninsured/underinsured motorists insurance for bodi-
2 ly injury pursuant to paragraph two of subsection (f) of section three
3 thousand four hundred twenty of this article;

4 (C) supplemental spousal liability insurance pursuant to subsection
5 (g) of section three thousand four hundred twenty of this chapter; and

6 (D) motor vehicle physical damage coverage as described in paragraph
7 nineteen of subsection (a) of section one thousand one hundred thirteen
8 of this chapter.

9 (3) The coverage described in paragraphs one and two of this
10 subsection may be provided in one group policy or in separate group
11 policies.

12 (4) A transportation network company group policy, including certif-
13 icates, shall be issued by authorized insurers or from excess line
14 brokers pursuant to section sixteen hundred ninety-three of the vehicle
15 and traffic law.

16 (5) A policyholder also may be an insured under a group policy.

17 (d) The premium for the transportation network company group policy,
18 including certificates may be paid by the group policyholder from the
19 funds contributed:

20 (1) wholly by the group policyholder;

21 (2) wholly by the group members; or

22 (3) jointly by the group policyholder and the group members.

23 (e) (1) Any policy dividend, retrospective premium credit, or retro-
24 spective premium refund in respect of premiums paid by the group policy-
25 holder may:

26 (A) be applied to reduce the premium contribution of the group policy-
27 holder, but not in excess of the proportion to its contribution; or

28 (B) be retained by the group policyholder.

1 (2) Any policy dividend, retrospective premium credit, or retrospec-
2 tive premium refund not distributed under paragraph one of this
3 subsection shall be:

4 (A) applied to reduce future premiums and, accordingly, future
5 contributions, of existing or future group members, or both; or

6 (B) paid or refunded to those group members insured on the date the
7 payment or refund is made to the group policyholder, if distributed by
8 the group policyholder, or on the date of mailing, if distributed
9 directly by the insurer, subject to the following requirements:

10 (i) The insurer shall be responsible for determining the allocation of
11 the payment of refund to the group members;

12 (ii) If the group policyholder distributes the payment or refund, the
13 insurer shall be responsible for audit to ascertain that the payment or
14 refund is actually made in accordance with the allocation procedure; and

15 (iii) If the group policyholder fails to make the payment or refund,
16 the insurer shall make the payment or refund directly or use the method
17 provided in subparagraph (A) of this paragraph.

18 (3) Notwithstanding paragraphs one and two of this subsection, if a
19 dividend accrues upon termination of coverage under a transportation
20 network company group policy, the premium for which was paid out of
21 funds contributed by group members specifically for the coverage, the
22 dividend shall be paid or refunded by the group policyholder to the
23 group members insured on the date the payment or refund is made to the
24 group policyholder, net of reasonable expenses incurred by the group
25 policyholder in paying or refunding the dividend to such group members.

26 (4) For the purposes of this subsection, "dividend" means a return by
27 the insurer of a transportation network company group policy of excess
28 premiums to the group policyholder in light of favorable loss experi-

1 ence, including retrospective premium credits or retrospective premium
2 refunds. The term "dividend" does not include reimbursements or fees
3 received by a group policyholder in connection with the operation or
4 administration of a transportation network company group policy, includ-
5 ing administrative reimbursements, fees for services provided by the
6 group policyholder, or transactional service fees.

7 (f) The insurer shall treat in like manner all eligible group members
8 of the same class and status.

9 (g) Each policy written pursuant to this section shall provide per
10 occurrence limits of coverage for each group member in an amount not
11 less than that required by this article, and may provide coverage for
12 limits higher than the minimum limits required under the law.

13 (h) (1) The insurer shall be responsible for mailing or delivery of a
14 certificate of insurance to each group member insured under the trans-
15 portation network company group policy, provided, however, that the
16 insurer may delegate the mailing or delivery to the transportation
17 network company. The insurer shall also be responsible for the mailing
18 or delivery to each group member of an amended certificate of insurance
19 or endorsement to the certificate, whenever there is a change in limits;
20 change in type of coverage; addition, reduction, or elimination of
21 coverage; or addition of exclusion, under the transportation network
22 company group policy or certificate if such change materially affects
23 the coverage available to such group member.

24 (2) The certificate shall contain in substance all material terms and
25 conditions of coverage afforded to group members, unless the transporta-
26 tion network company group policy is incorporated by reference and a
27 copy of the group policy accompanies the certificate.

1 (3) If any coverage afforded to the group member is excess of applica-
2 ble insurance coverage, the certificate shall contain a notice advising
3 the group members that, if the member has other insurance coverage,
4 specified coverages under the transportation network company group poli-
5 cy will be excess over the other insurance.

6 (i) A group policyholder shall comply with the provisions of section
7 two thousand one hundred twenty-two of this chapter, in the same manner
8 as an agent or broker, in any advertisement, sign, pamphlet, circular,
9 card, or other public announcement referring to coverage under a trans-
10 portation network company group policy or certificate.

11 (j) A transportation network company group policy shall not be subject
12 to section three thousand four hundred twenty-five or section three
13 thousand four hundred twenty-six of this article; provided that the
14 following requirements shall apply with regard to termination of cover-
15 age:

16 (1)(A) An insurer may terminate a group policy or certificate only if
17 cancellation is based on one or more of the reasons set forth in subpar-
18 agraph (A) through (D) or (F) through (H) of paragraph one of subsection
19 (c) of section three thousand four hundred twenty-six of this article;
20 provided, however, that an act or omission by a group member that would
21 constitute the basis for cancellation of an individual certificate shall
22 not constitute the basis for cancellation of the group policy.

23 (B) Where the premium is derived wholly from funds contributed by the
24 group policyholder, an insurer may cancel an individual certificate only
25 if cancellation is based on one or more of the reasons set forth in
26 subparagraph (B), (C) or (H) of paragraph one of subsection (c) of
27 section three thousand four hundred twenty-six of this article.

1 (2) (A) An insurer's cancellation of a group policy, including all
2 certificates, shall not become effective until thirty days after the
3 insurer mails or delivers written notice of cancellation to the group
4 policyholder at the mailing address shown in the policy.

5 (i) Where all or part of the premium is derived from funds contributed
6 by the group member specifically for the coverage, the insurer shall
7 also mail or deliver written notice of cancellation of the group policy
8 to the group member at the group member's mailing address. Such cancel-
9 lation shall not become effective until thirty days after the insurer
10 mails or delivers the written notice to the group member.

11 (ii) Where none of the premium is derived from funds contributed by a
12 group member specifically for the coverage, the group policy holder
13 shall mail or deliver written notice to the group member advising the
14 group member of the cancellation of the group policy and the effective
15 date of cancellation. The group policy holder shall mail or deliver the
16 written notice within ninety days after receiving notice of cancellation
17 from the insurer.

18 (B) An insurer's cancellation of an individual certificate shall not
19 become effective until thirty days after the insurer mails or delivers
20 written notice of cancellation to the group member at the group member's
21 mailing address and to the group policyholder at the mailing address
22 shown in the group policy.

23 (3) (A) A group policyholder may cancel a group policy, including all
24 certificates, or any individual certificate, for any reason upon thirty
25 days written notice to the insurer and each group member; and

26 (B) The group policyholder shall mail or deliver written notice to
27 each affected group member of the group policyholder's cancellation of
28 the group policy or certificate and the effective date of cancellation.

1 The group policyholder shall mail or deliver the written notice to the
2 group member's mailing address at least thirty days prior to the effec-
3 tive date of cancellation.

4 (4) (A) Unless a group policy provides for a longer policy period, the
5 policy and all certificates shall be issued or renewed for a one-year
6 policy period.

7 (B) The group policyholder shall be entitled to renew the group policy
8 and all certificates upon timely payment of the premium billed to the
9 group policyholder for the renewal, unless:

10 (i) the insurer mails or delivers to the group policyholder and all
11 group members written notice of nonrenewal, or conditional renewal; and

12 (ii) the insurer mails or delivers the written notice at least thirty,
13 but not more than one hundred twenty days prior to the expiration date
14 specified in the policy or, if no date is specified, the next anniver-
15 sary date of the policy.

16 (5) Where the group policyholder nonrenews the group policy, the group
17 policyholder shall mail or deliver written notice to each group member
18 advising the group member of nonrenewal of the group policy and the
19 effective date of nonrenewal. The group policyholder shall mail or
20 deliver written notice at least thirty days prior to the nonrenewal.

21 (6) Every notice of cancellation, nonrenewal, or conditional renewal
22 shall set forth the specific reason or reasons for cancellation, nonre-
23 newal, or conditional renewal.

24 (7) (A) An insurer shall not be required under this subsection to give
25 notice to a group member if the insurer has been advised by either the
26 group policyholder or another insurer that substantially similar cover-
27 age has been obtained from the other insurer without lapse of coverage.

1 (B) A group policyholder shall not be required under this subsection
2 to give notice to a group member if substantially similar coverage has
3 been obtained from another insurer without lapse of coverage.

4 (8) (A) If, prior to the effective date of cancellation, nonrenewal,
5 or conditional renewal of the group policy, or a certificate, whether
6 initiated by the insurer, group policyholder or by the group member in
7 regard to the group member's certificate, coverage attaches pursuant to
8 the terms of a group policy, then the coverage shall be effective until
9 expiration of the applicable period of coverage provided in the group
10 policy notwithstanding the cancellation, nonrenewal or conditional
11 nonrenewal of the group policy.

12 (B) Notwithstanding subparagraph (A) of this paragraph, an insurer may
13 terminate coverage under an individual certificate on the effective date
14 of cancellation, if the certificate is cancelled in accordance with the
15 provisions of subparagraph (B) of paragraph one of this subsection.

16 (k) Any mailing or delivery to a group member required or permitted
17 under this section may be made by electronic mail, or other electronic
18 means, if consent to such method of delivery has been previously
19 received from such group member.

20 (l) An insurer may issue a transportation network company group policy
21 to a transportation network company, notwithstanding that it may be a
22 condition of operating a vehicle on the transportation network company's
23 digital network for the TNC driver to participate in such group policy.

24 (m) An insurer shall not include a mandatory arbitration clause in a
25 policy that provides financial responsibility coverage under this
26 section except as permitted in section five thousand one hundred five of
27 this chapter.

1 § 6-a. Subsection (g) of section 5102 of the insurance law is amended
2 to read as follows:

3 (g) "Insurer" means the insurance company or self-insurer, as the case
4 may be, which provides the financial security required by article six
5 [or], eight, or forty-four-B of the vehicle and traffic law.

6 § 7. Subsection (b) of section 5103 of the insurance law is amended by
7 adding a new paragraph 4 to read as follows:

8 (4) Is injured while a motor vehicle is being used or operated by a
9 TNC driver pursuant to article forty-four-B of the vehicle and traffic
10 law, provided, however, that an insurer may not include this exclusion
11 in a policy used to satisfy the requirements under article forty-four-B
12 of the vehicle and traffic law.

13 § 8. Subsection (d) of section 5106 of the insurance law, as added by
14 chapter 452 of the laws of 2005, is amended to read as follows:

15 (d) [Where] (1) Except as provided in paragraph two of this
16 subsection, where there is reasonable belief more than one insurer would
17 be the source of first party benefits, the insurers may agree among
18 themselves, if there is a valid basis therefor, that one of them will
19 accept and pay the claim initially. If there is no such agreement, then
20 the first insurer to whom notice of claim is given shall be responsible
21 for payment. Any such dispute shall be resolved in accordance with the
22 arbitration procedures established pursuant to section five thousand one
23 hundred five of this article and [regulation] regulations as promulgated
24 by the superintendent, and any insurer paying first-party benefits shall
25 be reimbursed by other insurers for their proportionate share of the
26 costs of the claim and the allocated expenses of processing the claim,
27 in accordance with the provisions entitled "other coverage" contained in
28 regulation and the provisions entitled "other sources of first-party

1 benefits" contained in regulation. If there is no such insurer and the
2 motor vehicle accident occurs in this state, then an applicant who is a
3 qualified person as defined in article fifty-two of this chapter shall
4 institute the claim against the motor vehicle accident indemnification
5 corporation.

6 (2) A group policy issued pursuant to section three thousand four
7 hundred fifty-five of this chapter, to satisfy the requirements of
8 section sixteen hundred ninety-three of the vehicle and traffic law,
9 shall provide first party benefits when a dispute exists as to whether a
10 driver was using or operating a motor vehicle in connection with a
11 transportation network company when loss, damage, injury, or death
12 occurs. A transportation network company shall notify the insurer that
13 issued the owner's policy of liability insurance of the dispute within
14 ten business days of becoming aware that the dispute exists. When there
15 is a dispute, the group insurer liable for the payment of first party
16 benefits under a group policy, to satisfy the requirements of section
17 sixteen hundred ninety-three of the vehicle and traffic law, shall have
18 the right to recover the amount paid from the driver's insurer to the
19 extent that such insurer would have been liable to pay damages in an
20 action at law.

21 § 9. Subsection (b) of section 2305 of the insurance law, as amended
22 by chapter 11 of the laws of 2008, paragraph 13 as amended by chapter
23 136 of the laws of 2008, is amended to read as follows:

24 (b) rate filings for:

25 (1) workers' compensation insurance;

26 (2) motor vehicle insurance, or surety bonds, required by section
27 three hundred seventy of the vehicle and traffic law or article forty-
28 four-B of the vehicle and traffic law;

1 (3) joint underwriting;

2 (4) motor vehicle assigned risk insurance;

3 (5) insurance issued by the New York Property Insurance Underwriting
4 Association;

5 (6) risk sharing plans authorized by section two thousand three
6 hundred eighteen of this article;

7 (7) title insurance;

8 (8) medical malpractice liability insurance;

9 (9) insurance issued by the Medical Malpractice Insurance Association;

10 (10) mortgage guaranty insurance;

11 (11) credit property insurance, as defined in section two thousand
12 three hundred forty of this article; [and]

13 (12) gap insurance; and

14 (13) [Private] private passenger automobile insurance, except as
15 provided in section two thousand three hundred fifty of this article[.]
16 shall be filed with the superintendent and shall not become effective
17 unless either the filing has been approved or thirty days, which the
18 superintendent may with cause extend an additional thirty days and with
19 further cause extend an additional fifteen days, have elapsed and the
20 filing has not been disapproved as failing to meet the requirements of
21 this article, including the standard that rates be not otherwise unrea-
22 sonable. After a rate filing becomes effective, the filing and support-
23 ing information shall be open to public inspection. If a filing is
24 disapproved, then notice of such disapproval order shall be given, spec-
25 ifying in what respects such filing fails to meet the requirements of
26 this article. Upon his or her request, the superintendent shall be
27 provided with support and assistance from the workers' compensation
28 board and other state agencies and departments with appropriate juris-

1 diction. The loss cost multiplier for each insurer providing coverage
2 for workers' compensation, as defined by regulation promulgated by the
3 superintendent, shall be promptly displayed on the department's website
4 and updated in the event of any change.

5 § 10. Paragraph 1 of subsection (a) of section 3425 of the insurance
6 law, as amended by chapter 235 of the laws of 1989, is amended to read
7 as follows:

8 (1) "Covered policy" means a contract of insurance, referred to in
9 this section as "automobile insurance", issued or issued for delivery in
10 this state, on a risk located or resident in this state, insuring
11 against losses or liabilities arising out of the ownership, operation,
12 or use of a motor vehicle, predominantly used for non-business purposes,
13 when a natural person is the named insured under the policy of automo-
14 bile insurance; provided, however, that the use or operation of the
15 motor vehicle by a transportation network driver as a TNC vehicle in
16 accordance with article forty-four-B of the vehicle and traffic law
17 shall not be included in determining whether the motor vehicle is being
18 used predominantly for non-business purposes.

19 § 11. The executive law is amended by adding a new article 6-H to read
20 as follows:

21 ARTICLE 6-H

22 TRANSPORTATION NETWORK COMPANY DRIVER'S

23 INJURY COMPENSATION FUND

24 Section 160-aaaa. Definitions.

25 160-bbbb. Transportation network company driver's injury compen-
26 sation fund, Inc.

27 160-cccc. Supervision of transportation network companies.

28 160-dddd. Management of the fund.

- 1 160-eeee. Plan of operation.
- 2 160-ffff. Membership.
- 3 160-gggg. Securing of compensation.
- 4 160-hhhh. Assessment of fund members.
- 5 160-iiii. Certified financial statements.
- 6 160-jjjj. Exemption from taxes.
- 7 160-kkkk. Liability insurance.
- 8 160-llll. Regulations.
- 9 160-mmmm. Violations.

10 § 160-aaaa. Definitions. As used in this article:

11 1. "Transportation network company driver" or "TNC driver" means an
12 individual who:

13 (a) receives connections to potential passengers and related services
14 from a transportation network company in exchange for payment of a fee
15 to the transportation network company;

16 (b) uses a TNC vehicle to offer or provide a TNC prearranged trip to
17 transportation network company passengers upon connection through a
18 digital network controlled by a transportation network company in
19 exchange for compensation or payment of a fee; and

20 (c) whose injury arose out of and in the course of providing a TNC
21 prearranged trip through a digital network operated by a transportation
22 network company that is a registered member of the New York transporta-
23 tion network company driver's injury compensation fund, Inc.

24 2. "Transportation network company passenger" or "passenger" means a
25 person or persons who use a transportation network company's digital
26 network to connect with a transportation network company driver who
27 provides TNC prearranged trips to the passenger in the TNC vehicle
28 between points chosen by the passenger.

1 3. "Board" means the workers' compensation board.

2 4. "Digital network" means any system or service offered or utilized
3 by a transportation network company that enables TNC prearranged trips
4 with transportation network company drivers.

5 5. "Transportation network company" means a person, corporation, part-
6 nership, sole proprietorship, or other entity that is licensed pursuant
7 to article forty-four-B of the vehicle and traffic law and is operating
8 in New York state exclusively using a digital network to connect trans-
9 portation network company passengers to transportation network company
10 drivers who provide TNC prearranged trips.

11 6. "Transportation network company vehicle" or "TNC vehicle" means a
12 vehicle that is:

13 (a) used by a transportation network company driver to provide a TNC
14 prearranged trip originating in the state of New York;

15 (b) owned, leased or otherwise authorized for use by the transporta-
16 tion network company driver and shall not include:

17 (i) a taxicab, as defined in section one hundred forty-eight-a of the
18 vehicle and traffic law and section 19-502 of the administrative code of
19 the city of New York, or as otherwise defined in local law;

20 (ii) a livery vehicle, as defined in section one hundred twenty-one-e
21 of the vehicle and traffic law, or as otherwise defined in local law;

22 (iii) a black car, limousine, or luxury limousine, as defined in
23 section 19-502 of the administrative code of the city of New York, or as
24 otherwise defined in local law;

25 (iv) a for-hire vehicle, as defined in section 19-502 of the adminis-
26 trative code of the city of New York, or as otherwise defined in local
27 law;

1 (v) a bus, as defined in section one hundred four of the vehicle and
2 traffic law;

3 (vi) any motor vehicle weighing more than six thousand five hundred
4 pounds unloaded;

5 (vii) any motor vehicle having a seating capacity of more than seven
6 passengers; and

7 (viii) any motor vehicle subject to section three hundred seventy of
8 the vehicle and traffic law.

9 7. (a) "TNC prearranged trip" means the provision of transportation by
10 a transportation network company driver to a passenger provided through
11 the use of a TNC's digital network:

12 (i) beginning when a transportation network company driver accepts a
13 passenger's request for a trip through a digital network controlled by a
14 transportation network company;

15 (ii) continuing while the transportation network company driver trans-
16 ports the requesting passenger in a TNC vehicle; and

17 (iii) ending when the last requesting passenger departs from the TNC
18 vehicle.

19 (b) The term "TNC prearranged trip" does not include transportation
20 provided through any of the following:

21 (i) shared expense carpool or vanpool arrangements, including those as
22 defined in section one hundred fifty-eight-b of the vehicle and traffic
23 law;

24 (ii) use of a taxicab, livery, luxury limousine, or other for-hire
25 vehicle, as defined in the vehicle and traffic law, section 19-502 of
26 the administrative code of the city of New York, or as otherwise defined
27 in local law; or

28 (iii) a regional transportation provider.

1 8. "Covered services" means, with respect to TNC prearranged trips
2 using a digital network of a transportation network company located in
3 the state, all such TNC prearranged trips regardless of where the pick-
4 up or discharge occurs, and, with respect to TNC prearranged trips using
5 a digital network of a transportation network company located outside
6 the state, all prearranged trips involving a pick-up in the state,
7 regardless of where the discharge occurs.

8 9. "Department" means the department of state.

9 10. "Fund" means the New York transportation network company driver's
10 fund, Inc.

11 11. "Fund liability date" means the earlier of:

12 (a) The date as of which the board first approves the fund's applica-
13 tion to self-insure pursuant to section one hundred sixty-gggg of this
14 article; or

15 (b) The date on which coverage commences under the initial insurance
16 policy purchased by the fund pursuant to section one hundred sixty-gggg
17 of this article.

18 12. "Secretary" means the secretary of state.

19 § 160-bbbb. Transportation network company driver's injury compen-
20 sation fund, Inc. There is hereby created a not-for-profit corporation
21 to be known as the New York transportation network company driver's
22 injury compensation fund, Inc. To the extent that the provisions of the
23 not-for-profit corporation law do not conflict with the provisions of
24 this article, or with the plan of operation established pursuant to this
25 article, the not-for-profit corporation law shall apply to the fund,
26 which shall be a type C corporation pursuant to such law. If an applica-
27 ble provision of this article or of the fund's plan of operation relates
28 to a matter embraced in a provision of the not-for-profit corporation

1 law but is not in conflict therewith, both provisions shall apply. The
2 fund shall perform its functions in accordance with its plan of opera-
3 tion established and approved pursuant to section one hundred sixty-eeee
4 of this article and shall exercise its powers through a board of direc-
5 tors established pursuant to this article.

6 § 160-cccc. Supervision of transportation network companies. A trans-
7 portation network company shall, with respect to the provisions of this
8 article, be subject to the supervision and oversight of the department
9 as provided in this article.

10 § 160-dddd. Management of the fund. 1. Within thirty (30) days of the
11 effective date of this article, there shall be appointed a board of
12 directors of the fund. The board of directors of the fund shall consist
13 of nine directors appointed by the governor, one of whom shall be chosen
14 by the governor; one of whom shall be chosen upon nomination of the
15 temporary president of the senate; one of whom shall be chosen upon
16 nomination of the speaker of the assembly; one of whom shall be chosen
17 upon nomination of the american federation of labor-congress of indus-
18 trial organizations of New York; and five of whom shall be chosen upon
19 nomination of transportation network company members of the fund.

20 2. The directors shall elect annually from among their number a chair.

21 3. For their attendance at meetings, the directors of the fund shall
22 be entitled to compensation, as authorized by the directors, in an
23 amount not to exceed five hundred dollars per meeting per director and
24 to reimbursement of their actual and necessary expenses.

25 4. Directors of the fund, except as otherwise provided by law, may
26 engage in private or public employment or in a profession or business.

27 5. (a) All of the directors shall have equal voting rights and five or
28 more directors shall constitute a quorum. The affirmative vote of four

1 directors shall be necessary for the transaction of any business or the
2 exercise of any power or function of the fund.

3 (b) The fund may delegate to one or more of its directors, officers,
4 agents, or employees such powers and duties as it may deem proper.

5 (c) A vacancy occurring in a director position shall be filled in the
6 same manner as the initial appointment to that position, provided howev-
7 er that no individual may serve as director for more than three succes-
8 sive terms.

9 § 160-eeee. Plan of operation. 1. Within seventy-five days of the
10 effective date of this article, the fund shall file with the department
11 its plan of operation, which shall be designed to assure the fair,
12 reasonable and equitable administration of the fund. The plan of opera-
13 tion and any subsequent amendments thereto shall become effective upon
14 being filed with the department.

15 2. The plan of operation shall constitute the by-laws of the fund and
16 shall, in addition to the requirements enumerated elsewhere in this
17 article:

18 (a) establish procedures for collecting and managing the assets of the
19 fund;

20 (b) establish regular places and times for meetings of the fund's
21 board of directors;

22 (c) establish the procedure by which the fund shall determine whether
23 to provide the benefits due pursuant to this article by self-insuring or
24 by purchasing insurance;

25 (d) establish accounting and record-keeping procedures for all finan-
26 cial transactions of the fund, its agents, and the board of directors;

27 (e) establish a procedure for determining and collecting the appropri-
28 ate amount of surcharges and assessments under this article;

1 (f) set forth the procedures by which the fund may exercise the audit
2 rights granted to it under this article;

3 (g) establish procedures to ensure prompt and accurate notification to
4 the fund by its members of all accidents and injuries to transportation
5 network company drivers, and provide for full reimbursement of the fund
6 by any transportation network company whose failure to provide such
7 notification results in the imposition of a penalty on the fund by the
8 board; and

9 (h) contain such additional provisions as the board of the fund may
10 deem necessary or proper for the execution of the powers and duties of
11 the fund.

12 § 160-ffff. Membership. 1. The membership of the fund shall be
13 composed of all transportation network companies. Each transportation
14 network company shall be required, as a condition of doing business
15 within this state, to pay the department a ten thousand dollar annual
16 fee for the purpose of registering as a member of the fund and receiving
17 a certificate of registration. Such sums shall be used by the depart-
18 ment for the administration of this article. The initial registration
19 fee shall be due no later than ninety days after the effective date of
20 this article. The department shall have the power to assess an addi-
21 tional fee against each registrant in the amount necessary to provide it
22 with sufficient funds to cover its expenses in performing its duties
23 pursuant to this article. The department shall provide the fund with an
24 updated list of registrants on a monthly basis.

25 2. All transportation network companies shall be required, as a condi-
26 tion of obtaining or retaining their license from the department of
27 motor vehicles pursuant to article forty-four-B of the vehicle and traf-
28 fic law, to:

- 1 (a) be members of the fund;
2 (b) be registered with the department as members of the fund; and
3 (c) submit to the department of motor vehicles a copy of its certifi-
4 cate of registration as proof of such membership and registration.

5 3. Within sixty days of the effective date of this article, the board
6 of the fund shall, on the basis of information from trade papers and
7 other sources, identify the transportation network companies subject to
8 this article and, on a regular and ongoing basis, confirm that all such
9 entities have registered in accordance with subdivision one of this
10 section.

11 4. The fund shall, within seventy-five days of the effective date of
12 this article, provide to its members a copy of the proposed plan of
13 operation filed with the department and shall inform its members of
14 their rights and duties pursuant to this article.

15 § 160-gggg. Securing of compensation. 1. Within two hundred ten days
16 of the effective date of this article, the fund shall secure the payment
17 of workers' compensation to all: transportation network company drivers
18 entitled thereto pursuant to this chapter by either:

19 (a) self-insuring in accordance with subdivision three of section
20 fifty of the workers' compensation law and the rules promulgated by the
21 board pursuant to such section; or

22 (b) purchasing workers' compensation insurance covering, on a blanket
23 basis, all drivers who are the fund's employees pursuant to section two
24 of the workers' compensation law.

25 2. If the fund initially seeks to apply to the board for authorization
26 to self-insure pursuant to subdivision three of section fifty of the
27 workers' compensation law, it shall submit its application and accompa-
28 nying proof to the board within one hundred fifty days of the effective

1 date of this article. The board shall notify the fund and the secretary
2 in writing of any change in the fund's status as a self-insurer or of
3 any additional requirements that the board may deem necessary for
4 continuation of such status.

5 3. If the fund chooses to secure the payment of workers' compensation
6 pursuant to the workers' compensation law by purchasing an insurance
7 policy from the state insurance fund or a licensed insurer, it shall
8 file with the department no later than thirty days after the commence-
9 ment of a new policy year a copy of the policy it has purchased. In such
10 case, the department shall be treated by the insurer as a certificate
11 holder for purposes of receiving notice of cancellation of the policy.

12 4. No provision of this article shall be construed to alter or affect
13 the liability under the workers' compensation law of any transportation
14 network company with respect to transportation network company drivers
15 prior to the fund liability date.

16 § 160-hhhh. Assessment of fund members. 1. To pay:

17 (a) the costs of the insurance purchased pursuant to section one
18 hundred sixty-gggg of this article; or

19 (b) the benefits due under the workers' compensation law in the event
20 the fund self-insures pursuant to section one hundred sixty-gggg of this
21 article; and to pay

22 (c) its expenses in carrying out its powers and duties under this
23 article; and

24 (d) its liabilities, if any, pursuant to section fourteen-A of the
25 workers' compensation law; the fund shall ascertain by reasonable esti-
26 mate the total funding necessary to carry on its operations.

27 2. Based upon its estimation of operating costs, the fund shall estab-
28 lish a proposed uniform percentage surcharge to be added to:

1 (a) the invoices or billings for covered services sent to transporta-
2 tion network company passengers by a member or its agent; and

3 (b) The credit payments for covered services received by a member or
4 its agent. The proposed surcharge shall become effective thirty days
5 after being filed with the department.

6 Notwithstanding the foregoing, beginning on the first day of the first
7 calendar month that shall commence at least seventy-five days after the
8 effective date of this article, and until the fund shall have filed with
9 the department a different surcharge amount, a two percent surcharge
10 shall be added to every invoice or billing for covered services sent by
11 a member or its agent to, and every credit payment for covered services
12 received by a member or its agent from, transportation network company
13 passengers. Each member of the fund shall be liable for payment to the
14 fund of an amount equal to the product of:

15 (a) the percentages surcharge due pursuant to this article, divided by
16 one hundred; and

17 (b) all payments received by the member or its agent for covered
18 services prearranged through the member's digital network, as provided
19 in this subdivision, regardless of whether the surcharge was billed or
20 charged.

21 3. The department of motor vehicles or the department shall not issue,
22 continue or renew any license or registration certificate for the opera-
23 tion of any transportation network company unless such transportation
24 network company, as a condition of maintaining its license and/or regis-
25 tration certificate, adds the surcharge required by this section to
26 every invoice and billing for covered services sent to, and every credit
27 payment for covered services received from, its transportation network

1 company passengers and pays to the fund no later than the fifteenth day
2 of each month the total surcharges due pursuant to this article.

3 4. Each transportation network company shall submit to the fund with
4 its monthly payment a detailed accounting of the charge and surcharge
5 amounts charged to and received from transportation network company
6 passengers for covered services during the previous month. The first
7 such payment and accounting shall be due on the fifteenth day of the
8 month following the imposition of the surcharge pursuant to subdivision
9 two of this section.

10 5. Should the fund determine that the surcharge amounts that have been
11 paid to it are inadequate to meet its obligations under this article, it
12 shall determine the surcharge rate required to eliminate such deficiency
13 and shall file such revised surcharge rate with the department in
14 accordance with subdivision two of this section. Commencing thirty days
15 after such filing, the members of the fund shall charge the revised
16 surcharge rate and shall pay to the fund the total amount of surcharges
17 in accordance with this article.

18 6. For the purposes of conducting payroll audits, an insurer providing
19 coverage to the fund pursuant to this article may treat the members of
20 the fund as policyholders. Members of the fund shall be required to do
21 all things required of employers pursuant to section one hundred thir-
22 ty-one of the workers' compensation law, and shall be required to
23 provide the board access to any and all records and information as
24 otherwise required by the workers' compensation law and the regulations
25 promulgated thereunder, and shall be liable as provided in the workers'
26 compensation law for any failure so to do.

27 § 160-iiii. Certified financial statements. No later than May first of
28 each year, the fund shall submit to the governor and legislature certi-

1 fied financial statements prepared in accordance with generally accepted
2 accounting principles by a certified public accountant. The members of
3 the fund shall be required on and after January first of each year to
4 afford the certified public accountant convenient access at all reason-
5 able hours to all books, records, and other documents, including but not
6 limited to invoices and vouchers, necessary or useful in the preparation
7 of such statements and in the verification of the monthly statements
8 submitted to the fund.

9 § 160-jjjj. Exemption from taxes. The fund shall be exempt from
10 payment of all fees and taxes levied by this state or any of its subdi-
11 visions, except taxes levied on real property.

12 § 160-kkkk. Liability insurance. The fund shall purchase such insur-
13 ance as is necessary to protect the fund and any director, officer,
14 agent, or other representative from liability for their administration
15 of the fund, and shall, to the extent permitted by law, indemnify such
16 directors, officers, agents, or other representatives and hold them
17 harmless from liability for their administration of the fund.

18 § 160-llll. Regulations. The department shall adopt regulations imple-
19 menting the provisions of this article, including the conduct and notice
20 of hearings held pursuant to section one hundred sixty-mmmmm of this
21 article.

22 § 160-mmmmm. Violations. 1. If the secretary believes a violation of
23 this article by a fund member may have occurred, upon notice to the fund
24 member, a hearing shall be held by the secretary to determine whether
25 such violation occurred.

26 2. Except as otherwise provided in this section, a fund member that is
27 found, after a hearing held pursuant to subdivision one of this section,
28 to have violated a provision of this article, or a rule promulgated by

1 the department pursuant to this article, shall be liable for a fine in
2 an amount not to exceed ten thousand dollars per violation.

3 3. Within twenty days after issuance of a determination adverse to a
4 transportation network company following a hearing held pursuant to
5 subdivision one of this section, an appeal may be taken therefrom to the
6 appellate division of the supreme court, third department, by the
7 aggrieved transportation network company.

8 § 12. Subdivision 1 of section 171-a of the tax law, as amended by
9 chapter 90 of the laws of 2014, is amended to read as follows:

10 1. All taxes, interest, penalties and fees collected or received by
11 the commissioner or the commissioner's duly authorized agent under arti-
12 cles nine (except section one hundred eighty-two-a thereof and except as
13 otherwise provided in section two hundred five thereof), nine-A,
14 twelve-A (except as otherwise provided in section two hundred eighty-
15 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
16 section three hundred twelve thereof), eighteen, nineteen, twenty
17 (except as otherwise provided in section four hundred eighty-two there-
18 of), twenty-B, twenty-one, twenty-two, twenty-six, [twenty-six-B,] twen-
19 ty-eight (except as otherwise provided in section eleven hundred two or
20 eleven hundred three thereof), twenty-eight-A, twenty-nine-B (except as
21 otherwise provided in section twelve hundred ninety-eight thereof),
22 thirty-one (except as otherwise provided in section fourteen hundred
23 twenty-one thereof), thirty-three and thirty-three-A of this chapter
24 shall be deposited daily in one account with such responsible banks,
25 banking houses or trust companies as may be designated by the comp-
26 troller, to the credit of the comptroller. Such an account may be estab-
27 lished in one or more of such depositories. Such deposits shall be kept
28 separate and apart from all other money in the possession of the comp-

1 troller. The comptroller shall require adequate security from all such
2 depositories. Of the total revenue collected or received under such
3 articles of this chapter, the comptroller shall retain in the comp-
4 troller's hands such amount as the commissioner may determine to be
5 necessary for refunds or reimbursements under such articles of this
6 chapter out of which amount the comptroller shall pay any refunds or
7 reimbursements to which taxpayers shall be entitled under the provisions
8 of such articles of this chapter. The commissioner and the comptroller
9 shall maintain a system of accounts showing the amount of revenue
10 collected or received from each of the taxes imposed by such articles.
11 The comptroller, after reserving the amount to pay such refunds or
12 reimbursements, shall, on or before the tenth day of each month, pay
13 into the state treasury to the credit of the general fund all revenue
14 deposited under this section during the preceding calendar month and
15 remaining to the comptroller's credit on the last day of such preceding
16 month, (i) except that the comptroller shall pay to the state department
17 of social services that amount of overpayments of tax imposed by article
18 twenty-two of this chapter and the interest on such amount which is
19 certified to the comptroller by the commissioner as the amount to be
20 credited against past-due support pursuant to subdivision six of section
21 one hundred seventy-one-c of this article, (ii) and except that the
22 comptroller shall pay to the New York state higher education services
23 corporation and the state university of New York or the city university
24 of New York respectively that amount of overpayments of tax imposed by
25 article twenty-two of this chapter and the interest on such amount which
26 is certified to the comptroller by the commissioner as the amount to be
27 credited against the amount of defaults in repayment of guaranteed
28 student loans and state university loans or city university loans pursu-

1 ant to subdivision five of section one hundred seventy-one-d and subdivi-
2 vision six of section one hundred seventy-one-e of this article, (iii)
3 and except further that, notwithstanding any law, the comptroller shall
4 credit to the revenue arrearage account, pursuant to section
5 ninety-one-a of the state finance law, that amount of overpayment of tax
6 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
7 or thirty-three of this chapter, and any interest thereon, which is
8 certified to the comptroller by the commissioner as the amount to be
9 credited against a past-due legally enforceable debt owed to a state
10 agency pursuant to paragraph (a) of subdivision six of section one
11 hundred seventy-one-f of this article, provided, however, he shall cred-
12 it to the special offset fiduciary account, pursuant to section ninety-
13 one-c of the state finance law, any such amount creditable as a liabil-
14 ity as set forth in paragraph (b) of subdivision six of section one
15 hundred seventy-one-f of this article, (iv) and except further that the
16 comptroller shall pay to the city of New York that amount of overpayment
17 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
18 thirty-B or thirty-three of this chapter and any interest thereon that
19 is certified to the comptroller by the commissioner as the amount to be
20 credited against city of New York tax warrant judgment debt pursuant to
21 section one hundred seventy-one-l of this article, (v) and except
22 further that the comptroller shall pay to a non-obligated spouse that
23 amount of overpayment of tax imposed by article twenty-two of this chap-
24 ter and the interest on such amount which has been credited pursuant to
25 section one hundred seventy-one-c, one hundred seventy-one-d, one
26 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
27 ty-one-l of this article and which is certified to the comptroller by
28 the commissioner as the amount due such non-obligated spouse pursuant to

1 paragraph six of subsection (b) of section six hundred fifty-one of this
2 chapter; and (vi) the comptroller shall deduct a like amount which the
3 comptroller shall pay into the treasury to the credit of the general
4 fund from amounts subsequently payable to the department of social
5 services, the state university of New York, the city university of New
6 York, or the higher education services corporation, or the revenue
7 arrearage account or special offset fiduciary account pursuant to
8 section ninety-one-a or ninety-one-c of the state finance law, as the
9 case may be, whichever had been credited the amount originally withheld
10 from such overpayment, and (vii) with respect to amounts originally
11 withheld from such overpayment pursuant to section one hundred seventy-
12 one-1 of this article and paid to the city of New York, the comptroller
13 shall collect a like amount from the city of New York.

14 § 13. Subdivision 1 of section 171-a of the tax law, as amended by
15 section 54 of part A of chapter 59 of the laws of 2014, is amended to
16 read as follows:

17 1. All taxes, interest, penalties and fees collected or received by
18 the commissioner or the commissioner's duly authorized agent under arti-
19 cles nine (except section one hundred eighty-two-a thereof and except as
20 otherwise provided in section two hundred five thereof), nine-A,
21 twelve-A (except as otherwise provided in section two hundred eighty-
22 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
23 section three hundred twelve thereof), eighteen, nineteen, twenty
24 (except as otherwise provided in section four hundred eighty-two there-
25 of), twenty-one, twenty-two, twenty-six, [twenty-six-B,] twenty-eight
26 (except as otherwise provided in section eleven hundred two or eleven
27 hundred three thereof), twenty-eight-A, twenty-nine-B (except as other-
28 wise provided in section twelve hundred ninety-eight thereof), thirty-

1 one (except as otherwise provided in section fourteen hundred twenty-one
2 thereof), thirty-three and thirty-three-A of this chapter shall be
3 deposited daily in one account with such responsible banks, banking
4 houses or trust companies as may be designated by the comptroller, to
5 the credit of the comptroller. Such an account may be established in one
6 or more of such depositories. Such deposits shall be kept separate and
7 apart from all other money in the possession of the comptroller. The
8 comptroller shall require adequate security from all such depositories.
9 Of the total revenue collected or received under such articles of this
10 chapter, the comptroller shall retain in the comptroller's hands such
11 amount as the commissioner may determine to be necessary for refunds or
12 reimbursements under such articles of this chapter out of which amount
13 the comptroller shall pay any refunds or reimbursements to which taxpay-
14 ers shall be entitled under the provisions of such articles of this
15 chapter. The commissioner and the comptroller shall maintain a system of
16 accounts showing the amount of revenue collected or received from each
17 of the taxes imposed by such articles. The comptroller, after reserving
18 the amount to pay such refunds or reimbursements, shall, on or before
19 the tenth day of each month, pay into the state treasury to the credit
20 of the general fund all revenue deposited under this section during the
21 preceding calendar month and remaining to the comptroller's credit on
22 the last day of such preceding month, (i) except that the comptroller
23 shall pay to the state department of social services that amount of
24 overpayments of tax imposed by article twenty-two of this chapter and
25 the interest on such amount which is certified to the comptroller by the
26 commissioner as the amount to be credited against past-due support
27 pursuant to subdivision six of section one hundred seventy-one-c of this
28 article, (ii) and except that the comptroller shall pay to the New York

1 state higher education services corporation and the state university of
2 New York or the city university of New York respectively that amount of
3 overpayments of tax imposed by article twenty-two of this chapter and
4 the interest on such amount which is certified to the comptroller by the
5 commissioner as the amount to be credited against the amount of defaults
6 in repayment of guaranteed student loans and state university loans or
7 city university loans pursuant to subdivision five of section one
8 hundred seventy-one-d and subdivision six of section one hundred seven-
9 ty-one-e of this article, (iii) and except further that, notwithstanding
10 any law, the comptroller shall credit to the revenue arrearage account,
11 pursuant to section ninety-one-a of the state finance law, that amount
12 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-
13 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest
14 thereon, which is certified to the comptroller by the commissioner as
15 the amount to be credited against a past-due legally enforceable debt
16 owed to a state agency pursuant to paragraph (a) of subdivision six of
17 section one hundred seventy-one-f of this article, provided, however, he
18 shall credit to the special offset fiduciary account, pursuant to
19 section ninety-one-c of the state finance law, any such amount credita-
20 ble as a liability as set forth in paragraph (b) of subdivision six of
21 section one hundred seventy-one-f of this article, (iv) and except
22 further that the comptroller shall pay to the city of New York that
23 amount of overpayment of tax imposed by article nine, nine-A, twenty-
24 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any
25 interest thereon that is certified to the comptroller by the commission-
26 er as the amount to be credited against city of New York tax warrant
27 judgment debt pursuant to section one hundred seventy-one-l of this
28 article, (v) and except further that the comptroller shall pay to a

1 non-obligated spouse that amount of overpayment of tax imposed by arti-
2 cle twenty-two of this chapter and the interest on such amount which has
3 been credited pursuant to section one hundred seventy-one-c, one hundred
4 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or
5 one hundred seventy-one-l of this article and which is certified to the
6 comptroller by the commissioner as the amount due such non-obligated
7 spouse pursuant to paragraph six of subsection (b) of section six
8 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct
9 a like amount which the comptroller shall pay into the treasury to the
10 credit of the general fund from amounts subsequently payable to the
11 department of social services, the state university of New York, the
12 city university of New York, or the higher education services corpo-
13 ration, or the revenue arrearage account or special offset fiduciary
14 account pursuant to section ninety-one-a or ninety-one-c of the state
15 finance law, as the case may be, whichever had been credited the amount
16 originally withheld from such overpayment, and (vii) with respect to
17 amounts originally withheld from such overpayment pursuant to section
18 one hundred seventy-one-l of this article and paid to the city of New
19 York, the comptroller shall collect a like amount from the city of New
20 York.

21 § 14. Paragraph 34 of subdivision (b) of section 1101 of the tax law,
22 as amended by section 1 of part WW of chapter 57 of the laws of 2010, is
23 amended to read as follows:

24 (34) Transportation service. The service of transporting, carrying or
25 conveying a person or persons by livery service; whether to a single
26 destination or to multiple destinations; and whether the compensation
27 paid by or on behalf of the passenger is based on mileage, trip, time
28 consumed or any other basis. A service that begins and ends in this

1 state is deemed intra-state even if it passes outside this state during
2 a portion of the trip. However, transportation service does not include
3 transportation of persons in connection with funerals. Transportation
4 service includes transporting, carrying, or conveying property of the
5 person being transported, whether owned by or in the care of such
6 person. Notwithstanding the foregoing, transportation service shall not
7 include a TNC prearranged trip, as that term is defined in article
8 forty-four-B of the vehicle and traffic law, that is subject to tax
9 under article twenty-nine-B of this chapter. In addition to what is
10 included in the definition of "receipt" in paragraph three of this
11 subdivision, receipts from the sale of transportation service subject to
12 tax include any handling, carrying, baggage, booking service, adminis-
13 trative, mark-up, additional, or other charge, of any nature, made in
14 conjunction with the transportation service. Livery service means
15 service provided by limousine, black car or other motor vehicle, with a
16 driver, but excluding (i) a taxicab, (ii) a bus, and (iii), in a city of
17 one million or more in this state, an affiliated livery vehicle, and
18 excluding any scheduled public service. Limousine means a vehicle with a
19 seating capacity of up to fourteen persons, excluding the driver. Black
20 car means a for-hire vehicle dispatched from a central facility. "Affil-
21 iated livery vehicle" means a for-hire motor vehicle with a seating
22 capacity of up to six persons, including the driver, other than a black
23 car or luxury limousine, that is authorized and licensed by the taxi and
24 limousine commission of a city of one million or more to be dispatched
25 by a base station located in such a city and regulated by such taxi and
26 limousine commission; and the charges for service provided by an affil-
27 iated livery vehicle are on the basis of flat rate, time, mileage, or
28 zones and not on a garage to garage basis.

1 § 15. The tax law is amended by adding a new article 29-B to read as
2 follows:

3 ARTICLE 29-B

4 STATE ASSESSMENT FEE ON TRANSPORTATION NETWORK COMPANY

5 PREARRANGED TRIPS

6 Section 1291. Definitions.

7 1292. Imposition.

8 1293. Presumption.

9 1294. Returns and payment of state assessment fee.

10 1295. Records to be kept.

11 1296. Secrecy of returns and reports.

12 1297. Practice and procedure.

13 1298. Deposit and disposition of revenue.

14 § 1291. Definitions. (a) "Person" means an individual, partnership,
15 limited liability company, society, association, joint stock company,
16 corporation, estate, receiver, trustee, assignee, referee or any other
17 person acting in a fiduciary or representative capacity, whether
18 appointed by a court or otherwise, any combination of individuals and
19 any other form of unincorporated enterprise owned or conducted by two or
20 more persons.

21 (b) "City" means a city of a million or more located in the metropol-
22 itan commuter transportation district established by section twelve
23 hundred sixty-two of the public authorities law.

24 (c) "Transportation network company" or "TNC" shall have the same
25 meaning as the term is defined in article forty-four-B of the vehicle
26 and traffic law.

27 (d) "TNC prearranged trip" shall have the same meaning as the term is
28 defined in article forty-four-B of the vehicle and traffic law.

1 (e) "TNC driver" shall have the same meaning as the term is defined in
2 article forty-four-B of the vehicle and traffic law.

3 (f) "TNC vehicle" shall have the same meaning as the term is defined
4 in article forty-four-B of the vehicle and traffic law.

5 (g) "Gross trip fare" means the sum of the base fare charge, distance
6 charge and time charge for a complete TNC prearranged trip at the rate
7 published by the TNC by or through which such trip is arranged.

8 § 1292. Imposition. There is hereby imposed on every TNC a state
9 assessment fee of 5.5% of the gross trip fare of every TNC prearranged
10 trip provided by such TNC that originates anywhere in the state outside
11 the city and terminates anywhere in this state.

12 § 1293. Presumption. For the purpose of the proper administration of
13 this article and to prevent evasion of the state assessment fee imposed
14 by this article, it shall be presumed that every TNC prearranged trip
15 that originates anywhere in the state outside the city is subject to the
16 state assessment fee. This presumption shall prevail until the contrary
17 is proven by the person liable for the fee.

18 § 1294. Returns and payment of state assessment fee. (a) Every person
19 liable for the state assessment fee imposed by this article shall file a
20 return on a calendar-quarterly basis with the commissioner. Each return
21 shall show the number of TNC prearranged trips in the quarter for which
22 the return is filed, together with such other information as the commis-
23 sioner may require. The returns required by this section shall be filed
24 within thirty days after the end of the quarterly period covered there-
25 by. If the commissioner deems it necessary in order to ensure the
26 payment of the state assessment fee imposed by this article, the commis-
27 sioner may require returns to be made for shorter periods than
28 prescribed by the foregoing provisions of this section, and upon such

1 dates as the commissioner may specify. The form of returns shall be
2 prescribed by the commissioner and shall contain such information as the
3 commissioner may deem necessary for the proper administration of this
4 article. The commissioner may require amended returns to be filed within
5 thirty days after notice and to contain the information specified in the
6 notice. The commissioner may require that the returns be filed electron-
7 ically.

8 (b) Every person required to file a return under this article shall,
9 at the time of filing such return, pay to the commissioner the total of
10 all state assessment fees on the correct number of trips subject to such
11 fee under this article. The amount so payable to the commissioner for
12 the period for which a return is required to be filed shall be due and
13 payable to the commissioner on the date specified for the filing of the
14 return for such period, without regard to whether a return is filed or
15 whether the return that is filed correctly shows the correct number of
16 trips or the amount of fees due thereon. The commissioner may require
17 that the fee be paid electronically.

18 § 1295. Records to be kept. Every person liable for the state assess-
19 ment fee imposed by this article shall keep:

20 (a) records of every TNC prearranged trip subject to the state assess-
21 ment fee under this article, and of all amounts paid, charged or due
22 thereon, in such form as the commissioner may require;

23 (b) true and complete copies of any records required to be kept by a
24 state agency that is authorized to permit or regulate a TNC; and

25 (c) such other records and information as the commissioner may require
26 to perform his or her duties under this article.

27 § 1296. Secrecy of returns and reports. (a) Except in accordance with
28 proper judicial order or as otherwise provided by law, it shall be

1 unlawful for the commissioner, any officer or employee of the depart-
2 ment, any person engaged or retained by the department on an independent
3 contract basis, or any person who in any manner may acquire knowledge of
4 the contents of a return or report filed with the commissioner pursuant
5 to this article, to divulge or make known in any manner any particulars
6 set forth or disclosed in any such return or report. The officers
7 charged with the custody of such returns and reports shall not be
8 required to produce any of them or evidence of anything contained in
9 them in any action or proceeding in any court, except on behalf of the
10 commissioner in an action or proceeding under the provisions of this
11 chapter or in any other action or proceeding involving the collection of
12 a state assessment fee due under this article to which the state or the
13 commissioner is a party or a claimant, or on behalf of any party to any
14 action, proceeding or hearing under the provisions of this article when
15 the returns, reports or facts shown thereby are directly involved in
16 such action, proceeding or hearing, in any of which events the court, or
17 in the case of a hearing, the division of tax appeals may require the
18 production of, and may admit into evidence, so much of said returns,
19 reports or of the facts shown thereby, as are pertinent to the action,
20 proceeding or hearing and no more. The commissioner or the division of
21 tax appeals may, nevertheless, publish a copy or a summary of any deci-
22 sion rendered after a hearing required by this article. Nothing in this
23 section shall be construed to prohibit the delivery to a person who has
24 filed a return or report or to such person's duly authorized represen-
25 tative of a certified copy of any return or report filed in connection
26 with such person's state assessment fee. Nor shall anything in this
27 section be construed to prohibit the publication of statistics so clas-
28 sified as to prevent the identification of particular returns or reports

1 and the items thereof, or the inspection by the attorney general or
2 other legal representatives of the state of the return or report of any
3 person required to pay the state assessment fee who shall bring action
4 to review the state assessment fee based thereon, or against whom an
5 action or proceeding under this chapter has been recommended by the
6 commissioner or the attorney general or has been instituted, or the
7 inspection of the returns or reports required under this article by the
8 comptroller or duly designated officer or employee of the state depart-
9 ment of audit and control, for purposes of the audit of a refund of any
10 state assessment fee paid by a person required to pay the state assess-
11 ment fee under this article. Provided, further, nothing in this section
12 shall be construed to prohibit the disclosure, in such manner as the
13 commissioner deems appropriate, of the names and other appropriate iden-
14 tifying information of those persons required to pay state assessment
15 fee under this article.

16 (b) Notwithstanding the provisions of subdivision (a) of this section,
17 the commissioner, in his or her discretion, may require or permit any or
18 all persons liable for any state assessment fee imposed by this article,
19 to make payment to banks, banking houses or trust companies designated
20 by the commissioner and to file returns with such banks, banking houses
21 or trust companies as agents of the commissioner, in lieu of paying any
22 such state assessment fee directly to the commissioner. However, the
23 commissioner shall designate only such banks, banking houses or trust
24 companies as are already designated by the comptroller as depositories
25 pursuant to section twelve hundred eighty-eight of this chapter.

26 (c) Notwithstanding the provisions of subdivision (a) of this section,
27 the commissioner may permit the secretary of the treasury of the United
28 States or such secretary's delegate, or the authorized representative of

1 either such officer, to inspect any return filed under this article, or
2 may furnish to such officer or such officer's authorized representative
3 an abstract of any such return or supply such person with information
4 concerning an item contained in any such return, or disclosed by any
5 investigation of liability under this article, but such permission shall
6 be granted or such information furnished only if the laws of the United
7 States grant substantially similar privileges to the commissioner or
8 officer of this state charged with the administration of the state
9 assessment fee imposed by this article, and only if such information is
10 to be used for purposes of tax administration only; and provided further
11 the commissioner may furnish to the commissioner of internal revenue or
12 such commissioner's authorized representative such returns filed under
13 this article and other tax information, as such commissioner may consid-
14 er proper, for use in court actions or proceedings under the internal
15 revenue code, whether civil or criminal, where a written request there-
16 for has been made to the commissioner by the secretary of the treasury
17 of the United States or such secretary's delegate, provided the laws of
18 the United States grant substantially similar powers to the secretary of
19 the treasury of the United States or his or her delegate. Where the
20 commissioner has so authorized use of returns and other information in
21 such actions or proceedings, officers and employees of the department
22 may testify in such actions or proceedings in respect to such returns or
23 other information.

24 (d) Returns and reports filed under this article shall be preserved
25 for three years and thereafter until the commissioner orders them to be
26 destroyed.

27 (e) (1) Any officer or employee of the state who willfully violates
28 the provisions of subdivision (a) of this section shall be dismissed

1 from office and be incapable of holding any public office for a period
2 of five years thereafter.

3 (2) Cross-reference: For criminal penalties, see article thirty-seven
4 of this chapter.

5 § 1297. Practice and procedure. The provisions of article twenty-seven
6 of this chapter shall apply with respect to the administration of and
7 procedure with respect to the state assessment fee imposed by this arti-
8 cle in the same manner and with the same force and effect as if the
9 language of such article twenty-seven had been incorporated in full into
10 this article and had expressly referred to the state assessment fee
11 under this article, except to the extent that any such provision is
12 either inconsistent with a provision of this article or is not relevant
13 to this article.

14 § 1298. Deposit and disposition of revenue. All taxes, fees, interest
15 and penalties collected or received by the commissioner under this arti-
16 cle shall be deposited and disposed of pursuant to the provisions of
17 section one hundred seventy-one-a of this chapter. From such taxes,
18 interest and penalties collected or received by the commissioner under
19 this article, 27.27% shall be deposited to the credit of the local tran-
20 sit assistance fund established in section eighty-nine-i of the state
21 finance law for the support of local transit systems, operations or
22 projects other than the metropolitan transportation authority or any
23 subsidiary or affiliate of the metropolitan transportation authority.

24 § 16. The tax law is amended by adding a new section 1822 to read as
25 follows:

26 § 1822. Violation of the state assessment fee on transportation
27 network company prearranged trips. Any willful act or omission by any

1 person that constitutes a violation of any provision of article twenty-
2 nine-B of this chapter shall constitute a misdemeanor.

3 § 17. Section 1825 of the tax law, as amended by section 89 of part A
4 of chapter 59 of the laws of 2014, is amended to read as follows:

5 § 1825. Violation of secrecy provisions of the tax law.--Any person
6 who violates the provisions of subdivision (b) of section twenty-one,
7 subdivision one of section two hundred two, subdivision eight of section
8 two hundred eleven, subdivision (a) of section three hundred fourteen,
9 subdivision one or two of section four hundred thirty-seven, section
10 four hundred eighty-seven, subdivision one or two of section five
11 hundred fourteen, subsection (e) of section six hundred ninety-seven,
12 subsection (a) of section nine hundred ninety-four, subdivision (a) of
13 section eleven hundred forty-six, section twelve hundred eighty-seven,
14 section twelve hundred ninety-six, subdivision (a) of section fourteen
15 hundred eighteen, subdivision (a) of section fifteen hundred eighteen,
16 subdivision (a) of section fifteen hundred fifty-five of this chapter,
17 and subdivision (e) of section 11-1797 of the administrative code of the
18 city of New York shall be guilty of a misdemeanor.

19 § 18. 1. For purposes of this section, transportation network company
20 shall mean a transportation network company as defined by article
21 forty-four-B of the vehicle and traffic law.

22 2. There is hereby established the New York State Transportation
23 Network Company Accessibility Task Force to analyze and advise on how to
24 maximize effective and integrated transportation services for persons
25 with disabilities in the transportation network company market. The New
26 York State Transportation Network Company Accessibility Task Force shall
27 consist of eleven members. Two members of the New York State Transporta-
28 tion Network Company Accessibility Task Force shall be appointed by the

1 speaker of the assembly. Two members of the New York State Transporta-
2 tion Network Company Accessibility Task Force shall be appointed by the
3 temporary president of the senate. Seven members of the New York State
4 Transportation Network Company Accessibility Task Force shall be
5 appointed by the governor and shall include, but not be limited to, two
6 representatives of groups who serve persons with disabilities and two
7 representatives from a transportation network company. The governor
8 shall designate two chairpersons to the New York State Transportation
9 Network Company Accessibility Task Force.

10 3. The New York State Transportation Network Company Accessibility
11 Task Force shall study the demand responsive transportation marketplace
12 and shall, in addition to any responsibilities assigned by the governor:
13 (a) conduct a needs assessment concerning the demand for demand respon-
14 sive accessible transportation; (b) conduct a resource assessment
15 concerning the availability of accessible demand responsive transporta-
16 tion services for persons with disabilities; (c) identify opportunities
17 for, and barriers to, increasing accessible demand responsive transpor-
18 tation service for persons with mobility disabilities; (d) propose stra-
19 tegies for increasing accessible demand responsive transportation
20 service for persons with disabilities; and (e) any other issues deter-
21 mined important to the task force in establishing a recommendation
22 pursuant to subdivision five of this section.

23 4. The New York State Transportation Network Company Accessibility
24 Task Force shall hold public hearings and provide an opportunity for
25 public comment on the activities described in subdivision two of this
26 section.

27 5. The New York State Transportation Network Company Accessibility
28 Task Force shall complete a report addressing the activities described

1 in subdivision two of this section and make a recommendation, supported
2 by such activities, recommending the amount of accessibility necessary
3 for adequate transportation for disabled passengers in order to utilize
4 such services and present such findings at a public meeting where its
5 members shall accept such report, pursuant to majority vote of the task
6 force, and present such report to the governor, the speaker of the
7 assembly and the temporary president of the senate, and make such report
8 publicly available for review.

9 6. Upon making the report described in subdivision five of this
10 section, the New York State Transportation Network Company Accessibility
11 Task Force shall be deemed dissolved.

12 § 19. The state finance law is amended by adding a new section 89-i to
13 read as follows:

14 § 89-i. Local transit assistance fund. 1. There is hereby established
15 in the joint custody of the state comptroller and the commissioner of
16 taxation and finance a fund to be known as the "local transit assistance
17 fund". Moneys in the local transit assistance fund shall be kept sepa-
18 rately from and shall not be commingled with any other moneys in the
19 joint or sole custody of the state comptroller or the commissioner of
20 taxation and finance.

21 2. The comptroller shall establish the following separate and distinct
22 account within the local transit assistance fund: Non-MTA transit
23 assistance account.

24 3. The local transit assistance fund shall consist of all monies
25 collected therefore or credited or transferred thereto from any other
26 fund, account, or source, including a portion of the revenues derived
27 from article twenty-nine-B of the tax law pursuant to section twelve
28 hundred ninety-eight of the tax law. Any interest received by the comp-

1 troller on monies on deposit in the local transit assistance fund shall
2 be retained in and become a part of such fund.

3 4. Monies in the local transit assistance fund shall, following appro-
4 priation by the legislature, be utilized for the support of local trans-
5 it systems, operations or projects, and shall not be appropriated to the
6 metropolitan transportation authority, its affiliates or its subsid-
7 aries. In the first year that monies are appropriated from this fund,
8 and in any subsequent years as may be required by the director of the
9 budget, such monies shall be disbursed according to a plan developed
10 during the prior fiscal year by the commissioner of transportation and
11 approved by the director of the budget. The first such plan shall be
12 submitted by the commissioner by March thirty-first, two thousand eigh-
13 teen.

14 5. All payments of money from the local transit assistance fund shall
15 be made on the audit and warrant of the comptroller.

16 § 20. Severability clause. If any provision of this act or the appli-
17 cation thereof is held invalid, such invalidity shall not affect other
18 provisions or applications of this act which can be given effect without
19 the invalid provision or application, and to this end the provisions of
20 this act are declared to be severable.

21 § 21. Each agency that is designated to perform any function or duty
22 pursuant to this act shall be authorized to establish rules and regu-
23 lations for the administration and execution of such authority in a
24 manner consistent with the provisions of this act and for the protection
25 of the public, health, safety and welfare of persons within this state.

26 § 22. This act shall take effect on the ninetieth day after it shall
27 have become a law; provided that the amendments to subdivision 1 of
28 section 171-a of the tax law made by section twelve of this act shall

1 not affect the expiration of such subdivision and shall expire there-
2 with, when upon such date the provisions of section thirteen of this act
3 shall take effect.

4 PART H

5 Section 1. Section 491 of the vehicle and traffic law is amended by
6 adding a new subdivision 3 to read as follows:

7 3. Waiver of fee. The commissioner may waive the payment of fees
8 required by subdivision two of this section if the applicant is a victim
9 of a crime and the identification card applied for is a replacement for
10 one that was lost or destroyed as a result of the crime.

11 § 2. This act shall take effect on the one hundred twentieth day after
12 it shall have become a law.

13 PART I

14 Section 1. Paragraph (i) of subdivision 2 of section 503 of the vehi-
15 cle and traffic law, as amended by chapter 55 of the laws of 1992, is
16 amended to read as follows:

17 (i) A non-resident whose driving privileges have been revoked pursuant
18 to sections five hundred ten, eleven hundred ninety-three and eleven
19 hundred ninety-four of this chapter shall, upon application for rein-
20 statement of such driving privileges, pay to the commissioner of motor
21 vehicles a fee of [twenty-five] one hundred dollars. When the basis for
22 the revocation is a finding of driving after having consumed alcohol
23 pursuant to the provisions of section eleven hundred ninety-two-a of
24 this chapter, the fee to be paid to the commissioner shall be one

1 hundred dollars. Such fee is not refundable and shall not be returned to
2 the applicant regardless of the action the commissioner may take on such
3 person's application for reinstatement of such driving privileges.

4 § 2. This act shall take effect on the one hundred twentieth day after
5 it shall have become a law.

6 PART J

7 Section 1. Paragraphs 1 and 3 of subdivision (a) of section 2125 of
8 the vehicle and traffic law, as amended by section 1-b of part A of
9 chapter 63 of the laws of 2005, are amended to read as follows:

10 (1) for filing an application for a certificate of title, [fifty]
11 seventy-five dollars except where the application relates to a mobile
12 home or a manufactured home as defined in section one hundred twenty-
13 two-c of this chapter, in which case the fee shall be one hundred twen-
14 ty-five dollars;

15 (3) for a duplicate certificate of title, [twenty] forty dollars.

16 § 2. Section 2125 of the vehicle and traffic law is amended by adding
17 a new subdivision (h) to read as follows:

18 (h) Notwithstanding any other provision of law, the increase of twen-
19 ty-five dollars for the fee assessed for filing an application for a
20 certificate of title and the increase of twenty dollars for the fee
21 assessed for filing an application for duplicate title, collected pursu-
22 ant to paragraphs one and three of subdivision (a) of this section,
23 shall be deposited to the credit of the dedicated highway and bridge
24 trust fund, established pursuant to section eighty-nine-b of the state
25 finance law.

1 § 3. This act shall take effect immediately; provided that the amend-
2 ments to paragraph 1 of subdivision (a) of section 2125 of the vehicle
3 and traffic law made by section one of this act shall not affect the
4 expiration and reversion of such paragraph and shall be deemed to expire
5 therewith.

6 PART K

7 Section 1. Subdivision 2 of section 491 of the vehicle and traffic law
8 is amended by adding a new paragraph (f) to read as follows:

9 (f) In addition to any other fee prescribed in this section, an addi-
10 tional fee of five dollars shall be charged for any non-driver identifi-
11 cation card or renewal of such card that is issued pursuant to and bears
12 a marking reflecting compliance with the Real ID Act of 2005, Public Law
13 109-13, and regulations promulgated thereunder at 6 CFR 37 et seq. The
14 fee collected pursuant to this paragraph shall be paid to the commis-
15 sioner and shall be deposited into the dedicated highway bridge and
16 trust fund pursuant to section eighty-nine-b of the state finance law.

17 § 2. Subdivision 2 of section 503 of the vehicle and traffic law is
18 amended by adding a new paragraph (f-2) to read as follows:

19 (f-2) In addition to any other fee prescribed in this section, an
20 additional fee of five dollars shall be charged for any license, renewal
21 or amendment of such license that is issued pursuant to and bears a
22 marking reflecting compliance with the Real ID Act of 2005, Public Law
23 109-13, and regulations promulgated thereunder at 6 CFR 37 et seq. The
24 fee collected pursuant to this paragraph shall be paid to the commis-
25 sioner and shall be deposited into the dedicated highway bridge and
26 trust fund pursuant to section eighty-nine-b of the state finance law.

1 § 3. This act shall take effect immediately.

2 PART L

3 Section 1. Section 114-a of the vehicle and traffic law, as added by
4 chapter 163 of the laws of 1973, is amended to read as follows:

5 § 114-a. Drug. The term "drug" when used in this chapter, means and
6 includes any substance listed in section thirty-three hundred six of the
7 public health law and any substance or combination of substances that
8 impair, to any extent, the physical and mental abilities which a driver
9 is expected to possess in order to operate a vehicle as a reasonable and
10 prudent driver.

11 § 2. Subparagraph (i) of paragraph (a) of subdivision 4 of section 502
12 of the vehicle and traffic law, as amended by chapter 97 of the laws of
13 2016, is amended to read as follows:

14 (i) Upon submission of an application for a driver's license, the
15 applicant shall be required to take and pass a test, or submit evidence
16 of passage of a test, with respect to the laws relating to traffic, the
17 laws relating to driving while ability is impaired and while intoxicat-
18 ed, under the overpowering influence of "Road Rage", or "Work Zone Safe-
19 ty" awareness as defined by the commissioner, the law relating to exer-
20 cising due care to avoid colliding with a parked, stopped or standing
21 authorized emergency vehicle or hazard vehicle pursuant to section elev-
22 en hundred forty-four-a of this chapter, the ability to read and compre-
23 hend traffic signs and symbols, bicycle and pedestrian safety and such
24 other matters as the commissioner may prescribe, and to satisfactorily
25 complete a course prescribed by the commissioner of not less than four
26 hours and not more than five hours, consisting of classroom driver

1 training and highway safety instruction or the equivalent thereof. Such
2 test shall include at least seven written questions concerning the
3 effects of consumption of alcohol or drugs on the ability of a person to
4 operate a motor vehicle and the legal and financial consequences result-
5 ing from violations of section eleven hundred ninety-two of this chap-
6 ter, prohibiting the operation of a motor vehicle while under the influ-
7 ence of alcohol or drugs. Such test shall include one or more written
8 questions concerning the devastating effects of "Road Rage" on the abil-
9 ity of a person to operate a motor vehicle and the legal and financial
10 consequences resulting from assaulting, threatening or interfering with
11 the lawful conduct of another person legally using the roadway. Such
12 test shall include one or more questions concerning the potential
13 dangers to persons and equipment resulting from the unsafe operation of
14 a motor vehicle in a work zone. Such test may include one or more ques-
15 tions concerning the law for exercising due care to avoid colliding with
16 a parked, stopped or standing vehicle pursuant to section eleven hundred
17 forty-four-a of this chapter. Such test may include one or more ques-
18 tions concerning bicycle and pedestrian safety. Such test shall be
19 administered by the commissioner. The commissioner shall cause the
20 applicant to take a vision test and a test for color blindness. Upon
21 passage of the vision test, the application may be accepted and the
22 application fee shall be payable.

23 § 3. Subparagraph (v) of paragraph (b) of subdivision 2 of section 510
24 of the vehicle and traffic law, as amended by chapter 3 of the laws of
25 1995, is amended to read as follows:

26 (v) For a period of six months where the holder is convicted of, or
27 receives a youthful offender or other juvenile adjudication in
28 connection with, any misdemeanor or felony defined in article two

1 hundred twenty or two hundred twenty-one of the penal law, any violation
2 of the federal controlled substances act, [any crime in violation of
3 subdivision four of section eleven hundred ninety-two of this chapter]
4 or any out-of-state or federal misdemeanor or felony drug-related
5 offense; provided, however, that any time actually served in custody
6 pursuant to a sentence or disposition imposed as a result of such
7 conviction or youthful offender or other juvenile adjudication shall be
8 credited against the period of such suspension and, provided further,
9 that the court shall determine that such suspension need not be imposed
10 where there are compelling circumstances warranting an exception.

11 § 4. Paragraphs i and j of subdivision 6 of section 510 of the vehicle
12 and traffic law, as added by chapter 533 of the laws of 1993, are
13 amended to read as follows:

14 i. Where suspension of a driver's license is mandatory hereunder based
15 upon a conviction of, or youthful offender or other juvenile adjudi-
16 cation in connection with, any misdemeanor or felony as defined in arti-
17 cle two hundred twenty or two hundred twenty-one of the penal law, any
18 violation of the federal controlled substances act, [any crime in
19 violation of subdivision four of section eleven hundred ninety-two of
20 this chapter] or any out-of-state or federal misdemeanor or felony drug-
21 related offense, the commissioner may issue a restricted use license
22 pursuant to section five hundred thirty of this chapter.

23 j. Where suspension of a driver's license is mandatory hereunder based
24 upon a conviction of, or youthful offender or other juvenile adjudi-
25 cation in connection with, any misdemeanor or felony as defined in arti-
26 cle two hundred twenty or two hundred twenty-one of the penal law, any
27 violation of the federal controlled substances act, [any crime in
28 violation of subdivision four of section eleven hundred ninety-two of

1 this chapter] or any out-of-state or federal misdemeanor or felony drug-
2 related offense and the individual does not have a driver's license or
3 the individual's driver's license was suspended at the time of
4 conviction or youthful offender or other juvenile adjudication, the
5 commissioner shall not issue a new license nor restore the former
6 license for a period of six months after such individual would otherwise
7 have become eligible to obtain a new license or to have the former
8 license restored; provided, however, that during such delay period the
9 commissioner may issue a restricted use license pursuant to section five
10 hundred thirty of this [chapter] title to such previously suspended
11 licensee.

12 § 5. Paragraph (b) of subdivision 2 of section 1193 of the vehicle and
13 traffic law is amended by adding a new subparagraph 13 to read as
14 follows:

15 (13) Where revocation of a driver's license is mandatory hereunder
16 based upon a conviction of, or youthful offender of other juvenile adju-
17 dication in connection with any crime in violation of subdivision four
18 of section eleven hundred ninety-two of this article and the individual
19 does not have a driver's license or the individual's driver's license
20 was suspended or revoked at the time of conviction or youthful offender
21 or other juvenile adjudication, the commissioner shall not issue a new
22 license nor restore the former license for a period of six months after
23 such individual would otherwise have become eligible to obtain a new
24 license or to have the former license restored; provided, however, that
25 during such period the commissioner may issue a conditional license
26 pursuant to section eleven hundred ninety-six of this article to such
27 previously revoked licensee.

1 § 6. Clauses a and b of subparagraph 1 of paragraph (d) of subdivision
2 2 of section 1194 of the vehicle and traffic law, as amended by chapter
3 732 of the laws of 2006, are amended to read as follows:

4 a. Any license which has been revoked pursuant to paragraph (c) of
5 this subdivision shall not be restored for at least [one year] eighteen
6 months after such revocation, nor thereafter, except in the discretion
7 of the commissioner. However, no such license shall be restored for at
8 least [eighteen] twenty-four months after such revocation, nor thereaft-
9 er except in the discretion of the commissioner, in any case where the
10 person has had a prior revocation resulting from refusal to submit to a
11 chemical test, or has been convicted of or found to be in violation of
12 any subdivision of section eleven hundred ninety-two or section eleven
13 hundred ninety-two-a of this article not arising out of the same inci-
14 dent, within the five years immediately preceding the date of such revo-
15 cation; provided, however, a prior finding that a person under the age
16 of twenty-one has refused to submit to a chemical test pursuant to
17 subdivision three of section eleven hundred ninety-four-a of this arti-
18 cle shall have the same effect as a prior finding of a refusal pursuant
19 to this subdivision solely for the purpose of determining the length of
20 any license suspension or revocation required to be imposed under any
21 provision of this article, provided that the subsequent offense or
22 refusal is committed or occurred prior to the expiration of the
23 retention period for such prior refusal as set forth in paragraph (k) of
24 subdivision one of section two hundred one of this chapter.

25 b. Any license which has been revoked pursuant to paragraph (c) of
26 this subdivision or pursuant to subdivision three of section eleven
27 hundred ninety-four-a of this article, where the holder was under the
28 age of twenty-one years at the time of such refusal, shall not be

1 restored for at least [one year] eighteen months, nor thereafter, except
2 in the discretion of the commissioner. Where such person under the age
3 of twenty-one years has a prior finding, conviction or youthful offender
4 adjudication resulting from a violation of section eleven hundred nine-
5 ty-two or section eleven hundred ninety-two-a of this article, not aris-
6 ing from the same incident, such license shall not be restored for at
7 least [one year] twenty-four months or until such person reaches the age
8 of twenty-one years, whichever is the greater period of time, nor there-
9 after, except in the discretion of the commissioner.

10 § 7. Paragraphs (a) and (b) of subdivision 2 of section 1225-c of the
11 vehicle and traffic law, as amended by section 4 of part C of chapter 58
12 of the laws of 2013, are amended to read as follows:

13 (a) Except as otherwise provided in this section, no person shall
14 operate a motor vehicle upon a public highway while using a mobile tele-
15 phone to engage in a call while such vehicle is in motion; provided,
16 however, that no person shall operate a commercial motor vehicle while
17 using a mobile telephone to engage in a call on a public highway
18 [including while temporarily stationary because of traffic, a traffic
19 control device, or other momentary delays]. Provided further, however,
20 that a person shall not be deemed to be operating a [commercial] motor
21 vehicle while using a mobile telephone to engage in a call on a public
22 highway when such vehicle is stopped at the side of, or off, a public
23 highway in a location where such vehicle is not otherwise prohibited
24 from stopping by law, rule, regulation or any lawful order or direction
25 of a police officer.

26 (b) An operator of any motor vehicle upon a public highway who holds a
27 mobile telephone to, or in the immediate proximity of, his or her ear
28 [while such vehicle is in motion] is presumed to be engaging in a call

1 within the meaning of this section[; provided, however, that an operator
2 of a commercial motor vehicle who holds a mobile telephone to, or in the
3 immediate proximity of, his or her ear while such vehicle is temporarily
4 stationary because of traffic, a traffic control device, or other momen-
5 tary delays is also presumed to be engaging in a call within the meaning
6 of this section except that a person operating a commercial motor vehi-
7 cle while using a mobile telephone to engage in a call when such vehicle
8 is stopped at the side of, or off, a public highway in a location where
9 such vehicle is not otherwise prohibited from stopping by law, rule,
10 regulation or any lawful order or direction of a police officer shall
11 not be presumed to be engaging in a call within the meaning of this
12 section]. The presumption established by this subdivision is rebuttable
13 by evidence tending to show that the operator was not engaged in a call.

14 § 8. Subdivision 3 of section 1225-c of the vehicle and traffic law,
15 as added by chapter 69 of the laws of 2001, is amended and a new subdi-
16 vision 2-a is added to read as follows:

17 2-a. No person under eighteen years of age shall operate a motor vehi-
18 cle upon a public highway while engaging in a call with a hand held or
19 hands free mobile telephone. For the purposes of this subdivision,
20 engaging in a call shall include making or receiving a call with a hand
21 held or hands free mobile telephone.

22 3. [Subdivision] Subdivisions two and two-a of this section shall not
23 apply to (a) the use of a mobile telephone for the sole purpose of
24 communicating with any of the following regarding an emergency situ-
25 ation: an emergency response operator; a hospital, physician's office or
26 health clinic; an ambulance company or corps; a fire department,
27 district or company; or a police department, (b) any of the following
28 persons while in the performance of their official duties: a police

1 officer or peace officer; a member of a fire department, district or
2 company; or the operator of an authorized emergency vehicle as defined
3 in section one hundred one of this chapter, or (c) the use of a hands-
4 free mobile telephone except as applied to persons under the age of
5 eighteen years.

6 § 9. Subdivisions 1 and 4 of section 1225-d of the vehicle and traffic
7 law, subdivision 1 as amended by section 6 and subdivision 4 as amended
8 by section 10 of part C of chapter 58 of the laws of 2013, are amended
9 to read as follows:

10 1. Except as otherwise provided in this section, no person shall oper-
11 ate a motor vehicle while using any portable electronic device [while
12 such vehicle is in motion; provided, however, that no person shall oper-
13 ate a commercial motor vehicle while using any portable electronic
14 device on a public highway including while temporarily stationary
15 because of traffic, a traffic control device, or other momentary
16 delays]. Provided further, however, that a person shall not be deemed to
17 be operating a [commercial] motor vehicle while using a portable elec-
18 tronic device on a public highway when such vehicle is stopped at the
19 side of, or off, a public highway in a location where such vehicle is
20 not otherwise prohibited from stopping by law, rule, regulation or any
21 lawful order or direction of a police officer.

22 4. A person who [holds] uses a portable electronic device in a
23 conspicuous manner while operating a motor vehicle or while operating a
24 [commercial] motor vehicle on a public highway [including while tempo-
25 rarily stationary because of traffic, a traffic control device, or other
26 momentary delays] but not including when such [commercial] motor vehicle
27 is stopped at the side of, or off, a public highway in a location where
28 such vehicle is not otherwise prohibited from stopping by law, rule,

1 regulation or any lawful order or direction of a police officer is
2 presumed to be using such device[, except that a person operating a
3 commercial motor vehicle while using a portable electronic device when
4 such vehicle is stopped at the side of, or off, a public highway in a
5 location where such vehicle is not otherwise prohibited from stopping by
6 law, rule, regulation or any lawful order or direction of a police offi-
7 cer shall not be presumed to be using such device]. The presumption
8 established by this subdivision is rebuttable by evidence tending to
9 show that the operator was not using the device within the meaning of
10 this section.

11 § 10. Paragraphs (a) and (b) of subdivision 2 of section 1225-d of the
12 vehicle and traffic law, as amended by section 8 of part C of chapter 58
13 of the laws of 2013, are amended to read as follows:

14 (a) "Portable electronic device" shall mean any hand-held mobile tele-
15 phone, as defined by subdivision one of section twelve hundred twenty-
16 five-c of this article, personal digital assistant (PDA), handheld
17 device with mobile data access, laptop computer, pager, broadband
18 personal communication device, two-way messaging device, electronic
19 game, or portable computing device, or any other [electronic] personal
20 wireless communications device when used to input, write, send, receive,
21 or read text or images for present or future communication including
22 doing so for the purpose of SMS texting, emailing, instant messaging or
23 engaging in any other form of electronic data retrieval or electronic
24 data communication.

25 (b) "Using" shall mean holding or making contact with a portable elec-
26 tronic device [while] for the purpose of viewing, taking or transmitting
27 images, playing games, or, for the purpose of present or future communi-
28 cation: performing a command or request to access a world wide web page,

1 composing, sending, reading, viewing, accessing, browsing, transmitting,
2 saving or retrieving e-mail, text messages, instant messages, or other
3 electronic data.

4 § 11. Subdivision 2 of section 1225-d of the vehicle and traffic law,
5 is amended by adding a new paragraph (e) to read as follows:

6 (e) "Personal wireless communications device" shall: (i) mean a device
7 through which personal wireless services (as defined in section
8 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332
9 (c)(7)(C)(i)), are transmitted; and

10 (ii) does not include a global navigation satellite system receiver
11 used for positioning, emergency notification, or navigation purposes.

12 § 12. Subdivision 3 of section 1229-c of the vehicle and traffic law,
13 as added by chapter 365 of the laws of 1984, is amended to read as
14 follows:

15 3. No person shall operate a motor vehicle unless such person is
16 restrained by a safety belt approved by the commissioner. No person
17 sixteen years of age or over shall be a passenger in [the front seat of]
18 a motor vehicle unless such person is restrained by a safety belt
19 approved by the commissioner.

20 § 13. This act shall take effect on the first of October next succeed-
21 ing the date on which it shall have become a law.

22 PART M

23 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
24 of the laws of 1968 constituting the New York state urban development
25 corporation act, as amended by section 1 of part F of chapter 58 of the
26 laws of 2016, is amended to read as follows:

1 3. The provisions of this section shall expire, notwithstanding any
2 inconsistent provision of subdivision 4 of section 469 of chapter 309 of
3 the laws of 1996 or of any other law, on July 1, [2017] 2018.

4 § 2. This act shall take effect immediately and shall be deemed to
5 have been in full force and effect on and after July 1, 2017.

6 PART N

7 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
8 New York state urban development corporation act, relating to the powers
9 of the New York state urban development corporation to make loans, as
10 amended by section 1 of part G of chapter 58 of the laws of 2016, is
11 amended to read as follows:

12 § 2. This act shall take effect immediately provided, however, that
13 section one of this act shall expire on July 1, [2017] 2018, at which
14 time the provisions of subdivision 26 of section 5 of the New York state
15 urban development corporation act shall be deemed repealed; provided,
16 however, that neither the expiration nor the repeal of such subdivision
17 as provided for herein shall be deemed to affect or impair in any manner
18 any loan made pursuant to the authority of such subdivision prior to
19 such expiration and repeal.

20 § 2. This act shall take effect immediately and shall be deemed to
21 have been in full force and effect on and after April 1, 2017.

22 PART O

23 Section 1. The opening paragraph of subdivision (h) of section 121 of
24 chapter 261 of the laws of 1988, amending the state finance law and

1 other laws relating to the New York state infrastructure trust fund, as
2 amended by section 2 of part Q of chapter 58 of the laws of 2015, is
3 amended to read as follows:

4 The provisions of [section] sections sixty-two through sixty-six of
5 this act shall expire on December thirty-first, two thousand [seventeen]
6 eighteen, except that:

7 § 2. This act shall take effect immediately.

8 PART P

9 Section 1. Subdivision (a) of section 2 of part F of chapter 60 of the
10 laws of 2015 constituting the infrastructure investment act, is amended
11 to read as follows:

12 (a) "authorized [state] entity" shall mean the New York state thruway
13 authority, [the department of transportation, the office of parks,
14 recreation and historic preservation, the department of environmental
15 conservation and] the New York state bridge authority, any authority as
16 such term is defined in section 2 of the public authorities law, every
17 state agency, as such term is defined in section 160 of the state
18 finance law and including the state university of New York and the city
19 university of New York, and any and all affiliates or subsidiaries of
20 such entities, and counties as such term is defined in section 3 of the
21 county law, excluding Bronx, Kings, New York, Queens, and Richmond coun-
22 ties.

23 § 2. Section 2 of part F of chapter 60 of the laws of 2015 constitut-
24 ing the infrastructure investment act, is amended by adding a new subdi-
25 vision (b-1) to read as follows:

1 (b-1) "capital assets" shall have the same meaning as such term is
2 defined by subdivision 6-b of section 2 of the state finance law.

3 § 3. Section 3 of part F of chapter 60 of the laws of 2015 constitut-
4 ing the infrastructure investment act, is amended to read as follows:

5 § 3. Notwithstanding the provisions of section 38 of the highway law,
6 section 136-a of the state finance law, [section] sections 359, 1678,
7 1680, 1680-a and 2879-a of the public authorities law, [section]
8 sections 407-a, 6281 and 7210 of the education law, sections 8 and 9 of
9 the public buildings law, section 11 of chapter 795 of the laws of 1967,
10 sections 8 and 9 of section 1 of chapter 359 of the laws of 1968 as
11 amended, section 29 of chapter 337 of the laws of 1972, section 21 of
12 chapter 464 of the laws of 1972, section 103 of the general municipal
13 law, and the provisions of any other law to the contrary, and in
14 conformity with the requirements of this act, an authorized [state]
15 entity may utilize the alternative delivery method referred to as
16 design-build contracts, in consultation with relevant local labor organ-
17 izations and construction industry, for capital projects related to [the
18 state's physical infrastructure, including, but not limited to, the
19 state's highways, bridges, dams, flood control projects, canals, and
20 parks, including, but not limited to, to repair damage caused by natural
21 disaster, to correct health and safety defects, to comply with federal
22 and state laws, standards, and regulations, to extend the useful life of
23 or replace the state's highways, bridges, dams, flood control projects,
24 canals, and parks or to improve or add to the state's highways, bridges,
25 dams, flood control projects, canals, and parks] publicly owned capital
26 assets; provided that [for the contracts executed by the department of
27 transportation, the office of parks, recreation and historic preserva-
28 tion, or the department of environmental conservation,] the total cost

1 of each such project shall not be less than one million two hundred
2 thousand dollars (\$1,200,000).

3 § 4. Section 4 of part F of chapter 60 of the laws of 2015 constituting
4 the infrastructure investment act, is amended to read as follows:

5 § 4. An entity selected by an authorized [state] entity to enter into
6 a design-build contract shall be selected through a two-step method, as
7 follows:

8 (a) Step one. Generation of a list of entities that have demonstrated
9 the general capability to perform the design-build contract. Such list
10 shall consist of a specified number of entities, as determined by an
11 authorized [state] entity, and shall be generated based upon the author-
12 ized [state] entity's review of responses to a publicly advertised
13 request for qualifications. The authorized [state] entity's request for
14 qualifications shall include a general description of the project, the
15 maximum number of entities to be included on the list, and the selection
16 criteria to be used in generating the list. Such selection criteria
17 shall include the qualifications and experience of the design and
18 construction team, organization, demonstrated responsibility, ability of
19 the team or of a member or members of the team to comply with applicable
20 requirements, including the provisions of articles 145, 147 and 148 of
21 the education law, past record of compliance with the labor law, and
22 such other qualifications the authorized [state] entity deems appropri-
23 ate which may include but are not limited to project understanding,
24 financial capability and record of past performance. The authorized
25 [state] entity shall evaluate and rate all entities responding to the
26 request for qualifications. Based upon such ratings, the authorized
27 [state] entity shall list the entities that shall receive a request for
28 proposals in accordance with subdivision (b) of this section. To the

1 extent consistent with applicable federal law, the authorized [state]
2 entity shall consider, when awarding any contract pursuant to this
3 section, the participation of: (i) firms certified pursuant to article
4 15-A of the executive law as minority or women-owned businesses and the
5 ability of other businesses under consideration to work with minority
6 and women-owned businesses so as to promote and assist participation by
7 such businesses; [and] (ii) small business concerns identified pursuant
8 to subdivision (b) of section 139-g of the state finance law.

9 (b) Step two. Selection of the proposal which is the best value to the
10 [state] authorized entity. The authorized [state] entity shall issue a
11 request for proposals to the entities listed pursuant to subdivision (a)
12 of this section. If such an entity consists of a team of separate enti-
13 ties, the entities that comprise such a team must remain unchanged from
14 the entity as listed pursuant to subdivision (a) of this section unless
15 otherwise approved by the authorized [state] entity. The request for
16 proposals shall set forth the project's scope of work, and other
17 requirements, as determined by the authorized [state] entity. The
18 request for proposals shall specify the criteria to be used to evaluate
19 the responses and the relative weight of each such criteria. Such
20 criteria shall include the proposal's cost, the quality of the
21 proposal's solution, the qualifications and experience of the design-
22 build entity, and other factors deemed pertinent by the authorized
23 [state] entity, which may include, but shall not be limited to, the
24 proposal's project implementation, ability to complete the work in a
25 timely and satisfactory manner, maintenance costs of the completed
26 project, maintenance of traffic approach, and community impact. Any
27 contract awarded pursuant to this act shall be awarded to a responsive
28 and responsible entity that submits the proposal, which, in consider-

1 ation of these and other specified criteria deemed pertinent to the
2 project, offers the best value to the [state] authorized entity, as
3 determined by the authorized [state] entity. Nothing herein shall be
4 construed to prohibit the authorized entity from negotiating final
5 contract terms and conditions including cost.

6 § 5. Section 6 of part F of chapter 60 of the laws of 2015 constitut-
7 ing the infrastructure investment act, is amended to read as follows:

8 § 6. Construction for each capital project undertaken by the author-
9 ized [state] entity pursuant to this act shall be deemed a "public work"
10 to be performed in accordance with the provisions of article 8 of the
11 labor law, as well as subject to sections 200, 240, 241 and 242 of the
12 labor law and enforcement of prevailing wage requirements by the New
13 York state department of labor.

14 § 6. Section 7 of part F of chapter 60 of the laws of 2015 constitut-
15 ing the infrastructure investment act, is amended to read as follows:

16 § 7. If otherwise applicable, capital projects undertaken by the
17 authorized [state] entity pursuant to this act shall be subject to
18 section 135 of the state finance law, section 101 of the general municipi-
19 pal law, and section 222 of the labor law; provided, however, that an
20 authorized entity may fulfill its obligations under section 135 of the
21 state finance law or section 101 of the general municipal law by requir-
22 ing the contractor to prepare separate specifications in accordance with
23 section 135 of the state finance law or section 101 of the general
24 municipal law, as the case may be.

25 § 7. Section 8 of part F of chapter 60 of the laws of 2015 constitut-
26 ing the infrastructure investment act, is amended to read as follows:

27 § 8. Each contract entered into by the authorized [state] entity
28 pursuant to this section shall comply with the objectives and goals of

1 minority and women-owned business enterprises pursuant to article 15-A
2 of the executive law or, for projects receiving federal aid, shall
3 comply with applicable federal requirements for disadvantaged business
4 enterprises.

5 § 8. Section 9 of part F of chapter 60 of the laws of 2015 constitut-
6 ing the infrastructure investment act, is amended to read as follows:

7 § 9. Capital projects undertaken by the authorized [state] entity
8 pursuant to this act shall be subject to the requirements of article 8
9 of the environmental conservation law, and, where applicable, the
10 requirements of the national environmental policy act.

11 § 9. Section 10 of part F of chapter 60 of the laws of 2015 constitut-
12 ing the infrastructure investment act, is amended to read as follows:

13 § 10. If otherwise applicable, capital projects undertaken by the
14 authorized [state] entity pursuant to this act shall be governed by
15 sections 139-d, 139-j, 139-k, paragraph f of subdivision 1 and paragraph
16 g of subdivision 9 of section 163 of the state finance law.

17 § 10. Section 12 of part F of chapter 60 of the laws of 2015 consti-
18 tuting the infrastructure investment act, is amended to read as follows:

19 § 12. Nothing contained in this act shall limit the right or obli-
20 gation of the authorized [state] entity to comply with the provisions of
21 any existing contract, including any existing contract with or for the
22 benefit of the holders of the obligations of the authorized [state]
23 entity, or to award contracts as otherwise provided by law.

24 § 11. Section 13 of part F of chapter 60 of the laws of 2015 consti-
25 tuting the infrastructure investment act, is amended to read as follows:

26 § 13. Alternative construction awarding processes. (a) Notwithstand-
27 ing the provisions of any other law to the contrary, the authorized
28 [state] entity may award a construction contract:

1 1. To the contractor offering the best value; or

2 2. Utilizing a cost-plus not to exceed guaranteed maximum price form

3 of contract in which the authorized [state] entity shall be entitled to

4 monitor and audit all project costs. In establishing the schedule and

5 process for determining a guaranteed maximum price, the contract between

6 the authorized [state] entity and the contractor shall:

7 (i) describe the scope of the work and the cost of performing such

8 work;

9 (ii) include a detailed line item cost breakdown;

10 (iii) include a list of all drawings, specifications and other infor-

11 mation on which the guaranteed maximum price is based;

12 (iv) include the dates for substantial and final completion on which

13 the guaranteed maximum price is based; and

14 (v) include a schedule of unit prices; or

15 3. Utilizing a lump sum contract in which the contractor agrees to

16 accept a set dollar amount for a contract which comprises a single bid

17 without providing a cost breakdown for all costs such as for equipment,

18 labor, materials, as well as such contractor's profit for completing all

19 items of work comprising the project.

20 (b) Capital projects undertaken by an authorized [state] entity may

21 include an incentive clause in the contract for various performance

22 objectives, but the incentive clause shall not include an incentive that

23 exceeds the quantifiable value of the benefit received by the [state]

24 authorized entity. The authorized [state] entity shall establish such

25 performance and payment bonds as it deems necessary.

26 § 12. Section 14 of part F of chapter 60 of the laws of 2015 consti-

27 tuting the infrastructure investment act, is amended to read as follows:

1 § 14. Prequalified contractors. (a) Notwithstanding any other
2 provision of law, the authorized [state] entity may maintain a list of
3 prequalified contractors who are eligible to submit a proposal pursuant
4 to this act and entry into such list shall be continuously available.
5 Prospective contractors may be prequalified as contractors to provide
6 particular types of construction, in accordance with general criteria
7 established by the authorized [state] entity which may include, but
8 shall not be limited to, the experience, past performance, ability to
9 undertake the type and complexity of work, financial capability, respon-
10 sibility, compliance with equal employment opportunity requirements and
11 anti-discrimination laws, and reliability. Such prequalification may be
12 by categories designed by size and other factors.

13 (b) A contractor who is denied prequalification or whose prequalifica-
14 tion is revoked or suspended by the authorized [state] entity may appeal
15 such decision to the authorized [state] entity. If such a suspension
16 extends for more than three months, it shall be deemed a revocation of
17 the prequalification. The authorized [state] entity may proceed with the
18 contract award during any appeal.

19 § 13. Part F of chapter 60 of the laws of 2015 constituting the
20 infrastructure investment act, is amended by adding a new section 15-a
21 to read as follows:

22 § 15-a. Any contract awarded pursuant to this act shall be deemed to
23 be awarded pursuant to a competitive procurement for purposes of section
24 2879-a of the public authorities law.

25 § 14. Section 17 of part F of chapter 60 of the laws of 2015 consti-
26 tuting the infrastructure investment act, is amended to read as follows:

27 § 17. This act shall take effect immediately [and shall expire and be
28 deemed repealed 2 years after such date, provided that, projects with

1 requests for qualifications issued prior to such repeal shall be permit-
2 ted to continue under this act notwithstanding such repeal].

3 § 15. This act shall take effect immediately; provided, however that
4 the amendments to the infrastructure investment act made by sections one
5 through thirteen of this act shall not affect the repeal of such act and
6 shall be deemed repealed therewith.

7 PART Q

8 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
9 executive law relating to permitting the secretary of state to provide
10 special handling for all documents filed or issued by the division of
11 corporations and to permit additional levels of such expedited service,
12 as amended by section 1 of part M of chapter 58 of the laws of 2016, is
13 amended to read as follows:

14 § 2. This act shall take effect immediately, provided however, that
15 section one of this act shall be deemed to have been in full force and
16 effect on and after April 1, 2003 and shall expire March 31, [2017]
17 2018.

18 § 2. This act shall take effect immediately and shall be deemed to
19 have been in full force and effect on and after March 31, 2017.

20 PART R

21 Section 1. Paragraph (d) of section 304 of the business corporation
22 law is amended to read as follows:

23 (d) Any designated post office address maintained by the secretary of
24 state as agent of a domestic corporation or foreign corporation for the

1 purpose of mailing process shall be the post office address, within or
2 without the state, to which a person shall mail process against such
3 corporation as required by this article. Any designated [post-office]
4 post office address to which the secretary of state or a person shall
5 mail a copy of any process served upon [him] the secretary of state as
6 agent of a domestic corporation or a foreign corporation, shall continue
7 until the filing of a certificate under this chapter directing the mail-
8 ing to a different [post-office] post office address.

9 § 2. Paragraph (a) of section 305 of the business corporation law, as
10 amended by chapter 131 of the laws of 1985, is amended to read as
11 follows:

12 (a) In addition to such designation of the secretary of state, every
13 domestic corporation or authorized foreign corporation may designate a
14 registered agent in this state upon whom process against such corpo-
15 ration may be served. The agent shall be a natural person who is a resi-
16 dent of or has a business address in this state [or], a domestic corpo-
17 ration or foreign corporation of any type or kind formed[,] or
18 authorized to do business in this state, under this chapter or under any
19 other statute of this state, or domestic limited liability company or
20 foreign limited liability company formed or authorized to do business in
21 this state.

22 § 3. Subparagraph 1 of paragraph (b) of section 306 of the business
23 corporation law, as amended by chapter 419 of the laws of 1990, is
24 amended to read as follows:

25 (1) Service of process on the secretary of state as agent of a domes-
26 tic or authorized foreign corporation, or other business entity that has
27 designated the secretary of state as agent for service of process pursu-
28 ant to article nine of this chapter, shall be made by [personally deliv-

1 ering to and leaving with the secretary of state or a deputy, or with
2 any person authorized by the secretary of state to receive such service,
3 at the office of the department of state in the city of Albany, dupli-
4 cate copies of such process together with the statutory fee, which fee
5 shall be a taxable disbursement] mailing the process and notice of
6 service thereof by certified mail, return receipt requested, to such
7 corporation or other business entity, at the post office address on file
8 in the department of state, specified for this purpose. If a domestic or
9 authorized foreign corporation has no such address on file in the
10 department of state, the process and notice of service thereof shall be
11 mailed, in the case of a domestic corporation, in care of any director
12 named in its certificate of incorporation at the director's address
13 stated therein or, in the case of an authorized foreign corporation, to
14 such corporation at the address of its office within this state on file
15 in the department. On the same day that such process is mailed, a dupli-
16 cate copy of such process and proof of mailing together with the statu-
17 tory fee, which fee shall be a taxable disbursement shall be personally
18 delivered to and left with the secretary of state or a deputy, or with
19 any person authorized by the secretary of state to receive such service,
20 at the office of the department of state in the city of Albany. Proof of
21 mailing shall be by affidavit of compliance with this section. Service
22 of process on such corporation or other business entity shall be
23 complete when the secretary of state is so served. [The secretary of
24 state shall promptly send one of such copies by certified mail, return
25 receipt requested, to such corporation, at the post office address, on
26 file in the department of state, specified for the purpose. If a domes-
27 tic or authorized foreign corporation has no such address on file in the
28 department of state, the secretary of state shall so mail such copy, in

1 the case of a domestic corporation, in care of any director named in its
2 certificate of incorporation at the director's address stated therein
3 or, in the case of an authorized foreign corporation, to such corpo-
4 ration at the address of its office within this state on file in the
5 department.]

6 § 4. Subparagraphs 2 and 3 of paragraph (a) of section 306-A of the
7 business corporation law, as added by chapter 469 of the laws of 1997,
8 are amended to read as follows:

9 (2) That the address of the party has been designated by the corpo-
10 ration as the post office address to which [the secretary of state] a
11 person shall mail a copy of any process served on the secretary of state
12 as agent for such corporation, specifying such address, and that such
13 party wishes to resign.

14 (3) That sixty days prior to the filing of the certificate of resigna-
15 tion or receipt of process with the department of state the party has
16 sent a copy of the certificate of resignation for receipt of process by
17 registered or certified mail to the address of the registered agent of
18 the designating corporation, if other than the party filing the certif-
19 icate of resignation[,] for receipt of process, or if the [resigning]
20 designating corporation has no registered agent, then to the last
21 address of the designating corporation known to the party, specifying
22 the address to which the copy was sent. If there is no registered agent
23 and no known address of the designating corporation, the party shall
24 attach an affidavit to the certificate stating that a diligent but
25 unsuccessful search was made by the party to locate the corporation,
26 specifying what efforts were made.

27 § 5. Subparagraph 7 of paragraph (a) of section 402 of the business
28 corporation law is amended to read as follows:

1 (7) A designation of the secretary of state as agent of the corpo-
2 ration upon whom process against it may be served and the post office
3 address, within or without this state, to which [the secretary of state]
4 a person shall mail a copy of any process against it served upon [him]
5 the secretary of state.

6 § 6. Subparagraph (c) of paragraph 1 of section 408 of the business
7 corporation law, as amended by section 3 of part S of chapter 59 of the
8 laws of 2015, is amended to read as follows:

9 (c) The post office address, within or without this state, to which
10 [the secretary of state] a person shall mail a copy of any process
11 against it served upon [him or her] the secretary of state. Such
12 address shall supersede any previous address on file with the department
13 of state for this purpose.

14 § 7. Subparagraph 4 of paragraph (b) of section 801 of the business
15 corporation law is amended to read as follows:

16 (4) To specify or change the post office address to which [the secre-
17 tary of state] a person shall mail a copy of any process against the
18 corporation served upon [him] the secretary of state.

19 § 8. Subparagraph 2 of paragraph (b) of section 803 of the business
20 corporation law, as amended by chapter 803 of the laws of 1965, is
21 amended to read as follows:

22 (2) To specify or change the post office address to which [the secre-
23 tary of state] a person shall mail a copy of any process against the
24 corporation served upon [him] the secretary of state.

25 § 9. Paragraph (b) of section 805-A of the business corporation law,
26 as added by chapter 725 of the laws of 1964, is amended to read as
27 follows:

1 (b) A certificate of change which changes only the post office address
2 to which [the secretary of state] a person shall mail a copy of any
3 process against a corporation served upon [him or] the secretary of
4 state and/or the address of the registered agent, provided such address
5 being changed is the address of a person, partnership, limited liability
6 company or other corporation whose address, as agent, is the address to
7 be changed or who has been designated as registered agent for such
8 corporation, may be signed[, verified] and delivered to the department
9 of state by such agent. The certificate of change shall set forth the
10 statements required under subparagraphs [(a)] (1), (2) and (3) of para-
11 graph (a) of this section; that a notice of the proposed change was
12 mailed to the corporation by the party signing the certificate not less
13 than thirty days prior to the date of delivery to the department and
14 that such corporation has not objected thereto; and that the party sign-
15 ing the certificate is the agent of such corporation to whose address
16 [the secretary of state] a person is required to mail copies of process
17 served on the secretary of state or the registered agent, if such be the
18 case. A certificate signed[, verified] and delivered under this para-
19 graph shall not be deemed to effect a change of location of the office
20 of the corporation in whose behalf such certificate is filed.

21 § 10. Subparagraph 8 of paragraph (a) of section 904-a of the business
22 corporation law, as amended by chapter 177 of the laws of 2008, is
23 amended to read as follows:

24 (8) If the surviving or resulting entity is a foreign corporation or
25 other business entity, a designation of the secretary of state as its
26 agent upon whom process against it may be served in the manner set forth
27 in paragraph (b) of section three hundred six of this chapter, in any
28 action or special proceeding, and a post office address, within or with-

1 out this state, to which [the secretary of state] a person shall mail a
2 copy of any process against it served upon [him] the secretary of state.
3 Such post office address shall supersede any prior address designated as
4 the address to which process shall be mailed;

5 § 11. Clause (G) of subparagraph 2 of paragraph (e) of section 907 of
6 the business corporation law, as amended by chapter 494 of the laws of
7 1997, is amended to read as follows:

8 (G) A designation of the secretary of state as its agent upon whom
9 process against it may be served in the manner set forth in paragraph
10 (b) of section 306 (Service of process), in any action or special
11 proceeding, and a post office address, within or without this state, to
12 which [the secretary of state] a person shall mail a copy of any process
13 against it served upon [him] the secretary of state. Such post office
14 address shall supersede any prior address designated as the address to
15 which process shall be mailed.

16 § 12. Subparagraph 6 of paragraph (a) of section 1304 of the business
17 corporation law, as amended by chapter 684 of the laws of 1963 and as
18 renumbered by chapter 590 of the laws of 1982, is amended to read as
19 follows:

20 (6) A designation of the secretary of state as its agent upon whom
21 process against it may be served and the post office address, within or
22 without this state, to which [the secretary of state] a person shall
23 mail a copy of any process against it served upon [him] the secretary of
24 state.

25 § 13. Subparagraph 7 of paragraph (a) of section 1308 of the business
26 corporation law, as amended by chapter 725 of the laws of 1964 and as
27 renumbered by chapter 186 of the laws of 1983, is amended to read as
28 follows:

1 (7) To specify or change the post office address to which [the secre-
2 tary of state] a person shall mail a copy of any process against it
3 served upon [him] the secretary of state.

4 § 14. Subparagraph 2 of paragraph (a) and paragraph (c) of section
5 1309-A of the business corporation law, subparagraph 2 of paragraph (a)
6 as added by chapter 725 of the laws of 1964 and paragraph (c) as amended
7 by chapter 172 of the laws of 1999, are amended to read as follows:

8 (2) To specify or change the post office address to which [the secre-
9 tary of state] a person shall mail a copy of any process against it
10 served upon [him] the secretary of state.

11 (c) A certificate of change of application for authority which changes
12 only the post office address to which [the secretary of state] a person
13 shall mail a copy of any process against an authorized foreign corpo-
14 ration served upon [him or which] the secretary of state and/or changes
15 the address of its registered agent, provided such address is the
16 address of a person, partnership, limited liability company or other
17 corporation whose address, as agent, is the address to be changed or who
18 has been designated as registered agent for such authorized foreign
19 corporation, may be signed and delivered to the department of state by
20 such agent. The certificate of change of application for authority shall
21 set forth the statements required under subparagraphs (1), (2), (3) and
22 (4) of paragraph (b) of this section; that a notice of the proposed
23 change was mailed by the party signing the certificate to the authorized
24 foreign corporation not less than thirty days prior to the date of
25 delivery to the department and that such corporation has not objected
26 thereto; and that the party signing the certificate is the agent of such
27 foreign corporation to whose address [the secretary of state] a person
28 is required to mail copies of process served on the secretary of state

1 or the registered agent, if such be the case. A certificate signed and
2 delivered under this paragraph shall not be deemed to effect a change of
3 location of the office of the corporation in whose behalf such certifi-
4 cate is filed.

5 § 15. Subparagraphs 1 and 6 of paragraph (a) of section 1310 of the
6 business corporation law, subparagraph 1 as amended by chapter 590 of
7 the laws of 1982, are amended to read as follows:

8 (1) The name of the foreign corporation as it appears on the index of
9 names of existing domestic and authorized foreign corporations of any
10 type or kind in the department of state, division of corporations [or,]
11 and the fictitious name, if any, the corporation has agreed to use in
12 this state pursuant to paragraph (d) of section 1301 of this [chapter]
13 article.

14 (6) A post office address, within or without this state, to which [the
15 secretary of state] a person shall mail a copy of any process against it
16 served upon [him] the secretary of state.

17 § 16. Subparagraph 4 of paragraph (d) of section 1310 of the business
18 corporation law is amended to read as follows:

19 (4) The changed post office address, within or without this state, to
20 which [the secretary of state] a person shall mail a copy of any process
21 against it served upon [him] the secretary of state.

22 § 17. Section 1311 of the business corporation law, as amended by
23 chapter 375 of the laws of 1998, is amended to read as follows:

24 § 1311. Termination of existence.

25 When an authorized foreign corporation is dissolved or its authority
26 or existence is otherwise terminated or cancelled in the jurisdiction of
27 its incorporation or when such foreign corporation is merged into or
28 consolidated with another foreign corporation, a certificate of the

1 secretary of state, or official performing the equivalent function as to
2 corporate records, of the jurisdiction of incorporation of such foreign
3 corporation attesting to the occurrence of any such event or a certified
4 copy of an order or decree of a court of such jurisdiction directing the
5 dissolution of such foreign corporation, the termination of its exist-
6 ence or the cancellation of its authority shall be delivered to the
7 department of state. The filing of the certificate, order or decree
8 shall have the same effect as the filing of a certificate of surrender
9 of authority under section 1310 (Surrender of authority). The secretary
10 of state shall continue as agent of the foreign corporation upon whom
11 process against it may be served in the manner set forth in paragraph
12 (b) of section 306 (Service of process), in any action or special
13 proceeding based upon any liability or obligation incurred by the
14 foreign corporation within this state prior to the filing of such
15 certificate, order or decree and [he] the person serving such process
16 shall [promptly cause a copy of any such] send the process [to be
17 mailed] by [registered] certified mail, return receipt requested, to
18 such foreign corporation at the post office address on file in his
19 office specified for such purpose and shall provide the secretary of
20 state with proof of such mailing in the manner set forth in paragraph
21 (b) of section 306 (service of process). The post office address may be
22 changed by signing and delivering to the department of state a certif-
23 icate of change setting forth the statements required under section
24 1309-A (Certificate of change; contents) to effect a change in the post
25 office address under subparagraph seven of paragraph (a) [(4)] of
26 section 1308 (Amendments or changes).

1 § 18. Subparagraph 6 of paragraph (a) of section 1530 of the business
2 corporation law, as added by chapter 505 of the laws of 1983, is amended
3 to read as follows:

4 (6) A designation of the secretary of state as its agent upon whom
5 process against it may be served and the post office address, within or
6 without this state, to which [the secretary of state] a person shall
7 mail a copy of any process against it served upon [him] the secretary of
8 state.

9 § 19. Subdivision 10 of section 11 of the cooperative corporations
10 law, as added by chapter 97 of the laws of 1969, is amended to read as
11 follows:

12 10. A designation of the secretary of state as agent of the corpo-
13 ration upon whom process against it may be served and the post office
14 address, within or without this state, to which [the secretary of state]
15 a person shall mail a copy of any process against it served upon [him]
16 the secretary of state.

17 § 20. Subdivision 10 of section 96 of the executive law, as amended by
18 chapter 39 of the laws of 1987, is amended to read as follows:

19 10. For service of process on the secretary of state, acting as agent
20 for a third party pursuant to law, except as otherwise specifically
21 provided by law, forty dollars. No fee shall be collected for process
22 served on behalf of [a] any state official, department, board, agency,
23 authority, county, city, town or village or other political subdivision
24 of the state. The fees paid the secretary of state shall be a taxable
25 disbursement.

26 § 21. The opening paragraph of subdivision 2 and subdivision 3 of
27 section 18 of the general associations law, as amended by chapter 13 of

1 the laws of 1938, are amended and two new subdivisions 5 and 6 are added
2 to read as follows:

3 Every association doing business within this state shall file in the
4 department of state a certificate in its associate name, signed [and
5 acknowledged] by its president, or a vice-president, or secretary, or
6 treasurer, or managing director, or trustee, designating the secretary
7 of state as an agent upon whom process in any action or proceeding
8 against the association may be served within this state, and setting
9 forth an address to which [the secretary of state] a person shall mail a
10 copy of any process against the association which may be served upon
11 [him] the secretary of state pursuant to law. Annexed to the certif-
12 icate of designation shall be a statement, executed in the same manner
13 as the certificate is required to be executed under this section, which
14 shall set forth:

15 3. Any association, from time to time, may change the address to
16 which [the secretary of state] a person is directed to mail copies of
17 process served on the secretary of state, by filing a statement to that
18 effect, executed[,] and signed [and acknowledged] in like manner as a
19 certificate of designation as herein provided.

20 5. Any designated post office address maintained by the secretary of
21 state as agent in any action or proceeding against the association for
22 the purpose of mailing process shall be the post office address, within
23 or without the state, to which a person shall mail process against such
24 association as required by this article. Such address shall continue
25 until the filing of a certificate under this chapter directing the mail-
26 ing to a different post office address.

27 6. "Process" means judicial process and all orders, demands, notices
28 or other papers required or permitted by law to be personally served on

1 an association, for the purpose of acquiring jurisdiction of such asso-
2 ciation in any action or proceeding, civil or criminal, whether judi-
3 cial, administrative, arbitratative or otherwise, in this state or in the
4 federal courts sitting in or for this state.

5 § 22. Section 19 of the general associations law, as amended by chap-
6 ter 166 of the laws of 1991, is amended to read as follows:

7 § 19. Service of process. 1. Service of process against an associ-
8 ation upon the secretary of state shall be made by mailing the process
9 and notice of service thereof by certified mail, return receipt
10 requested, to such corporation or other business entity, at the post
11 office address, on file in the department of state, specified for this
12 purpose. On the same day that such process is mailed, a duplicate copy
13 of such process and proof of mailing shall be personally [delivering]
14 delivered to and [leaving] left with [him] the secretary of state or a
15 deputy [secretary of state or an associate attorney, senior attorney or
16 attorney in the corporation division of the department of state], so
17 designated [duplicate copies of such process at the office of the
18 department of state in the city of Albany]. At the time of such service
19 the plaintiff shall pay a fee of forty dollars to the secretary of state
20 which shall be a taxable disbursement. [If the cost of registered mail
21 for transmitting a copy of the process shall exceed two dollars, an
22 additional fee equal to such excess shall be paid at the time of the
23 service of such process. The secretary of state shall forthwith send by
24 registered mail one of such copies to the association at the address
25 fixed for that purpose, as herein provided.]

26 2. Proof of mailing shall be by affidavit of compliance with this
27 section. Service of process on such association shall be complete when
28 the secretary of state is so served. If the action or proceeding is

1 instituted in a court of limited jurisdiction, service of process may be
2 made in the manner provided in this section if the cause of action arose
3 within the territorial jurisdiction of the court and the office of the
4 defendant, as set forth in its statement filed pursuant to section eigh-
5 teen of this [chapter] article, is within such territorial jurisdiction.

6 § 23. Subdivision 2 of section 352-b of the general business law, as
7 amended by chapter 252 of the laws of 1983, is amended to read as
8 follows:

9 2. Service of such process upon the secretary of state shall be made
10 by personally delivering to and leaving with him [or], a deputy secre-
11 tary of state, or with a person authorized by the secretary of state to
12 receive such service, a copy thereof at the office of the department of
13 state in the city of Albany, and such service shall be sufficient
14 service provided that notice of such service and a copy of such process
15 are forthwith sent by the attorney general to such person, partnership,
16 corporation, company, trust or association, by registered or certified
17 mail with return receipt requested, at his or its office as set forth in
18 the "broker-dealer's statement", "salesman's statement" or "investment
19 advisor's statement" filed in the department of law pursuant to section
20 three hundred fifty-nine-e or section three hundred fifty-nine-eee of
21 this article, or in default of the filing of such statement, at the last
22 address known to the attorney general. Service of such process shall be
23 complete on receipt by the attorney general of a return receipt purport-
24 ing to be signed by the addressee or a person qualified to receive his
25 or its registered or certified mail, in accordance with the rules and
26 customs of the post office department, or, if acceptance was refused by
27 the addressee or his or its agent, on return to the attorney general of

1 the original envelope bearing a notation by the postal authorities that
2 receipt thereof was refused.

3 § 24. Section 686 of the general business law, as added by chapter 730
4 of the laws of 1980, is amended to read as follows:

5 § 686. Designation of secretary of state as agent for service of proc-
6 ess; service of process. Any person who shall offer to sell or sell a
7 franchise in this state as a franchisor, subfranchisor or franchise
8 sales agent shall be deemed to have irrevocably appointed the secretary
9 of state as his or its agent upon whom may be served any summons,
10 complaint, subpoena, subpoena duces tecum, notice, order or other proc-
11 ess directed to such person, or any partner, principal, officer, sales-
12 man or director thereof, or his or its successor, administrator or exec-
13 utor, in any action, investigation, or proceeding which arises under
14 this article or a rule hereunder, with the same force and validity as if
15 served personally on such person. Service of such process upon the
16 secretary of state shall be made by personally delivering to and leaving
17 with [him] the secretary of state or a deputy [secretary of state], or
18 with any person authorized by the secretary of state to receive such
19 service, a copy thereof at the office of the department of state, and
20 such service shall be sufficient provided that notice of such service
21 and a copy of such process are sent forthwith by the department to such
22 person, by registered or certified mail with return receipt requested,
23 at his address as set forth in the application for registration of his
24 offering prospectus or in the registered offering prospectus itself
25 filed with the department of law pursuant to this article, or in default
26 of the filing of such application or prospectus, at the last address
27 known to the department. Service of such process shall be complete upon
28 receipt by the department of a return receipt purporting to be signed by

1 the addressee or a person qualified to receive his or its registered or
2 certified mail, in accordance with the rules and customs of the post
3 office department, or, if acceptance was refused or unclaimed by the
4 addressee or his or its agent, or if the addressee moved without leaving
5 a forwarding address, upon return to the department of the original
6 envelope bearing a notation by the postal authorities that receipt ther-
7 eof was refused or that such mail was otherwise undeliverable.

8 § 25. Paragraph 4 of subdivision (e) of section 203 of the limited
9 liability company law, as added by chapter 470 of the laws of 1997, is
10 amended to read as follows:

11 (4) a designation of the secretary of state as agent of the limited
12 liability company upon whom process against it may be served and the
13 post office address, within or without this state, to which [the secre-
14 tary of state] a person shall mail a copy of any process against the
15 limited liability company served upon [him or her] the secretary of
16 state;

17 § 26. Paragraph 4 of subdivision (a) of section 206 of the limited
18 liability company law, as amended by chapter 44 of the laws of 2006, is
19 amended to read as follows:

20 (4) a statement that the secretary of state has been designated as
21 agent of the limited liability company upon whom process against it may
22 be served and the post office address, within or without this state, to
23 which [the secretary of state] a person shall mail a copy of any process
24 against it served upon [him or her] the secretary of state;

25 § 27. Paragraph 6 of subdivision (d) of section 211 of the limited
26 liability company law is amended to read as follows:

27 (6) a change in the post office address to which [the secretary of
28 state] a person shall mail a copy of any process against the limited

1 liability company served upon [him or her] the secretary of state if
2 such change is made other than pursuant to section three hundred one of
3 this chapter;

4 § 28. Section 211-A of the limited liability company law, as added by
5 chapter 448 of the laws of 1998, is amended to read as follows:

6 § 211-A. Certificate of change. (a) A limited liability company may
7 amend its articles of organization from time to time to (i) specify or
8 change the location of the limited liability company's office; (ii)
9 specify or change the post office address to which [the secretary of
10 state] a person shall mail a copy of any process against the limited
11 liability company served upon [him] the secretary of state; and (iii)
12 make, revoke or change the designation of a registered agent, or specify
13 or change the address of the registered agent. Any one or more such
14 changes may be accomplished by filing a certificate of change which
15 shall be entitled "Certificate of Change of (name of limited
16 liability company) under section 211-A of the Limited Liability Company
17 Law" and shall be signed and delivered to the department of state. It
18 shall set forth:

19 (1) the name of the limited liability company, and if it has been
20 changed, the name under which it was formed;

21 (2) the date the articles of organization were filed by the department
22 of state; and

23 (3) each change effected thereby.

24 (b) A certificate of change which changes only the post office address
25 to which [the secretary of state] a person shall mail a copy of any
26 process against a limited liability company served upon [him or] the
27 secretary of state and/or the address of the registered agent, provided
28 such address being changed is the address of a person, partnership,

1 limited liability company or corporation whose address, as agent, is the
2 address to be changed or who has been designated as registered agent for
3 such limited liability company may be signed and delivered to the
4 department of state by such agent. The certificate of change shall set
5 forth the statements required under subdivision (a) of this section;
6 that a notice of the proposed change was mailed to the domestic limited
7 liability company by the party signing the certificate not less than
8 thirty days prior to the date of delivery to the department of state and
9 that such domestic limited liability company has not objected thereto;
10 and that the party signing the certificate is the agent of such limited
11 liability company to whose address [the secretary of state] a person is
12 required to mail copies of process served on the secretary of state or
13 the registered agent, if such be the case. A certificate signed and
14 delivered under this subdivision shall not be deemed to effect a change
15 of location of the office of the limited liability company in whose
16 behalf such certificate is filed.

17 § 29. Paragraph 2 of subdivision (b) of section 213 of the limited
18 liability company law is amended to read as follows:

19 (2) to change the post office address to which [the secretary of
20 state] a person shall mail a copy of any process against the limited
21 liability company served upon [him or her] the secretary of state; and

22 § 30. Subdivisions (c) and (e) of section 301 of the limited liability
23 company law, subdivision (e) as amended by section 5 of part S of chap-
24 ter 59 of the laws of 2015, are amended to read as follows:

25 (c) Any designated post office address maintained by the secretary of
26 state as agent of a domestic limited liability company or foreign limit-
27 ed liability company for the purpose of mailing process shall be the
28 post office address, within or without the state, to which a person

1 shall mail process against such limited liability company as required by
2 this article. Any designated post office address to which the secretary
3 of state or a person shall mail a copy of process served upon [him or
4 her] the secretary of state as agent of a domestic limited liability
5 company or a foreign limited liability company shall continue until the
6 filing of a certificate under this chapter directing the mailing to a
7 different post office address.

8 [(e)] (d) (1) Except as otherwise provided in this subdivision, every
9 limited liability company to which this chapter applies, shall biennial-
10 ly in the calendar month during which its articles of organization or
11 application for authority were filed, or effective date thereof if stat-
12 ed, file on forms prescribed by the secretary of state, a statement
13 setting forth the post office address within or without this state to
14 which [the secretary of state] a person shall mail a copy of any process
15 accepted against it served upon [him or her] the secretary of state.
16 Such address shall supersede any previous address on file with the
17 department of state for this purpose.

18 (2) The commissioner of taxation and finance and the secretary of
19 state may agree to allow limited liability companies to include the
20 statement specified in paragraph one of this subdivision on tax reports
21 filed with the department of taxation and finance in lieu of biennial
22 statements and in a manner prescribed by the commissioner of taxation
23 and finance. If this agreement is made, starting with taxable years
24 beginning on or after January first, two thousand sixteen, each limited
25 liability company required to file the statement specified in paragraph
26 one of this subdivision that is subject to the filing fee imposed by
27 paragraph three of subsection (c) of section six hundred fifty-eight of
28 the tax law shall provide such statement annually on its filing fee

1 payment form filed with the department of taxation and finance in lieu
2 of filing a statement under this section with the department of state.
3 However, each limited liability company required to file a statement
4 under this section must continue to file the biennial statement required
5 by this section with the department of state until the limited liability
6 company in fact has filed a filing fee payment form with the department
7 of taxation and finance that includes all required information. After
8 that time, the limited liability company shall continue to provide annu-
9 ally the statement specified in paragraph one of this subdivision on its
10 filing fee payment form in lieu of the biennial statement required by
11 this subdivision.

12 (3) If the agreement described in paragraph two of this subdivision is
13 made, the department of taxation and finance shall deliver to the
14 department of state the statement specified in paragraph one of this
15 subdivision contained on filing fee payment forms. The department of
16 taxation and finance must, to the extent feasible, also include the
17 current name of the limited liability company, department of state iden-
18 tification number for such limited liability company, the name, signa-
19 ture and capacity of the signer of the statement, name and street
20 address of the filer of the statement, and the email address, if any, of
21 the filer of the statement.

22 § 31. Paragraphs 2 and 3 of subdivision (a), subparagraph (ii) of
23 paragraph 2 and subparagraph (ii) of paragraph 3 of subdivision (e) of
24 section 301-A of the limited liability company law, as added by chapter
25 448 of the laws of 1998, are amended to read as follows:

26 (2) that the address of the party has been designated by the limited
27 liability company as the post office address to which [the secretary of
28 state] a person shall mail a copy of any process served on the secretary

1 of state as agent for such limited liability company, such address and
2 that such party wishes to resign.

3 (3) that sixty days prior to the filing of the certificate of resigna-
4 tion or receipt of process with the department of state the party has
5 sent a copy of the certificate of resignation for receipt of process by
6 registered or certified mail to the address of the registered agent of
7 the designated limited liability company, if other than the party filing
8 the certificate of resignation[,] for receipt of process, or if the
9 [resigning] designating limited liability company has no registered
10 agent, then to the last address of the designated limited liability
11 company known to the party, specifying the address to which the copy was
12 sent. If there is no registered agent and no known address of the desig-
13 nating limited liability company, the party shall attach an affidavit to
14 the certificate stating that a diligent but unsuccessful search was made
15 by the party to locate the limited liability company, specifying what
16 efforts were made.

17 (ii) sent by or on behalf of the plaintiff to such limited liability
18 company by registered or certified mail with return receipt requested to
19 the last address of such limited liability company known to the plain-
20 tiff.

21 (ii) Where service of a copy of process was effected by mailing in
22 accordance with this section, proof of service shall be by affidavit of
23 compliance with this section filed, together with the process, within
24 thirty days after receipt of the return receipt signed by the limited
25 liability company or other official proof of delivery or of the original
26 envelope mailed. If a copy of the process is mailed in accordance with
27 this section, there shall be filed with the affidavit of compliance
28 either the return receipt signed by such limited liability company or

1 other official proof of delivery, if acceptance was refused by it, the
2 original envelope with a notation by the postal authorities that accept-
3 ance was refused. If acceptance was refused a copy of the notice and
4 process together with notice of the mailing by registered or certified
5 mail and refusal to accept shall be promptly sent to such limited
6 liability company at the same address by ordinary mail and the affidavit
7 of compliance shall so state. Service of process shall be complete ten
8 days after such papers are filed with the clerk of the court. The
9 refusal to accept delivery of the registered or certified mail or to
10 sign the return receipt shall not affect the validity of the service and
11 such limited liability company refusing to accept such registered or
12 certified mail shall be charged with knowledge of the contents thereof.

13 § 32. Subdivision (a) of section 303 of the limited liability company
14 law, as relettered by chapter 341 of the laws of 1999, is amended to
15 read as follows:

16 (a) Service of process on the secretary of state as agent of a domes-
17 tic limited liability company [or], authorized foreign limited liability
18 company, or other business entity that has designated the secretary of
19 state as agent for service of process pursuant to article ten of this
20 chapter, shall be made by mailing the process and notice of service
21 thereof by certified mail, return receipt requested, to such limited
22 liability company or other business entity, at the post office address,
23 on file in the department of state, specified for this purpose. On the
24 same day as such process is mailed, a duplicate copy of such process and
25 proof of mailing shall be [made by] personally [delivering] delivered to
26 and [leaving] left with the secretary of state or his or her deputy, or
27 with any person authorized by the secretary of state to receive such
28 service, at the office of the department of state in the city of Albany,

1 [duplicate copies of such process] together with the statutory fee,
2 which fee shall be a taxable disbursement. Proof of mailing shall be by
3 affidavit of compliance with this section. Service of process on such
4 limited liability company or other business entity shall be complete
5 when the secretary of state is so served. [The secretary of state shall
6 promptly send one of such copies by certified mail, return receipt
7 requested, to such limited liability company at the post office address
8 on file in the department of state specified for that purpose.]

9 § 33. Section 305 of the limited liability company law is amended to
10 read as follows:

11 § 305. Records of process served on the secretary of state. The
12 [secretary of state] department of state shall keep a record of each
13 process served upon the secretary of state under this chapter, including
14 the date of such service [and the action of the secretary of state with
15 reference thereto]. It shall, upon request made within ten years of such
16 service, issue a certificate under its seal certifying as to the receipt
17 of the process by an authorized person, the date and place of such
18 service and the receipt of the statutory fee. Process served upon the
19 secretary of state under this chapter shall be destroyed by the depart-
20 ment of state after a period of ten years from such service.

21 § 34. Paragraph 4 of subdivision (a) of section 802 of the limited
22 liability company law, as amended by chapter 470 of the laws of 1997, is
23 amended to read as follows:

24 (4) a designation of the secretary of state as its agent upon whom
25 process against it may be served and the post office address, within or
26 without this state, to which [the secretary of state] a person shall
27 mail a copy of any process against it served upon [him or her] the
28 secretary of state;

1 § 35. Section 804-A of the limited liability company law, as added by
2 chapter 448 of the laws of 1998, is amended to read as follows:

3 § 804-A. Certificate of change. (a) A foreign limited liability compa-
4 ny may amend its application for authority from time to time to (i)
5 specify or change the location of the limited liability company's
6 office; (ii) specify or change the post office address to which [the
7 secretary of state] a person shall mail a copy of any process against
8 the limited liability company served upon [him] the secretary of state;
9 and (iii) to make, revoke or change the designation of a registered
10 agent, or to specify or change the address of a registered agent. Any
11 one or more such changes may be accomplished by filing a certificate of
12 change which shall be entitled "Certificate of Change of (name
13 of limited liability company) under section 804-A of the Limited Liabil-
14 ity Company Law" and shall be signed and delivered to the department of
15 state. It shall set forth:

16 (1) the name of the foreign limited liability company and, if applica-
17 ble, the fictitious name the limited liability company has agreed to use
18 in this state pursuant to section eight hundred two of this article;

19 (2) the date its application for authority was filed by the department
20 of state; and

21 (3) each change effected thereby[,].

22 (b) A certificate of change which changes only the post office address
23 to which [the secretary of state] a person shall mail a copy of any
24 process against a foreign limited liability company served upon [him or]
25 the secretary of state and/or the address of the registered agent,
26 provided such address being changed is the address of a person, partner-
27 ship [or], corporation or other limited liability company whose address,
28 as agent, is the address to be changed or who has been designated as

1 registered agent for such limited liability company may be signed and
2 delivered to the department of state by such agent. The certificate of
3 change shall set forth the statements required under subdivision (a) of
4 this section; that a notice of the proposed change was mailed to the
5 foreign limited liability company by the party signing the certificate
6 not less than thirty days prior to the date of delivery to the depart-
7 ment of state and that such foreign limited liability company has not
8 objected thereto; and that the party signing the certificate is the
9 agent of such foreign limited liability company to whose address [the
10 secretary of state] a person is required to mail copies of process
11 served on the secretary of state or the registered agent, if such be the
12 case. A certificate signed and delivered under this subdivision shall
13 not be deemed to effect a change of location of the office of the
14 foreign limited liability company in whose behalf such certificate is
15 filed.

16 § 36. Paragraph 6 of subdivision (b) of section 806 of the limited
17 liability company law is amended to read as follows:

18 (6) a post office address, within or without this state, to which [the
19 secretary of state] a person shall mail a copy of any process against it
20 served upon [him or her] the secretary of state.

21 § 37. Paragraph 11 of subdivision (a) of section 1003 of the limited
22 liability company law, as amended by chapter 374 of the laws of 1998, is
23 amended to read as follows:

24 (11) a designation of the secretary of state as its agent upon whom
25 process against it may be served in the manner set forth in article
26 three of this chapter in any action or special proceeding, and a post
27 office address, within or without this state, to which [the secretary of
28 state] a person shall mail a copy of any process served upon [him or

1 her] the secretary of state. Such post office address shall supersede
2 any prior address designated as the address to which process shall be
3 mailed;

4 § 38. Clause (iv) of subparagraph (A) of paragraph 2 of subdivision
5 (c) of section 1203 of the limited liability company law, as amended by
6 chapter 44 of the laws of 2006, is amended to read as follows:

7 (iv) a statement that the secretary of state has been designated as
8 agent of the professional service limited liability company upon whom
9 process against it may be served and the post office address, within or
10 without this state, to which [the secretary of state] a person shall
11 mail a copy of any process against it served upon [him or her] the
12 secretary of state;

13 § 39. Paragraph 6 of subdivision (a) and subparagraph 5 of paragraph
14 (i) of subdivision (d) of section 1306 of the limited liability company
15 law, subparagraph 5 of paragraph (i) of subdivision (d) as amended by
16 chapter 44 of the laws of 2006, are amended to read as follows:

17 (6) a designation of the secretary of state as its agent upon whom
18 process against it may be served and the post office address, within or
19 without this state, to which [the secretary of state] a person shall
20 mail a copy of any process against it served upon [him or her] the
21 secretary of state; and

22 (5) a statement that the secretary of state has been designated as
23 agent of the foreign professional service limited liability company upon
24 whom process against it may be served and the post office address, with-
25 in or without this state, to which [the secretary of state] a person
26 shall mail a copy of any process against it served upon [him or her] the
27 secretary of state;

1 § 40. Paragraph (d) of section 304 of the not-for-profit corporation
2 law, as amended by chapter 358 of the laws of 2015, is amended to read
3 as follows:

4 (d) Any designated post office address maintained by the secretary of
5 state as agent of a domestic not-for-profit corporation or foreign not-
6 for-profit corporation for the purpose of mailing process shall be the
7 post office address, within or without the state, to which a person
8 shall mail process against such corporation as required by this article.
9 Any designated [post-office] post office address to which the secretary
10 of state or a person shall mail a copy of process served upon [him or
11 her] the secretary of state as agent of a domestic corporation formed
12 under article four of this chapter or foreign corporation, shall contin-
13 ue until the filing of a certificate under this chapter directing the
14 mailing to a different [post-office] post office address.

15 § 41. Paragraph (a) of section 305 of the not-for-profit corporation
16 law, as amended by chapter 549 of the laws of 2013, is amended to read
17 as follows:

18 (a) Every domestic corporation or authorized foreign corporation may
19 designate a registered agent in this state upon whom process against
20 such corporation may be served. The agent shall be a natural person who
21 is a resident of or has a business address in this state or a domestic
22 corporation or foreign corporation of any kind formed[,] or authorized
23 to do business in this state, under this chapter or under any other
24 statute of this state, or a domestic limited liability company or a
25 foreign limited liability company authorized to do business in this
26 state.

1 § 42. Paragraph (b) of section 306 of the not-for-profit corporation
2 law, as amended by chapter 23 of the laws of 2014, is amended to read as
3 follows:

4 (b) Service of process on the secretary of state as agent of a domes-
5 tic corporation formed under article four of this chapter or an author-
6 ized foreign corporation shall be made by mailing the process and notice
7 of service thereof by certified mail, return receipt requested, to such
8 corporation or other business entity, at the post office address, on
9 file in the department of state, specified for this purpose. On the same
10 day that such process is mailed, a duplicate copy of such process and
11 proof of mailing shall be personally [delivering] delivered to and
12 [leaving] left with the secretary of state or his or her deputy, or with
13 any person authorized by the secretary of state to receive such service,
14 at the office of the department of state in the city of Albany, [dupli-
15 cate copies of such process] together with the statutory fee, which fee
16 shall be a taxable disbursement. Proof of mailing shall be by affidavit
17 of compliance with this section. Service of process on such corporation
18 or other business entity shall be complete when the secretary of state
19 is so served. [The secretary of state shall promptly send one of such
20 copies by certified mail, return receipt requested, to such corporation,
21 at the post office address, on file in the department of state, speci-
22 fied for the purpose.] If a domestic corporation formed under article
23 four of this chapter or an authorized foreign corporation has no such
24 address on file in the department of state, the [secretary of state
25 shall so mail such] duplicate copy of the process shall be mailed to
26 such corporation at the address of its office within this state on file
27 in the department.

1 § 43. Subparagraph 6 of paragraph (a) of section 402 of the not-for-
2 profit corporation law, as added by chapter 564 of the laws of 1981 and
3 as renumbered by chapter 132 of the laws of 1985, is amended to read as
4 follows:

5 (6) A designation of the secretary of state as agent of the corpo-
6 ration upon whom process against it may be served and the post office
7 address, within or without this state, to which [the secretary of state]
8 a person shall mail a copy of any process against it served upon [him]
9 the secretary of state.

10 § 44. Subparagraph 7 of paragraph (b) of section 801 of the not-for-
11 profit corporation law, as amended by chapter 438 of the laws of 1984,
12 is amended to read as follows:

13 (7) To specify or change the post office address to which [the secre-
14 tary of state] a person shall mail a copy of any process against the
15 corporation served upon [him] the secretary of state.

16 § 45. Subparagraph 2 of paragraph (c) of section 802 of the not-for-
17 profit corporation law, as amended by chapter 186 of the laws of 1983,
18 is amended to read as follows:

19 (2) To specify or change the post office address to which [the secre-
20 tary of state] a person shall mail a copy of any process against the
21 corporation served upon [him] the secretary of state.

22 § 46. Subparagraph 6 of paragraph (a) of section 803 of the not-for-
23 profit corporation law, as amended by chapter 23 of the laws of 2014, is
24 amended to read as follows:

25 (6) A designation of the secretary of state as agent of the corpo-
26 ration upon whom process against it may be served and the post office
27 address, within or without this state, to which [the secretary of

1 state] a person shall mail a copy of any process against it served upon
2 the secretary of state.

3 § 47. Paragraph (b) of section 803-A of the not-for-profit corporation
4 law, as amended by chapter 172 of the laws of 1999, is amended to read
5 as follows:

6 (b) A certificate of change which changes only the post office address
7 to which [the secretary of state] a person shall mail a copy of any
8 process against the corporation served upon [him or] the secretary of
9 state and/or the address of the registered agent, provided such address
10 being changed is the address of a person, partnership, limited liability
11 company or other corporation whose address, as agent, is the address to
12 be changed or who has been designated as registered agent for such
13 corporation, may be signed and delivered to the department of state by
14 such agent. The certificate of change shall set forth the statements
15 required under subparagraphs (1), (2) and (3) of paragraph (a) of this
16 section; that a notice of the proposed change was mailed to the corpo-
17 ration by the party signing the certificate not less than thirty days
18 prior to the date of delivery to the department and that such corpo-
19 ration has not objected thereto; and that the party signing the certif-
20 icate is the agent of such corporation to whose address [the secretary
21 of state] a person is required to mail copies of any process against the
22 corporation served upon [him] the secretary of state or the registered
23 agent, if such be the case. A certificate signed and delivered under
24 this paragraph shall not be deemed to effect a change of location of the
25 office of the corporation in whose behalf such certificate is filed.

26 § 48. Clause (E) of subparagraph 2 of paragraph (d) of section 906 of
27 the not-for-profit corporation law, as amended by chapter 1058 of the
28 laws of 1971, is amended to read as follows:

1 (E) A designation of the secretary of state as its agent upon whom
2 process against it may be served in the manner set forth in paragraph
3 (b) of section 306 (Service of process), in any action or special
4 proceeding described in [subparagraph] clause (D) of this subparagraph
5 and a post office address, within or without this state, to which [the
6 secretary of state] a person shall mail a copy of the process in such
7 action or special proceeding served upon the secretary of state.

8 § 49. Clause (F) of subparagraph 2 of paragraph (d) of section 908 of
9 the not-for-profit corporation law is amended to read as follows:

10 (F) A designation of the secretary of state as his agent upon whom
11 process against it may be served in the manner set forth in paragraph
12 (b) of section 306 (Service of process), in any action or special
13 proceeding described in [subparagraph] clause (D) of this subparagraph
14 and a post office address, within or without the state, to which [the
15 secretary of state] a person shall mail a copy of the process in such
16 action or special proceeding served upon by the secretary of state.

17 § 50. Subparagraph 6 of paragraph (a) of section 1304 of the not-for-
18 profit corporation law, as renumbered by chapter 590 of the laws of
19 1982, is amended to read as follows:

20 (6) A designation of the secretary of state as its agent upon whom
21 process against it may be served and the post office address, within or
22 without this state, to which [the secretary of state] a person shall
23 mail a copy of any process against it served upon [him] the secretary of
24 state.

25 § 51. Subparagraph 7 of paragraph (a) of section 1308 of the not-for-
26 profit corporation law, as renumbered by chapter 186 of the laws of
27 1983, is amended to read as follows:

1 (7) To specify or change the post office address to which [the secre-
2 tary of state] a person shall mail a copy of any process against it
3 served upon [him] the secretary of state.

4 § 52. Subparagraph 2 of paragraph (a) and paragraph (c) of section
5 1310 of the not-for-profit corporation law, paragraph (c) as amended by
6 chapter 172 of the laws of 1999, are amended to read as follows:

7 (2) To specify or change the post office address to which [the secre-
8 tary of state] a person shall mail a copy of any process against it
9 served upon [him] the secretary of state.

10 (c) A certificate of change of application for authority which changes
11 only the post office address to which [the secretary of state] a person
12 shall mail a copy of any process against an authorized foreign corpo-
13 ration served upon [him or] the secretary of state and/or which changes
14 the address of its registered agent, provided such address is the
15 address of a person, partnership, limited liability company or other
16 corporation whose address, as agent, is the address to be changed or who
17 has been designated as registered agent for such authorized foreign
18 corporation, may be signed and delivered to the department of state by
19 such agent. The certificate of change of application for authority shall
20 set forth the statements required under subparagraphs (1), (2), (3) and
21 (4) of paragraph (b) of this section; that a notice of the proposed
22 change was mailed by the party signing the certificate to the authorized
23 foreign corporation not less than thirty days prior to the date of
24 delivery to the department and that such corporation has not objected
25 thereto; and that the party signing the certificate is the agent of such
26 foreign corporation to whose address [the secretary of state] a person
27 is required to mail copies of process served on the secretary of state
28 or the registered agent, if such be the case. A certificate signed and

1 delivered under this paragraph shall not be deemed to effect a change of
2 location of the office of the corporation in whose behalf such certifi-
3 cate is filed.

4 § 53. Subparagraph 6 of paragraph (a) and subparagraph 4 of paragraph
5 (d) of section 1311 of the not-for-profit corporation law are amended to
6 read as follows:

7 (6) A post office address, within or without this state, to which [the
8 secretary of state] a person shall mail a copy of any process against it
9 served upon [him] the secretary of state.

10 (4) The changed post office address, within or without this state, to
11 which [the secretary of state] a person shall mail a copy of any process
12 against it served upon [him] the secretary of state.

13 § 54. Section 1312 of the not-for-profit corporation law, as amended
14 by chapter 375 of the laws of 1998, is amended to read as follows:

15 § 1312. Termination of existence.

16 When an authorized foreign corporation is dissolved or its authority
17 or existence is otherwise terminated or cancelled in the jurisdiction of
18 its incorporation or when such foreign corporation is merged into or
19 consolidated with another foreign corporation, a certificate of the
20 secretary of state, or official performing the equivalent function as to
21 corporate records, of the jurisdiction of incorporation of such foreign
22 corporation attesting to the occurrence of any such event or a certified
23 copy of an order or decree of a court of such jurisdiction directing the
24 dissolution of such foreign corporation, the termination of its exist-
25 ence or the cancellation of its authority shall be delivered to the
26 department of state. The filing of the certificate, order or decree
27 shall have the same effect as the filing of a certificate of surrender
28 of authority under section 1311 (Surrender of authority). The secretary

1 of state shall continue as agent of the foreign corporation upon whom
2 process against it may be served in the manner set forth in paragraph
3 (b) of section 306 (Service of process), in any action or special
4 proceeding based upon any liability or obligation incurred by the
5 foreign corporation within this state prior to the filing of such
6 certificate, order or decree and [he] the person serving such process
7 shall promptly cause a copy of any such process to be mailed by [regis-
8 tered] certified mail, return receipt requested, to such foreign corpo-
9 ration at the post office address on file in his office specified for
10 such purpose. The post office address may be changed by signing and
11 delivering to the department of state a certificate of change setting
12 forth the statements required under section 1310 (Certificate of change,
13 contents) to effect a change in the post office address under subpara-
14 graph [(a) (4)] (7) of paragraph (a) of section 1308 (Amendments or
15 changes).

16 § 55. Subdivision (c) of section 121-104 of the partnership law, as
17 added by chapter 950 of the laws of 1990, is amended to read as follows:

18 (c) Any designated post office address maintained by the secretary of
19 state as agent of a domestic limited partnership or foreign limited
20 partnership for the purpose of mailing process shall be the post office
21 address, within or without the state, to which a person shall mail proc-
22 ess against such limited partnership as required by this article. Any
23 designated post office address to which the secretary of state or a
24 person shall mail a copy of process served upon [him] the secretary of
25 state as agent of a domestic limited partnership or foreign limited
26 partnership shall continue until the filing of a certificate under this
27 article directing the mailing to a different post office address.

1 § 56. Paragraphs 1, 2 and 3 of subdivision (a) of section 121-104-A of
2 the partnership law, as added by chapter 448 of the laws of 1998, are
3 amended to read as follows:

4 (1) the name of the limited partnership and the date that its [arti-
5 cles of organization] certificate of limited partnership or application
6 for authority was filed by the department of state.

7 (2) that the address of the party has been designated by the limited
8 partnership as the post office address to which [the secretary of state]
9 a person shall mail a copy of any process served on the secretary of
10 state as agent for such limited partnership, and that such party wishes
11 to resign.

12 (3) that sixty days prior to the filing of the certificate of resigna-
13 tion for receipt of process with the department of state the party has
14 sent a copy of the certificate of resignation for receipt of process by
15 registered or certified mail to the address of the registered agent of
16 the [designated] designating limited partnership, if other than the
17 party filing the certificate of resignation[,] for receipt of process,
18 or if the [resigning] designating limited partnership has no registered
19 agent, then to the last address of the [designated] designating limited
20 partnership, known to the party, specifying the address to which the
21 copy was sent. If there is no registered agent and no known address of
22 the designating limited partnership the party shall attach an affidavit
23 to the certificate stating that a diligent but unsuccessful search was
24 made by the party to locate the limited partnership, specifying what
25 efforts were made.

26 § 57. Subdivision (a) of section 121-105 of the partnership law, as
27 added by chapter 950 of the laws of 1990, is amended to read as follows:

1 (a) In addition to the designation of the secretary of state, each
2 limited partnership or authorized foreign limited partnership may desig-
3 nate a registered agent upon whom process against the limited partner-
4 ship may be served. The agent must be (i) a natural person who is a
5 resident of this state or has a business address in this state, [or]
6 (ii) a domestic corporation or a foreign corporation authorized to do
7 business in this state, or a domestic limited liability company or a
8 foreign limited liability company authorized to do business in this
9 state.

10 § 58. Subdivisions (a) and (c) of section 121-109 of the partnership
11 law, as added by chapter 950 of the laws of 1990 and as relettered by
12 chapter 341 of the laws of 1999, are amended to read as follows:

13 (a) Service of process on the secretary of state as agent of a domes-
14 tic or authorized foreign limited partnership, or other business entity
15 that has designated the secretary of state as agent for service of proc-
16 ess pursuant to this chapter, shall be made [as follows:

17 (1) By] by mailing the process and notice of service of process pursu-
18 ant to this section by certified mail, return receipt requested, to such
19 domestic or authorized foreign limited partnership or other business
20 entity, at the post office address, on file in the department of state,
21 specified for that purpose. On the same day as the process is mailed, a
22 duplicate copy of such process and proof of mailing shall be personally
23 [delivering] delivered to and [leaving] left with [him or his] the
24 secretary of state or a deputy, or with any person authorized by the
25 secretary of state to receive such service, at the office of the depart-
26 ment of state in the city of Albany, [duplicate copies of such process]
27 together with the statutory fee, which fee shall be a taxable disburse-
28 ment. Proof of mailing shall be by affidavit of compliance with this

1 section. Service of process on such limited partnership or other busi-
2 ness entity shall be complete when the secretary of state is so served.

3 [(2) The service on the limited partnership is complete when the
4 secretary of state is so served.

5 (3) The secretary of state shall promptly send one of such copies by
6 certified mail, return receipt requested, addressed to the limited part-
7 nership at the post office address, on file in the department of state,
8 specified for that purpose.]

9 (c) The [secretary of state] department of state shall keep a record
10 of all process served upon [him] it under this section and shall record
11 therein the date of such service [and his action with reference there-
12 to]. It shall, upon request made within ten years of such service, issue
13 a certificate under its seal certifying as to the receipt of the process
14 by an authorized person, the date and place of such service and the
15 receipt of the statutory fee. Process served upon the secretary of state
16 under this chapter shall be destroyed by him after a period of ten years
17 from such service.

18 § 59. Paragraph 3 of subdivision (a) and subparagraph 4 of paragraph
19 (i) of subdivision (c) of section 121-201 of the partnership law, para-
20 graph 3 of subdivision (a) as amended by chapter 264 of the laws of
21 1991, and subparagraph 4 of paragraph (i) of subdivision (c) as amended
22 by chapter 44 of the laws of 2006, are amended to read as follows:

23 (3) a designation of the secretary of state as agent of the limited
24 partnership upon whom process against it may be served and the post
25 office address, within or without this state, to which [the secretary of
26 state] a person shall mail a copy of any process against it served upon
27 [him] the secretary of state;

1 (4) a statement that the secretary of state has been designated as
2 agent of the limited partnership upon whom process against it may be
3 served and the post office address, within or without this state, to
4 which [the secretary of state] a person shall mail a copy of any process
5 against it served upon [him or her] the secretary of state;

6 § 60. Paragraph 4 of subdivision (b) of section 121-202 of the part-
7 nership law, as amended by chapter 576 of the laws of 1994, is amended
8 to read as follows:

9 (4) a change in the name of the limited partnership, or a change in
10 the post office address to which [the secretary of state] a person shall
11 mail a copy of any process against the limited partnership served on
12 [him] the secretary of state, or a change in the name or address of the
13 registered agent, if such change is made other than pursuant to section
14 121-104 or 121-105 of this article.

15 § 61. Section 121-202-A of the partnership law, as added by chapter
16 448 of the laws of 1998, paragraph 2 of subdivision (a) as amended by
17 chapter 172 of the laws of 1999, is amended to read as follows:

18 § 121-202-A. Certificate of change. (a) A certificate of limited part-
19 nership may be changed by filing with the department of state a certif-
20 icate of change entitled "Certificate of Change of (name of limit-
21 ed partnership) under Section 121-202-A of the Revised Limited
22 Partnership Act" and shall be signed and delivered to the department of
23 state. A certificate of change may (i) specify or change the location of
24 the limited partnership's office; (ii) specify or change the post office
25 address to which [the secretary of state] a person shall mail a copy of
26 process against the limited partnership served upon [him] the secretary
27 of state; and (iii) make, revoke or change the designation of a regis-

1 tered agent, or to specify or change the address of its registered
2 agent. It shall set forth:

3 (1) the name of the limited partnership, and if it has been changed,
4 the name under which it was formed;

5 (2) the date its certificate of limited partnership was filed by the
6 department of state; and

7 (3) each change effected thereby.

8 (b) A certificate of change which changes only the post office address
9 to which [the secretary of state] a person shall mail a copy of any
10 process against a limited partnership served upon [him or] the secretary
11 of state and/or the address of the registered agent, provided such
12 address being changed is the address of a person, partnership, limited
13 liability corporation or corporation whose address, as agent, is the
14 address to be changed or who has been designated as registered agent for
15 such limited partnership shall be signed and delivered to the department
16 of state by such agent. The certificate of change shall set forth the
17 statements required under subdivision (a) of this section; that a notice
18 of the proposed change was mailed to the domestic limited partnership by
19 the party signing the certificate not less than thirty days prior to the
20 date of delivery to the department of state and that such domestic
21 limited partnership has not objected thereto; and that the party signing
22 the certificate is the agent of such limited partnership to whose
23 address [the secretary of state] a person is required to mail copies of
24 process served on the secretary of state or the registered agent, if
25 such be the case. A certificate signed and delivered under this subdivi-
26 sion shall not be deemed to effect a change of location of the office of
27 the limited partnership in whose behalf such certificate is filed.

1 § 62. Paragraph 4 of subdivision (a) and subparagraph 5 of paragraph
2 (i) of subdivision (d) of section 121-902 of the partnership law, para-
3 graph 4 of subdivision (a) as amended by chapter 172 of the laws of 1999
4 and subparagraph 5 of paragraph (i) of subdivision (d) as amended by
5 chapter 44 of the laws of 2006, are amended to read as follows:

6 (4) a designation of the secretary of state as its agent upon whom
7 process against it may be served and the post office address, within or
8 without this state, to which [the secretary of state] a person shall
9 mail a copy of any process against it served upon [him] the secretary of
10 state;

11 (5) a statement that the secretary of state has been designated as its
12 agent upon whom process against it may be served and the post office
13 address, within or without this state, to which [the secretary of state]
14 a person shall mail a copy of any process against it served upon [him or
15 her] the secretary of state;

16 § 63. Section 121-903-A of the partnership law, as added by chapter
17 448 of the laws of 1998, is amended to read as follows:

18 § 121-903-A. Certificate of change. (a) A foreign limited partnership
19 may change its application for authority by filing with the department
20 of state a certificate of change entitled "Certificate of Change
21 of (name of limited partnership) under Section 121-903-A of the
22 Revised Limited Partnership Act" and shall be signed and delivered to
23 the department of state. A certificate of change may (i) change the
24 location of the limited partnership's office; (ii) change the post
25 office address to which [the secretary of state] a person shall mail a
26 copy of process against the limited partnership served upon [him] the
27 secretary of state; and (iii) make, revoke or change the designation of

1 a registered agent, or to specify or change the address of its regis-
2 tered agent. It shall set forth:

3 (1) the name of the foreign limited partnership and, if applicable,
4 the fictitious name the foreign limited partnership has agreed to use in
5 this state pursuant to section 121-902 of this article;

6 (2) the date its application for authority was filed by the department
7 of state; and

8 (3) each change effected thereby.

9 (b) A certificate of change which changes only the post office address
10 to which [the secretary of state] a person shall mail a copy of any
11 process against a foreign limited partnership served upon [him or] the
12 secretary of state and/or the address of the registered agent, provided
13 such address being changed is the address of a person, partnership,
14 limited liability company or corporation whose address, as agent, is the
15 address to be changed or who has been designated as registered agent for
16 such foreign limited partnership shall be signed and delivered to the
17 department of state by such agent. The certificate of change shall set
18 forth the statements required under subdivision (a) of this section;
19 that a notice of the proposed change was mailed to the foreign limited
20 partnership by the party signing the certificate not less than thirty
21 days prior to the date of delivery to the department of state and that
22 such foreign limited partnership has not objected thereto; and that the
23 party signing the certificate is the agent of such foreign limited part-
24 nership to whose address [the secretary of state] a person is required
25 to mail copies of process served on the secretary of state or the regis-
26 tered agent, if such be the case. A certificate signed and delivered
27 under this subdivision shall not be deemed to effect a change of

1 location of the office of the limited partnership in whose behalf such
2 certificate is filed.

3 § 64. Paragraph 6 of subdivision (b) of section 121-905 of the part-
4 nership law, as added by chapter 950 of the laws of 1990, is amended to
5 read as follows:

6 (6) a post office address, within or without this state, to which [the
7 secretary of state] a person shall mail a copy of any process against it
8 served upon [him] the secretary of state.

9 § 65. Paragraph 7 of subdivision (a) of section 121-1103 of the part-
10 nership law, as added by chapter 950 of the laws of 1990, is amended to
11 read as follows:

12 (7) A designation of the secretary of state as its agent upon whom
13 process against it may be served in the manner set forth in section
14 121-109 of this article in any action or special proceeding, and a post
15 office address, within or without this state, to which [the secretary of
16 state] a person shall mail a copy of any process served upon [him] the
17 secretary of state. Such post office address shall supersede any prior
18 address designated as the address to which process shall be mailed.

19 § 66. Subparagraphs 2 and 4 of paragraph (I) and clause 4 of subpara-
20 graph (A) of paragraph (II) of subdivision (a) of section 121-1500 of
21 the partnership law, subparagraph 2 of paragraph (I) as added by chapter
22 576 of the laws of 1994, subparagraph 4 of paragraph (I) as amended by
23 chapter 643 of the laws of 1995 and such paragraph as redesignated by
24 chapter 767 of the laws of 2005 and clause 4 of subparagraph (A) of
25 paragraph (II) as amended by chapter 44 of the laws of 2006, are amended
26 to read as follows:

27 (2) the address, within this state, of the principal office of the
28 partnership without limited partners;

1 (4) a designation of the secretary of state as agent of the partner-
2 ship without limited partners upon whom process against it may be served
3 and the post office address, within or without this state, to which the
4 [secretary of state] a person shall mail a copy of any process against
5 it or served [upon it] on the secretary of state;

6 (4) a statement that the secretary of state has been designated as
7 agent of the registered limited liability partnership upon whom process
8 against it may be served and the post office address, within or without
9 this state, to which [the secretary of state] a person shall mail a copy
10 of any process against it served upon [him or her] the secretary of
11 state;

12 § 67. Paragraphs (ii) and (iii) of subdivision (g) of section 121-1500
13 of the partnership law, as amended by section 8 of part S of chapter 59
14 of the laws of 2015, are amended to read as follows:

15 (ii) the address, within this state, of the principal office of the
16 registered limited liability partnership, (iii) the post office address,
17 within or without this state, to which [the secretary of state] a person
18 shall mail a copy of any process accepted against it served upon [him or
19 her] the secretary of state, which address shall supersede any previous
20 address on file with the department of state for this purpose, and

21 § 68. Subdivision (j-1) of section 121-1500 of the partnership law, as
22 added by chapter 448 of the laws of 1998, is amended to read as follows:

23 (j-1) A certificate of change which changes only the post office
24 address to which [the secretary of state] a person shall mail a copy of
25 any process against a registered limited liability partnership served
26 upon [him] the secretary of state and/or the address of the registered
27 agent, provided such address being changed is the address of a person,
28 partnership, limited liability company or corporation whose address, as

1 agent, is the address to be changed or who has been designated as regis-
2 tered agent for such registered limited liability partnership shall be
3 signed and delivered to the department of state by such agent. The
4 certificate of change shall set forth: (i) the name of the registered
5 limited liability partnership and, if it has been changed, the name
6 under which it was originally filed with the department of state; (ii)
7 the date of filing of its initial registration or notice statement;
8 (iii) each change effected thereby; (iv) that a notice of the proposed
9 change was mailed to the limited liability partnership by the party
10 signing the certificate not less than thirty days prior to the date of
11 delivery to the department of state and that such limited liability
12 partnership has not objected thereto; and (v) that the party signing the
13 certificate is the agent of such limited liability partnership to whose
14 address [the secretary of state] a person is required to mail copies of
15 process served on the secretary of state or the registered agent, if
16 such be the case. A certificate signed and delivered under this subdivi-
17 sion shall not be deemed to effect a change of location of the office of
18 the limited liability partnership in whose behalf such certificate is
19 filed. The certificate of change shall be accompanied by a fee of five
20 dollars.

21 § 69. Subdivision (a) of section 121-1502 of the partnership law, as
22 amended by chapter 643 of the laws of 1995, paragraph (v) as amended by
23 chapter 470 of the laws of 1997, is amended to read as follows:

24 (a) In order for a foreign limited liability partnership to carry on
25 or conduct or transact business or activities as a New York registered
26 foreign limited liability partnership in this state, such foreign limit-
27 ed liability partnership shall file with the department of state a
28 notice which shall set forth: (i) the name under which the foreign

1 limited liability partnership intends to carry on or conduct or transact
2 business or activities in this state; (ii) the date on which and the
3 jurisdiction in which it registered as a limited liability partnership;
4 (iii) the address, within this state, of the principal office of the
5 foreign limited liability partnership; (iv) the profession or
6 professions to be practiced by such foreign limited liability partner-
7 ship and a statement that it is a foreign limited liability partnership
8 eligible to file a notice under this chapter; (v) a designation of the
9 secretary of state as agent of the foreign limited liability partnership
10 upon whom process against it may be served and the post office address
11 within or without this state, to which [the secretary of state] a person
12 shall mail a copy of any process against it [or] served upon [it] the
13 secretary of state; (vi) if the foreign limited liability partnership is
14 to have a registered agent, its name and address in this state and a
15 statement that the registered agent is to be the agent of the foreign
16 limited liability partnership upon whom process against it may be
17 served; (vii) a statement that its registration as a limited liability
18 partnership is effective in the jurisdiction in which it registered as a
19 limited liability partnership at the time of the filing of such notice;
20 (viii) a statement that the foreign limited liability partnership is
21 filing a notice in order to obtain status as a New York registered
22 foreign limited liability partnership; (ix) if the registration of the
23 foreign limited liability partnership is to be effective on a date later
24 than the time of filing, the date, not to exceed sixty days from the
25 date of filing, of such proposed effectiveness; and (x) any other
26 matters the foreign limited liability partnership determines to include
27 in the notice. Such notice shall be accompanied by either (1) a copy of
28 the last registration or renewal registration (or similar filing), if

1 any, filed by the foreign limited liability partnership with the juris-
2 diction where it registered as a limited liability partnership or (2) a
3 certificate, issued by the jurisdiction where it registered as a limited
4 liability partnership, substantially to the effect that such foreign
5 limited liability partnership has filed a registration as a limited
6 liability partnership which is effective on the date of the certificate
7 (if such registration, renewal registration or certificate is in a
8 foreign language, a translation thereof under oath of the translator
9 shall be attached thereto). Such notice shall also be accompanied by a
10 fee of two hundred fifty dollars.

11 § 70. Subparagraphs (ii) and (iii) of paragraph (I) of subdivision (f)
12 of section 121-1502 of the partnership law, as amended by section 9 of
13 part S of chapter 59 of the laws of 2015, are amended to read as
14 follows:

15 (ii) the address, within this state, of the principal office of the
16 New York registered foreign limited liability partnership, (iii) the
17 post office address, within or without this state, to which [the secre-
18 tary of state] a person shall mail a copy of any process accepted
19 against it served upon [him or her] the secretary of state, which
20 address shall supersede any previous address on file with the department
21 of state for this purpose, and

22 § 71. Clause 5 of subparagraph (A) of paragraph (II) of subdivision
23 (f) of section 121-1502 of the partnership law, as amended by chapter 44
24 of the laws of 2006, is amended to read as follows:

25 (5) a statement that the secretary of state has been designated as
26 agent of the foreign limited liability partnership upon whom process
27 against it may be served and the post office address, within or without
28 this state, to which [the secretary of state] a person shall mail a copy

1 of any process against it served upon [him or her] the secretary of
2 state;

3 § 72. Subdivision (i-1) of section 121-1502 of the partnership law, as
4 added by chapter 448 of the laws of 1998, is amended to read as follows:

5 (i-1) A certificate of change which changes only the post office
6 address to which [the secretary of state] a person shall mail a copy of
7 any process against a New York registered foreign limited liability
8 partnership served upon [him] the secretary of state and/or the address
9 of the registered agent, provided such address being changed is the
10 address of a person, partnership, limited liability company or corpo-
11 ration whose address, as agent, is the address to be changed or who has
12 been designated as registered agent of such registered foreign limited
13 liability partnership shall be signed and delivered to the department of
14 state by such agent. The certificate of change shall set forth: (i) the
15 name of the New York registered foreign limited liability partnership;
16 (ii) the date of filing of its initial registration or notice statement;
17 (iii) each change effected thereby; (iv) that a notice of the proposed
18 change was mailed to the limited liability partnership by the party
19 signing the certificate not less than thirty days prior to the date of
20 delivery to the department of state and that such limited liability
21 partnership has not objected thereto; and (v) that the party signing the
22 certificate is the agent of such limited liability partnership to whose
23 address [the secretary of state] a person is required to mail copies of
24 process served on the secretary of state or the registered agent, if
25 such be the case. A certificate signed and delivered under this subdivi-
26 sion shall not be deemed to effect a change of location of the office of
27 the limited liability partnership in whose behalf such certificate is

1 filed. The certificate of change shall be accompanied by a fee of five
2 dollars.

3 § 73. Subdivision (a) of section 121-1505 of the partnership law, as
4 added by chapter 470 of the laws of 1997, is amended and two new subdi-
5 visions (d) and (e) are added to read as follows:

6 (a) Service of process on the secretary of state as agent of a regis-
7 tered limited liability partnership or New York registered foreign
8 limited liability partnership under this article shall be made by mail-
9 ing the process and notice of service thereof by certified mail, return
10 receipt requested, to such registered limited liability partnership or
11 New York registered foreign limited liability partnership, at the post
12 office address on file in the department of state specified for such
13 purpose. On the same date that such process is mailed, a duplicate copy
14 of such process and proof of mailing together with the statutory fee,
15 which fee shall be a taxable disbursement shall be personally [deliver-
16 ing] delivered to and [leaving] left with the secretary of state or a
17 deputy, or with any person authorized by the secretary of state to
18 receive such service, at the office of the department of state in the
19 city of Albany, [duplicate copies of such process] together with the
20 statutory fee, which fee shall be a taxable disbursement. Proof of mail-
21 ing shall be by affidavit of compliance with this section. Service of
22 process on such registered limited liability partnership or New York
23 registered foreign limited liability partnership shall be complete when
24 the secretary of state is so served. [The secretary of state shall
25 promptly send one of such copies by certified mail, return receipt
26 requested, to such registered limited liability partnership, at the post
27 office address on file in the department of state specified for such
28 purpose.]

1 (d) The department of state shall keep a record of each process served
2 upon the secretary of state under this chapter, including the date of
3 such service. It shall, upon request made within ten years of such
4 service, issue a certificate under its seal certifying as to the receipt
5 of the process by an authorized person, the date and place of such
6 service and the receipt of the statutory fee. Process served upon the
7 secretary of state under this chapter shall be destroyed by the depart-
8 ment of state after a period of ten years from such service.

9 (e) Any designated post office address maintained by the secretary of
10 state as agent of a registered limited liability partnership or New York
11 registered foreign limited liability partnership for the purpose of
12 mailing process shall be the post office address, within or without the
13 state, to which a person shall mail process against such limited liabil-
14 ity company as required by this article. Such address shall continue
15 until the filing of a certificate under this chapter directing the mail-
16 ing to a different post office address.

17 § 74. Subdivision (b) of section 121-1506 of the partnership law, as
18 added by chapter 448 of the laws of 1998, paragraph 4 as amended by
19 chapter 172 of the laws of 1999, is amended to read as follows:

20 (b) The party (or the party's legal representative) whose post office
21 address has been supplied by a limited liability partnership as its
22 address for process may resign. A certificate entitled "Certificate of
23 Resignation for Receipt of Process under Section 121-1506(b) of the
24 Partnership Law" shall be signed by such party and delivered to the
25 department of state. It shall set forth:

26 (1) The name of the limited liability partnership and the date that
27 its certificate of registration was filed by the department of state.

1 (2) That the address of the party has been designated by the limited
2 liability partnership as the post office address to which [the secretary
3 of state] a person shall mail a copy of any process served on the secre-
4 tary of state as agent for such limited liability partnership and that
5 such party wishes to resign.

6 (3) That sixty days prior to the filing of the certificate of resigna-
7 tion with the department of state the party has sent a copy of the
8 certificate of resignation for receipt of process by registered or
9 certified mail to the address of the registered agent of the [desig-
10 nated] designating limited liability partnership, if other than the
11 party filing the certificate of resignation, for receipt of process, or
12 if the [resigning] designating limited liability partnership has no
13 registered agent, then to the last address of the [designated] designat-
14 ing limited liability partnership, known to the party, specifying the
15 address to which the copy was sent. If there is no registered agent and
16 no known address of the designating limited liability partnership the
17 party shall attach an affidavit to the certificate stating that a dili-
18 gent but unsuccessful search was made by the party to locate the limited
19 liability partnership, specifying what efforts were made.

20 (4) That the [designated] designating limited liability partnership is
21 required to deliver to the department of state a certificate of amend-
22 ment providing for the designation by the limited liability partnership
23 of a new address and that upon its failure to file such certificate, its
24 authority to do business in this state shall be suspended.

25 § 75. Paragraph 16 of subdivision 1 of section 103 of the private
26 housing finance law, as added by chapter 22 of the laws of 1970, is
27 amended to read as follows:

1 (16) A designation of the secretary of state as agent of the corpo-
2 ration upon whom process against it may be served and the post office
3 address, within or without this state, to which [the secretary of state]
4 a person shall mail a copy of any process against it served upon [him]
5 the secretary of state.

6 § 76. Subdivision 7 of section 339-n of the real property law is
7 REPEALED and subdivisions 8 and 9 are renumbered subdivisions 7 and 8.

8 § 76-a. Subdivision 15 of section 20.03 of the arts and cultural
9 affairs law, as added by chapter 656 of the laws of 1991, is amended to
10 read as follows:

11 15. "Non-institutional portion" shall mean the part or portion of a
12 combined-use facility other than the institutional portion. If the non-
13 institutional portion, or any part thereof, consists of a condominium,
14 the consent of the trust which has developed or approved the developer
15 of such condominium shall be required prior to any amendment of the
16 declaration of such condominium pursuant to subdivision [nine] eight of
17 section three hundred thirty-nine-n of the real property law and prior
18 to any amendment of the by-laws of such condominium pursuant to para-
19 graph (j) of subdivision one of section three hundred thirty-nine-v of
20 the real property law, and whether or not such trust is a unit owner of
21 such condominium, it may exercise the rights of the board of managers
22 and an aggrieved unit owner under section three hundred thirty-nine-j of
23 the real property law in the case of a failure of any unit owner of such
24 condominium to comply with the by-laws of such condominium and with the
25 rules, regulations, and decisions adopted pursuant thereto.

26 § 77. Subdivision 2 of section 339-s of the real property law, as
27 added by chapter 346 of the laws of 1997, is amended to read as follows:

1 2. [Each such declaration, and any amendment or amendments thereof
2 shall be filed with the department of state] (a) The board of managers
3 for each condominium subject to this article shall file with the secre-
4 tary of state a certificate, in writing, signed, designating the secre-
5 tary of state as agent of the board of managers upon whom process
6 against it may be served and the post office address to which a person
7 shall mail a copy of such process. The certificate shall be accompanied
8 by a fee of sixty dollars.

9 (b) Any board of managers may change the address to which a person
10 shall mail a copy of process served upon the secretary of state, by
11 filing a signed certificate of amendment with the department of state.
12 Such certificate shall be accompanied by a fee of sixty dollars.

13 (c) Service of process on the secretary of state as agent of a board
14 of managers shall be made by mailing the process and notice of service
15 of process pursuant to this section by certified mail, return receipt
16 requested, to such board of managers, at the post office address, on
17 file in the department of state, specified for this purpose. On the same
18 day that such process is mailed, a duplicate copy of such process and
19 proof of mailing shall be personally delivered to and left with the
20 secretary of state or a deputy, or with any person authorized by the
21 secretary of state to receive such service, at the office of the depart-
22 ment of state in the city of Albany, a duplicate copy of such process
23 with proof of mailing together with the statutory fee, which shall be a
24 taxable disbursement. Proof of mailing shall be by affidavit of compli-
25 ance with this section. Service of process on a board of managers shall
26 be complete when the secretary of state is so served.

27 (d) As used in this article, "process" shall mean judicial process and
28 all orders, demands, notices or other papers required or permitted by

1 law to be personally served on a board of managers, for the purpose of
2 acquiring jurisdiction of such board of managers in any action or
3 proceeding, civil or criminal, whether judicial, administrative, arbi-
4 trative or otherwise, in this state or in the federal courts sitting in
5 or for this state.

6 (e) Nothing in this section shall affect the right to serve process in
7 any other manner permitted by law.

8 (f) The department of state shall keep a record of each process served
9 under this section, including the date of service. It shall, upon
10 request, made within ten years of such service, issue a certificate
11 under its seal certifying as to the receipt of process by an authorized
12 person, the date and place of such service and the receipt of the statu-
13 tory fee. Process served on the secretary of state under this section
14 shall be destroyed by the department of state after a period of ten
15 years from such service.

16 (g) Any designated post office address maintained by the secretary of
17 state as agent of the board of managers for the purpose of mailing proc-
18 ess shall be the post office address, within or without the state, to
19 which a person shall mail process against such board as required by this
20 article. Such address shall continue until the filing of a certificate
21 under this chapter directing the mailing to a different post office
22 address.

23 § 78. Subdivisions 3 and 4 of section 442-g of the real property law,
24 as amended by chapter 482 of the laws of 1963, are amended to read as
25 follows:

26 3. Service of such process upon the secretary of state shall be made
27 by personally delivering to and leaving with [him or his] the secretary
28 of state or a deputy, or with any person authorized by the secretary of

1 state to receive such service, at the office of the department of state
2 in the city of Albany, [duplicate copies] a copy of such process and
3 proof of mailing together with a fee of five dollars if the action is
4 solely for the recovery of a sum of money not in excess of two hundred
5 dollars and the process is so endorsed, and a fee of ten dollars in any
6 other action or proceeding, which fee shall be a taxable disbursement.
7 If such process is served upon behalf of a county, city, town or
8 village, or other political subdivision of the state, the fee to be paid
9 to the secretary of state shall be five dollars, irrespective of the
10 amount involved or the nature of the action on account of which such
11 service of process is made. [If the cost of registered mail for trans-
12 mitting a copy of the process shall exceed two dollars, an additional
13 fee equal to such excess shall be paid at the time of the service of
14 such process.] Proof of mailing shall be by affidavit of compliance with
15 this section. Proof of service shall be by affidavit of compliance with
16 this subdivision filed by or on behalf of the plaintiff together with
17 the process, within ten days after such service, with the clerk of the
18 court in which the action or special proceeding is pending. Service
19 made as provided in this section shall be complete ten days after such
20 papers are filed with the clerk of the court and shall have the same
21 force and validity as if served on him personally within the state and
22 within the territorial jurisdiction of the court from which the process
23 issues.

24 4. The [secretary of state] person serving such process shall [prompt-
25 ly] send [one of] such [copies] process by [registered] certified mail,
26 return receipt requested, to the nonresident broker or nonresident
27 salesman at the post office address of his main office as set forth in
28 the last application filed by him.

1 § 79. Subdivision 2 of section 203 of the tax law, as amended by chap-
2 ter 100 of the laws of 1964, is amended to read as follows:

3 2. Every foreign corporation (other than a moneyed corporation)
4 subject to the provisions of this article, except a corporation having a
5 certificate of authority [under section two hundred twelve of the gener-
6 al corporation law] or having authority to do business by virtue of
7 section thirteen hundred five of the business corporation law, shall
8 file in the department of state a certificate of designation in its
9 corporate name, signed and acknowledged by its president or a vice-pre-
10 sident or its secretary or treasurer, under its corporate seal, desig-
11 nating the secretary of state as its agent upon whom process in any
12 action provided for by this article may be served within this state, and
13 setting forth an address to which [the secretary of state] a person
14 shall mail a copy of any such process against the corporation which may
15 be served upon [him] the secretary of state. In case any such corpo-
16 ration shall have failed to file such certificate of designation, it
17 shall be deemed to have designated the secretary of state as its agent
18 upon whom such process against it may be served; and until a certificate
19 of designation shall have been filed the corporation shall be deemed to
20 have directed [the secretary of state] a person serving process to mail
21 copies of process served upon [him] the secretary of state to the corpo-
22 ration at its last known office address within or without the state.
23 When a certificate of designation has been filed by such corporation
24 [the secretary of state] a person serving process shall mail copies of
25 process thereafter served upon [him] the secretary of state to the
26 address set forth in such certificate. Any such corporation, from time
27 to time, may change the address to which [the secretary of state] a
28 person is directed to mail copies of process, by filing a certificate to

1 that effect executed, signed and acknowledged in like manner as a
2 certificate of designation as herein provided. Service of process upon
3 any such corporation or upon any corporation having a certificate of
4 authority [under section two hundred twelve of the general corporation
5 law] or having authority to do business by virtue of section thirteen
6 hundred five of the business corporation law, in any action commenced at
7 any time pursuant to the provisions of this article, may be made by
8 either (1) personally delivering to and leaving with the secretary of
9 state, a deputy secretary of state or with any person authorized by the
10 secretary of state to receive such service [duplicate copies] a copy
11 thereof at the office of the department of state in the city of Albany,
12 in which event [the secretary of state] a person serving such process
13 shall forthwith send by [registered] certified mail, return receipt
14 requested, [one of such copies] a duplicate copy to the corporation at
15 the address designated by it or at its last known office address within
16 or without the state, or (2) personally delivering to and leaving with
17 the secretary of state, a deputy secretary of state or with any person
18 authorized by the secretary of state to receive such service, a copy
19 thereof at the office of the department of state in the city of Albany
20 and by delivering a copy thereof to, and leaving such copy with, the
21 president, vice-president, secretary, assistant secretary, treasurer,
22 assistant treasurer, or cashier of such corporation, or the officer
23 performing corresponding functions under another name, or a director or
24 managing agent of such corporation, personally without the state. Proof
25 of such personal service without the state shall be filed with the clerk
26 of the court in which the action is pending within thirty days after
27 such service, and such service shall be complete ten days after proof
28 thereof is filed.

1 § 80. Section 216 of the tax law, as added by chapter 415 of the laws
2 of 1944, the opening paragraph as amended by chapter 100 of the laws of
3 1964 and redesignated by chapter 613 of the laws of 1976, is amended to
4 read as follows:

5 § 216. Collection of taxes. Every foreign corporation (other than a
6 moneyed corporation) subject to the provisions of this article, except a
7 corporation having a certificate of authority [under section two hundred
8 twelve of the general corporation law] or having authority to do busi-
9 ness by virtue of section thirteen hundred five of the business corpo-
10 ration law, shall file in the department of state a certificate of
11 designation in its corporate name, signed and acknowledged by its presi-
12 dent or a vice-president or its secretary or treasurer, under its corpo-
13 rate seal, designating the secretary of state as its agent upon whom
14 process in any action provided for by this article may be served within
15 this state, and setting forth an address to which [the secretary of
16 state] a person shall mail a copy of any such process against the corpo-
17 ration which may be served upon him. In case any such corporation shall
18 have failed to file such certificate of designation, it shall be deemed
19 to have designated the secretary of state as its agent upon whom such
20 process against it may be served; and until a certificate of designation
21 shall have been filed the corporation shall be deemed to have directed
22 [the secretary of state] a person to mail [copies] a copy of process
23 served upon [him] the secretary of state to the corporation at its last
24 known office address within or without the state. When a certificate of
25 designation has been filed by such corporation [the secretary of state]
26 a person serving such process shall mail [copies] a copy of process
27 thereafter served upon [him] a person serving such process to the
28 address set forth in such certificate. Any such corporation, from time

1 to time, may change the address to which [the secretary of state] a
2 person is directed to mail copies of process, by filing a certificate to
3 that effect executed, signed and acknowledged in like manner as a
4 certificate of designation as herein provided. Service of process upon
5 any such corporation or upon any corporation having a certificate of
6 authority [under section two hundred twelve of the general corporation
7 law] or having authority to do business by virtue of section thirteen
8 hundred five of the business corporation law, in any action commenced at
9 any time pursuant to the provisions of this article, may be made by
10 either (1) personally delivering to and leaving with the secretary of
11 state, a deputy secretary of state or with any person authorized by the
12 secretary of state to receive such service [duplicate copies] a copy
13 thereof at the office of the department of state in the city of Albany,
14 in which event [the secretary of state] a person serving such process
15 shall forthwith send by [registered] certified mail, return receipt
16 requested, [one of such copies] a duplicate copy to the corporation at
17 the address designated by it or at its last known office address within
18 or without the state, or (2) personally delivering to and leaving with
19 the secretary of state, a deputy secretary of state or with any person
20 authorized by the secretary of state to receive such service, a copy
21 thereof at the office of the department of state in the city of Albany
22 and by delivering a copy thereof to, and leaving such copy with, the
23 president, vice-president, secretary, assistant secretary, treasurer,
24 assistant treasurer, or cashier of such corporation, or the officer
25 performing corresponding functions under another name, or a director or
26 managing agent of such corporation, personally without the state. Proof
27 of such personal service without the state shall be filed with the clerk
28 of the court in which the action is pending within thirty days after

1 such service, and such service shall be complete ten days after proof
2 thereof is filed.

3 § 81. Subdivisions (a) and (b) of section 310 of the tax law, as added
4 by chapter 400 of the laws of 1983, are amended to read as follows:

5 (a) Designation for service of process.--Every petroleum business
6 which is a corporation, except such a petroleum business having a
7 certificate of authority [under section two hundred twelve of the gener-
8 al corporation law] or having authority to do business by virtue of
9 section thirteen hundred five of the business corporation law, shall
10 file in the department of state a certificate of designation in its
11 corporate name, signed and acknowledged by its president or vice-presi-
12 dent or its secretary or treasurer, under its corporate seal, designat-
13 ing the secretary of state as its agent upon whom process in any action
14 provided for by this article may be served within this state, and
15 setting forth an address to which [the secretary of state] a person
16 shall mail a copy of any such process against such petroleum business
17 which may be served upon [him] the secretary of state. In case any such
18 petroleum business shall have failed to file such certificate of desig-
19 nation, it shall be deemed to have designated the secretary of state as
20 its agent upon whom such process against it may be served; and until a
21 certificate of designation shall have been filed such a petroleum busi-
22 ness shall be deemed to have directed [the secretary of state] a person
23 to mail copies of process served upon [him] the secretary of state to
24 such petroleum business at its last known office address within or with-
25 out the state. When a certificate of designation has been filed by such
26 a petroleum business [the secretary of state] a person serving process
27 shall mail copies of process thereafter served upon [him] the secretary
28 of state to the address set forth in such certificate. Any such petrole-

1 um business, from time to time, may change the address to which [the
2 secretary of state] a person is directed to mail copies of process, by
3 filing a certificate to that effect executed, signed and acknowledged in
4 like manner as a certificate of designation as herein provided.

5 (b) Service of process.--Service of process upon any petroleum busi-
6 ness which is a corporation (including any such petroleum business
7 having a certificate of authority [under section two hundred twelve of
8 the general corporation law] or having authority to do business by
9 virtue of section thirteen hundred five of the business corporation
10 law), in any action commenced at any time pursuant to the provisions of
11 this article, may be made by either (1) personally delivering to and
12 leaving with the secretary of state, a deputy secretary of state or with
13 any person authorized by the secretary of state to receive such service
14 [duplicate copies] a copy thereof at the office of the department of
15 state in the city of Albany, in which event [the secretary of state] a
16 person serving process shall forthwith send by [registered] certified
17 mail, return receipt requested, [one of such copies] a duplicate copy to
18 such petroleum business at the address designated by it or at its last
19 known office address within or without the state, or (2) personally
20 delivering to and leaving with the secretary of state, a deputy secre-
21 tary of state or with any person authorized by the secretary of state to
22 receive such service, a copy thereof at the office of the department of
23 state in the city of Albany and by delivering a copy thereof to, and
24 leaving such copy with, the president, vice-president, secretary,
25 assistant secretary, treasurer, assistant treasurer, or cashier of such
26 petroleum business, or the officer performing corresponding functions
27 under another name, or a director or managing agent of such petroleum
28 business, personally without the state. Proof of such personal service

1 without the state shall be filed with the clerk of the court in which
2 the action is pending within thirty days after such service, and such
3 service shall be complete ten days after proof thereof is filed.

4 § 82. This act shall take effect on the one hundred twentieth day
5 after it shall have become a law.

6 PART S

7 Section 1. Subdivision 6 of section 441-a of the real property law, as
8 amended by chapter 183 of the laws of 2006, is amended to read as
9 follows:

10 6. Pocket card. The department shall prepare, issue and deliver, with
11 the assistance of the department of motor vehicles, [to each licensee]
12 upon payment of a fee of five dollars by a licensee, a pocket card in
13 such form and manner as the department shall prescribe, but which shall
14 contain the photo, name and business address of the licensee, and, in
15 the case of a real estate salesman, the name and business address of the
16 broker with whom he or she is associated and shall certify that the
17 person whose name appears thereon is a licensed real estate broker or
18 salesman, as may be. Such cards must be shown on demand. In the case of
19 loss, destruction or damage, the secretary of state may, upon submission
20 of satisfactory proof, issue a duplicate pocket card upon payment of a
21 fee of ten dollars.

22 § 2. This act shall take effect immediately.

23 PART T

1 Section 1. Subdivision 2 of section 54-1101 of the environmental
2 conservation law, as amended by section 4 of part U of chapter 58 of the
3 laws of 2016, is amended to read as follows:

4 2. State assistance payments and/or technical assistance, as defined
5 in section nine hundred seventeen of the executive law, shall not exceed
6 [fifty] seventy-five percent of the cost of the program. For the purpose
7 of determining the amount of state assistance payments, costs shall not
8 be more than the amount set forth in the application for state assist-
9 ance payments approved by the secretary. The state assistance payments
10 shall be paid on audit and warrant of the state comptroller on a certif-
11 icate of availability of the director of the budget.

12 § 2. The opening paragraph and paragraph a of subdivision 1 of section
13 918 of the executive law, as added by chapter 840 of the laws of 1981,
14 are amended to read as follows:

15 The secretary may enter into a contract or contracts for grants or
16 payments to be made, within the limits of any appropriations therefor,
17 for the following:

18 a. To any local governments, or to two or more local governments, for
19 projects approved by the secretary which lead to preparation of a water-
20 front revitalization program; provided, however, that such grants or
21 payments shall not exceed [fifty] seventy-five percent of the approved
22 cost of such projects;

23 § 3. This act shall take effect immediately.

1 Section 1. Paragraph (e) of subdivision 1 of section 169 of the execu-
2 tive law, as amended by section 9 of part A of chapter 60 of the laws of
3 2012, is amended to read as follows:

4 (e) [chairman of state athletic commission,] director of the office of
5 victim services, chairman of human rights appeal board, chairman of the
6 industrial board of appeals, chairman of the state commission of
7 correction, members of the board of parole, member-chairman of unemploy-
8 ment insurance appeal board, director of veterans' affairs, and vice-
9 chairman of the workers' compensation board;

10 § 2. This act shall take effect immediately.

11 PART V

12 Section 1. Expenditures of moneys appropriated in a chapter of the
13 laws of 2017 to the department of agriculture and markets from the
14 special revenue funds-other/state operations, miscellaneous special
15 revenue fund-339, public service account shall be subject to the
16 provisions of this section. Notwithstanding any other provision of law
17 to the contrary, direct and indirect expenses relating to the department
18 of agriculture and markets' participation in general ratemaking
19 proceedings pursuant to section 65 of the public service law or certif-
20 ication proceedings pursuant to article 7 or 10 of the public service
21 law, shall be deemed expenses of the department of public service within
22 the meaning of section 18-a of the public service law. No later than
23 August 15, 2018, the commissioner of the department of agriculture and
24 markets shall submit an accounting of such expenses, including, but not
25 limited to, expenses in the 2017 -- 2018 fiscal year for personal and
26 non-personal services and fringe benefits, to the chair of the public

1 service commission for the chair's review pursuant to the provisions of
2 section 18-a of the public service law.

3 § 2. Expenditures of moneys appropriated in a chapter of the laws of
4 2017 to the department of state from the special revenue funds-
5 other/state operations, miscellaneous special revenue fund-339, public
6 service account shall be subject to the provisions of this section.
7 Notwithstanding any other provision of law to the contrary, direct and
8 indirect expenses relating to the department of state's participation in
9 general ratemaking proceedings pursuant to section 65 of the public
10 service law or certification proceedings pursuant to article 7 or 10 of
11 the public service law, shall be deemed expenses of the department of
12 public service within the meaning of section 18-a of the public service
13 law. No later than August 15, 2018, the secretary of state shall submit
14 an accounting of such expenses, including, but not limited to, expenses
15 in the 2017 -- 2018 fiscal year for personal and non-personal services
16 and fringe benefits, to the chair of the public service commission for
17 the chair's review pursuant to the provisions of section 18-a of the
18 public service law.

19 § 3. Expenditures of moneys appropriated in a chapter of the laws of
20 2017 to the office of parks, recreation and historic preservation from
21 the special revenue funds-other/state operations, miscellaneous special
22 revenue fund-339, public service account shall be subject to the
23 provisions of this section. Notwithstanding any other provision of law
24 to the contrary, direct and indirect expenses relating to the office of
25 parks, recreation and historic preservation's participation in general
26 ratemaking proceedings pursuant to section 65 of the public service law
27 or certification proceedings pursuant to article 7 or 10 of the public
28 service law, shall be deemed expenses of the department of public

1 service within the meaning of section 18-a of the public service law. No
2 later than August 15, 2018, the commissioner of the office of parks,
3 recreation and historic preservation shall submit an accounting of such
4 expenses, including, but not limited to, expenses in the 2017 -- 2018
5 fiscal year for personal and non-personal services and fringe benefits,
6 to the chair of the public service commission for the chair's review
7 pursuant to the provisions of section 18-a of the public service law.

8 § 4. Expenditures of moneys appropriated in a chapter of the laws of
9 2017 to the department of environmental conservation from the special
10 revenue funds-other/state operations, environmental conservation special
11 revenue fund-301, utility environmental regulation account shall be
12 subject to the provisions of this section. Notwithstanding any other
13 provision of law to the contrary, direct and indirect expenses relating
14 to the department of environmental conservation's participation in state
15 energy policy proceedings, or certification proceedings pursuant to
16 article 7 or 10 of the public service law, shall be deemed expenses of
17 the department of public service within the meaning of section 18-a of
18 the public service law. No later than August 15, 2018, the commissioner
19 of the department of environmental conservation shall submit an account-
20 ing of such expenses, including, but not limited to, expenses in the
21 2017 -- 2018 fiscal year for personal and non-personal services and
22 fringe benefits, to the chair of the public service commission for the
23 chair's review pursuant to the provisions of section 18-a of the public
24 service law.

25 § 5. Notwithstanding any other law, rule or regulation to the contra-
26 ry, expenses of the department of health public service education
27 program incurred pursuant to appropriations from the cable television
28 account of the state miscellaneous special revenue funds shall be deemed

1 expenses of the department of public service. No later than August 15,
2 2018, the commissioner of the department of health shall submit an
3 accounting of expenses in the 2017 -- 2018 fiscal year to the chair of
4 the public service commission for the chair's review pursuant to the
5 provisions of section 217 of the public service law.

6 § 6. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after April 1, 2017.

8 PART W

9 Section 1. Section 2 of part BB of chapter 58 of the laws of 2012,
10 amending the public authorities law relating to authorizing the dormito-
11 ry authority to enter into certain design and construction management
12 agreements, as amended by section 1 of part S of chapter 58 of the laws
13 of 2015, is amended to read as follows:

14 § 2. This act shall take effect immediately [and shall expire and be
15 deemed repealed April 1, 2017].

16 § 2. This act shall take effect immediately.

17 PART X

18 Section 1. Legislative findings. In order to increase the authority of
19 the superintendent of financial services to respond to the harm posed by
20 impaired insurers in this state, the legislature finds that it is in the
21 best interest of the people of this state to enact an administrative
22 supervision statute. The superintendent of financial services has the
23 right and responsibility to enforce the insurance law and the authority
24 to seek redress against any person responsible for the impairment or

1 insolvency of the insurer, and nothing in this act is intended to
2 restrict or limit such right, responsibility, or authority.

3 § 2. The insurance law is amended by adding a new section 1123 to read
4 as follows:

5 § 1123. Administrative supervision. (a) For the purposes of this
6 subsection, "insurer" shall have the meaning set forth in paragraph one
7 of subsection (b) of section seven thousand four hundred one of this
8 chapter, and shall include a licensed United States branch of an alien
9 insurer entered through this state.

10 (b) (1) The superintendent may issue an order placing a domestic insur-
11 er under administrative supervision if the superintendent determines
12 that one or more of the conditions set forth in section seven thousand
13 four hundred two of this chapter exists. Upon such a determination, the
14 superintendent shall furnish the insurer with a written list of require-
15 ments to abate the condition or conditions within the time specified in
16 the order, which shall not exceed one hundred eighty days. The domestic
17 insurer may challenge the order by requesting an administrative hearing
18 pursuant to the adjudicatory proceeding rules in article three of the
19 state administrative procedure act and regulations promulgated by the
20 superintendent but the order shall remain in full force and effect
21 during the course of the adjudicatory proceeding. Upon issuance of the
22 order, the superintendent shall advise such domestic insurer of its
23 right to request a hearing challenging the order pursuant to the adjudi-
24 catory proceeding rules in article three of the state administrative
25 procedure act and regulations promulgated by the superintendent.

26 (2) If, at the end of the period specified in the order, the super-
27 intendent determines that the condition or conditions that gave rise to
28 the order still exists or exist, then administrative supervision shall

1 continue. The insurer may request a hearing to challenge the superinten-
2 dent's determination to continue administrative supervision.

3 (3) If the superintendent determines that the condition or conditions
4 that gave rise to administrative supervision no longer exists or exist,
5 then the superintendent shall release the insurer from supervision.

6 (c) During the period of supervision, the superintendent may prohibit
7 the insurer from engaging in any of the following activities without the
8 superintendent's prior approval:

9 (1) disposing of, conveying, or encumbering any of its assets or its
10 business in force;

11 (2) withdrawing any funds from its bank accounts;

12 (3) lending any of its funds;

13 (4) investing any of its funds;

14 (5) paying any claims;

15 (6) transferring any of its property;

16 (7) incurring any debt, obligation, or liability;

17 (8) merging or consolidating with another company;

18 (9) approving new premiums or renewing any policies;

19 (10) entering into any new reinsurance contract or treaty;

20 (11) terminating, surrendering, forfeiting, converting, or lapsing any
21 insurance policy, certificate, or contract, except for nonpayment of
22 premiums due;

23 (12) releasing, paying, or refunding premium deposits, accrued cash or
24 loan values, unearned premiums, or other reserves on any insurance poli-
25 cy, certificate, or contract;

26 (13) making any material change in management;

27 (14) increasing salaries and benefits of officers or directors or the
28 payment of bonuses, dividends, or other payments; or

1 (15) such other activities that the superintendent determines are
2 necessary to protect policyholders or the people of this state.

3 (d) The superintendent may appoint as administrative supervisor, at
4 the insurer's expense, one or more persons not employed by any insurer
5 or interested in such insurer, except as a policyholder.

6 (e)(1) The expenses of administrative supervision pursuant to this
7 subsection shall be borne and paid by the insurer so supervised.

8 (2) In the event that an insurer becomes subject to a proceeding under
9 article seventy-four of this chapter within one year of the superinten-
10 dent releasing the insurer from administrative supervision, all accrued
11 and outstanding expenses incurred in connection with administrative
12 supervision shall be treated as actual and necessary costs and expenses
13 of the administration of such proceeding under article seventy-four of
14 this chapter.

15 (f) All matters pertaining to a proceeding or determination pursuant
16 to this subsection shall be confidential and not subject to subpoena or
17 public inspection under article six of the public officers law or any
18 other statute, except to the extent that the superintendent finds
19 release of information necessary to protect the public.

20 (g) Nothing in this subsection shall be construed as precluding the
21 superintendent from initiating judicial proceedings to place an insurer
22 in rehabilitation, liquidation, conservation, or dissolution
23 proceedings.

24 § 3. Subsection (a) of section 1309 of the insurance law is amended to
25 read as follows:

26 (a) Whenever the superintendent finds from a financial statement or
27 report on examination that an authorized insurer is unable to pay its
28 outstanding lawful obligations as they mature in the regular course of

1 business, as shown by an excess of required reserves and other liabil-
2 ities over admitted assets, or by its not having sufficient assets to
3 reinsure all outstanding risks with other solvent authorized assuming
4 insurers after paying all accrued claims owed, such insurer shall be
5 deemed insolvent and the superintendent may proceed against it pursuant
6 to the provisions of article seventy-four of this chapter or may place
7 the insurer under administrative supervision pursuant to section one
8 thousand one hundred twenty-three of this chapter.

9 § 4. Subsection (a) of section 1310 of the insurance law is amended to
10 read as follows:

11 (a) Whenever the superintendent finds from a financial statement, or a
12 report on examination, of any domestic stock insurer that [(i)] (1) the
13 admitted assets are less than the aggregate amount of its liabilities
14 and outstanding capital stock or [(ii)] (2) the admitted assets of any
15 such insurer [which] that is required to maintain a minimum surplus to
16 policyholders are less than the aggregate amount of its liabilities and
17 the amount of its minimum surplus to policyholders, [he] the superinten-
18 dent shall determine the amount of the impairment and order the insurer
19 to eliminate the impairment within such period as [he] the superinten-
20 dent designates, not more than ninety days from the service of the
21 order. [He] The superintendent may also order the insurer not to issue
22 any new policies while the impairment exists. If the impairment as
23 determined by the provisions of [item (i) hereof] paragraph one of this
24 subsection equals or exceeds twenty-five percent of the insurer's
25 outstanding capital stock, or as determined by the provisions of [item
26 (i) or (ii) hereof] paragraph one or two of this subsection is such that
27 the insurer does not have the minimum capital or minimum surplus to
28 policyholders required by this chapter, and if at the expiration of such

1 designated period, such insurer has not satisfied the superintendent
2 that such impairment has been eliminated, the superintendent may proceed
3 against the insurer pursuant to the provisions of article seventy-four
4 of this chapter on the ground that its condition is such that its
5 further transaction of business will be hazardous to its policyholders
6 or its creditors or the public or the superintendent may place the
7 insurer under administrative supervision pursuant to section one thou-
8 sand one hundred twenty-three of this chapter.

9 § 5. Subsection (c) of section 1311 of the insurance law is amended to
10 read as follows:

11 (c) If the impairment so determined is such that such insurer does not
12 have the minimum surplus required for item (iii) of subsection (a)
13 [hereof] of this section, and if when such designated period expires the
14 insurer has not satisfied the superintendent that such impairment has
15 been eliminated, the superintendent may proceed against such insurer
16 pursuant to the provisions of article seventy-four of this chapter on
17 the ground that its further transaction of business will be hazardous to
18 its policyholders, its creditors or the public or the superintendent may
19 place the insurer under administrative supervision pursuant to section
20 one thousand one hundred twenty-three of this chapter.

21 § 6. Paragraph 2 of subsection (c) of section 1312 of the insurance
22 law is amended to read as follows:

23 (2) If at the expiration of such designated period such insurer has
24 not satisfied the superintendent that such impairment has been elimi-
25 nated, the superintendent may proceed against such insurer pursuant to
26 the provisions of article seventy-four of this chapter as an insurer
27 whose condition is such that its further transaction of business in the
28 United States will be hazardous to its policyholders, its creditors or

1 the public in the United States or the superintendent may place the
2 insurer under administrative supervision pursuant to subsection (b) of
3 section one thousand one hundred twenty-three of this chapter.

4 § 7. This act shall take effect immediately.

5 PART Y

6 Section 1. Subsections (c) and (d) of section 109 of the insurance
7 law, paragraph 1 of subsection (c) as amended by section 55 of part A of
8 chapter 62 of the laws of 2011, is amended and a new subsection (e) is
9 added to read as follows:

10 (c) (1) If the superintendent finds after notice and hearing that any
11 [authorized] insurer, representative of the insurer, [licensed] insur-
12 ance agent, [licensed] insurance broker, [licensed] adjuster, or any
13 other person or entity [licensed, certified, registered, or authorized
14 pursuant] subject to this chapter, has wilfully violated the provisions
15 of this chapter or any regulation promulgated thereunder, then the
16 superintendent may order the person or entity to pay to the people of
17 this state a penalty in a sum not exceeding [one] the greater of (A) ten
18 thousand dollars for each offense; (B) a multiple of two times the
19 aggregate damages attributable to the violation; or (C) a multiple of
20 two times the aggregate economic gain attributable to the violation. The
21 superintendent may promulgate regulations implementing the terms of this
22 subsection.

23 (2) Failure to pay such penalty within thirty days after the order,
24 unless it is suspended by an order of a court of competent jurisdiction,
25 shall constitute a further violation of the provisions of this chapter.

1 (3) No penalty shall be imposed pursuant to this subsection if a mone-
2 tary penalty is otherwise provided in this chapter.

3 (d) (1) The superintendent may maintain a civil action in the name of
4 the people of the state to recover a judgment for a money penalty
5 imposed by law or to enforce any order issued by the superintendent for
6 the violation of any provision of this chapter.

7 (2) Notwithstanding any law to the contrary, the superintendent may,
8 in his or her sole discretion, either (A) prosecute any such action and
9 retain charge and control of the action; or (B) refer such action to the
10 department of law for prosecution.

11 (e) Any person or entity that is required by this chapter to be
12 licensed, certified, registered, or authorized shall be subject to the
13 laws of this chapter and the penalties contained herein as if the person
14 or entity was so licensed, certified, registered, or authorized, even if
15 the person or entity does not possess the required license, certif-
16 ication, registration, or authorization.

17 § 2. Section 44 of the banking law is amended by adding two new subdi-
18 visions 10 and 11 to read as follows:

19 10. The superintendent may maintain a civil action in the name of the
20 people of the state to recover a judgement for a money penalty imposed
21 by law or to enforce any order issued by the superintendent for the
22 violation of any provision of this chapter. Notwithstanding any law to
23 the contrary, the superintendent may, in his or her discretion, either
24 (a) prosecute any such action and retain charge and control of the
25 action; or (b) refer such action to the department of law for prose-
26 cution.

27 11. Any person or entity who engages in activity that is regulated in
28 this chapter without being licensed, certified, registered, authorized,

1 chartered, accredited, incorporated or otherwise obtaining any permis-
2 sion of the superintendent required by this chapter before engaging in
3 such activity shall be subject to the laws of this chapter and the
4 penalties contained herein as if the person or entity was so licensed,
5 certified, registered, authorized, chartered, accredited, incorporated,
6 or otherwise approved by the superintendent.

7 § 3. Subsection (a) of section 309 of the financial services law is
8 amended and a new subsection (c) is added to read as follows:

9 (a) In addition to such other remedies as are provided under this
10 chapter, the superintendent may maintain and prosecute an action against
11 any person subject to this chapter, the insurance law or the banking
12 law, or the person's officers, directors, trustees or agents, for the
13 purpose of obtaining an injunction restraining such person or persons
14 from doing any acts in violation of the provisions of this chapter, the
15 insurance law or the banking law. The superintendent may commence such
16 action against any person or entity that is required by this chapter,
17 the banking law, or the insurance law to be licensed, certified, regis-
18 tered, authorized, chartered, accredited, or incorporated, as if the
19 person or entity was so licensed, certified, registered, authorized,
20 chartered, accredited, or incorporated, even if the person or entity
21 does not possess the required license, certification, registration,
22 authorization, charter, accreditation, or incorporation.

23 (c) Notwithstanding any law to the contrary, the superintendent may,
24 in his or her discretion, either (i) prosecute any such action and
25 retain charge and control of the action; or (ii) refer such action to
26 the department of law for prosecution.

27 § 4. This act shall take effect immediately.

1 PART Z

2 Section 1. The banking law is amended by adding a new article 14-A to
3 read as follows:

4 ARTICLE XIV-A

5 STUDENT LOAN SERVICERS

6 Section 710. Definitions.

7 711. Licensing.

8 712. Application for a student loan servicer license; fees.

9 713. Application process to receive license to engage in the
10 business of student loan servicing.

11 714. Changes in officers and directors.

12 715. Changes in control.

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23 § 710. Definitions. 1. "Applicant" shall mean any person applying for
24 a license to be a student loan servicer.

25 2. "Borrower" shall mean any resident of this state who has received a
26 student loan or agreed to pay a student loan or any person who shares
27 responsibility with such resident for repaying a student loan.

1 3. "Borrower benefit" shall mean an incentive offered to a borrower in
2 connection with the origination of a student loan, including but not
3 limited to an interest rate reduction, principal rebate, fee waiver or
4 rebate, loan cancellation, or cosigner release.

5 4. "Exempt organization" shall mean any banking organization, foreign
6 banking corporation, national bank, federal savings association, federal
7 credit union, or any bank, trust company, savings bank, savings and loan
8 association, or credit union organized under the laws of any other
9 state, or any instrumentality created by the United States or any state
10 with the power to service student loans, or any person exempted by the
11 superintendent of financial services pursuant to regulations promulgated
12 in accordance with this article.

13 5. "Person" shall mean any individual, association, corporation,
14 limited liability company, partnership, trust, unincorporated organiza-
15 tion, government or political subdivision of a government, and any other
16 entity.

17 6. "Servicer" or "student loan servicer" shall mean a person licensed
18 pursuant to section seven hundred eleven of this article to engage in
19 the business of servicing any student loan of a borrower.

20 7. "Servicing" shall mean:

21 (a) receiving any payment from a borrower pursuant to the terms of any
22 student loan;

23 (b) applying any payment to a borrower's account pursuant to the terms
24 of a student loan or the contract governing the servicing of any such
25 loan;

26 (c) providing any notification of amounts owed on a student loan by or
27 on account of any borrower;

1 (d) during a period when a borrower is not required to make a payment
2 on a student loan, maintaining account records for the student loan and
3 communicating with the borrower regarding the student loan on behalf of
4 the owner of the student loan promissory note;

5 (e) interacting with a borrower with respect to or regarding any
6 attempt to avoid default on the borrower's student loan, or facilitating
7 the activities described in paragraph (a) or (b) of this subdivision; or

8 (f) performing other administrative services with respect to a borrow-
9 er's student loan.

10 8. "Student loan" shall mean any loan to a borrower to finance postse-
11 condary education or expenses related to postsecondary education.

12 § 711. Licensing. 1. No person shall engage in the business of servic-
13 ing student loans owed by one or more borrowers residing in this state
14 without first being licensed by the superintendent as a student loan
15 servicer in accordance with this article and such regulations as may be
16 prescribed by the superintendent.

17 2. The licensing provisions of this subdivision shall not apply to any
18 exempt organization, or any person that shall be exempted in accordance
19 with regulations prescribed by the superintendent hereunder; provided
20 that such exempt organization notifies the superintendent that the
21 exempt organization is acting as a student loan servicer in this state
22 and complies with sections seven hundred nineteen and seven hundred
23 twenty-one of this article and any regulation applicable to student loan
24 servicers promulgated by the superintendent.

25 § 712. Application for a student loan servicer license; fees. 1. The
26 application for a license to be a student loan servicer shall be in
27 writing, under oath, and in the form prescribed by the superintendent.
28 Notwithstanding article three of the state technology law or any other

1 law to the contrary, the superintendent may require that an application
2 for a license or any other submission or application for approval as may
3 be required by this article be made or executed by electronic means if
4 he or she deems it necessary to ensure the efficient and effective
5 administration of this article. The application shall include a
6 description of the activities of the applicant, in such detail and for
7 such periods as the superintendent may require, including:

8 (a) an affirmation of financial solvency noting such capitalization
9 requirements as may be required by the superintendent, and access to
10 such credit as may be required by the superintendent;

11 (b) a financial statement prepared by a certified public accountant,
12 the accuracy of which is sworn to under oath before a notary public by
13 an officer or other representative of the applicant who is authorized to
14 execute such documents;

15 (c) the fingerprints of the applicant, or its members, officers, part-
16 ners, directors and principals as may be appropriate, which may be
17 submitted to the division of criminal justice services and the federal
18 bureau of investigation for state and national criminal history record
19 checks;

20 (d) an affirmation that the applicant, or its members, officers, part-
21 ners, directors and principals as may be appropriate, are at least twen-
22 ty-one years of age;

23 (e) information as to the character, fitness, financial and business
24 responsibility, background and experiences of the applicant, or its
25 members, officers, partners, directors and principals as may be appro-
26 priate;

27 (f) any additional detail or information required by the superinten-
28 dent.

1 2. An application to become a student loan servicer or any application
2 with respect to a student loan servicer shall be accompanied by a fee as
3 prescribed pursuant to section eighteen-a of this chapter.

4 § 713. Application process to receive license to engage in the busi-
5 ness of student loan servicing. 1. Upon the filing of an application for
6 a license, if the superintendent shall find that the financial responsi-
7 bility, experience, character, and general fitness of the applicant and,
8 if applicable, the members, officers, partners, directors and principals
9 of the applicant are such as to command the confidence of the community
10 and to warrant belief that the business will be operated honestly, fair-
11 ly, and efficiently within the purpose of this article, the superinten-
12 dent shall thereupon issue a license in duplicate to engage in the busi-
13 ness of servicing student loans described in section seven hundred ten
14 of this article in accordance with the provisions of this article. If
15 the superintendent shall not so find, the superintendent shall not issue
16 a license, and the superintendent shall so notify the applicant. The
17 superintendent shall transmit one copy of a license to the applicant and
18 file another copy in the office of the department of financial services.
19 Upon receipt of such license, a student loan servicer shall be author-
20 ized to engage in the business of servicing student loans in accordance
21 with the provisions of this article. Such license shall remain in full
22 force and effect until it is surrendered by the servicer or revoked or
23 suspended as hereinafter provided.

24 2. The superintendent may refuse to issue a license pursuant to this
25 article if he or she shall find that the applicant, or any person who is
26 a director, officer, partner, agent, employee, member, substantial
27 stockholder of the applicant, consultant or person having a relationship
28 with the applicant similar to a consultant:

1 (a) has been convicted of a crime involving an activity which is a
2 felony under this chapter or under article one hundred fifty-five, one
3 hundred seventy, one hundred seventy-five, one hundred seventy-six, one
4 hundred eighty, one hundred eighty-five, one hundred eighty-seven, one
5 hundred ninety, two hundred, two hundred ten or four hundred seventy of
6 the penal law or any comparable felony under the laws of any other state
7 or the United States, provided that such crime would be a felony if
8 committed and prosecuted under the laws of this state;

9 (b) has had a license or registration revoked by the superintendent or
10 any other regulator or jurisdiction;

11 (c) has been an officer, director, partner, member or substantial
12 stockholder of an entity which has had a license or registration revoked
13 by the superintendent or any other regulator or jurisdiction; or

14 (d) has been an agent, employee, officer, director, partner or member
15 of an entity, or a consultant to, or person having had a similar
16 relationship with, any entity which has had a license or registration
17 revoked by the superintendent where such person shall have been found by
18 the superintendent to bear responsibility in connection with the revoca-
19 tion.

20 3. The term "substantial stockholder", as used in this subdivision,
21 shall be deemed to refer to a person owning or controlling directly or
22 indirectly ten per centum or more of the total outstanding stock of a
23 corporation.

24 § 714. Changes in officers and directors. Upon any change of any of
25 the executive officers, directors, partners or members of any student
26 loan servicer, the student loan servicer shall submit to the superinten-
27 dent the name, address, and occupation of each new officer, director,

1 partner or member, and provide such other information as the superinten-
2 dent may require.

3 § 715. Changes in control. 1. It shall be unlawful, except with the
4 prior approval of the superintendent, for any action to be taken which
5 results in a change of control of the business of a student loan servi-
6 cer. Prior to any change of control, the person desirous of acquiring
7 control of the business of a student loan servicer shall make written
8 application to the superintendent and pay an investigation fee as
9 prescribed pursuant to section eighteen-a of this chapter to the super-
10 intendent. The application shall contain such information as the super-
11 intendent, by rule or regulation, may prescribe as necessary or appro-
12 priate for the purpose of making the determination required by
13 subdivision two of this section. Such information shall include, but not
14 be limited to, the information and other material required for a student
15 loan servicer by subdivision one of section seven hundred twelve of this
16 article.

17 2. The superintendent shall approve or disapprove the proposed change
18 of control of a student loan servicer in accordance with the provisions
19 of section seven hundred thirteen of this article.

20 3. For a period of six months from the date of qualification thereof
21 and for such additional period of time as the superintendent may
22 prescribe, in writing, the provisions of subdivisions one and two of
23 this section shall not apply to a transfer of control by operation of
24 law to the legal representative, as hereinafter defined, of one who has
25 control of a student loan servicer. Thereafter, such legal represen-
26 tative shall comply with the provisions of subdivisions one and two of
27 this section. The provisions of subdivisions one and two of this section
28 shall be applicable to an application made under this section by a legal

1 representative. The term "legal representative", for the purposes of
2 this subdivision, shall mean a person duly appointed by a court of
3 competent jurisdiction to act as executor, administrator, trustee,
4 committee, conservator or receiver, including a person who succeeds a
5 legal representative and a person acting in an ancillary capacity there-
6 to in accordance with the provisions of such court appointment.

7 4. As used in this section the term "control" means the possession,
8 directly or indirectly, of the power to direct or cause the direction of
9 the management and policies of a student loan servicer, whether through
10 the ownership of voting stock of such student loan servicer, the owner-
11 ship of voting stock of any person which possesses such power or other-
12 wise. Control shall be presumed to exist if any person, directly or
13 indirectly, owns, controls or holds with power to vote ten per centum or
14 more of the voting stock of any student loan servicer or of any person
15 which owns, controls or holds with power to vote ten per centum or more
16 of the voting stock of any student loan servicer, but no person shall be
17 deemed to control a student loan servicer solely by reason of being an
18 officer or director of such student loan servicer. The superintendent
19 may in his discretion, upon the application of a student loan servicer
20 or any person who, directly or indirectly, owns, controls or holds with
21 power to vote or seeks to own, control or hold with power to vote any
22 voting stock of such student loan servicer, determine whether or not the
23 ownership, control or holding of such voting stock constitutes or would
24 constitute control of such student loan servicer for purposes of this
25 section.

26 § 716. Grounds for suspension or revocation of license. 1. The super-
27 intendent may revoke any license to engage in the business of a student

1 loan servicer issued pursuant to this article if he or she shall find
2 that:

3 (a) a servicer has violated any provision of this article, any rule or
4 regulation promulgated by the superintendent under and within the
5 authority of this article, or any other applicable law;

6 (b) any fact or condition exists which, if it had existed at the time
7 of the original application for such license, would have warranted the
8 superintendent refusing originally to issue such license;

9 (c) a servicer does not cooperate with an examination or investigation
10 by the superintendent;

11 (d) a servicer engages in fraud, intentional misrepresentation, or
12 gross negligence in servicing a student loan;

13 (e) the competence, experience, character, or general fitness of the
14 servicer, an individual controlling, directly or indirectly, ten percent
15 or more of the outstanding interests, or any person responsible for
16 servicing a student loan for the servicer indicates that it is not in
17 the public interest to permit the servicer to continue servicing student
18 loans;

19 (f) the servicer engages in unsafe or injurious practice;

20 (g) the servicer is insolvent, suspends payment of its obligations, or
21 makes a general assignment for the benefit of its creditors; or

22 (h) a servicer has violated the laws of this state, any other state
23 law or any federal law involving fraudulent or dishonest dealing, or a
24 final judgment has been entered against a student loan servicer in a
25 civil action upon grounds of fraud, misrepresentation or deceit.

26 2. As a part of his or her determination regarding suspension or revo-
27 cation, the superintendent is authorized to require the fingerprinting
28 of any person, officer, director, partner, member or employee of a

1 student loan servicer. Such fingerprints shall be submitted to the divi-
2 sion of criminal justice services for a state criminal history record
3 check and may be submitted to the federal bureau of investigation for a
4 national criminal history record check.

5 3. The superintendent may, on good cause shown, or where there is a
6 substantial risk of public harm, suspend any license for a period not
7 exceeding thirty days, pending investigation. "Good cause", as used in
8 this subdivision, shall exist when a student loan servicer has defaulted
9 or is likely to default in performing its financial engagements or
10 engages in dishonest or inequitable practices which may cause substan-
11 tial harm to the persons afforded the protection of this article.

12 4. Except as provided in subdivision three of this section, no license
13 shall be revoked or suspended except after notice and a hearing thereon.
14 Any order of suspension issued after notice and a hearing may include as
15 a condition of reinstatement that the student loan servicer make resti-
16 tution to consumers of fees or other charges which have been improperly
17 charged or collected, including but not limited to by allocating
18 payments contrary to a borrower's direction or in a manner that fails to
19 help a borrower avoid default, as determined by the superintendent. Any
20 hearing held pursuant to the provisions of this section shall be
21 noticed, conducted and administered in compliance with the state admin-
22 istrative procedure act.

23 5. Any student loan servicer may surrender any license by delivering
24 to the superintendent written notice that the student loan servicer
25 thereby surrenders such license, but such surrender shall not affect the
26 servicer's civil or criminal liability for acts committed prior to the
27 surrender. If such surrender is made after the issuance by the super-
28 intendent of a statement of charges and notice of hearing, the super-

1 intendent may proceed against the servicer as if the surrender had not
2 taken place.

3 6. No revocation, suspension, or surrender of any license shall impair
4 or affect the obligation of any pre-existing lawful contract between the
5 student loan servicer and any person, including the department of finan-
6 cial services.

7 7. Every license issued pursuant to this article shall remain in full
8 force and effect until the same shall have been surrendered, revoked or
9 suspended in accordance with any other provisions of this article.

10 8. Whenever the superintendent shall revoke or suspend a license
11 issued pursuant to this article, he or she shall forthwith execute in
12 duplicate a written order to that effect. The superintendent shall file
13 one copy of the order in the office of the department of financial
14 services and shall forthwith serve the other copy upon the student loan
15 servicer. Any such order may be reviewed in the manner provided by arti-
16 cle seventy-eight of the civil practice law and rules. An application
17 for review as authorized by this section must be made within thirty days
18 from the date of the order of suspension or revocation.

19 § 717. Books and records; reports and electronic filing. 1. Each
20 student loan servicer and exempt organization shall keep and use in its
21 business such books, accounts and records as will enable the superinten-
22 dent to determine whether the servicer or exempt organization is comply-
23 ing with the provisions of this article and with the rules and regu-
24 lations lawfully made by the superintendent. Every servicer and exempt
25 organization shall preserve such books, accounts, and records, for at
26 least three years.

27 2. (a) Each student loan servicer shall annually, on or before a date
28 to be determined by the superintendent, file a report with the super-

1 intendent giving such information as the superintendent may require
2 concerning the business and operations during the preceding calendar
3 year of such servicer under authority of this article. Such report shall
4 be subscribed and affirmed as true by the servicer under the penalties
5 of perjury and shall be in the form prescribed by the superintendent.

6 (b) In addition to annual reports, the superintendent may require such
7 additional regular or special reports as he or she may deem necessary to
8 the proper supervision of student loan servicers under this article.
9 Such additional reports shall be subscribed and affirmed as true by the
10 servicer under the penalties of perjury and shall be in the form
11 prescribed by the superintendent.

12 3. Notwithstanding article three of the state technology law or any
13 other law to the contrary, the superintendent may require that any
14 submission or approval as may be required by the superintendent be made
15 or executed by electronic means if he or she deems it necessary to
16 ensure the efficient administration of this article.

17 § 718. Rules and regulations. 1. In addition to such powers as may
18 otherwise be prescribed by this chapter, the superintendent is hereby
19 authorized and empowered to promulgate such rules and regulations as may
20 in the judgment of the superintendent be consistent with the purposes of
21 this article, or appropriate for the effective administration of this
22 article, including, but not limited to:

23 (a) Such rules and regulations in connection with the activities of
24 student loan servicers and exempt organizations as may be necessary and
25 appropriate for the protection of borrowers in this state.

26 (b) Such rules and regulations as may be necessary and appropriate to
27 define unfair, deceptive or abusive acts or practices in connection with

1 the activities of student loan servicers and exempt organizations in
2 servicing student loans.

3 (c) Such rules and regulations as may define the terms used in this
4 article and as may be necessary and appropriate to interpret and imple-
5 ment the provisions of this article.

6 (d) Such rules and regulations as may be necessary for the enforcement
7 of this article.

8 2. The superintendent is hereby authorized and empowered to make such
9 specific rulings, demands and findings as the superintendent may deem
10 necessary for the proper conduct of the student loan servicing industry.

11 § 719. Prohibited practices. No student loan servicer shall:

12 1. Directly or indirectly employ any scheme, device or artifice to
13 defraud or mislead a borrower.

14 2. Engage in any unfair, deceptive or predatory act or practice toward
15 any person or misrepresent or omit any material information in
16 connection with the servicing of a student loan, including, but not
17 limited to, misrepresenting the amount, nature or terms of any fee or
18 payment due or claimed to be due on a student loan, the terms and condi-
19 tions of the loan agreement or the borrower's obligations under the
20 loan.

21 3. Misapply payments to the outstanding balance of any student loan or
22 to any related interest or fees.

23 4. Provide inaccurate information to a consumer reporting agency.

24 5. Refuse to communicate with an authorized representative of the
25 borrower who provides a written authorization signed by the borrower,
26 provided that the servicer may adopt procedures reasonably related to
27 verifying that the representative is in fact authorized to act on behalf
28 of the borrower.

1 6. Make any false statement or make any omission of a material fact in
2 connection with any information or reports filed with a governmental
3 agency or in connection with any investigation conducted by the super-
4 intendent or another governmental agency.

5 § 720. Servicing student loans without a license. 1. Whenever, in the
6 opinion of the superintendent, a person is engaged in the business of
7 servicing student loans, either actually or through subterfuge, without
8 a license from the superintendent, the superintendent may order that
9 person to desist and refrain from engaging in the business of servicing
10 student loans in the state. If, within thirty days after an order is
11 served, a request for a hearing is filed in writing and the hearing is
12 not held within sixty days of the filing, the order shall be rescinded.

13 2. The superintendent may maintain a civil action to enforce any order
14 issued by the superintendent pursuant to this section.

15 3. This section shall not apply to exempt organizations.

16 § 721. Responsibilities. 1. If a student loan servicer regularly
17 reports information to a consumer reporting agency, the servicer shall
18 accurately report a borrower's payment performance to at least one
19 consumer reporting agency that compiles and maintains files on consumers
20 on a nationwide basis as defined in Section 603(p) of the federal Fair
21 Credit Reporting Act (15 U.S.C. Sec. 1681a(p)), upon acceptance as a
22 data furnisher by that consumer reporting agency.

23 2. (a) Except as provided in federal law or required by a student loan
24 agreement, a student loan servicer shall inquire of a borrower how to
25 apply a borrower's nonconforming payment. A borrower's direction on how
26 to apply a nonconforming payment shall remain in effect for any future
27 nonconforming payment during the term of a student loan until the
28 borrower provides different directions.

1 (b) For purposes of this subdivision, "nonconforming payment" shall
2 mean a payment that is either more or less than the borrower's required
3 student loan payment.

4 3. (a) If the sale, assignment, or other transfer of the servicing of
5 a student loan results in a change in the identity of the person to whom
6 the borrower is required to send subsequent payments or direct any
7 communications concerning the student loan, a student loan servicer
8 shall transfer all information regarding a borrower, a borrower's
9 account, and a borrower's student loan, including but not limited to the
10 borrower's repayment status and any borrower benefits associated with
11 the borrower's student loan, to the new student loan servicer servicing
12 the borrower's student loan within forty-five days.

13 (b) A student loan servicer shall adopt policies and procedures to
14 verify that it has received all information regarding a borrower, a
15 borrower's account, and a borrower's student loan, including but not
16 limited to the borrower's repayment status and any borrower benefits
17 associated with the borrower's student loan, when the servicer obtains
18 the right to service a student loan.

19 4. If a student loan servicer sells, assigns, or otherwise transfers
20 the servicing of a student loan to a new servicer, the sale, assignment
21 or other transfer shall be completed at least seven days before the
22 borrower's next payment is due.

23 5. (a) A student loan servicer that sells, assigns, or otherwise
24 transfers the servicing of a student loan shall require as a condition
25 of such sale, assignment or other transfer that the new student loan
26 servicer shall honor all borrower benefits originally represented as
27 being available to a borrower during the repayment of the student loan
28 and the possibility of such benefits, including any benefits that were

1 represented as being available but for which the borrower had not yet
2 qualified.

3 (b) A student loan servicer that obtains the right to service a
4 student loan shall honor all borrower benefits originally represented as
5 being available to a borrower during the repayment of the student loan
6 and the possibility of such benefits, including any benefits that were
7 represented as being available but for which the borrower had not yet
8 qualified.

9 6. A student loan servicer shall respond within thirty days after
10 receipt to a written inquiry from a borrower or a borrower's represen-
11 tative.

12 7. A student loan servicer shall preserve records of each student loan
13 and all communications with borrowers for not less than two years
14 following the final payment on a student loan or the sale, assignment or
15 other transfer of the servicing of a student loan, whichever occurs
16 first, or such longer period as may be required by any other provision
17 of law.

18 § 722. Examinations. 1. The superintendent may at any time, and as
19 often as he or she may determine, either personally or by a person duly
20 designated by the superintendent, investigate the business and examine
21 the books, accounts, records, and files used therein of every student
22 loan servicer. For that purpose the superintendent and his or her duly
23 designated representative shall have free access to the offices and
24 places of business, books, accounts, papers, records, files, safes and
25 vaults of all student loan servicers. The superintendent and any person
26 duly designated by him or her shall have the authority to require the
27 attendance of and to examine under oath all persons whose testimony he
28 or she may require relative to such business.

1 2. No person subject to investigation or examination under this
2 section may knowingly withhold, abstract, remove, mutilate, destroy or
3 secrete any books, records, computer records or other information.

4 3. The expenses incurred in making any examination pursuant to this
5 section shall be assessed against and paid by the student loan servicer
6 so examined, except that traveling and subsistence expenses so incurred
7 shall be charged against and paid by servicers in such proportions as
8 the superintendent shall deem just and reasonable, and such propor-
9 tionate charges shall be added to the assessment of the other expenses
10 incurred upon each examination. Upon written notice by the superinten-
11 dent of the total amount of such assessment, the servicer shall become
12 liable for and shall pay such assessment to the superintendent.

13 4. In any hearing in which a department employee acting under authori-
14 ty of this chapter is available for cross-examination, any official
15 written report, worksheet, other related papers, or duly certified copy
16 thereof, compiled, prepared, drafted, or otherwise made by such depart-
17 ment employee, after being duly authenticated by the employee, may be
18 admitted as competent evidence upon the oath of the employee that such
19 worksheet, investigative report, or other related documents were
20 prepared as a result of an examination of the books and records of a
21 servicer or other person, conducted pursuant to the authority of this
22 chapter.

23 5. Unless otherwise exempt pursuant to subdivision two of section
24 seven hundred eleven of this article, affiliates of a student loan
25 servicer shall be subject to examination by the superintendent on the
26 same terms as the servicer, but only when reports from, or examination
27 of, a servicer provides evidence of unlawful activity between a servicer

1 and affiliate benefitting, affecting, or arising from the activities
2 regulated by this article.

3 § 723. Penalties for violation of this article. 1. In addition to such
4 penalties as may otherwise be applicable by law, the superintendent may,
5 after notice and hearing, require any person found violating the
6 provisions of this article or the rules or regulations promulgated here-
7 under to pay to the people of this state an additional penalty for each
8 violation of the article or any regulation or policy promulgated here-
9 under a sum not to exceed an amount as determined pursuant to section
10 forty-four of this chapter for each such violation.

11 2. Nothing in this article shall limit any statutory or common-law
12 right of any person to bring any action in any court for any act, or the
13 right of the state to punish any person for any violation of any law.

14 § 724. Severability of provisions. If any provision of this article,
15 or the application of such provision to any person or circumstance,
16 shall be held invalid, illegal or unenforceable, the remainder of the
17 article, and the application of such provision to persons or circum-
18 stances other than those as to which it is held invalid, illegal or
19 unenforceable, shall not be affected thereby.

20 § 725. Compliance with other laws. 1. Student loan servicers shall
21 engage in the business of servicing student loans in conformity with the
22 provisions of this chapter, such rules and regulations as may be promul-
23 gated by the superintendent thereunder and all applicable federal laws
24 and the rules and regulations promulgated thereunder.

25 2. Nothing in this section shall be construed to limit any otherwise
26 applicable state or federal law or regulations.

27 § 2. Subdivision 10 of section 36 of the banking law, as amended by
28 chapter 182 of the laws of 2011, is amended to read as follows:

1 10. All reports of examinations and investigations, correspondence and
2 memoranda concerning or arising out of such examination and investi-
3 gations, including any duly authenticated copy or copies thereof in the
4 possession of any banking organization, bank holding company or any
5 subsidiary thereof (as such terms "bank holding company" and "subsidi-
6 ary" are defined in article three-A of this chapter), any corporation
7 or any other entity affiliated with a banking organization within the
8 meaning of subdivision six of this section and any non-banking subsid-
9 iary of a corporation or any other entity which is an affiliate of a
10 banking organization within the meaning of subdivision six-a of this
11 section, foreign banking corporation, licensed lender, licensed cashier
12 of checks, licensed mortgage banker, registered mortgage broker,
13 licensed mortgage loan originator, licensed sales finance company,
14 registered mortgage loan servicer, licensed student loan servicer,
15 licensed insurance premium finance agency, licensed transmitter of
16 money, licensed budget planner, any other person or entity subject to
17 supervision under this chapter, or the department, shall be confidential
18 communications, shall not be subject to subpoena and shall not be made
19 public unless, in the judgment of the superintendent, the ends of
20 justice and the public advantage will be subserved by the publication
21 thereof, in which event the superintendent may publish or authorize the
22 publication of a copy of any such report or any part thereof in such
23 manner as may be deemed proper or unless such laws specifically author-
24 ize such disclosure. For the purposes of this subdivision, "reports of
25 examinations and investigations, and any correspondence and memoranda
26 concerning or arising out of such examinations and investigations",
27 includes any such materials of a bank, insurance or securities regulato-
28 ry agency or any unit of the federal government or that of this state

1 any other state or that of any foreign government which are considered
2 confidential by such agency or unit and which are in the possession of
3 the department or which are otherwise confidential materials that have
4 been shared by the department with any such agency or unit and are in
5 the possession of such agency or unit.

6 § 3. Subdivisions 1, 2, 3 and 5 of section 39 of the banking law,
7 subdivisions 1, 2 and 5 as amended by chapter 123 of the laws of 2009
8 and subdivision 3 as amended by chapter 155 of the laws of 2012, are
9 amended to read as follows:

10 1. To appear and explain an apparent violation. Whenever it shall
11 appear to the superintendent that any banking organization, bank holding
12 company, registered mortgage broker, licensed mortgage banker, licensed
13 student loan servicer, registered mortgage loan servicer, licensed mort-
14 gage loan originator, licensed lender, licensed casher of checks,
15 licensed sales finance company, licensed insurance premium finance agen-
16 cy, licensed transmitter of money, licensed budget planner, out-of-state
17 state bank that maintains a branch or branches or representative or
18 other offices in this state, or foreign banking corporation licensed by
19 the superintendent to do business or maintain a representative office in
20 this state has violated any law or regulation, he or she may, in his or
21 her discretion, issue an order describing such apparent violation and
22 requiring such banking organization, bank holding company, registered
23 mortgage broker, licensed mortgage banker, licensed student loan servi-
24 cer, licensed mortgage loan originator, licensed lender, licensed casher
25 of checks, licensed sales finance company, licensed insurance premium
26 finance agency, licensed transmitter of money, licensed budget planner,
27 out-of-state state bank that maintains a branch or branches or represen-
28 tative or other offices in this state, or foreign banking corporation to

1 appear before him or her, at a time and place fixed in said order, to
2 present an explanation of such apparent violation.

3 2. To discontinue unauthorized or unsafe and unsound practices. When-
4 ever it shall appear to the superintendent that any banking organiza-
5 tion, bank holding company, registered mortgage broker, licensed mort-
6 gage banker, licensed student loan servicer, registered mortgage loan
7 servicer, licensed mortgage loan originator, licensed lender, licensed
8 casher of checks, licensed sales finance company, licensed insurance
9 premium finance agency, licensed transmitter of money, licensed budget
10 planner, out-of-state state bank that maintains a branch or branches or
11 representative or other offices in this state, or foreign banking corpo-
12 ration licensed by the superintendent to do business in this state is
13 conducting business in an unauthorized or unsafe and unsound manner, he
14 or she may, in his or her discretion, issue an order directing the
15 discontinuance of such unauthorized or unsafe and unsound practices, and
16 fixing a time and place at which such banking organization, bank holding
17 company, registered mortgage broker, licensed mortgage banker, licensed
18 student loan servicer, registered mortgage loan servicer, licensed mort-
19 gage loan originator, licensed lender, licensed casher of checks,
20 licensed sales finance company, licensed insurance premium finance agen-
21 cy, licensed transmitter of money, licensed budget planner, out-of-state
22 state bank that maintains a branch or branches or representative or
23 other offices in this state, or foreign banking corporation may volun-
24 tarily appear before him or her to present any explanation in defense of
25 the practices directed in said order to be discontinued.

26 3. To make good impairment of capital or to ensure compliance with
27 financial requirements. Whenever it shall appear to the superintendent
28 that the capital or capital stock of any banking organization, bank

1 holding company or any subsidiary thereof which is organized, licensed
2 or registered pursuant to this chapter, is impaired, or the financial
3 requirements imposed by subdivision one of section two hundred two-b of
4 this chapter or any regulation of the superintendent on any branch or
5 agency of a foreign banking corporation or the financial requirements
6 imposed by this chapter or any regulation of the superintendent on any
7 licensed lender, registered mortgage broker, licensed mortgage banker,
8 licensed student loan servicer, licensed cashier of checks, licensed
9 sales finance company, licensed insurance premium finance agency,
10 licensed transmitter of money, licensed budget planner or private banker
11 are not satisfied, the superintendent may, in the superintendent's
12 discretion, issue an order directing that such banking organization,
13 bank holding company, branch or agency of a foreign banking corporation,
14 registered mortgage broker, licensed mortgage banker, licensed student
15 loan servicer, licensed lender, licensed cashier of checks, licensed
16 sales finance company, licensed insurance premium finance agency,
17 licensed transmitter of money, licensed budget planner, or private bank-
18 er make good such deficiency forthwith or within a time specified in
19 such order.

20 5. To keep books and accounts as prescribed. Whenever it shall appear
21 to the superintendent that any banking organization, bank holding compa-
22 ny, registered mortgage broker, licensed mortgage banker, licensed
23 student loan servicer, registered mortgage loan servicer, licensed mort-
24 gage loan originator, licensed lender, licensed cashier of checks,
25 licensed sales finance company, licensed insurance premium finance agen-
26 cy, licensed transmitter of money, licensed budget planner, agency or
27 branch of a foreign banking corporation licensed by the superintendent
28 to do business in this state, does not keep its books and accounts in

1 such manner as to enable him or her to readily ascertain its true condi-
2 tion, he or she may, in his or her discretion, issue an order requiring
3 such banking organization, bank holding company, registered mortgage
4 broker, licensed mortgage banker, licensed student loan servicer, regis-
5 tered mortgage loan servicer, licensed mortgage loan originator,
6 licensed lender, licensed casher of checks, licensed sales finance
7 company, licensed insurance premium finance agency, licensed transmitter
8 of money, licensed budget planner, or foreign banking corporation, or
9 the officers or agents thereof, or any of them, to open and keep such
10 books or accounts as he or she may, in his or her discretion, determine
11 and prescribe for the purpose of keeping accurate and convenient records
12 of its transactions and accounts.

13 § 4. Paragraph (a) of subdivision 1 of section 44 of the banking law,
14 as amended by chapter 155 of the laws of 2012, is amended to read as
15 follows:

16 (a) Without limiting any power granted to the superintendent under any
17 other provision of this chapter, the superintendent may, in a proceeding
18 after notice and a hearing, require any safe deposit company, licensed
19 lender, licensed casher of checks, licensed sales finance company,
20 licensed insurance premium finance agency, licensed transmitter of
21 money, licensed mortgage banker, licensed student loan servicer, regis-
22 tered mortgage broker, licensed mortgage loan originator, registered
23 mortgage loan servicer or licensed budget planner to pay to the people
24 of this state a penalty for any violation of this chapter, any regu-
25 lation promulgated thereunder, any final or temporary order issued
26 pursuant to section thirty-nine of this article, any condition imposed
27 in writing by the superintendent in connection with the grant of any

1 application or request, or any written agreement entered into with the
2 superintendent.

3 § 5. This act shall take effect on the one hundred eightieth day after
4 it shall have become a law.

5 PART AA

6 Section 1. The banking law is amended by adding a new section 4-d to
7 read as follows:

8 § 4-d. Protecting vulnerable adults from financial exploitation. 1.
9 Definitions. As used in this section:

10 (a) "Banking institution" means any bank, trust company, savings bank,
11 savings and loan association, credit union, or branch of a foreign bank-
12 ing corporation, which is chartered, organized or licensed under the
13 laws of this state or any other state or the United States, and, in the
14 ordinary course of business takes deposit accounts in this state.

15 (b) "Vulnerable adult" means an individual who, because of mental
16 and/or physical impairment is potentially unable to manage his or her
17 own resources or protect himself or herself from financial exploitation.

18 (c) "Financial exploitation" means: (i) the improper taking, withhold-
19 ing, appropriation, or use of a vulnerable adult's money, assets, or
20 property; or (ii) any act or omission by a person, including through the
21 use of a power of attorney, guardianship, or any other authority regard-
22 ing a vulnerable adult to: (A) obtain control, through deception, intim-
23 idation or undue influence, over the vulnerable adult's money, assets,
24 or property or (B) convert the vulnerable adult's money, assets, or
25 property.

1 (d) "Transaction hold" means a delay in the completion of one or more
2 financial transactions pending an investigation by a banking institu-
3 tion, adult protective services, or a law enforcement agency.

4 (e) "Adult protective services" means the division of the New York
5 City Human Resources Administration and each county's department of
6 human services or department of social services responsible for provid-
7 ing adult protective services pursuant to section four hundred seventy-
8 three of the social services law.

9 (f) "Law enforcement agency" means any agency, including the financial
10 frauds and consumer protection unit of the department of financial
11 services, which is empowered by law to conduct an investigation or to
12 make an arrest for a felony, and any agency which is authorized by law
13 to prosecute or participate in the prosecution of a felony.

14 2. Application of transaction hold. (a) If a banking institution
15 reasonably believes: (i) that financial exploitation of a vulnerable
16 adult may have occurred, may have been attempted, or is being attempted;
17 and (ii) that the placement of a transaction hold may be necessary to
18 protect a vulnerable adult's money, assets, or property from financial
19 exploitation, then the banking institution may, at its discretion, apply
20 a transaction hold on the account of a vulnerable adult, the account on
21 which a vulnerable adult is a beneficiary, including a trust or guardi-
22 anship account, or the account of a person who is reasonably believed by
23 the banking institution to be engaging in the financial exploitation of
24 a vulnerable adult.

25 (b) A banking institution may also apply a transaction hold on the
26 account of a vulnerable adult, the account on which a vulnerable adult
27 is a beneficiary, including a trust or guardianship account, or the
28 account of a person who is reasonably believed by the banking institu-

1 tion to be engaging in the financial exploitation of a vulnerable adult,
2 if: (i) adult protective services or a law enforcement agency provides
3 information to the banking institution establishing a reasonable basis
4 to believe that financial exploitation of a vulnerable adult may have
5 occurred, may have been attempted, or is being attempted; and (ii) the
6 placement of a transaction hold may be necessary to protect a vulnerable
7 adult's money, assets, or property from financial exploitation.

8 (c) A banking institution that applies a transaction hold shall:

9 (i) make a reasonable effort to provide notice, orally or in writing,
10 to all parties authorized to transact business on the account on which a
11 transaction hold was placed within two business days of when the trans-
12 action hold was placed;

13 (ii) immediately, but no later than one business day after the trans-
14 action hold is placed, report the transaction hold, including the basis
15 for the banking institution's belief that the financial exploitation of a
16 vulnerable adult may have occurred, may have been attempted, or is being
17 attempted, to adult protective services and to a law enforcement agency;

18 (iii) at the request of adult protective services or a law enforcement
19 agency, provide all information and documents that relate to the trans-
20 action hold within three business days of the request for the informa-
21 tion or documents; and

22 (iv) notwithstanding the transaction hold, make funds available from
23 the account on which a transaction hold is placed to allow the vulner-
24 able adult or other account holder to meet his or her ongoing obli-
25 gations such as housing and other living expenses or emergency expenses
26 as determined by adult protective services, a law enforcement agency or
27 a not-for-profit organization that regularly provides services to

1 vulnerable adults in the community in which the vulnerable adult
2 resides.

3 (d) During the pendency of a transaction hold, a banking institution
4 may, in its discretion, also make funds available from the account on
5 which a transaction hold is placed to allow the vulnerable adult or
6 other account holder meet his or her ongoing obligations such as housing
7 and other living expenses or emergency expenses, provided the banking
8 institution does not have a reasonable basis to believe that the
9 dispersal of such funds to the vulnerable adult or other account holder
10 will result in the financial exploitation of the vulnerable adult. Any
11 such dispersal of funds pursuant to this subdivision shall be reported
12 within one business day after the dispersal is made to adult protective
13 services and to a law enforcement agency.

14 (e) The superintendent may adopt regulations identifying the factors
15 that a banking institution should consider in determining whether: (i)
16 the financial exploitation of a vulnerable adult may have occurred, may
17 have been attempted, or is being attempted; and (ii) the placement of a
18 transaction hold is necessary to protect a vulnerable adult's money,
19 assets, or property.

20 3. Duration of transaction hold. (a) Subject to paragraphs (b), (c)
21 and (d) of this subdivision, a transaction hold that a banking institu-
22 tion places on an account pursuant to this section shall terminate five
23 business days after the date on which the transaction hold is applied by
24 the banking institution. A banking institution may terminate the trans-
25 action hold at any time during this five day period if the banking
26 institution is satisfied that the termination of the transaction hold is
27 not likely to result in financial exploitation of a vulnerable adult.

1 (b) A transaction hold may be extended beyond the period set forth in
2 paragraph (a) of this subdivision for up to an additional fifteen days
3 at the request of either adult protective services or a law enforcement
4 agency.

5 (c) A transaction hold may be extended beyond the periods set forth in
6 paragraphs (a) and (b) of this subdivision only pursuant to an order
7 issued by a court of competent jurisdiction.

8 (d) A transaction hold may be terminated at any time pursuant an order
9 issued by a court of competent jurisdiction.

10 4. Immunity. A banking institution or an employee of a banking insti-
11 tution shall be immune from criminal, civil, and administrative liabil-
12 ity for all good faith actions in relation to the application of this
13 section including any good faith determination to apply or not apply a
14 transaction hold on an account. Where there is reasonable basis to
15 conclude: (a) that financial exploitation of a vulnerable adult may have
16 occurred, may have been attempted, or is being attempted; and (b) that
17 the placement of a transaction hold may be necessary to protect a
18 vulnerable adult's money, assets, or property from financial exploita-
19 tion, such immunity shall not apply to a determination not to apply a
20 transaction hold when the banking institution or employee acts reckless-
21 ly or engages in intentional misconduct in making the determination, or
22 the determination results from a conflict of interest.

23 5. Certification program. The department may develop a financial
24 exploitation certification program for banking institutions. Upon
25 completion of the training components required by the program and after
26 establishing the necessary internal policies, procedures, and in-house
27 training programs, a banking institution shall receive from the depart-
28 ment an adult financial exploitation prevention certificate demonstrat-

1 ing that staff at such banking institution have been trained on how to
2 identify, help prevent, and report the financial exploitation of a
3 vulnerable adult. At the discretion of the superintendent, the certif-
4 ication program may be mandatory for banking institutions licensed by
5 the department.

6 6. Regulations. The superintendent may issue such rules and regu-
7 lations that provide the procedures for the enforcement of the terms of
8 this section and any other rules and regulations that he or she deems
9 necessary to implement the terms of this section.

10 § 2. This act shall take effect on the one hundred eightieth day after
11 it shall have become a law.

12 PART BB

13 Section 1. The financial services law is amended by adding a new
14 section 105 to read as follows:

15 § 105. Disqualification. (a) Definitions. (1) Covered individual. The
16 term "covered individual," when used in this section, means (A) an indi-
17 vidual operating under or required to operate under a license, registra-
18 tion, permit certification or authorization under this chapter, the
19 banking law, the insurance law, or the regulations promulgated there-
20 under, (B) an owner, director, trustee, officer, employee, member or
21 partner of a covered entity, or (C) an individual otherwise engaged in
22 the business of banking, insurance or financial services in the state.

23 (2) Covered entity. The term "covered entity," when used in this
24 section, means any entity (A) operating under or required to operate
25 under a license, registration, permit, certificate or authorization
26 under the banking law or the insurance law; (B) authorized, accredited,

1 chartered or incorporated or possessing or required to possess other
2 similar status under the banking law, or the insurance law; (C) regu-
3 lated by the superintendent pursuant to this chapter; (D) that has
4 submitted an application to the superintendent (i) for a license, regis-
5 tration, permit, certificate or authorization under the banking law or
6 the insurance law, (ii) to be authorized, accredited, chartered or
7 incorporated under the banking law, or the insurance law or to be regu-
8 lated pursuant to this chapter.

9 (3) Disqualifying event. For purposes of this section, an individual
10 commits a "disqualifying event," when he or she:

11 (A) has violated a written agreement between the superintendent and
12 the covered individual;

13 (B) has willfully violated an agreement between the superintendent and
14 a covered entity;

15 (C) has engaged or participated in any unsafe or unsound practice in
16 connection with any covered entity;

17 (D) has willfully made or caused to be made in any application,
18 filing, or submission with the superintendent, any statement which was
19 at the time and in the light of the circumstances under which it was
20 made false or misleading with respect to any material fact, or has omit-
21 ted to state in any such application or report any material fact which
22 is required to be stated therein;

23 (E) has been convicted within five years of any felony or misdemeanor
24 that:

25 (i) involves the purchase or sale of any financial product or service,
26 the taking of a false oath, the making of a false report, bribery,
27 perjury, burglary, any substantially equivalent activity however denomi-
28 nated, or conspiracy to commit any such offense;

1 (ii) arises out of the conduct of the business of a covered entity or
2 in connection with the promotion, sale or delivery of a financial prod-
3 uct or service;

4 (iii) involves the larceny, theft, robbery, extortion, forgery, coun-
5 terfeiting, fraudulent concealment, embezzlement, fraudulent conversion,
6 or misappropriation of funds, or securities, or substantially equivalent
7 activity however denominated; or

8 (iv) has a direct bearing on the individual's fitness or ability to
9 perform one or more of the duties or responsibilities necessarily
10 related to the license, position, or job in question;

11 (F) has been found by a federal financial regulatory authority, a
12 state financial regulatory authority, or a foreign financial regulatory
13 authority that is recognized by the superintendent as such to have:

14 (i) made or caused to be made in any application for registration or
15 report required to be filed with the financial regulatory authority, or
16 in any proceeding before the financial regulatory authority with respect
17 to registration, any statement that was at the time and in the light of
18 the circumstances under which it was made false or misleading with
19 respect to any material fact, or has omitted to state in any application
20 or report to the financial regulatory authority any material fact that
21 is required to be stated therein; or

22 (ii) violated any banking law, or statute or regulation regarding
23 transactions in securities, or contracts of sale of a commodity for
24 future delivery, traded on or subject to the rules of a contract market
25 or any board of trade; or

26 (G) is subject to any final order of any federal financial regulatory
27 authority, a state financial regulatory authority, or a foreign finan-

1 cial regulatory authority that is recognized by the superintendent as
2 such that:

3 (i) bars such person from association with an entity regulated by such
4 commission, authority, agency, or officer, or from engaging in the busi-
5 ness of securities, insurance, banking, savings association activities,
6 or credit union activities; or

7 (ii) constitutes a final order based on violations of any laws or
8 regulations that prohibits fraudulent, manipulative, or deceptive
9 conduct.

10 (b) Disqualification. Without limiting any power granted to the super-
11 intendent under any other provision of state or federal law, (1) whenever
12 the superintendent has reason to believe that a covered individual
13 has committed a disqualifying event that is of such severity as to have
14 a direct bearing on the individual's fitness or ability to (A) serve as
15 an owner, director, trustee, officer, employee, member or partner of a
16 covered entity or having any association with a covered entity, (B) hold
17 any license, registration, permit, certification or authorization issued
18 by the department, or (C) otherwise engage in the business of banking,
19 insurance, or financial services in the state, (2) the superintendent
20 may serve a statement of the charges against such covered individual and
21 a notice of an opportunity to appear before the superintendent to show
22 cause why he or she should not be disqualified from (A) serving as an
23 owner, director, trustee, officer, employee, member or partner of a
24 covered entity or having any association with a covered entity, (B)
25 holding any license, registration, permit, certification or authori-
26 zation issued by the department, or (C) otherwise engaging in the busi-
27 ness of banking, insurance, or financial services in the state.

1 (c) Order of disqualification. Without limiting any power granted to
2 the superintendent under any other provision of state or federal law, if
3 such covered individual waives a hearing, or fails to appear in person
4 or by a duly authorized representative without good cause shown at the
5 time and place set for the hearing or, if after a hearing, (1) the
6 superintendent finds that the covered individual has engaged in a
7 disqualifying event that is of such severity as to have a direct bearing
8 on the individual's fitness or ability to (A) serve as an owner, direc-
9 tor, trustee, officer, employee, member or partner of a covered entity
10 or having any association with a covered entity, (B) hold any license,
11 registration, permit, certification or authorization issued by the
12 department, or (C) otherwise engage in the business of banking, insur-
13 ance, or financial services in the state, (2) the superintendent may
14 issue an order disqualifying the covered individual from (A) serving as
15 an owner, director, trustee, officer, employee, member or partner of a
16 covered entity or having any association with a covered entity, (B)
17 holding any license, registration, permit, certification or authori-
18 zation issued by the department, or (C) otherwise engaging in the busi-
19 ness of banking, insurance, or financial services in the state. Such
20 order of disqualification may also prohibit the covered individual's
21 performance of any contractual agreements with any covered entity. Such
22 order of disqualification may be for the covered individual's lifetime
23 or for any shorter period determined by the superintendent to be in the
24 public's interest. Any order issued pursuant to this subsection and the
25 findings of fact upon which it is based may not be made public or
26 disclosed to anyone, except as provided in subdivision ten of section
27 thirty-six of the banking law or in connection with proceedings for a
28 violation of this section.

1 (d) Suspension pending determination of charges. (1) In connection
2 with, or at any time after service of the written notice pursuant to
3 subsection (b) of this section, the superintendent may suspend for a
4 period of up to one hundred eighty days, pending the determination of
5 the charges, a covered individual from serving as a director, trustee,
6 officer, employee, member or partner of a covered entity or having any
7 association with a covered entity; or holding any license, registration,
8 certification or authorization issued by the department, if the super-
9 intendent has reason to believe that by reason of the conduct giving
10 rise to the alleged disqualifying event:

11 (A) a covered entity has suffered or will probably suffer financial
12 loss;

13 (B) the interests of the depositors at a covered entity have been or
14 could be prejudiced; or

15 (C) the covered individual demonstrates willful disregard for the
16 safety and soundness of a covered entity.

17 (2) The superintendent may extend the suspension for additional peri-
18 ods of up to one hundred eighty days if the hearing conducted pursuant
19 to subsection (c) of this section is not completed within the prior
20 suspension period due to the request of the covered individual.

21 (3) Any suspension order issued pursuant to this subsection shall
22 become effective upon service, unless it is amended or rescinded by the
23 superintendent or a court of competent jurisdiction, or replaced by an
24 order issued pursuant to subsection (c) of this section. Such suspension
25 order may be reviewed in the manner provided by article seventy-eight of
26 the civil practice law and rules.

1 (e) Rules and regulations. The superintendent may issue such rules and
2 regulations as are necessary to implement the provisions of this
3 section.

4 § 2. This act shall take effect January 1, 2018.

5 PART CC

6 Section 1. The banking law is amended by adding a new section 340-a to
7 read as follows:

8 § 340-a. Exemption for certain lenders and partnering organizations.

9 1. For purposes of this section:

10 (a) "Exempt entity" shall mean an entity exempted pursuant to subdivi-
11 sion two of this section.

12 (b) "Limited lending activity" shall mean the lending of money to an
13 individual borrower for which no interest or fees, except as otherwise
14 provided for in this section, are charged and for which the borrower may
15 make full or partial repayment of the loan prior to the disbursement of
16 the loan proceeds.

17 2. Notwithstanding this section and sections one, ten, fourteen, thir-
18 ty-six-b and thirty-eight of this chapter, the superintendent may allow
19 an entity to engage in limited lending activity without being subject to
20 the requirements of this chapter, if the entity:

21 (a) engages in no activity regulated by this chapter except the making
22 of zero-interest loans and any activity incidental thereto;

23 (b) is exempt from federal income taxes under section 501 (c) (3) of
24 the Internal Revenue Code and is organized and operated exclusively for
25 one or more of the purposes described in section 501 (c) (3) of the
26 Internal Revenue Code;

1 (c) pays no part of its net earnings to a private shareholder or indi-
2 vidual;

3 (d) pays or receives no broker's fee in connection with any loan that
4 it makes; and

5 (e) satisfies the other requirements set forth in this section.

6 3. (a) An application to operate as an exempt entity shall be filed
7 with the superintendent, in a manner prescribed by the superintendent,
8 along with a fee in the amount of five hundred dollars. The superinten-
9 dent shall investigate the financial condition and responsibility,
10 financial and business experience, character and general fitness of the
11 applicant and, if the superintendent finds these qualities are such as
12 to warrant the belief that the applicant's business will be conducted
13 honestly, fairly, equitably, carefully and efficiently within the
14 purposes and intent of this section, and in a manner commanding the
15 confidence and trust of the community, the superintendent shall advise
16 the applicant in writing of the superintendent's approval of the appli-
17 cation for an exemption pursuant to this section. The superintendent
18 may, in his or her discretion, refuse to grant an exemption if he or she
19 finds that one or more of the provisions of this section were not met or
20 are not being met by the applicant or that denial of the exemption is in
21 the best interests of the public.

22 (b) The superintendent may suspend or revoke any exemption granted
23 pursuant to this section, if he or she finds that:

24 (i) any such entity, knowingly or without the exercise of due care to
25 prevent such violation, has violated any provision of this section or
26 article, or has failed to comply with any demand, or requirement made by
27 the superintendent;

1 (ii) there has been any material misstatement or failure to give a
2 true and correct answer in an application or in response to any question
3 posed by the superintendent;

4 (iii) the exempt entity has defrauded any borrower or willfully failed
5 to perform any written agreement with such person; or

6 (iv) any fact or condition exists which, if it had existed at the time
7 of the original application for an exemption, would have warranted the
8 superintendent to refuse to grant such exemption.

9 (c) Except as provided for in paragraph (d) of this subdivision, no
10 exemption granted hereunder shall be suspended or revoked except after a
11 hearing. The superintendent shall give the exempt entity at least ten
12 days written notice of the time and place of such hearing by registered
13 mail addressed to the principal place of business of the exempt entity.
14 Any order suspending or revoking an exemption shall recite the grounds
15 upon which it is based and shall not be effective until ten days after
16 written notice has been sent by registered mail to the exempt entity's
17 principal place of business.

18 (d) Upon, or at any time after service of written notice pursuant to
19 paragraph (c) of this subdivision, the superintendent may suspend, pend-
20 ing the determination of the charges, an exemption issued pursuant to
21 this section if the superintendent has reason to believe that an exempt
22 entity:

23 (i) has defaulted or is likely to default in the performance of its
24 financial engagements;

25 (ii) is engaging in dishonest or inequitable practices; or

26 (iii) poses a substantial harm to the persons afforded the protection
27 of this section.

1 4. (a) Every exempt entity shall maintain records relating to its
2 lending activities for at least five years.

3 (b) Every exempt entity shall file an annual report with the super-
4 intendent on or before March fifteenth of each year, containing informa-
5 tion that the superintendent requires concerning lending activities by
6 the entity, including any loans facilitated by a partnering nonprofit
7 organization described in subdivision thirteen of this section, within
8 the state during the preceding calendar year.

9 5. Every loan made by an exempt entity shall comply with the following
10 requirements:

11 (a) The loan shall be unsecured.

12 (b) No interest may be imposed.

13 (c) Except for a reimbursement of up to ten dollars to cover an insuf-
14 ficient funds fee incurred by an exempt entity due to actions of the
15 borrower, no administrative or other fees may be imposed on a borrower.
16 No exempt entity shall charge more than two insufficient funds fees to
17 the same borrower in a single month.

18 (d) The following information shall be disclosed to the borrower in
19 writing, in a typeface no smaller than twelve-point type and in the
20 primary language of the borrower, at the time the loan application is
21 received by the exempt entity:

22 (i) the amount to be borrowed, that no interest will be charged on the
23 loan, and the total dollar cost of the loan to the borrower if the loan
24 is paid back on time, including the principal amount borrowed, the
25 repayment installment amount, the frequency of payment, and the insuffi-
26 cient funds fee, if applicable; and

27 (ii) an explanation of whether, and under what circumstances, a
28 borrower may exit a loan agreement.

1 (e) The principal amount upon origination of the loan shall be no less
2 than two hundred fifty dollars and no more than two thousand five
3 hundred dollars, and a term of not less than the following:

4 (i) ninety days for loans whose principal balance upon origination is
5 less than five hundred dollars;

6 (ii) one hundred twenty days for loans whose principal balance upon
7 origination is at least five hundred dollars, but is less than one thou-
8 sand five hundred dollars; or

9 (iii) one hundred eighty days for loans whose principal balance upon
10 origination is at least one thousand five hundred dollars.

11 6. The exempt entity may restructure a borrower's loan only if the
12 loan as restructured continues to comply with the requirements in para-
13 graphs (a), (b) and (c) of subdivision five of this section.

14 7. An exempt entity shall not sell or assign unpaid debt arising out
15 of any loans made pursuant to the authority of this section to third
16 parties for collection.

17 8. Prior to disbursement of loan proceeds, the exempt entity shall at
18 no cost to the borrower either:

19 (a) provide a credit education program or seminar to the borrower that
20 has been previously reviewed and approved by the superintendent for use
21 in complying with this section; or

22 (b) obtain evidence that the borrower has attended a credit education
23 program or seminar offered by an independent third party that has been
24 previously reviewed and approved by the superintendent for use in
25 complying with this section.

26 9. An exempt entity shall report each borrower's payment performance
27 to at least one consumer reporting agency that compiles and maintains
28 files on consumers on a nationwide basis. For purposes of this section,

1 a consumer reporting agency that compiles and maintains files on consum-
2 ers on a nationwide basis is one that meets the definition in section
3 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. Sec.
4 1681a(p)). Any exempt entity that is accepted as a data furnisher shall
5 report all borrower payment performance since the inception of lending
6 by such entity, as soon as practicable after such individual is accepted
7 into the exempt entity's lending program, but in no event more than six
8 months after its acceptance into the program.

9 10. The exempt entity shall underwrite each loan and shall ensure that
10 a loan is not made if, through its underwriting, the entity determines
11 that the borrower's total monthly debt service payments, at the time of
12 loan origination, including the loan for which the borrower is being
13 considered, and across all outstanding forms of credit that can be inde-
14 pendently verified by the exempt entity, exceeds fifty percent of the
15 borrower's gross monthly household income, unless a lesser amount is
16 mandated by subparagraph (iii) of paragraph (c) of this subdivision. The
17 exempt entity shall in every case:

18 (a) Obtain information and documentation pertaining to all of a
19 borrower's outstanding debt obligations during the loan application and
20 underwriting process, including but not limited to verified information
21 from a credit report and loans that are self-reported by the borrower
22 but not available through independent verification.

23 (b) Not include for purposes of a debt-to-income ratio evaluation,
24 loans from friends or family, except if in the judgment of the exempt
25 entity, such inclusion is necessary to protect the interests of the
26 consumer.

1 (c) Verify the borrower's household income to determine the borrower's
2 debt-to-income ratio using information from any of the following sourc-
3 es:

4 (i) electronic means or services deemed acceptable by the superinten-
5 dent;

6 (ii) Internal Revenue Service form W-2, tax returns, payroll receipts,
7 bank statements, or other third-party documents that provide reasonably
8 reliable evidence of the borrower's actual income; or

9 (iii) a signed statement from the borrower stating sources and amounts
10 of income, if the borrower's actual income cannot be independently veri-
11 fied using electronic means or services, Internal Revenue Service forms,
12 tax returns, payroll receipts, bank statements, or other third-party
13 documents. If income is verified using a signed statement from a borrow-
14 er, a loan shall not be made if the borrower's total monthly debt
15 service payments, at the time of loan origination, including the loan
16 for which the borrower is being considered, and across all outstanding
17 forms of credit, exceeds twenty-five percent of the borrower's gross
18 monthly household income.

19 11. The exempt entity shall notify each borrower, at least two days
20 prior to each payment due date, of the amount due and the payment due
21 date. Notification may be provided by any means mutually acceptable to
22 the borrower and the exempt entity. A borrower shall have the right to
23 opt out of this notification at any time, upon electronic or written
24 request to the exempt entity. The exempt entity shall notify each
25 borrower of this right prior to disbursing loan proceeds.

26 12. No exempt entity, in connection with, or incidental to, the facil-
27 itating of any loan made pursuant to this section, shall offer, sell, or

1 require a borrower to contract for "credit insurance" or insurance on
2 tangible personal or real property of any type securing any loan.

3 13. An exempt entity may partner with a nonprofit organization for the
4 purpose of facilitating zero-interest loans by the exempt entity pursu-
5 ant to this section. This nonprofit organization shall not be subject to
6 this section, provided that it satisfies the requirements applicable to
7 an exempt entity set forth in paragraphs (b), (c) and (d) of subdivision
8 two of this section and provided that:

9 (a) The exempt entity notifies the superintendent within fifteen days
10 of entering into a written agreement with a partnering nonprofit organ-
11 ization, on such form and in such manner as the superintendent may
12 prescribe. At a minimum, this notification shall include the name of the
13 partnering nonprofit organization, the contact information for a person
14 responsible for the lending activities facilitated by that partnering
15 organization, a copy of the agreement and the address or addresses at
16 which the partnering organization can be reached.

17 (b) The exempt entity includes information regarding the loans facili-
18 tated by the partnering organization in the annual report required
19 pursuant to subdivision four of this section.

20 (c) The superintendent may, at his or her sole discretion, disqualify
21 a partnering nonprofit organization upon a determination that this
22 organization has acted in violation of this section or any regulation
23 adopted hereunder.

24 14. The superintendent may examine or request a special report from
25 each exempt entity and each partnering nonprofit organization for
26 compliance with the provisions of this section at any time. Any entity
27 so examined shall make available to the superintendent or his or her
28 representative all books and records requested by the superintendent

1 related to the lending activities facilitated by that entity. In addi-
2 tion to the application fee provided for in paragraph (a) of subdivision
3 three of this section, the cost of any such examination shall be paid
4 for by the entity being examined.

5 15. All reports of examinations and investigations, correspondence and
6 memoranda concerning or arising out of any examination or investigation
7 of an exempt entity shall be subject to the provisions of subdivision
8 ten of section thirty-six of this chapter.

9 16. The superintendent is hereby authorized and empowered to make such
10 general rules and regulations, and such specific rulings, demands and
11 findings as he or she may deem necessary for the proper conduct of the
12 lending activities exempted from licensing under this section.

13 § 2. This act shall take effect on the one hundred eightieth day after
14 it shall have become a law.

15 PART DD

16 Section 1. The state finance law is amended by adding a new section
17 89-i to read as follows:

18 § 89-i. Paid family leave risk adjustment fund. 1. There is hereby
19 established in the sole custody of the superintendent of financial
20 services a special fund, to be known as the "paid family leave risk
21 adjustment fund".

22 2. Such fund shall consist of money received by the superintendent
23 from insurance carriers as payments into any risk adjustment mechanism
24 established by regulation in accordance with paragraph two of subsection
25 (n) of section four thousand two hundred thirty-five of the insurance
26 law.

1 3. All moneys retained in such fund shall be held on behalf of insur-
2 ance carriers and paid out by the superintendent to insurance carriers
3 pursuant to the risk adjustment mechanism established by regulation in
4 accordance with paragraph two of subsection (n) of section four thousand
5 two hundred thirty-five of the insurance law.

6 4. The funds so received and deposited in such risk adjustment fund
7 shall not be deemed to be state funds.

8 § 2. This act shall take effect immediately.

9 PART EE

10 Section 1. Section 340 of the banking law, as amended by chapter 22 of
11 the laws of 1990, is amended to read as follows:

12 § 340. Doing business without license prohibited. 1. No person or
13 other entity shall engage in the business of making loans in the princi-
14 pal amount of twenty-five thousand dollars or less for any loan to an
15 individual for personal, family, household, or investment purposes and
16 in a principal amount of fifty thousand dollars or less to an individual
17 or business for business and commercial loans, [and charge, contract
18 for, or receive a greater rate of interest than the lender would be
19 permitted by law to charge if he were not a licensee hereunder] except
20 as authorized by this article or by regulations issued by the super-
21 intendent and without first obtaining a license from the superintendent.

22 2. For the purposes of this section, a person or entity shall be
23 considered as engaging in the business of making loans in New York, and
24 subject to the licensing and other requirements of this article, if it
25 solicits loans in the amounts prescribed by this section [within this
26 state] and, in connection with such solicitation, makes loans, purchases

1 or otherwise acquires from others loans or other forms of financing, or
2 arranges or facilitates the funding of loans, to individuals then resi-
3 dent in this state or to businesses located or doing business in this
4 state, except that no person or entity shall be considered as engaging
5 in the business of making loans in this state on the basis of isolated[,
6 incidental] or occasional transactions which otherwise meet the require-
7 ments of this section.

8 3. When necessary to facilitate low cost lending in any community, the
9 superintendent shall have the power to adopt regulations that provide an
10 exemption from the licensure requirement in subdivision one of this
11 section for a person or entity. The superintendent may also adopt any
12 such additional rules or regulations that he or she deems necessary to
13 implement the terms of this section including the exemption provision in
14 this subdivision.

15 4. Nothing in this article shall apply to licensed collateral loan
16 brokers.

17 § 2. This act shall take effect January 1, 2018.

18 PART FF

19 Section 1. Paragraph (b) of subdivision 6 of section 1304 of the real
20 property actions and proceedings law, as amended by section 7 of part Q
21 of chapter 73 of the laws of 2016, is amended to read as follows:

22 (b) (1) "Home loan" means a home loan, including an open-end credit
23 plan, [other than a reverse mortgage transaction,] in which:

24 (i) The principal amount of the loan at origination did not exceed the
25 conforming loan size that was in existence at the time of origination

1 for a comparable dwelling as established by the federal housing adminis-
2 tration or federal national mortgage association;

3 (ii) The borrower is a natural person;

4 (iii) The debt is incurred by the borrower primarily for personal,
5 family, or household purposes;

6 (iv) The loan is secured by a mortgage or deed of trust on real estate
7 upon which there is located or there is to be located a structure or
8 structures intended principally for occupancy of from one to four fami-
9 lies which is or will be occupied by the borrower as the borrower's
10 principal dwelling; and

11 (v) The property is located in this state.

12 (2) A home loan shall include a loan secured by a reverse mortgage
13 that meets the requirements of clauses (i) through (v) of subparagraph
14 one of this paragraph.

15 § 2. Subdivision (a) of rule 3408 of the civil practice law and rules,
16 as amended by section 2 of part Q of chapter 73 of the laws of 2016, is
17 amended to read as follows:

18 (a) [In] 1. Except as provided in paragraph two of this subdivision,
19 in any residential foreclosure action involving a home loan as such term
20 is defined in section thirteen hundred four of the real property actions
21 and proceedings law, in which the defendant is a resident of the proper-
22 ty subject to foreclosure, plaintiff shall file proof of service within
23 twenty days of such service, however service is made, and the court
24 shall hold a mandatory conference within sixty days after the date when
25 proof of service upon such defendant is filed with the county clerk, or
26 on such adjourned date as has been agreed to by the parties, for the
27 purpose of holding settlement discussions pertaining to the relative
28 rights and obligations of the parties under the mortgage loan documents,

1 including, but not limited to: [1.] (i) determining whether the parties
2 can reach a mutually agreeable resolution to help the defendant avoid
3 losing his or her home, and evaluating the potential for a resolution in
4 which payment schedules or amounts may be modified or other workout
5 options may be agreed to, including, but not limited to, a loan modifi-
6 cation, short sale, deed in lieu of foreclosure, or any other loss miti-
7 gation option; or [2.] (ii) whatever other purposes the court deems
8 appropriate.

9 2. Paragraph one of this subdivision shall not apply to a home loan
10 secured by a reverse mortgage where the default was triggered by the
11 death of the last surviving borrower unless the last surviving borrow-
12 er's spouse, if any, is a resident of the property subject to foreclo-
13 sure.

14 § 3. This act shall take effect immediately; provided, however, that:

15 (a) the amendments to paragraph (b) of subdivision 6 of section 1304
16 of the real property actions and proceedings law, made by section one of
17 this act, shall take effect on the same date and in the same manner as
18 section 7 of part Q of chapter 73 of the laws of 2016 takes effect; and

19 (b) the amendments to subdivision (a) of rule 3408 of the civil prac-
20 tice law and rules, made by section two of this act, shall be subject to
21 the expiration and reversion of such subdivision pursuant to subdivision
22 e of section 25 of chapter 507 of the laws of 2009, as amended.

23

PART GG

24 Section 1. This act enacts into law major components of legislation
25 relating to assessments, distribution of assets, and insurers deemed to
26 be in a hazardous financial condition. Each component is wholly

1 contained within a Subpart identified as Subparts A through C. The
2 effective date for each particular provision contained within such
3 Subpart is set forth in the last section of such Subpart. Any provision
4 in any section contained within a Subpart, including the effective date
5 of the Subpart, which makes references to a section "of this act", when
6 used in connection with that particular component, shall be deemed to
7 mean and refer to the corresponding section of the Subpart in which it
8 is found. Section three of this act sets forth the general effective
9 date of this act.

10

SUBPART A

11 Section 1. Subsection (a) of section 206 of the financial services
12 law, is amended and a new subsection (g) is added to read as follows:

13 (a) For each fiscal year commencing on or after April first, two thou-
14 sand twelve, assessments to defray operating expenses, including all
15 direct and indirect costs, of the department, except expenses incurred
16 in the liquidation of banking organizations, shall be assessed by the
17 superintendent in accordance with this subsection. Persons regulated
18 under the insurance law shall be assessed by the superintendent for the
19 operating expenses of the department that are solely attributable to
20 regulating persons under the insurance law, which shall include any
21 expenses that were permissible to be assessed in fiscal year two thou-
22 sand nine-two thousand ten, with the assessments allocated pro rata upon
23 all domestic insurers and all licensed United States branches of alien
24 insurers domiciled in this state within the meaning of paragraph four of
25 subsection (b) of section seven thousand four hundred eight of the
26 insurance law, in proportion to the gross direct premiums and other

1 considerations, written or received by them in this state during the
2 calendar year ending December thirty-first immediately preceding the end
3 of the fiscal year for which the assessment is made (less return premi-
4 ums and considerations thereon) for policies or contracts of insurance
5 covering property or risks resident or located in this state the issu-
6 ance of which policies or contracts requires a license from the super-
7 intendent. Persons regulated under the banking law shall be assessed by
8 the superintendent for the operating expenses of the department that are
9 solely attributable to regulating persons under the banking law in such
10 proportions as the superintendent shall deem just and reasonable.
11 Persons regulated under this chapter shall be assessed by the super-
12 intendent for the operating expenses of the department that are solely
13 attributable to regulated persons under this chapter in such proportions
14 as the superintendent shall deem just and reasonable. Operating expenses
15 of the department not covered by the assessments set forth above shall
16 be assessed by the superintendent in such proportions as the superinten-
17 dent shall deem just and reasonable upon all domestic insurers and all
18 licensed United States branches of alien insurers domiciled in this
19 state within the meaning of paragraph four of subsection (b) of section
20 seven thousand four hundred eight of the insurance law, and upon any
21 regulated person under this chapter and the banking law, other than
22 mortgage loan originators, except as otherwise provided by sections one
23 hundred fifty-one and two hundred twenty-eight of the workers' compen-
24 sation law and by section sixty of the volunteer firefighters' benefit
25 law. The provisions of this subsection shall not be applicable to a bank
26 holding company, as that term is defined in article three-A of the bank-
27 ing law. Persons regulated under the banking law will not be assessed
28 for expenses that the superintendent deems to benefit solely persons

1 regulated under the insurance law, and persons regulated under the
2 insurance law will not be assessed for expenses that the superintendent
3 deems to benefit solely persons regulated under the banking law.

4 (g) The expenses of every examination of the affairs of any regulated
5 person subject to this chapter, shall be borne and paid by the regulated
6 person so examined, but the superintendent, with the approval of the
7 comptroller, may, in the superintendent's discretion for good cause
8 shown, remit such charges.

9 § 2. This act shall take effect January 1, 2018.

10 SUBPART B

11 Section 1. Legislative findings. In order to provide an appropriate
12 scheme of distribution of assets of all insolvent insurers, the legisla-
13 ture finds that it is in the best interest of the people of this state
14 to amend statutes regarding the priority of distribution under Article
15 74 of the Insurance Law.

16 § 2. Paragraph 1 of subsection (a) of section 7434 of the insurance
17 law, as amended by chapter 134 of the laws of 1999, is amended to read
18 as follows:

19 (1) Upon the recommendation of the superintendent, as receiver, and
20 under the direction of the court, distribution payments shall be made in
21 a manner that will assure the proper recognition of priorities and a
22 reasonable balance between the expeditious completion of the [liqui-
23 dation] proceeding subject to this article and the protection of unliq-
24 uidated and undetermined claims. The priority of distribution of claims
25 from [an] all insolvent [property/casualty insurer] insurers in any
26 proceeding subject to this article, unless otherwise specified, shall be

1 in accordance with the order in which each class of claims is set forth
2 in this paragraph and as provided in this paragraph. Every claim in each
3 class shall be paid in full or adequate funds retained for such payment
4 before the members of the next class receive any payment. No subclasses
5 shall be established within any class. No claim by a shareholder, poli-
6 cyholder, contract holder or other creditor shall be permitted to
7 circumvent the priority classes through the use of equitable remedies.

8 The order of distribution of claims shall be:

9 (i) Class one. Claims with respect to the actual and necessary costs
10 and expenses of administration, incurred by the liquidator, rehabilita-
11 tor or conservator under this article.

12 (ii) Class two. All claims under policies or contracts, including such
13 claims of the federal or any state or local government for losses
14 incurred, third party claims, claims for unearned premiums, and all
15 claims of a security fund, guaranty association or the equivalent except
16 claims arising under reinsurance contracts.

17 (iii) Class three. Claims of the federal government except those under
18 class two above.

19 (iv) Class four. Claims for wages owing to employees of an insurer
20 against whom a proceeding under this article is commenced for services
21 rendered within one year before commencement of the proceeding, not
22 exceeding one thousand two hundred dollars to each employee, and claims
23 for unemployment insurance contributions required by article eighteen of
24 the labor law. Such priority shall be in lieu of any other similar
25 priority which may be authorized by law.

26 (v) Class five. Claims of state and local governments except those
27 under class two above.

1 (vi) Class six. Claims of general creditors including[, but not limit-
2 ed to,] claims arising under reinsurance contracts.

3 (vii) Class seven. Claims filed late or any other claims other than
4 claims under class eight or class nine below.

5 (viii) Class eight. Claims for advanced or borrowed funds made pursu-
6 ant to section one thousand three hundred seven of this chapter.

7 (ix) Class nine. Claims of shareholders or other owners in their
8 capacity as shareholders.

9 § 3. Section 7435 of the insurance law, as added by chapter 802 of the
10 laws of 1985, paragraph 7 of subsection (a) as amended by chapter 300 of
11 the laws of 1996, is amended to read as follows:

12 § 7435. Distribution for life insurers. (a) Upon the recommendation of
13 the superintendent, as receiver, and under the direction of the court,
14 distribution payments shall be made in a manner that will assure the
15 proper recognition of priorities and a reasonable balance between the
16 expeditious completion of the proceeding subject to this article and the
17 protection of unliquidated and undetermined claims. The priority of
18 distribution of claims from the estate of [a] an insolvent life insur-
19 ance company in any proceeding subject to this article shall be in
20 accordance with the order in which each class of claims is [herein] set
21 forth in this section and as provided in this section. Every claim in
22 each class shall[, subject to such limitations as may be prescribed by
23 law and do not directly conflict with the express provisions of this
24 section,] be paid in full or adequate funds retained for such payment
25 before the members of the next class receive any payment. No subclasses
26 shall be established within any class. No claim by a shareholder, poli-
27 cyholder, annuitant, or other creditor shall be permitted to circumvent

1 the priority classes through the use of equitable remedies. The order of
2 distribution of claims shall be:

3 (1) Class one. Claims with respect to the actual and necessary costs
4 and expenses of administration, incurred by the liquidator, rehabilita-
5 tor, conservator or ancillary rehabilitator under this article, or by
6 The Life Insurance Guaranty Corporation or The Life Insurance Company
7 Guaranty Corporation of New York, and claims described in subsection (d)
8 of section seven thousand seven hundred thirteen of this chapter.

9 (2) Class two. [Debts due to employees for services performed to the
10 extent that they do not exceed one thousand two hundred dollars and
11 represent payment for services performed within one year before the
12 commencement of a proceeding under this article. Such priority shall be
13 in lieu of any other similar priority which may be authorized by law as
14 to wages or compensation of employees] All claims under insurance poli-
15 cies, including such claims of the federal or any state or local govern-
16 ment, annuity contracts, and funding agreements, and all claims of the
17 The Life Insurance Company Guaranty Corporation of New York or any other
18 guaranty corporation or association of this state or another jurisdic-
19 tion, other than claims provided for in paragraph one of this subsection
20 and claims for interest.

21 (3) Class three. [All claims for payment for goods furnished or
22 services rendered to the impaired or insolvent insurer in the ordinary
23 course of business within ninety days prior to the date on which the
24 insurer was determined to be impaired or insolvent, whichever is appli-
25 cable] Claims of the federal government except claims provided for in
26 paragraph two of this subsection.

27 (4) Class four. [All claims under insurance policies, annuity
28 contracts and funding agreements, and all claims of The Life Insurance

1 Company Guaranty Corporation of New York or any other guaranty corpo-
2 ration or association of this state or another jurisdiction, other than
3 (i) claims provided for in paragraph one of this subsection, and (ii)
4 claims for interest] Debts due to employees for services performed to
5 the extent that they do not exceed one thousand two hundred dollars and
6 represent payment for services performed within one year before the
7 commencement of a proceeding under this article. Such priority shall be
8 in lieu of any other similar priority that may be authorized by law as
9 to wages or compensation of employees.

10 (5) Class five. [Claims of the federal or any state or local govern-
11 ment. Claims, including those of any governmental body for a penalty or
12 forfeiture, shall be allowed to this class only to the extent of the
13 pecuniary loss sustained from the act, transaction or proceeding out of
14 which the penalty or forfeiture arose, with reasonable and actual costs
15 occasioned thereby. The remainder of such claims shall be postponed to
16 the class of claims under paragraph eight of this subsection] All claims
17 for payment for goods furnished or services rendered to the impaired or
18 insolvent insurer in the ordinary course of business within ninety days
19 prior to the date on which the insurer was determined to be impaired or
20 insolvent, whichever is applicable.

21 (6) Class six. [Claims of general creditors and any other claims other
22 than claims under paragraphs seven and eight of this subsection] Claims
23 of any state or local government other than claims provided for under
24 paragraph two of this subsection. Claims, including those of any govern-
25 mental body for a penalty or forfeiture, shall be allowed to this class
26 only to the extent of pecuniary loss sustained from the act, trans-
27 action, or proceeding out of which the penalty or forfeiture arose, with
28 reasonable and actual costs occasioned thereby. The remainder of such

1 claims shall be postponed to the class of claims under paragraph nine of
2 this subsection.

3 (7) Class seven. [Surplus, capital or contribution notes, or similar
4 obligations] Claims of general creditors and any other claims other than
5 claims under paragraphs eight and nine of this subsection.

6 (8) Class eight. [The claims of (i) policyholders, other than claims
7 under paragraph four of this subsection, and (ii) shareholders or other
8 owners] Surplus, capital, or contribution notes, or similar obligations.

9 (9) Class nine. The claims of policyholders or annuitants, other than
10 claims under paragraph two of this subsection, and shareholders or other
11 owners.

12 (b) Every claim under a separate account agreement providing, in
13 effect, that the assets in the separate account shall not be chargeable
14 with liabilities arising out of any other business of the insurer shall
15 be satisfied out of the assets in the separate account equal to the
16 reserves maintained in such account for such agreement and, to the
17 extent, if any, not fully discharged thereby, shall be treated as a
18 class four claim against the estate of the life insurance company.

19 (c) For purposes of this section:

20 (1) "The estate of the life insurance company" shall mean the general
21 assets of such company less any assets held in separate accounts that,
22 pursuant to section four thousand two hundred forty of this chapter, are
23 not chargeable with liabilities arising out of any other business of the
24 insurer.

25 (2) "Insurance policies, annuity contracts and funding agreements"
26 shall mean all policies and contracts of any of the kinds of insurance
27 specified in paragraph one, two or three of subsection (a) of section
28 one thousand one hundred thirteen of this chapter and all funding agree-

1 ments described in section three thousand two hundred twenty-two of this
2 chapter, including all separate account agreements, except that separate
3 account agreements referred to in subsection (b) of this section shall
4 be included only to the extent referred to therein.

5 (3) "Separate account agreement or agreements" shall mean any agree-
6 ment or agreements for separate accounts referred to in section four
7 thousand two hundred forty of this chapter.

8 § 4. This act shall take effect immediately.

9 SUBPART C

10 Section 1. Section 1104 of the insurance law, the section heading as
11 amended and subsections (c) and (d) as added by chapter 235 of the laws
12 of 1989, the opening paragraph of subsection (c) as amended by chapter
13 598 of the laws of 2000, is amended to read as follows:

14 § 1104. Revocation or suspension of license; restriction of license
15 authority or limitation on premiums written. (a) The superintendent may
16 revoke any license, certificate of authority, or registration issued to
17 any foreign or alien insurer to do an insurance business in this state
18 if, after notice to and hearing, [he] the superintendent finds that such
19 insurer has failed to comply with any requirement imposed upon it by the
20 provisions of this chapter and if in [his] the superintendent's judgment
21 such revocation is reasonably necessary to protect the interests of the
22 people of this state. The superintendent may, in his or her discretion,
23 reinstate any such license, certificate of authority, or registration if
24 [he] the superintendent finds that a ground for such revocation no long-
25 er exists.

1 (b) The superintendent shall revoke the certificate of authority of
2 any corporation or agent convicted of violating section two thousand six
3 hundred three of this chapter.

4 (c) [The] (1) Notwithstanding any other provision of this chapter, the
5 superintendent may [suspend the license, restrict the license authority,
6 or limit the amount of premiums written in this state of any accident
7 and health insurance company, property/casualty insurance company,
8 co-operative property/casualty insurance company, title insurance compa-
9 ny, mortgage guaranty insurance company, reciprocal insurer, Lloyds
10 underwriters or nonprofit property/casualty insurance company] take one
11 or more of the actions specified in subparagraph (B) of paragraph four
12 of this subsection against an insurer, except those insurers subject to
13 the provisions of subsection (c) of section two thousand three hundred
14 forty-three of this chapter, if after a hearing on a record, unless
15 waived by the affected insurer, the superintendent determines that such
16 insurer's surplus to policyholders is not adequate in relation to the
17 insurer's outstanding liabilities or to its financial needs or if the
18 superintendent otherwise determines that the continued operation of the
19 insurer might be deemed to be hazardous to the insurer's policyholders,
20 creditors, or to the general public.

21 (2) All matters pertaining to a proceeding or determination pursuant
22 to this subsection shall be confidential and not subject to subpoena or
23 public inspection under article six of the public officers law or any
24 other statute, except to the extent that the superintendent finds
25 release of information necessary to protect the public. The hearing
26 shall be initiated within twenty days after written notice to the insur-
27 er. Any determination pursuant to this subsection shall contain findings
28 specifying the factors deemed significant in regard to the particular

1 insurer, and shall set forth the reasons supporting the suspension,
2 restriction or limitation ordered by the superintendent.

3 (3) The superintendent may consider the following factors [shall be
4 considered by the superintendent] in making [such] a determination as to
5 whether an insurer's surplus to policyholders is adequate in relation to
6 the insurer's outstanding liabilities or to its financial needs:

7 [(1)] (A) the size of the insurer as measured by its admitted assets,
8 capital and surplus to policyholders, reserves, premium writings, insur-
9 ance in force and other appropriate criteria, with such surplus to poli-
10 cyholders for foreign insurers adjusted in accordance with section one
11 thousand four hundred thirteen of this chapter;

12 [(2)] (B) the extent to which the insurer's business is diversified
13 among the several kinds of insurance;

14 [(3)] (C) the number and size of risks insured in each kind of insur-
15 ance and the insurer's loss experience in regard to such risks;

16 [(4)] (D) the extent of geographical dispersion of the insurer's
17 risks;

18 [(5)] (E) the nature and extent of the insurer's reinsurance program;

19 [(6)] (F) the quality, diversification and liquidity of the insurer's
20 investment portfolio;

21 [(7)] (G) the recent past and projected future trends in regard to the
22 insurer's loss experience and in the size of the insurer's surplus to
23 policyholders;

24 [(8)] (H) the surplus to policyholders maintained by other comparable
25 insurers;

26 [(9)] (I) the adequacy of the insurer's reserves; and

27 [(10)] (J) the quality and liquidity of investments in subsidiaries
28 made pursuant to this chapter.

1 (4)(A) The superintendent may consider the following standards, either
2 singly or a combination of two or more, to determine whether the contin-
3 ued operation of any insurer might be deemed to be hazardous to its
4 policyholders, creditors, or to the general public:

5 (i) adverse findings reported in financial condition and market
6 conduct examination reports, audit reports, actuarial opinions, reports,
7 or summaries, or other reports;

8 (ii) the national association of insurance commissioners insurance
9 regulatory information system and its other financial analysis solvency
10 tools and reports;

11 (iii) whether the insurer has made adequate provision, according to
12 presently accepted actuarial standards of practice, for the anticipated
13 cash flows required by the contractual obligations and related expenses
14 of the insurer, when considered in light of the assets held by the
15 insurer with respect to such reserves and related actuarial items,
16 including the investment earnings on such assets, and the considerations
17 anticipated to be received and retained under such policies and
18 contracts;

19 (iv) the ability of an assuming reinsurer to perform and whether the
20 insurer's reinsurance program provides sufficient protection for the
21 insurer's remaining surplus after taking into account the insurer's cash
22 flow and the classes of business written as well as the financial condi-
23 tion of the assuming reinsurer;

24 (v) whether the insurer's operating loss in the last twelve-month
25 period or any shorter period of time, including net capital gain or
26 loss, change in non-admitted assets, and cash dividends paid to share-
27 holders, is greater than fifty percent of the insurer's remaining
28 surplus to policyholders in excess of the minimum required;

1 (vi) whether the insurer's operating loss in the last twelve-month
2 period or any shorter period of time, excluding net capital gains, is
3 greater than twenty percent of the insurer's remaining surplus to poli-
4 cyholders in excess of the minimum required;

5 (vii) whether a reinsurer, an obligor, any entity in the insurer's
6 holding company system, as defined in paragraph six of subsection (a) of
7 section one thousand five hundred one of this chapter, or any subsidiary
8 of an insurer, is insolvent, threatened with insolvency, or delinquent
9 in payment of its monetary or other obligations, and which in the opin-
10 ion of the superintendent may affect the solvency of the insurer;

11 (viii) contingent liabilities, pledges, or guarantees that either
12 individually or collectively involve a total amount that in the super-
13 intendent's opinion may affect the insurer's solvency;

14 (ix) whether any person who controls an insurer, as defined in para-
15 graph two of subsection (a) of section one thousand five hundred one of
16 this chapter, is delinquent in the transmitting to, or payment of, net
17 premiums to the insurer;

18 (x) the age and collectability of receivables;

19 (xi) whether the management of an insurer, including officers, direc-
20 tors, or any other person who directly or indirectly controls the opera-
21 tion of the insurer, fails to possess and demonstrate the competence,
22 fitness, and reputation deemed necessary to serve the insurer in such
23 position;

24 (xii) whether the insurer's management has failed to respond to an
25 inquiry of the superintendent relative to the insurer's condition or has
26 furnished false and misleading information concerning such an inquiry;

27 (xiii) whether the insurer has failed to meet financial filing
28 requirements or filing requirements pursuant to articles fifteen,

1 sixteen, or seventeen of this chapter, or regulations promulgated there-
2 under, in the absence of a reason satisfactory to the superintendent;

3 (xiv) whether the insurer's management either has filed any false or
4 misleading sworn financial statement, or has released false or mislead-
5 ing financial statements to lending institutions or to the general
6 public, or has made a false or misleading entry, or has omitted an entry
7 of material amount in the insurer's books;

8 (xv) whether the insurer has grown so rapidly and to such an extent
9 that it lacks adequate financial and administrative capacity to meet its
10 obligations in a timely manner;

11 (xvi) whether the insurer has experienced or is expected to experience
12 in the foreseeable future cash flow or liquidity problems;

13 (xvii) whether management has established reserves that do not comply
14 with minimum standards established by this chapter or regulations
15 promulgated thereunder, statutory accounting standards, as adopted by
16 the superintendent, sound actuarial principles and standards of prac-
17 tice;

18 (xviii) whether management persistently engages in material under
19 reserving that results in adverse development;

20 (xix) whether any transaction with an affiliate, a subsidiary, or a
21 parent for which the insurer receives assets or capital gains, or both,
22 do not provide sufficient value, liquidity, or diversity to assure the
23 insurer's ability to meet its outstanding obligations as they mature;
24 and

25 (xx) any other finding determined by the superintendent to be hazard-
26 ous to the insurer's policyholders, creditors, or to the general public.

27 (B) If the superintendent determines that the insurer's surplus to
28 policyholders is not adequate in relation to the insurer's outstanding

1 liabilities or to its financial needs or if the superintendent otherwise
2 determines that the continued operation of the insurer may be hazardous
3 to its policyholders, creditors, or to the general public, then the
4 superintendent may, upon a determination, suspend the insurer's license,
5 certificate of authority, or registration, restrict the insurer's
6 license, certificate of authority, or registration authority, or issue
7 an order requiring the insurer to do one or more of the following:

8 (i) reduce the total amount of present and potential liability for
9 policy benefits by reinsurance;

10 (ii) reduce, suspend, or limit the volume of business being accepted
11 or renewed, or limit the amount of premiums written in this state;

12 (iii) reduce general insurance and commission expenses by specified
13 methods;

14 (iv) increase the insurer's capital and surplus;

15 (v) suspend or limit the declaration and payment of dividends by an
16 insurer to its stockholders or policyholders;

17 (vi) file reports on a form and in a manner acceptable to the super-
18 intendent concerning the market value of an insurer's assets;

19 (vii) limit or withdraw from certain investments or discontinue
20 certain investment practices to the extent the superintendent deems
21 necessary;

22 (viii) document the adequacy of premium rates in relation to the risks
23 insured;

24 (ix) file, in addition to regular annual statements, interim financial
25 reports on a form and in a manner prescribed by the superintendent,
26 which may include a form adopted by the national association of insur-
27 ance commissioners;

1 (x) correct corporate governance practice deficiencies, and adopt and
2 utilize governance practices acceptable to the superintendent;

3 (xi) provide a business plan to the superintendent in order to contin-
4 ue to transact business in this state; or

5 (xii) notwithstanding any other provision of law, adjust rates for any
6 non-life insurance policy or contract written by the insurer that the
7 superintendent considers necessary to improve the insurer's financial
8 condition.

9 (d) [The superintendent shall identify and review those licensed
10 property/casualty insurers needing immediate or targeted regulatory
11 attention, and shall include the number of insurers so identified in the
12 report required by section three hundred thirty-four of this chapter.
13 Such report shall also include the name of each licensed
14 property/casualty insurer placed in formal conservatorship, rehabili-
15 tation or liquidation during the preceding year. Nothing herein shall be
16 construed to restrict or diminish any right or power of the superinten-
17 dent under any other provision of this chapter] For the purposes of this
18 section, "insurer" shall mean any person, firm, association, corpo-
19 ration, or joint-stock company authorized to do an insurance business in
20 this state by a license in force pursuant to the provisions of this
21 chapter or exempted by the provisions of this chapter from such licens-
22 ing, except that, for purposes of this section, the term "insurer" shall
23 not include any health maintenance organization operating pursuant to
24 section one thousand one hundred nine of this chapter or any continuing
25 care retirement community operating pursuant to section one thousand one
26 hundred nineteen of this chapter.

27 § 2. This act shall take effect immediately.

1 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
2 sion, section or subpart of this act shall be adjudged by any court of
3 competent jurisdiction to be invalid, such judgment shall not affect,
4 impair, or invalidate the remainder thereof, but shall be confined in
5 its operation to the clause, sentence, paragraph, subdivision, section
6 or subpart thereof directly involved in the controversy in which such
7 judgment shall have been rendered. It is hereby declared to be the
8 intent of the legislature that this act would have been enacted even if
9 such invalid provisions had not been included herein.

10 § 3. This act shall take effect immediately provided, however, that
11 the applicable effective date of Subparts A through C of this act shall
12 be as specifically set forth in the last section of such Subparts.

13 PART HH

14 Section 1. Paragraph (a) of subdivision 2 of section 179 of the navi-
15 gation law, as amended by section 2 of part X of chapter 58 of the laws
16 of 2015, is amended to read as follows:

17 (a) An account which shall be credited with all license fees and
18 penalties collected pursuant to paragraph (b) of subdivision one and
19 paragraph (a) of subdivision four of section one hundred seventy-four of
20 this article except as provided in section one hundred seventy-nine-a of
21 this part, the portion of the surcharge collected pursuant to paragraph
22 (d) of subdivision four of section one hundred seventy-four of this
23 article, penalties collected pursuant to paragraph (b) of subdivision
24 four of section one hundred seventy-four-a of this article, money
25 collected pursuant to section one hundred eighty-seven of this [article]
26 part, all penalties collected pursuant to section one hundred ninety-two

1 of this article, and registration fees collected pursuant to subdivision
2 two of section 17-1009 of the environmental conservation law.

3 § 2. The navigation law is amended by adding a new section 179-a to
4 read as follows:

5 § 179-a. New York environmental protection and spill remediation
6 account. 1. There is hereby created an account within the miscellaneous
7 capital projects fund, the New York environmental protection and spill
8 remediation account. The New York environmental protection and spill
9 remediation account shall consist of license fees received by the state
10 pursuant to section one hundred seventy-four of this article, in an
11 amount equal to expenditures made from this account.

12 2. These moneys, after appropriation by the legislature, and within
13 the amounts set forth and for the several purposes specified, shall be
14 available to reimburse the department of environmental conservation for
15 expenditures associated with the purposes of costs incurred under
16 section one hundred seventy-six of this article, including cleanup and
17 removal of petroleum spills, and other capital, investigation, mainte-
18 nance and remediation costs.

19 3. All payments made from the New York environmental protection and
20 spill remediation account shall be made by the administrator upon
21 certification by the commissioner.

22 4. Spending pursuant to this section shall be included in the annual
23 report required by section one hundred ninety-six of this article.

24 § 3. This act shall take effect immediately and shall be deemed to
25 have been in full force and effect on and after April 1, 2017.

1 Section 1. This act shall be known and may be cited as the "clean
2 water infrastructure act of 2017".

3 § 2. Article 15 of the environmental conservation law is amended by
4 adding a new title 33 to read as follows:

5 TITLE 33

6 SOURCE WATER PROTECTION PROJECTS

7 Section 15-3301. Definitions.

8 15-3303. Land acquisition projects for source water protection.

9 § 15-3301. Definitions.

10 As used in this title the following terms shall mean:

11 1. "Land acquisition projects" means open space acquisition projects
12 undertaken with willing sellers including, but not limited to, the
13 purchase of conservation easements, undertaken by a municipality, a
14 not-for-profit corporation, or purchase of conservation easements by a
15 soil and water conversation district.

16 2. "Municipality" means the same as such term as defined in section
17 56-0101 of this chapter.

18 3. "Not-for-profit corporation" means a corporation formed pursuant to
19 the not-for-profit corporation law and qualified for tax-exempt status
20 under the federal internal revenue code.

21 4. "Soil and water conservation district" means the same as such term
22 as defined in section five of the soil and water conservation districts
23 law.

24 5. "State assistance payment" means payment of the state share of the
25 cost of projects authorized by this title to preserve, enhance, restore
26 and improve the quality of the state's environment.

27 § 15-3303. Land acquisition projects for source water protection.

1 1. The commissioner is authorized to provide state assistance to muni-
2 cipalities, not-for-profit corporations and soil and water conservation
3 districts to undertake land acquisition projects for source water
4 protection, in cooperation with willing sellers. Projects shall develop,
5 expand or enhance water quality protection, including but not limited to
6 aquifers, watersheds, reservoirs, lakes, rivers and streams. The
7 department shall set forth the state share of land acquisition projects
8 in any request for proposal issued to solicit projects.

9 2. Any conservation easement acquired pursuant to this section that
10 encumbers lands in a county designated state certified agricultural
11 district shall allow agricultural activity on such lands provided that
12 the activity complies with all applicable technical standards estab-
13 lished by the natural resources conservation service.

14 3. In evaluating projects pursuant to this section, the department
15 shall give priority first to projects which protect or recharge drinking
16 water sources and watersheds including riparian buffers and second to
17 projects which improve resilience.

18 4. No state assistance may be provided pursuant to this section to
19 fund any project committed to in any agreement pursuant to a filtration
20 avoidance determination.

21 5. The commissioner may enter into a contract with a municipality or a
22 not-for-profit corporation for the undertaking of a land acquisition
23 project. Costs under such contracts are subject to final computation by
24 the department upon completion of the project, and shall not exceed the
25 maximum eligible cost set forth in any such contract.

26 6. The cost of a source water protection land acquisition project may
27 include the cost of preparation of a plan for the preservation of the
28 real property interest in land acquired pursuant to this section except

1 where such considerations have already been undertaken as part of any
2 existing plan applicable to the newly acquired real property interest in
3 land.

4 7. The soil and water conservation committee in consultation with the
5 commissioner of agriculture and markets is authorized to provide state
6 assistance payments to county soil and water conservation districts for
7 land acquisition projects for source water protection consistent with
8 section eleven-b of the soil and water conservation districts law.
9 Projects shall develop, expand or enhance water quality protection,
10 including but not limited to aquifers, watersheds, reservoirs, lakes,
11 rivers and streams. Such committee shall give priority to projects
12 which establish buffers from waters which serves as or are tributaries
13 to drinking water supplies for such projects using state assistance
14 pursuant to this section.

15 8. a. Real property acquired, developed, improved, restored or reha-
16 bilitated by or through a municipality with funds made available pursu-
17 ant to this title shall not be sold, leased, exchanged, donated or
18 otherwise disposed of or used for other than water quality protection
19 purposes without approval from the department, which shall provide for
20 the substitution of other lands of equal environmental value and fair
21 market value and reasonably equivalent usefulness and location to those
22 to be discontinued, sold or disposed of, and such other requirements as
23 shall be approved by the commissioner; provided, however, that such real
24 property may be sold, leased, exchanged, donated or otherwise disposed
25 of to the state, another municipality or a not-for-profit for the same
26 purposes.

27 b. Real property acquired by a not-for-profit organization with funds
28 made available pursuant to this title shall not be sold, leased,

1 exchanged, donated or otherwise disposed of, except to a municipality or
2 the state for the same purposes, without the approval of the department.

3 9. If the state acquires a real property interest in land purchased by
4 a municipality or not-for-profit with funds made available pursuant to
5 this title, the state shall pay the fair market value of such interest
6 less the amount of funding provided by the state pursuant to this
7 section.

8 § 3. The public health law is amended by adding a new section 1113 to
9 read as follows:

10 § 1113. Lead service line replacement grant program. Notwithstanding
11 section one hundred sixty-three of the state finance law or any incon-
12 sistent provision of law to the contrary, and within amounts appropri-
13 ated therefor, the department shall award grants to municipalities with-
14 out a formal competitive process, for purposes of replacing lead service
15 lines used to supply drinking water. When determining which munici-
16 palities shall receive awards and the amount of such awards, the depart-
17 ment shall consider for each municipality the cost of replacing lead
18 service lines and the number of persons who receive drinking water from
19 such service lines, and shall give priority to those municipalities with
20 low-income communities, according to a methodology as shall be deter-
21 mined by the department.

22 § 4. Article 27 of the environmental conservation law is amended by
23 adding a new title 12 to read as follows:

24 TITLE 12

25 CLEANUP AND ABATEMENT OF CERTAIN SOLID WASTE SITE AND DRINKING WATER

26 CONTAMINATION

27 Section 27-1201. Definitions.

1 27-1203. Mitigation and cleanup of solid waste sites.

2 27-1205. Mitigation of contaminants in drinking water.

3 27-1207. Use and reporting of solid waste and drinking water
4 response account.

5 27-1209. Rules and regulations.

6 § 27-1201. Definitions.

7 When used in this title:

8 1. "Mitigation and cleanup" means the investigation, sampling, manage-
9 ment, removal, remediation or restoration of a solid waste site and all
10 other actions required to restore or protect drinking water supplies,
11 groundwater, or other environmental media and restoration of the site to
12 a condition that it is no longer causing or contributing to pollution of
13 groundwater, water supplies or the environment.

14 2. "Solid waste site" means a disposal facility as defined in regu-
15 lations where solid waste has been improperly disposed as determined by
16 the department or a court of competent jurisdiction, or an active or
17 inactive solid waste management facility as defined in regulations where
18 an impact to drinking water supplies, groundwater contamination or other
19 environmental contamination is known or suspected. Solid waste site
20 shall not include a site subject to investigation or remediation pursu-
21 ant to title thirteen or fourteen of this article.

22 3. "Solid waste and drinking water response account" means the account
23 established pursuant to subdivision one of section ninety-seven-b of the
24 state finance law.

25 § 27-1203. Mitigation and cleanup of solid waste sites.

26 1. The solid waste site cleanup priorities in this state are:

27 a. first, to mitigate and cleanup any solid waste site causing or
28 contributing to impairments of drinking water quality; and

1 b. second, to mitigate and cleanup solid waste sites which are causing
2 or contributing to other environmental contamination which may impact
3 public health.

4 2. The owner or operator of a solid waste site shall, at the depart-
5 ment's written request, submit to and cooperate with any and all remedi-
6 al measures deemed necessary by the department for the mitigation and
7 cleanup of solid waste. The department may implement all necessary meas-
8 ures to mitigate and cleanup the solid waste site after making all
9 reasonable efforts to identify and compel the owner or operator to coop-
10 erate with the department. The department is not required to commence a
11 hearing or issue an order prior to using moneys from the solid waste and
12 drinking water response account.

13 3. All necessary and reasonable expenses of mitigation and cleanup of
14 a solid waste site shall be paid by the person or persons who owned,
15 operated or maintained the solid waste site except as provided in subdivi-
16 vision four of this section, or from the solid waste and drinking water
17 response account and shall be a debt recoverable by the state from all
18 persons who owned, operated or maintained the solid waste site, and a
19 lien may be imposed upon real property pursuant to subdivision sixteen
20 of section ninety-seven-b of the state finance law, and a charge may be
21 placed on the premises upon which the solid waste site is maintained and
22 upon any real or personal property, equipment, vehicles, and inventory
23 controlled by such person or persons. Moneys recovered shall be paid to
24 the solid waste and drinking water response account.

25 4. a. The department shall make all reasonable efforts to recover the
26 full amount of any funds expended from the solid waste and drinking
27 water response account for mitigation and cleanup through litigation or
28 cooperative agreements. Any and all moneys recovered, repaid or reim-

1 bursed pursuant to this section shall be deposited with the comptroller
2 and credited to such fund.

3 b. When a municipality develops and implements a plan to investigate,
4 mitigate and cleanup a solid waste site, as approved by the department,
5 for a site which is owned or has been operated by such municipality or
6 when the department, pursuant to an agreement with a municipality,
7 develops and implements such a plan, the commissioner shall, in the name
8 of the state, agree in such agreement to provide from the solid waste
9 and drinking water response account, within the limitations of appropri-
10 ations therefor, seventy-five percent of the eligible design and
11 construction costs of such program which are not recovered from or reim-
12 bursed or paid by a responsible party or the federal government.

13 5. The department shall have the authority to enter all solid waste
14 sites for the purpose of investigation, mitigation and cleanup.

15 § 27-1205. Mitigation of contaminants in drinking water.

16 1. Whenever the commissioner of health has required a public water
17 system to take action to reduce exposure to contaminants pursuant to
18 section eleven hundred twelve of the public health law, or at any time
19 upon the request of the commissioner of health, the department may
20 undertake all reasonable and necessary measures to ensure that safe
21 drinking water is expeditiously made available to all people in any area
22 of the state in which contamination is known to be present. Such area
23 shall include, at a minimum, all properties served by the water system
24 and any land and any surface or underground water sources identified by
25 the department or department of health as causing or contributing to the
26 contamination. The department's measures may include the installation
27 of treatment systems, including but not limited to installation of
28 onsite water supplies, or the provision of alternative water supply

1 sources to ensure that water meets applicable maximum contaminant levels
2 or other threshold concentrations set by the department of health.

3 2. If the department, in consultation with the department of health,
4 is able to identify a source of contamination which caused or contrib-
5 uted to contamination, the department shall require the owner or opera-
6 tor of the source of contamination to investigate, develop and implement
7 a plan to remediate the source of contamination.

8 3. The department shall make all reasonable efforts to recover the
9 full amount of any funds expended from the solid waste and drinking
10 water response account for a drinking water response through litigation
11 or cooperative agreements. Any and all moneys recovered, repaid or
12 reimbursed pursuant to this section shall be deposited with the comp-
13 troller and credited to such account.

14 a. When a municipality develops and implements a plan to respond to
15 drinking water contamination, determined pursuant to subdivision one of
16 this section, and the plan is approved by the department, for a site
17 which is owned or has been operated by such municipality or when the
18 department, pursuant to an agreement with a municipality, develops and
19 implements such a plan, the commissioner shall, in the name of the
20 state, agree in such agreement to provide from the solid waste and
21 drinking water response account, within the limitations of appropri-
22 ations therefor, seventy-five percent of the eligible design and
23 construction costs of such program and which are not recovered from or
24 reimbursed or paid by a responsible party or the federal government.

25 § 27-1207. Use and reporting of solid waste and drinking water response
26 account.

27 1. The solid waste and drinking water response account shall be made
28 available to the department for the following purposes:

- 1 a. enumeration and assessment of solid waste sites;
- 2 b. investigation and environmental characterization of solid waste
- 3 sites, including environmental sampling;
- 4 c. mitigation and cleanup of solid waste sites;
- 5 d. mitigation of drinking water contamination;
- 6 e. monitoring of solid waste sites; and
- 7 f. administration and enforcement of the requirements of this title.

8 2. On or before July first, two thousand nineteen and July first of
9 each succeeding year, the department shall report on the status of the
10 program.

11 § 27-1209. Rules and regulations.

12 The commissioner shall have the power to promulgate rules and regu-
13 lations necessary and appropriate to carry out the purposes of this
14 title.

15 § 5. Subdivisions 1, 2 and 6 and paragraphs (i) and (j) of subdivision
16 3 of section 97-b of the state finance law, subdivision 1 as amended and
17 paragraph (j) of subdivision 3 as added by section 4 of part I of chap-
18 ter 1 of the laws of 2003, subdivision 2 as amended by section 5 of part
19 X of chapter 58 of the laws of 2015, paragraph (i) of subdivision 3 as
20 amended by section 1 of part R of chapter 59 of the laws of 2007, subdi-
21 vision 6 as amended by chapter 38 of the laws of 1985, are amended and a
22 new paragraph (k) is added to subdivision 3 to read as follows:

23 1. There is hereby established in the custody of the state comptroller
24 a nonlapsing revolving fund to be known as the "hazardous waste remedial
25 fund", which shall consist of [a "site investigation and construction
26 account",] an "industry fee transfer account", an "environmental resto-
27 ration project account", "hazardous waste cleanup account", [and] a

1 "hazardous waste remediation oversight and assistance account" and a
2 "solid waste and drinking water response account".

3 2. Such fund shall consist of all of the following:

4 (a) [moneys appropriated for transfer to the fund's site investigation
5 and construction account; (b) all fines and other sums accumulated in
6 the fund prior to April first, nineteen hundred eighty-eight pursuant to
7 section 71-2725 of the environmental conservation law for deposit in the
8 fund's site investigation and construction account; (c)] all moneys
9 collected or received by the department of taxation and finance pursuant
10 to section 27-0923 of the environmental conservation law for deposit in
11 the fund's industry fee transfer account; [(d)] (b) all moneys paid into
12 the fund pursuant to section 72-0201 of the environmental conservation
13 law which shall be deposited in the fund's industry fee transfer
14 account; [(e)] (c) all moneys paid into the fund pursuant to paragraph
15 (b) of subdivision one of section one hundred eighty-six of the naviga-
16 tion law which shall be deposited in the fund's industry fee transfer
17 account; [(f)] (d) all [monies] moneys recovered under sections 56-0503,
18 56-0505 and 56-0507 of the environmental conservation law into the
19 fund's environmental restoration project account; [(g)] (e) all fees
20 paid into the fund pursuant to section 72-0402 of the environmental
21 conservation law which shall be deposited in the fund's industry fee
22 transfer account; [(h)] (f) payments received for all state costs
23 incurred in negotiating and overseeing the implementation of brownfield
24 site cleanup agreements pursuant to title fourteen of article twenty-
25 seven of the environmental conservation law shall be deposited in the
26 hazardous waste remediation oversight and assistance account; (g) all
27 moneys recovered pursuant to title twelve of article twenty-seven of the
28 environmental conservation law into the fund's solid waste and drinking

1 water response account and [(i)] (h) other moneys credited or trans-
2 ferred thereto from any other fund or source for deposit in the fund's
3 [site investigation and construction] hazardous waste cleanup account.

4 (i) with respect to moneys in the hazardous waste remediation over-
5 sight and assistance account, non-bondable costs associated with hazard-
6 ous waste remediation projects. Such costs shall be limited to agency
7 staff costs associated with the administration of state assistance for
8 brownfield opportunity areas pursuant to section nine hundred seventy-r
9 of the general municipal law, agency staff costs associated with the
10 administration of technical assistance grants pursuant to titles thir-
11 teen and fourteen of article twenty-seven of the environmental conserva-
12 tion law, and costs of the department of environmental conservation
13 related to the geographic information system required by section 3-0315
14 of the environmental conservation law; [and]

15 (j) with respect to moneys in the hazardous waste remediation over-
16 sight and assistance account, technical assistance grants pursuant to
17 titles thirteen and fourteen of article twenty-seven of the environ-
18 mental conservation law[.]; and

19 (k) With respect to moneys in the solid waste and drinking water
20 response account, when allocated, shall be available to the department
21 of environmental conservation to undertake mitigation and cleanup as the
22 department of environmental conservation may determine necessary due to
23 environmental conditions related to a solid waste site pursuant to title
24 twelve of article twenty-seven of the environmental conservation law
25 which indicates that conditions on such property are impairing drinking
26 water quality, ground water quality or creating other environmental
27 contamination and to ensure the provision of safe drinking water in

1 areas determined to have drinking water contamination by the department
2 of health.

3 6. The commissioner of the department of environmental conservation
4 shall make all reasonable efforts to recover the full amount of any
5 funds expended from the fund pursuant to paragraph (a) and paragraph (k)
6 of subdivision three of this section through litigation or cooperative
7 agreements with responsible persons. Any and all moneys recovered or
8 reimbursed pursuant to this section through voluntary agreements or
9 court orders shall be deposited with the comptroller and credited to the
10 account of such fund from which such expenditures were made.

11 § 6. Section 97-b of the state finance law is amended by adding a new
12 subdivision 16 to read as follows:

13 16. (a) All costs and damages for which a person is liable to the
14 state of New York under titles twelve and thirteen of article twenty-
15 seven of the environmental conservation law shall constitute a lien in
16 favor of the state upon all real property and rights to such property
17 which: (i) belongs to such person; and (ii) are subject to mitigation or
18 cleanup pursuant to title twelve of article twenty-seven of the environ-
19 mental conservation law or an inactive hazardous waste disposal site
20 remedial program pursuant to title thirteen of article twenty-seven of
21 the environmental conservation law.

22 (b) The lien imposed by this subdivision shall arise at the later of
23 the following: (i) the time costs are first incurred by the state with
24 respect to a response action pursuant to titles twelve and thirteen of
25 article twenty-seven of the environmental conservation law; or (ii) the
26 time that the person referred to in paragraph (a) of this subdivision is
27 provided (by certified or registered mail) written notice of potential
28 liability. Such lien shall continue until the liability for the costs,

1 or a judgment against the person arising out of such liability, is
2 satisfied, becomes unenforceable, is otherwise vacated by court order or
3 is released by the commissioner of environmental conservation where a
4 legally enforceable agreement satisfactory to the commissioner has been
5 executed relating to the cleanup and removal costs and damage costs or
6 reimbursing the hazardous waste remedial fund for cleanup and removal
7 costs and damage costs, or the attachment or enforcement of the lien is
8 determined by the commissioner not to be in the public interest.

9 (c) The lien shall state: (i) that the lienor is the hazardous waste
10 remedial fund; (ii) the name of record owner of the real property on
11 which the lien has attached; (iii) the real property subject to the
12 lien, with a description thereof sufficient for identification; (iv)
13 that the real property described in the notice is or has been subject to
14 mitigation or cleanup pursuant to title twelve of article twenty-seven
15 of the environmental conservation law or an inactive hazardous waste
16 disposal site remedial program pursuant to title thirteen of article
17 twenty-seven of the environmental conservation law and that costs have
18 been incurred by the lienor as a result of such activities; (v) that the
19 owner is potentially liable for costs; and (vi) that a lien has attached
20 to the described real property.

21 (d) The lien imposed by this subdivision shall be subject to the
22 rights of any purchaser entitled to the affirmative defense set forth in
23 subparagraph three of paragraph (a) of subdivision four of section
24 27-1323 of the environmental conservation law, holder of a security
25 interest, or judgment lien creditor whose interest is perfected under
26 New York state law before notice of the lien has been filed pursuant to
27 paragraph (e) of this subdivision.

1 (e) A notice of lien imposed by this subdivision shall be filed pursu-
2 ant to the requirements of section one hundred eighty-one-c of the navi-
3 gation law; provided however, that a copy of the notice of lien is
4 served upon the owner of the real property subject to the lien in
5 accordance with the provisions of section eleven of the lien law.

6 (f) The costs constituting the lien may be recovered in an action in
7 rem in a court of competent jurisdiction. Nothing in this subdivision
8 shall affect the right of the state to bring an action against any
9 person to recover all costs and damages for which such person is liable
10 under titles twelve and thirteen of article twenty-seven of the environ-
11 mental conservation law.

12 § 7. The public authorities law is amended by adding a new section
13 1285-s to read as follows:

14 § 1285-s. New York state regional water infrastructure projects. 1.
15 For purposes of this section, "municipality" means any county, city,
16 town, village, district corporation, county or town improvement
17 district, any public benefit corporation or public authority established
18 pursuant to the laws of New York or any agency of New York state which
19 is empowered to construct and operate a waste water or drinking water
20 infrastructure project, or any two or more of the foregoing which are
21 acting jointly in connection with such a project.

22 2. (a) The corporation shall establish, with funds appropriated for
23 such purpose, a New York state regional water infrastructure grants
24 program to provide state assistance to municipalities for waste water
25 and drinking water infrastructure projects that have a regional impact
26 or demonstrated efficiencies. Such regional projects shall benefit or
27 serve multiple municipalities, and may include shared infrastructure,

1 consolidation or interconnection of systems of multiple municipalities,
2 or projects that otherwise achieve efficiencies.

3 (b) A municipality may make an application for a regional water
4 infrastructure grant in a manner, form and timeframe and containing such
5 information as the corporation may require provided however, such
6 requirements shall not include a requirement for prior listing on the
7 intended use plan.

8 3. Moneys for the regional water infrastructure grants program shall
9 be segregated from all other funds of or in the custody of the corpo-
10 ration and shall only be used to provide state assistance to munici-
11 palities in accordance with the provisions of this section and to
12 provide for the administrative and management costs of the program.

13 4. Moneys for the regional water infrastructure grants program may be
14 invested as provided in subdivision six of section twelve hundred eight-
15 y-five-j of this title.

16 5. Contracts for the construction of projects financed with state
17 assistance made available pursuant to this section shall be subject to
18 the requirements of section two hundred twenty of the labor law and
19 shall be considered "state contracts" subject to the requirements and
20 provisions of article fifteen-A of the executive law.

21 § 8. Section 1285-q of the public authorities law, as added by section
22 6 of part I of chapter 1 of the laws of 2003, subdivisions 1 and 3 as
23 amended by section 43 of part BB of chapter 56 of the laws of 2015, is
24 amended to read as follows:

25 § 1285-q. Financing of hazardous waste site remediation and solid
26 waste and drinking water response site projects. In order to effectuate
27 the purposes of this title, the corporation shall have the following
28 additional special powers:

1 1. Subject to chapter fifty-nine of the laws of two thousand, but
2 notwithstanding any other provisions of law to the contrary, in order to
3 assist the corporation in undertaking the administration and the financ-
4 ing of hazardous waste site remediation projects for payment of the
5 state's share of the costs of the remediation of hazardous waste sites
6 and solid waste and drinking water response sites, in accordance with
7 [title] titles twelve and thirteen of article twenty-seven of the envi-
8 ronmental conservation law and section ninety-seven-b of the state
9 finance law, and for payment of state costs associated with the remedi-
10 ation of offsite contamination at significant threat sites as provided
11 in section 27-1411 of the environmental conservation law, and beginning
12 in state fiscal year two thousand fifteen - two thousand sixteen for
13 environmental restoration projects pursuant to title five of article
14 fifty-six of the environmental conservation law provided that funding
15 for such projects shall not exceed ten percent of the funding appropri-
16 ated for the purposes of financing hazardous waste site remediation
17 projects, pursuant to [title] titles twelve and thirteen of article
18 twenty-seven of the environmental conservation law in any state fiscal
19 year pursuant to capital appropriations made to the department of envi-
20 ronmental conservation, the director of the division of budget and the
21 corporation are each authorized to enter into one or more service
22 contracts, none of which shall exceed twenty years in duration, upon
23 such terms and conditions as the director and the corporation may agree,
24 so as to annually provide to the corporation in the aggregate, a sum not
25 to exceed the annual debt service payments and related expenses required
26 for any bonds and notes authorized pursuant to section twelve hundred
27 ninety of this title. Any service contract entered into pursuant to this
28 section shall provide that the obligation of the state to fund or to pay

1 the amounts therein provided for shall not constitute a debt of the
2 state within the meaning of any constitutional or statutory provision
3 and shall be deemed executory only to the extent of moneys available for
4 such purposes, subject to annual appropriation by the legislature. Any
5 such service contract or any payments made or to be made thereunder may
6 be assigned and pledged by the corporation as security for its bonds and
7 notes, as authorized pursuant to section twelve hundred ninety of this
8 title.

9 2. The comptroller is hereby authorized to receive from the corpo-
10 ration any portion of bond proceeds paid to provide funds for or reim-
11 burse the state for its costs associated with any hazardous waste site
12 remediation and solid waste and drinking water response projects and to
13 credit such amounts to the capital projects fund or any other appropri-
14 ate fund.

15 3. The maximum amount of bonds that may be issued for the purpose of
16 financing hazardous waste site remediation and solid waste and drinking
17 water response projects and environmental restoration projects author-
18 ized by this section shall not exceed two billion two hundred million
19 dollars and shall not exceed one hundred million dollars for appropri-
20 ations enacted for any state fiscal year, provided that the bonds not
21 issued for such appropriations may be issued pursuant to reappropriation
22 in subsequent fiscal years. No bonds shall be issued for the repayment
23 of any new appropriation enacted after March thirty-first, two thousand
24 twenty-six for hazardous waste site remediation projects authorized by
25 this section. Amounts authorized to be issued by this section shall be
26 exclusive of bonds issued to fund any debt service reserve funds, pay
27 costs of issuance of such bonds, and bonds or notes issued to refund or
28 otherwise repay bonds or notes previously issued. Such bonds and notes

1 of the corporation shall not be a debt of the state, and the state shall
2 not be liable thereon, nor shall they be payable out of any funds other
3 than those appropriated by this state to the corporation for debt
4 service and related expenses pursuant to any service contracts executed
5 pursuant to subdivision one of this section, and such bonds and notes
6 shall contain on the face thereof a statement to such effect.

7 § 9. Subdivision 9 of section 97-b of the state finance law is
8 REPEALED.

9 § 10. Subdivision 4 of section 52-0303 of the environmental conserva-
10 tion law, as added by chapter 512 of the laws of 1986, is amended to
11 read as follows:

12 4. A provision that in the event that any federal payments and respon-
13 sible party payments become available which were not included in the
14 calculation of the state share pursuant to subdivision two of this
15 section, the amount of the state share shall be recalculated accordingly
16 and the municipality shall pay to the state for deposit in the [design
17 and construction] hazardous waste cleanup account of the hazardous waste
18 remedial fund established under section ninety-seven-b of the state
19 finance law the amount by which the state payment actually made exceeds
20 the recalculated state share.

21 § 11. The opening paragraph, and paragraphs i and j of subdivision 4
22 of section 27-1305 of the environmental conservation law, as amended by
23 section 3 of part E of chapter 1 of the laws of 2003, are amended to
24 read as follows:

25 On or before July first, nineteen hundred eighty-six and July first of
26 each succeeding year, the department shall prepare a status report on
27 the implementation of the plan, and an update of the policies, program
28 objectives, methods and strategies as outlined in the plan which guide

1 the overall inactive hazardous waste site remediation program and solid
2 waste site and drinking water response mitigation and cleanup programs.

3 Such status report shall reflect information available to the department
4 as of March thirty-first of each year, and shall include an accounting
5 of all [monies] moneys expended or encumbered from the environmental
6 quality bond act of nineteen hundred eighty-six or the hazardous waste
7 remedial fund during the preceding fiscal year, such accounting to sepa-
8 rately list:

9 i. [monies] moneys expended or encumbered in stand-by contracts
10 entered into pursuant to section 3-0309 of this chapter and the purposes
11 for which these stand-by contracts were entered into; [and]

12 j. moneys expended or encumbered pursuant to title twelve of this
13 article; and

14 k. an accounting of payments received and payments obligated to be
15 received pursuant to this title and title twelve of this article, and a
16 report of the department's attempts to secure such obligations.

17 § 12. Subparagraph (ii) of paragraph b of subdivision 3 of section
18 27-1313 of the environmental conservation law is REPEALED.

19 § 13. Paragraph b of subdivision 1 and paragraphs b and f of subdivi-
20 sion 5 of section 27-1313 of the environmental conservation law, para-
21 graph b of subdivision 1 as added by section 5 of part E of chapter 1 of
22 the laws of 2003, paragraph b as amended by and paragraph f of subdivi-
23 sion 5 as added by chapter 857 of the laws of 1982, are amended and a
24 new subdivision 11 is added to read as follows:

25 b. The department shall have the authority to require, and may under-
26 take directly, the development and implementation of a department-ap-
27 proved inactive hazardous waste disposal site remedial program, in
28 accordance with section ninety-seven-b of the state finance law.

1 b. In the event that the commissioner has found that hazardous wastes
2 at a site constitute a significant threat to the environment, but after
3 a reasonable attempt to determine who may be responsible is either
4 unable to determine who may be responsible, [or] is unable to locate a
5 person who may be responsible, or is unable after making all reasonable
6 effort to secure voluntary agreement to pay the costs of necessary reme-
7 dial actions from owners or operators or other responsible persons, the
8 department may develop and implement an inactive hazardous waste
9 disposal site remedial program for such site. The commissioner shall
10 make every effort, in an action brought before a court of appropriate
11 jurisdiction or in accordance with the requirements for notice, hearing
12 and review provided for in this title, to secure appropriate relief from
13 any person subsequently identified or located who is responsible for the
14 disposal of hazardous waste at such site, including, but not limited to,
15 development and implementation of an inactive hazardous waste disposal
16 site remedial program, payment of the cost of such a program, recovery
17 of any reasonable expenses incurred by the state, money damages and
18 penalties.

19 f. The commissioner shall make every effort, in an action brought
20 before a court of appropriate jurisdiction or in accordance with the
21 requirements for notice, hearing and review provided for in this title
22 to secure appropriate relief from the owner or operator of such site
23 and/or any person responsible for the disposal of hazardous wastes at
24 such site pursuant to applicable principles of statutory or common law
25 liability, including, but not limited to, development and implementation
26 of an inactive hazardous waste disposal site remedial program, payment
27 of the cost of such program, recovery of any reasonable expenses
28 incurred by the state, money damages and penalties.

1 11. A remedial decision by the state or the department or a response
2 action taken by the department or ordered by the department under this
3 section shall not constitute a final decision or order until the depart-
4 ment files an action to enforce such decision or order or to collect a
5 penalty for violation of such order or to recover its response costs.

6 § 14. The section heading and subdivision 1 of section 27-1316 of the
7 environmental conservation law, as added by section 8 of part E of chap-
8 ter 1 of the laws of 2003, are amended to read as follows:

9 [Citizen technical] Technical assistance grants.

10 1. The commissioner is authorized to provide, or order a person acting
11 under order or on consent, to provide grants to any eligible municipi-
12 ality or not-for-profit corporation exempt from taxation under section
13 501(c)(3) of the internal revenue code who may be affected by an inac-
14 tive hazardous waste disposal site remedial program. To qualify to
15 receive such assistance, a community group must demonstrate that its
16 membership represents the interests of the community affected by such
17 site, and that members', or in the case of a municipality its residents,
18 health, economic well-being or enjoyment of the environment are poten-
19 tially affected by such site. An eligible municipality shall be a coun-
20 ty, city, town, village, or Indian tribe or nation residing within New
21 York state, with a population of ten thousand or less, provided, howev-
22 er, that the department may make a municipality eligible if it deter-
23 mines that a municipality is a hardship community. A municipality shall
24 not be eligible for a grant for any site which is owned or has been
25 operated by such municipality. Such grants shall be known as technical
26 assistance grants and may be used to obtain technical assistance in
27 interpreting information with regard to the nature of the hazard posed
28 by hazardous waste located at or emanating from an inactive hazardous

1 waste disposal site or sites and the development and implementation of
2 an inactive hazardous waste disposal site remedial program or programs.

3 Such grants may also be used:

4 (a) to advise affected residents on any health assessment; and

5 (b) for training funds for the education of interested affected commu-
6 nity members or municipality to enable them to more effectively partic-
7 ipate in the remedy selection process.

8 Grants awarded under this section may not be used for the purposes of
9 collecting field sampling data, political activity or lobbying legisla-
10 tive bodies.

11 § 15. Subdivision 1 of section 27-1321 of the environmental conserva-
12 tion law, as amended by section 22 of part G of chapter 58 of the laws
13 of 2012, is amended to read as follows:

14 1. Notwithstanding any other provision of law to the contrary, any
15 person who is, by professional training or experience and attainment,
16 qualified to analyze and interpret matters pertaining to the treatment,
17 storage, disposal, or transport of hazardous materials or hazardous
18 wastes, and who voluntarily and without expectation of monetary compen-
19 sation provides assistance or advice in mitigating the effects of an
20 accidental or threatened discharge of any hazardous materials or hazard-
21 ous wastes, or in preventing, cleaning up, or disposing of any such
22 discharge, shall not be subject to a penalty or to civil liability for
23 damages or injuries alleged to have been sustained by any person or
24 entity by reason of an act or omission in the giving of such assistance
25 or advice. For the purposes of this section, the term "hazardous materi-
26 als" shall have the same meaning as that term is defined in regulations
27 promulgated by the commissioner of transportation pursuant to section
28 fourteen-f of the transportation law, and the term "hazardous wastes"

1 shall mean those wastes identified or listed pursuant to subdivision one
2 of section [27-0903] 27-1301 of this article and any rules and regu-
3 lations promulgated thereunder.

4 § 16. Subdivision 10 of section 71-2702 of the environmental conserva-
5 tion law, as added by chapter 671 of the laws of 1986, is amended to
6 read as follows:

7 10. "Substance hazardous to public health, safety or the environment"
8 means any substance which:

9 (a) is identified or listed as a hazardous waste in regulations
10 promulgated pursuant to section 27-0903 of this chapter and all amend-
11 ments thereto, regardless of whether at the time of release the
12 substance was actually a waste; [or]

13 (b) appears on the list in regulations promulgated pursuant to para-
14 graph (a) of subdivision one of section 37-0103 of this chapter and all
15 amendments thereto[.];

16 (c) is petroleum; or

17 (d) poses a present or potential hazard to the environment when
18 improperly treated, stored, transported, disposed of, or otherwise
19 managed.

20 § 17. Paragraph a of subdivision 1 of section 71-2725 of the environ-
21 mental conservation law is REPEALED.

22 § 18. Subdivision 4 of section 11-b of the soil and water conservation
23 districts law, as amended by chapter 538 of the laws of 1996, is amended
24 to read as follows:

25 4. Eligible costs that may be funded pursuant to this section are
26 architectural and engineering services, plans and specifications,
27 including watershed based or individual agricultural nonpoint source
28 pollution assessments, consultant and legal services, conservation ease-

1 ments and associated transaction costs specific to title thirty-three of
2 article fifteen of the environmental conservation law and other direct
3 expenses related to project implementation.

4 § 19. If any clause, sentence, paragraph, section or part of this act
5 shall be adjudged by any court of competent jurisdiction to be invalid,
6 such judgment shall not affect, impair or invalidate the remainder ther-
7 eof, but shall be confined in its operation to the clause, sentence,
8 paragraph, section or part thereof directly involved in the controversy
9 in which such judgment shall have been rendered.

10 § 20. This act shall take effect immediately.

11 PART JJ

12 Section 1. Paragraph (a) of subdivision 6 of section 92-s of the state
13 finance law, as amended by chapter 432 of the laws of 1997, is amended
14 to read as follows:

15 (a) All moneys heretofore and hereafter deposited in the environmental
16 protection transfer account shall be transferred by the comptroller to
17 the solid waste account, the parks, recreation and historic preservation
18 account, the climate change mitigation and adaptation account or the
19 open space account upon the request of the director of the budget.

20 § 2. Subdivision 5 of section 27-1012 of the environmental conserva-
21 tion law, as amended by section 6 of part F of chapter 58 of the laws of
22 2013, is amended to read as follows:

23 5. All monies collected or received by the department of taxation and
24 finance pursuant to this title shall be deposited to the credit of the
25 comptroller with such responsible banks, banking houses or trust compa-
26 nies as may be designated by the comptroller. Such deposits shall be

1 kept separate and apart from all other moneys in the possession of the
2 comptroller. The comptroller shall require adequate security from all
3 such depositories. Of the total revenue collected, the comptroller shall
4 retain the amount determined by the commissioner of taxation and finance
5 to be necessary for refunds out of which the comptroller must pay any
6 refunds to which a deposit initiator may be entitled. After reserving
7 the amount to pay refunds, the comptroller must, by the tenth day of
8 each month, pay into the state treasury to the credit of the general
9 fund the revenue deposited under this subdivision during the preceding
10 calendar month and remaining to the comptroller's credit on the last day
11 of that preceding month; provided, however, that, beginning April first,
12 two thousand [thirteen] fourteen, and all fiscal years thereafter,
13 [fifteen] twenty-three million dollars plus all funds received from the
14 payments due each fiscal year pursuant to subdivision four of this
15 section in excess of [the amount received from April first, two thousand
16 twelve through March thirty-first, two thousand thirteen] one hundred
17 twenty-two million two hundred thousand dollars, shall be deposited to
18 the credit of the environmental protection fund established pursuant to
19 section ninety-two-s of the state finance law.

20 § 3. This act shall take effect immediately and shall be deemed to
21 have been in full force and effect on and after April 1, 2016.

22 PART KK

23 Section 1. Approximately 40 percent of the food produced in the United
24 States today goes uneaten. Much of this organic waste is disposed of in
25 solid waste landfills, where its decomposition accounts for over 15
26 percent of our nation's emissions of methane, a potent greenhouse gas.

1 Meanwhile, an estimated 2.8 million New Yorkers are facing hunger and
2 food insecurity. This legislation is designed to address these multiple
3 challenges by: encouraging the prevention of food waste generation by
4 commercial generators and residents; directing the recovery of excess
5 edible food from high-volume commercial food waste generators; and
6 ensuring that a significant portion of inedible food waste from large
7 volume food waste generators is managed in a sustainable manner, and
8 does not end up being sent to landfills or incinerators.

9 § 2. Article 27 of the environmental conservation law is amended by
10 adding a new title 22 to read as follows:

11 TITLE 22

12 FOOD DONATION AND FOOD SCRAPS RECYCLING

13 Section 27-2201. Definitions.

14 27-2203. Designated food scraps generator responsibilities.

15 27-2205. Transporter responsibilities.

16 27-2207. Transfer station or other intermediary responsibil-
17 ities.

18 27-2209. Food scraps disposal prohibition.

19 27-2211. Department responsibilities.

20 27-2213. Regulations.

21 27-2215. Exclusions.

22 27-2217. Preemption and severability.

23 § 27-2201. Definitions.

24 1. "Designated food scraps generator" means a person who generates at
25 a single location an annual average of two tons per week or more of
26 excess food and food scraps, including, but not limited to, supermar-
27 kets, restaurants, higher educational institutions, hotels, food proces-
28 sors, correctional facilities, sports or entertainment venues, hospitals

1 and other health care facilities. For a location with multiple independ-
2 ent food service businesses, such as a mall or college campus, the enti-
3 ty responsible for contracting for solid waste hauling services is
4 responsible for managing excess food and food scraps from the independ-
5 ent businesses.

6 2. "Excess food" means edible food that is not sold or used by its
7 generator.

8 3. "Food scraps" means inedible food, trimmings from the preparation
9 of food, food-soiled paper, and edible food that is not donated. Food
10 scraps shall not include food from residential sources or any food which
11 is subject to a recall or seizure due to the presence of pathogens,
12 including but not limited to: Listeria Monocytogenes, confirmed Clos-
13 tridium Botulinum, E. coli 0157:H7 and all salmonella in ready-to-eat
14 foods.

15 4. "Organics recycler" means a facility that recycles food scraps
16 through use as animal feed or a feed ingredient, rendering, land appli-
17 cation, composting, aerobic digestion, anaerobic digestion, or ethanol
18 production. Animal scraps, food soiled paper, and post-consumer food
19 scraps are prohibited for use as animal feed or as a feed ingredient.
20 The product created from food scraps by a composting or digestion facil-
21 ity, or other treatment system, must be used in a beneficial manner as a
22 soil amendment and shall not be combusted or landfilled. The department
23 may designate other techniques or technologies by regulation, provided
24 they do not include combustion or landfilling.

25 5. "Person" means any individual, business entity, partnership, compa-
26 ny, corporation, not-for-profit corporation, association, governmental
27 entity, public benefit corporation, public authority, firm, organization

1 or any other group of individuals, or any officer or employee or agent
2 thereof.

3 6. "Single location" means contiguous property under common ownership,
4 which may include one or more buildings.

5 § 27-2203. Designated food scraps generator responsibilities.

6 1. No later than January first, two thousand twenty-one:

7 (a) all designated food scraps generators shall separate their excess
8 food for donation for human consumption to the maximum extent practica-
9 ble, and in accordance with applicable laws, rules and regulations
10 related to food donation; and

11 (b) except as provided by in paragraph (c) of this subdivision, each
12 designated food scraps generator that is within fifty miles of an organ-
13 ics recycler, to the extent that the recycler has capacity to accept a
14 substantial portion or all of the generator's excess food and food
15 scraps as determined by the department on a yearly basis, shall:

16 (i) separate its remaining excess food and food scraps from other
17 solid waste that cannot be effectively processed by the organics recy-
18 cler that will be managing the materials. Whenever practicable, excess
19 food and food scraps should be removed from packaging at the point of
20 generation or be sent to a facility that can remove the packaging from
21 the product;

22 (ii) ensure proper storage for excess food and food scraps collection
23 on site which shall preclude such materials from becoming odorous or
24 attracting vectors;

25 (iii) post instructions and provide training for employees concerning
26 the proper methods to separate and store excess food and food scraps;
27 and

1 (iv) obtain a transporter that will deliver its excess food and food
2 scraps to an organics recycler, either directly or through an interme-
3 diary, self-haul its food scraps to an organics recycler, either direct-
4 ly or through an intermediary, or provide for organics recycling
5 on-site.

6 (c) The provisions of paragraph (b) of this subdivision shall not
7 apply to any designated food scraps generator that has all of its solid
8 waste processed in a mixed solid waste composting or mixed solid waste
9 anaerobic digestion facility.

10 2. All designated food scraps generators shall submit an annual report
11 to the department on or before March first, two thousand twenty-two, and
12 annually thereafter, in an electronic format. The annual report must
13 summarize the amount of excess food donated and the amount of excess
14 food not donated, the amount of food scraps recycled, the organics recy-
15 cler or recyclers and associated transporters used, and any other infor-
16 mation as required by the department.

17 3. A designated food scraps generator may petition the department for
18 a temporary waiver from some or all of the requirements of this title.
19 The petition must include evidence of undue hardship based on the unique
20 circumstances of the generator. A waiver shall be no longer than one
21 year in duration.

22 § 27-2205. Transporter responsibilities.

23 1. Any transporter that collects source-separated excess food and food
24 scraps for recycling from a designated food scraps generator shall:

25 (a) deliver collected excess food and food scraps to a transfer
26 station or other intermediary that will deliver such excess food and
27 food scraps to an organics recycler; or

28 (b) deliver such food scraps directly to an organics recycler.

1 2. Any transporter that collects source-separated excess food and food
2 scraps from a designated food scraps generator shall not deliver those
3 excess food and food scraps to a combustion facility or a landfill nor
4 commingle the material with any other solid waste unless such waste can
5 be processed by an organics recycler.

6 § 27-2207. Transfer station or other intermediary responsibilities.

7 Any transfer station or other intermediary that receives source-sepa-
8 rated excess food and food scraps from a designated food scraps genera-
9 tor must ensure that the food scraps are taken to an organics recycler.
10 No transfer station or other intermediary may commingle the material
11 with any other solid waste unless such waste can be processed by an
12 organics recycler.

13 § 27-2209. Food scraps disposal prohibition.

14 Solid waste combustion facilities and landfills shall not accept
15 source-separated excess food and food scraps from designated food scraps
16 generators required to send their excess food not donated and food
17 scraps to an organics recycler as outlined under section 27-2203 of this
18 title, either directly or from an intermediary, after January first, two
19 thousand twenty-one, unless the designated food scraps generator has
20 received a temporary waiver under subdivision three of section 27-2203
21 of this title.

22 § 27-2211. Department responsibilities.

23 1. The department shall, in consultation with industry represen-
24 tatives, publish on its website: (a) the methodology the department will
25 use to determine who is a designated food scrap generator; and (b) a
26 list of all designated food scraps generators, organics recyclers, and
27 all transporters that manage source-separated organics.

1 2. No later than October first, two thousand twenty, the department
2 shall assess the capacity of organic recyclers and notify designated
3 food scraps generators if they are required to comply with the
4 provisions of paragraph (b) of subdivision one of section 27-2203 of
5 this title.

6 3. The department shall develop and make available educational materi-
7 als to assist designated food scraps generators with compliance with
8 this title. The department shall also develop education materials on
9 food waste minimization and encourage municipalities to disseminate
10 these materials both on their municipal websites and in any such future
11 mailings to their residents as they may distribute.

12 § 27-2213. Regulations.

13 The department may promulgate rules and regulations necessary to
14 implement the provisions of this title. At a minimum, the department
15 shall promulgate rules and regulations that set forth how designated
16 food scraps generators shall comply with the provisions of paragraph (a)
17 and subparagraph (i) of paragraph (b) of subdivision one of section
18 27-2203 of this title.

19 § 27-2215. Exclusions.

20 1. This title shall not apply to any designated food scraps generators
21 located in a city with a population of one million or more which has a
22 local law, ordinance or regulation in place which requires the diversion
23 of excess food and food scraps from disposal.

24 2. This title does not apply to elementary and secondary schools.

25 § 27-2217. Preemption and severability.

26 1. Any provision of any local law or ordinance, or any regulation
27 promulgated thereto, governing the recycling of food scraps shall upon
28 the effective date of this title be preempted, except in a city with a

1 population of one million of more. However, local laws or ordinances,
2 or parts thereof, affecting the recycling of food scraps that include
3 generators not covered by this title shall not be preempted.

4 2. The provisions of this title shall be severable and if any portion
5 thereof or the applicability thereof to any person or circumstances is
6 held invalid, the remainder of this title and the application thereof
7 shall not be affected thereby.

8 § 3. This act shall take effect immediately.

9 PART LL

10 Section 1. The public authorities law is amended by adding a new
11 section 1005-d to read as follows:

12 § 1005-d. Sharing employees, services and resources; indemnity and
13 defense. 1. For the purposes of this section, the following words and
14 terms shall have the following meanings unless the context indicates
15 another meaning or intent:

16 (a) "Department" means the department of transportation.

17 (b) "Services and assistance" includes but is not limited to engineer-
18 ing services; environmental sampling and testing; facility, property,
19 infrastructure and equipment maintenance; and equipment and materials
20 storage.

21 2. One or more shared services agreements may be executed between the
22 department and the authority, canal corporation, or both of them, only
23 for (a) an emergency situation, (b) extreme weather conditions, and (c)
24 the provision of services and assistance to support the operation and
25 maintenance of the canal system and related infrastructure, as deemed
26 appropriate, including but limited to share employees, services or

1 resources as deemed appropriate including, but not limited to, for the
2 performance of work and activities by the department on the facilities
3 and property under the jurisdiction of the authority or canal corpo-
4 ration, and for the performance of work and activities by the authority
5 or canal corporation on the facilities and property under the jurisdic-
6 tion of the department. Such agreement or any project undertaken pursu-
7 ant to such an agreement shall not be deemed to impair the rights of
8 bondholders and may provide for, but not be limited to, the management,
9 supervision and direction of such employees' performance of such
10 services. All shared employees shall remain employees of their respec-
11 tive employers and all applicable collectively bargained agreements
12 shall remain in effect for the entire length of the shared services
13 agreement. Further, such shared services agreement shall not amend,
14 repeal or replace the terms of any agreement that is collectively nego-
15 tiated between an employer and an employee organization, including an
16 agreement or interest arbitration award made pursuant to article four-
17 teen of the civil service law.

18 3. The authority shall defend any unit, entity, officer or employee of
19 the department, using the forces of the department of law pursuant to
20 subdivision eleven of this section in any action, proceeding, claim,
21 demand or the prosecution of any appeal arising from or occasioned by
22 the acts or omissions to act in the performance of the functions of the
23 authority or canal corporation pursuant to a shared services agreement.

24 4. Defense pursuant to subdivision three of this section shall be
25 conditioned upon the full cooperation of the department.

26 5. The authority shall indemnify and hold harmless any unit, entity,
27 officer or employee of the department in the amount of any judgment
28 obtained against the department or in the amount of any settlement the

1 department enters into with the consent of the authority for any and all
2 claims, damages or liabilities arising from or occasioned by the acts or
3 omissions to act of the authority or canal corporation pursuant to a
4 shared services agreement; provided, however, that the act or omission
5 from which such judgment or settlement arose occurred while the authori-
6 ty or canal corporation was acting within the scope of its functions
7 pursuant to a shared services agreement. No such settlement of any such
8 action, proceeding, claim or demand shall be made without the approval
9 of the authority's board of trustees or its designee.

10 6. Any claim or proceeding commenced against any unit, entity, officer
11 or employee of the authority or canal corporation that arises pursuant
12 to any shared services agreement shall not be construed in any way to
13 impair, alter, limit, modify, abrogate or restrict any immunity avail-
14 able to or conferred upon any unit, entity, officer or employee of the
15 authority or canal corporation, or to impair, alter, limit, modify,
16 abrogate or restrict any right to defense and indemnification provided
17 for any governmental officer or employee by, in accordance with, or by
18 reason of, any other provision of state or federal statutory or common
19 law.

20 7. (a) The state shall defend any unit, entity, officer or employee of
21 the authority and canal corporation using the forces of the department
22 of law in any action, proceeding, claim, demand or the prosecution of
23 any appeal arising from or occasioned by the acts or omissions to act in
24 the performance of the functions of the department pursuant to a shared
25 services agreement.

26 (b) Defense pursuant to paragraph (a) of this subdivision shall be
27 conditioned upon the full cooperation of the authority and canal corpo-
28 ration.

1 (c) The state shall indemnify and hold harmless any unit, entity,
2 officer or employee of the authority or canal corporation in the amount
3 of any judgment obtained against the authority or canal corporation in
4 the amount of any settlement the authority or canal corporation enters
5 into with the consent of the state for any and all claims, damages or
6 liabilities arising from or occasioned by the acts or omissions to act
7 on behalf of the department pursuant to a shared services agreement,
8 provided, however, that the act or omission from which such judgment or
9 settlement arose occurred while the department was acting within the
10 scope of its functions pursuant to a shared services agreement. Any such
11 settlement shall be executed pursuant to section twenty-a of the court
12 of claims act.

13 (d) Any claim or proceeding commenced against any unit, entity, offi-
14 cer or employee of the department pursuant to any shared services agree-
15 ment shall not be construed in any way to impair, alter, limit, modify,
16 abrogate or restrict any immunity available to or conferred upon any
17 unit, entity, officer or employee of the department, or to impair,
18 alter, limit, modify, abrogate or restrict any right to defense and
19 indemnification provided for any governmental officer or employee by, in
20 accordance with, or by reason of, any other provision of state or feder-
21 al statutory or common law.

22 (e) Any payment made pursuant to this subdivision or any monies paid
23 for a claim against or settlement with the department, authority or
24 canal corporation pursuant to this subdivision and pursuant to a shared
25 services agreement shall be paid from appropriations for payment by the
26 state pursuant to the court of claims act.

27 8. This section shall not in any way affect the obligation of any
28 claimant to give notice to the state, authority, or canal corporation

1 under section ten and section eleven of the court of claims act or any
2 other provision of law provided, however, that notice served upon the
3 state, authority, or canal corporation who is a party to the shared
4 services agreement shall be valid notice on all parties to the agree-
5 ment, when such claim arises out of such shared services agreement. The
6 state, authority and canal corporation shall notify each other when they
7 receive a notice of claim, notice of intention to make a claim or a
8 claim arising out of such agreement.

9 9. The provisions of this section shall not be construed to impair,
10 alter, limit or modify the rights and obligations of any insurer under
11 any insurance agreement.

12 10. Notwithstanding any other provision of law, when employed pursuant
13 to a shared services agreement, employees of the authority, canal corpo-
14 ration and department shall be deemed employees of all such entities and
15 the state for purposes of the workers' compensation law.

16 11. At the request of the authority or canal corporation, services and
17 assistance and legal services for the authority or canal corporation
18 shall be performed by forces or officers of the department and the
19 department of law respectively, and all other state officers, depart-
20 ments, boards, divisions and commissions shall render services within
21 their respective functions.

22 § 2. Subdivision 1 of section 17 of the public officers law is amended
23 by adding a new paragraph (z) to read as follows:

24 (z) For purposes of this section, the term "employee" shall include
25 members of the governing boards, officers and employees of the power
26 authority of the state of New York or its subsidiaries.

1 § 3. This act, being necessary for the prosperity of the state and its
2 inhabitants, shall be liberally construed to effect the purposes and
3 secure the beneficial intents hereof.

4 § 4. If any provision of any section of this act or the application
5 thereof to any person or circumstance shall be adjudged invalid by a
6 court of competent jurisdiction, such order or judgment shall be
7 confined in its operation to the controversy in which it was rendered,
8 and shall not affect or invalidate the remainder of any provision of any
9 section of this act or the application thereof to any other person or
10 circumstance and to this end the provisions of each section of this act
11 are hereby declared to be severable.

12 § 5. This act shall take effect immediately.

13 PART MM

14 Section 1. Expenditures of moneys by the New York state energy
15 research and development authority for services and expenses of the
16 energy research, development and demonstration program, including
17 grants, the energy policy and planning program, the zero emissions vehi-
18 cle and electric vehicle rebate program, and the Fuel NY program shall
19 be subject to the provisions of this section. Notwithstanding the
20 provisions of subdivision 4-a of section 18-a of the public service law,
21 all moneys committed or expended in an amount not to exceed \$19,700,000
22 shall be reimbursed by assessment against gas corporations, as defined
23 in subdivision 11 of section 2 of the public service law and electric
24 corporations as defined in subdivision 13 of section 2 of the public
25 service law, where such gas corporations and electric corporations have
26 gross revenues from intrastate utility operations in excess of \$500,000

1 in the preceding calendar year, and the total amount which may be
2 charged to any gas corporation and any electric corporation shall not
3 exceed one cent per one thousand cubic feet of gas sold and .010 cent
4 per kilowatt-hour of electricity sold by such corporations in their
5 intrastate utility operations in calendar year 2015. Such amounts shall
6 be excluded from the general assessment provisions of subdivision 2 of
7 section 18-a of the public service law. The chair of the public service
8 commission shall bill such gas and/or electric corporations for such
9 amounts on or before August 10, 2017 and such amounts shall be paid to
10 the New York state energy research and development authority on or
11 before September 10, 2017. Upon receipt, the New York state energy
12 research and development authority shall deposit such funds in the ener-
13 gy research and development operating fund established pursuant to
14 section 1859 of the public authorities law. The New York state energy
15 research and development authority is authorized and directed to: (1)
16 transfer \$1 million to the state general fund for services and expenses
17 of the department of environmental conservation, \$150,000 to the state
18 general fund for services and expenses of the department of agriculture
19 and markets, and \$750,000 to the University of Rochester laboratory for
20 laser energetics from the funds received; and (2) commencing in 2016,
21 provide to the chair of the public service commission and the director
22 of the budget and the chairs and secretaries of the legislative fiscal
23 committees, on or before August first of each year, an itemized record,
24 certified by the president and chief executive officer of the authority,
25 or his or her designee, detailing any and all expenditures and commit-
26 ments ascribable to moneys received as a result of this assessment by
27 the chair of the department of public service pursuant to section 18-a
28 of the public service law. This itemized record shall include an item-

1 ized breakdown of the programs being funded by this section and the
2 amount committed to each program. The authority shall not commit for
3 any expenditure, any moneys derived from the assessment provided for in
4 this section, until the chair of such authority shall have submitted,
5 and the director of the budget shall have approved, a comprehensive
6 financial plan encompassing all moneys available to and all anticipated
7 commitments and expenditures by such authority from any source for the
8 operations of such authority. Copies of the approved comprehensive
9 financial plan shall be immediately submitted by the chair to the chairs
10 and secretaries of the legislative fiscal committees. Any such amount
11 not committed by such authority to contracts or contracts to be awarded
12 or otherwise expended by the authority during the fiscal year shall be
13 refunded by such authority on a pro-rata basis to such gas and/or elec-
14 tric corporations, in a manner to be determined by the department of
15 public service.

16 § 2. This act shall take effect immediately and shall be deemed to
17 have been in full force and effect on and after April 1, 2017.

18 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
19 sion, section or part of this act shall be adjudged by any court of
20 competent jurisdiction to be invalid, such judgment shall not affect,
21 impair, or invalidate the remainder thereof, but shall be confined in
22 its operation to the clause, sentence, paragraph, subdivision, section
23 or part thereof directly involved in the controversy in which such judg-
24 ment shall have been rendered. It is hereby declared to be the intent of
25 the legislature that this act would have been enacted even if such
26 invalid provisions had not been included herein.

1 § 3. This act shall take effect immediately provided, however, that
2 the applicable effective date of Parts A through MM of this act shall be
3 as specifically set forth in the last section of such Parts.