

FY 2021 NEW YORK STATE EXECUTIVE BUDGET
TRANSPORTATION, ECONOMIC DEVELOPMENT AND
ENVIRONMENTAL CONSERVATION
ARTICLE VII LEGISLATION

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CONSERVATION
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CONTENTS

PART	DESCRIPTION	STARTING PAGE NUMBER
A	CHIPS Bidding Threshold Increase	9
B	Penalties for Oversized and Unauthorized Vehicles	10
C	HELP Trucks - Rear Facing Blue Lights	14
D	Slow Down and Look Out for Highway Workers and Pedestrians Act of 2020	17
E	Tandem Truck Access Routes - Thruway Cashless Tolling (AET/ORT)	26
F	Thruway Fiber Leases	31
G	Thruway and Bridge Authority Merger	32
H	Airport Safety	41
I	MTA Bond Cap Increase	45
J	Metropolitan Transportation Authority Procurement Reform	47
K	Metropolitan Transportation Authority Tax Increment Financing	56
L	Right of Way Clearance	57
M	Toll Enforcement	58
N	Metropolitan Transportation Authority Worker Assault	60

PART	DESCRIPTION	STARTING PAGE NUMBER
O	Metropolitan Transportation Authority Worker Harassment	62
P	Subway Sex Offender Ban	63
Q	Place Responsibility for Mailing a Copy of Service of Process on Plaintiffs Rather Than the Department of State	71
R	Extend for One Year the Authority of the Secretary of State to Charge Increased Fees for Expedited Handling of Documents	131
S	Pink Tax	131
T	Robocalls	136
U	Add "E Pluribus Unum" to the Arms of the State	174
V	Removing Unnecessary Barriers to Obtaining Occupational Licensing	176
W	Home Inspector Examination	186
X	Nuisance Fee Repeal	187
Y	To Authorize Utility and Cable Television Assessments that Provide Funds to the Department of Health from Cable Television Assessment Revenues and to the Departments of Agriculture and Markets, Environmental Conservation, and State, and the Office of Parks, Recreation and Historic Preservation from Utility Assessment Revenues	207
Z	To Authorize the Department of Public Service to Undertake Administrative Investigations of and Commence Enforcement Proceedings Against All Regulated Public Utility Corporations	210
AA	Establish Internet Neutrality Principles, Enforcement and Compliance Provisions in Public Service Law and Incorporate Internet Neutrality Principles into the State's Procurement Process	216
BB	Small Wireless Facilities Deployment	226
CC	Extend the Authorization of the Dormitory Authority of the State of New York to Form Subsidiaries	248
DD	Make the Infrastructure Investment Act Permanent	249

PART	DESCRIPTION	STARTING PAGE NUMBER
EE	Extend the Authorization of the New York State Urban Development Corporation to Administer the Empire State Economic Development Fund	256
FF	Extend the General Loan Powers of the New York State Urban Development Corporation	257
GG	Amend Economic Transformation Program Eligibility	257
HH	Authorize the New York State Energy Research and Development Authority to Finance a Portion of its Energy Research, Development and Demonstration Program, and its Energy Policy and Planning Program, as well as Climate Change Related Expenses of the Department of Environmental Conservation and the Department of Agriculture and Markets' Fuel NY Program, From an Assessment on Gas and Electric Corporations	258
II	Expand the Definition of "Immediate Family Member" in Farm Labor Statute	260
JJ	Amend General Municipal Law to Apply Federal Procurement Procedures and Discretionary Limits to Child Nutrition Programs as a Way to Increase the Purchase of Locally Produced Foods in New York Schools	262
KK	Assisting Low-Income Communities with Financing Water Infrastructure Improvements	263
LL	License Debt Collection Entities	263
MM	Stop Abuse and Deceptive Practices from Student Loan Debt Relief Companies	279
NN	Protecting New York Consumers from Unfair and Abusive Practices by Strengthening New York's Consumer Protection Law	288
OO	Fighting Elder Financial Fraud	293
PP	Ban Single-Use and Loose-fill Polystyrene Products	299
QQ	Authorize the \$3 Billion Environmental Bond Act of 2020 "Restore Mother Nature" to be Submitted for Voter Approval in November of 2020	303
RR	Implement the Environmental Bond Act of 2020 "Restore Mother Nature"	306
SS	Product Stewardship Program	312

PART	DESCRIPTION	STARTING PAGE NUMBER
TT	Improvements to the Freshwater Wetlands Regulatory Program	326
UU	Statutory Changes Necessary to Complete the Bay Park Conveyance Project	337
VV	Financial Security for the Plugging and Site Reclamation of Regulated Wells	358
WW	Amending the Environmental Conservation Law Relating to Ban Fracking	375
XX	E-Bikes	375
YY	Extend Authorization of Revenues and Costs for the DHBTF	393
ZZ	I-PIRP Extender	394
AAA	E-Scooters	395
BBB	Consolidation of the Centers of Excellence into the Centers for Advanced Technology Program	409
CCC	Authorize the New York Power Authority to Form a Pure Captive Insurance Company	419
DDD	Transfer of Pier 76 Tow Pound to the Hudson River Park	423
EEE	Make Permanent the New York Buy American Act	425
FFF	Require Prevailing Wage to be Paid on Certain Private Construction Projects	426
GGG	Establish the New York Digital Marketplace Worker Classification Task Force	439

Legislative Bill Drafting Commission
12673-01-0

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
2020-2021 state fiscal year)

BUDGBI. TED Executive

AN ACT

to amend the highway law and the
transportation law, in relation to
consolidated local highway assist-
ance payments (Part A); to amend the
vehicle and traffic law in relation
to penalties for commercial vehicles
on parkways and penalties for over-
height vehicles (Part B); to amend
the vehicle and traffic law, in
relation to the display of amber and

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	s02 Flanagan	s09 Kaminsky	s25 Montgomery	s23 Savino
s52 Akshar	s55 Funke	s07 Kaplan	s20 Myrie	s32 Sepulveda
s46 Amedore	s59 Gallivan	s26 Kavanagh	s58 O'Mara	s41 Serino
s36 Bailey	s05 Gaughran	s63 Kennedy	s62 Ortt	s29 Serrano
s30 Benjamin	s12 Gianaris	s28 Krueger	s21 Parker	s51 Seward
s34 Biaggi	s22 Gounardes	s24 Lanza	s19 Persaud	s39 Skoufis
s57 Borrello	s47 Griffo	s01 LaValle	s13 Ramos	s16 Stavisky
s04 Boyle	s40 Harckham	s45 Little	s61 Ranzzenhofer	s35 Stewart-
s44 Breslin	s54 Helming	s11 Liu	s48 Ritchie	Cousins
s08 Brooks	s27 Hoylman	s03 Martinez	s33 Rivera	s49 Tedisco
s38 Carlucci	s31 Jackson	s53 May	s56 Robach	s06 Thomas
s14 Comrie	s60 Jacobs	s37 Mayer	s18 Salazar	s50
s17 Felder	s43 Jordan	s42 Metzger	s10 Sanders	

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

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: in Assembly 2 copies of memorandum in support, in
Senate 4 copies of memorandum in support (single house); or 4 signed copies
of bill and 8 copies of memorandum in support (uni-bill).

blue lights on safety service patrol vehicles (Part C); to amend the penal law and the vehicle and traffic law, in relation to highway worker safety (Subpart A); to amend the vehicle and traffic law and the highway law, in relation to highway clearance (Subpart B); and to amend the vehicle and traffic law, in relation to increased fines for injury to pedestrians (Subpart C) (Part D); to amend the vehicle and traffic law, in relation to the maximum dimension of certain vehicles proceeding to and from the New York state thruway authority (Part E); to amend the public authorities law, in relation to agreements for fiber optics (Part F); to amend the public authorities law and the highway law, in relation to consolidation of the New York state bridge authority with the New York state thruway authority; and to repeal title 2 of article 3 of the public authorities law relating thereto (Part G); to amend the vehicle and traffic law, in relation to penalties for unlicensed operation of ground transportation to and from airports (Part H); to amend the public authorities law, in relation to setting the aggregate principal amount of bonds the Metropolitan transit authority, the Triborough bridge and tunnel authority and the New York city transit authority can issue (Part I); to amend the public authorities law, in relation to procurements conducted by the New York City transit authority and the metropolitan transportation authority; to amend part 00 of chapter 54 of the laws of 2016, amending the public authorities law relating to procurements by the New York City transit authority and the metropolitan transportation authority, in relation to the effectiveness thereof; and to repeal certain provisions of the public authorities law relating thereto (Part J); to amend chapter 54 of the laws of 2016 amending the general municipal law relating to the New York transit authority and the metropolitan transportation

authority, in relation to extending authorization for tax increment financing for the metropolitan transportation authority (Part K); to amend the public authorities law, in relation to providing the metropolitan transit authority the right to enter private property to trim trees and vegetation for safety purposes (Part L); to amend the penal law, in relation to including the intentional use of any toll highway, parkway, road, bridge or tunnel or entry into or remaining in a tolled central business district without payment of the lawful toll or charge as a theft of services; and to amend the vehicle and traffic law, in relation to 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 M); to amend the penal law, in relation to assaulting certain employees of a transit agency or authority (Part N); to amend the penal law, in relation to harassing certain employees of a transit agency or authority (Part O); to amend the penal law and the public authorities law, in relation to transit crimes and prohibition orders relating to such crimes (Part P); 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 Q); 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 effectiveness thereof (Part R); to amend the general business law, in relation to prohibiting gender discrimination within the pricing of consumer goods and services (Part S); to amend the general business law, in relation to telemarketing and to provide for caller identification transparency, call authentication, and call blocking services; and to repeal certain provisions of such law relating thereto (Part T); to amend the state law, in relation to making changes to the arms of the state (Part U); to amend the executive law, the real property law and the general business law, in relation to qualifications for appointment and employment (Part V); to amend the real property law, in relation to home inspection professional licensing (Part W); to amend the business corporation law, the executive law, the limited liability company law, the not-for-profit corporation law, and the partnership law, in relation to filing of certificates with the department of state; and repealing provisions of the business corporation law, the limited liability company law and the tax law related thereto (Part X); to authorize utility and cable television assessments that provide funds to the department of health from cable television assessment revenues and to the department of agriculture and markets, department of environmental conservation, department of state, and the office of parks, recreation and historic preservation from utility assessment revenues (Part Y); to amend the public service law, in relation to strengthening the oversight and enforcement mechanisms of the public service commission (Part Z); to amend the public service law, the state finance law, the public authorities law and the general business law, in relation to prohibiting internet service providers from preventing access to certain internet content or applications or

requiring users to pay to access certain internet content or applications (Part AA); to amend the general municipal law, in relation to authorizing municipal corporations to charge for use and occupancy of fiber-optic lines on municipally owned rights of way and establish a uniform process for the siting of small cell wireless facilities; and to amend the highway law, in relation to statewide master license agreements (Part BB); to amend chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, in relation to the effectiveness thereof (Part CC); to amend the infrastructure investment act, in relation to requiring certain contracts to comply with service-disabled veteran-owned business enterprises, negotiating prices in certain lump-sum contracts, referencing certain sections of law and providing for a date of repeal (Part DD); to amend the New York state urban development corporation act, in relation to extending the authority of the New York state urban development corporation to administer the empire state economic development fund (Part EE); 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 extending the general loan powers of the New York state urban development corporation (Part FF); to amend the economic development law, in relation to economic transformation program eligibility (Part GG); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY program, as well as climate change related expenses of the department of environmental conser-

vation and the department of agriculture and markets' Fuel NY program, from an assessment on gas and electric corporations (Part HH); to amend the labor law, in relation to the definitions of employer and immediate family member (Part II); to amend the general municipal law, in relation to discretionary spending and procurement procedures for school districts in relation to New York state products (Part JJ); to amend the public authorities law, in relation to the water pollution control revolving fund and the drinking water revolving fund (Part KK); to amend the banking law and the civil practice law and rules, in relation to licensing consumer debt collectors (Part LL); to amend the financial services law, in relation to licensing student debt relief consultants; and to amend the banking law, in relation to requiring fingerprinting for applications for a student loan servicer license (Part MM); to amend the financial services law and the insurance law, in relation to protecting New York consumers from unfair and abusive practices (Part NN); to amend the banking law, in relation to fighting elder financial fraud (Part OO); to amend the environmental conservation law, in relation to expanded polystyrene foam container and polystyrene loose fill packaging ban (Part PP); authorizing the creation of state debt in the amount of three billion dollars, in relation to creating the environmental bond act of 2020 "restore mother nature" for the purposes of environmental improvements that preserve, enhance, and restore New York's natural resources and reduce the impact of climate change by restoring habitats and reducing flood risk; improving water quality; protecting open space and investing in recreational infrastructure; expanding the use of renewable energy to mitigate climate change; and providing for the submission to the people of a proposition or question therefor to be voted upon at the general election

to be held in November, 2020 (Part QQ); to amend the environmental conservation law and the state finance law, in relation to the implementation of the environmental bond act of 2020 "restore mother nature" (Part RR); to amend the environmental conservation law, in relation to a product stewardship program; and to amend the state finance law, in relation to establishing the stewardship organization fund (Part SS); to amend the environmental conservation law, in relation to freshwater wetlands; and to repeal certain provisions of such law relating thereto (Part TT); to authorize the county of Nassau, to permanently and temporarily convey certain easements and to temporarily alienate certain parklands (Subpart A); to authorize the village of East Rockaway, county of Nassau, to permanently and temporarily convey certain easements and to temporarily alienate certain parklands (Subpart B); and to authorize the village of Rockville Centre, county of Nassau, to permanently and temporarily convey certain easements and to temporarily alienate certain parklands (Subpart C) (Part UU); to amend the environmental conservation law, in relation to financial security for the plugging and site reclamation of regulated wells (Part VV); to amend the environmental conservation law, in relation to banning fracking (Part WW); to amend the vehicle and traffic law, in relation to bicycles with electric assist (Part XX); to amend chapter 62 of the laws of 2003, amending the vehicle and traffic law and other laws relating to increasing certain motor vehicle transaction fees, in relation to the effectiveness thereof; and to amend chapter 84 of the laws of 2002, amending the state finance law relating to the costs of the department of motor vehicles, in relation to the effectiveness thereof (Part YY); to amend chapter 751 of the laws of 2005, amending the insurance law and the vehicle and traffic law relating to establishing

the accident prevention course internet technology pilot program, in relation to extending the effectiveness thereof (Part ZZ); to amend the vehicle and traffic law, in relation to the regulation of the use of electric scooters (Part AAA); to amend the public authorities law, in relation to the centers for advanced technology program; and to repeal section 410 of the economic development law relating to the centers for excellence program (Part BBB); to amend the insurance law, the public authorities law and the tax law, in relation to authorizing the power authority of the state of New York to form a pure captive insurance company (Part CCC); to amend the Hudson river park act, in relation to Pier 76 (Part DDD); to amend the New York Buy American Act, in relation to the report to be provided and to making such provisions permanent (Part EEE); to amend the labor law, in relation to prevailing wage requirements (Part FFF); and to amend the labor law, in relation to classification of digital marketplace workers; and to establish the New York digital marketplace worker classification task force (Part GGG)

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 2020-2021
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through GGG. The effective date for each partic-
5 ular provision contained within such Part is set forth in the last
6 section of such Part. Any provision in any section contained within a
7 Part, including the effective date of the Part, which makes a reference
8 to a section "of this act", when used in connection with that particular
9 component, shall be deemed to mean and refer to the corresponding
10 section of the Part in which it is found. Section three of this act sets
11 forth the general effective date of this act.

12 PART A

13 Section 1. Paragraph (e) of subdivision 4 of section 10-c of the high-
14 way law, as amended by section 2 of subpart B of part C of chapter 97 of
15 the laws of 2011, is amended to read as follows:

16 (e) Funds allocated for local street or highway projects under this
17 subdivision shall be used to undertake work on a project either with the
18 municipality's own forces or by contract, provided however, that whenever
19 the estimate for the construction contract work exceeds one hundred
20 thousand dollars but does not exceed [two] seven hundred fifty thousand
21 dollars such work must be performed either with the municipality's own
22 forces or by contract let by competitive bid in accordance with the
23 provisions of section one hundred three of the general municipal law and
24 provided further, however, that whenever the estimate for the
25 construction contract work exceeds [two] seven hundred fifty thousand
26 dollars such work must be performed by contract let by competitive bid

1 in accordance with the provisions of section one hundred three of the
2 general municipal law.

3 § 2. Subdivision 6 of section 234 of the transportation law, as
4 amended by chapter 369 of the laws of 1979, is amended to read as
5 follows:

6 6. for local street or highway projects, to undertake the work of the
7 project either with its own forces or by contract, however, whenever the
8 estimate for the construction contract work exceeds seven hundred fifty
9 thousand dollars such work must be performed by contract let by the
10 competitive bid process.

11 § 3. This act shall take effect immediately.

12 PART B

13 Section 1. Subdivisions (g) and (h) of section 1800 of the vehicle and
14 traffic law, as added by chapter 221 of the laws of 2008, are amended to
15 read as follows:

16 (g) Notwithstanding the provisions of subdivisions (b) and (c) of this
17 section, a person convicted of a traffic infraction for a violation of
18 any ordinance, order, rule, regulation or local law adopted pursuant to
19 one or more of the following provisions of this chapter: paragraphs two
20 and nine of subdivision (a) of section sixteen hundred twenty-one;
21 subdivision three of section sixteen hundred thirty; or subdivision five
22 of section seventy-one of the transportation law, prohibiting the opera-
23 tion on a highway or parkway of a motor vehicle registered as a commer-
24 cial vehicle and having a gross vehicle weight rating of less than
25 [twenty-six] ten thousand pounds shall, for a first conviction thereof,
26 be punished by a fine of not more than two hundred fifty dollars or by

1 imprisonment of not more than fifteen days or by both such fine and
2 imprisonment; for a conviction of a second violation, both of which were
3 committed within a period of eighteen months, such person shall be
4 punished by a fine of not more than five hundred dollars or by imprison-
5 ment for not more than forty-five days or by both such fine and impri-
6 sonment; upon a conviction of a third or subsequent violation, all of
7 which were committed within a period of eighteen months, such person
8 shall be punished by a fine of not more than seven hundred fifty dollars
9 or by imprisonment of not more than ninety days or by both such fine and
10 imprisonment. Provided, however, the provisions of this subdivision
11 shall not apply to a commercial motor vehicle as such term is defined in
12 paragraph (a) of subdivision four of section five hundred one-a of this
13 chapter.

14 (h) Notwithstanding the provisions of subdivisions (b) and (c) of this
15 section, a person convicted of a traffic infraction for a violation of
16 any ordinance, order, rule, regulation or local law adopted pursuant to
17 one or more of the following provisions of this chapter: paragraphs two
18 and nine of subdivision (a) of section sixteen hundred twenty-one;
19 subdivision three of section sixteen hundred thirty; or subdivision five
20 of section seventy-one of the transportation law, prohibiting the opera-
21 tion on a highway or parkway of a motor vehicle registered as a commer-
22 cial vehicle and having a gross vehicle weight rating of at least ten
23 thousand pounds but no more than twenty-six thousand pounds shall, for a
24 first conviction thereof, be punished by a fine of not more than one
25 thousand dollars or by imprisonment of not more than fifteen days or by
26 both such fine and imprisonment; for a conviction of a second violation,
27 both of which were committed within a period of eighteen months, such
28 person shall be punished by a fine of not more than fifteen hundred

1 dollars or by imprisonment for not more than forty-five days or by both
2 such fine and imprisonment; upon a conviction of a third or subsequent
3 violation, all of which were committed within a period of eighteen
4 months, such person shall be punished by a fine of not more than two
5 thousand five hundred dollars or by imprisonment of not more than ninety
6 days or by both such fine and imprisonment; provided, however, the
7 provisions of this subdivision shall not apply to a commercial motor
8 vehicle as such term is defined in paragraph (a) of subdivision four of
9 section five hundred one-a of this chapter.

10 (i) Notwithstanding the provisions of subdivisions (b) and (c) of this
11 section, a person convicted of a traffic infraction for a violation of
12 any ordinance, order, rule, regulation or local law adopted pursuant to
13 one or more of the following provisions of this chapter: paragraphs two
14 and nine of subdivision (a) of section sixteen hundred twenty-one;
15 subdivision three of section sixteen hundred thirty; or subdivision five
16 of section seventy-one of the transportation law, prohibiting the opera-
17 tion on a highway or parkway of a commercial motor vehicle as defined in
18 paragraph (a) of subdivision four of section five hundred one-a of this
19 chapter, for a first conviction thereof, be punished by a fine of not
20 more than [three hundred fifty] five thousand dollars or by imprisonment
21 of not more than fifteen days or by both such fine and imprisonment; for
22 a conviction of a second violation, both of which were committed within
23 a period of eighteen months, such person shall be punished by a fine of
24 not more than seven thousand five hundred dollars or by imprisonment for
25 not more than forty-five days or by both such fine and imprisonment;
26 upon a conviction of a third or subsequent violation, all of which were
27 committed within a period of eighteen months, such person shall be
28 punished by a fine of not more than [one] ten thousand dollars or by

1 imprisonment of not more than ninety days or by both such fine and
2 imprisonment. In addition to the penalties provided for in this subdivi-
3 sion, the registration of the vehicle may be suspended for a period not
4 to exceed one year whether at the time of the violation the vehicle was
5 in charge of the owner or his agent. The provisions of section five
6 hundred ten of this chapter shall apply to such suspension except as
7 otherwise provided herein.

8 § 2. Subdivision 18 of section 385 of the vehicle and traffic law, as
9 amended by chapter 549 of the laws of 1985, is amended, and a new subdivi-
10 sion 18-a is added, to read as follows:

11 18. Except as provided in subdivision eighteen-a or nineteen of this
12 section, the violation of the provisions of this section including a
13 violation related to the operation, within a city not wholly included
14 within one county, of a vehicle which exceeds the limitations provided
15 for in the rules and regulations of the city department of transporta-
16 tion of such city, shall be punishable by a fine of not less than two
17 hundred nor more than five hundred dollars, or by imprisonment for not
18 more than thirty days, or by both such fine and imprisonment, for the
19 first offense; by a fine of not less than five hundred nor more than one
20 thousand dollars, or by imprisonment for not more than sixty days, or by
21 both such fine and imprisonment, for the second or subsequent offense;
22 provided that a sentence or execution thereof for any violation under
23 this subdivision may not be suspended. For any violation of the
24 provisions of this section, including a violation related to the opera-
25 tion, within a city not wholly included within one county, of a vehicle
26 which exceeds the limitations provided for in the rules and regulations
27 of the city department of transportation of such city, the registration
28 of the vehicle may be suspended for a period not to exceed one year

1 whether at the time of the violation the vehicle was in charge of the
2 owner or his agent. The provisions of section five hundred ten of this
3 chapter shall apply to such suspension except as otherwise provided
4 herein.

5 18-a. A violation of the provisions of subdivision two or fourteen of
6 this section, where the violation relates to the height of the vehicle,
7 including a violation related to the operation, within a city not wholly
8 included within one county, of a vehicle which exceeds the limitations
9 provided for in the rules and regulations of the city department of
10 transportation of such city, shall be punishable by a fine of not more
11 than five thousand dollars, or by imprisonment for not more than thirty
12 days, or by both such fine and imprisonment, for the first offense; by a
13 fine of not more than seven thousand five hundred dollars, or by impri-
14 sonment for not more than sixty days, or by both such fine and imprison-
15 ment, for the second or subsequent offense; provided that a sentence or
16 execution thereof for any violation under this subdivision may not be
17 suspended. For any violation of the provisions of this section, includ-
18 ing a violation related to the operation, within a city not wholly
19 included within one county, of a vehicle which exceeds the limitations
20 provided for in the rules and regulations of the city department of
21 transportation of such city, the registration of the vehicle may be
22 suspended for a period not to exceed one year whether at the time of the
23 violation the vehicle was in charge of the owner or his agent. The
24 provisions of section five hundred ten of this chapter shall apply to
25 such suspension except as otherwise provided herein.

26 § 3. This act shall take effect immediately.

1 Section 1. The vehicle and traffic law is amended by adding a new
2 section 141-c to read as follows:

3 § 141-c. Safety service patrol vehicle. A vehicle designated by the
4 commissioner of transportation to provide highway incident management
5 and motorist assistance by, among other things, clearing highways of
6 disabled and damaged vehicles; permanently or temporarily repairing
7 disabled or damaged vehicles; clearing small debris resulting from minor
8 accidents or vehicle repair; and assisting emergency responders with
9 traffic control at highway incidents.

10 § 2. Subparagraphs a and c of paragraph 4 of subdivision 41 of section
11 375 of the vehicle and traffic law, as amended by chapter 465 of the
12 laws of 2010, are amended to read as follows:

13 a. One blue light may be affixed to any motor vehicle owned by a
14 volunteer member of a fire department or on a motor vehicle owned by a
15 member of such person's family residing in the same household or by a
16 business enterprise in which such person has a proprietary interest or
17 by which he or she is employed, provided such volunteer firefighter has
18 been authorized in writing to so affix a blue light by the chief of the
19 fire department or company of which he or she is a member, which author-
20 ization shall be subject to revocation at any time by the chief who
21 issued the same or his or her successor in office. Such blue light may
22 be displayed exclusively by such volunteer firefighter on such a vehicle
23 only when engaged in an emergency operation. The use of blue lights on
24 vehicles shall be restricted for use only by a volunteer firefighter
25 except as otherwise provided for in [subparagraph] subparagraphs b and
26 b-1 of this paragraph.

1 c. The commissioner is authorized to promulgate rules and regulations
2 relating to the use, placement, power and display of blue lights on a
3 police vehicle [and], fire vehicle and safety patrol vehicle.

4 § 3. Paragraph 4 of subdivision 41 of section 375 of the vehicle and
5 traffic law is amended by adding a new subparagraph b-1 to read as
6 follows:

7 b-1. In addition to the amber light authorized to be displayed pursu-
8 ant to paragraph three of this subdivision, one or more blue lights or
9 combination blue and amber lights may be affixed to a safety service
10 patrol vehicle provided that such blue light or lights shall be
11 displayed for rear projection only. Such blue light or lights may be
12 displayed on a safety service patrol vehicle when such vehicle is also
13 displaying amber light or lights pursuant to paragraph three of this
14 subdivision. Nothing contained in this subparagraph shall be deemed to
15 authorize the use of blue lights on a safety service patrol vehicles
16 unless such safety service patrol vehicles also display one or more
17 amber lights as otherwise authorized in this subdivision.

18 § 4. Subdivision (b) of section 1144-a of the vehicle and traffic law,
19 as amended by chapter 458 of the laws of 2011, is amended to to read as
20 follows:

21 (b) Every operator of a motor vehicle shall exercise due care to avoid
22 colliding with a hazard vehicle which is parked, stopped or standing on
23 the shoulder or on any portion of such highway and such hazard vehicle
24 is displaying one or more amber lights pursuant to the provisions of
25 paragraph three of subdivision forty-one of section three hundred seven-
26 ty-five of this chapter or, if such hazard vehicle is a safety service
27 patrol vehicle, such vehicle is displaying one or more amber lights or
28 one or more blue or combination blue and amber lights pursuant to the

1 provisions of paragraph three or subparagraph b-1 of paragraph four, as
2 applicable, of subdivision forty-one of section three hundred seventy-
3 five of this chapter. For operators of motor vehicles on parkways or
4 controlled access highways, such due care shall include, but not be
5 limited to, moving from a lane which contains or is immediately adjacent
6 to the shoulder where (i) such hazard vehicle displaying one or more
7 amber lights pursuant to the provisions of paragraph three of subdivi-
8 sion forty-one of section three hundred seventy-five of this chapter or
9 (ii) such safety service patrol vehicle displaying one or more amber
10 lights or one or more blue or combination and amber lights pursuant to
11 the provisions of paragraph three or subparagraph b-1 of paragraph four,
12 as applicable, of subdivision forty-one of section three hundred seven-
13 ty-five of this chapter, is parked, stopped or standing to another lane,
14 provided that such movement otherwise complies with the requirements of
15 this chapter including, but not limited to, the provisions of sections
16 eleven hundred ten and eleven hundred twenty-eight of this title.

17 § 5. This act shall take effect on the one hundred eightieth day after
18 it shall have become a law.

19 PART D

20 Section 1. This act enacts into law components of legislation which
21 are necessary to implement legislation relating to enacting the slow
22 down and look out for highway workers and pedestrians act of 2020. Each
23 component is wholly contained within a Subpart identified as Subparts A
24 through C. The effective date for each particular provision contained
25 within such Subpart is set forth in the last section of such Subpart.
26 Any provision in any section contained within a Subpart, including the

1 effective date of the Subpart, which makes a reference to a section "of
2 this act", when used in connection with that particular component, shall
3 be deemed to mean and refer to the corresponding section of the Subpart
4 in which it is found. Section three of this act sets forth the general
5 effective date of this act.

6 SUBPART A

7 Section 1. Subdivisions 3 and 11 of section 120.05 of the penal law,
8 subdivision 3 as amended by chapter 267 of the laws of 2016, and subdivi-
9 sion 11 as separately amended by chapters 268 and 281 of the laws of
10 2016, are amended to read as follows:

11 3. With intent to prevent a peace officer, a police officer, prosecu-
12 tor as defined in subdivision thirty-one of section 1.20 of the criminal
13 procedure law, registered nurse, licensed practical nurse, public health
14 sanitarian, New York city public health sanitarian, sanitation enforce-
15 ment agent, New York city sanitation worker, a firefighter, including a
16 firefighter acting as a paramedic or emergency medical technician admin-
17 istering first aid in the course of performance of duty as such fire-
18 fighter, an emergency medical service paramedic or emergency medical
19 service technician, or medical or related personnel in a hospital emer-
20 gency department, a city marshal, a school crossing guard appointed
21 pursuant to section two hundred eight-a of the general municipal law, a
22 traffic enforcement officer, traffic enforcement agent, a highway worker
23 as defined in section one hundred eighteen-a of the vehicle and traffic
24 law, a motor vehicle inspector and motor carrier investigator as defined
25 in section one hundred eighteen-b of the vehicle and traffic law, or
26 employee of any entity governed by the public service law in the course

1 of performing an essential service, from performing a lawful duty, by
2 means including releasing or failing to control an animal under circum-
3 stances evincing the actor's intent that the animal obstruct the lawful
4 activity of such peace officer, police officer, prosecutor as defined in
5 subdivision thirty-one of section 1.20 of the criminal procedure law,
6 registered nurse, licensed practical nurse, public health sanitarian,
7 New York city public health sanitarian, sanitation enforcement agent,
8 New York city sanitation worker, firefighter, paramedic, technician,
9 city marshal, school crossing guard appointed pursuant to section two
10 hundred eight-a of the general municipal law, traffic enforcement offi-
11 cer, traffic enforcement agent, highway worker as defined by section one
12 hundred eighteen-a of the vehicle and traffic law, motor vehicle inspec-
13 tor and motor carrier investigator as defined in section one hundred
14 eighteen-b of the vehicle and traffic law, or employee of an entity
15 governed by the public service law, he or she causes physical injury to
16 such peace officer, police officer, prosecutor as defined in subdivision
17 thirty-one of section 1.20 of the criminal procedure law, registered
18 nurse, licensed practical nurse, public health sanitarian, New York city
19 public health sanitarian, sanitation enforcement agent, New York city
20 sanitation worker, firefighter, paramedic, technician or medical or
21 related personnel in a hospital emergency department, city marshal,
22 school crossing guard, traffic enforcement officer, traffic enforcement
23 agent, highway worker as defined by section eighteen-a of the vehicle
24 and traffic law, motor vehicle inspector and motor carrier investigator
25 as defined in section one hundred eighteen-b of the vehicle and traffic
26 law, or employee of an entity governed by the public service law; or
27 11. With intent to cause physical injury to a train operator, ticket
28 inspector, conductor, signalperson, bus operator, station agent, station

1 cleaner or terminal cleaner employed by any transit agency, authority or
2 company, public or private, whose operation is authorized by New York
3 state or any of its political subdivisions, a city marshal, a school
4 crossing guard appointed pursuant to section two hundred eight-a of the
5 general municipal law, a traffic enforcement officer, traffic enforce-
6 ment agent, a highway worker as defined in section one hundred eigh-
7 teen-a of the vehicle and traffic law, a motor vehicle inspector and
8 motor carrier investigator as defined in section one hundred eighteen-b
9 of the vehicle and traffic law, prosecutor as defined in subdivision
10 thirty-one of section 1.20 of the criminal procedure law, sanitation
11 enforcement agent, New York city sanitation worker, public health sani-
12 tarian, New York city public health sanitarian, registered nurse,
13 licensed practical nurse, emergency medical service paramedic, or emer-
14 gency medical service technician, he or she causes physical injury to
15 such train operator, ticket inspector, conductor, signalperson, bus
16 operator, station agent, station cleaner or terminal cleaner, city
17 marshal, school crossing guard appointed pursuant to section two hundred
18 eight-a of the general municipal law, traffic enforcement officer, traf-
19 fic enforcement agent, highway worker as defined in section one hundred
20 eighteen-a of the vehicle and traffic law, motor vehicle inspector and
21 motor carrier investigator as defined in section one hundred eighteen-b
22 of the vehicle and traffic law, prosecutor as defined in subdivision
23 thirty-one of section 1.20 of the criminal procedure law, registered
24 nurse, licensed practical nurse, public health sanitarian, New York city
25 public health sanitarian, sanitation enforcement agent, New York city
26 sanitation worker, emergency medical service paramedic, or emergency
27 medical service technician, while such employee is performing an
28 assigned duty on, or directly related to, the operation of a train or

1 bus, including the cleaning of a train or bus station or terminal, or
2 such city marshal, school crossing guard, traffic enforcement officer,
3 traffic enforcement agent, highway worker as defined by section one
4 hundred eighteen-a of the vehicle and traffic law, motor vehicle inspec-
5 tor and motor carrier investigator as defined in section one hundred
6 eighteen-b of the vehicle and traffic law, prosecutor as defined in
7 subdivision thirty-one of section 1.20 of the criminal procedure law,
8 registered nurse, licensed practical nurse, public health sanitarian,
9 New York city public health sanitarian, sanitation enforcement agent,
10 New York city sanitation worker, emergency medical service paramedic, or
11 emergency medical service technician is performing an assigned duty; or

12 § 2. The penal law is amended by adding a new section 120.19 to read
13 as follows:

14 § 120.19 Menacing a highway worker.

15 A person is guilty of menacing a highway worker when he or she inten-
16 tionally places or attempts to place a highway worker in reasonable fear
17 of death, imminent serious physical injury or physical injury. For
18 purposes of this section, a highway worker shall have the same meaning
19 as defined by section one hundred eighteen-a of the vehicle and traffic
20 law.

21 Menacing a highway worker is a class E felony.

22 § 3. The vehicle and traffic law is amended by adding two new sections
23 118-a and 118-b to read as follows:

24 § 118-a. Highway worker. Any person employed by or on behalf of the
25 state, a county, city, town or village, a public authority, a local
26 authority, or a public utility company, or the agent or contractor of
27 any such entity, who has been assigned to perform work on a highway,
28 including maintenance, repair, flagging, utility work, construction,

1 reconstruction or operation of equipment on public highway infrastruc-
2 ture and associated rights-of-way in highway work areas, and shall also
3 include any flagperson as defined in section one hundred fifteen-b of
4 this article.

5 § 118-b. Motor vehicle inspector and motor carrier investigator. Any
6 person employed by the New York state department of transportation who
7 has been assigned to perform inspections of any motor vehicles or inves-
8 tigation of any carriers regulated by the commissioner of the department
9 of transportation.

10 § 4. Paragraph b of subdivision 2 of section 510 of the vehicle and
11 traffic law is amended by adding a new subparagraph (xviii) to read as
12 follows:

13 (xviii) for a period of six months where the holder is convicted of
14 the crime of assault in the first, second, or third degree, menacing a
15 highway worker, or menacing in the first, second, or third degree, as
16 defined by article one hundred twenty of the penal law, where such
17 offense was committed against a highway worker.

18 § 5. The vehicle and traffic law is amended by adding a new section
19 1221-a to read as follows:

20 § 1221-a. Intrusion into an active work zone. 1. No driver of a vehi-
21 cle shall enter or intrude into an active work zone except upon direc-
22 tion from a flagperson, police officer, or other visibly designated
23 person in charge of traffic control or upon direction from a traffic
24 control device regulating entry therein. For purposes of this section,
25 the term "active work zone" shall mean the physical area of a highway,
26 street, or private road on which construction, maintenance, or utility
27 work is being conducted, which is marked by signs, channeling devices,

1 barriers, pavement markings, or work vehicles, and where workers are
2 physically present.

3 2. A violation of subdivision one of this section shall constitute a
4 class B misdemeanor punishable by a fine of not less than two hundred
5 fifty dollars, nor more than five hundred dollars or by a period of
6 imprisonment not to exceed three months, or by both such fine and impri-
7 sonment.

8 § 6. The vehicle and traffic law is amended by adding a new section
9 1221-b to read as follows:

10 § 1221-b. Work zone safety and outreach. The governor's traffic safety
11 committee, upon consultation with the commissioner of transportation,
12 the superintendent of state police, the commissioner, the chairman of
13 the New York state thruway authority, local law enforcement agencies,
14 and representatives for contractors and laborers, shall design and
15 implement a public education and outreach program to increase motorist
16 awareness of the importance of highway work zone safety, to reduce the
17 number of work zone incidents, including speeding, unauthorized intru-
18 sions into work zones, and any conduct resulting in threats or injuries
19 to highway workers, and to increase and promote work zone safety.

20 § 7. This act shall take effect on the one hundred eightieth day after
21 it shall have become a law.

22 SUBPART B

23 Section 1. Subdivision 1 of section 600 of the vehicle and traffic law
24 is amended by adding a new paragraph c to read as follows:

25 c. Any person operating a motor vehicle involved in an accident not
26 involving personal injury or death who moves such vehicle to a location

1 off the roadway but as near as possible to the place where the damage
2 occurred, so as not to obstruct the regular flow of traffic, shall not
3 be construed to be in violation of this subdivision because of such
4 movement.

5 § 2. Subdivision 2 of section 15 of the highway law, as amended by
6 chapter 1110 of the laws of 1971, is amended to read as follows:

7 2. The commissioner [of transportation], a police officer, or any
8 person acting at the discretion of the commissioner or a police officer
9 shall have the power to cause the immediate removal, from the right of
10 way of any state highway, of any vehicle, cargo, or debris which
11 obstructs or interferes with the use of such a highway for public trav-
12 el; or which obstructs or interferes with the construction, recon-
13 struction or maintenance of such a highway; or which obstructs or inter-
14 feres with the clearing or removal of snow or ice from such a highway;
15 or which obstructs or interferes with any operation of the department of
16 transportation during a public emergency. The commissioner, a police
17 officer, or any person acting at the discretion of the commissioner or a
18 police officer, shall not be liable for any damage to such vehicle,
19 cargo, or debris, unless such removal was carried out in a reckless or
20 grossly negligent manner. For the purposes of this subdivision, the term
21 "police officer" shall have the same meaning as defined by subdivision
22 thirty-four of section 1.20 of the criminal procedure law.

23 § 3. This act shall take effect immediately.

1 Section 1. Paragraph 1 of subdivision (b) of section 1146 of the vehi-
2 cle and traffic law, as amended by chapter 333 of the laws of 2010, is
3 amended to read as follows:

4 1. A driver of a motor vehicle who causes physical injury as defined
5 in article ten of the penal law to a pedestrian or bicyclist while fail-
6 ing to exercise due care in violation of subdivision (a) of this
7 section, shall be guilty of a traffic infraction punishable by a fine of
8 not more than [five hundred] one thousand dollars or by imprisonment for
9 not more than fifteen days or by both such fine and imprisonment.

10 § 2. Paragraph 1 of subdivision (c) of section 1146 of the vehicle and
11 traffic law, as amended by chapter 333 of the laws of 2010, is amended
12 to read as follows:

13 1. A driver of a motor vehicle who causes serious physical injury as
14 defined in article ten of the penal law to a pedestrian or bicyclist
15 while failing to exercise due care in violation of subdivision (a) of
16 this section, shall be guilty of a traffic infraction punishable by a
17 fine of not more than [seven hundred fifty] one thousand five hundred
18 dollars or by imprisonment for not more than fifteen days or by required
19 participation in a motor vehicle accident prevention course pursuant to
20 paragraph (e-1) of subdivision two of section 65.10 of the penal law or
21 by any combination of such fine, imprisonment or course, and by suspen-
22 sion of a license or registration pursuant to subparagraph (xiv) or (xv)
23 of paragraph b of subdivision two of section five hundred ten of this
24 chapter.

25 § 3. This act shall take effect on the one hundred eightieth day after
26 it shall have become a law.

27 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
28 sion, section, subpart or part of this act shall be adjudged by a court

1 of competent jurisdiction to be invalid, such judgment shall not affect,
2 impair, or invalidate the remainder thereof, but shall be confined in
3 its operation to the clause, sentence, paragraph, subdivision, section,
4 subpart or part thereof directly involved in the controversy in which
5 such judgment shall have been rendered. It is hereby declared to be the
6 intent of the legislature that this act would have been enacted even if
7 such invalid provisions had not been included herein.

8 § 3. This act shall take effect immediately, provided, however, that
9 the applicable effective date of Subparts A through C of this act shall
10 be as specifically set forth in the last section of such Subparts.

11 PART E

12 Section 1. Subdivision 16 of section 385 of the vehicle and traffic
13 law is amended to add fourteen new paragraphs (v), (w), (x), (y), (z),
14 (aa), (bb), (cc), (dd), (ee), (ff), (gg), (hh) and (ii) to read as
15 follows:

16 (v) Within a distance of approximately one mile from the New York
17 state thruway interchange 24 traveling along interstate route 90 to
18 interchange 2 Washington avenue, and to Washington avenue traveling
19 westbound to Fuller road in a northerly direction to interstate route 90
20 traveling to interchange 24 of the New York state thruway, where the
21 commissioner of transportation determines that the vehicle or combina-
22 tion of vehicles could operate safely along the designated route and
23 that no applicable federal law, regulation or other requirement prohib-
24 its the operation of such vehicle or combination of vehicles on such
25 route.

1 (w) Within a distance of approximately .25 miles from the New York
2 state thruway interchange 25A, traveling in a westbound direction along
3 interstate route 88 to exit 25 to route 7, and to a left on Becker road
4 traveling in a southbound direction on Becker road for approximately .2
5 miles to the New York state thruway interchange 25A tandem lot access
6 road, where the commissioner of transportation determines that the vehi-
7 cle or combination of vehicles could operate safely along the designated
8 route and that no applicable federal law, regulation or other require-
9 ment prohibits the operation of such vehicle or combination of vehicles
10 on such route.

11 (x) Within a distance of approximately 2.2 miles from the New York
12 state thruway interchange 34A traveling in a southbound direction along
13 interstate route 481 to interstate 481 exit 5E Kirkville road east along
14 state route 53 Kirkville road in an eastbound direction to interstate
15 route 481 traveling northbound to exit 6 to interchange 34A of the New
16 York state thruway, where the commissioner of transportation determines
17 that the vehicle or combination of vehicles could operate safely along
18 the designated route and that no applicable federal law, regulation or
19 other requirement prohibits the operation of such vehicle or combination
20 of vehicles on such route.

21 (y) Within a distance of approximately .8 miles from the New York
22 state thruway interchange 35, traveling approximately 200 feet around
23 Carrier circle to traveling northbound on Thompson road for approximate-
24 ly 1000 feet, or traveling southbound on Thompson road approximately 100
25 feet, to traveling westbound on Tarbell road for approximately .5 miles
26 to reenter at the Dewitt service area of the New York state thruway
27 where the commissioner of transportation determines that the vehicle or
28 combination of vehicles could operate safely along the designated route

1 and that no applicable federal law, regulation or other requirement
2 prohibits the operation of such vehicle or combination of vehicles on
3 such route.

4 (z) Within a distance of approximately one mile from the New York
5 state thruway interchange 36 traveling in a southbound direction on
6 interstate 81 to interstate 81 exit 25 7th North street, and traveling
7 eastbound on 7th North street to interstate 81 traveling in a northbound
8 direction to interchange 36 of the New York state thruway, where the
9 commissioner of transportation determines that the vehicle or combina-
10 tion of vehicles could operate safely along the designated route and
11 that no applicable federal law, regulation or other requirement prohib-
12 its the operation of such vehicle or combination of vehicles on such
13 route.

14 (aa) Within a distance of approximately .6 miles from the New York
15 state thruway interchange 39 traveling eastbound on interstate 690 to
16 interstate 690 exit 2 Jones road in a northbound direction to state
17 route 690 north to interchange 39 of the New York state thruway, where
18 the commissioner of transportation determines that the vehicle or combi-
19 nation of vehicles could operate safely along the designated route and
20 that no applicable federal law, regulation or other requirement prohib-
21 its the operation of such vehicle or combination of vehicles on such
22 route.

23 (bb) Within a distance of approximately .5 miles from the New York
24 state thruway interchange 45, traveling on interstate 490 to interstate
25 490 exit 29, in a southwesterly direction along New York state route 96
26 to the point where New York state route 96 intersects with the entrance
27 ramp to the New York state thruway interchange 45, and for approximately
28 .2 miles along this entrance ramp to the New York state thruway inter-

1 change 45, where the commissioner of transportation determines that the
2 vehicle or combination of vehicles could operate safely along the desig-
3 nated route and that no applicable federal law, regulation or other
4 requirement prohibits the operation of such vehicle or combination of
5 vehicles on such route.

6 (cc) Within a distance of approximately .6 miles from the New York
7 state thruway interchange 46, traveling in a northeasterly direction on
8 the ramp from the New York state thruway interchange 46 to interstate
9 390 north exit to New York state route 253, Lehigh Station road, for a
10 distance of approximately .5 miles along the ramp from interstate 390
11 north exit to New York state route 253, Lehigh Station road, for a
12 distance of approximately .6 miles in a westerly direction along New
13 York state route 253, Lehigh Station road, to the intersection of New
14 York state route 253 with New York state route 15, then for a distance
15 of approximately .6 miles in a southerly direction along New York state
16 route 15, to the New York state thruway interchange 46 maintenance
17 facility entrance, where the commissioner of transportation determines
18 that the vehicle or combination of vehicles could operate safely along
19 the designated route and that no applicable federal law, regulation or
20 other requirement prohibits the operation of such vehicle or combination
21 of vehicles on such route.

22 (dd) Within a distance of approximately .3 miles from the New York
23 state thruway interchange 47, traveling on interstate 490 to interstate
24 490 exit 1, to a distance of approximately .2 miles along the ramp from
25 interstate 490 exit 1, for a distance of approximately .4 miles in a
26 southwesterly direction to the entrance ramp of the New York state thru-
27 way interchange 47, where the commissioner of transportation determines
28 that the vehicle or combination of vehicles could operate safely along

1 the designated route and that no applicable federal law, regulation or
2 other requirement prohibits the operation of such vehicle or combination
3 of vehicles on such route.

4 (ee) Within a distance of approximately .6 miles from the New York
5 state thruway interchange 19, traveling in a westbound direction along
6 route 28 to route 209, and traveling in a southbound direction on route
7 209 for approximately .1 miles to route 28, and traveling in an east-
8 bound direction on route 28 for approximately .8 miles to the New York
9 state thruway interchange 19 where the commissioner of transportation
10 determines that the vehicle or combination of vehicles could operate
11 safely along the designated route and that no applicable federal law,
12 regulation or other requirement prohibits the operation of such vehicle
13 or combination of vehicles on such route.

14 (ff) Within a distance of approximately .5 miles from the New York
15 state thruway interchange 31, traveling onto the ramp to Genesee street
16 south for approximately 2800 feet to Genesee street north for approxi-
17 mately 275 feet to interchange 31 of the New York state thruway where
18 the commissioner of transportation determines that the vehicle or combi-
19 nation of vehicles could operate safely along the designated route and
20 that no applicable federal law, regulation or other requirement prohib-
21 its the operation of such vehicle or combination of vehicles on such
22 route.

23 (gg) Within a distance of approximately .2 miles from the New York
24 state thruway interchange 33 traveling westbound on state route 365 for
25 approximately 900 feet to interchange 33 of the New York state thruway
26 where the commissioner of transportation determines that the vehicle or
27 combination of vehicles could operate safely along the designated route
28 and that no applicable federal law, regulation or other requirement

1 prohibits the operation of such vehicle or combination of vehicles on
2 such route.

3 (hh) Within a distance of approximately .15 miles from the New York
4 state thruway interchange 42 traveling on state route 14 for approxi-
5 mately 750 feet for travel to and from the thruway tandem lot and inter-
6 change 42 where the commissioner of transportation determines that the
7 vehicle or combination of vehicles could operate safely along the desig-
8 nated route and that no applicable federal law, regulation or other
9 requirement prohibits the operation of such vehicle or combination of
10 vehicles on such route .

11 (ii) Within a distance of approximately .1 miles from the New York
12 state interchange 43 traveling on state route 21 for approximately 600
13 feet for travel to and from the thruway tandem lot and interchange 43
14 where the commissioner of transportation determines that the vehicle or
15 combination of vehicles could operate safely along the designated route
16 and that no applicable federal law, regulation or other requirement
17 prohibits the operation of such vehicle or combination of vehicles on
18 such route.

19 § 2. This act shall take effect immediately.

20 PART F

21 Section 1. Paragraph a of subdivision 6 of section 2897 of the public
22 authorities law, as added by chapter 766 of the laws of 2005, is amended
23 and a new paragraph f is added to read as follows:

24 a. All disposals or contracts for disposal of property of a public
25 authority made or authorized by the contracting officer shall be made

1 after publicly advertising for bids except as provided in [paragraph]
2 paragraphs c and f of this subdivision.

3 f. Notwithstanding anything to the contrary in this section, disposals
4 for use of the thruway authority's fiber optic system, or any part ther-
5 eof, may be made through agreements that shall not require public
6 auction, provided that the thruway authority has determined the disposal
7 of such property complies with all applicable provisions of this chapter
8 and such shall not require the explanatory statements required by this
9 section.

10 § 2. This act shall take effect immediately.

11 PART G

12 Section 1. Section 351 of the public authorities law is amended by
13 adding a new subdivision 11 to read as follows:

14 11. The term "Cross-Hudson bridge system" shall mean collectively: (a)
15 the Franklin Delano Roosevelt Mid-Hudson bridge, constructed pursuant to
16 chapter nine hundred of the laws of nineteen hundred twenty-three, as
17 amended; (b) the Rip Van Winkle bridge, constructed across the Hudson
18 river north of the village of Catskill and south of the city of Hudson;
19 (c) the Bear Mountain bridge, constructed by the Bear Mountain Hudson
20 River Bridge Company, pursuant to chapter three hundred fifty-eight of
21 the laws of nineteen hundred twenty-two; (d) the Hamilton Fish
22 Newburgh-Beacon bridge, including both spans of the bridge constructed
23 across the Hudson river between a location in the vicinity of the city
24 of Newburgh and a location in the vicinity of the city of Beacon; (e)
25 the Kingston-Rhinecliff bridge, constructed across the Hudson river
26 within five miles of the city of Kingston; and (f) the walkway over the

1 Hudson bridge, the Poughkeepsie-Highland railroad bridge, which was
2 constructed across the Hudson river north of the Franklin Delano Roose-
3 velt Mid-Hudson bridge.

4 § 2. Section 356 of the public authorities law is amended by adding a
5 new subdivision 10 to read as follows:

6 10. The Cross-Hudson bridge system. Including collectively: (a) the
7 Franklin Delano Roosevelt Mid-Hudson bridge, constructed pursuant to
8 chapter nine hundred of the laws of nineteen hundred twenty-three, as
9 amended; (b) the Rip Van Winkle bridge, constructed across the Hudson
10 river north of the village of Catskill and south of the city of Hudson;
11 (c) the Bear Mountain bridge, constructed by the Bear Mountain Hudson
12 River Bridge Company, pursuant to chapter three hundred fifty-eight of
13 the laws of nineteen hundred twenty-two; (d) the Hamilton Fish
14 Newburgh-Beacon bridge, including both spans of the bridge constructed
15 across the Hudson river between a location in the vicinity of the city
16 of Newburgh and a location in the vicinity of the city of Beacon; (e)
17 the Kingston-Rhinecliff bridge, constructed across the Hudson river
18 within five miles of the city of Kingston; and (f) the walkway over the
19 Hudson bridge, the Poughkeepsie-Highland railroad bridge, which was
20 constructed across the Hudson river north of the Franklin Delano Roose-
21 velt Mid-Hudson bridge.

22 § 3. Section 356-a of the public authorities law is amended by adding
23 a new subdivision 6 to read as follows:

24 6. All that portion of touring route one hundred ninety-nine connect-
25 ing Ulster and Dutchess counties which is identified and known as the
26 Kingston-Rhinecliff bridge shall be designated and known as the "George
27 Clinton Kingston-Rhinecliff bridge".

1 § 4. Section 349-a of the highway law is amended by adding a new
2 subdivision 10 to read as follows:

3 10. The Cross-Hudson bridge system. Including collectively: (a) the
4 Franklin Delano Roosevelt Mid-Hudson bridge, constructed pursuant to
5 chapter nine hundred of the laws of nineteen hundred twenty-three, as
6 amended; (b) the Rip Van Winkle bridge, constructed across the Hudson
7 river north of the village of Catskill and south of the city of Hudson;
8 (c) the Bear Mountain bridge, constructed by the Bear Mountain Hudson
9 River Bridge Company, pursuant to chapter three hundred fifty-eight of
10 the laws of nineteen hundred twenty-two; (d) the Hamilton Fish
11 Newburgh-Beacon bridge, including both spans of the bridge constructed
12 across the Hudson river between a location in the vicinity of the city
13 of Newburgh and a location in the vicinity of the city of Beacon; (e)
14 the Kingston-Rhinecliff bridge; constructed across the Hudson river
15 within five miles of the city of Kingston; and (f) the walkway over the
16 Hudson bridge, the Poughkeepsie-Highland railroad bridge, which was
17 constructed across the Hudson river north of the Franklin Delano Roose-
18 velt Mid-Hudson bridge.

19 § 5. Section 373 of the public authorities law is amended by adding a
20 new subdivision 3 to read as follows:

21 3. Upon abolishment of the New York state bridge authority, the state
22 of New York does pledge to and agree with the holders of any bonds or
23 notes of the authority that the state will not authorize the
24 construction or maintenance of any additional highway crossings for
25 vehicular traffic over, under or across the waters of the Hudson river
26 in addition to the bridges and crossings constituting the Cross-Hudson
27 bridge system authorized by this title which will be competitive with
28 the bridges and crossings constituting the Cross-Hudson bridge system,

1 nor will it limit or alter the rights hereby vested in the authority to
2 establish and collect such charges and tolls as may be convenient or
3 necessary to produce sufficient revenue to meet the expense of mainte-
4 nance and operation and to fulfill the terms of any agreement made with
5 the holders of the bonds or notes, or in any way impair the rights and
6 remedies of bondholders or noteholders, until the bonds and notes,
7 together with interest, and all costs and expenses in connection with
8 any actions or proceedings by or on behalf of the bondholders or note-
9 holders, are fully met and discharged. For the purposes of this subdivi-
10 sion, any such bridge or crossing shall be considered as competitive
11 only if it shall form a connection for vehicular traffic over, under or
12 across the Hudson river south of a line drawn across the Hudson river
13 fifteen miles north of the Rip Van Winkle bridge, and north of the Bear
14 Mountain bridge.

15 § 6. The public authorities law is amended by adding a new section 389
16 to read as follows:

17 § 389. Additional powers of the authority to undertake and finance
18 certain projects in connection with the Cross-Hudson bridge system and
19 the New York state bridge authority. The authority is hereby authorized
20 as an additional corporate purpose thereof, to assume jurisdiction for
21 its corporate purposes of the Cross-Hudson bridge system, with all
22 rights and powers with respect to such system as established in this
23 title with respect to any thruway section or connection, including, but
24 not limited to, the power to operate and maintain said system, to fix
25 and collect such fees, rentals and charges for the use thereof, to issue
26 its bonds, notes and other obligations in conformity with applicable
27 provisions of the uniform commercial code for purposes of the acquisi-
28 tion, design, construction, reconstruction, repair, rehabilitation and

1 improvement of the Cross-Hudson bridge system, to provide funds on
2 behalf of the state within the meaning of the provisions of subdivision
3 four of former section five hundred thirty-two of this chapter to
4 defease, redeem or refund the bonds, notes and other obligations of the
5 New York state bridge authority and to discharge and pay any other obli-
6 gations whatsoever of the New York state bridge authority.

7 § 7. The public authorities law is amended by adding a new section
8 355-a to read as follows:

9 § 355-a. New York state bridge authority. 1. The New York state bridge
10 authority created by former section five hundred twenty-seven of this
11 chapter shall be abolished upon the date upon which all covenants,
12 agreements and obligations to the holders of bonds, notes or other obli-
13 gations issued or incurred under any bond resolution of the New York
14 state bridge authority have been paid in full or otherwise fully met and
15 discharged.

16 2. Upon abolishment of the New York state bridge authority, all
17 rights, functions, powers, duties, obligations, covenants, pledges,
18 undertakings, properties, debts, agreements, assets and liabilities of
19 the New York state bridge authority shall be transferred and assigned
20 to, assumed by and devolved upon the New York state thruway authority.

21 3. Upon abolishment of the New York state bridge authority, all rules,
22 regulations, acts, orders, determinations, and decisions of such author-
23 ity in force at the time of such transfer, assignment, assumption or
24 devolution, shall continue in force and effect as rules, regulations,
25 acts, orders, determinations and decisions of the New York state thruway
26 authority until duly modified or abrogated by the New York state thruway
27 authority.

1 4. Upon abolishment of the New York state bridge authority, the Cross-
2 Hudson bridge system, as defined in section three hundred fifty-one of
3 this title shall be added to, and included in, the thruway system as
4 defined in such section three hundred fifty-one.

5 5. Upon abolishment of the New York state bridge authority, all books,
6 papers, records and property of such authority shall be transferred as
7 assigned to the New York state thruway authority. All employees trans-
8 ferred from the New York state bridge authority to the New York state
9 thruway authority shall be transferred without further examination or
10 qualification and such employees shall retain their respective civil
11 service classifications, status and collective bargaining unit desig-
12 nations and be governed by applicable collective bargaining agreements.

13 6. Upon abolishment of the New York state bridge authority, any busi-
14 ness or other matters undertaken or commenced by the New York state
15 bridge authority and pending on the date of abolishment may be conducted
16 and completed by the New York state thruway authority in the same manner
17 and under the same terms and conditions and with the same effect as if
18 conducted by the New York state bridge authority.

19 7. Upon abolishment of the New York state bridge authority, whenever
20 the New York state bridge authority, or the chairman or the executive
21 director or other officer, member or employee thereof, is referred to or
22 designated in any law, contract or document, such reference or desig-
23 nation shall be deemed to refer to the New York state thruway authority.

24 8. No existing right or remedy of any character shall be lost,
25 impaired or affected by reason of this section.

26 9. No action pending at the time the New York state bridge authority
27 is abolished, brought by or against the New York state bridge authority,
28 or the chairman or executive director thereof, shall be affected by any

1 provision of this section, but the same may be prosecuted or defended in
2 the name of the New York state thruway authority or the executive direc-
3 tor or chairman thereof, and the proper party shall, upon application to
4 the court, be substituted as a party.

5 10. Upon abolishment of the New York state bridge authority act, the
6 rights and remedies of bondholders, other creditors or persons having
7 claims or contracts with the New York state bridge authority shall not
8 be limited, impaired or otherwise altered by the merger of the New York
9 state bridge authority facilities and operations into the New York state
10 thruway authority.

11 § 8. Title 2 of article 3 of the public authorities law is REPEALED.

12 § 9. Notwithstanding any provision of this act or any other provisions
13 of law, general, special or local, the New York state bridge authority
14 shall from time to time, after all contract provisions with respect to
15 any bonds, notes or other obligations issued or incurred under any bond
16 resolution of the New York state bridge authority have been provided for
17 and discharged, take any action necessary and proper to assist the New
18 York state thruway authority in effecting such discharge, including, but
19 not limited to directing the trustee under its agreement with New York
20 state bridge authority bondholders to apply available and necessary
21 funds to such discharge and otherwise take such actions consistent with
22 such agreement to effectuate such discharge, and transfer and pay over
23 to the New York state thruway authority all remaining funds; and may
24 accept and use any moneys transferred and paid over to it by the New
25 York state thruway authority to implement such discharge.

26 § 10. Subdivision 1 of section 352 of the public authorities law, as
27 amended by chapter 766 of the laws 2005, is amended to read as follows:

1 1. A board to be known as "New York state thruway authority" is hereby
2 created. Such board shall be a body corporate and politic constituting a
3 public corporation. It shall consist of [seven] eight members appointed
4 by the governor by and with the advice and consent of the senate. One
5 member shall be, at the time of appointment, a resident of one of the
6 following counties: Orange, Rockland, Westchester, Putnam, Dutchess,
7 Ulster, Greene or Columbia. The members first appointed shall serve for
8 terms ending three, six and nine years, respectively from January first
9 next succeeding their appointment. Provided, however, that two board
10 members first appointed on or after the effective date of the chapter of
11 the laws of two thousand five which amended this subdivision shall serve
12 an initial term of two years; provided further that two other board
13 members first appointed on or after the effective date of the chapter of
14 the laws of two thousand five which amended this subdivision shall serve
15 an initial term of three years. Their successors shall be appointed for
16 terms of nine years each. A member to be designated as chairman in his
17 or her appointment as a member shall be chairman of such board until his
18 or her term as member expires. The chairman and the other members shall
19 serve without salary or other compensation, but shall be entitled to
20 reimbursement for their actual and necessary expenses incurred in the
21 performance of their official duties.

22 § 11. Nothing contained in this act shall be deemed to limit or alter
23 in any way the rights and obligations of the New York state bridge
24 authority or after the abolishment of the New York state bridge authori-
25 ty, the New York state thruway authority, to establish and collect such
26 fees, rentals and other charges as may be necessary or required to
27 produce sufficient revenues to meet and to fulfill the terms and
28 provisions of the contracts made with the holders and registered owners

1 of the bonds, notes or other obligations or in any way impair the
2 constitutional rights of the holders and registered owners of the bonds,
3 notes or other obligations.

4 § 12. This act, being necessary for the prosperity of the state and
5 its inhabitants, shall be liberally construed to effect the purposes and
6 secure the beneficial intents hereof.

7 § 13. If any provision of any section of this act or the application
8 thereof to any person or circumstance shall be adjudged invalid by a
9 court of competent jurisdiction, such order or judgment shall be
10 confined in its operation to the controversy in which it was rendered,
11 and shall not affect or invalidate the remainder of any provision of any
12 section of this act or the application thereof to any other person or
13 circumstance and to this end the provisions of each section of this act
14 are hereby declared to be severable.

15 § 14. This act shall take effect immediately, provided, however, that
16 section nine of this act shall take effect when all covenants, agree-
17 ments and obligations to the holders of bonds, notes or other obli-
18 gations issued or incurred under any bond resolution of the New York
19 state bridge authority are fully discharged and satisfied; provided,
20 that the New York state thruway authority shall notify the legislative
21 bill drafting commission when all covenants, agreements and obligations
22 to the holders of bonds, notes or other obligations of the New York
23 state bridge authority are fully discharged and satisfied in order that
24 the commission may maintain an accurate and timely effective data base
25 of the official text of the laws of the state of New York in furtherance
26 of effectuating the provisions of section 44 of the legislative law and
27 section 70-b of the public officers law.

1

PART H

2 Section 1. Section 1220-b of the vehicle and traffic law is amended by
3 adding four new subdivisions 5, 6, 7 and 8 to read as follows:

4 5. As an alternative to the penalties provided for the violation of
5 the provisions of this section:

6 (a) Any person who operates, or attempts to operate, a motor vehicle
7 in violation of the provisions of this section shall be guilty of a
8 traffic infraction and, for the first violation, be required to pay a
9 mandatory civil penalty of three thousand dollars and, upon notice, the
10 commissioner shall suspend for a period of thirty days the driver's
11 license or privilege to operate a motor vehicle of any person that oper-
12 ated, or attempted to operate, a motor vehicle in violation of this
13 section; and for the second violation, be required to pay a mandatory
14 civil penalty of five thousand dollars and, upon notice, the commission-
15 er shall suspend for a period of ninety days such driver's license or
16 privilege to operate; and for a third or subsequent violation, be
17 required to pay a mandatory civil penalty of ten thousand dollars and,
18 upon notice, the commissioner shall suspend for a period of one hundred
19 eighty days such driver's license or privilege to operate. In addition
20 to the foregoing, where such person is the owner of the motor vehicle
21 operated in violation of the provisions of this section, for the first
22 violation the commissioner, upon notice, shall suspend for a period of
23 thirty days the registration of any motor vehicle so operated; and for
24 the second violation the commissioner, upon notice, shall suspend the
25 registration of any motor vehicle so operated for a period of ninety
26 days; and for a third or subsequent violation, the commissioner, upon

1 notice, shall suspend the registration of any motor vehicle so operated
2 for a period of one hundred eighty days.

3 (b) Any person who knowingly solicits or attempts to solicit another
4 person for the unlicensed provision of any business, trade or commercial
5 transaction in violation of this section involving the rendering to
6 another person of ground transportation services from an airport shall
7 be guilty of a traffic infraction and, for the first violation, be
8 required to pay a mandatory civil penalty of three thousand dollars; and
9 for the second violation, be required to pay a mandatory civil penalty
10 of five thousand dollars; and for a third or subsequent violation, be
11 required to pay a mandatory civil penalty of ten thousand dollars.

12 6. The commissioner shall have the authority to deny a registration or
13 renewal application for a motor vehicle where a current or previously
14 registered owner of such motor vehicle has been found in violation of
15 this section, section 19-506 of the administrative code of the city of
16 New York, or other provision establishing civil or criminal liability
17 for unlicensed ground transportation service, or unlicensed operation,
18 and may also deny a registration or renewal application for any other
19 motor vehicle registered in the name of such owner, where the commis-
20 sioner determines that the applicant's intent in applying for registra-
21 tion or renewal has likely been to evade the purposes of this section
22 and where the commissioner has reasonable grounds to believe that such
23 registration or renewal will have the effect of tending to defeat the
24 purposes of this section.

25 7. (a) A special proceeding may be commenced in supreme court or coun-
26 ty court by a petitioner, whom shall be either the attorney general, or
27 by the agency, authority, bi-state authority, county, or city having
28 jurisdiction over the airport where the alleged violation occurred,

1 alleging that a motor vehicle owner has committed a second or subsequent
2 traffic infraction in violation of this section. A petitioner establish-
3 ing by clear and convincing evidence that a motor vehicle owner has
4 committed a second or subsequent violation of this section shall be
5 entitled to judgment of forfeiture of all right, title or interest held
6 by the owner in any motor vehicle used in the commission of the second
7 or subsequent violation.

8 (b) Any judgment of forfeiture issued pursuant to this subdivision
9 shall include provisions for the disposal of the property found to have
10 been forfeited. Such provisions shall include, but are not limited to,
11 an order directing that the property, right, title, or interest shall be
12 sold in accordance with the provisions of article fifty-one of the civil
13 practice law and rules, unless good cause is shown. Net proceeds of the
14 sale shall be paid to the petitioner.

15 8. (a) A police officer shall be permitted to seize a motor vehicle
16 that may be subject to legal forfeiture pursuant to subdivision seven of
17 this section if the officer has probable cause to believe the owner of
18 the motor vehicle is operating, or attempting to operate, the motor
19 vehicle in violation of this section and the owner has previously been
20 convicted in any court or administrative tribunal of a violation of this
21 section. A police officer effectuating a seizure pursuant to this subdi-
22 vision may do so within twenty-four hours of providing the owner of the
23 motor vehicle with a traffic summons for the second or subsequent
24 violation of this section and a notice of motor vehicle seizure contain-
25 ing the date, time, and place of the court hearing pursuant to this
26 subdivision, as well as a concise statement concerning the nature of the
27 legal forfeiture action. Within five business days of such seizure, a
28 supreme or county court, upon the filing of a petition for legal forfei-

1 ture, shall conduct a hearing pursuant to subdivision seven of this
2 section and shall promptly determine whether a motor vehicle seized
3 pursuant to this subdivision is subject to legal forfeiture and whether
4 it is necessary that the motor vehicle remain impounded in order to
5 ensure its availability to effectuate legal forfeiture.

6 (b) Upon a determination by a court that a motor vehicle is subject to
7 legal forfeiture, the court will issue an order that petitioner shall
8 retain the seized motor vehicle during the pendency of the legal forfei-
9 ture action and proceed in accordance with article four of the civil
10 practice law and rules to resolve any remaining issues prior to entering
11 judgment. If the seized motor vehicle is not subject to legal forfei-
12 ture, but a violation of this section is found, then the motor vehicle
13 shall be released to the owner upon the payment of all penalties and
14 suspension termination fees associated with such violation. If a charge
15 for violating this section is dismissed and the motor vehicle is not
16 otherwise subject to legal forfeiture, the motor vehicle shall be
17 released to the owner within twenty-four hours of such dismissal.

18 § 2. Paragraph b of subdivision 2 of section 510 of the vehicle and
19 traffic law is amended by adding two new subparagraphs (xviii) and (xix)
20 to read as follows:

21 (xviii) until such time as all penalties and all suspension termi-
22 nation fees are paid, or where a default judgment is reopened and all
23 suspension fees are paid, where the holder receives a default judgment
24 for a violation of section twelve hundred twenty-b of this chapter as a
25 result of a failure to appear in response to a summons, or appearance
26 ticket received pursuant to such section.

27 (xix) until such time as all penalties and all suspension termination
28 fees are paid where the holder is convicted of a violation of section

1 twelve hundred twenty-b of this chapter and to pay any penalty imposed
2 pursuant to such section.

3 § 3. Notwithstanding the provisions of any other law to the contrary,
4 the port authority of New York and New Jersey (the "port authority") and
5 its police officers may enforce any local law, rule or regulation
6 related to ground transportation service as defined by section twelve
7 hundred-twenty-b of the vehicle and traffic law at airports leased by
8 the port authority within the city of New York ("city") to the same
9 extent as the City or any of its subdivisions.

10 § 4. The commissioner of motor vehicles shall be authorized to estab-
11 lish rules or regulations and take all other actions deemed reasonably
12 necessary to effectuate this act.

13 § 5. This act shall take effect immediately.

14 PART I

15 Section 1. Subdivision 12 of section 1269 of the public authorities
16 law, as amended by section 4 of part NN of chapter 54 of the laws of
17 2016, is amended to read as follows:

18 12. The aggregate principal amount of bonds, notes or other obli-
19 gations issued after the first day of January, nineteen hundred ninety-
20 three by the authority, the Triborough bridge and tunnel authority and
21 the New York city transit authority to fund projects contained in capi-
22 tal program plans approved pursuant to section twelve hundred sixty-
23 nine-b of this title for the period nineteen hundred ninety-two through
24 two thousand [nineteen] twenty-four shall not exceed [fifty-five] ninety
25 billion [four] one hundred [ninety-seven] million dollars. Such aggre-
26 gate principal amount of bonds, notes or other obligations or the

1 expenditure thereof shall not be subject to any limitation contained in
2 any other provision of law on the principal amount of bonds, notes or
3 other obligations or the expenditure thereof applicable to the authori-
4 ty, the Triborough bridge and tunnel authority or the New York city
5 transit authority. The aggregate limitation established by this subdivi-
6 sion shall not include (i) obligations issued to refund, redeem or
7 otherwise repay, including by purchase or tender, obligations thereto-
8 fore issued either by the issuer of such refunding obligations or by the
9 authority, the New York city transit authority or the Triborough bridge
10 and tunnel authority, (ii) obligations issued to fund any debt service
11 or other reserve funds for such obligations, (iii) obligations issued or
12 incurred to fund the costs of issuance, the payment of amounts required
13 under bond and note facilities, federal or other governmental loans,
14 security or credit arrangements or other agreements related thereto and
15 the payment of other financing, original issue premiums and related
16 costs associated with such obligations, (iv) an amount equal to any
17 original issue discount from the principal amount of such obligations or
18 to fund capitalized interest, (v) obligations incurred pursuant to
19 section twelve hundred seven-m of this article, (vi) obligations
20 incurred to fund the acquisition of certain buses for the New York city
21 transit authority as identified in a capital program plan approved
22 pursuant to chapter fifty-three of the laws of nineteen hundred ninety-
23 two, (vii) obligations incurred in connection with the leasing, selling
24 or transferring of equipment, and (viii) bond anticipation notes or
25 other obligations payable solely from the proceeds of other bonds, notes
26 or other obligations which would be included in the aggregate principal
27 amount specified in the first sentence of this subdivision, whether or
28 not additionally secured by revenues of the authority, or any of its

1 subsidiary corporations, New York city transit authority, or any of its
2 subsidiary corporations, or Triborough bridge and tunnel authority.

3 § 2. This act shall take effect immediately.

4 PART J

5 Section 1. Subdivisions 1, 2, 3, 4, 5 and 6 of section 1209 of the
6 public authorities law are REPEALED.

7 § 2. Paragraph (a) of subdivision 7 of section 1209 of the public
8 authorities law, as amended by section 3 of subpart C of part ZZZ of
9 chapter 59 of the laws of 2019, is amended and a new paragraph (c) is
10 added to read as follows:

11 (a) Except as otherwise provided in this section, all purchase
12 contracts for supplies, materials or equipment involving an estimated
13 expenditure in excess of one million dollars and all contracts for
14 public work involving an estimated expenditure in excess of one million
15 dollars shall be awarded by the authority to the lowest responsible
16 bidder after obtaining sealed bids in the manner hereinafter set forth.
17 The aforesaid shall not apply to contracts for personal, architectural,
18 engineering or other professional services, nor to contracts for
19 projects using the design build contracting method which may in the
20 authority's discretion be solicited and awarded pursuant to a process
21 for competitive request for proposals. The authority may reject all bids
22 and obtain new bids in the manner provided by this section when it is
23 deemed in the public interest to do so or, in cases where two or more
24 responsible bidders submit identical bids which are the lowest bids,
25 award the contract to any of such bidders or obtain new bids from such
26 bidders. In the event that the authority receives no responsive bids or

1 only a single bid in response to an invitation for bids, it may negoti-
2 ate with any firm capable of providing the goods or work that was the
3 subject of the bid. In the event that, after opening bids, it is deter-
4 mined to be in the best interest of the authority to make a change to
5 the specifications or other terms or requirements of the bid, new bids
6 may be solicited from those firms that submitted bids without additional
7 public advertisements. In the event that a low bid contains a non-con-
8 formity or is otherwise non-compliant with the solicitation, the author-
9 ity may permit such bid to be corrected without increase to the low bid
10 price or may reject such bid. Nothing in this paragraph shall obligate
11 the authority to seek new bids after the rejection of bids or after
12 cancellation of an invitation to bid. Nothing in this section shall
13 prohibit the evaluation of bids on the basis of costs or savings includ-
14 ing life cycle costs of the item to be purchased, discounts, and
15 inspection services so long as the invitation to bid reasonably sets
16 forth the criteria to be used in evaluating such costs or savings. Life
17 cycle costs may include but shall not be limited to costs or savings
18 associated with installation, energy use, maintenance, operation and
19 salvage or disposal.

20 (c) To assist the authority in the development, testing and adoption
21 of new and innovative technology, the authority may award contracts for
22 goods or services not to exceed five million dollars to qualified emerg-
23 ing technology companies as defined in section thirty-one hundred two-e
24 of this chapter pursuant to a process established by the board. In
25 screening and selecting emerging technology firms for such awards, the
26 authority may cooperate with the New York city partnership foundation or
27 other such nonprofit organizations.

1 § 3. Paragraph (a) of subdivision 8 of section 1209 of the public
2 authorities law, as amended by chapter 725 of the laws of 1993, is
3 amended to read as follows:

4 (a) Advertisement for bids, when required by this section, shall be
5 published [at least once in a newspaper of general circulation in the
6 area served by the authority and in the procurement opportunities news-
7 letter published pursuant to article four-C of the economic development
8 law provided that,] on the authority's website, notwithstanding the
9 provisions of article four-C of the economic development law[, an adver-
10 tisement shall only be required when required by this section. Publica-
11 tion in a newspaper of general circulation in the area served or in the
12 procurement opportunities newsletter shall not be required if bids for
13 contracts for supplies, materials or equipment are of a type regularly
14 purchased by the authority and are to be solicited from a list of poten-
15 tial suppliers, if such list is or has been developed consistent with
16 the provisions of subdivision eleven of this section]. Any such adver-
17 tisement shall contain a statement of: (i) the time and place where bids
18 received pursuant to any notice requesting sealed bids will be publicly
19 opened and read; (ii) the name of the contracting agency; (iii) the
20 contract identification number; (iv) a brief description of the public
21 work, supplies, materials, or equipment sought, the location where work
22 is to be performed, goods are to be delivered or services provided and
23 the contract term; (v) the address where bids or proposals are to be
24 submitted; (vi) the date when bids or proposals are due; (vii) a
25 description of any eligibility or qualification requirement or prefer-
26 ence; (viii) a statement as to whether the contract requirements may be
27 fulfilled by a subcontracting, joint venture, or co-production arrange-
28 ment; (ix) any other information deemed useful to potential contractors;

1 and (x) the name, address, and telephone number of the person to be
2 contacted for additional information. At least [fifteen business] five
3 days shall elapse between the first publication of such advertisement or
4 the solicitation of bids, as the case may be, and the date of opening
5 and reading of bids.

6 § 4. Paragraphs (f) and (g) of subdivision 9 of section 1209 of the
7 public authorities law are relettered paragraphs (e) and (f) and para-
8 graphs (c), (d) and (e), as added by chapter 929 of the laws of 1986,
9 are amended to read as follows:

10 (c) [the authority receives no responsive bids or only a single
11 responsive bid in response to an invitation for competitive bids;

12 (d)] the authority wishes to experiment with or test a product or
13 technology or new source for such product or technology or evaluate the
14 service or reliability of such product or technology;

15 [(e)] (d) the item is available through an existing contract between a
16 vendor and (i) any department, office, agency, or instrumentality of the
17 United States government or department, agency, office, political subdi-
18 vision, or instrumentality of any state within the United States or (ii)
19 another public authority provided that such other authority utilized a
20 process of competitive bidding or a process of competitive requests for
21 proposals to award such contract or [(ii)] (iii) the state of New York
22 or the city of New York, provided that in any case when the authority
23 under this paragraph determines that obtaining such item thereby would
24 be in the public interest and sets forth the reasons for such determi-
25 nation. The authority shall accept sole responsibility for any payment
26 due the vendor as a result of the authority's order; or

27 § 5. Subdivision 10 of section 1209 of the public authorities law, as
28 added by chapter 929 of the laws of 1986, is amended to read as follows:

1 10. Upon the adoption of a resolution by the authority stating, for
2 reasons of efficiency, economy, compatibility or maintenance reliabil-
3 ity, that there is a need for standardization, the authority may estab-
4 lish procedures whereby particular supplies, materials or equipment are
5 identified on a qualified products list. Such procedures shall provide
6 for products or vendors to be added to or deleted from such list and
7 shall include provisions for public advertisement of the manner in which
8 such lists are compiled. The authority shall review such list no less
9 than [twice] once a year for the purpose of making modifications there-
10 to. Contracts for particular supplies, materials or equipment identi-
11 fied on a qualified products list may be awarded by the authority to the
12 lowest responsible bidder after obtaining sealed bids in accordance with
13 this section or without competitive sealed bids in instances when the
14 item is available from only a single source, except that the authority
15 may dispense with advertising provided that it mails copies of the invi-
16 tation to bid to all vendors of the particular item on the qualified
17 products list.

18 § 6. Subdivision 1 of section 1265-a of the public authorities law is
19 REPEALED.

20 § 7. Paragraph (a) of subdivision 2 of section 1265-a of the public
21 authorities law, as amended by section 3-a of subpart C of part ZZZ of
22 chapter 59 of the laws of 2019, is amended to read as follows:

23 (a) Except as otherwise provided in this section, all purchase
24 contracts for supplies, materials or equipment involving an estimated
25 expenditure in excess of one million dollars and all contracts for
26 public work involving an estimated expenditure in excess of one million
27 dollars shall be awarded by the authority to the lowest responsible
28 bidder after obtaining sealed bids in the manner hereinafter set forth.

1 For purposes hereof, contracts for public work shall exclude contracts
2 for personal, engineering and architectural, or professional services,
3 and contracts for projects using the design build contracting method
4 which may, in the authority's discretion, be solicited and awarded
5 pursuant to a process for competitive request for proposals. The
6 authority may reject all bids and obtain new bids in the manner provided
7 by this section when it is deemed in the public interest to do so or, in
8 cases where two or more responsible bidders submit identical bids which
9 are the lowest bids, award the contract to any of such bidders or obtain
10 new bids from such bidders. In the event that the authority receives no
11 responsive bids or only a single bid in response to an invitation for
12 bids, it may negotiate with any firm capable of providing the goods or
13 work that was the subject of the bid. In the event that, after opening
14 bids, it is determined to be in the best interest of the authority to
15 make a change to the specifications or other terms or requirements of
16 the bid, new bids may be solicited from those firms that submitted bids
17 without additional public advertisements. In the event that a low bid
18 contains a non-conformity or is otherwise non-compliant with the solic-
19 itation, the authority may permit such bid to be corrected without
20 increase to the low bid price or may reject such bid. Nothing in this
21 paragraph shall obligate the authority to seek new bids after the
22 rejection of bids or after cancellation of an invitation to bid. Noth-
23 ing in this section shall prohibit the evaluation of bids on the basis
24 of costs or savings including life cycle costs of the item to be
25 purchased, discounts, and inspection services so long as the invitation
26 to bid reasonably sets forth the criteria to be used in evaluating such
27 costs or savings. Life cycle costs may include but shall not be limited

1 to costs or savings associated with installation, energy use, mainte-
2 nance, operation and salvage or disposal.

3 § 8. Subdivision 2 of section 1265-a of the public authorities law is
4 amended by adding a new paragraph (d) to read as follows:

5 (d) To assist the authority in the development, testing and adoption
6 of new and innovative technology, the authority may award contracts for
7 goods or services not to exceed five million dollars to qualified emerg-
8 ing technology companies as defined in section thirty-one hundred two-e
9 of this chapter pursuant to a process established by the board. In
10 screening and selecting emerging technology firms for such awards, the
11 authority may cooperate with the New York city partnership foundation or
12 other such nonprofit organizations.

13 § 9. Paragraph (a) of subdivision 3 of section 1265-a of the public
14 authorities law, as amended by chapter 494 of the laws of 1990, is
15 amended to read as follows:

16 (a) Advertisement for bids, when required by this section, shall be
17 published [at least once in a newspaper of general circulation in the
18 area served by the authority and in the procurement opportunities news-
19 letter published pursuant to article four-C of the economic development
20 law provided that,] on the authority's website notwithstanding the
21 provisions of article four-C of the economic development law[, an adver-
22 tisement shall only be required for a purchase contract for supplies,
23 materials or equipment when required by this section. Publication in a
24 newspaper of general circulation in the area served or in the procure-
25 ment opportunities newsletter shall not be required if bids for
26 contracts for supplies, materials or equipment are of a type regularly
27 purchased by the authority and are to be solicited from a list of poten-
28 tial suppliers, if such list is or has been developed consistent with

1 the provisions of subdivision six of this section]. Any such advertise-
2 ment shall contain a statement of: (i) the time and place where bids
3 received pursuant to any notice requesting sealed bids will be publicly
4 opened and read; (ii) the name of the contracting agency; (iii) the
5 contract identification number; (iv) a brief description of the public
6 work, supplies, materials, or equipment sought, the location where work
7 is to be performed, goods are to be delivered or services provided and
8 the contract term; (v) the address where bids or proposals are to be
9 submitted; (vi) the date when bids or proposals are due; (vii) a
10 description of any eligibility or qualification requirement or prefer-
11 ence; (viii) a statement as to whether the contract requirements may be
12 fulfilled by a subcontracting, joint venture, or co-production arrange-
13 ment; (ix) any other information deemed useful to potential contractors;
14 and (x) the name, address, and telephone number of the person to be
15 contacted for additional information. At least [fifteen business] five
16 days shall elapse between the first publication of such advertisement or
17 the solicitation of bids, as the case may be, and the date of opening
18 and reading of bids.

19 § 10. Paragraphs (f) and (g) of subdivision 4 of section 1265-a of the
20 public authorities law are relettered paragraphs (e) and (f) and para-
21 graphs (c), (d) and (e), as added by chapter 929 of the laws of 1986,
22 are amended to read as follows:

23 (c) [the authority receives no responsive bids or only a single
24 responsive bid in response to an invitation for competitive bids;

25 (d)] the authority wishes to experiment with or test a product or
26 technology or new source for such product or technology or evaluate the
27 service or reliability of such product or technology;

1 [(e)] (d) the item is available through an existing contract between a
2 vendor and (i) any department, office, agency, or instrumentality of the
3 United States government or department, agency, office, political subdi-
4 vision, or instrumentality of any state within the United States or (ii)
5 another public authority provided that such other authority utilized a
6 process of competitive bidding or a process of competitive requests for
7 proposals to award such contracts or [(ii)] (iii) Nassau county, or
8 [(iii)] (iv) the state of New York or [(iv)] (v) the city of New York,
9 provided that in any case when under this paragraph the authority deter-
10 mines that obtaining such item thereby would be in the public interest
11 and sets forth the reasons for such determination. The authority shall
12 accept sole responsibility for any payment due the vendor as a result of
13 the authority's order; or

14 § 11. Subdivision 5 of section 1265-a of the public authorities law,
15 as added by chapter 929 of the laws of 1986, is amended to read as
16 follows:

17 5. Upon the adoption of a resolution by the authority stating, for
18 reasons of efficiency, economy, compatibility or maintenance reliabil-
19 ity, that there is a need for standardization, the authority may estab-
20 lish procedures whereby particular supplies, materials or equipment are
21 identified on a qualified products list. Such procedures shall provide
22 for products or vendors to be added to or deleted from such list and
23 shall include provisions for public advertisement of the manner in which
24 such lists are compiled. The authority shall review such list no less
25 than [twice] once a year for the purpose of making such modifications.
26 Contracts for particular supplies, materials or equipment identified on
27 a qualified products list may be awarded by the authority to the lowest
28 responsible bidder after obtaining sealed bids in accordance with this

1 section or without competitive sealed bids in instances when the item is
2 available from only a single source, except that the authority may
3 dispense with advertising provided that it mails copies of the invita-
4 tion to bid to all vendors of the particular item on the qualified
5 products list.

6 § 12. Section 15 of part 00 of chapter 54 of the laws of 2016, amend-
7 ing the public authorities law relating to procurements by the New York
8 City transit authority and the metropolitan transportation authority, is
9 amended to read as follows:

10 § 15. This act shall take effect immediately[, and shall expire and be
11 deemed repealed April 1, 2021].

12 § 13. This act shall take effect immediately, provided, however, that
13 the amendments to paragraph (a) of subdivision 2 of section 1265-a of
14 the public authorities law made by section seven of this act shall not
15 affect the expiration of such paragraph and shall be deemed to expire
16 therewith.

17 PART K

18 Section 1. Section 3 of part PP of chapter 54 of the laws of 2016,
19 amending the general municipal law relating to the New York transit
20 authority and the metropolitan transportation authority, is amended to
21 read as follows:

22 § 3. This act shall take effect immediately; provided that the amend-
23 ments to subdivision 1 of section 119-r of the general municipal law
24 made by section two of this act shall expire and be deemed repealed
25 [April 1, 2021] December 31, 2024, and provided further that such repeal

1 shall not affect the validity or duration of any contract entered into
2 before that date pursuant to paragraph f of such subdivision.

3 § 2. This act shall take effect immediately.

4 PART L

5 Section 1. Section 1266 of the public authorities law is amended by
6 adding a new subdivision 19 to read as follows:

7 19. Notwithstanding any law to the contrary, the Long Island Rail Road
8 Company and the Metro-North Commuter Railroad Company or their contrac-
9 tors may without the need for any license, permit, permission, approval
10 or order from any court, administrative tribunal or other governmental
11 agency, bureau or department enter upon any private property abutting
12 their respective rights of way, for the purpose of removing, trimming or
13 cutting back any tree, shrub or other vegetation to preserve the safety
14 and efficiency of commuter rail operations, subject to the following:

15 (a) except in cases of imminent threat of harm to persons or property,
16 a request has been made to the owner of such private property for
17 permission to enter upon such property for such purpose, which request
18 has been denied or has been granted subject to unreasonable terms and
19 conditions;

20 (b) the removal, trimming or cutting back of trees, shrubs or other
21 vegetation is limited to that needed to preserve the safety and effi-
22 ciency of commuter rail operations by (i) preventing the deposit of leaf
23 debris from such trees, shrubs or other vegetation on rail tracks so as
24 to avoid slip-slide conditions during the annual leaf-off season, or
25 (ii) removing trees, shrubs or other vegetation, or branches, limbs or
26 other parts of such trees, shrubs or other vegetation, which are

1 damaged, diseased or situated in such a manner so that they are likely
2 to break or fall off during high winds or extreme weather conditions,
3 posing a risk to commuter railroad facilities, employees or the general
4 public; and

5 (c) except in the case of invasive species, or species which are
6 poisonous or noxious, or where an entire tree is removed, due care is
7 taken to avoid any trimming or cutting back which would damage the main
8 support systems of such trees, shrubs or other vegetation, with the
9 subject railroad being liable to the property owner for the actual
10 damage done if such trimming or cutting back does in fact damage such
11 main support systems.

12 Nothing contained in this subdivision shall be construed to eliminate
13 or limit any rights the Long Island Rail Road Company or the Metro-North
14 Commuter Railroad Company may otherwise have under law with respect to
15 the removal, trimming or cutting back of trees, shrubs or other vege-
16 tation on private property abutting their rights of way.

17 § 2. This act shall take effect immediately.

18 PART M

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

21 3. With intent to obtain railroad, subway, bus, air, taxi or any other
22 public transportation service or to use any toll highway, parkway, road,
23 bridge or tunnel or to enter or remain in the tolled central business
24 district described in section seventeen hundred four of the vehicle and
25 traffic law without payment of the lawful charge or toll therefor, or to
26 avoid payment of the lawful charge or toll for such transportation

1 service which has been rendered to him or her or for such use of any
2 toll highway, parkway, road, bridge or tunnel or for such entering or
3 remaining in such tolled central business district, he or she obtains or
4 attempts to obtain such service or to use any toll highway, parkway,
5 road, bridge or tunnel or to enter or remain in a tolled central busi-
6 ness district or avoids or attempts to avoid payment therefor by force,
7 intimidation, stealth, deception or mechanical tampering, or by unjusti-
8 fiable failure or refusal to pay; or

9 § 2. Paragraph (b) of subdivision 1 of section 402 of the vehicle and
10 traffic law, as amended by chapter 109 of the laws of 2005, is amended
11 and a new paragraph (c) is added to read as follows:

12 (b) Number plates shall be kept clean and in a condition so as to be
13 easily readable and shall not be covered by glass or any plastic materi-
14 al, and shall not be knowingly covered or coated with any artificial or
15 synthetic material or substance that conceals or obscures such number
16 plates or that distorts a recorded or photographic image of such number
17 plates, and the view of such number plates shall not be obstructed by
18 any part of the vehicle or by anything carried thereon[, except for a
19 receiver-transmitter issued by a publicly owned tolling facility in
20 connection with electronic toll collection when such receiver-transmit-
21 ter is affixed to the exterior of a vehicle in accordance with mounting
22 instructions provided by the tolling facility].

23 (c) It shall be unlawful for any person to operate, drive or park a
24 motor vehicle on a toll highway, bridge and/or tunnel facility or enter
25 or remain in the tolled central business district described in section
26 seventeen hundred four of this chapter, under the jurisdiction of the
27 tolling authority, if such number plate is not easily readable, nor
28 shall any number plate be covered by glass or any plastic material, and

1 shall not be knowingly covered or coated with any artificial or synthet-
2 ic material or substance that conceals or obscures such number plates,
3 or that distorts a recorded or photographic image of such number plates,
4 and the view of such number plates shall not be obstructed by any part
5 of the vehicle or by anything carried thereon, except for a receiver-
6 transmitter issued by a publicly owned tolling authority in connection
7 with electronic toll collection when such receiver-transmitter is
8 affixed to the exterior of a vehicle in accordance with mounting
9 instructions provided by the tolling authority. For purposes of this
10 paragraph, "tolling authority" shall mean every public authority which
11 operates a toll highway, bridge and/or tunnel or a central business
12 district tolling program as well as the Port Authority of New York and
13 New Jersey, a bi-state agency created by compact set forth in chapter
14 one hundred fifty-four of the laws of nineteen hundred twenty-one, as
15 amended.

16 § 3. Subdivision 8 of section 402 of the vehicle and traffic law, as
17 amended by chapter 61 of the laws of 1989 and as renumbered by chapter
18 648 of the laws of 2006, is amended to read as follows:

19 8. The violation of this section shall be punishable by a fine of not
20 less than twenty-five nor more than two hundred dollars except for
21 violations of paragraph (c) of subdivision one of this section which
22 shall be punishable by a fine of not less than one hundred nor more than
23 five hundred dollars.

24 § 4. This act shall take effect on the ninetieth day after it shall
25 have become a law.

1 Section 1. Subdivision 11 of section 120.05 of the penal law, as sepa-
2 rately amended by chapters 268 and 281 of the laws of 2016, is amended
3 to read as follows:

4 11. With intent to cause physical injury to a train operator, ticket
5 inspector, conductor, signalperson, bus operator, station agent, station
6 cleaner [or], terminal cleaner, station customer assistant; person whose
7 official duties include the sale or collection of tickets, passes,
8 vouchers, or other fare payment media for use on a train or bus; a
9 person whose official duties include the maintenance, repair,
10 inspection, troubleshooting, testing or cleaning of a transit signal
11 system, elevated or underground subway tracks, transit station struc-
12 ture, train yard, revenue train in passenger service, or a train or bus
13 station or terminal; or a supervisor of such personnel, employed by any
14 transit agency, authority or company, public or private, whose operation
15 is authorized by New York state or any of its political subdivisions, a
16 city marshal, a school crossing guard appointed pursuant to section two
17 hundred eight-a of the general municipal law, a traffic enforcement
18 officer, traffic enforcement agent, prosecutor as defined in subdivision
19 thirty-one of section 1.20 of the criminal procedure law, sanitation
20 enforcement agent, New York city sanitation worker, public health sani-
21 tarian, New York city public health sanitarian, registered nurse,
22 licensed practical nurse, emergency medical service paramedic, or emer-
23 gency medical service technician, he or she causes physical injury to
24 such train operator, ticket inspector, conductor, signalperson, bus
25 operator, station agent, station cleaner [or], terminal cleaner, station
26 customer assistant; person whose official duties include the sale or
27 collection of tickets, passes, vouchers or other fare payment media for
28 use on a train or bus; a person whose official duties include the main-

1 tenance, repair, inspection, troubleshooting, testing or cleaning of a
2 transit signal system, elevated or underground subway tracks, transit
3 station structure, train yard, revenue train in passenger service, or a
4 train or bus station or terminal; or a supervisor of such personnel,
5 city marshal, school crossing guard appointed pursuant to section two
6 hundred eight-a of the general municipal law, traffic enforcement offi-
7 cer, traffic enforcement agent, prosecutor as defined in subdivision
8 thirty-one of section 1.20 of the criminal procedure law, registered
9 nurse, licensed practical nurse, public health sanitarian, New York city
10 public health sanitarian, sanitation enforcement agent, New York city
11 sanitation worker, emergency medical service paramedic, or emergency
12 medical service technician, while such employee is performing an
13 assigned duty on, or directly related to, the operation of a train or
14 bus, [including the] cleaning of a train or bus station or terminal or
15 maintenance of a train or bus station or terminal, signal system,
16 elevated or underground subway tracks, transit station structure, train
17 yard or revenue train in passenger service, or such city marshal, school
18 crossing guard, traffic enforcement officer, traffic enforcement agent,
19 prosecutor as defined in subdivision thirty-one of section 1.20 of the
20 criminal procedure law, registered nurse, licensed practical nurse,
21 public health sanitarian, New York city public health sanitarian, sani-
22 tation enforcement agent, New York city sanitation worker, emergency
23 medical service paramedic, or emergency medical service technician is
24 performing an assigned duty; or

25 § 2. This act shall take effect on the ninetieth day after it shall
26 have become a law.

1 Section 1. Section 240.30 of the penal law is amended by adding a new
2 subdivision 3-a to read as follows:

3 3-a. He or she strikes, shoves, kicks, or otherwise subjects another
4 person to physical contact, which includes spitting on such other
5 person, and such other person is an on-duty train operator; ticket
6 inspector; conductor; signalperson; bus operator; station agent; station
7 cleaner; terminal cleaner; station customer assistant; person whose
8 official duties include the sale or collection of tickets, passes,
9 vouchers or other fare payment media for use on a train or bus; person
10 whose official duties include the maintenance, repair, inspection, trou-
11 bleshooting, testing or cleaning of a transit signal system, elevated or
12 underground subway tracks, transit station structure, train yard, reven-
13 ue train in passenger service, or train or bus station or terminal; or a
14 supervisor of such personnel, employed by any transit agency, authority
15 or company, public or private, whose operation is authorized by New York
16 state or any of its political subdivisions.

17 § 2. This act shall take effect on the ninetieth day after it shall
18 have become a law.

19 PART P

20 Section 1. The penal law is amended by adding a new title Y-3 to read
21 as follows:

22 TITLE Y-3

23 TRANSIT CRIMES

24 ARTICLE 498

25 TRANSIT CRIMES

1 Section 498.05 Order of protection of public transit riders.

2 498.10 Transit trespass.

3 § 498.05 Order of protection of public transit riders.

4 1. When any criminal action is pending against a defendant charged
5 with a crime involving unlawful sexual conduct committed against any
6 metropolitan transportation authority passenger, customer, or employee
7 or an assault-related crime or offense against a metropolitan transpor-
8 tation authority employee committed in or on any of the subways, trains,
9 buses, or other conveyances or facilities of the metropolitan transpor-
10 tation authority or its subsidiaries or of the New York city transit
11 authority or its subsidiaries, the court, in addition to the other
12 powers conferred upon it by this chapter, may as a condition of a pre-
13 trial release, or as a condition of release on bail or an adjournment in
14 contemplation of dismissal, issue a temporary order of protection of
15 public transit riders to ensure the public safety. Such an order may
16 require that the defendant refrain from entering, remaining in or using
17 the facilities or conveyances of the metropolitan transportation author-
18 ity or its subsidiaries and the New York city transit authority and its
19 subsidiaries. A temporary order of protection of public transit riders
20 shall remain in effect until the final disposition of the case unless
21 revoked by the court.

22 2. Upon sentencing on a conviction for a crime involving unlawful
23 sexual conduct committed against any metropolitan transportation author-
24 ity passenger, customer, or employee or an assault-related crime or
25 offense against a metropolitan transportation authority employee commit-
26 ted in or on any facility or conveyance of the metropolitan transporta-
27 tion authority or its subsidiaries or of the New York city transit
28 authority or its subsidiaries, the court may, in addition to any other

1 disposition, enter an order of protection of public transit riders. The
2 duration of such an order shall be three years.

3 3. In any proceeding in which an order of protection of public transit
4 riders or temporary order of protection of public transit riders has
5 been issued under this section, the clerk of the court shall issue to
6 the defendant and defense counsel and the metropolitan transportation
7 authority, a copy of the order of protection of public transit riders or
8 temporary order of protection of public transit riders.

9 § 498.10 Transit trespass.

10 A person is guilty of transit trespass when, being a person subject to
11 a prohibition order issued by the metropolitan transportation authority
12 pursuant to section twelve hundred sixty-four-b of the public authori-
13 ties law or an order of protection of public transit riders or temporary
14 order of protection of public transit riders issued by a court, he or
15 she knowingly enters or remains in or uses any facility or conveyance of
16 the metropolitan transportation authority or its subsidiaries or of the
17 New York city transit authority or its subsidiaries.

18 Transit trespass is a class A misdemeanor.

19 § 2. The public authorities law is amended by adding a new section
20 1264-b to read as follows:

21 § 1264-b. Prohibition orders. 1. The authority may issue a prohibition
22 order to any person if it determines that:

23 (a) the person: (i) has been issued a summons, an appearance ticket,
24 or a notice of violation for committing a violation of any of the rules
25 and regulations governing the conduct and safety of the public estab-
26 lished by the New York city transit authority, the Manhattan and Bronx
27 surface transit operating authority, the Staten Island rapid transit
28 operating authority, MTA bus company, the Metro-North commuter railroad

1 company, or the Long Island Rail Road company; and (ii) the violation
2 was related to a sexual offense committed against any metropolitan
3 transportation authority passenger, customer, or employee or an
4 assault-related crime or offense against a metropolitan transportation
5 authority employee; and (iii) the person was previously issued two or
6 more summonses, appearance tickets, or notices of violation for commit-
7 ting a violation of any of the rules and regulations governing the
8 conduct and safety of the public established by the New York city trans-
9 it authority, the Manhattan and Bronx surface transit operating authori-
10 ty, the Staten Island rapid transit operating authority, the MTA bus
11 company, the Metro-North commuter railroad company, or the Long Island
12 Rail Road company for a violation related to a sexual offense committed
13 against any metropolitan transportation authority passenger, customer,
14 or employee or an assault-related crime or offense against a metropol-
15 itan transportation authority employee; or

16 (b) the person has been designated a level three sex offender pursuant
17 to the procedures set forth in article six-C of the correction law.

18 2. A person subject to a prohibition order may not use or enter any of
19 the authority's subways, trains, buses, or other conveyances or facili-
20 ties as specified in the order for a period of three years following the
21 issuance of the prohibition order.

22 3. No prohibition order shall be effective unless the authority first
23 affords the person notice and an opportunity to contest the authority's
24 proposed action in accordance with procedures adopted by the authority
25 for this purpose. The authority's procedures shall provide, at a mini-
26 mum, for the notice and other protections set forth in this section, and
27 the authority shall provide reasonable notification to the public of the
28 availability of such procedures.

1 4. (a) A notice of a proposed prohibition order shall set forth a
2 description of the listed crimes or conduct giving rise to the prohibi-
3 tion order, including reference to the applicable statutory provision or
4 ordinance violated, the dates of the listed conduct, the locations where
5 such conduct was committed and the scope of the prohibition. The notice
6 shall include a clear and conspicuous statement indicating the procedure
7 for contesting the proposed prohibition order. The notice shall be
8 served upon the person who is the subject of the proposed prohibition
9 order in the manner set forth in paragraph (b) of this subdivision. The
10 notice of prohibition order, or a copy thereof, shall be considered a
11 record kept in the ordinary course of business of the authority and
12 shall be prima facie evidence of the facts contained in the notice
13 establishing a rebuttable presumption affecting the burden of producing
14 evidence. For purposes of this paragraph, "clear and conspicuous" means
15 in larger type than the surrounding text, or in contrasting type, font,
16 or color to the surrounding text of the same size or set off from the
17 surrounding text of the same size by symbols or other marks that call
18 attention to the language.

19 (b) A proposed prohibition order may be served by:

20 (1) in-person delivery; or

21 (2) delivery by any form of mail providing for delivery confirmation,
22 postage prepaid, to the most recent address provided by the person being
23 served in government records, including, but not limited to, the address
24 set forth in a citation or court records; or

25 (3) any alternate method approved in writing by the authority and the
26 person being served.

27 (c) For purposes of this section, delivery shall be deemed to have
28 been made on the following date, as applicable:

1 (1) on the date of delivery, if delivered in person; or

2 (2) on the date of confirmed delivery, if delivered by mail.

3 (d) Proof of service of the notice shall be filed with the authority.

4 (e) If a person contests a notice of prohibition order, the authority
5 shall proceed in accordance with subdivision six of this section. If the
6 notice of prohibition order is not contested within ten calendar days
7 following service of the notice, the prohibition order shall be deemed
8 final and shall be effective, without further action by the authority
9 for three years.

10 (f) Prohibition orders shall be subject to an automatic stay and shall
11 not take effect until the latest of the following:

12 (1) eleven calendar days following service of the notice of the
13 proposed prohibition order if the order is not contested;

14 (2) eleven calendar days following service of the results of the
15 review if an initial review is timely requested and the proposed prohi-
16 bition order is upheld on review; or

17 (3) the date the hearing officer's decision is served on the person if
18 an administrative hearing is timely requested and the hearing officer
19 upheld the order.

20 5. (a) For a period of ten days from the service of the proposed
21 prohibition order, the person may request an initial review of the
22 prohibition order by the authority. The request may be made by tele-
23 phone, in writing, or in person. There shall be no charge for this
24 review. In conducting its review and reaching a determination, the
25 authority shall determine whether the prohibition order meets the
26 requirements of subdivision one of this section. If, following the
27 initial review, based on these findings, the authority determines that
28 the proposed prohibition order is not adequately supported or that

1 extenuating circumstances make dismissal of the prohibition order appro-
2 priate in the interest of justice, the authority shall cancel the
3 notice. If, following the initial review, based on these findings, the
4 authority determines that the prohibition order should be upheld in
5 whole or in part, the authority shall issue a written statement to that
6 effect, including any modification to the period or scope of the prohi-
7 bition order. The authority shall serve the results of the initial
8 review to the person contesting the notice as set forth in subdivision
9 four of this section.

10 (b) The authority may in its discretion modify or cancel a prohibition
11 order in the interest of justice at any time. If the person depends upon
12 the authority's subways, trains, buses, or other conveyances or facili-
13 ties for trips of necessity, including, but not limited to, travel to or
14 from medical or legal appointments, school or training classes, or plac-
15 es of employment; obtaining food, clothing, and necessary household
16 items; or rendering care to family members, the authority may modify a
17 prohibition order to allow for a trip or trips as in its discretion are
18 necessary. A person requesting that a prohibition order be cancelled or
19 modified in the interest of justice shall have the burden of establish-
20 ing the qualifying circumstances by a preponderance of the evidence.

21 (c) If the person is dissatisfied with the results of the initial
22 review, the person may request an administrative hearing of the prohibi-
23 tion order no later than ten days after the results of the initial
24 review are serviced. The request may be made by telephone, in writing,
25 or in person. An administrative hearing shall be held within thirty days
26 after the receipt of a request for an administrative hearing. The person
27 requesting the hearing may request one continuance, not to exceed seven
28 calendar days.

1 6. The administrative hearing process shall include all of the follow-
2 ing:

3 (a) The person requesting the hearing shall have the choice of a hear-
4 ing by mail or in person. An in-person hearing shall be conducted by the
5 transit adjudication bureau established by section twelve hundred nine-a
6 of this article.

7 (b) The administrative hearing shall be conducted in accordance with
8 written procedures established by the authority. The hearing shall
9 provide an independent, objective, fair, and impartial review of the
10 prohibition order.

11 (c) The administrative review shall be conducted before a hearing
12 officer. In addition to any other requirements, a hearing officer shall
13 demonstrate the qualifications, training, and objectivity as are neces-
14 sary to fulfill and that are consistent with the duties and responsibil-
15 ities set forth in this subdivision.

16 (d) In issuing a decision, the hearing officer shall determine whether
17 the prohibition order meets the requirements of subdivision one of this
18 section. Based upon these findings, the hearing officer may uphold the
19 prohibition order in whole, determine that the prohibition order is not
20 adequately supported by a preponderance of the evidence, or cancel or
21 modify the prohibition order in the interest of justice. If the person
22 depends upon the authority's subways, trains, buses, or other conveyanc-
23 es or facilities for trips of necessity, including, but not limited to,
24 travel to or from medical or legal appointments, school or training
25 classes, or places of employment; obtaining food, clothing, and neces-
26 sary household items; or rendering care to family members, the hearing
27 officer may in their discretion modify a prohibition order to allow for
28 such trips. A person requesting a cancellation or modification in the

1 interest of justice shall have the burden of establishing the qualifying
2 circumstances by a preponderance of the evidence.

3 (e) The hearing officer's decision following the administrative hear-
4 ing shall be served as set forth in subdivision four of this section.

5 (f) A person aggrieved by the final decision of the hearing officer
6 may seek judicial review of the decision within ninety days of service
7 of the decision pursuant to article seventy-eight of the civil practice
8 law and rules.

9 7. A person issued a prohibition order may, within ten days of the
10 date the order becomes effective, request a refund for any prepaid fare
11 amounts rendered unusable in whole or in part by the prohibition order
12 including, but not limited to, monthly passes.

13 8. The provisions of this section shall not be construed to limit the
14 power of any court to issue additional restrictions on a person's abili-
15 ty to use or enter the authority's facilities or conveyances, including
16 but not limited to as a condition of bail or probation or conditional
17 discharge or as a part of any criminal sentence.

18 § 3. This act shall take effect on the ninetieth day after it shall
19 have become a law. Effective immediately, the metropolitan transporta-
20 tion authority may adopt any rules, regulations, policies or procedures
21 necessary to implement this act prior to the effective date of this act.

22 PART Q

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

25 (d) Any designated post office address maintained by the secretary of
26 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 authorized
18 to do business in this state[,], under this chapter or under any other
19 statute of this state, or a 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 at least sixty days prior to the filing of the certificate of
15 resignation for receipt of process with the department of state the
16 party has sent a copy of the certificate of resignation for receipt of
17 process by registered or certified mail to the address of the registered
18 agent of the designating corporation, if other than the party filing the
19 certificate of resignation[,] for receipt of process, or if the [resign-
20 ing] 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] the
19 office of the secretary of state specified for such purpose and shall
20 provide the secretary of state with proof of such mailing in the manner
21 set forth in paragraph (b) of section 306 (Service of process). The
22 post office address may be changed by signing and delivering to the
23 department of state a certificate of change setting forth the statements
24 required under section 1309-A (Certificate of change; contents) to
25 effect a change in the post office address under subparagraph seven of
26 paragraph (a) [(4)] of 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, arbitrative 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, dupli-
17 cate copies of such process at the office of the department of state in
18 the city of Albany] so designated. At the time of such service the
19 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] the secretary of
11 state, a deputy secretary of state, or with a person authorized by the
12 secretary of state to receive such service, a copy thereof at the office
13 of the department of state in the city of Albany, and such service shall
14 be sufficient service provided that notice of such service and a copy of
15 such process are forthwith sent by the attorney general to such person,
16 partnership, corporation, company, trust or association, by registered
17 or certified mail with return receipt requested, at [his or its] the
18 office as set forth in the "broker-dealer's statement", "salesman's
19 statement" or "investment advisor's statement" filed in the department
20 of law pursuant to section three hundred fifty-nine-e or section three
21 hundred fifty-nine-eee of this article, or in default of the filing of
22 such statement, at the last address known to the attorney general.
23 Service of such process shall be complete on receipt by the attorney
24 general of a return receipt purporting to be signed by the addressee or
25 a person qualified to receive [his or its] registered or certified mail,
26 in accordance with the rules and customs of the post office department,
27 or, if acceptance was refused by the addressee or [his or its] their
28 agent, on return to the attorney general of the original envelope bear-

1 ing a notation by the postal authorities that receipt thereof was
2 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] her 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] her successor, administrator or
13 executor, 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 or] the secretary of state, 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] the address [as] set forth in the application for registration
24 of his or her offering prospectus or in the registered offering prospec-
25 tus itself filed with the department of law pursuant to this article, or
26 in default of the filing of such application or prospectus, at the last
27 address known to the department. Service of such process shall be
28 complete upon receipt by the department of a return receipt purporting

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

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

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

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

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

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

1 (6) a change in the post office address to which [the secretary of
2 state] a person shall mail a copy of any process against the limited
3 liability company served upon [him or her] the secretary of state if
4 such change is made other than pursuant to section three hundred one of
5 this chapter;

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

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

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

23 (2) the date the articles of organization were filed by the department
24 of state; and

25 (3) each change effected thereby.

26 (b) A certificate of change which changes only the post office address
27 to which [the secretary of state] a person shall mail a copy of any
28 process against a limited liability company served upon [him or] the

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

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

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

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

27 (c) Any designated post office address maintained by the secretary of
28 state as agent of a domestic limited liability company or foreign limit-

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

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

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

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

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

24 § 31. Paragraphs 2 and 3 of subdivision (a), subparagraph (ii) of
25 paragraph 2 and subparagraph (ii) of paragraph 3 of subdivision (e) of
26 section 301-A of the limited liability company law, as added by chapter
27 448 of the laws of 1998, are amended to read as follows:

1 (2) that the address of the party has been designated by the limited
2 liability company as the post office address to which [the secretary of
3 state] a person shall mail a copy of any process served on the secretary
4 of state as agent for such limited liability company, such address and
5 that such party wishes to resign.

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

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

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

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

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

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

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

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

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

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

27 (4) a designation of the secretary of state as its agent upon whom
28 process against it may be served and the post office address, within or

1 without this state, to which [the secretary of state] a person shall
2 mail a copy of any process against it served upon [him or her] the
3 secretary of state;

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

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

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

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

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

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

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

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

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

27 (11) a designation of the secretary of state as its agent upon whom
28 process against it may be served in the manner set forth in article

1 three of this chapter in any action or special proceeding, and a post
2 office address, within or without this state, to which [the secretary of
3 state] a person shall mail a copy of any process served upon [him or
4 her] the secretary of state. Such post office address shall supersede
5 any prior address designated as the address to which process shall be
6 mailed;

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

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

16 § 39. Paragraph 6 of subdivision (a) and subparagraph 5 of paragraph
17 (i) of subdivision (d) of section 1306 of the limited liability company
18 law, subparagraph 5 of paragraph (i) of subdivision (d) as amended by
19 chapter 44 of the laws of 2006, are 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 or her] the
24 secretary of state; and

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

1 shall mail a copy of any process against it served upon [him or her] the
2 secretary of state;

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

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

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

20 (a) Every domestic corporation or authorized foreign corporation may
21 designate a registered agent in this state upon whom process against
22 such corporation may be served. The agent shall be a natural person who
23 is a resident of or has a business address in this state or a domestic
24 corporation or foreign corporation of any kind formed[,] or authorized
25 to do business in this state[,] under this chapter or under any other
26 statute of this state, or a domestic limited liability company or a
27 foreign limited liability company authorized to do business in this
28 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 file
9 in the department of state specified for this purpose. On the same day
10 that such process is mailed, a duplicate copy of such process and proof
11 of mailing shall be personally [delivering] delivered to and [leaving]
12 left with the secretary of state or his or her deputy, or with any
13 person authorized by the secretary of state to receive such service, at
14 the office of the department of state in the city of Albany, [duplicate
15 copies of such process] together with the statutory fee, which fee shall
16 be a taxable disbursement. Proof of mailing shall be by affidavit of
17 compliance with this section. Service of process on such corporation or
18 other business entity shall be complete when the secretary of state is
19 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] its agent upon
11 whom process against it may be served in the manner set forth in para-
12 graph (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] with the
10 department specified for such purpose. The post office address may be
11 changed by signing and delivering to the department of state a certif-
12 icate of change setting forth the statements required under section 1310
13 (Certificate of change, contents) to effect a change in the post office
14 address under subparagraph [(a) (4)] (7) of paragraph (a) of section
15 1308 (Amendments or 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 at least sixty days prior to the filing of the certificate of
13 resignation for receipt of process with the department of state the
14 party has sent a copy of the certificate of resignation for receipt of
15 process by registered or certified mail to the address of the registered
16 agent of the [designated] designating limited partnership, if other than
17 the party filing the certificate of resignation[,] for receipt of proc-
18 ess, or if the [resigning] designating limited partnership has no regis-
19 tered agent, then to the last address of the [designated] designating
20 limited partnership, known to the party, specifying the address to which
21 the copy was sent. If there is no registered agent and no known address
22 of the designating limited partnership the party shall attach an affida-
23 vit to the certificate stating that a diligent but unsuccessful search
24 was 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 (iii) a domestic limited liability company or
8 a 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 this 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 the department after a period
17 of ten years 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 at least sixty days prior to the filing of the certificate of
7 resignation for receipt of process with the department of state the
8 party has sent a copy of the certificate of resignation for receipt of
9 process by registered or certified mail to the address of the registered
10 agent of the [designated] designating limited liability partnership, if
11 other than the party filing the certificate of resignation, for receipt
12 of process, or if the [resigning] designating limited liability partner-
13 ship has no registered agent, then to the last address of the [desig-
14 nated] designating limited liability partnership, known to the party,
15 specifying the address to which the copy was sent. If there is no regis-
16 tered agent and no known address of the designating limited liability
17 partnership the party shall attach an affidavit to the certificate stat-
18 ing that a diligent but unsuccessful search was made by the party to
19 locate the limited liability partnership, specifying what efforts were
20 made.

21 (4) That the [designated] designating limited liability partnership is
22 required to deliver to the department of state a certificate of amend-
23 ment providing for the designation by the limited liability partnership
24 of a new address and that upon its failure to file such certificate, its
25 authority to do business in this state shall be suspended.

26 § 75. Paragraph 16 of subdivision 1 of section 103 of the private
27 housing finance law, as added by chapter 22 of the laws of 1970, is
28 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 15 of section 20.03 of the arts and cultural affairs
7 law, as added by chapter 656 of the laws of 1991, is amended to read as
8 follows:

9 15. "Non-institutional portion" shall mean the part or portion of a
10 combined-use facility other than the institutional portion. If the non-
11 institutional portion, or any part thereof, consists of a condominium,
12 the consent of the trust which has developed or approved the developer
13 of such condominium shall be required prior to any amendment of the
14 declaration of such condominium pursuant to subdivision [nine] eight of
15 section three hundred thirty-nine-n of the real property law and prior
16 to any amendment of the by-laws of such condominium pursuant to para-
17 graph (j) of subdivision one of section three hundred thirty-nine-v of
18 the real property law, and whether or not such trust is a unit owner of
19 such condominium, it may exercise the rights of the board of managers
20 and an aggrieved unit owner under section three hundred thirty-nine-j of
21 the real property law in the case of a failure of any unit owner of such
22 condominium to comply with the by-laws of such condominium and with the
23 rules, regulations, and decisions adopted pursuant thereto.

24 § 77. Subdivision 7 of section 339-n of the real property law is
25 REPEALED and subdivisions 8 and 9 are renumbered subdivisions 7 and 8.

26 § 78. 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 file
17 in the department of state specified for this purpose. On the same day
18 that such process is mailed, a duplicate copy of such process and proof
19 of mailing shall be personally delivered to and left with the secretary
20 of state or a deputy, or with any person authorized by the secretary of
21 state to receive such service, at the office of the department of state
22 in the city of Albany, a duplicate copy of such process with proof of
23 mailing together with the statutory fee, which shall be a taxable
24 disbursement. Proof of mailing shall be by affidavit of compliance with
25 this section. Service of process on a board of managers shall be
26 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 § 79. 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 § 80. 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 § 81. 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] the secretary of state. In case
18 any such corporation shall have failed to file such certificate of
19 designation, it shall be deemed to have designated the secretary of
20 state as its agent upon whom such process against it may be served; and
21 until a certificate of designation shall have been filed the corporation
22 shall be deemed to have directed [the secretary of state] a person to
23 mail [copies] a copy of process served upon [him] the secretary of state
24 to the corporation at its last known office address within or without
25 the state. When a certificate of designation has been filed by such
26 corporation [the secretary of state] a person serving such process shall
27 mail [copies] a copy of process thereafter served upon [him] a person
28 serving such process to the address set forth in such certificate. Any

1 such corporation, from time to time, may change the address to which
2 [the secretary of state] a person is directed to mail copies of process,
3 by filing a certificate to that effect executed, signed and acknowledged
4 in like manner as a certificate of designation as herein provided.
5 Service of process upon any such corporation or upon any corporation
6 having a certificate of authority [under section two hundred twelve of
7 the general corporation law] or having authority to do business by
8 virtue of section thirteen hundred five of the business corporation law,
9 in any action commenced at any time pursuant to the provisions of this
10 article, may be made by either (1) personally delivering to and leaving
11 with the secretary of state, a deputy secretary of state or with any
12 person authorized by the secretary of state to receive such service
13 [duplicate copies] a copy thereof at the office of the department of
14 state in the city of Albany, in which event [the secretary of state] a
15 person serving such process shall forthwith send by [registered] certi-
16 fied mail, return receipt requested, [one of such copies] a duplicate
17 copy to the corporation at the address designated by it or at its last
18 known office address within or without the state, or (2) personally
19 delivering to and leaving with the secretary of state, a deputy secre-
20 tary of state or with any person authorized by the secretary of state to
21 receive such service, a copy thereof at the office of the department of
22 state in the city of Albany and by delivering a copy thereof to, and
23 leaving such copy with, the president, vice-president, secretary,
24 assistant secretary, treasurer, assistant treasurer, or cashier of such
25 corporation, or the officer performing corresponding functions under
26 another name, or a director or managing agent of such corporation,
27 personally without the state. Proof of such personal service without
28 the state shall be filed with the clerk of the court in which the action

1 is pending within thirty days after such service, and such service shall
2 be complete ten days after proof thereof is filed.

3 § 82. 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 § 83. This act shall take effect on the one hundred twentieth day
5 after it shall have become a law.

6 PART R

7 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
8 executive law relating to permitting the secretary of state to provide
9 special handling for all documents filed or issued by the division of
10 corporations and to permit additional levels of such expedited service,
11 as amended by section 1 of part R of chapter 58 of the laws of 2019, is
12 amended to read as follows:

13 § 2. This act shall take effect immediately, provided however, that
14 section one of this act shall be deemed to have been in full force and
15 effect on and after April 1, 2003 and shall expire March 31, [2020]
16 2021.

17 § 2. This act shall take effect immediately and shall be deemed to
18 have been in full force and effect on and after March 31, 2020.

19 PART S

20 Section 1. The general business law is amended by adding a new section
21 390-d to read as follows:

22 § 390-d. Gender pricing discrimination. 1. Definitions. For the
23 purposes of this section, the following terms shall have the following
24 meanings:

1 (a) "Consumer products" shall mean any goods used, bought or rendered
2 primarily for personal, family or household purposes;

3 (b) "Consumer services" shall mean any services used, bought or
4 rendered primarily for personal, family or household purposes;

5 (c) "Substantially similar" shall mean (i) two consumer products that
6 exhibit no substantial differences in the materials used in production,
7 the intended use of the product, and the functional design and features
8 of the product, or (ii) two consumer services that exhibit no substan-
9 tial difference in the amount of time to provide the services, the
10 difficulty in providing the services, or the cost of providing the
11 services. A difference in coloring among any consumer product shall not
12 be construed as a substantial difference for the purposes of this para-
13 graph.

14 2. No person, firm, partnership, company, corporation, or other busi-
15 ness entity shall sell or offer for sale any two consumer products from
16 the same manufacturer or distributor that are substantially similar, if
17 such products are priced differently based on the gender of the persons
18 for whom the products are marketed and intended.

19 3. No person, firm, partnership, company, corporation or other busi-
20 ness entity shall sell or offer for sale any consumer services that are
21 substantially similar if such services are priced differently based upon
22 the gender of the individuals for whom the services are performed,
23 offered, or marketed.

24 4. Nothing in this section prohibits price differences in consumer
25 products or consumer services based specifically upon the amount of
26 time, difficulty or cost incurred in manufacturing such product or
27 offering such service.

1 5. (a) The following business establishments shall clearly and
2 conspicuously disclose to the customer in writing the pricing for each
3 standard service provided:

4 (i) tailors or businesses providing aftermarket clothing alterations;

5 (ii) barbers or hair salons;

6 (iii) dry cleaners and laundries providing services to individuals;

7 and

8 (iv) such other business establishments as may be identified and added

9 to this list by regulation.

10 (b) The price list shall be posted in an area conspicuous to custom-
11 ers. Posted price lists shall be in no less than fourteen-point bold-
12 face type and clearly and completely display pricing for every standard
13 service offered by the business.

14 (c) The business establishment shall provide the customer with a
15 complete written price list upon request.

16 (d) The business establishment shall display in a conspicuous place at
17 least one clearly visible sign, printed in no less than twenty-four
18 point boldface type, which reads: "NEW YORK LAW PROHIBITS ANY BUSINESS
19 ESTABLISHMENT FROM DISCRIMINATING, WITH RESPECT TO THE PRICE CHARGED FOR
20 SERVICES OF SIMILAR OR LIKE KIND, AGAINST A PERSON BECAUSE OF THE
21 PERSON'S GENDER. A COMPLETE PRICE LIST IS AVAILABLE UPON REQUEST."

22 (e) For the purposes of this subdivision, "standard service" means the
23 fifteen most frequently requested services provided by the business.

24 6. (a) The attorney general may issue a notice directing the cessation
25 of any conduct by a person, firm, partnership, company, corporation, or
26 other business entity which the attorney general has reason to believe
27 has violated this section. If any person, firm, partnership, company,
28 corporation, or other business entity fails to submit evidence demon-

1 strating differences in the amount of time, difficulty or cost incurred
2 in manufacturing such product or offering such service within five busi-
3 ness days after service of such notice, or if the attorney general
4 determines that such evidence fails to demonstrate legally excusable
5 differences provided for in subdivision four of this section, the attor-
6 ney general may bring an action in the name and on behalf of the people
7 of the state of New York to enjoin such acts and to obtain restitution
8 of any moneys or property obtained directly or indirectly by any such
9 unlawful acts. In such action preliminary relief may be granted under
10 article sixty-three of the civil practice law and rules. In any such
11 proceeding, the court shall impose a civil penalty in an amount not to
12 exceed twenty-five thousand dollars.

13 (b) Before any violation of this section is sought to be enjoined, the
14 attorney general shall be required to give the person against whom such
15 proceeding is contemplated notice by certified mail and an opportunity
16 to show in writing within five business days after receipt of notice why
17 proceedings should not be instituted against him, unless the attorney
18 general shall find, in any case in which he seeks preliminary relief,
19 that to give such notice and opportunity is not in the public interest.

20 (c) In addition to the right of action granted to the attorney general
21 pursuant to this section, any person who has been injured by reason of
22 any violation of this section may bring an action in such person's own
23 name to enjoin such unlawful act or practice, an action to recover actu-
24 al damages or fifty dollars, whichever is greater, or both such actions.
25 The court may, in its discretion, increase the award of damages to an
26 amount not to exceed three times the actual damages up to one thousand
27 dollars, if the court finds the defendant willfully or knowingly

1 violated this section. The court may award reasonable attorneys' fees to
2 a prevailing plaintiff.

3 (d) The attorney general shall have power at all times, either
4 personally or by his or her deputies, to subpoena witnesses, to compel
5 their attendance, to administer an oath, to examine any person under
6 oath and to require the production of any relevant books or papers. Such
7 examination may be conducted on any subject relating to the duties
8 imposed upon, or the powers vested in, the attorney general under the
9 provisions of this section. Any person, firm, partnership, company,
10 corporation, or other business entity which fails to obey the command of
11 a subpoena without reasonable excuse or refuses, without reasonable
12 cause, to be sworn or to be examined or to answer a question or to
13 produce a book or paper when ordered so to do by the officer duly
14 conducting such inquiry, or fails to perform any act required hereunder
15 to be performed, shall be guilty of a misdemeanor and shall also be
16 subject to the compulsions provided by the civil practice law and rules.
17 Any officer participating in such inquiry and any person examined as a
18 witness upon such inquiry who shall disclose to any person other than
19 the attorney general the name of any witness examined or any other
20 information obtained upon such inquiry, except as directed by the attor-
21 ney general, shall be guilty of a misdemeanor.

22 (e) Notwithstanding any law to the contrary, all monies recovered or
23 obtained under this article by a state agency or state official or
24 employee acting in their official capacity shall be subject to subdivi-
25 sion eleven of section four of the state finance law.

26 7. The attorney general may adopt and promulgate rules as may be
27 necessary in carrying out the provisions of this section.

1 § 2. Separability clause; construction. If any part or provision of
2 this act or the application thereof to any person or circumstances be
3 adjudged invalid by any court of competent jurisdiction, such judgment
4 shall be confined in its operation to the part, provision or application
5 directly involved in the controversy in which such judgment shall have
6 been rendered and shall not affect or impair the validity of the remain-
7 der of this act or the application thereof to other provisions or
8 circumstances.

9 § 3. This act shall take effect on the one hundred eightieth day after
10 it shall have become a law. Effective immediately, the addition, amend-
11 ment and/or repeal of any rule or regulation necessary for the implemen-
12 tation of this act on its effective date are authorized to be made and
13 completed on or before such effective date.

14 PART T

15 Section 1. The general business law is amended by adding a new article
16 40 to read as follows:

17 ARTICLE 40

18 TELEPHONE CALL ABUSE PREVENTION

19 Section 900. Short title.

20 901. Definitions.

21 902. Telemarketing sales calls mandates, prohibitions, and Do

22 Not Call registry.

23 903. Telephone call authentication framework.

24 904. Telephone call blocking.

25 905. Use of automatic telephone dialing systems and placement of
26 consumer telephone calls.

1 906. Telemarketing and consumer fraud and abuse prevention act.

2 § 900. Short title. This article may be cited as the "telephone call
3 abuse prevention act".

4 § 901. Definitions. Unless otherwise indicated, as used in this arti-
5 cle, the following terms shall have the following meanings:

6 1. "Department" means the department of state.

7 2. "Secretary" means the secretary of state.

8 3. "Customer" means any natural person who is or may be required to
9 pay for or to exchange consideration for goods and services offered
10 through telemarketing.

11 4. "Doing business in this state" means conducting telephonic sales
12 calls: a. from a location in this state; or b. from a location outside
13 of this state to consumers residing in this state.

14 5. "Goods and services" means any goods and services, and such term
15 shall include any real property or any tangible personal property or
16 services of any kind.

17 6. "Negative option feature" means, in an offer or agreement to sell
18 or provide any goods or services, a provision under which the customer's
19 silence or failure to take an affirmative action to reject such goods or
20 services or to cancel the agreement is interpreted by the seller as
21 acceptance of the offer.

22 7. "Person" means any natural person, association, partnership, firm,
23 or corporation and its affiliates or subsidiaries, or other business
24 entity.

25 8. "Telemarketer" means any person who, for financial profit or
26 commercial purposes in connection with telemarketing, a. makes telemar-
27 keting sales calls or electronic messaging texts to a customer when the
28 customer is in this state, b. directly controls or supervises the

1 conduct of a telemarketer, or c. intentionally aids a telemarketer to
2 engage in telemarketing. For the purposes of this article, "commercial
3 purposes" shall mean the sale or offer for sale of goods or services.

4 9. "Telemarketing" means any plan, program or campaign that is
5 conducted to induce payment or the exchange of any other consideration
6 for any goods or services, that involves one or more telephone calls or
7 electronic messaging texts by a telemarketer in which the customer is
8 located within the state at the time of the call. Telemarketing also
9 includes the acceptance or collection of information obtained from tele-
10 phone calls or electronic messaging texts with the intent of providing
11 it to a third party who accepts or collects the information to engage in
12 telemarketing. Telemarketing does not include the solicitation of sales
13 through media other than by telephone calls or electronic messaging text
14 and does not include calls or electronic messaging texts intended to
15 implement or complete a transaction to which the customer has previously
16 consented.

17 10. "Telemarketing sales call" means a telephone call or electronic
18 messaging text, made directly or indirectly by a telemarketer or by any
19 outbound telephone calling technology that delivers a prerecorded
20 message to a customer or to a customer's voicemail or answering machine
21 service, in which such telephone call or electronic messaging text is
22 for the purpose of inducing payment or the exchange of any other consid-
23 eration for any goods or services.

24 11. "Unsolicited telemarketing sales call" means any telemarketing
25 sales call other than a call made:

26 a. in response to an express written or verbal request by the custom-
27 er; or

1 b. in connection with an established business relationship, which has
2 not been terminated by either party, unless such customer has stated to
3 the telemarketer that such customer no longer wishes to receive the
4 telemarketing sales calls of such telemarketer.

5 12. "Caller identification information" means information provided by
6 a caller identification service regarding the telephone number and name
7 of the person calling.

8 13. "Caller identification service" means a service that allows a
9 telephone subscriber to have the telephone number, and, where available,
10 name of the calling party transmitted contemporaneously with the tele-
11 phone call, and that is displayed on a device in or connected to the
12 subscriber's telephone.

13 14. "Electronic messaging text" means real-time or near real-time
14 non-voice messages in text form over communications networks, and
15 includes the transmission of writing, signs, signals, pictures, and
16 sounds of all kinds by aid of wire, cable or other like connection
17 between the points of origin and reception of such transmission.

18 15. "Area code" means the first three digits of the ten-digit tele-
19 phone number.

20 16. "Entity specific 'do-not-call' list" means the list of telephone
21 numbers provided directly to the telemarketer by the owners of the tele-
22 phone numbers for the purpose of being removed from any future telemar-
23 keting calls.

24 17. "Automatic number identification" means any data message, protocol
25 or part thereof which communicates the telephone number to be displayed
26 on the caller identification of the telephone call recipient. Automatic
27 number identification includes a calling party number, initial address
28 message, and calling line identification.

1 18. "New York state automatic number identification" means any auto-
2 matic number identification with an area code designated by the North
3 American numbering plan to cover locations in New York state.

4 19. "North American numbering plan" has the meaning ascribed to it by
5 federal communications commission regulations, defined in 47 C.F.R.
6 section 52.5(d).

7 20. "Public switched telephone network" means all telephones, mobile
8 telephones and devices assigned phone numbers from the North American
9 numbering plan.

10 21. "Voice service" has the meaning ascribed to such term by the
11 federal Telephone Robocall Abuse Criminal Enforcement and Deterrence Act
12 (TRACED) (Public Law No.116-105), or any successive federal law that
13 amends such term.

14 22. "Voice service provider" means any person who provides voice
15 services to subscribers in the state utilizing any technology, regard-
16 less of whether such provider is regulated pursuant to the public
17 service law.

18 23. "Automatic telephone dialing system" means equipment, software, or
19 other technology used to make pre-recorded calls, except for equipment
20 that requires a human to dial or place each individual call one call at
21 a time and requires such human to then remain on each call.

22 24. "Auto-dialed call" means any telephone call initiated by an auto-
23 matic telephone dialing system.

24 25. "SHAKEN" means signature-based handling of asserted information
25 using TOKENS.

26 26. "STIR" means secure telephone identity revisited.

27 27. "STIR/SHAKEN authentication framework" means the digital certif-
28 icate scheme to verify and authenticate caller identification for calls

1 carried over an internet protocol (IP) network, based upon standards
2 developed by stakeholders of the information and communications technol-
3 ogy industry, as referenced in the notice of inquiry of the federal
4 communications commission, 32 FCC Rcd 5988.

5 28. "Pooling administrator" means the thousands-block pooling adminis-
6 trator as identified in 47 C.F.R. § 52.20.

7 29. "Consumer" means a natural person who is solicited to purchase,
8 lease or receive a good or service for personal, family or household
9 use.

10 30. "Consumer telephone call" means a call made to a telephone number
11 by a telephone solicitor, whether by device, live operator, or any
12 combination thereof, for the purpose of soliciting a sale of any consum-
13 er goods or services for personal, family or household purposes to the
14 consumer called, or for the purpose of soliciting an extension of credit
15 for consumer goods or services to the consumer called, or for the
16 purpose of obtaining information that will or may be used for the direct
17 solicitation of a sale of consumer goods or services to the consumer
18 called or an extension of credit for such purposes; provided, however,
19 that "consumer telephone call" shall not include a call made by a tele-
20 phone corporation, as defined by subdivision seventeen of section two of
21 the public service law, in response to a specific inquiry initiated by a
22 consumer regarding that consumer's existing or requested telephone
23 service.

24 31. "Telephone solicitor" means a person who makes or causes to be
25 made a consumer telephone call.

26 32. "Applicant" means a person seeking a certificate of registration
27 or to renew a certificate of registration under this section.

1 33. "Investment opportunity" means anything tangible or intangible,
2 that is offered for sale, sold, or traded based wholly or in part on
3 representations, either express or implied, about past, present, or
4 future income, profit, or appreciation.

5 34. "Premium" means anything offered or given, independent of chance,
6 to customers as an incentive to purchase or otherwise contract for goods
7 or services offered through telemarketing.

8 35. "Principal" means any person participating in or responsible for
9 the management of a telemarketer's business, whether or not the position
10 is compensated, including but not limited to an owner in the case of a
11 sole proprietorship, an officer, director or stockholder holding more
12 than ten percent of the outstanding stock in the case of a corporation,
13 a partner in the case of a partnership, and a manager or member in the
14 case of a limited liability company.

15 36. "Prize" means anything offered or purportedly offered and given or
16 purportedly given to a person by chance. For purposes of this defi-
17 inition, chance exists if a person is guaranteed to receive an item and,
18 at the time of the offer or purported offer, the telemarketer does not
19 identify the specific item that the person will receive.

20 37. "Prize promotion" means a sweepstakes or other game of chance or
21 an oral or written, express or implied representation that a person has
22 won, has been selected to receive or is eligible or may be eligible to
23 receive a prize or purported prize.

24 § 902. Telemarketing sales calls mandates, prohibitions, and Do Not
25 Call registry. 1. No telemarketer or seller shall engage in telemarket-
26 ing at any time other than between 8:00 A.M. and 9:00 P.M. at the
27 location of the customer unless the customer has given his or her
28 express consent to the call at a different time. Telemarketers shall

1 provide, in a clear and coherent manner using words with common and
2 everyday meanings, at the beginning of each telemarketing sales call all
3 of the following information:

4 a. the telemarketer's name and the person on whose behalf the solici-
5 itation is being made, if other than the telemarketer;

6 b. the purpose of the telephone call;

7 c. the identity of the goods or services for which a fee will be
8 charged; and

9 d. whether the call is being recorded.

10 2. It shall be unlawful for any telemarketer or seller to knowingly
11 cause any voice service providing caller identification service to tran-
12 smit misleading, inaccurate, or false caller identification information,
13 provided that it shall not be a violation to substitute (for the name
14 and phone number used in, or billed for, making the call) the name or
15 telephone number of the person or seller on behalf of which a telemar-
16 keting call is placed.

17 3. Prior to the purchase of any good or service, telemarketers shall
18 disclose to the customer the cost of the goods or services that are the
19 subject of the call and if the offer includes a negative option feature,
20 all material terms and conditions of the negative option feature,
21 including, but not limited to the fact that the customer's account will
22 be charged unless the customer takes an affirmative action to avoid the
23 charges, the dates the charges will be submitted for payment, and the
24 specific steps the customer must take to avoid the charge.

25 4. a. The department is authorized to establish, manage, and maintain
26 a no telemarketing sales calls statewide registry which shall contain a
27 list of customers who do not wish to receive unsolicited telemarketing
28 sales calls. The department may contract with a private vendor to estab-

1 lish, manage and maintain such registry, provided the private vendor has
2 maintained national no telemarketing sales calls registries for more
3 than two years, and the contract requires the vendor to provide the no
4 telemarketing sales calls registry in a printed hard copy format and in
5 any other format as prescribed by the department.

6 b. The department is authorized to have the national Do Not Call
7 registry established, managed and maintained by the federal trade
8 commission pursuant to 15 U.S.C. 6151, and referenced by 16 C.F.R.
9 section 310.4 (b)(1)(iii)(B), to serve as the New York state no telemar-
10 keting sales calls statewide registry provided for by this section. The
11 department is further authorized to take whatever administrative actions
12 may be necessary or appropriate for such transition including, but not
13 limited to, providing the telephone numbers of New York customers regis-
14 tered on the no telemarketing sales calls statewide registry to the
15 federal trade commission, for inclusion on the national Do Not Call
16 registry.

17 5. No telemarketer or seller may make or cause to be made any unsolic-
18 ited telemarketing sales call to any customer when that customer's tele-
19 phone number has been on the national Do Not Call registry, established
20 by the federal trade commission, for a period of thirty-one days prior
21 to the date the call is made, pursuant to 16 C.F.R. section
22 310.4(b)(1)(iii)(B).

23 6. It shall be unlawful for any telemarketer doing business in this
24 state to make an unsolicited telemarketing sales call to any person in a
25 county, city, town or village knowingly under a declared state of emer-
26 gency or disaster emergency as described in section twenty-four or twen-
27 ty-eight of the executive law.

1 7. No telemarketer or seller shall initiate any telemarketing sales
2 call by means of a technology that delivers a pre-recorded message,
3 unless the telemarketer or seller has obtained from the customer an
4 express agreement, in writing. No such agreement shall authorize any
5 telemarketing sales calls more than thirty days after execution of the
6 agreement, and the agreement must provide that:

7 a. the telemarketer or seller obtained only after a clear and conspic-
8 uous disclosure, using plain language and printed in type no less than
9 twelve-point type, that the purpose of the agreement is to authorize the
10 seller to make telemarketing sales calls to such customer;

11 b. the telemarketer or seller obtained without requiring, directly or
12 indirectly, that the agreement be executed as a condition of purchasing
13 any good or service;

14 c. evidences the willingness of the customer to receive telemarketing
15 sales calls by or made on behalf of a specific seller;

16 d. includes such customer's telephone number and signature;

17 e. is displayed before any mechanism offered to the customer to verify
18 or acknowledge consent; and

19 f. contains the following language:

20 (i) "This express agreement applies only between the customer and the
21 specific entity offering the agreement, and any named partner or affil-
22 iate entity."

23 (ii) "By clicking or otherwise acknowledging agreement, I understand
24 that I consent to and may receive telemarketing sales calls even if I
25 have previously entered my number on the national Do Not Call registry
26 maintained by the federal trade commission."

27 8. No telemarketer or seller may initiate any telephone call using an
28 automatic telephone dialing system or an artificial or pre-recorded

1 voice, without prior express and verifiable consent from the person
2 receiving the call.

3 9. In the case of any telemarketing sales call delivered by means of a
4 technology that delivers a pre-recorded message that could be received
5 by a customer who can use an automated interactive voice and/or keypress
6 activated opt-out mechanism to assert a Do Not Call request, such call
7 shall include a mechanism that allows the customer to automatically add
8 the number called to the seller's entity specific do not call list, and
9 which mechanism, once invoked, immediately ends the call.

10 10. In the case of any telemarketing sales call delivered by means of
11 a technology that delivers a pre-recorded message that could be answered
12 by an answering machine or voicemail service, that the call include a
13 toll-free number that must connect the customer directly to an automated
14 interactive voice or keypress activated opt-out mechanism that allows
15 the consumer to automatically add the number called to the seller's
16 entity specific do not call list, and which mechanism, once invoked,
17 immediately ends the call.

18 11. In the case of any telemarketing sales call made by a natural
19 person, the telemarketer or seller shall inform the customer that he or
20 she may request that his or her telephone number be added to the sell-
21 er's entity specific do not call list. If the customer opts to do so,
22 the telemarketer or seller shall immediately end the call and shall add
23 the number called to such list or cause the number called to be added to
24 such list.

25 12. No telemarketer or seller shall transmit, share, or otherwise make
26 available any customer's contact information, including name, telephone
27 number, or email address, which has been provided to such telemarketer
28 or seller by such customer, to any person, corporation, or other entity

1 without the express agreement of the consumer in writing or in electron-
2 ic format, unless otherwise required by law, or pursuant to a lawful
3 subpoena or court order. No such agreement shall authorize a telemarket-
4 er or seller to transmit, share, or otherwise make available such
5 consumer's contact information for more than thirty days after execution
6 of such agreement.

7 13. Telemarketers and sellers shall keep for a period of twenty-four
8 months from the date the record is created records relating to its tele-
9 marketing activities.

10 14. a. The department shall provide notice to customers of the estab-
11 lishment of the national Do Not Call registry. Any customer who wishes
12 to be included on such registry shall notify the federal trade commis-
13 sion as directed by relevant federal regulations.

14 b. Any company that provides local telephone directories to customers
15 in this state shall inform its customers of the provisions of this
16 section by means of publishing a notice in such local telephone directo-
17 ries and on any website and social media page owned, operated or other-
18 wise authorized by such company.

19 15. When the department has reason to believe a person has engaged in
20 repeated unlawful acts in violation of this section, or when a notice of
21 hearing has been issued pursuant to subdivision sixteen of this section,
22 the department may request in writing the production of relevant docu-
23 ments and records as part of its investigation. If the person upon whom
24 such request was made fails to produce the documents or records within
25 fourteen days after the date of the request, the department may issue
26 and serve subpoenas to compel the production of such documents and
27 records. If any person shall refuse to comply with a subpoena issued
28 under this section, the department may petition a court of competent

1 jurisdiction to enforce the subpoena, and to request a civil penalty not
2 to exceed one thousand dollars per day, actual damages sustained by
3 reason of the failure to comply and such sanctions as the court may
4 direct.

5 16. a. Where it is determined after an opportunity for a hearing that
6 any person has violated one or more provisions of this section, the
7 secretary, or any person deputized or so designated by him or her, may
8 assess a fine not to exceed twenty-two thousand dollars for each
9 violation.

10 b. Any proceeding conducted pursuant to paragraph a of this subdivi-
11 sion shall be subject to the state administrative procedure act.

12 c. Nothing in this subdivision shall be construed to restrict any
13 right which any person may have under any other statute or at common
14 law.

15 17. The department shall prescribe rules and regulations to administer
16 this section.

17 18. If any clause, sentence, paragraph or part of this section shall
18 be adjudged by any court of competent jurisdiction to be invalid, such
19 judgment shall not affect, impair or invalidate the remainder thereof,
20 but shall be confined in its operation to the clause, sentence, para-
21 graph or part thereof directly involved in the controversy in which such
22 judgment shall have been rendered.

23 § 903. Telephone call authentication framework. 1. Not later than
24 January first, two thousand twenty-one:

25 a. A voice service provider shall implement the STIR/SHAKEN authenti-
26 cation framework, or alternative technology that provides compatible or
27 superior capability, to verify and authenticate caller identification

1 information in the internet protocol networks of telephone dialing
2 service providers.

3 b. A voice service provider shall take reasonable measures to imple-
4 ment an effective call authentication framework, or alternative technol-
5 ogy that provides compatible or superior capability, to verify and
6 authenticate caller identification information in the non-internet
7 protocol networks of the voice service provider.

8 2. STIR/SHAKEN certificate authorities providing credentials to
9 commercial, government and not-for-profit organizations using New York
10 state automatic number identifications shall be responsible for investi-
11 gating and vetting the entities they certify, and shall provide the
12 department annually with all information required under this subdivi-
13 sion. Required due diligence in selecting and managing certificate
14 recipients shall include a minimum of the following:

15 a. Background checks which establish that the entity, its officers and
16 persons responsible for authorizing official acts of such entity have
17 never been convicted of frauds, felonies or other serious or relevant
18 offenses.

19 b. Establishment of one or more physical address locations in the
20 United States. All such information shall be confirmed and updated annu-
21 ally.

22 c. Any person acting as a certificate authority shall provide a
23 personal assurance that the certificates will be granted in a reputable
24 and lawful manner, and any such person shall be responsible jointly and
25 severally for penalties related to fraud or willful violations.

26 3. Where the federal communications commission has granted a delay of
27 required compliance for any provider or class of providers of voice
28 service or type of voice calls, compliance under paragraph b of subdivi-

1 sion one of this section may be delayed, but only to the extent that
2 such a provider or class of providers of voice service or type of voice
3 calls, materially relies on a non-internet protocol network for the
4 provision of such service or calls, until a call authentication protocol
5 has been developed for calls delivered over non-internet protocol
6 networks and is reasonably available.

7 4. On or before January first, two thousand twenty-one, and thereafter
8 at least once every three years, all voice service providers shall
9 review the best available technology to authenticate caller identifica-
10 tion information and deploy any such technology which may better accom-
11 plish the purpose of this section. Any such upgrades shall be deployed
12 to all subscribers as soon as feasible and at no additional surcharge or
13 fee to such subscribers.

14 5. Deployment of any call authentication technology shall result in no
15 additional surcharge or fee to the subscriber.

16 6. By July thirty-first of the year following the effective date of
17 this section, and annually thereafter, every voice service provider
18 shall file with both the department, and the secretary to the public
19 service commission, a report setting forth its deployment and review of
20 the best available call authentication technology required by this
21 section, as well as any available upgrades thereto and deployment there-
22 of to persons or entities, as well as any other information that the
23 department, in consultation with the department of public service, may
24 require. Such report shall include:

25 a. an analysis of the extent to which voice service providers have
26 implemented the call authentication frameworks described in this
27 section, including whether the availability of necessary equipment and
28 equipment upgrades has impacted such implementation;

1 b. an assessment of the efficacy of the call authentication frameworks
2 described in paragraph b of subdivision one of this section, in address-
3 ing all aspects of call authentication; and

4 c. a sworn statement by a principal or officer of the voice service
5 provider that the information provided is current and accurate.

6 7. Any voice service provider that knowingly fails or neglects to
7 comply with this section, or a rule or regulation adopted thereunder,
8 shall forfeit to the people of the state of New York a sum not less than
9 ten thousand dollars and no more than one hundred thousand dollars
10 constituting a civil penalty for each and every offense and, in the case
11 of a continuing violation, each day shall be deemed a separate and
12 distinct offense.

13 8. Whenever there shall be a violation of this section, an application
14 may be made by either a. the attorney general in the name of the people
15 of the state of New York, or b. in the case of a voice service provider
16 subject to the jurisdiction of the public service commission, to a court
17 or justice having jurisdiction, to issue an injunction, and upon notice
18 to the defendant of not less than five days, to enjoin and restrain the
19 continuance of such violations, and for the enforcement of the penalties
20 provided in this section.

21 9. When the department has reason to believe a person or voice service
22 provider has violated any provision of this section, the department may
23 request in writing the production of relevant documents and records. If
24 the person upon whom such request was made fails to produce the docu-
25 ments or records within fourteen days after the date of the request, the
26 department may issue and serve subpoenas to compel the production of
27 such documents and records. If any person shall refuse to comply with a
28 subpoena issued under this section, the department may petition a court

1 of competent jurisdiction to enforce the subpoena and, notwithstanding
2 any other provision of law, to request a civil penalty not to exceed one
3 thousand dollars per day, actual damages sustained by reason of the
4 failure to comply, and such sanctions as the court may direct.

5 10. The public service commission and the department may promulgate
6 any rules or regulations necessary to implement and enforce the
7 provisions of this section.

8 § 904. Telephone call blocking. 1. Consistent with authorization
9 provided by federal law and rules or orders of the federal communi-
10 cations commission or its successors:

11 a. Voice service providers shall offer services to subscribers capable
12 of blocking calls made from an automatic telephone dialing system or
13 using an artificial or pre-recorded voice to a telephone or other
14 device, on an opt-out basis. Voice service providers shall, in a manner
15 that is clear for a subscriber to understand: (i) offer sufficient
16 information to subscribers so that subscribers can make an informed
17 choice as to whether they wish to opt-out of such service; and (ii)
18 clearly disclose to subscribers what types of calls may be blocked and
19 the risks of blocking wanted calls.

20 b. Voice service providers shall block a call made to a telephone or
21 other device when the subscriber to which the originating number is
22 assigned has requested that calls purporting to originate from that
23 number be blocked because the number is used for inbound calls only.

24 c. Voice service providers shall block calls made to a telephone or
25 other device originating from the following numbers:

26 (i) a number that is not a valid North American numbering plan number;

1 (ii) a valid North American numbering plan number that is not allo-
2 cated to a provider by the North American numbering plan administrator
3 or the pooling administrator; and

4 (iii) a valid North American numbering plan number that is allocated
5 to a provider by the North American number plan administrator or pooling
6 administrator, but is unused, so long as the provider blocking the calls
7 is the allocatee of the number and confirms that the number is unused or
8 has obtained verification from the allocatee that the number is unused
9 at the time of the blocking. An unused number is a number that is not
10 assigned to a subscriber or otherwise set aside for outbound call use.

11 d. Voice service providers shall not block any call made to a tele-
12 phone or other device if (i) the call is made for emergency alert
13 purposes, or (ii) it is a call from a law enforcement or public safety
14 entity.

15 e. Providers of telephone dialing service shall not block a voice call
16 to a subscriber who has requested that no inbound calls be blocked.

17 2. Nothing in this section shall be construed to require blocking of
18 international telephone calls from purported non-North American number-
19 ing plan numbers.

20 3. Deployment of any call blocking services shall result in no addi-
21 tional surcharge or fee to the subscriber.

22 4. On or before January first, two thousand twenty-one, and period-
23 ically thereafter, all voice service providers shall review the best
24 available call blocking technology and deploy any such technology which
25 may better accomplish the purpose of this section. Any such upgrades
26 shall be deployed to all subscribers as soon as feasible and at no addi-
27 tional surcharge or fee to such subscribers.

1 5. By July thirty-first of the year following the effective date of
2 this section, and annually thereafter, every voice service provider
3 shall file with both the department, and the secretary to the public
4 service commission, a report setting forth its deployment and review of
5 the best available call blocking technology required by this section, as
6 well as any available upgrades thereto and deployment thereof to persons
7 or entities, as well as any other information that the department, in
8 consultation with the department of public service, may require. The
9 report shall include a sworn statement by a principal or officer of the
10 voice service provider that the information provided is current and
11 accurate.

12 6. Any voice service provider that knowingly fails or neglects to
13 comply with this section, or a rule or regulation adopted thereunder,
14 shall forfeit to the people of the state of New York a sum not less than
15 ten thousand dollars and no more than one hundred thousand dollars
16 constituting a civil penalty for each and every offense and, in the case
17 of a continuing violation, each day shall be deemed a separate and
18 distinct offense.

19 7. Whenever there shall be a violation of this section, an application
20 may be made by either a. the attorney-general in the name of the people
21 of the state of New York, or b. in the case of voice service provider
22 subject to the jurisdiction of the public service law, the public
23 service commission, to a court or justice having jurisdiction, to issue
24 an injunction, and upon notice to the defendant of not less than five
25 days, to enjoin and restrain the continuance of such violations, and for
26 the enforcement of the penalties provided in this section.

27 8. When the department has reason to believe a person or voice service
28 provider has violated any provision of this section, the department may

1 request in writing the production of relevant documents and records. If
2 the person upon whom such request was made fails to produce the docu-
3 ments or records within fourteen days after the date of the request, the
4 department may issue and serve subpoenas to compel the production of
5 such documents and records. If any person shall refuse to comply with a
6 subpoena issued under this section, the department may petition a court
7 of competent jurisdiction to enforce the subpoena and, notwithstanding
8 any other provision of law, to request a civil penalty not to exceed one
9 thousand dollars per day, actual damages sustained by reason of the
10 failure to comply, and such sanctions as the court may direct.

11 9. The secretary shall promulgate any rules or regulations necessary
12 to implement and enforce the provisions of this section.

13 10. The public service commission may promulgate any rules or regu-
14 lations necessary to implement and enforce the provisions of this
15 section.

16 § 905. Use of automatic telephone dialing systems and placement of
17 consumer telephone calls. 1. No person shall operate an automatic tele-
18 phone dialing system, nor place any consumer telephone call, except in
19 accordance with the provisions of this section. The use of such device
20 by any person, either individually or acting as an officer, agent, or
21 employee of a person operating any automatic telephone dialing system,
22 is subject to the provisions of this section.

23 2. Whenever telephone calls are placed through the use of an automatic
24 telephone dialing system, such device shall do all of the following:

25 a. state at the beginning of the call the nature of the call and the
26 name of the person or on whose behalf the message is being transmitted
27 and at the end of such message the address, and telephone number of the
28 person on whose behalf the message is transmitted, provided such disclo-

1 sures are not otherwise prohibited or restricted by any federal, state
2 or local law; and

3 b. disconnect the automatic telephone dialing system from the tele-
4 phone line upon the termination of the call by either the person calling
5 or the person called.

6 3. No person shall operate an automatic telephone dialing system which
7 uses a random or sequential number generator to produce a number to be
8 called.

9 4. No automatic telephone dialing system shall be used to call and no
10 consumer telephone call shall be placed to an emergency telephone line
11 including but not limited to any 911 or E-911 line, or any emergency
12 line of any volunteer fire company or fire department; any emergency
13 medical service, ambulance service, voluntary ambulance service or
14 hospital ambulance service as defined in section three thousand one of
15 the public health law; any hospital, nursing home, or residential health
16 care facility as defined in section twenty-eight hundred one of the
17 public health law; any adult care facility as defined in section two of
18 the social services law; or any law enforcement agency or to the tele-
19 phone line of any guest room or patient room of any hospital, nursing
20 home, or residential health care facility as defined in section twenty-
21 eight hundred one of the public health law, or any adult care facility
22 as defined by section two of the social services law. It shall not
23 constitute a violation of this subdivision if the person who places such
24 a call can affirmatively establish that the call was placed inadvertent-
25 ly despite good faith efforts on the part of such person to comply with
26 the provisions of this section and such person has implemented a proce-
27 dure to prevent subsequent calls from being placed to a particular
28 prohibited telephone number.

1 5. A telephone solicitor shall not make a consumer telephone call to a
2 consumer unless the telephone solicitor conforms with subparagraph (i)
3 of paragraph b of subdivision five of section nine hundred six of this
4 article. Nothing contained herein shall be deemed to limit, annul,
5 alter, or affect the provisions of subdivision two of this section.

6 6. No telephone solicitor or person who places any consumer telephone
7 call or who operates an automatic telephone dialing system and no
8 employer of any such telephone solicitor or person shall intentionally
9 cause to be installed, or shall intentionally utilize, any blocking
10 device or service to prevent the name and/or telephone number of such
11 solicitor or person, or the name and/or telephone number of his or her
12 employer, from being displayed on a caller identification device of the
13 recipient of any such consumer telephone call. A violation of this
14 subdivision shall be subject to the provisions of subdivision eight of
15 this section.

16 7. a. Federal, state or local municipalities, or any subdivision ther-
17 eof, using an automatic telephone dialing system for emergency purposes
18 shall be exempted from the provisions of this section.

19 b. Notwithstanding the provisions of paragraph a of this subdivision,
20 any entity which operates a telephone warning or alert system which
21 utilizes any such device for emergency purposes shall also be exempted
22 from the provisions of this section.

23 8. Whenever there shall be a violation of this section, an application
24 may be made by the attorney-general in the name of the people of the
25 state of New York to a court or justice having jurisdiction to issue an
26 injunction, and upon notice to the defendant of not less than five days,
27 to enjoin and restrain the continuance of such violations; and if it
28 shall appear to the satisfaction of the court or justice, that the

1 defendant has, in fact, violated this section an injunction may be
2 issued by such court or justice enjoining and restraining any further
3 violation, without requiring proof that any person has, in fact, been
4 injured or damaged thereby. In any such proceeding, the court may make
5 allowances to the attorney-general as provided in paragraph six of
6 subdivision (a) of section eighty-three hundred three of the civil prac-
7 tice law and rules, and direct restitution. Whenever the court shall
8 determine that a violation of subdivision two, three or four of this
9 section has occurred, the court may impose a civil penalty of not more
10 than two thousand dollars per call, up to a total of not more than twen-
11 ty thousand dollars, for calls placed in violation of such subdivisions
12 within a continuous seventy-two hour period. Whenever the court shall
13 determine that a violation of subdivision five of this section, or a
14 violation of subdivision six of this section, has occurred, the court
15 may impose a civil penalty of not more than two thousand dollars. In
16 connection with any such proposed application, the attorney-general is
17 authorized to take proof and make a determination of the relevant facts
18 and to issue subpoenas in accordance with the civil practice law and
19 rules.

20 9. In addition to the right of action granted to the attorney-general
21 pursuant to this section, any person who has received a telephone call
22 in violation of subdivision two, three or four of this section may bring
23 an action in such person's own name to enjoin such unlawful act or prac-
24 tice, an action to recover such person's actual damages or five hundred
25 dollars, whichever is greater, or both such actions. The court may, in
26 its discretion, increase the award of damages to an amount not to exceed
27 three times the actual damages up to one thousand dollars, if the court
28 finds the defendant willfully or knowingly violated such subdivisions.

1 The court may award reasonable attorney's fees to a prevailing plain-
2 tiff. Any damages recoverable pursuant to this section may be recovered
3 in any action which a court may authorize to be brought as a class
4 action pursuant to article nine of the civil practice law and rules.

5 § 906. Telemarketing and consumer fraud and abuse prevention act. 1.
6 Legislative findings and declaration. The legislature finds and declares
7 that the prevention of deceptive and unfair practices in association
8 with telemarketing is in the public interest and subject to the authori-
9 ty of appropriate political subdivisions of the state for the purpose of
10 protecting the public against fraud, deception and other abuses. The
11 legislature intends that the federal telemarketing and consumer fraud
12 and abuse prevention act (P.L. 103-297) be fully enforceable by appro-
13 priate state and local enforcement officials.

14 The legislature further declares that additional requirements applica-
15 ble to the telemarketing industry not present in the federal statute are
16 necessary to protect residents of the state and others from telemarket-
17 ing abuses. The legislature therefore intends that provisions in this
18 section which differ from the aforementioned federal act and other New
19 York state laws regulating telemarketing be construed whenever reason-
20 able as providing additional protections to victims of telemarketing
21 fraud.

22 2. Registration of telemarketers. a. No person shall act as a tele-
23 marketer without first having received a certificate of registration
24 from the secretary as provided in this section. Employees of telemarket-
25 ers shall be exempt from the requirements of this paragraph and para-
26 graph b of this subdivision.

1 b. No person required to register pursuant to paragraph a of this
2 subdivision shall act as a telemarketer without holding a valid certif-
3 icate of registration from the secretary as provided in this section.

4 c. Any applicant shall file with the department an application for a
5 certificate of registration in such form and containing such information
6 as the secretary shall prescribe, including the following:

7 (i) the applicant's name, address and telephone number;

8 (ii) each business name under which the applicant engages in or
9 intends to engage in telemarketing, if such name is different than the
10 applicant's;

11 (iii) the complete street address and primary telephone number of each
12 location, designating the principal location, from which the applicant
13 engages in or intends to engage in telemarketing, including each
14 location at which mail will be received by or on behalf of the appli-
15 cant, and identifying any such location that is a post office box or
16 mail drop;

17 (iv) the name, address and telephone number of each principal of the
18 business;

19 (v) whether the applicant or any principal thereof has been convicted
20 or plead guilty to or is being prosecuted by indictment or information
21 for racketeering, violations of securities laws, or a theft offense of
22 any state, or the United States;

23 (vi) whether any injunction or judgment has been entered into against
24 the applicant or any principal, or such applicant or principal has
25 entered into a settlement agreement, assurance of discontinuance,
26 consent decree or any similar instrument in any civil action involving
27 theft, racketeering, embezzlement, conversion, misappropriation of prop-
28 erty, fraud, or deceptive, unfair, illegal or unconscionable trade prac-

1 tices, and whether any civil action involving such practices is current-
2 ly pending, to the extent not inconsistent with any existing court
3 orders; and

4 (vii) whether the license to engage in any business, trade or profes-
5 sion of the applicant or any principal thereof has been refused,
6 suspended or revoked in any jurisdiction.

7 d. Upon receipt of the completed application for registration and
8 required fee, and unless such certificate of registration has been
9 denied as provided in subdivision four of this section, the secretary
10 shall issue and deliver to the applicant a certificate in such form and
11 manner as the secretary shall prescribe, but which must set forth the
12 applicant's name, business address, and the effective term of the regis-
13 tration. A registration certificate issued or renewed under the
14 provisions of this section shall entitle a person to act as a registered
15 telemarketer for a period of two years from the effective date of the
16 registration.

17 e. Any registration granted under this section may be renewed by the
18 secretary upon application by the holder thereof, in such form as the
19 secretary may prescribe. The secretary shall have the authority to
20 assign staggered expiration dates for licenses at the time of renewal.
21 If the assigned date results in a term that exceeds two years, the
22 applicant shall pay an additional pro-rata adjustment together with the
23 fee prescribed in paragraph f of this subdivision.

24 f. Each application for a certificate of registration shall be accom-
25 panied by a fee of five hundred dollars, which shall not be refundable.

26 g. The fees collected pursuant to this subdivision shall be deposited
27 to the credit of the business and licensing services account established

1 pursuant to the provisions of section ninety-seven-y of the state
2 finance law.

3 h. Any person holding a certificate of registration shall be required
4 to provide notice of any change in the information required of appli-
5 cants by this section, in such form and manner, and within such time
6 period as the secretary shall prescribe.

7 i. No person required to be registered under this subdivision shall be
8 entitled to enforce any agreement or seek any consideration or any other
9 payment for goods and services offered through telemarketing unless such
10 person is in compliance with this subdivision and subdivision four of
11 this section.

12 j. The secretary may prescribe rules and regulations to administer
13 this subdivision and subdivision four of this section.

14 3. Bonding of telemarketers. a. Any applicant shall, at the time of
15 any original application for a certificate of registration, file with
16 the secretary, in the form and amount as prescribed in this subdivision
17 and satisfactory to the secretary:

18 (i) A bond with a corporate surety, from a company authorized to do
19 business in this state; or

20 (ii) An irrevocable letter of credit or a certificate of deposit from
21 a New York state or federally chartered bank, trust company, savings
22 bank or savings and loan association qualified to do business in New
23 York state and insured by the federal deposit insurance corporation.

24 b. Such bond, letter of credit, or certificate of deposit shall be
25 maintained for three years from the date the telemarketer ceases tele-
26 marketing, or three years from the date the certificate of registration
27 terminates, whichever is earlier.

1 c. The principal sum of the bond, letter of credit, or certificate of
2 deposit shall be twenty-five thousand dollars, which shall be maintained
3 until the period specified in paragraph b of this subdivision, subject
4 to paragraph g of this subdivision.

5 d. The bond, letter of credit or certificate of deposit shall be paya-
6 ble in favor of the people of the state of New York for the benefit of
7 any customer injured as a result of a violation of this section, pursu-
8 ant to a determination of any court of competent jurisdiction pursuant
9 to this section, or article ten-B of the personal property law.

10 e. The aggregate liability of the surety upon the bond or the banking
11 organization upon the letter of credit or certificate of deposit to all
12 persons for all breaches of the conditions of the bond shall in no event
13 exceed the amount of the bond, letter of credit or certificate of depos-
14 it.

15 f. The bond, letter of credit or certificate of deposit shall not be
16 canceled, revoked, diminished or terminated except after notice to, and
17 with the consent of, the secretary at least forty-five days in advance
18 of such cancellation, revocation, or termination. Unless the bond is
19 replaced by another bond, letter of credit or certificate of deposit in
20 conformity with this subdivision prior to the expiration of the forty-
21 five day period, the registration of the telemarketer shall be treated
22 as terminated as of the cancellation, revocation or termination of the
23 bond.

24 g. The registration of the telemarketer shall be treated as terminated
25 as of the date the amount of the bond, letter of credit or certificate
26 of deposit falls below the amount required by this subdivision.

27 h. Any change in ownership of a telemarketer shall not release, cancel
28 or terminate liability under this subdivision under any bond, letter of

1 credit, or certificate of deposit filed for any telemarketer as to any
2 customer who was injured as a result of a violation of this section or
3 article ten-B of the personal property law while such bond, letter of
4 credit or certificate of deposit was in effect unless such transferee,
5 purchaser, successor or assignee of such telemarketer obtains a bond,
6 letter of credit or certificate of deposit under this subdivision for
7 the benefit of such customer. Nothing in this paragraph shall be
8 construed to authorize any telemarketer to cancel any bond, letter of
9 credit, or certificate of deposit where such cancellation is not other-
10 wise authorized by this subdivision.

11 4. Refusal to issue, suspension, and revocation of registration. a.
12 The secretary, or any person deputized or so designated by him or her
13 may deny the application of any person for a certificate of registra-
14 tion, refuse to issue a renewal thereof, suspend or revoke such certif-
15 icate or in lieu thereof assess a fine not to exceed one thousand
16 dollars per violation, if he or she determines that such applicant, or
17 any of its principals:

18 (i) has made a material false statement or omitted a material fact in
19 connection with an application under this section;

20 (ii) was the former holder of a certificate of registration issued
21 hereunder which the secretary revoked, suspended, or refused to renew;

22 (iii) has failed to furnish satisfactory evidence of good character,
23 reputation and fitness;

24 (iv) with respect to the applicant, is not the true owner of the tele-
25 marketer, except in the case of a franchise;

26 (v) is in violation of or has violated any of the following statutes
27 and the regulations thereunder, as such statutes and regulations may
28 from time to time be amended:

1 (A) this section;

2 (B) article ten-B of the personal property law;

3 (C) the act of congress entitled the "telemarketing and consumer fraud
4 and abuse prevention act" (P.L. 103-297);

5 (vi) has been convicted or plead guilty to or is being prosecuted by
6 indictment or information for racketeering, violations of securities
7 laws, or a theft offense of this state, or the United States;

8 (vii) has had any injunction or judgment entered against him or her in
9 any civil action, or such applicant or principal has entered into a
10 settlement agreement, assurance of discontinuance, consent decree or any
11 similar instrument involving theft, racketeering, embezzlement, conver-
12 sion, misappropriation of property, fraud or deceptive, unfair, illegal
13 or unconscionable trade practices;

14 (viii) has had a license or registration to engage in any business,
15 occupation or profession suspended or revoked in any jurisdiction which
16 may impact upon the applicant's fitness for registration under this
17 section; or

18 (ix) has committed, or is committing deceptive, unfair, illegal or
19 unconscionable trade practices in violation of the laws of this or any
20 other state or the United States.

21 b. Any proceeding conducted pursuant to paragraph a of this subdivi-
22 sion shall be subject to the state administrative procedure act.

23 5. Deceptive telemarketing acts and practices. a. It shall be unlawful
24 for any telemarketer to directly or indirectly engage in the following
25 conduct:

26 (i) fail to furnish a copy of the certificate of registration at the
27 request of any interested party;

- 1 (ii) present or attempt to present, as their own, the registration
2 certificate of another;
- 3 (iii) give false or misleading information;
- 4 (iv) misrepresent himself or herself to be registered;
- 5 (v) use or attempt to use a registration certificate which has been
6 revoked, suspended or is otherwise not valid;
- 7 (vi) advertise telemarketing services without having a valid certif-
8 icate of registration under this section;
- 9 (vii) represent in any manner that his or her registration constitutes
10 approval or endorsement of any governmental agency;
- 11 (viii) assist or support any person when the telemarketer or any iden-
12 tified employee knew or should have known that the person was engaged in
13 an act or practice in violation of this section or article ten-B of the
14 personal property law;
- 15 (ix) request a fee in advance to remove adverse information or modify
16 adverse information to improve a person's credit history or credit
17 record;
- 18 (x) except for an attorney engaged in the practice of law, request or
19 receive payment in advance from a person to recover or otherwise aid in
20 the return of money or any other item lost by the customer in a prior
21 telemarketing transaction;
- 22 (xi) obtain or submit for payment a check, draft, or other form of
23 negotiable paper drawn on a person's checking, savings, share, or simi-
24 lar account, without that person's express written authorization;
- 25 (xii) procure the services of any professional delivery, courier or
26 other pickup service to obtain receipt or possession of a customer's
27 payment, unless the goods or services are delivered with the reasonable
28 opportunity to inspect before any payment is collected; or

1 (xiii) misrepresent, directly or by implication, that a premium is a
2 prize.

3 b. Telemarketers shall provide all of the following information, in a
4 clear and coherent manner using words with common and everyday meanings,
5 when making a telemarketing call:

6 (i) at the beginning of the call and prior to any request by the call-
7 er of the customer to release or disclose any of the customer's personal
8 or financial information, including but not limited, to the customer's
9 name, address, credit card, checking account or other financial account
10 number or information:

11 (A) that the purpose of the telephone call is to offer goods or
12 services for which a fee will be charged or to provide an investment
13 opportunity, whichever is the case;

14 (B) the telemarketer's name and the person on whose behalf the solic-
15 itation is being made if other than the telemarketer;

16 (C) the identity of the goods or services for which a fee will be
17 charged; and

18 (D) whether the call is being recorded.

19 (ii) the cost of the goods or services that are the subject of the
20 call.

21 (iii) in any prize promotion, the odds of being able to receive the
22 prize, and if the odds are not calculable in advance, the factors used
23 in calculating the odds; that no purchase or payment is required to win
24 a prize or to participate in a prize promotion; and the no purchase/no
25 payment method of participating in the prize promotion with either
26 instructions on how to participate or an address or local or toll-free
27 telephone number to which customers may write or call for information on

1 how to participate; and all material costs or conditions to receive or
2 redeem a prize that is the subject of the prize promotion.

3 6. Abusive telemarketing acts or practices. It shall be unlawful for
4 any telemarketer to:

5 a. threaten, intimidate or use profane or obscene language;

6 b. engage in conduct or behavior a reasonable person would deem to be
7 abusive or harassing;

8 c. initiate a telemarketing call to a person, when that person has
9 stated previously that he or she does not wish to receive solicitation
10 calls from that telemarketer provided, however that nothing in this
11 section shall be construed to prohibit a telemarketer from telemarketing
12 goods, services or investment opportunities to any customer of any
13 affiliate, subsidiary or parent of such telemarketer;

14 d. engage in telemarketing to a person's residence at any time other
15 than between 8:00 A.M. and 9:00 P.M. local time, at the called person's
16 location; or

17 e. make a false, deceptive or misleading statement in regard to the
18 requirements of subdivision five of this section to a customer, or to
19 engage in any deceptive or unfair act or practice in association with
20 telemarketing.

21 f. make an unsolicited telemarketing sales call to any person in a
22 county, city, town or village knowingly under a declared state of emer-
23 gency or disaster emergency as described in section twenty-four or twen-
24 ty-eight of the executive law.

25 7. Unlawful transmission of certain caller identification information.
26 It shall be unlawful for any telemarketer or seller to knowingly cause
27 any voice service providing caller identification service to transmit
28 misleading, inaccurate, or false caller identification information,

1 provided that it shall not be a violation to substitute (for the name
2 and phone number used in, or billed for, making the call) the name or
3 telephone number of the person or seller on behalf of which a telemar-
4 keting call is placed.

5 8. Recordkeeping requirements. a. All telemarketers shall keep for a
6 period of twenty-four months from the date the record is produced
7 records of all financial transactions, written notices, disclosures and
8 acknowledgments, including but not limited to:

9 (i) records of calls resulting in a promise by the customer to pay or
10 otherwise exchange consideration for goods and services, including but
11 not limited to the name and last known address of each customer, the
12 goods or services selected, the date such goods were shipped or provided
13 and the quantity provided, the amount charged by the company for the
14 goods or services provided, including all other related fees or charges
15 of any kind, including shipping and handling fees, and the amount actu-
16 ally paid by the customer for the goods and services provided;

17 (ii) the name and last known address of each prize recipient and the
18 prize awarded having a value of twenty-five dollars or more; and

19 (iii) the name, any fictitious name used, the last known home address
20 and telephone number, and the job title for all current and former
21 employees directly involved in telephone sales; provided, however, that
22 if the telemarketer permits fictitious names to be used by employees,
23 each fictitious name must be traceable to only one specific employee.

24 b. A telemarketer may keep the records required by paragraph a of this
25 subdivision in any form, and in the manner, format, or place as they
26 keep such records in the ordinary course of business.

27 c. In the event of any dissolution or termination of the
28 telemarketer's business, a representative of the telemarketer shall

1 maintain all records as required under this subdivision, which shall be
2 the person required to maintain such records in the event of dissolution
3 or termination under rules and regulations issued under the act of
4 congress entitled the "telemarketing and consumer fraud and abuse
5 prevention act" (P.L. 103-297), or any person designated by the tele-
6 marketer. In the event of any sale, assignment or other change of owner-
7 ship of the telemarketer's business, the successor or assignee shall
8 maintain all records required by this subdivision. In any case in which
9 this paragraph applies, the telemarketer shall provide notice to the
10 secretary, in the form and manner designated by the secretary of the
11 disposition of such records within thirty days of the dissolution,
12 termination, sale, assignment or change of ownership.

13 9. Waiver. Any waiver of the provisions of this section by any custom-
14 er shall be unenforceable and void.

15 10. Exemptions. a. The following persons shall be exempt from the
16 registration and bonding requirements set forth in subdivisions two and
17 three of this section:

18 (i) the state, municipalities of the state, or any department or divi-
19 sion of the state or such municipalities;

20 (ii) the United States or any of its departments, agencies or divi-
21 sions;

22 (iii) colleges, universities and other institutions authorized by the
23 regents of the university of the state of New York or comparable body in
24 any other state or jurisdiction, to grant degrees, including licensed
25 private schools and any registered business schools regulated by article
26 one hundred one of the education law;

27 (iv) a person, which has been operating for at least three years a
28 retail business establishment in this state under the same name as that

1 used in connection with telemarketing, and both of the following occur
2 on a continuing basis:

3 (A) Either products are displayed and offered for sale or services are
4 offered for sale and provided at the business establishment; and

5 (B) A majority of the person's business involves buyers' obtaining
6 such products or services at the person's location;

7 (v) any not-for-profit corporation as defined in section one hundred
8 two of the not-for-profit corporation law and charitable organizations.

9 b. The following acts or practices are exempt from the requirements of
10 this section:

11 (i) telephone calls made by a telemarketer, collection agency or
12 attorney engaged in the practice of law for the exclusive purpose of
13 collecting a legal debt owed, in accordance with the applicable
14 provisions of the Federal Fair Debt Collection Practices Act (15 U.S.C.
15 § 1692 et. seq.);

16 (ii) telephone calls in which the sale, lease or other agreement for
17 goods or services is not completed, and payment or authorization of
18 payment is not required, until after a face-to-face sales presentation
19 by a telemarketer, or a meeting between a telemarketer and customer;

20 (iii) telephone calls that are received by a telemarketer initiated by
21 a customer that are not the result of any solicitation by such telemark-
22 eter; and

23 (iv) telephone calls between a telemarketer and any for-profit busi-
24 ness, except calls involving the retail sale of nondurable office or
25 cleaning supplies.

26 c. The following acts or practices are exempt from the requirements of
27 paragraph b of subdivision five of this section:

1 (i) telephone calls pertaining to a renewal or continuation of an
2 existing or prior contractual relationship or the continuation of an
3 established business relationship between a customer and any telemarket-
4 er, provided that the telemarketer discloses any material changes in the
5 terms and conditions of the prior contract, except for calls made by a
6 telemarketer in which the telemarketer or any of its principals has
7 previously engaged in any act or practice described in subparagraphs
8 (i), (ii), (v), (vi), (vii) and (viii) of paragraph a of subdivision
9 four of this section; and

10 (ii) unsolicited telephone calls made by the telemarketer for the
11 purpose of overall efforts to develop new business that include other
12 methods and techniques intended to identify and communicate with poten-
13 tial customers provided however that for all transactions which are
14 incidental to the call and result in the exchange of goods and services
15 the telemarketer shall disclose the following information:

16 (A) the telemarketer's name and the person on whose behalf the solici-
17 itation is being made if other than the telemarketer;

18 (B) the identity of the goods or services for which a fee will be
19 charged; and

20 (C) the cost of the goods or services that are the subject of the
21 call.

22 11. Fee and bonding exemptions. The following persons are exempt from
23 the fee and bonding requirements set forth in paragraph f of subdivision
24 two and subdivision three of this section: A person engaged in a busi-
25 ness or occupation which is licensed, registered, chartered, certified
26 or incorporated with or by any state or federal agency. Provided, howev-
27 er, any person not licensed, registered, chartered, certified or incor-
28 porated with any New York state or federal agency, shall submit evidence

1 to the secretary of state, in a form and manner to be prescribed by the
2 secretary, of any license, registration, charter, certification or
3 incorporation issued by an agency or governmental entity in this or any
4 other state.

5 12. Enforcement. a. Every violation of this section shall be deemed a
6 deceptive act and practice subject to enforcement under article twenty-
7 two-A of this chapter. In addition, the district attorney, county attor-
8 ney, and the corporation counsel shall have concurrent authority to seek
9 the relief in paragraph b of this subdivision, and all civil penalties
10 obtained in any such action shall be retained by the municipality or
11 county.

12 b. In every case where the court shall determine that a violation of
13 this section has occurred, it may impose a civil penalty of not less
14 than one thousand dollars nor more than two thousand dollars for each
15 violation provided that for a violation of subdivision seven of this
16 section, the court may impose a civil penalty of not less than five
17 thousand dollars nor more than ten thousand dollars for each violation.
18 Such penalty shall be in addition to the denial of registration or
19 renewal, suspension of registration or revocation of registration or
20 assessment of a fine authorized by subdivision four of this section.

21 c. Any person who contracts with a telemarketer for telemarketing
22 services and has actual knowledge that the telemarketer is acting in
23 violation of this section shall be deemed to be in violation of this
24 section, unless such person takes reasonable measures to prevent and
25 correct any conduct that violates this section.

26 d. Nothing in this section shall be construed to restrict any right
27 which any person may have under any other statute or the common law.

1 13. Criminal penalties. Any person who is convicted of knowingly
2 violating paragraph a or b of subdivision two of this section, or
3 subparagraph (ii), (iii), (iv) or (v) of paragraph a of subdivision five
4 of this section shall be guilty of a class B misdemeanor. Any person who
5 is convicted of knowingly violating subparagraph (xi) or (xii) of para-
6 graph a of subdivision five of this section shall be guilty of a class A
7 misdemeanor.

8 14. Separability clause; construction. If any part or provision of
9 this section or the application thereof to any person or circumstances
10 be adjudged invalid by any court of competent jurisdiction, such judg-
11 ment shall be confined in its operations to the part, provision or
12 application directly involved in the controversy in which such judgment
13 shall have been rendered and shall not affect or impair the validity of
14 the remainder of this section or the application thereof to other
15 persons or circumstances.

16 § 2. Sections 399-z, 399-p and 399-pp of the general business law are
17 REPEALED.

18 § 3. This act shall take effect immediately.

19 PART U

20 Section 1. Section 70 of the state law is amended to read as follows:

21 § 70. Description of the arms of the state and the state flag. The
22 device of arms of this state[, as adopted March sixteenth, seventeen
23 hundred and seventy-eight,] is hereby declared to be correctly described
24 as follows:

25 Charge. Azure, in a landscape, the sun in fess, rising in splendor or,
26 behind a range of three mountains, the middle one the highest; in base a

1 ship and sloop under sail, passing and about to meet on a river,
2 bordered below by a grassy shore fringed with shrubs, all proper.

3 Crest. On a wreath azure and or, an American eagle proper, rising to
4 the dexter from a two-thirds of a globe terrestrial, showing the north
5 Atlantic ocean with outlines of its shores.

6 Supporters. On a quasi compartment formed by the extension of the
7 scroll.

8 Dexter. The figure of Liberty proper, her hair disheveled and deco-
9 rated with pearls, vested azure, sandaled gules, about the waist a cinc-
10 ture or, fringed gules, a mantle of the last depending from the shoul-
11 ders behind to the feet, in the dexter hand a staff ensigned with a
12 Phrygian cap or, the sinister arm embowed, the hand supporting the
13 shield at the dexter chief point, a royal crown by her sinister foot
14 dejected.

15 Sinister. The figure of Justice proper, her hair disheveled and deco-
16 rated with pearls, vested or, about the waist a cincture azure, fringed
17 gules, sandaled and mantled as Liberty, bound about the eyes with a
18 fillet proper, in the dexter hand a straight sword hilted or, erect,
19 resting on the sinister chief point of the shield, the sinister arm
20 embowed, holding before her her scales proper.

21 Motto. On a scroll below the shield argent, in sable, two lines. On
22 line one, Excelsior and on line two, E pluribus unum.

23 State flag. The state flag is hereby declared to be blue, charged with
24 the arms of the state in the colors as described in the blazon of this
25 section.

26 § 2. (a) Any state flag, object, or printed materials containing the
27 depiction of the former arms of the state may continue to be used until
28 such flag, object, or printed materials' useful life has expired or

1 until the person possessing such flag, object, or printed material
2 replaces it. Such continued use shall not constitute a violation of
3 section seventy-two of the state law.

4 (b) Any electronic depiction of the arms of the state shall be updated
5 within 60 days of the effective date of this act.

6 (c) No state agency, local government, or public authority shall be
7 required to replace a flag solely because such flag contains the former
8 arms of the state.

9 § 3. The secretary of state shall begin to use the new seal as of the
10 effective date of this act.

11 § 4. This act shall take effect on the one hundred eightieth day after
12 it shall have become a law. Effective immediately, the department of
13 state is authorized to take any action, including entering into
14 contracts, that is necessary for the timely implementation of this act
15 on its effective date.

16 PART V

17 Section 1. Subdivision 1 of section 130 of the executive law, as
18 amended by section 1 of subpart D of part II of chapter 55 of the laws
19 of 2019, is amended to read as follows:

20 1. The secretary of state may appoint and commission as many notaries
21 public for the state of New York as in his or her judgment may be deemed
22 best, whose jurisdiction shall be co-extensive with the boundaries of
23 the state. The appointment of a notary public shall be for a term of
24 four years. An application for an appointment as notary public shall be
25 in form and set forth such matters as the secretary of state shall
26 prescribe. Every person appointed as notary public must, at the time of

1 his or her appointment, be [a citizen of the United States and either] a
2 resident of the state of New York or have an office or place of business
3 in New York state. A notary public who is a resident of the state and
4 who moves out of the state but still maintains a place of business or an
5 office in New York state does not vacate his or her office as a notary
6 public. A notary public who is a nonresident and who ceases to have an
7 office or place of business in this state, vacates his or her office as
8 a notary public. A notary public who is a resident of New York state and
9 moves out of the state and who does not retain an office or place of
10 business in this state shall vacate his or her office as a notary
11 public. A non-resident who accepts the office of notary public in this
12 state thereby appoints the secretary of state as the person upon whom
13 process can be served on his or her behalf. Before issuing to any appli-
14 cant a commission as notary public, unless he or she be an attorney and
15 counsellor at law duly admitted to practice in this state or a court
16 clerk of the unified court system who has been appointed to such posi-
17 tion after taking a civil service promotional examination in the court
18 clerk series of titles, the secretary of state shall satisfy himself or
19 herself that the applicant is of good moral character, has the equiv-
20 alent of a common school education and is familiar with the duties and
21 responsibilities of a notary public; provided, however, that where a
22 notary public applies, before the expiration of his or her term, for
23 reappointment with the county clerk or where a person whose term as
24 notary public shall have expired applies within six months thereafter
25 for reappointment as a notary public with the county clerk, such quali-
26 fying requirements may be waived by the secretary of state, and further,
27 where an application for reappointment is filed with the county clerk
28 after the expiration of the aforementioned renewal period by a person

1 who failed or was unable to re-apply by reason of his or her induction
2 or enlistment in the armed forces of the United States, such qualifying
3 requirements may also be waived by the secretary of state, provided such
4 application for reappointment is made within a period of one year after
5 the military discharge of the applicant under conditions other than
6 dishonorable. In any case, the appointment or reappointment of any
7 applicant is in the discretion of the secretary of state. The secretary
8 of state may suspend or remove from office, for misconduct, any notary
9 public appointed by him or her but no such removal shall be made unless
10 the person who is sought to be removed shall have been served with a
11 copy of the charges against him or her and have an opportunity of being
12 heard. No person shall be appointed as a notary public under this arti-
13 cle who has been convicted, in this state or any other state or territo-
14 ry, of a crime, unless the secretary makes a finding in conformance with
15 all applicable statutory requirements, including those contained in
16 article twenty-three-A of the correction law, that such convictions do
17 not constitute a bar to appointment.

18 § 2. Subdivision 1 of section 130 of the executive law, as amended by
19 chapter 490 of the laws of 2019, is amended to read as follows:

20 1. The secretary of state may appoint and commission as many notaries
21 public for the state of New York as in his or her judgment may be deemed
22 best, whose jurisdiction shall be co-extensive with the boundaries of
23 the state. The appointment of a notary public shall be for a term of
24 four years. An application for an appointment as notary public shall be
25 in form and set forth such matters as the secretary of state shall
26 prescribe. Every person appointed as notary public must, at the time of
27 his or her appointment, be [a citizen of the United States and either] a
28 resident of the state of New York or have an office or place of business

1 in New York state. A notary public who is a resident of the state and
2 who moves out of the state but still maintains a place of business or an
3 office in New York state does not vacate his or her office as a notary
4 public. A notary public who is a nonresident and who ceases to have an
5 office or place of business in this state, vacates his or her office as
6 a notary public. A notary public who is a resident of New York state and
7 moves out of the state and who does not retain an office or place of
8 business in this state shall vacate his or her office as a notary
9 public. A non-resident who accepts the office of notary public in this
10 state thereby appoints the secretary of state as the person upon whom
11 process can be served on his or her behalf. Before issuing to any appli-
12 cant a commission as notary public, unless he or she be an attorney and
13 counsellor at law duly admitted to practice in this state or a court
14 clerk of the unified court system who has been appointed to such posi-
15 tion after taking a civil service promotional examination in the court
16 clerk series of titles, the secretary of state shall satisfy himself or
17 herself that the applicant is of good moral character, has the equiv-
18 alent of a common school education and is familiar with the duties and
19 responsibilities of a notary public; provided, however, that where a
20 notary public applies, before the expiration of his or her term, for
21 reappointment with the county clerk or where a person whose term as
22 notary public shall have expired applies within six months thereafter
23 for reappointment as a notary public with the county clerk, such quali-
24 fying requirements may be waived by the secretary of state, and further,
25 where an application for reappointment is filed with the county clerk
26 after the expiration of the aforementioned renewal period by a person
27 who failed or was unable to re-apply by reason of his or her induction
28 or enlistment in the armed forces of the United States, such qualifying

1 requirements may also be waived by the secretary of state, provided such
2 application for reappointment is made within a period of one year after
3 the military discharge of the applicant under conditions other than
4 dishonorable, or if the applicant has a qualifying condition, as defined
5 in section three hundred fifty of this chapter, within a period of one
6 year after the applicant has received a discharge other than bad conduct
7 or dishonorable from such service, or if the applicant is a discharged
8 LGBT veteran, as defined in section three hundred fifty of this chapter,
9 within a period of one year after the applicant has received a discharge
10 other than bad conduct or dishonorable from such service. In any case,
11 the appointment or reappointment of any applicant is in the discretion
12 of the secretary of state. The secretary of state may suspend or remove
13 from office, for misconduct, any notary public appointed by him or her
14 but no such removal shall be made unless the person who is sought to be
15 removed shall have been served with a copy of the charges against him or
16 her and have an opportunity of being heard. No person shall be
17 appointed as a notary public under this article who has been convicted,
18 in this state or any other state or territory, of a crime, unless the
19 secretary makes a finding in conformance with all applicable statutory
20 requirements, including those contained in article twenty-three-A of the
21 correction law, that such convictions do not constitute a bar to
22 appointment.

23 § 3. Section 440-a of the real property law, as amended by section 1
24 of subpart G of part II of chapter 55 of the laws of 2019, is amended to
25 read as follows:

26 § 440-a. License required for real estate brokers and salesmen. No
27 person, co-partnership, limited liability company or corporation shall
28 engage in or follow the business or occupation of, or hold himself or

1 itself out or act temporarily or otherwise as a real estate broker or
2 real estate salesman in this state without first procuring a license
3 therefor as provided in this article. No person shall be entitled to a
4 license as a real estate broker under this article, either as an indi-
5 vidual or as a member of a co-partnership, or as a member or manager of
6 a limited liability company or as an officer of a corporation, unless he
7 or she is twenty years of age or over[, a citizen of the United States
8 or an alien lawfully admitted for permanent residence in the United
9 States]. No person shall be entitled to a license as a real estate
10 salesman under this article unless he or she is over the age of eighteen
11 years. No person shall be entitled to a license as a real estate broker
12 or real estate salesman under this article who has been convicted in
13 this state or elsewhere of a crime, unless the secretary makes a finding
14 in conformance with all applicable statutory requirements, including
15 those contained in article twenty-three-A of the correction law, that
16 such convictions do not constitute a bar to licensure. No person shall
17 be entitled to a license as a real estate broker or real estate salesman
18 under this article who does not meet the requirements of section 3-503
19 of the general obligations law.

20 Notwithstanding anything to the contrary in this section, tenant asso-
21 ciations and not-for-profit corporations authorized in writing by the
22 commissioner of the department of the city of New York charged with
23 enforcement of the housing maintenance code of such city to manage resi-
24 dential property owned by such city or appointed by a court of competent
25 jurisdiction to manage residential property owned by such city shall be
26 exempt from the licensing provisions of this section with respect to the
27 properties so managed.

1 § 4. Subdivision 1 of section 72 of the general business law, as
2 amended by chapter 164 of the laws of 2003, is amended to read as
3 follows:

4 1. If the applicant is a person, the application shall be subscribed
5 by such person, and if the applicant is a firm or partnership the appli-
6 cation shall be subscribed by each individual composing or intending to
7 compose such firm or partnership. The application shall state the full
8 name, age, residences within the past three years, present and previous
9 occupations of each person or individual so signing the same, [that each
10 person or individual is a citizen of the United States or an alien
11 lawfully admitted for permanent residence in the United States] and
12 shall also specify the name of the city, town or village, stating the
13 street and number, if the premises have a street and number, and other-
14 wise such apt description as will reasonably indicate the location ther-
15 eof, where is to be located the principal place of business and the
16 bureau, agency, sub-agency, office or branch office for which the
17 license is desired, and such further facts as may be required by the
18 department of state to show the good character, competency and integrity
19 of each person or individual so signing such application. Each person or
20 individual signing such application shall, together with such applica-
21 tion, submit to the department of state, his photograph, taken within
22 six months prior thereto in duplicate, in passport size and also two
23 sets of fingerprints of his two hands recorded in such manner as may be
24 specified by the secretary of state or the secretary of state's author-
25 ized representative. Before approving such application it shall be the
26 duty of the secretary of state or the secretary of state's authorized
27 representative to forward one copy of such fingerprints to the division
28 of criminal justice services. Upon receipt of such fingerprints, such

1 division shall forward to the secretary of state a report with respect
2 to the applicant's previous criminal history, if any, or a statement
3 that the applicant has no previous criminal history according to its
4 files. If additional copies of fingerprints are required the applicant
5 shall furnish them upon request. Such fingerprints may be submitted to
6 the federal bureau of investigation for a national criminal history
7 record check. The secretary shall reveal the name of the applicant to
8 the chief of police and the district attorney of the applicant's resi-
9 dence and of the proposed place of business and shall request of them a
10 report concerning the applicant's character in the event they shall have
11 information concerning it. The secretary shall take such other steps as
12 may be necessary to investigate the honesty, good character and integri-
13 ty of each applicant. Every such applicant for a license as private
14 investigator shall establish to the satisfaction of the secretary of
15 state (a) if the applicant be a person, or, (b) in the case of a firm,
16 limited liability company, partnership or corporation, at least one
17 member of such firm, partnership, limited liability company or corpo-
18 ration, has been regularly employed, for a period of not less than three
19 years, undertaking such investigations as those described as performed
20 by a private investigator in subdivision one of section seventy-one of
21 this article, as a sheriff, police officer in a city or county police
22 department, or the division of state police, investigator in an agency
23 of the state, county, or United States government, or employee of a
24 licensed private investigator, or has had an equivalent position and
25 experience or that such person or member was an employee of a police
26 department who rendered service therein as a police officer for not less
27 than twenty years or was an employee of a fire department who rendered
28 service therein as a fire marshal for not less than twenty years. Howev-

1 er, employment as a watchman, guard or private patrolman shall not be
2 considered employment as a "private investigator" for purposes of this
3 section. Every such applicant for a license as watch, guard or patrol
4 agency shall establish to the satisfaction of the secretary of state (a)
5 if the applicant be a person, or, (b) in the case of a firm, limited
6 liability company, partnership or corporation, at least one member of
7 such firm, partnership, limited liability company or corporation, has
8 been regularly employed, for a period of not less than two years,
9 performing such duties or providing such services as described as those
10 performed or furnished by a watch, guard or patrol agency in subdivision
11 two of section seventy-one of this article, as a sheriff, police officer
12 in a city or county police department, or employee of an agency of the
13 state, county or United States government, or licensed private investi-
14 gator or watch, guard or patrol agency, or has had an equivalent posi-
15 tion and experience; qualifying experience shall have been completed
16 within such period of time and at such time prior to the filing of the
17 application as shall be satisfactory to the secretary of state. The
18 person or member meeting the experience requirement under this subdivi-
19 sion and the person responsible for the operation and management of each
20 bureau, agency, sub-agency, office or branch office of the applicant
21 shall provide sufficient proof of having taken and passed a written
22 examination prescribed by the secretary of state to test their under-
23 standing of their rights, duties and powers as a private investigator
24 and/or watchman, guard or private patrolman, depending upon the work to
25 be performed under the license. In the case of an application subscribed
26 by a resident of the state of New York such application shall be
27 approved, as to each resident person or individual so signing the same,
28 but not less than five reputable citizens of the community in which such

1 applicant resides or transacts business, or in which it is proposed to
2 own, conduct, manage or maintain the bureau, agency, sub-agency, office
3 or branch office for which the license is desired, each of whom shall
4 subscribe and affirm as true, under the penalties of perjury, that he
5 has personally known the said person or individual for a period of at
6 least five years prior to the filing of such application, that he has
7 read such application and believes each of the statements made therein
8 to be true, that such person is honest, of good character and competent,
9 and not related or connected to the person so certifying by blood or
10 marriage. In the case of an application subscribed by a non-resident of
11 the state of New York such application shall be approved, as to each
12 non-resident person or individual so signing the same by not less than
13 five reputable citizens of the community in which such applicant
14 resides. The certificate of approval shall be signed by such reputable
15 citizens and duly verified and acknowledged by them before an officer
16 authorized to take oaths and acknowledgment of deeds. All provisions of
17 this section, applying to corporations, shall also apply to joint-stock
18 associations, except that each such joint-stock association shall file a
19 duly certified copy of its certificate of organization in the place of
20 the certified copy of its certificate of incorporation herein required.

21 § 5. Subdivision 2 of section 81 of the general business law, as
22 amended by chapter 756 of the laws of 1952 and paragraph (b) as amended
23 by chapter 133 of the laws of 1982, is amended to read as follows:

24 2. No person shall hereafter be employed by any holder of a license
25 certificate until he shall have executed and furnished to such license
26 certificate holder a verified statement, to be known as "employee's
27 statement," setting forth:

28 (a) His full name, age and residence address.

1 (b) [That the applicant for employment is a citizen of the United
2 States or an alien lawfully admitted for permanent residence in the
3 United States.

4 (c)] The business or occupation engaged in for the three years imme-
5 diately preceding the date of the filing of the statement, setting forth
6 the place or places where such business or occupation was engaged in,
7 and the name or names of employers, if any.

8 [(d)] (c) That he has not been convicted of a felony or of any offense
9 involving moral turpitude or of any of the misdemeanors or offenses
10 described in subdivision one of this section.

11 [(e)] (d) Such further information as the department of state may by
12 rule require to show the good character, competency, and integrity of
13 the person executing the statement.

14 § 6. Subdivision 4 of section 89-h of the general business law, as
15 added by chapter 336 of the laws of 1992, is amended to read as follows:

16 [4. Citizenship: be a citizen or resident alien of the United States;]

17 § 7. This act shall take effect immediately; provided, however,
18 section two of this act shall take effect on the same date and in the
19 same manner as section 36 of chapter 490 of the laws of 2019, takes
20 effect.

21 PART W

22 Section 1. Paragraph (c) of subdivision 1 of section 444-e of the real
23 property law, as amended by chapter 541 of the laws of 2019, is amended
24 to read as follows:

25 (c) have passed the National Home Inspector examination or an examina-
26 tion offered by the secretary, in any format, that in the judgment of

1 the secretary sufficiently tests such applicant to be engaged as a
2 professional home inspector; and

3 § 2. This act shall take effect immediately and shall apply to appli-
4 cations for a license as a professional home inspector received on or
5 after November 25, 2019.

6 PART X

7 Section 1. Paragraph (e) of section 104 of the business corporation
8 law, as amended by chapter 832 of the laws of 1982, is amended to read
9 as follows:

10 (e) If an instrument which is delivered to the department of state for
11 filing complies as to form with the requirements of law and there has
12 been attached to it the consent or approval of the state official,
13 department, board, agency or other body, if any, whose consent to or
14 approval of such instrument or the filing thereof is required by any
15 statute of this state and the filing fee and tax, if any, required by
16 any statute of this state in connection therewith have been paid, the
17 instrument shall be filed and indexed by the department of state. No
18 certificate of authentication or conformity or other proof shall be
19 required with respect to any verification, oath or acknowledgment of any
20 instrument delivered to the department of state under this chapter, if
21 such verification, oath or acknowledgment purports to have been made
22 before a notary public, or person performing the equivalent function, of
23 one of the states, or any subdivision thereof, of the United States or
24 the District of Columbia. Without limiting the effect of section four
25 hundred three of this chapter, filing and indexing by the department of
26 state shall not be deemed a finding that a certificate conforms to law,

1 nor shall it be deemed to constitute an approval by the department of
2 state of the name of the corporation or the contents of the certificate,
3 nor shall it be deemed to prevent any person with appropriate standing
4 from contesting the legality thereof in an appropriate forum. The
5 instrument's date of filing shall be the date the instrument was
6 received by the department of state for filing. An instrument that is
7 determined by the department of state to be unacceptable for filing
8 shall be returned to the person filing the instrument with an explana-
9 tion of the reason for the refusal to file. If the filer returns the
10 corrected instrument within thirty days from the date it was originally
11 received by the department of state and it is determined by the depart-
12 ment of state to be acceptable for filing, the instrument shall be filed
13 and indexed by the department of state and the filing date of the
14 instrument shall be the filing date that would have been applied had the
15 original instrument been acceptable for filing.

16 § 2. Paragraph (r) of section 104-A of the business corporation law is
17 REPEALED.

18 § 3. Section 408 of the business corporation law, as amended by
19 section 3 of part S of chapter 59 of the laws of 2015 and paragraph 1 as
20 amended by chapter 747 of the laws of 2019, is amended to read as
21 follows:

22 § 408. Statement; filing.

23 1. [Except as provided in paragraph eight of this section, each] Each
24 domestic corporation, and each foreign corporation authorized to do
25 business in this state, shall, during the applicable filing period as
26 determined by subdivision three of this section, file a statement
27 setting forth:

28 (a) The name and business address of its chief executive officer.

1 (b) The street address of its principal executive office.

2 (c) The post office address within or without this state to which the
3 secretary of state shall mail a copy of any process against it served
4 upon him or her. Such address shall supersede any previous address on
5 file with the department of state for this purpose.

6 (d) The number of directors constituting the board and how many direc-
7 tors of such board are women.

8 2. [Except as provided in paragraph eight of this section, such] Such
9 statement shall be made on forms prescribed by the secretary of state,
10 and the information therein contained shall be given as of the date of
11 the execution of the statement. Such statement shall only request
12 reporting of information required under paragraph one of this section.
13 It shall be signed and delivered to the department of state. No fee
14 shall be collected for the filing of the statement.

15 3. [Except as provided in paragraph eight of this section, for] For
16 the purpose of this section the applicable filing period for a corpo-
17 ration shall be the calendar month during which its original certificate
18 of incorporation or application for authority were filed or the effec-
19 tive date thereof if stated. The applicable filing period shall only
20 occur: (a) annually, during the period starting on April 1, 1992 and
21 ending on March 31, 1994; and (b) biennially, during a period starting
22 on April 1 and ending on March 31 thereafter. Those corporations that
23 filed between April 1, 1992 and June 30, 1994 shall not be required to
24 file such statements again until such time as they would have filed, had
25 this subdivision not been amended.

26 4. The provisions of paragraph (g) of section one hundred four of this
27 chapter shall not be applicable to filings pursuant to this section.

1 5. The provisions of this section and section 409 of this article
2 shall not apply to a farm corporation. For the purposes of this subdivi-
3 sion, the term "farm corporation" shall mean any domestic corporation or
4 foreign corporation authorized to do business in this state under this
5 chapter engaged in the production of crops, livestock and livestock
6 products on land used in agricultural production, as defined in section
7 301 of the agriculture and markets law. However, this exception shall
8 not apply to farm corporations that have filed statements with the
9 department of state which have been submitted through the department of
10 taxation and finance pursuant to paragraph eight of this section.

11 6. No such statement shall be accepted for filing when a certificate
12 of resignation for receipt of process has been filed under section three
13 hundred six-A of this chapter unless the corporation has stated a
14 different address for process which does not include the name of the
15 party previously designated in the address for process in such certif-
16 icate.

17 7. A domestic corporation or foreign corporation may amend its state-
18 ment to change the information required by subparagraphs (a) and (b) of
19 paragraph one of this section. Such amendment shall be made on forms
20 prescribed by the secretary of state. It shall be signed and delivered
21 to the department of state. No fee shall be collected for the filing of
22 the amendment.

23 [8. (a) The commissioner of taxation and finance and the secretary of
24 state may agree to allow corporations to provide the statement specified
25 in paragraph one of this section on tax reports filed with the depart-
26 ment of taxation and finance in lieu of biennial statements. This agree-
27 ment may apply to tax reports due for tax years starting on or after
28 January first, two thousand sixteen.

1 (b) If the agreement described in subparagraph (a) of this paragraph
2 is made, each corporation required to file the statement specified in
3 paragraph one of this section that is also subject to tax under article
4 nine or nine-A of the tax law shall include such statement annually on
5 its tax report filed with the department of taxation and finance in lieu
6 of filing a statement under this section with the department of state
7 and in a manner prescribed by the commissioner of taxation and finance.
8 However, each corporation required to file a statement under this
9 section must continue to file the biennial statement required by this
10 section with the department of state until the corporation in fact has
11 filed a tax report with the department of taxation and finance that
12 includes all required information. After that time, the corporation
13 shall continue to deliver annually the statement specified in paragraph
14 one of this section on its tax report in lieu of the biennial statement
15 required by this section.

16 (c) If the agreement described in subparagraph (a) of this paragraph
17 is made, the department of taxation and finance shall deliver to the
18 department of state for filing the statement specified in paragraph one
19 of this section for each corporation that files a tax report containing
20 such statement. The department of taxation and finance must, to the
21 extent feasible, also include the current name of the corporation,
22 department of state identification number for such corporation, the
23 name, signature and capacity of the signer of the statement, name and
24 street address of the filer of the statement, and the email address, if
25 any, of the filer of the statement.]

26 § 4. Section 409 of the business corporation law is REPEALED.

27 § 5. Subdivision 16 of section 96 of the executive law, as added by
28 chapter 561 of the laws of 1990, is amended to read as follows:

1 16. (a) Consistent with the provisions of the corporate laws of the
2 state of New York, the department of state [shall] may produce or
3 reproduce the content of any informational systems maintained pursuant
4 to such laws. The secretary of state shall establish the type and amount
5 of the reasonable fees to be collected by the department of state for
6 such informational systems. Such fees shall be subject to approval of
7 the director of the budget and shall be promulgated in the official
8 rules and regulations of the department of state in accordance with the
9 provisions of the state administrative procedure act.

10 (b) Notwithstanding paragraph (a) of this subdivision, the department
11 of state may make the content of any such information systems available
12 to the public on any website maintained by the department of state by
13 the state without charge.

14 § 6. Section 209 of the limited liability company law is amended to
15 read as follows:

16 § 209. Filing with the department of state. A signed articles of
17 organization and any signed certificate of amendment or other certif-
18 icates filed pursuant to this chapter or of any judicial decree of
19 amendment or cancellation shall be delivered to the department of state.
20 If the instrument that is delivered to the department of state for
21 filing complies as to form with the requirements of law and the filing
22 fee required by any statute of this state in connection therewith has
23 been paid, the instrument shall be filed and indexed by the department
24 of state. The department of state shall not review such articles or
25 certificates for legal sufficiency; its review shall be limited to
26 determining that the form has been completed. The instrument's date of
27 filing shall be the date the instrument was received by the department
28 of state for filing. An instrument that is determined by the department

1 of state to be unacceptable for filing shall be returned to the person
2 filing the instrument with an explanation of the reason for the refusal
3 to file. If the filer returns the corrected instrument within thirty
4 days from the date it was originally received by the department of state
5 and it is determined by the department of state to be acceptable for
6 filing, the instrument shall be filed and indexed by the department of
7 state and the filing date of the instrument shall be the filing date
8 that would have been applied had the original instrument been acceptable
9 for filing.

10 § 7. Subdivision (e) of section 301 of the limited liability company
11 law, as amended by section 5 of part S of chapter 59 of the laws of
12 2015, is amended to read as follows:

13 (e) [(1) Except as otherwise provided in this subdivision, every]
14 Every limited liability company to which this chapter applies, shall
15 biennially in the calendar month during which its articles of organiza-
16 tion or application for authority were filed, or effective date thereof
17 if stated, file on forms prescribed by the secretary of state, a state-
18 ment setting forth:

19 (i) the post office address within or without this state to which the
20 secretary of state shall mail a copy of any process accepted against it
21 served upon him or her. Such address shall supersede any previous
22 address on file with the department of state for this purpose;

23 (ii) the name and address of any managers appointed or elected in
24 accordance with the articles of organization or operating agreement; and

25 (iii) the name and address of the ten members with the largest
26 percentage ownership interest, as determined as of the time the state-
27 ment is filed by the department of state. No fee shall be collected for
28 the filing of the statement.

1 [(2) The commissioner of taxation and finance and the secretary of
2 state may agree to allow limited liability companies to include the
3 statement specified in paragraph one of this subdivision on tax reports
4 filed with the department of taxation and finance in lieu of biennial
5 statements and in a manner prescribed by the commissioner of taxation
6 and finance. If this agreement is made, starting with taxable years
7 beginning on or after January first, two thousand sixteen, each limited
8 liability company required to file the statement specified in paragraph
9 one of this subdivision that is subject to the filing fee imposed by
10 paragraph three of subsection (c) of section six hundred fifty-eight of
11 the tax law shall provide such statement annually on its filing fee
12 payment form filed with the department of taxation and finance in lieu
13 of filing a statement under this section with the department of state.
14 However, each limited liability company required to file a statement
15 under this section must continue to file the biennial statement required
16 by this section with the department of state until the limited liability
17 company in fact has filed a filing fee payment form with the department
18 of taxation and finance that includes all required information. After
19 that time, the limited liability company shall continue to provide annu-
20 ally the statement specified in paragraph one of this subdivision on its
21 filing fee payment form in lieu of the biennial statement required by
22 this subdivision.

23 (3) If the agreement described in paragraph two of this subdivision is
24 made, the department of taxation and finance shall deliver to the
25 department of state the statement specified in paragraph one of this
26 subdivision contained on filing fee payment forms. The department of
27 taxation and finance must, to the extent feasible, also include the
28 current name of the limited liability company, department of state iden-

1 tification number for such limited liability company, the name, signa-
2 ture and capacity of the signer of the statement, name and street
3 address of the filer of the statement, and the email address, if any, of
4 the filer of the statement.]

5 § 8. Subdivision (c) of section 1101 of the limited liability company
6 law is REPEALED.

7 § 9. Paragraph (e) of section 104 of the not-for-profit corporation
8 law, as amended by chapter 833 of the laws of 1982, is amended to read
9 as follows:

10 (e) If an instrument which is delivered to the department of state for
11 filing complies as to form with the requirements of law and there has
12 been attached to it the consent or approval of the supreme court
13 justice, governmental body or officer, or, other person or body, if any,
14 whose consent to or approval of such instrument or the filing thereof is
15 required by any statute of this state and the filing fee and tax, if
16 any, required by any statute of this state in connection therewith have
17 been paid, the instrument shall be filed and indexed by the department
18 of state. No certificate of authentication or conformity or other proof
19 shall be required with respect to any verification, oath or acknowledg-
20 ment of any instrument delivered to the department of state under this
21 chapter, if such verification, oath or acknowledgment purports to have
22 been made before a notary public, or person performing the equivalent
23 function, of one of the states, or any subdivision thereof, of the
24 United States or the District of Columbia. Without limiting the effect
25 of section four hundred three of this chapter, filing and indexing by
26 the department of state shall not be deemed a finding that a certificate
27 conforms to law, nor shall it be deemed to constitute an approval by the
28 department of state of the name of the corporation or the contents of

1 the certificate, nor shall it be deemed to prevent any person with
2 appropriate standing from contesting the legality thereof in an appro-
3 priate forum. The instrument's date of filing shall be the date the
4 instrument was received by the department of state for filing. An
5 instrument that is determined by the department of state to be unaccept-
6 able for filing shall be returned to the person filing the instrument
7 with an explanation of the reason for the refusal to file. If the filer
8 returns the corrected instrument within thirty days from the date it was
9 originally received by the department of state and it is determined by
10 the department of state to be acceptable for filing, the instrument
11 shall be filed and indexed by the department of state and the filing
12 date of the instrument shall be the filing date that would have been
13 applied had the original instrument been acceptable for filing.

14 § 10. Section 121-206 of the partnership law, as added by chapter 950
15 of the laws of 1990, is amended to read as follows:

16 § 121-206. Filing with the department of state. A signed certificate
17 of limited partnership and any signed certificates of amendment or other
18 certificates filed pursuant to this article or of any judicial decree of
19 amendment or cancellation shall be delivered to the department of state.
20 If the instrument which is delivered to the department of state for
21 filing complies as to form with the requirements of law and the filing
22 fee required by any statute of this state in connection therewith has
23 been paid, the instrument shall be filed and indexed by the department
24 of state. The instrument's date of filing shall be the date the instru-
25 ment was received by the department of state for filing. An instrument
26 that is determined by the department of state to be unacceptable for
27 filing shall be returned to the person filing the instrument with an
28 explanation of the reason for the refusal to file. If the filer returns

1 the corrected instrument within thirty days from the date it was
2 originally received by the department of state and it is determined by
3 the department of state to be acceptable for filing, the instrument
4 shall be filed and indexed by the department of state and the filing
5 date of the instrument shall be the filing date that would have been
6 applied had the original instrument been acceptable for filing.

7 § 11. Subdivision (e) of section 121-1500 of the partnership law, as
8 added by chapter 576 of the laws of 1994, is amended to read as follows:

9 (e) If the signed registration or other instrument delivered to the
10 department of state for filing complies as to form with the requirements
11 of law and the filing fee required by any statute of this state has been
12 paid, the [registration] instrument shall be filed and indexed by the
13 department of state. The instrument's date of filing shall be the date
14 the instrument was received by the department of state for filing. An
15 instrument that is determined by the department of state to be unaccept-
16 able for filing shall be returned to the person filing the instrument
17 with an explanation of the reason for the refusal to file. If the filer
18 returns the corrected instrument within thirty days from the date it was
19 originally received by the department of state and it is determined by
20 the department of state to be acceptable for filing, the instrument
21 shall be filed and indexed by the department of state and the filing
22 date of the instrument shall be the filing date that would have been
23 applied had the original instrument been acceptable for filing.

24 § 12. Subdivision (g) of section 121-1500 of the partnership law, as
25 amended by section 8 of part S of chapter 59 of the laws of 2015, is
26 amended to read as follows:

27 (g) Each registered limited liability partnership shall, within sixty
28 days prior to the fifth anniversary of the effective date of its regis-

1 tration and every five years thereafter, furnish a statement to the
2 department of state setting forth: (i) the name of the registered limit-
3 ed liability partnership, (ii) the address of the principal office of
4 the registered limited liability partnership, (iii) the post office
5 address within or without this state to which the secretary of state
6 shall mail a copy of any process accepted against it served upon him or
7 her, which address shall supersede any previous address on file with the
8 department of state for this purpose, and (iv) a statement that it is
9 eligible to register as a registered limited liability partnership
10 pursuant to subdivision (a) of this section. The statement shall be
11 executed by one or more partners of the registered limited liability
12 partnership. [The statement shall be accompanied by a fee of twenty
13 dollars if submitted directly to the department of state. The commis-
14 sioner of taxation and finance and the secretary of state may agree to
15 allow registered limited liability partnerships to provide the statement
16 specified in this subdivision on tax reports filed with the department
17 of taxation and finance in lieu of statements filed directly with the
18 secretary of state and in a manner prescribed by the commissioner of
19 taxation and finance. If this agreement is made, starting with taxable
20 years beginning on or after January first, two thousand sixteen, each
21 registered limited liability partnership required to file the statement
22 specified in this subdivision that is subject to the filing fee imposed
23 by paragraph three of subsection (c) of section six hundred fifty-eight
24 of the tax law shall provide such statement annually on its filing fee
25 payment form filed with the department of taxation and finance in lieu
26 of filing a statement under this subdivision with the department of
27 state. However, each registered limited liability partnership required
28 to file a statement under this section must continue to file a statement

1 with the department of state as required by this section until the
2 registered limited liability partnership in fact has filed a filing fee
3 payment form with the department of taxation and finance that includes
4 all required information. After that time, the registered limited
5 liability partnership shall continue to provide annually the statement
6 specified in this subdivision on its filing fee payment form in lieu of
7 the statement required by this subdivision. The commissioner of taxation
8 and finance shall deliver the completed statement specified in this
9 subdivision to the department of state for filing. The department of
10 taxation and finance must, to the extent feasible, also include in such
11 delivery the current name of the registered limited liability partner-
12 ship, department of state identification number for such registered
13 limited liability partnership, the name, signature and capacity of the
14 signer of the statement, name and street address of the filer of the
15 statement, and the email address, if any, of the filer of the state-
16 ment.] No fee shall be collected for the filing of the statement. If a
17 registered limited liability partnership shall not timely file the
18 statement required by this subdivision, the department of state may,
19 upon sixty days' notice mailed to the address of such registered limited
20 liability partnership as shown in the last registration or statement or
21 certificate of amendment filed by such registered limited liability
22 partnership, make a proclamation declaring the registration of such
23 registered limited liability partnership to be revoked pursuant to this
24 subdivision. The department of state shall file the original proclama-
25 tion in its office and shall publish a copy thereof in the state regis-
26 ter no later than three months following the date of such proclamation.
27 [This shall not apply to registered limited liability partnerships that
28 have filed a statement with the department of state through the depart-

1 ment of taxation and finance.] Upon the publication of such proclamation
2 in the manner aforesaid, the registration of each registered limited
3 liability partnership named in such proclamation shall be deemed revoked
4 without further legal proceedings. Any registered limited liability
5 partnership whose registration was so revoked may file in the department
6 of state a statement required by this subdivision. The filing of such
7 statement shall have the effect of annulling all of the proceedings
8 theretofore taken for the revocation of the registration of such regis-
9 tered limited liability partnership under this subdivision and (1) the
10 registered limited liability partnership shall thereupon have such
11 powers, rights, duties and obligations as it had on the date of the
12 publication of the proclamation, with the same force and effect as if
13 such proclamation had not been made or published and (2) such publica-
14 tion shall not affect the applicability of the provisions of subdivision
15 (b) of section twenty-six of this chapter to any debt, obligation or
16 liability incurred, created or assumed from the date of publication of
17 the proclamation through the date of the filing of the statement with
18 the department of state. If, after the publication of such proclamation,
19 it shall be determined by the department of state that the name of any
20 registered limited liability partnership was erroneously included in
21 such proclamation, the department of state shall make appropriate entry
22 on its records, which entry shall have the effect of annulling all of
23 the proceedings theretofore taken for the revocation of the registration
24 of such registered limited liability partnership under this subdivision
25 and (A) such registered limited liability partnership shall have such
26 powers, rights, duties and obligations as it had on the date of the
27 publication of the proclamation, with the same force and effect as if
28 such proclamation had not been made or published and (B) such publica-

1 tion shall not affect the applicability of the provisions of subdivision
2 (b) of section twenty-six of this chapter to any debt, obligation or
3 liability incurred, created or assumed from the date of publication of
4 the proclamation through the date of the making of the entry on the
5 records of the department of state. Whenever a registered limited
6 liability partnership whose registration was revoked shall have filed a
7 statement pursuant to this subdivision or if the name of a registered
8 limited liability partnership was erroneously included in a proclamation
9 and such proclamation was annulled, the department of state shall
10 publish a notice thereof in the state register.

11 § 13. Subdivision (d) of section 121-1502 of the partnership law, as
12 added by chapter 576 of the laws of 1994, is amended to read as follows:

13 (d) If a signed notice or other instrument delivered to the department
14 of state for filing complies as to form with the requirements of law and
15 the filing fee required by any statute of this state has been paid, the
16 [notice] instrument shall be filed and indexed by the department of
17 state. The instrument's date of filing shall be the date the instrument
18 was received by the department of state for filing. An instrument that
19 is determined by the department of state to be unacceptable for filing
20 shall be returned to the person filing the instrument with an explana-
21 tion of the reason for the refusal to file. If the filer returns the
22 corrected instrument within thirty days from the date it was originally
23 received by the department of state and it is determined by the depart-
24 ment of state to be acceptable for filing, the instrument shall be filed
25 and indexed by the department of state and the filing date of the
26 instrument shall be the filing date that would have been applied had the
27 original instrument been acceptable for filing. If a foreign limited
28 liability partnership that is a New York registered foreign limited

1 liability partnership dissolves, a foreign limited liability partnership
2 which is the successor to such New York registered foreign limited
3 liability partnership (i) shall not be required to file a new notice and
4 shall be deemed to have filed the notice filed by the New York regis-
5 tered foreign limited liability partnership pursuant to subdivision (a)
6 of this section, as well as any withdrawal notice filed pursuant to
7 subdivision (e) of this section, any statement or certificate of consent
8 filed pursuant to subdivision (f) of this section and any notice of
9 amendment filed pursuant to subdivision (i) of this section and (ii)
10 shall be bound by any revocation of status pursuant to subdivision (f)
11 of this section and any annulment thereof of the dissolved foreign
12 limited liability partnership that was a New York registered foreign
13 limited liability partnership. For purposes of this section, a foreign
14 limited liability partnership is a successor to a foreign limited
15 liability partnership that was a New York registered foreign limited
16 liability partnership if a majority of the total interests in the
17 current profits of such successor foreign limited liability partnership
18 are held by partners of the predecessor foreign limited liability part-
19 nership that was a New York registered foreign limited liability part-
20 nership who were partners of such predecessor partnership immediately
21 prior to the dissolution of such predecessor partnership.

22 § 14. Paragraph (I) of subdivision (f) of section 121-1502 of the
23 partnership law, as amended by section 9 of part S of chapter 59 of the
24 laws of 2015, is amended to read as follows:

25 (I) Each New York registered foreign limited liability partnership
26 shall, within sixty days prior to the fifth anniversary of the effective
27 date of its notice and every five years thereafter, furnish a statement
28 to the department of state setting forth:

1 (i) the name under which the New York registered foreign limited
2 liability partnership is carrying on or conducting or transacting busi-
3 ness or activities in this state, (ii) the address of the principal
4 office of the New York registered foreign limited liability partnership,
5 (iii) the post office address within or without this state to which the
6 secretary of state shall mail a copy of any process accepted against it
7 served upon him or her, which address shall supersede any previous
8 address on file with the department of state for this purpose, and (iv)
9 a statement that it is a foreign limited liability partnership. The
10 statement shall be executed by one or more partners of the New York
11 registered foreign limited liability partnership. [The statement shall
12 be accompanied by a fee of fifty dollars if submitted directly to the
13 department of state. The commissioner of taxation and finance and the
14 secretary of state may agree to allow New York registered foreign limit-
15 ed liability partnerships to provide the statement specified in this
16 paragraph on tax reports filed with the department of taxation and
17 finance in lieu of statements filed directly with the secretary of state
18 and in a manner prescribed by the commissioner of taxation and finance.
19 If this agreement is made, starting with taxable years beginning on or
20 after January first, two thousand sixteen, each New York registered
21 foreign limited liability partnership required to file the statement
22 specified in this paragraph that is subject to the filing fee imposed by
23 paragraph three of subsection (c) of section six hundred fifty-eight of
24 the tax law shall provide such statement annually on its filing fee
25 payment form filed with the department of taxation and finance in lieu
26 of filing a statement under this paragraph directly with the department
27 of state. However, each New York registered foreign limited liability
28 partnership required to file a statement under this section must contin-

1 ue to file a statement with the department of state as required by this
2 section until the New York registered foreign limited liability partner-
3 ship in fact has filed a filing fee payment form with the department of
4 taxation and finance that includes all required information. After that
5 time, the New York registered foreign limited liability partnership
6 shall continue to provide annually the statement specified in this para-
7 graph on its filing fee payment form in lieu of filing the statement
8 required by this paragraph directly with the department of state. The
9 commissioner of taxation and finance shall deliver the completed state-
10 ment specified in this paragraph to the department of state for filing.
11 The department of taxation and finance must, to the extent feasible,
12 also include in such delivery the current name of the New York regis-
13 tered foreign limited liability partnership, department of state iden-
14 tification number for such New York registered foreign limited liability
15 partnership, the name, signature and capacity of the signer of the
16 statement, name and street address of the filer of the statement, and
17 the email address, if any, of the filer of the statement.] No fee shall
18 be collected for the filing of the statement. If a New York registered
19 foreign limited liability partnership shall not timely file the state-
20 ment required by this subdivision, the department of state may, upon
21 sixty days' notice mailed to the address of such New York registered
22 foreign limited liability partnership as shown in the last notice or
23 statement or certificate of amendment filed by such New York registered
24 foreign limited liability partnership, make a proclamation declaring the
25 status of such New York registered foreign limited liability partnership
26 to be revoked pursuant to this subdivision. [This shall not apply to New
27 York registered foreign limited liability partnerships that have filed a
28 statement with the department of state through the department of taxa-

1 tion and finance.] The department of state shall file the original pro-
2 clamation in its office and shall publish a copy thereof in the state
3 register no later than three months following the date of such proclama-
4 tion. Upon the publication of such proclamation in the manner aforesaid,
5 the status of each New York registered foreign limited liability part-
6 nership named in such proclamation shall be deemed revoked without
7 further legal proceedings. Any New York registered foreign limited
8 liability partnership whose status was so revoked may file in the
9 department of state a statement required by this subdivision. The filing
10 of such statement shall have the effect of annulling all of the
11 proceedings theretofore taken for the revocation of the status of such
12 New York registered foreign limited liability partnership under this
13 subdivision and (1) the New York registered foreign limited liability
14 partnership shall thereupon have such powers, rights, duties and obli-
15 gations as it had on the date of the publication of the proclamation,
16 with the same force and effect as if such proclamation had not been made
17 or published and (2) such publication shall not affect the applicability
18 of the laws of the jurisdiction governing the agreement under which such
19 New York registered foreign limited liability partnership is operating
20 (including laws governing the liability of partners) to any debt, obli-
21 gation or liability incurred, created or assumed from the date of publi-
22 cation of the proclamation through the date of the filing of the state-
23 ment with the department of state. If, after the publication of such
24 proclamation, it shall be determined by the department of state that the
25 name of any New York registered foreign limited liability partnership
26 was erroneously included in such proclamation, the department of state
27 shall make appropriate entry on its records, which entry shall have the
28 effect of annulling all of the proceedings theretofore taken for the

1 revocation of the status of such New York registered foreign limited
2 liability partnership under this subdivision and (1) such New York
3 registered foreign limited liability partnership shall have such powers,
4 rights, duties and obligations as it had on the date of the publication
5 of the proclamation, with the same force and effect as if such proclama-
6 tion had not been made or published and (2) such publication shall not
7 affect the applicability of the laws of the jurisdiction governing the
8 agreement under which such New York registered foreign limited liability
9 partnership is operating (including laws governing the liability of
10 partners) to any debt, obligation or liability incurred, created or
11 assumed from the date of publication of the proclamation through the
12 date of the making of the entry on the records of the department of
13 state. Whenever a New York registered foreign limited liability partner-
14 ship whose status was revoked shall have filed a statement pursuant to
15 this subdivision or if the name of a New York registered foreign limited
16 liability partnership was erroneously included in a proclamation and
17 such proclamation was annulled, the department of state shall publish a
18 notice thereof in the state register.

19 § 15. Subdivision 5 of section 192 of the tax law is REPEALED.

20 § 16. Subdivision 5 of section 211 of the tax law is REPEALED.

21 § 17. Subparagraph (e) of paragraph 3 of subsection (c) of section 658
22 of the tax law is REPEALED.

23 § 18. Subsection (v) of section 1085 of the tax law is REPEALED.

24 § 19. Subsection (dd) of section 685 of the tax law is REPEALED.

25 § 20. This act shall become effective upon the development of a new
26 computerized filing system currently being developed by the department
27 of state; provided further, however, that the secretary of state shall
28 notify the legislative bill drafting commission upon the occurrence of

1 the development of a new computerized filing system being developed by
2 the department of state in order that the commission may maintain an
3 accurate and timely effective data base of the official text of the laws
4 of the state of New York in furtherance of effectuating the provisions
5 of section 44 of the legislative law and section 70-b of the public
6 officers law; and provided, however, sections two, three, four, six,
7 seven, eight, twelve, fourteen, fifteen, sixteen, seventeen, eighteen
8 and nineteen of this act shall take effect April 1, 2021.

9 PART Y

10 Section 1. Expenditures of moneys appropriated in a chapter of the
11 laws of 2020 to the department of agriculture and markets from the
12 special revenue funds-other/state operations, miscellaneous special
13 revenue fund-339, public service account shall be subject to the
14 provisions of this section. Notwithstanding any other provision of law
15 to the contrary, direct and indirect expenses relating to the department
16 of agriculture and markets' participation in general ratemaking
17 proceedings pursuant to section 65 of the public service law or certif-
18 ication proceedings pursuant to article 7 or 10 of the public service
19 law, shall be deemed expenses of the department of public service within
20 the meaning of section 18-a of the public service law. No later than
21 August 15, 2021, the commissioner of the department of agriculture and
22 markets shall submit an accounting of such expenses, including, but not
23 limited to, expenses in the 2020--2021 state fiscal year for personal
24 and non-personal services and fringe benefits, to the chair of the
25 public service commission for the chair's review pursuant to the
26 provisions of section 18-a of the public service law.

1 § 2. Expenditures of moneys appropriated in a chapter of the laws of
2 2020 to the department of state from the special revenue funds-
3 other/state operations, miscellaneous special revenue fund-339, public
4 service account shall be subject to the provisions of this section.
5 Notwithstanding any other provision of law to the contrary, direct and
6 indirect expenses relating to the activities of the department of
7 state's utility intervention unit pursuant to subdivision 4 of section
8 94-a of the executive law, including, but not limited to participation
9 in 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, 2021, the secretary of state shall submit
14 an accounting of such expenses, including, but not limited to, expenses
15 in the 2020--2021 state fiscal year for personal and non-personal
16 services and fringe benefits, to the chair of the public service commis-
17 sion for the chair's review pursuant to the provisions of section 18-a
18 of the public service law.

19 § 3. Expenditures of moneys appropriated in a chapter of the laws of
20 2020 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, 2021, 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 2020--2021
5 state fiscal year for personal and non-personal services and fringe
6 benefits, to the chair of the public service commission for the chair's
7 review pursuant to the provisions of section 18-a of the public service
8 law.

9 § 4. Expenditures of moneys appropriated in a chapter of the laws of
10 2020 to the department of environmental conservation from the special
11 revenue funds-other/state operations, environmental conservation special
12 revenue fund-301, utility environmental regulation account shall be
13 subject to the provisions of this section. Notwithstanding any other
14 provision of law to the contrary, direct and indirect expenses relating
15 to the department of environmental conservation's participation in state
16 energy policy proceedings, or certification proceedings pursuant to
17 article 7 or 10 of the public service law, shall be deemed expenses of
18 the department of public service within the meaning of section 18-a of
19 the public service law. No later than August 15, 2021, the commissioner
20 of the department of environmental conservation shall submit an account-
21 ing of such expenses, including, but not limited to, expenses in the
22 2020--2021 state fiscal year for personal and non-personal services and
23 fringe benefits, to the chair of the public service commission for the
24 chair's review pursuant to the provisions of section 18-a of the public
25 service law.

26 § 5. Notwithstanding any other law, rule or regulation to the contra-
27 ry, expenses of the department of health public service education
28 program incurred pursuant to appropriations from the cable television

1 account of the state miscellaneous special revenue funds shall be deemed
2 expenses of the department of public service. No later than August 15,
3 2021, the commissioner of the department of health shall submit an
4 accounting of expenses in the 2020--2021 state fiscal year to the chair
5 of the public service commission for the chair's review pursuant to the
6 provisions of section 217 of the public service law.

7 § 6. Any expense deemed to be expenses of the department of public
8 service pursuant to sections one through four of this act shall not be
9 recovered through assessments imposed upon telephone corporations as
10 defined in subdivision 17 of section 2 of the public service law.

11 § 7. This act shall take effect immediately and shall be deemed to
12 have been in full force and effect on and after April 1, 2020.

13 PART Z

14 Section 1. Section 25-a of the public service law, as added by section
15 2 of part X of chapter 57 of the laws of 2013, is amended to read as
16 follows:

17 § 25-a. Combination gas and electric corporations; administrative
18 sanctions; recovery of penalties. Notwithstanding sections twenty-four
19 and twenty-five of this article: 1. Every combination gas and electric
20 corporation and the officers thereof shall adhere to every provision of
21 this chapter and every order or regulation adopted under authority of
22 this chapter so long as the same shall be in force.

23 2. (a) The commission shall have the authority to assess a civil
24 penalty in an amount as set forth in this section and impose any other
25 required relief against a combination gas and electric corporation and
26 the officers thereof subject to the jurisdiction, supervision, or regu-

1 lation pursuant to this chapter [in an amount as set forth in this
2 section]. In determining the amount of any penalty to be assessed pursu-
3 ant to this section, the commission shall consider: (i) the seriousness
4 of the violation for which a penalty is sought; (ii) the nature and
5 extent of any previous violations for which penalties have been assessed
6 against the corporation or officer; (iii) whether there was knowledge of
7 the violation; (iv) the gross revenues and financial status of the
8 corporation; and (v) such other factors as the commission may deem
9 appropriate and relevant. The remedies provided by this subdivision are
10 in addition to any other remedies provided in law or equity.

11 (b) [Whenever the commission has reason to believe that a combination
12 gas and electric corporation or such officers thereof should be subject
13 to imposition of a civil penalty as set forth in this subdivision, it
14 shall notify such corporation or officer.] To inform the commission's
15 decision under this section, the department is authorized, pursuant to a
16 referral made by the chief executive officer of the department, to
17 commence a proceeding pursuant to this section upon issuance of a notice
18 of violation if it believes that a combination gas and electric corpo-
19 ration, or such officers thereof, may be subject to imposition of a
20 civil penalty as set forth in this subdivision and/or such other relief
21 as may be required to address such alleged violation. Such notice shall
22 include, but shall not be limited to: (i) the date and a brief
23 description of the facts and nature of each act or failure to act for
24 which such penalty is proposed; (ii) a list of each statute, regulation
25 or order that the [commission] department alleges has been violated;
26 [and] (iii) the amount of each penalty that the [commission] department
27 proposes [to assess] be assessed; and (iv) any proposed actions that the
28 department deems necessary to address such alleged violation or

1 violations. To further inform the commission's decision pursuant to this
2 subdivision, the department is authorized to undertake any additional
3 administrative or investigatory actions related to such violation or
4 violations, including but not limited to, service of an administrative
5 complaint, implementation of discovery, and the holding of evidentiary
6 hearings.

7 (c) [Whenever the commission has reason to believe that a combination
8 gas and electric corporation or such officers thereof should be subject
9 to imposition of a civil penalty or penalties as set forth in this
10 subdivision, the commission shall hold a hearing to demonstrate why the
11 proposed penalty or penalties should be assessed against such combina-
12 tion gas and electric corporation or such officers] Any assessment of
13 penalties, resolution of claims or imposition of other relief levied by
14 the department pursuant to an investigation or compliant proceeding
15 commenced pursuant to paragraph (b) of this subdivision shall be subject
16 to review and approval by the commission.

17 3. Any combination gas and electric corporation determined by the
18 commission to have failed to [reasonably] comply, as shown by a prepon-
19 derance of the evidence, with a provision of this chapter, regulation or
20 an order adopted under authority of this chapter so long as the same
21 shall be in force shall forfeit a sum not exceeding the greater of one
22 hundred thousand dollars or two one-hundredths of one percent of the
23 annual intrastate gross operating revenue of the corporation, not
24 including taxes paid to and revenues collected on behalf of government
25 entities, constituting a civil penalty for each and every offense and,
26 in the case of a continuing violation, each day shall be deemed a sepa-
27 rate and distinct offense.

1 4. Notwithstanding the provisions of subdivision three of this
2 section, any such combination gas and electric corporation determined by
3 the commission to have failed to [reasonably] comply with a provision of
4 this chapter, or an order or regulation adopted under the authority of
5 this chapter specifically for the protection of human safety or
6 prevention of significant damage to real property, including, but not
7 limited to, the commission's code of gas safety regulations shall, if it
8 is determined by the commission by a preponderance of the evidence that
9 such safety violation caused or constituted a contributing factor in
10 bringing about: (a) a death or personal injury; or (b) damage to real
11 property in excess of fifty thousand dollars, forfeit a sum not to
12 exceed the greater of:

13 (i) two hundred fifty thousand dollars or three one-hundredths of one
14 percent of the annual intrastate gross operating revenue of the corpo-
15 ration, not including taxes paid to and revenues collected on behalf of
16 government entities, whichever is greater, constituting a civil penalty
17 for each separate and distinct offense; provided, however, that for
18 purposes of this paragraph, each day of a continuing violation shall not
19 be deemed a separate and distinct offense. The total period of a contin-
20 uing violation, as well as every distinct violation, shall be similarly
21 treated as a separate and distinct offense for purposes of this para-
22 graph; or

23 (ii) the maximum forfeiture determined in accordance with subdivision
24 three of this section.

25 5. Notwithstanding the provisions of subdivision three or four of this
26 section, a combination gas and electric corporation determined by the
27 commission to have failed to [reasonably] comply by a preponderance of
28 the evidence with a provision of this chapter, or an order or regulation

1 adopted under authority of this chapter, designed to protect the overall
2 reliability and continuity of electric service, including but not limit-
3 ed to the restoration of electric service following a major outage event
4 or emergency, shall forfeit a sum not to exceed the greater of:

5 (a) five hundred thousand dollars or four one-hundredths of one
6 percent of the annual intrastate gross operating revenue of the corpo-
7 ration, not including taxes paid to and revenues collected on behalf of
8 government entities, whichever is greater, constituting a civil penalty
9 for each separate and distinct offense; provided, however, that for
10 purposes of this paragraph each day of a continuing violation shall not
11 be deemed a separate and distinct offense. The total period of a contin-
12 uing violation, as well as every distinct violation shall be similarly
13 treated as a separate and distinct offense for purposes of this para-
14 graph; or

15 (b) the maximum forfeiture determined in accordance with subdivision
16 three of this section.

17 6. Any officer of any combination gas and electric corporation deter-
18 mined by the commission to have violated the provisions of subdivision
19 three, four, or five of this section, and who knowingly violates a
20 provision of this chapter, regulation or an order adopted under authori-
21 ty of this chapter so long as the same shall be in force shall forfeit a
22 sum not to exceed one hundred thousand dollars constituting a civil
23 penalty for each and every offense and, in the case of a continuing
24 violation, each day shall be deemed a separate and distinct offense.

25 7. [Any such assessment may be compromised or discontinued by the
26 commission.] All moneys recovered pursuant to this section, together
27 with the costs thereof, shall be remitted to, or for the benefit of, the
28 ratepayers in a manner to be determined by the commission.

1 8. Upon a failure by a combination gas and electric corporation or
2 officer to remit any penalty assessed by the commission pursuant to this
3 section, the commission, through its counsel, may institute an action or
4 special proceeding to collect the penalty in a court of competent juris-
5 diction.

6 9. Any payment made by a combination gas and electric corporation or
7 the officers thereof as a result of an assessment as provided in this
8 section, and the cost of litigation and investigation related to any
9 such assessment, shall not be recoverable from ratepayers.

10 10. In construing and enforcing the provisions of this chapter relat-
11 ing to penalties, the act of any director, officer, agent or employee of
12 a combined gas and electric corporation acting within the scope of his
13 or her official duties or employment shall be deemed to be the act of
14 such corporation.

15 11. It shall be a violation of this chapter should a director, officer
16 or employee of a public utility company, corporation, person acting in
17 his or her official duties or employment, or an agent acting on behalf
18 of an employer take retaliatory personnel action such as discharge,
19 suspension, demotion, penalization or discrimination against an employee
20 for reporting a violation of a provision of this chapter [of] or an
21 order or regulation adopted under the authority of this chapter, includ-
22 ing, but not limited to, those governing safe and adequate service,
23 protection of human safety or prevention of significant damage to real
24 property, including, but not limited to, the commission's code of gas
25 safety. Nothing in this subdivision shall be deemed to diminish the
26 rights, privileges or remedies of any employee under any other law or
27 regulation, including but not limited to article twenty-C of the labor

1 law and section seventy-five-b of the civil service law, or under any
2 collective bargaining agreement or employment contract.

3 § 2. The public service law is amended by adding a new section 25-b to
4 read as follows:

5 § 25-b. Administrative actions against other regulated entities.
6 Notwithstanding any other provision of this chapter, section twenty-
7 five-a of this article shall apply in equal force to: (1) an electric
8 corporation as defined in subdivision thirteen of section two of this
9 chapter; (2) a gas corporation as defined in subdivision eleven of
10 section two of this chapter; (3) a cable television company or cable
11 television system as defined in subdivisions one and two of section two
12 hundred twelve of this chapter; (4) a telephone corporation as defined
13 in subdivision seventeen of section two of this chapter; (5) a steam
14 corporation as defined in subdivision twenty-two of section two of this
15 chapter; and (6) a water-works corporation as defined in subdivision
16 twenty-seven of section two of this chapter.

17 § 3. This act shall take effect immediately.

18 PART AA

19 Section 1. The public service law is amended by adding a new article
20 12 to read as follows:

21 ARTICLE 12

22 PROVISIONS RELATING TO INTERNET SERVICE PROVIDERS

23 Section 250. Definitions.

24 251. Prohibitions.

25 252. Consumer notice of service practices.

26 253. Annual certification.

1 254. Administration and enforcement.

2 255. Severability.

3 § 250. Definitions. For purposes of this article, the following terms
4 shall have the following meanings:

5 1. "Application-agnostic" means not differentiating on the basis of
6 source, destination, internet content, application, service, or device,
7 or class of internet content, application, service, or device.

8 2. "Application-specific differential pricing" means charging differ-
9 ent prices for internet traffic to customers on the basis of internet
10 content, application, service, or device, or class of internet content,
11 application, service, or device, but shall not include zero-rating.

12 3. "Broadband internet access service" means a mass-market retail
13 service by wire or radio provided to customers in the state of New York
14 that provides the capability to transmit data to, and receive data from,
15 all or substantially all internet endpoints, including any capabilities
16 that are incidental to and enable the operation of the communications
17 service, but excluding dial-up internet access service. "Broadband
18 internet access service" shall also encompass any service provided to
19 customers in the state of New York that provides a functional equivalent
20 of such service or that is used to evade the protections set forth in
21 this chapter.

22 4. "Class of internet content, application, service, or device" means
23 internet content, or a group of internet applications, services, or
24 devices, sharing a common characteristic, including, but not limited to,
25 sharing the same source or destination, belonging to the same type of
26 content, application, service, or device, using the same application or
27 transport-layer protocol, or having similar technical characteristics,

1 including, but not limited to, the size, sequencing, or timing of pack-
2 ets or sensitivity to delay.

3 5. "Content, applications, or services" means all internet traffic
4 transmitted to or from end users of a broadband internet access service,
5 including traffic that may not fit clearly into any of these categories.

6 6. "Edge provider" means any individual or entity that provides any
7 content, application, or service over the internet, and any individual
8 or entity that provides a device used for accessing any content, appli-
9 cation, or service over the internet.

10 7. "End user" means any individual or entity that uses a broadband
11 internet access service.

12 8. "Internet service provider" or "ISP" means a business that provides
13 broadband internet access service to an individual, corporation, govern-
14 ment, or other customer in the state of New York.

15 9. "ISP traffic exchange" means the exchange of internet traffic
16 destined for, or originating from, an internet service provider's end
17 users between the internet service provider's network and another indi-
18 vidual or entity.

19 10. "Mass market" means a service marketed and sold on a standardized
20 basis to residential customers, small businesses, and other end-use
21 customers, including, but not limited to, schools, institutions of high-
22 er learning and libraries.

23 11. "Mobile broadband internet access" means a broadband internet
24 access service that serves end users primarily using mobile stations.

25 12. "Network management practice" means a practice that has a primari-
26 ly technical network management justification.

27 13. "Reasonable network management practice" means a network manage-
28 ment practice that is primarily used for, and tailored to, achieving a

1 legitimate network management purpose, taking into account the partic-
2 ular network architecture and technology of the broadband internet
3 access service.

4 14. "Third-party paid prioritization" means the management of an
5 internet service provider's network to directly or indirectly favor some
6 traffic over other traffic, including the use of techniques such as
7 traffic shaping, prioritization, resource reservation, or other forms of
8 preferential traffic management, either:

9 (a) in exchange for consideration, monetary or otherwise, from a third
10 party; or

11 (b) to benefit an affiliated entity.

12 15. "Zero-rating" means exempting some internet traffic from a custom-
13 er's data usage limitation.

14 § 251. Prohibitions. 1. Notwithstanding any inconsistent provisions of
15 this chapter, it shall be unlawful for an ISP, in providing broadband
16 internet access service in the state, to engage in any of the following
17 activities:

18 (a) Blocking lawful content, applications, services, or non-harmful
19 devices, subject to reasonable network management practices.

20 (b) Throttling, altering, restricting, interfering with, or otherwise
21 directly or indirectly favoring, disadvantaging, or discriminating
22 between lawful internet traffic on the basis of source, destination,
23 internet content, application, or service, or use of a non-harmful
24 device, or of class of internet content, application, service, or non-
25 harmful device, subject to reasonable network management practices.

26 (c) Engaging in third-party paid prioritization.

1 (d) Engaging in application-specific differential pricing or zero-rat-
2 ing in exchange for consideration, monetary or otherwise, by third
3 parties.

4 (e) Zero-rating some internet content, applications, services, or
5 devices in a category of internet content, applications, services, or
6 devices, but not the entire category.

7 (f) Engaging in application-specific differential pricing.

8 (g) Unreasonably interfering with, or unreasonably disadvantaging,
9 either an end user's ability to select, access, and use broadband inter-
10 net access service or lawful internet content, applications, services,
11 or devices of the end user's choice, subject to reasonable network
12 management practices.

13 (h) Engaging in practices with respect to, related to, or in
14 connection with ISP traffic exchange that has the purpose or effect of
15 circumventing or undermining the effectiveness of this section.

16 (i) Engaging in deceptive or misleading marketing practices that
17 misrepresent the treatment of internet traffic, content, applications,
18 service or devices by the internet service provider, or that misrepre-
19 sent the performance characteristics or commercial terms of the broad-
20 band internet access service to its customers.

21 (j) Advertising, offering for sale or selling broadband internet
22 access service without prominently disclosing with specificity all
23 aspects of the service advertised, offered for sale or sold.

24 (k) Failing to publicly disclose accurate information regarding the
25 network management practices, performance, and commercial terms of its
26 broadband internet access services sufficient for consumers to make
27 informed choices regarding use of those services and for content, appli-

1 cation, service and device providers to develop, market and maintain
2 internet offerings.

3 (1) Offering or providing services other than broadband internet
4 access service that are delivered over the same last-mile connection as
5 the broadband internet access service, if those services satisfy any of
6 the following conditions:

7 (i) such services are marketed, provide or can be used as a functional
8 equivalent of broadband internet access service;

9 (ii) such services have the purpose or effect of circumventing or
10 undermining the effectiveness of this section; or

11 (iii) such services negatively affect the performance of broadband
12 internet access service.

13 2. (a) An internet service provider may offer different types of tech-
14 nical treatment to end users as part of its broadband internet access
15 service, without violating the provisions of subdivision one of this
16 section, if all of the following conditions exist:

17 (i) the different types of technical treatment are equally available
18 to all internet content, applications, services and devices, and all
19 classes of internet content, applications, services and devices, and the
20 internet service provider does not discriminate in the provision of the
21 different types of technical treatment on the basis of internet content,
22 application, service or device, or class of internet content, applica-
23 tion, service or device;

24 (ii) the internet service provider's end users are able to choose
25 whether, when, and for which internet content, applications, services,
26 or devices, or classes of internet content, applications, services, or
27 devices, to use each type of technical treatment; and

1 (iii) the internet service provider charges only its own broadband
2 internet access service customers for the use of the different types of
3 technical treatment.

4 (b) Any internet service provider offering different types of techni-
5 cal treatment pursuant to this subdivision shall notify the department
6 and provide the department with a sample of any service contract that it
7 offers to customers in the state of New York.

8 3. An internet service provider may zero-rate internet traffic in
9 application-agnostic ways, without violating the provisions of subdivi-
10 sion one of this section, provided that no consideration, monetary or
11 otherwise, is provided by any third party in exchange for the provider's
12 decision to zero-rate or to not zero-rate traffic.

13 4. Nothing in this section prohibits an ISP from meeting an obligation
14 to address the needs of emergency communications or law enforcement,
15 public safety or national security authorities, consistent with or as
16 permitted by applicable law, or limits the ISP's ability to do so.

17 § 252. Consumer notice of service practices. An ISP providing broad-
18 band service in the state shall make publicly available an accurate
19 description of such ISP's network management practices, performance and
20 commercial terms of its broadband internet access service by posting
21 such description on an ISP controlled or maintained website, provided
22 that nothing in this section shall require ISPs to disclose confidential
23 business information or information that would compromise network secu-
24 rity.

25 § 253. Annual certification. Every ISP providing broadband service in
26 the state shall submit a certification to the department in a form and
27 manner specified by the commission, by July first, two thousand twenty-

1 one and annually thereafter. Such certification shall include, at a
2 minimum:

3 1. a statement indicating whether the ISP is in compliance with
4 sections two hundred fifty-one and two hundred fifty-two of this arti-
5 cle;

6 2. a description of such ISP's efforts in the preceding year to inform
7 end users of the provider's efforts to ensure net neutral service and
8 the address of the ISP's website where such information is provided; and

9 3. any other information required by rules promulgated by the depart-
10 ment and approved by the commission.

11 § 254. Administration and enforcement. 1. The commission shall be
12 authorized to promulgate any rules or regulations necessary to implement
13 the provisions of this article.

14 2. Violations of any duty imposed by this article shall be enforceable
15 by the commission. Any ISP that violates any provision of or fails to
16 perform any duty imposed pursuant to this article or any rule or regu-
17 lation promulgated pursuant thereto, or any final determination or order
18 of the commission made pursuant to this article shall be liable for a
19 civil penalty not to exceed five hundred dollars for each violation and
20 an additional penalty of not more than five hundred dollars for each day
21 during which such violation continues.

22 3. In addition to the authority granted to the commission pursuant to
23 this chapter, the attorney general may enforce the provisions of this
24 article to the extent permitted under section sixty-three of the execu-
25 tive law.

26 4. Nothing in this article shall preclude or prohibit any public or
27 private right of action relating to fraud or deceptive business prac-
28 tices.

1 § 255. Severability. The provisions of this article shall be severable
2 and if any phrase, clause, sentence or provision of this article, or the
3 applicability thereof to any person or circumstance shall be held inval-
4 id, the remainder of this article and the application thereof shall not
5 be affected thereby.

6 § 2. The state finance law is amended by adding a new section 169 to
7 read as follows:

8 § 169. Net neutrality. Each state agency shall enter into contracts
9 with only those internet service providers that have, by July first, two
10 thousand twenty-one, certified pursuant to section two hundred fifty-
11 three of the public service law that they are in compliance with
12 sections two hundred fifty-one and two hundred fifty-two of the public
13 service law. Each contract for internet services provided to a state
14 agency shall specifically require certification pursuant to section two
15 hundred fifty-three of the public service law and state that the inter-
16 net service provider may not block lawful content, applications,
17 services, non-harmful devices or applications that compete with other
18 services provided by such internet service provider. Any contract or
19 contract renewal entered into by a state agency shall include a binding
20 agreement consistent with the foregoing provisions, and no state agency
21 shall enter into a contract with an internet service provider, an agent
22 therefor or other entity offering to or procuring on behalf of the state
23 agency internet services unless such contract contains such a binding
24 agreement.

25 § 3. Subdivision 9 of section 160 of the state finance law, as amended
26 by chapter 106 of the laws of 2012, is amended to read as follows:

27 9. "State agency" or "state agencies" means all state departments,
28 boards, commissions, offices or institutions but excludes, however, for

1 the purposes of subdivision five of section three hundred fifty-five of
2 the education law, the state university of New York and excludes, for
3 the purposes of subdivision a of section sixty-two hundred eighteen of
4 the education law, the city university of New York; provided, however,
5 that the state university of New York and the city university of New
6 York shall be subject to the provisions of section one hundred sixty-
7 five-a and section one hundred sixty-nine of this article. Furthermore,
8 such term shall not include the legislature or the judiciary.

9 § 4. The public authorities law is amended by adding a new section
10 2878-c to read as follows:

11 § 2878-c. Net neutrality. After July first, two thousand twenty-one,
12 each state agency shall enter into contracts with only those internet
13 service providers that have, by such date, certified pursuant to section
14 two hundred fifty-three of the public service law that they are in
15 compliance with sections two hundred fifty-one and two hundred fifty-two
16 of the public service law. Each contract for internet services provided
17 to a state agency shall specifically require certification pursuant to
18 section two hundred fifty-three of the public service law and state that
19 the internet service provider may not block lawful content, applica-
20 tions, services, non-harmful devices or applications that compete with
21 other services provided by such internet service provider. Any contract
22 or contract renewal entered into by a state authority shall include a
23 binding agreement consistent with the foregoing provisions, and no state
24 authority shall enter into a contract with an internet service provider,
25 an agent therefor or other entity offering to or procuring on behalf of
26 the state authority internet services unless such contract contains such
27 a binding agreement.

1 § 5. Section 349 of the general business law is amended by adding a
2 new subdivision (k) to read as follows:

3 (k) In addition to the right of action granted to the attorney general
4 pursuant to this section, any person who has been injured by reason of
5 any violation of this section in relation to obligations imposed by
6 section two hundred fifty-one of the public service law may bring an
7 action to enjoin such unlawful act or practice, an action to recover
8 actual damages or five hundred dollars, whichever is greater, or both
9 such actions. The court may, in its discretion, increase the award of
10 damages to an amount not to exceed three times the actual damages if the
11 court finds the defendant willfully or knowingly violated this section.
12 The court may award reasonable attorneys' fees to a prevailing plain-
13 tiff.

14 § 6. This act shall take effect immediately.

15 PART BB

16 Section 1. The general municipal law is amended by adding a new arti-
17 cle 13-E to read as follows:

18 ARTICLE 13-E

19 SMALL WIRELESS FACILITIES DEPLOYMENT

20 Section 300. Definitions.

21 301. Use of right of way for small wireless facilities and util-
22 ity poles.

23 302. Permitting process for small wireless facilities.

24 303. Access to municipal corporation poles within the right of
25 way.

26 304. Rates and fees.

1 305. Cable services.

2 306. Local authority.

3 307. Investor-owned electric utility poles.

4 308. Implementation.

5 309. Dispute resolution.

6 310. Indemnification, insurance, and bonding.

7 § 300. Definitions. For the purposes of this article, the following
8 terms shall have the following meanings unless the context indicates
9 otherwise:

10 1. "Antenna" means communications equipment that transmits or receives
11 electromagnetic radio frequency signals used in the provision of wire-
12 less services.

13 2. "Applicable codes" means the New York state uniform fire prevention
14 and building code as adopted, and as may be amended, pursuant to article
15 eighteen of the executive law.

16 3. "Applicant" means any person or entity that files an application
17 with a municipal corporation to install or modify wireless facilities on
18 behalf of a communications service provider or wireless provider.

19 4. "Application" means a request submitted by an applicant to a munic-
20 ipal corporation for a permit to collocate small wireless facilities; or
21 to approve the installation or modification of a utility pole or wire-
22 less support structure.

23 5. "Application fee" means the one-time fee charged to an applicant by
24 a municipal corporation for review of an application. The application
25 fee may not exceed the actual reasonable costs incurred by the municipal
26 corporation in connection with its review of the application.

27 6. "Pole" means a utility pole owned, managed or operated by or on
28 behalf of a municipal corporation.

1 7. "Collocate" means to install, mount, maintain, modify, operate, or
2 replace small wireless facilities on or adjacent to a wireless support
3 structure or utility pole. The term "collocation" has a corresponding
4 meaning.

5 8. "Communications facility" means the set of equipment and network
6 components, including wires, cables, and associated facilities used by a
7 cable operator, as defined in 47 U.S.C. Section 522(5); a telecommuni-
8 cations carrier, as defined in 47 U.S.C. Section 153(51); a provider of
9 information service, as defined in 47 U.S.C. Section 153(24); a wireless
10 services provider to provide communications services, including cable
11 service, as defined in 47 U.S.C. Section 522(6); telecommunications
12 service, as defined in 47 U.S.C. Section 153(53); an information
13 service, as defined in 47 U.S.C. Section 153(24); wireless service; or
14 other one-way or two-way communications service.

15 9. "Communications service provider" means a cable operator, as
16 defined in 47 U.S.C. § 522(5); a provider of information service, as
17 defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined
18 in 47 U.S.C. § 153(51); or a wireless provider.

19 10. "Decorative pole" means a pole that is specially designed and
20 placed for aesthetic purposes and on which no appurtenances or attach-
21 ments, other than a small wireless facility, lighting, specially
22 designed informational or directional signage, or temporary holiday or
23 special event attachments, have been placed or are permitted to be
24 placed according to nondiscriminatory municipal rules or codes.

25 11. "FCC" means the Federal Communications Commission of the United
26 States.

27 12. "Fee" means a one-time, nonrecurring charge.

1 13. "Historic district" means a group of buildings, properties, or
2 sites that are either: (a) listed in the National Register of Historic
3 Places or formally determined eligible for listing by the Keeper of the
4 National Register, in accordance with Section VI.D.1.a.i-v of the
5 Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix
6 C; or (b) a registered historic district as defined in section ninety-
7 six-a of this chapter or article five-K of this chapter as of the effec-
8 tive date of this section.

9 14. "Law" means federal, state, or local law, statute, common law,
10 code, rule, regulation, order, or ordinance.

11 15. "Micro wireless facility" means a small wireless facility that
12 meets the following qualifications: (i) is not larger in dimension than
13 twenty-four inches in length, fifteen inches in width, and twelve inches
14 in height; and (ii) any exterior antenna is no longer than eleven inch-
15 es.

16 16. "Network interface device" means the telecommunications demarca-
17 tion and test point separating the wireless facility and the wireline
18 backhaul facility.

19 17. "Permit" means a written authorization required by a municipal
20 corporation to perform an action or initiate, continue, or complete a
21 project relating to the installation or modification of small wireless
22 facilities.

23 18. "Person" means an individual, corporation, limited liability
24 company, partnership, association, trust, or other entity or organiza-
25 tion, including a municipal corporation.

26 19. "Rate" means a recurring charge.

1 20. "Right of way" or "ROW" means the area on, below, or above a
2 public utility easement, roadway, highway, street, sidewalk, alley, or
3 similar property, but not including a federal interstate highway.

4 21. "Small wireless facility" means a wireless facility that meets
5 both of the following qualifications: (a) each wireless provider's
6 antenna could fit within an enclosure of no more than six cubic feet in
7 volume; and (b) all other wireless equipment associated with the wire-
8 less facility, whether ground or aerially mounted or attached to a util-
9 ity pole or wireless support structure, is cumulatively no more than
10 twenty-eight cubic feet in volume. The following types of associated
11 ancillary equipment are not included in the calculation of equipment
12 volume: electric meter, concealment elements, network interface device,
13 grounding equipment, power transfer switch, cut-off switch, converters,
14 amplifiers, splice cases, and vertical cable runs for the connection of
15 power and other services.

16 22. "Technically feasible" means that by virtue of engineering or
17 spectrum usage the proposed placement for a small wireless facility, or
18 its design, concealment measures, or site location can be implemented
19 without a reduction in the functionality of the small wireless facility.

20 23. "Utility pole" means a pole or similar structure that is or may be
21 used in whole or in part or for wireline communications, electric
22 distribution, lighting, traffic control, signage, or a similar function,
23 or for the collocation of small wireless facilities; provided, however,
24 such term shall not include wireless support structures or electric
25 transmission structures.

26 24. "Wireless facility" means equipment at a fixed location that
27 enables wireless services between user equipment and a communications
28 network, including: (a) equipment associated with wireless communi-

1 cations; (b) radio transceivers; (c) antennas; (d) coaxial or fiber-op-
2 tic cable located on a utility pole or wireless support structure, imme-
3 diately adjacent to the utility pole or wireless support structure, or
4 directly associated with equipment located on the utility pole or wire-
5 less support structure; and (e) regular and backup power supplies and
6 rectifiers; and comparable equipment, regardless of technological
7 configuration. The term includes small wireless facilities, but does not
8 include: (i) the structure or improvements on, under, or within which
9 the equipment is collocated; (ii) wireline backhaul facilities; or (iii)
10 coaxial or fiber-optic cable that is between wireless structures or
11 utility poles or that is otherwise not immediately adjacent to or
12 directly associated with a particular antenna.

13 25. "Wireless infrastructure provider" means any person, including a
14 person authorized to provide telecommunications service in the state,
15 that builds or installs wireless communication transmission equipment,
16 wireless facilities or wireless support structures, but that is not a
17 wireless services provider.

18 26. "Wireless provider" means a wireless infrastructure provider or a
19 wireless services provider.

20 27. "Wireless services" means any services using licensed or unli-
21 censed spectrum including the use of Wi-Fi, whether at a fixed location
22 or mobile, provided to the public.

23 28. "Wireless services provider" means any person or entity that
24 provides wireless services.

25 29. "Wireless support structure" means a structure, such as a mono-
26 pole; tower, either guyed or self-supporting; billboard; building; or
27 other existing or proposed structure designed to support or capable of
28 supporting wireless facilities, other than a structure designed solely

1 for the collocation of small wireless facilities. Such term shall not
2 include a utility pole.

3 30. "Wireline backhaul facility" means an above-ground or underground
4 wireline facility used to transport communications data from a wireless
5 facility network interface device to a network.

6 § 301. Use of right of way for small wireless facilities and utility
7 poles. 1. Applicability. This section shall only apply to the activ-
8 ities of a wireless provider within the right of way to deploy small
9 wireless facilities and associated utility poles.

10 2. Exclusive use prohibited. A municipal corporation may not enter
11 into an exclusive arrangement with any person for use of the right of
12 way for the collocation of small wireless facilities or for the instal-
13 lation, operation, marketing, modification, maintenance or replacement
14 of utility poles.

15 3. Right of way rates and fees. A municipal corporation may only
16 charge a wireless provider a rate or fee for the use of the ROW with
17 respect to the collocation of small wireless facilities or the installa-
18 tion, maintenance, modification, operation, or replacement of a utility
19 pole in the right of way if the municipal corporation charges other
20 entities for use of the right of way. Notwithstanding the foregoing, a
21 municipal corporation is permitted, on a nondiscriminatory basis, to
22 refrain from charging any rate to a wireless provider for the use of the
23 right of way. The rate for use of the right of way is provided in
24 section three hundred four of this article.

25 4. Right of access. Subject to this section, a wireless provider shall
26 have the right, as a permitted use not subject to zoning review or
27 approval, to collocate small wireless facilities and to install, main-
28 tain, modify, operate and replace utility poles along, across, upon, and

1 under the right of way. Such structures and facilities shall be so
2 installed and maintained as not to obstruct or hinder the usual travel
3 or public safety on such right of way or obstruct the legal use of such
4 right of way by utilities.

5 5. Height limits. Each new or modified utility pole installed in the
6 right of way shall not exceed the greater of: (a) ten feet in height
7 above the tallest existing utility pole in place as of the effective
8 date of this article located within five hundred feet of the new pole in
9 the same municipal corporation's right of way; or (b) fifty feet above
10 ground level. New small wireless facilities in the right of way may not
11 extend: (i) more than ten feet above an existing utility pole in place
12 as of the effective date of this article; or (ii) for small wireless
13 facilities on a new utility pole, above the height permitted for a new
14 utility pole under this section. A wireless provider shall have the
15 right to collocate a small wireless facility and install, maintain,
16 modify, operate and replace a utility pole that exceeds these height
17 limits along, across, upon and under the right of way, subject to this
18 section and applicable zoning regulations.

19 6. Decorative poles. A wireless provider shall be permitted to collo-
20 cate on or replace decorative poles when necessary to deploy a small
21 wireless facility. A municipal corporation may require such collocation
22 or decorative pole replacement to reasonably conform to the design
23 aesthetics of the original decorative pole or poles, provided such
24 requirements are technically feasible.

25 7. Underground district. (a) A wireless provider shall comply with
26 written, objective, reasonable and nondiscriminatory requirements that
27 prohibit the installation of utility poles or wireless support struc-
28 tures in the right of way in an area designated solely for underground

1 communications and electric lines where: (i) the municipal corporation
2 has required all such lines to be placed underground no less than three
3 months prior to the submission of the application; (ii) utility poles
4 the municipal corporation allows to remain shall be made available to
5 wireless providers for the collocation of small wireless facilities, and
6 may be replaced by a wireless provider to accommodate the collocation of
7 small wireless facilities, in compliance with this article; and (iii) a
8 wireless provider may install a new utility pole in the designated area
9 that otherwise complies with this section when it is not able to provide
10 wireless service by collocating on a remaining utility pole or wireless
11 support structure.

12 (b) For small wireless facilities installed before a municipal corpo-
13 ration adopts requirements that communications and electric lines be
14 placed underground, such municipal corporation adopting such require-
15 ments shall: (i) permit a wireless provider to maintain the small wire-
16 less facilities in place subject to any applicable pole attachment
17 agreement with the utility pole owner; or (ii) permit the wireless
18 provider to replace the associated utility pole within fifty feet of the
19 prior location.

20 8. Historic district. Subject to subdivision four of section three
21 hundred two of this article, a municipal corporation may require writ-
22 ten, objective, reasonable, technically feasible, nondiscriminatory and
23 technologically neutral design or concealment measures in a historic
24 district. No such design or concealment measures may have the effect of
25 materially inhibiting any provider's technology or service; nor may any
26 such measures be considered a part of the small wireless facility for
27 purposes of the size restrictions in the definition of small wireless
28 facility.

1 9. No discrimination. The municipal corporation, in the exercise of
2 its administration and regulation related to the management of the right
3 of way, must be competitively neutral with regard to other users of the
4 right of way. The municipal corporation's right of way regulations may
5 not be unreasonable or discriminatory and may not violate any applicable
6 law.

7 10. Damage and repair. The municipal corporation may require a wire-
8 less provider to repair all damage to the right of way directly caused
9 by the activities of the wireless provider in the right of way and to
10 return the right of way to its functional equivalence before the damage
11 pursuant to the competitively neutral, reasonable requirements and spec-
12 ifications of the municipal corporation. If the wireless provider fails
13 to make the repairs reasonably required by the municipal corporation
14 within a reasonable time after written notice, the municipal corporation
15 may affect those repairs and charge the applicable party the reasonable,
16 documented actual cost of such repairs.

17 11. Pole replacements and modifications. A wireless provider shall not
18 be required to replace or upgrade an existing utility pole except for
19 reasons of structural necessity or compliance with applicable codes. A
20 wireless provider may, with the permission of the pole owner, replace or
21 modify existing utility poles, but any such replacement or modification
22 shall be consistent with the design aesthetics of the utility pole or
23 poles being modified or replaced.

24 12. Permitted use. New, modified or replacement utility poles associ-
25 ated with a small wireless facility that meet the requirements of this
26 section are permitted uses subject to the permit process in subdivision
27 four of section three hundred two of this article and are not subject to
28 zoning review or approval.

1 13. Abandonment. A wireless provider is required to notify the municipi-
2 pal corporation at least thirty days before its abandonment of a small
3 wireless facility. Following receipt of such notice, the municipal
4 corporation shall direct the wireless provider to remove all or any
5 portion of the small wireless facility that the municipal corporation
6 determines would be in the best interest of the public safety and public
7 welfare to remove. If the wireless provider fails to remove the aban-
8 doned facility within ninety days after such notice, the municipal
9 corporation may undertake to do so and recover the actual and reasonable
10 expenses of doing so from the wireless provider, its successors or
11 assigns.

12 § 302. Permitting process for small wireless facilities. 1. Applica-
13 bility. This section shall apply to the permitting of the collocation of
14 small wireless facilities by a wireless provider in or outside the right
15 of way as specified in subdivision three of this section and to the
16 permitting of the installation, modification, and replacement of associ-
17 ated utility poles by a wireless provider inside the right of way.

18 2. General. Except as provided in this article, a municipal corpo-
19 ration may not prohibit, regulate, or charge for the collocation of
20 small wireless facilities that may be permitted in this section.

21 3. Zoning. Small wireless facilities shall be classified as permitted
22 uses and not subject to zoning review or approval if they are collocated
23 in the right of way in any zone.

24 4. Permits. A municipal corporation may require an applicant to obtain
25 one or more permits to collocate a small wireless facility or to install
26 a new, modified or replacement utility pole associated with a small
27 wireless facility as provided in subdivision four of section three
28 hundred one of this article, provided such permits are of general appli-

1 cability and do not apply exclusively to wireless facilities. A municipi-
2 pal corporation shall receive applications for, process, and issue such
3 permits subject to the following requirements:

4 (a) a municipal corporation may not directly or indirectly require an
5 applicant to perform services or provide goods unrelated to the permit,
6 such as in-kind contributions to the municipal corporation including,
7 but not limited to, reserving fiber, conduit, or pole space for the
8 municipal corporation;

9 (b) an applicant shall not be required to provide more information to
10 obtain a permit than communications service providers that are not wire-
11 less providers, provided that an applicant may be required to include
12 construction and engineering drawings and information demonstrating
13 compliance with the criteria in paragraph (g) of this subdivision;

14 (c) a municipal corporation may not require the collocation of small
15 wireless facilities on any specific utility pole or category of poles or
16 require multiple antenna systems on a single utility pole; the use of
17 specific pole types or configurations when installing new or replacement
18 poles; or the underground placements of small wireless facilities that
19 are or are designated in an application to be pole-mounted or ground-
20 mounted;

21 (d) a municipal corporation may not limit the collocation of small
22 wireless facilities by minimum horizontal separation distance require-
23 ments from existing small wireless facilities, utility poles, or other
24 structures;

25 (e) a municipal corporation may require an applicant to include an
26 attestation that the small wireless facilities will be operational for
27 use by a wireless services provider within one year after the permit
28 issuance date, unless the municipal corporation applicant agree to

1 extend this period or delay is caused by lack of commercial power or
2 communications transport facilities to the site;

3 (f) within ten days of receipt of an application, a municipal corpo-
4 ration must determine and notify the applicant in writing whether the
5 application is complete. If an application is deemed incomplete, the
6 municipal corporation must specifically identify the missing information
7 in writing. The processing deadline in paragraph (g) of this subdivision
8 is tolled from the time the authority sends the notice of incompleteness
9 to the time the applicant provides the missing information. Such proc-
10 essing deadline may also be tolled upon agreement of the applicant and
11 the municipal corporation;

12 (g) municipal corporations shall process applications on a nondiscri-
13 minatory basis and such applications shall be deemed approved if the
14 municipal corporation fails to approve or deny the application within
15 sixty days of receipt of the application;

16 (h) a municipal corporation may deny a proposed collocation of a small
17 wireless facility or installation, modification or replacement of a
18 utility pole that meets the requirements of subdivision five of section
19 three hundred one of this article only if the proposed application: (i)
20 materially interferes with the safe operation of traffic control equip-
21 ment; (ii) materially interferes with sight lines or clear zones for
22 transportation or pedestrians; (iii) materially interferes with compli-
23 ance with the Americans with Disabilities Act or similar federal or
24 state standards regarding pedestrian access or movement; (iv) fails to
25 comply with reasonable and nondiscriminatory horizontal spacing require-
26 ments of general application adopted by ordinance that concern the
27 location of ground-mounted equipment and new utility poles. Such spacing
28 requirements shall not prevent a wireless provider from serving any

1 location; (v) designates the location of a new utility pole for the
2 purpose of collocating a small wireless facility within seven feet in
3 any direction of an electrical conductor, unless the wireless provider
4 obtains the written consent of the power supplier that owns or manages
5 the electrical conductor; (vi) fails to comply with applicable codes; or
6 (vii) fails to comply with subdivision six, seven or eight of section
7 three hundred one of this article;

8 (i) the municipal corporation must document the basis for a denial,
9 including the specific code provisions on which the denial was based,
10 and send the documentation to the applicant on the day the authority
11 denies an application. The applicant may cure the deficiencies identi-
12 fied by the municipal corporation and resubmit the application within
13 thirty days of the denial without paying an additional application fee.
14 The municipal corporation shall approve or deny the revised application
15 within thirty days of resubmission and limit its review to the deficien-
16 cies cited in the denial. Any application not acted upon within thirty
17 days of resubmission shall be deemed approved;

18 (j) an applicant seeking to collocate small wireless facilities within
19 the jurisdiction of a single municipal corporation shall be allowed at
20 the applicant's discretion to file a consolidated application for up to
21 thirty small wireless facilities and receive a single permit for the
22 collocation of multiple small wireless facilities; provided, however,
23 the denial of one or more small wireless facilities in a consolidated
24 application shall not delay processing of any other small wireless
25 facilities in the same consolidated application. Solely for purposes of
26 calculating the number of small wireless facilities in a consolidated
27 application, a small wireless facility includes any utility pole on
28 which such small wireless facility will be collocated;

1 (k) installation or collocation for which a permit is granted pursuant
2 to this section shall be completed within one year after the permit
3 issuance date unless the municipal corporation and the applicant agree
4 to extend this period or a delay is caused by the lack of commercial
5 power or communications facilities at the site. Approval of an applica-
6 tion authorizes the applicant to: (i) undertake the installation or
7 collocation; and (ii) subject to applicable relocation requirements and
8 the applicant's right to terminate at any time, operate and maintain the
9 small wireless facilities and any associated utility pole covered by the
10 permit for a period of not less than ten years, which must be renewed
11 for equivalent durations so long as they are in compliance with the
12 criteria set forth in paragraph (g) of this subdivision;

13 (l) no municipal corporation may institute, either expressly or de
14 facto, a moratorium on: (i) filing, receiving, or processing applica-
15 tions; or (ii) issuing permits or other approvals, if any, for the
16 collocation of small wireless facilities or the installation, modifica-
17 tion, or replacement of utility poles to support small wireless facili-
18 ties; and

19 (m) the approval of the installation, placement, or maintenance of a
20 small wireless facility pursuant to this section does not authorize the
21 installation, placement, maintenance, or operation of any other communi-
22 cations facility, including a wireline backhaul facility, in a right of
23 way.

24 5. When applications not required. A municipal corporation shall not
25 require an application for routine maintenance, the replacement of small
26 wireless facilities with small wireless facilities that are substantial-
27 ly similar or the same size or smaller, or the installation, placement,
28 maintenance, operation, or replacement of micro wireless facilities that

1 are suspended on cables that are strung between existing utility poles,
2 in compliance with the applicable codes. A municipal corporation may,
3 however, require a permit for work that requires excavation or closure
4 of sidewalks or vehicular lanes within the ROW for such activities. Such
5 a permit must be issued to the applicant on a non-discriminatory basis
6 upon terms and conditions applied to any other person's activities in
7 the right of way that require excavation, closing of sidewalks, or
8 vehicular lanes.

9 § 303. Access to municipal corporation poles within the right of way.

10 1. Applicability. This section shall apply to activities of the wireless
11 provider within the right of way.

12 2. Exclusive use prohibited. A person owning, managing, or controlling
13 municipal corporation poles in the right of way may not enter into an
14 exclusive arrangement with any person for the right to attach to such
15 poles. A person who purchases or otherwise acquires a municipal corpo-
16 ration pole is subject to the requirements of this section.

17 3. Allowances. A municipal corporation shall allow the collocation of
18 small wireless facilities on municipal corporation poles on nondiscrimi-
19 natory terms and conditions using the process in section three hundred
20 three of this article.

21 4. Rates. (a) The rates to collocate on municipal corporation poles
22 shall be nondiscriminatory regardless of the services provided by the
23 collocating wireless provider.

24 (b) The rate to collocate on municipal corporation poles is provided
25 in section three hundred four of this article.

26 5. Implementation, make-ready work. (a) The rates, fees, and terms and
27 conditions for the make-ready work to collocate on a municipal corpo-

1 ration pole must be nondiscriminatory, competitively neutral, and
2 commercially reasonable and must comply with this article.

3 (b) The municipal corporation shall provide a good faith estimate for
4 any make-ready work necessary to enable the pole to support the
5 requested collocation by a wireless provider, including pole replacement
6 if necessary, within sixty days after receipt of a complete application.
7 Make-ready work, including any pole replacement, shall be completed
8 within sixty days of written acceptance of the good faith estimate by
9 the applicant. A municipal corporation may require replacement of the
10 municipal corporation's pole only if it demonstrates that the collocation
11 would make such pole structurally unsound.

12 (c) The person owning, managing, or controlling the municipal corporation's
13 pole shall not require more make-ready work than required to
14 meet applicable codes or industry standards. Fees for make-ready work
15 shall not include costs related to pre-existing or prior damage or
16 noncompliance. Fees for make-ready work, including any pole replacement,
17 shall not exceed either actual costs or the amount charged to other
18 communications service providers for similar work and shall not include
19 any revenue or contingency-based consultant's fees or expenses of any
20 kind.

21 § 304. Rates and fees. 1. Applicability. This section shall govern a
22 municipal corporation's rates and fees for the placement of a small
23 wireless facility or associated utility pole.

24 2. Permissible rates and fees. A municipal corporation may not require
25 a wireless provider to pay any rates, fees, or compensation to the
26 municipal corporation or other person other than what is expressly
27 authorized by this article for the right to use or occupy a right of
28 way, for collocation of small wireless facilities on utility poles in

1 the right of way, or for the installation, maintenance, modification,
2 operation and replacement of utility poles in the right of way.

3 3. Application fees. A municipal corporation may charge an application
4 fee, so long as such fee is reasonable, nondiscriminatory, and recovers
5 no more than an authority's direct costs for processing an application;
6 provided however, no such fee shall exceed the following: (a) five
7 hundred dollars for the first five small wireless facilities on the same
8 application and one hundred dollars for each additional small wireless
9 facility on the same application; and (b) one thousand dollars for the
10 installation, modification or replacement of a utility pole together
11 with the collocation of an associated small wireless facility that are
12 permitted uses in accordance with the specifications set forth in subdi-
13 vision four of section three hundred two of this article.

14 4. Rates. (a) Right of way: a municipal corporation may charge for the
15 occupancy and use of the right of way, so long as such rate is reason-
16 able, nondiscriminatory, and does not exceed the greater of the authori-
17 ty's direct costs or twenty dollars per year per small wireless facili-
18 ty.

19 (b) Municipal corporation pole collocation rate: a municipal corpo-
20 ration may charge for collocation of a small wireless facility on a
21 municipal corporation pole, so long as such rate is reasonable, nondis-
22 criminatory, and does not exceed the greater of authority's direct costs
23 or two hundred fifty dollars per municipal corporation pole per year.

24 5. Rate or fee adjustment. Should a municipal corporation have an
25 existing rate or fee to construct, install, mount, maintain, modify,
26 operate, or replace a wireless facility or wireless support structure in
27 the right of way, including collocation in such right of way, controlled
28 by the municipal corporation and such rate or fee does not comply with

1 the requirements in this article, not later than the end of the next
2 fiscal year immediately succeeding the effective date of this article,
3 the municipal corporation shall implement a revised rate or fee to
4 ensure compliance with this article for all affected persons.

5 § 305. Cable services. This section applies to activities in the right
6 of way only. Nothing in this article shall be interpreted to allow any
7 entity to provide services regulated under 47 U.S.C. § 521 to 573 with-
8 out compliance with all laws applicable to such providers, nor shall
9 this article be interpreted to impose any new requirements on cable
10 providers for the provision of such service in this state.

11 § 306. Local authority. Subject to this article and applicable federal
12 law, a municipal corporation may continue to exercise zoning, land use,
13 planning and permitting authority within its territorial boundaries with
14 respect to wireless support structures and utility poles, including the
15 enforcement of applicable codes. A municipal corporation shall not have
16 or exercise any jurisdiction or authority over the design, engineering,
17 construction, installation, or operation of a small wireless facility
18 located in an interior structure or upon the site of a campus, stadium,
19 or athletic facility not owned or controlled by the municipal corpo-
20 ration, other than to require compliance with applicable codes. Nothing
21 in this article authorizes the state or any political subdivision,
22 including a municipal corporation, to require wireless facility deploy-
23 ment or to regulate wireless services.

24 § 307. Investor-owned electric utility poles. This article does not
25 apply to utility poles owned by an investor-owned utility, except as it
26 concerns a wireless provider's access to the right of way and permits
27 for the collocation of small wireless facilities on such utility poles.

1 § 308. Implementation. 1. Adoption. A municipal corporation may adopt
2 an ordinance that makes available to wireless providers rates, fees, and
3 other terms that comply with this article. Subject to the other
4 provisions of this section, in the absence of an ordinance or agreement
5 that fully complies with this article and until such a compliant ordi-
6 nance is adopted, if at all, a wireless provider may install and operate
7 small wireless facilities and associated utility poles under the
8 requirements of this article. A municipal corporation may not require a
9 wireless provider to enter into an agreement to implement this article,
10 but such agreements are permissible if voluntary and nondiscriminatory.

11 2. Ordinances and agreements. Ordinances and agreements implementing
12 this article are public/private arrangements and are matters of legiti-
13 mate and significant statewide concern.

14 3. Application. An agreement or ordinance that does not fully comply
15 with this article shall apply only to small wireless facilities and
16 associated utility poles that were operational before the effective date
17 of this article, and shall be deemed invalid and unenforceable beginning
18 on the one hundred eighty-first day after the effective date of this
19 article unless amended to fully comply with this article. If an agree-
20 ment or ordinance is invalid in accordance with this subdivision, small
21 wireless facilities and associated utility poles that became operational
22 before the effective date of this article, pursuant to such agreement or
23 ordinance, may remain installed and be operated under the requirements
24 of this article.

25 4. Invalid and unenforceable. An agreement or ordinance that applies
26 to small wireless facilities and associated utility poles that become
27 operational on or after the effective date of this article is invalid
28 and unenforceable unless it fully complies with this article. In the

1 absence of an ordinance or agreement that fully complies with this arti-
2 cle, a wireless provider may install and operate small wireless facili-
3 ties and associated utility poles in the right of way under the require-
4 ments of this article.

5 § 309. Dispute resolution. A court of competent jurisdiction shall
6 have jurisdiction to determine all disputes arising under this article.
7 Pending resolution of a dispute concerning rates for collocation of
8 small wireless facilities on municipal corporation poles, the person
9 owning or controlling the pole shall allow the collocating person to
10 collocate on its poles at annual rates of no more than twenty dollars
11 with rates to be trued up upon final resolution of the dispute.

12 § 310. Indemnification, insurance, and bonding. A municipal corpo-
13 ration may adopt reasonable indemnification, insurance and bonding
14 requirements related to small wireless facility and associated utility
15 pole permits subject to the requirements of this article.

16 1. Indemnification. A municipal corporation shall not require a wire-
17 less provider to indemnify and hold the municipal corporation and its
18 officers and employees harmless against any claims, lawsuits, judgments,
19 costs, liens, losses, expenses or fees, except when a court of competent
20 jurisdiction has found that the negligence of the wireless provider
21 while installing, repairing, or maintaining caused the harm that created
22 such claims, lawsuits, judgments, costs, liens, losses, expenses, or
23 fees.

24 2. Insurance. A municipal corporation authority may require a wireless
25 provider to have in effect insurance coverage consistent with subdivi-
26 sion one of this section, so long as the municipal corporation imposes
27 similar requirements on other right of way users and such requirements
28 are reasonable and nondiscriminatory. (a) A municipal corporation may

1 not require a wireless provider to obtain insurance naming the municipal
2 corporation or its officers and employees an additional insured.

3 (b) A municipal corporation authority may require a wireless provider
4 to furnish proof of insurance, if required, prior to the effective date
5 of any permit issued for a small wireless facility.

6 3. Bonding. A municipal corporation may adopt bonding requirements for
7 small wireless facilities if the municipal corporation imposes similar
8 requirements in connection with permits issued for other right of way
9 users.

10 (a) The purpose of such bonds shall be to:

11 (i) provide for the removal of abandoned or improperly maintained
12 small wireless facilities, including those that a municipal corporation
13 determines need to be removed to protect public health, safety, or
14 welfare; (ii) restoration of the right of way in connection with
15 removals under subdivision thirteen of section three hundred one of this
16 article; or (iii) to recoup rates or fees that have not been paid by a
17 wireless provider in over twelve months, so long as the wireless provid-
18 er has received reasonable notice from the municipal corporation of any
19 of the non-compliance listed above and an opportunity to cure.

20 (b) Bonding requirements may not exceed two hundred dollars per small
21 wireless facility. For wireless providers with multiple small wireless
22 facilities within the jurisdiction of a single municipal corporation,
23 the total bond amount across all facilities may not exceed ten thousand
24 dollars, which amount may be combined into one bond instrument.

25 § 2. The highway law is amended by adding a new section 24 to read as
26 follows:

27 24. Statewide master license agreement. The commissioner is hereby
28 authorized to enter into a statewide master license agreement with a

1 wireless provider for use and occupancy of the state right of way for
2 the purposes of installing communications facilities on utility or
3 department owned poles or new wireless provider owned poles. The commis-
4 sioner shall include elements in such an agreement he or she deems
5 appropriate to maintain the safety and effective management of state
6 roadways. Such statewide agreement may include a fee, not to exceed the
7 greater of the department's direct costs, or an amount set forth in the
8 agreement for use and occupancy of the right of way, per small wireless
9 facility as that term is defined in subdivision twenty-four of section
10 three hundred of the general municipal law. Nothing in this section
11 shall be deemed to prohibit the department from collecting any other fee
12 it has established for any other permit the department issues or any
13 other fee the department assesses any individual for any activity in the
14 department's normal course of business.

15 § 3. This act shall take effect on the thirtieth day after it shall
16 have become a law.

17 PART CC

18 Section 1. Section 2 of chapter 584 of the laws of 2011, amending the
19 public authorities law relating to the powers and duties of the dormito-
20 ry authority of the state of New York relative to the establishment of
21 subsidiaries for certain purposes, as amended by section 1 of part X of
22 chapter 58 of the laws of 2018, is amended to read as follows:

23 § 2. This act shall take effect immediately and shall expire and be
24 deemed repealed on July 1, [2020] 2024; provided however, that the expi-
25 ration of this act shall not impair or otherwise affect any of the
26 powers, duties, responsibilities, functions, rights or liabilities of

1 any subsidiary duly created pursuant to subdivision twenty-five of
2 section 1678 of the public authorities law prior to such expiration.

3 § 2. This act shall take effect immediately.

4 PART DD

5 Section 1. Subdivision (a) of section 2 and section 3 of part F of
6 chapter 60 of the laws of 2015 constituting the infrastructure invest-
7 ment act, subdivision (a) of section 2 of part F as amended by section 1
8 of part M of chapter 39 of the laws of 2019, and section 3 of part F as
9 amended by section 3 of part RRR of chapter 59 of the laws of 2017, are
10 amended to read as follows:

11 (a) (i) "authorized state entity" shall mean the New York state thru-
12 way authority, the department of transportation, the office of parks,
13 recreation and historic preservation, the department of environmental
14 conservation [and], the New York state bridge authority, the office of
15 general services, the dormitory authority, the urban development corpo-
16 ration, the state university construction fund, the New York state Olym-
17 pic regional development authority and the battery park city authority.

18 (ii) Notwithstanding the provisions of subdivision 26 of section 1678
19 of the public authorities law, section 8 of the public buildings law,
20 sections 8 and 9 of section 1 of chapter 359 of the laws of 1968 as
21 amended, section 103 of the general municipal law, and the provisions of
22 any other law to the contrary, the term "authorized state entity" shall
23 also refer to only those agencies or authorities identified below solely
24 in connection with the following authorized projects, provided that such
25 an authorized state entity may utilize the alternative delivery method
26 referred to as design-build contracts solely in connection with the

1 following authorized projects should the total cost of each such project
2 not be less than five million dollars (\$5,000,000):

3 Authorized Projects	Authorized State Entity
4 1. Frontier Town	Urban Development Corporation
5 2. Life Sciences Laboratory	Dormitory Authority & Urban 6 Development Corporation
7 3. Whiteface Transformative Projects	New York State Olympic Regional 8 Development Authority
9 4. Gore Transformative Projects	New York State Olympic Regional 10 Development Authority
11 5. Belleayre Transformative Projects	New York State Olympic Regional 12 Development Authority
13 6. Mt. Van Hoevenberg Transformative 14 Projects	New York State Olympic Regional Development Authority
15 7. Olympic Training Center	New York State Olympic Regional 16 Development Authority
17 8. Olympic Arena and Convention 18 Center Complex	New York State Olympic Regional Development Authority
19 9. State Fair Revitalization 20 Projects	Office of General Services
21 10. State Police Forensic 22 Laboratory	Office of General Services

1 Notwithstanding any provision of law to the contrary, all rights or
2 benefits, including terms and conditions of employment, and protection
3 of civil service and collective bargaining status of all existing
4 employees of authorized state entities [solely in connection with the
5 authorized projects listed above,] shall be preserved and protected.
6 Nothing in this section shall result in the: (1) displacement of any
7 currently employed worker or loss of position (including partial
8 displacement such as a reduction in the hours of non-overtime work,
9 wages, or employment benefits) or result in the impairment of existing
10 collective bargaining agreements; [and] (2) transfer of existing duties
11 and functions related to maintenance and operations currently performed
12 by existing employees of authorized state entities to a contracting
13 entity; or (3) transfer of future duties and functions ordinarily
14 performed by employees of authorized state entities to the contracting
15 entity. Nothing contained herein shall be construed to affect (A) the
16 existing rights of employees pursuant to an existing collective bargain-
17 ing agreement, and (B) the existing representational relationships among
18 employee organizations or the bargaining relationships between the
19 employer and an employee organization.

20 If otherwise applicable, authorized projects undertaken by the author-
21 ized state entities listed above solely in connection with the
22 provisions of this act shall be subject to section 135 of the state
23 finance law, section 101 of the general municipal law, and section 222
24 of the labor law; provided, however, that an authorized state entity may
25 fulfill its obligations under section 135 of the state finance law or
26 section 101 of the general municipal law by requiring the contractor to
27 prepare separate specifications in accordance with section 135 of the

1 state finance law or section 101 of the general municipal law, as the
2 case may be.

3 § 3. Notwithstanding the provisions of section 38 of the highway law,
4 section 136-a of the state finance law, [section] sections 359, 1678,
5 1680, 1680-a and 2879-a of the public authorities law, [section]
6 sections 376, 407-a, 6281 and 7210 of the education law, sections 8 and
7 9 of the public buildings law, section 11 of chapter 795 of the laws of
8 1967, section 11 of section 1 of chapter 174 of the laws of 1968 as
9 amended, section 8 and 9 of section 1 of chapter 359 of the laws of 1968
10 as amended, section 29 of chapter 337 of the laws of 1972, section 21 of
11 chapter 464 of the laws of 1972, section 103 of the general municipal
12 law, and the provisions of any other law to the contrary, and in
13 conformity with the requirements of this act, an authorized state entity
14 may utilize the alternative delivery method referred to as design-build
15 contracts, in consultation with relevant local labor organizations and
16 construction industry, for capital projects located in the state related
17 to [the state's] physical infrastructure, including, but not limited to,
18 [the state's] highways, bridges, buildings and appurtenant structures,
19 dams, flood control projects, canals, and parks, including, but not
20 limited to, to repair damage caused by natural disaster, to correct
21 health and safety defects, to comply with federal and state laws, stand-
22 ards, and regulations, to extend the useful life of or replace [the
23 state's] highways, bridges, buildings and appurtenant structures, dams,
24 flood control projects, canals, and parks or to improve or add to [the
25 state's] highways, bridges, buildings and appurtenant structures, dams,
26 flood control projects, canals, and parks; provided that for the
27 contracts executed by the department of transportation, the office of
28 parks, recreation and historic preservation, or the department of envi-

1 ronmental conservation, the total cost of each such project shall not be
2 less than ten million dollars (\$10,000,000).

3 § 2. The opening paragraph and subdivision (a) of section 4 of part F
4 of chapter 60 of the laws of 2015 constituting the infrastructure
5 investment act, as amended by section 4 of part RRR of chapter 59 of the
6 laws of 2017, are amended to read as follows:

7 An entity selected by an authorized state entity to enter into a
8 design-build contract [shall] may be selected through a two-step method,
9 as follows:

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

1 the authorized state entity shall list the entities that shall receive a
2 request for proposals in accordance with subdivision (b) of this
3 section. To the extent consistent with applicable federal law, the
4 authorized state entity shall consider, when awarding any contract
5 pursuant to this section, the participation of: (i) firms certified
6 pursuant to article 15-A of the executive law as minority or women-owned
7 businesses and the ability of other businesses under consideration to
8 work with minority and women-owned businesses so as to promote and
9 assist participation by such businesses; [and] (ii) small business
10 concerns identified pursuant to subdivision (b) of section 139-g of the
11 state finance law; and (iii) firms certified pursuant to article 17-B of
12 the executive law as service-disabled veteran-owned businesses and the
13 ability of other businesses under consideration to work with service-
14 disabled veteran-owned businesses so as to promote and assist partic-
15 ipation by such businesses.

16 § 3. Sections 7 and 8 of part F of chapter 60 of the laws of 2015
17 constituting the infrastructure investment act are amended to read as
18 follows:

19 § 7. If otherwise applicable, capital projects undertaken by the
20 authorized state entity pursuant to this act shall be subject to section
21 135 of the state finance law, section 101 of the general municipal law
22 and section 222 of the labor law; provided, however, that an authorized
23 state entity may fulfill its obligations under section 135 of the state
24 finance law or section 101 of the general municipal law by requiring the
25 contractor to prepare separate specifications in accordance with section
26 135 of the state finance law or section 101 of the general municipal
27 law, as the case may be.

1 § 8. Each contract entered into by the authorized state entity pursu-
2 ant to this section shall comply with the objectives and goals of minor-
3 ity and women-owned business enterprises pursuant to article 15-A of the
4 executive law and of service-disabled veteran-owned business enterprises
5 pursuant to article 17-B of the executive law or, for projects receiving
6 federal aid, shall comply with applicable federal requirements for
7 disadvantaged business enterprises.

8 § 4. Paragraph 3 of subdivision (a) and subdivision (b) of section 13
9 of part F of chapter 60 of the laws of 2015 constituting the infrastruc-
10 ture investment act, as amended by section 11 of part RRR of chapter 59
11 of the laws of 2017, are amended to read as follows:

12 3. (i) Utilizing a lump sum contract in which the contractor agrees to
13 accept a set dollar amount for a contract which comprises a single bid
14 without providing a cost breakdown for all costs such as for equipment,
15 labor, materials, as well as such contractor's profit for completing all
16 items of work comprising the project, which lump sum price may be nego-
17 tiated and established by the authorized state entity based on a
18 proposed guaranteed maximum price.

19 (ii) The design-build contract may include both lump sum elements and
20 cost-plus not to exceed guaranteed maximum price elements and may also
21 provide for professional services on a fee-for-service basis.

22 (b) Capital projects undertaken by an authorized state entity may
23 include an incentive clause in the contract for various performance
24 objectives, but the incentive clause shall not include an incentive that
25 exceeds the quantifiable value of the benefit received by the authorized
26 state entity. [The] Notwithstanding the provisions of sections 136 and
27 137 of the state finance law, the authorized state entity shall [estab-

1 lish] require such performance and payment bonds, or other form of
2 undertaking as it deems necessary.

3 § 5. Part F of chapter 60 of the laws of 2015 constituting the infras-
4 tructure investment act is amended by adding a new section 15-a to read
5 as follows:

6 § 15-a. Any contract awarded pursuant to this act shall be deemed to
7 be awarded pursuant to a competitive procurement for purposes of section
8 2879-a of the public authorities law.

9 § 6. Section 17 of part F of chapter 60 of the laws of 2015 constitut-
10 ing the infrastructure investment act, as amended by section 1 of part
11 WWW of chapter 59 of the laws of 2019, is amended to read as follows:

12 § 17. This act shall take effect immediately and shall expire and be
13 deemed repealed [6 years after such date] on July 1, 2023, provided
14 that, projects with requests for qualifications issued prior to such
15 repeal shall be permitted to continue under this act notwithstanding
16 such repeal.

17 § 7. This act shall take effect immediately; provided, however, that
18 the amendments to part F of chapter 60 of the laws of 2015 made by
19 sections one, two, three, four and five of this act shall not affect the
20 repeal of such part and shall be deemed to repeal therewith.

21 PART EE

22 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
23 of the laws of 1968 constituting the New York state urban development
24 corporation act, as amended by section 1 of part Z of chapter 58 of the
25 laws of 2019, 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, [2020] 2021.

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, 2020.

6 PART FF

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 Y of chapter 58 of the laws of 2019, 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, [2020] 2021, 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, 2020.

22 PART GG

1 Section 1. Paragraph (a) of subdivision 11 of section 400 of the
2 economic development law, as amended by section 3 of part QQ of chapter
3 60 of the laws of 2016, is amended to read as follows:

4 (a) a correctional facility, as defined in paragraph (a) of subdivi-
5 sion four of section two of the correction law, that has been selected
6 by the governor of the state of New York for closure after April first,
7 two thousand eleven[but no later than March thirty-first, two thousand
8 twelve]; or

9 § 2. This act shall take effect immediately; provided, however, that
10 the amendments to section 400 of the economic development law made by
11 section one of this act shall not affect the repeal of such section and
12 shall be deemed repealed therewith.

13 PART HH

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 \$22,700,000
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 2018. 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, 2020 and such amounts shall be paid to
10 the New York state energy research and development authority on or
11 before September 10, 2020. 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 up to \$4 million to the state general fund for climate change
17 related services and expenses of the department of environmental conser-
18 vation, \$150,000 to the state general fund for services and expenses of
19 the department of agriculture and markets, and \$825,000 to the Universi-
20 ty of Rochester laboratory for laser energetics from the funds received;
21 and (2) commencing in 2016, provide to the chair of the public service
22 commission and the director of the budget and the chairs and secretaries
23 of the legislative fiscal committees, on or before August first of each
24 year, an itemized record, certified by the president and chief executive
25 officer of the authority, or his or her designee, detailing any and all
26 expenditures and commitments ascribable to moneys received as a result
27 of this assessment by the chair of the department of public service
28 pursuant to section 18-a of the public service law. This itemized

1 record shall include an itemized breakdown of the programs being funded
2 by this section and the amount committed to each program. The authority
3 shall not commit for any expenditure, any moneys derived from the
4 assessment provided for in this section, until the chair of such author-
5 ity shall have submitted, and the director of the budget shall have
6 approved, a comprehensive financial plan encompassing all moneys avail-
7 able to and all anticipated commitments and expenditures by such author-
8 ity from any source for the operations of such authority. Copies of the
9 approved comprehensive financial plan shall be immediately submitted by
10 the chair to the chairs and secretaries of the legislative fiscal
11 committees. Any such amount not committed by such authority to
12 contracts or contracts to be awarded or otherwise expended by the
13 authority during the fiscal year shall be refunded by such authority on
14 a pro-rata basis to such gas and/or electric corporations, in a manner
15 to be determined by the department of public service, and any refund
16 amounts must be explicitly lined out in the itemized record described
17 above.

18 § 2. This act shall take effect immediately and shall be deemed to
19 have been in full force and effect on and after April 1, 2020.

20 PART II

21 Section 1. The closing paragraph of subdivision 1 of section 161 of
22 the labor law, as added by chapter 105 of the laws of 2019, is amended
23 to read as follows:

24 Every person employed as a farm laborer shall be allowed at least
25 twenty-four consecutive hours of rest in each and every calendar week.
26 This requirement shall not apply to the employer or parent, child,

1 spouse or other member of the employer's immediate family. The term
2 "employer" shall have the same meaning as defined in paragraphs (a) and
3 (b) of subdivision two of section seven hundred one of this chapter. The
4 term "immediate family member" shall mean family related to the third
5 degree of consanguinity or affinity. Twenty-four consecutive hours spent
6 at rest because of circumstances, such as weather or crop conditions,
7 shall be deemed to constitute the rest required by this paragraph. No
8 provision of this paragraph shall prohibit a farm laborer from voluntar-
9 ily agreeing to work on such day of rest required by this paragraph,
10 provided that the farm laborer is compensated at an overtime rate which
11 is at least one and one-half times the laborer's regular rate of pay for
12 all hours worked on such day of rest. The term "farm labor" as used in
13 this section and sections one hundred sixty-two and one hundred sixty-
14 three-a of this article shall include all services performed in agricul-
15 tural employment in connection with cultivating the soil, or in
16 connection with raising or harvesting of agricultural commodities,
17 including the raising, shearing, caring for and management of livestock,
18 poultry or dairy. The day of rest authorized under this subdivision
19 should, whenever possible, coincide with the traditional day reserved by
20 the farm laborer for religious worship.

21 § 2. Section 163-a of the labor law, as added by chapter 105 of the
22 laws of 2019, is amended to read as follows:

23 § 163-a. Farm laborers. No person or corporation operating a farm
24 shall require any [employee] farm laborer to work more than sixty hours
25 in any calendar week; provided, however, that any overtime work
26 performed by a farm laborer shall be at a rate which is at least one and
27 one-half times the laborer's regular rate of pay. No wage order subject
28 to the provisions of this chapter shall be applicable to a farm laborer

1 other than a wage order established pursuant to section six hundred
2 seventy-four or six hundred seventy-four-a of this chapter.

3 § 3. Paragraph (c) of subdivision 3 of section 701 of the labor law,
4 as added by chapter 105 of the laws of 2019, is amended to read as
5 follows:

6 (c) The term "employee" shall also include farm laborers. "Farm labor-
7 ers" shall mean any individual engaged or permitted by an employer to
8 work on a farm, except the parent, spouse, child, or other member of the
9 employer's immediate family. The term "immediate family member" shall
10 mean family related to the third degree of consanguinity or affinity.

11 § 4. This act shall take effect immediately.

12 PART JJ

13 Section 1. Section 103 of the general municipal law is amended by
14 adding a new subdivision 9-b to read as follows:

15 9-b. Notwithstanding the foregoing provisions of this section to the
16 contrary, a board of education, on behalf of its school district, or a
17 board of cooperative educational services, that purchases goods and
18 services for the federal child nutrition programs may use its own
19 procurement procedures which adhere to applicable local laws and regu-
20 lations, provided that procurements made with nonprofit school food
21 account funds adhere to the standards set forth in the national school
22 lunch program (7 CFR 210), school breakfast program (7 CFR 220), summer
23 food service program (7 CFR 225), and in 2 CFR part 200, subpart D, as
24 applicable.

25 § 2. This act shall take effect immediately.

1

PART KK

2 Section 1. Subdivision 4 of section 1285-j of the public authorities
3 law is amended by adding a new closing paragraph to read as follows:

4 Subject to any applicable provisions of federal or state law, any
5 financial assistance at an interest rate of zero percent provided to
6 municipalities that meet the hardship criteria established pursuant to
7 section 17-1909 of the environmental conservation law, may have a final
8 maturity up to forty years following completion of the eligible project.

9 § 2. Subdivision 4 of section 1285-m of the public authorities law is
10 amended by adding a new closing paragraph to read as follows:

11 Subject to any applicable provisions of federal or state law, any
12 financial assistance at an interest rate of zero percent provided to
13 municipalities that meet the hardship criteria established pursuant to
14 title four of article eleven of the public health law, may have a final
15 maturity up to forty years following completion of the eligible project.

16 § 3. This act shall take effect immediately.

17

PART LL

18 Section 1. The banking law is amended by adding a new article 7 to
19 read as follows:

20

ARTICLE VII

21

LICENSED CONSUMER DEBT COLLECTORS

22 Section 295. Definitions.

23 296. License required; entities exempt.

24 297. Application for license; fees.

25 298. Surety bond required.

1 299. Examination; books and records; reports.

2 300. Prohibited acts.

3 301. Regulations; minimum standards.

4 302. Application for acquisition of control of a consumer debt
5 collector.

6 303. Suspension and revocation.

7 304. Bad actors.

8 § 295. Definitions. As used in this article:

9 1. "Applicant" means a consumer debt collector who has filed an appli-
10 cation to obtain a license under this article.

11 2. "Communication" and "communicate" means the conveying of informa-
12 tion regarding a debt directly or indirectly to any person through any
13 medium.

14 3. "Consumer debt" means any obligation of a natural person for the
15 payment of money or its equivalent which arises out of a transaction
16 which was primarily for personal, family, or household purposes. The
17 term includes an obligation of a natural person who is a co-maker,
18 endorser, guarantor or surety of such a transaction.

19 4. "Consumer debtor" means any natural person obligated or allegedly
20 obligated to pay any consumer debt.

21 5. "Consumer debt collector" means any person who engages in a busi-
22 ness, a principal purpose of which is the collection of consumer debts
23 or of debt buying, or who regularly collects or attempts to collect,
24 directly or indirectly, consumer debts owed or due to another person.
25 The term includes any creditor who, in the process of collecting its own
26 consumer debts, and uses any name other than its own which would reason-
27 ably indicate that a third person is collecting or attempting to collect
28 a consumer debt.

1 6. "Control" means the possession, direct or indirect, of the power to
2 direct or cause the direction of the management and policies of a
3 person, whether through the ownership of voting securities, by contract,
4 except a commercial contract for goods or non-management services, or
5 otherwise; but no person shall be deemed to control another person sole-
6 ly by reason of his or her being an officer or director of such other
7 person. Control shall be presumed to exist if any person directly or
8 indirectly owns, controls or holds with the power to vote ten percent or
9 more of the voting securities of any other person.

10 7. "Creditor" means any person to whom a consumer debt is owed.

11 8. "Licensee" means a consumer debt collector that possesses one or
12 more licenses pursuant to this article.

13 9. "Person" means a natural person or any entity, including but not
14 limited to any partnership, corporation, branch, agency, association,
15 organization, any similar entity or any combination of the foregoing
16 acting in concert.

17 § 296. License required; entities exempt. 1. No person shall act with-
18 in this state as a consumer debt collector, directly or indirectly,
19 without first obtaining a license from the superintendent. A consumer
20 debt collector is acting within this state if it is seeking to collect
21 from any consumer debtor that resides within this state.

22 2. No creditor may utilize the services of a consumer debt collector
23 to collect from a consumer debtor that resides within this state unless
24 the consumer debt collector is licensed by the superintendent.

25 3. The requirements of subdivisions one and two of this section shall
26 not apply to:

27 (a) an individual employed by a licensed consumer debt collector when
28 attempting to collect on behalf of such consumer debt collector;

1 (b) a person who receives funds in escrow for subsequent distribution
2 to others, including, but not limited to, a real estate broker or lender
3 holding funds of borrowers for payment of taxes or insurance;

4 (c) any public officer acting in their official capacity;

5 (d) a person who is principally engaged in the business of servicing
6 loans or accounts which are not delinquent for the owners thereof when
7 in addition to requesting payment from delinquent consumer debtors, the
8 person provides other services including receipt of payment, accounting,
9 record-keeping, data processing services and remitting, for loans or
10 accounts which are current as well as those which are delinquent;

11 (e) any person while serving or attempting to serve legal process on
12 any other person in connection with the judicial enforcement of any
13 debt;

14 (f) any non-profit organization which, at the request of a consumer
15 debtor, performs bona fide consumer credit counseling and assists
16 customers in the liquidation of their debts by receiving payments from
17 such consumer debtors and distributing such amounts to creditors;

18 (g) any national bank, federal reserve bank, or agency or division of
19 the federal government, or any person, partnership, association, corpo-
20 ration or other organization doing business under or pursuant to the
21 provisions of this chapter, or any insurer doing business under a
22 license issued under the insurance law; and

23 (h) a subsidiary or affiliate of any national bank, federal reserve
24 bank, or agency or division of the federal government, or any person,
25 partnership, association, corporation or other organization doing busi-
26 ness under or pursuant to the provisions of this chapter or any insurer
27 doing business under a license issued under the insurance law, provided
28 such affiliate or subsidiary is not primarily engaged in the business of

1 purchasing and collecting upon delinquent debt, other than delinquent
2 debt secured by real property.

3 § 297. Application for license; fees. 1. (a) An application for a
4 license under this article shall be in writing, under oath, and in the
5 form prescribed by the superintendent and shall contain such information
6 as the superintendent may require.

7 (b) The superintendent may reject an application for a license or an
8 application for the renewal of a license if he or she is not satisfied
9 that the financial responsibility, character, reputation, integrity and
10 general fitness of the applicant and of the owners, partners or members
11 thereof, if the applicant be a partnership or association, and of the
12 officers and directors, if the applicant be a corporation, are such as
13 to command the confidence of the public and to warrant the belief that
14 the business for which the application for a license is filed will be
15 operated lawfully, honestly and fairly.

16 (c) In addition to any other information the superintendent may
17 require the application to also include a description of the activities
18 of the applicant, in such detail and for such periods, as the super-
19 intendent may establish.

20 2. At the time of making the application for a license, the applicant
21 shall pay to the superintendent a fee as prescribed pursuant to section
22 eighteen-a of this chapter for each proposed location, for investigating
23 the application.

24 3. In addition to any other fee imposed on an applicant or licensee,
25 every licensee shall pay to the superintendent the sums provided to be
26 paid under the provisions of section two hundred six of the financial
27 services law.

1 4. The license shall be for a period of one year as of the first of
2 September each year, or such other date as determined by the superinten-
3 dent by regulation.

4 5. Each license shall plainly state the name of the licensee and the
5 city or town with the name of the street and number, if any, of the
6 place where the business is to be carried on. A licensee shall not
7 change the location where the business of the licensee is to be carried
8 on without first obtaining the prior approval of the superintendent. A
9 request for relocation shall be in writing setting forth the reason for
10 the request, and shall be accompanied by a relocation investigation fee
11 to be determined pursuant to section eighteen-a of this chapter.

12 6. The business shall at all times be conducted in the name of the
13 licensee as it appears on the license.

14 7. The license shall not be transferable nor assignable.

15 8. The superintendent may participate in a multi-state licensing
16 system for the sharing of regulatory information and for the licensing
17 and application, by electronic or other means, of entities engaged in
18 the business of debt collection. The superintendent may establish
19 requirements for participation by an applicant in a multi-state licens-
20 ing system which may vary from the provisions of this section. The
21 superintendent may require a background investigation of each applicant
22 for a consumer debt collector license by means of fingerprint, which
23 shall be submitted by all applicants simultaneously with an application
24 and which the superintendent may submit to the division of criminal
25 justice services and the federal bureau of investigations for state and
26 national criminal history record checks. If the applicant is a partner-
27 ship, association, corporation or other form of business organization,
28 the superintendent may require a background investigation for each

1 member, director and principal officer of the applicant and any individ-
2 ual acting as a manager of an office location. The applicant shall pay
3 directly to the multi-state licensing system any additional fees relat-
4 ing to participation in the multi-state licensing system.

5 § 298. Surety bond required. 1. A consumer debt collector shall be
6 required to file and maintain in force a surety bond, issued by a domes-
7 tic insurer, as a condition precedent to the issuance or renewal and
8 maintenance of a license under this article. The bond shall be for the
9 benefit of creditors who obtain a judgment from a court of competent
10 jurisdiction based on the failure of the consumer debt collector to
11 remit money collected on account and owed to the creditor. The bond
12 shall also be for the benefit of consumer debtors who obtain judgment
13 from a court of competent jurisdiction based on a violation by the
14 consumer debt collector of the federal Fair Debt Collection Practice Act
15 or any other New York law or federal law which is applicable to the
16 consumer debt collector. The bond shall be in a form prescribed by the
17 superintendent in the sum of twenty-five thousand dollars. The bond
18 shall be continuous in form and run concurrently with the original and
19 each renewal license period unless terminated by the insurance company.
20 An insurance company may terminate a bond and avoid further liability by
21 filing a notice of termination with the department sixty days prior to
22 the termination and at the same time sending the same notice to the
23 consumer debt collector.

24 2. A license shall be automatically cancelled on the termination date
25 of the bond unless a new bond is filed with the department to become
26 effective at the termination date of the prior bond.

1 3. If a license has been cancelled under this section, the consumer
2 debt collector must file a new application to obtain a license and will
3 be considered a new applicant if it obtains a new bond.

4 4. For the purposes of this section the term "domestic insurer" shall
5 have the same meaning as given in section one hundred seven of the
6 insurance law. If a bond required by this section is not reasonably
7 available from a domestic insurer the superintendent may, in his or her
8 discretion, permit, on a case by case basis or by order, consumer debt
9 collectors to obtain the bond required by this section from such other
10 entities licensed by the department as the superintendent deems appro-
11 priate.

12 § 299. Examination; books and records; reports. 1. For the purpose of
13 enforcing the provisions of this article and for ensuring the safe and
14 sound operation of the consumer debt collector business, the superinten-
15 dent may at any time, and as often as may be determined, either
16 personally or by a person duly appointed by the superintendent, investi-
17 gate the loans and business and examine the books, accounts, records,
18 and files used therein of every licensee.

19 2. The superintendent and duly designated representatives shall have
20 free access to the offices and place of business, books, accounts,
21 papers, records, audio recordings, files, safes and vaults of all such
22 licensees wherever located. The superintendent shall have authority to
23 require the attendance of and to examine under oath all persons whomsoe-
24 ver whose testimony may be required relative to such loans or such busi-
25 ness.

26 3. The superintendent may also address to a licensee, or the officers
27 thereof, any inquiry in relation to its transactions, operations, or
28 conditions, or any matter connected therewith. Every person so addressed

1 shall reply in writing to such inquiry promptly and truthfully, and such
2 reply shall be, if required by the superintendent, subscribed by such
3 individual, or by such officer or officers of a corporation, as the
4 superintendent shall designate, and affirmed by them as true under the
5 penalties of perjury.

6 4. Each licensee shall keep and use in its business such books,
7 accounts, and records as will enable the superintendent to determine
8 whether such licensee is complying with the provisions of this article
9 and with the rules and regulations promulgated hereunder. Every licensee
10 shall preserve such books, accounts, and records, for at least five
11 years after making the final entry regarding a consumer debt. Preserva-
12 tion of photographic reproduction thereof or records in photographic
13 form, including an optical disk storage system and the use of electronic
14 data processing equipment that provides comparable records to those
15 otherwise required and which are available for examination upon request
16 shall constitute compliance with the requirements of this section.

17 5. Each licensee shall annually, on or before April first, file a
18 report with the superintendent giving such information as the super-
19 intendent may require concerning the business and operations during the
20 preceding calendar year of each licensed place of business conducted by
21 such licensee within the state under authority of this article. Such
22 report shall be subscribed and affirmed as true by the licensee under
23 the penalties of perjury and shall be in the form prescribed by the
24 superintendent.

25 6. In addition to annual reports, the superintendent may require such
26 additional regular or special reports as may be deemed necessary to the
27 proper supervision of licensees under this article. Such additional

1 reports shall be in the form prescribed by the superintendent and shall
2 be subscribed and affirmed as true under the penalties of perjury.

3 7. The expenses of every examination of the affairs of a consumer debt
4 collector subject to this section shall be borne and paid by the licen-
5 see.

6 § 300. Prohibited acts. 1. No consumer debt collector that is required
7 to be licensed under this article shall engage in unfair, unconsciona-
8 ble, deceptive, false, misleading, abusive, or unlawful acts or prac-
9 tices.

10 2. Without limiting the general application of the prohibited acts in
11 subdivision one of this section, it shall be unlawful for any consumer
12 debt collector to:

13 (a) engage in any act or practice which would be a violation of the
14 federal Fair Debt Collection Practice Act, any other New York law or
15 federal law which is applicable to the consumer debt collector, or any
16 act or practice which would be prohibited under section six hundred one
17 of the general business law if the consumer debt collector was a princi-
18 pal creditor;

19 (b) engage or retain the services of any person who, being required to
20 be licensed under this article, does not have a valid license issued by
21 the department; or

22 (c) cause any act to be done which violates this section.

23 3. No consumer debt collector licensed under this article shall:

24 (a) without the prior written and revocable consent of the consumer
25 debtor given directly to the debt collector or the express permission of
26 a court of competent jurisdiction, engage in any communication with a
27 consumer debtor in connection with the collection of any debts:

1 (i) at any unusual time or place or a time or place known or which
2 should be known to be inconvenient to the consumer debtor. In the
3 absence of knowledge of circumstances to the contrary, a debt collector
4 shall assume that the convenient time for communicating with a consumer
5 debtor is after eight o'clock antemeridian and before eight o'clock
6 postmeridian, local time at the consumer debtor's location;

7 (ii) if the debt collector knows the consumer debtor is represented by
8 an attorney with respect to such debt and has knowledge of, or can read-
9 ily ascertain, such attorney's name and address, unless the attorney
10 fails to respond within a reasonable period of time to a communication
11 from the debt collector or unless the attorney consents to direct commu-
12 nication with the consumer debtor;

13 (iii) at the consumer debtor's place of employment;

14 (iv) more than two times in a seven day period;

15 (v) by voicemail on to any telephone that is known or which reasonably
16 should be known may be received by someone other than the consumer
17 debtor; or

18 (vi) by means of electronic communications, including but not limited
19 to SMS text message, messaging applications on mobile telephones, elec-
20 tronic mail, Facebook, and other forms of social media.

21 (b) communicate with a consumer debtor by postcard;

22 (c) continue communication with a consumer debtor after the consumer
23 debt collector's first communication if the debt collector fails to send
24 the consumer debtor a notice in writing within five days of that first
25 communication, which such notice shall be promulgated by the superinten-
26 dent; or

1 (d) continue to communicate with a consumer debtor about a consumer
2 debt that the consumer debtor disputes without providing the consumer
3 debtor with documents that verify the disputed consumer debt.

4 § 301. Regulations; minimum standards. The superintendent may promul-
5 gate rules and regulations giving effect to the provisions of this arti-
6 cle. Such rules and regulations may include but shall not be limited to
7 the establishment of minimum standards to be observed by consumer debt
8 collectors acting within this state and further defining acts and prac-
9 tices which are unfair, unconscionable, deceptive, false, misleading,
10 abusive, or unlawful under section three hundred of this article.

11 § 302. Application for acquisition of control of a consumer debt
12 collector. 1. No person shall acquire control of a licensee under this
13 article without the prior approval of the superintendent.

14 2. Any person desirous of acquiring such control shall make written
15 application to the superintendent, such application shall be in such
16 form and shall contain such information, including the information
17 required under section two hundred ninety-seven of this article, as the
18 superintendent may require and such person, at the time of making such
19 application if not licensed, shall pay to the superintendent an investi-
20 gation fee as prescribed pursuant to section eighteen-a of this chapter.

21 3. In determining whether to approve or deny an application under this
22 section, the superintendent shall consider:

23 (a) whether the financial responsibility, experience, character, and
24 general fitness of the person seeking to acquire control, and of the
25 members thereof if such person be a partnership or association, and of
26 the officers, directors and controlling stockholders thereof if such
27 person be a corporation, are such as to command the confidence of the

1 community and to warrant belief that the business will be operated
2 honestly, fairly, and efficiently within the purpose of this article;

3 (b) the effect the acquisition may have on competition; and

4 (c) whether the acquisition may be hazardous or prejudicial to consum-
5 er debtors or consumer creditors in this state.

6 4. If no such application has been made prior to the acquisition of
7 control, the license for each place of business maintained and operated
8 by the licensee shall, at the discretion of the superintendent, become
9 null and void and each such license shall be surrendered to the super-
10 intendent.

11 § 303. Suspension and revocation. In addition to any other power
12 provided by law, the superintendent may suspend or revoke the license of
13 a consumer debt collector, if after notice and an opportunity to be
14 heard, the superintendent finds that a consumer debt collector has:

15 1. committed any fraud, engaged in any dishonest activities or made
16 any misrepresentation;

17 2. violated any provisions of this chapter or any regulation issued
18 pursuant thereto, or has violated any other law in the course of its or
19 his dealings as a consumer debt collector;

20 3. made a false statement or material omission in the application for
21 a license under this article or failed to give a true reply to a ques-
22 tion in such application; or

23 4. demonstrated incompetency or untrustworthiness to act as a consumer
24 debt collector.

25 § 304. Bad actors. 1. In addition to any other power provided by law,
26 the superintendent may require any licensee to remove any director,
27 officer or employee or to refrain from engaging or retaining any inde-
28 pendent contractor or service provider if such director, officer,

1 employee, independent contractor or service provider has themselves had
2 a license under this chapter suspended or revoked, or has caused the
3 licensee to violate any provision of this chapter or regulations promul-
4 gated thereunder.

5 2. No person that is the subject of an order under this section remov-
6 ing them as a director, officer or employee or preventing a licensee
7 from engaging or retaining them as an independent contractor or service
8 provider, shall become engaged with any licensee without obtaining the
9 prior written approval of the superintendent. Nor shall such person fail
10 to disclose that it is the subject of an order under this section to any
11 licensee for which it is acting or seeking to act as a director, offi-
12 cer, employee, independent contractor or service provider.

13 § 2. Subdivision 10 of section 36 of the banking law, as amended by
14 section 2 of part L of chapter 58 of the laws of 2019, is amended to
15 read as follows:

16 10. All reports of examinations and investigations, correspondence and
17 memoranda concerning or arising out of such examination and investi-
18 gations, including any duly authenticated copy or copies thereof in the
19 possession of any banking organization, bank holding company or any
20 subsidiary thereof (as such terms "bank holding company" and "subsid-
21 iary" are defined in article three-A of this chapter), any corporation
22 or any other entity affiliated with a banking organization within the
23 meaning of subdivision six of this section and any non-banking subsid-
24 iary of a corporation or any other entity which is an affiliate of a
25 banking organization within the meaning of subdivision six-a of this
26 section, foreign banking corporation, licensed lender, licensed cashier
27 of checks, licensed mortgage banker, registered mortgage broker,
28 licensed mortgage loan originator, licensed sales finance company,

1 registered mortgage loan servicer, licensed student loan servicer,
2 licensed insurance premium finance agency, licensed transmitter of
3 money, licensed budget planner, licensed consumer debt collector, any
4 other person or entity subject to supervision under this chapter, or the
5 financial services law or the insurance law, or the department, shall be
6 confidential communications, shall not be subject to subpoena and shall
7 not be made public unless, in the judgment of the superintendent, the
8 ends of justice and the public advantage will be subserved by the publi-
9 cation thereof, in which event the superintendent may publish or author-
10 ize the publication of a copy of any such report or any part thereof in
11 such manner as may be deemed proper or unless such laws specifically
12 authorize such disclosure. For the purposes of this subdivision,
13 "reports of examinations and investigations, and any correspondence and
14 memoranda concerning or arising out of such examinations and investi-
15 gations", includes any such materials of a bank, insurance or securities
16 regulatory agency or any unit of the federal government or that of this
17 state any other state or that of any foreign government which are
18 considered confidential by such agency or unit and which are in the
19 possession of the department or which are otherwise confidential materi-
20 als that have been shared by the department with any such agency or unit
21 and are in the possession of such agency or unit.

22 § 3. Paragraph (a) of subdivision 1 of section 44 of the banking law,
23 as amended by section 4 of part L of chapter 58 of the laws of 2019, is
24 amended to read as follows:

25 (a) Without limiting any power granted to the superintendent under any
26 other provision of this chapter, the superintendent may, in a proceeding
27 after notice and a hearing, require any safe deposit company, licensed
28 lender, licensed casher of checks, licensed sales finance company,

1 licensed insurance premium finance agency, licensed transmitter of
2 money, licensed mortgage banker, licensed student loan servicer, regis-
3 tered mortgage broker, licensed mortgage loan originator, registered
4 mortgage loan servicer, licensed consumer debt collector or licensed
5 budget planner to pay to the people of this state a penalty for any
6 violation of this chapter, any regulation promulgated thereunder, any
7 final or temporary order issued pursuant to section thirty-nine of this
8 article, any condition imposed in writing by the superintendent in
9 connection with the grant of any application or request, or any written
10 agreement entered into with the superintendent.

11 § 4. The opening paragraph of subdivision (a) of section 3218 of the
12 civil practice law and rules, as amended by chapter 311 of the laws of
13 1963, is amended to read as follows:

14 Affidavit of defendant. Except as provided in section thirty-two
15 hundred one of this article and subdivision (e) of this section, a judg-
16 ment by confession may be entered, without an action, either for money
17 due or to become due, or to secure the plaintiff against a contingent
18 liability in behalf of the defendant, or both, upon an affidavit
19 executed by the defendant;

20 § 5. Section 3218 of the civil practice law and rules is amended by
21 adding a new subdivision (e) to read as follows:

22 (e) Prohibition on certain judgments by confession. No judgment of
23 confession may be entered on: 1. any amount due from one or more indi-
24 viduals for personal, family, household, consumer, investment or non-bu-
25 siness purposes;

26 2. any amount under two hundred fifty thousand dollars due from any
27 person for any purpose; or

1 3. any amount due from any person that either: (i) is currently not a
2 resident of the state, (ii) was not a resident of the state at the time
3 the affidavit authorizing the entry of the judgment of confession was
4 executed, or (iii) if not a natural person, does not have a place of
5 business in the state or did not have a place of business in the state
6 at the time the affidavit authorizing the entry of the judgment of
7 confession was executed.

8 § 6. This act shall take effect immediately, provided, however that
9 sections one, two and three of this act shall take effect on October 1,
10 2020. Effective immediately, the addition, amendment and/or repeal of
11 any rule or regulation necessary for the implementation of this act on
12 its effective date are authorized to be made and completed on or before
13 such effective date.

14 PART MM

15 Section 1. The financial services law is amended by adding a new arti-
16 cle 7 to read as follows:

17 ARTICLE 7

18 STUDENT DEBT RELIEF CONSULTANTS

19 Section 701. Definitions.

20 702. Prohibitions.

21 703. Disclosure requirements.

22 704. Student debt consulting contracts.

23 705. Penalties and other provisions.

24 706. Rules and regulations.

25 § 701. Definitions. (a) The term "advertisement" shall include, but is
26 not limited to, all forms of marketing, and solicitation of information

1 related to securing or obtaining a student debt consulting contract or
2 services. Further, it shall include any and all commonly recognized
3 forms of media marketing via television, radio, print media, all forms
4 of electronic communication via the internet, and all prepared sales
5 presentations given in person or over the internet to the general
6 public.

7 (b) "Borrower" means any resident of this state who has received a
8 student loan or agreed in writing to pay a student loan or any person
9 who shares a legal obligation with such resident for repaying a student
10 loan.

11 (c) "FSA ID" means a username and password allocated to an individual
12 by the federal government to enable the individual to log in to certain
13 United States department of education websites, and may be used to sign
14 certain documents electronically.

15 (d) "Student loan" means any loan to a borrower to finance post-secon-
16 dary education or expenses related to post-secondary education.

17 (e) "Student debt consulting contract" or "contract" means an agree-
18 ment between a borrower and a consultant under which the consultant
19 agrees to provide student debt consulting services.

20 (f) "Student debt consultant" or "consultant" means an individual or a
21 corporation, partnership, limited liability company or other business
22 entity that, directly or indirectly, solicits or undertakes student debt
23 consulting services. A consultant does not include the following:

24 (i) a person or entity who holds or is owed an obligation on the
25 student loan while the person or entity performs services in connection
26 with the student loan;

27 (ii) a bank, trust company, private banker, bank holding company,
28 savings bank, savings and loan association, thrift holding company,

1 credit union or insurance company organized under the laws of this
2 state, another state or the United States, or a subsidiary or affiliate
3 of such entity or a foreign banking corporation licensed by the super-
4 intendent of financial services or the comptroller of the currency;

5 (iii) a bona fide not-for-profit organization that offers counseling
6 or advice to borrowers;

7 (iv) an attorney admitted to practice in the state of New York when
8 the attorney is providing student debt consulting services to a borrower
9 free of charge;

10 (v) an institution of higher education wherein the borrower is or was
11 enrolled; or

12 (vi) such other persons as the superintendent prescribes or interprets
13 by rule.

14 (g) "Student debt consulting services" means services that a student
15 debt consultant provides to a borrower that the consultant represents
16 will help to achieve any of the following:

17 (i) stop, enjoin, delay, void, set aside, annul, stay or postpone a
18 default, bankruptcy, tax offset, or garnishment proceeding;

19 (ii) obtain a forbearance, deferment, or other relief that temporarily
20 halts repayment of a student loan;

21 (iii) assist the borrower with preparing or filing documents related
22 to student loan repayment;

23 (iv) advise the borrower which student loan repayment plan or forgive-
24 ness program to consider;

25 (v) enroll the borrower in any student loan repayment, forgiveness,
26 discharge, or consolidation program;

27 (vi) assist the borrower in re-establishing eligibility for federal
28 student financial assistance;

1 (vii) assist the borrower in removing a student loan from default; or

2 (viii) educate the borrower about student loan repayment.

3 § 702. Prohibitions. A student debt consultant is prohibited from
4 doing the following:

5 (a) performing student debt consulting services without a written,
6 fully executed contract with a borrower;

7 (b) charging for or accepting any payment for student debt consulting
8 services before the full completion of all such services, including a
9 payment to be placed in escrow or any other account pending the
10 completion of such services;

11 (c) taking a power of attorney from a borrower;

12 (d) retaining any original loan document or other original document
13 related to a borrower's student loan;

14 (e) requesting that a borrower provide his or her FSA ID to the
15 consultant, or accepting a borrower's FSA ID;

16 (f) stating or implying that a borrower will not be able to obtain
17 relief on their own;

18 (g) misrepresenting, expressly or by implication, that:

19 (i) the consultant is a part of, affiliated with, or endorsed or spon-
20 sored by the government, government loan programs, the United States
21 department of education, or borrowers' student loan servicers; or

22 (ii) some or all of a borrower's payments to the consultant will be
23 applied towards the borrower's student loans;

24 (h) inducing or attempting to induce a student debtor to enter a
25 contract that does not fully comply with the provisions of this article;

26 or

27 (i) engaging in any unfair, deceptive, or abusive act or practice.

1 § 703. Disclosure requirements. (a) A student debt consultant shall
2 clearly and conspicuously disclose in all advertisements:

3 (i) the actual services the consultant provides to borrowers;

4 (ii) that borrowers can apply for and obtain consolidation loans from
5 the United States department of education at no cost, including provid-
6 ing a direct link in all written advertising to the application materi-
7 als for a direct consolidation loan from the U.S. department of educa-
8 tion;

9 (iii) that consolidation or other services offered by the consultant
10 may not be the best or only option for borrowers;

11 (iv) that a borrower may obtain alternative federal student loan
12 repayment plans, including income-based programs, without consolidating
13 existing federal student loans; and

14 (v) that borrowers should consider consulting their student loan
15 servicer before signing any legal document concerning a student loan.

16 (b) The disclosures required by subsection (a) of this section, if
17 disseminated through print media or the internet, shall be clearly and
18 legibly printed or displayed in not less than twelve-point bold type,
19 or, if the advertisement is printed to be displayed in print that is
20 smaller than twelve-point, in bold type print that is no smaller than
21 the print in which the text of the advertisement is printed or
22 displayed.

23 (c) The provisions of this section shall apply to all consultants who
24 disseminate advertisements in the state of New York or who intend to
25 directly or indirectly contact a borrower who has a student loan and is
26 a resident of New York state. Consultants shall establish and at all
27 times maintain control over the content, form and method of dissem-
28 ination of all advertisements of their services. Further, all advertise-

1 ments shall be sufficiently complete and clear to avoid the possibility
2 of deception or the ability to mislead or deceive.

3 § 704. Student debt consulting contracts. (a) A student debt consult-
4 ing contract shall:

5 (1) contain the entire agreement of the parties;

6 (2) be provided in writing to the borrower for review before signing;

7 (3) be printed in at least twelve-point type and written in the same
8 language that is used by the borrower and was used in discussions
9 between the consultant and the borrower to describe the borrower's
10 services or to negotiate the contract;

11 (4) fully disclose the exact nature of the services to be provided by
12 the consultant or anyone working in association with the consultant;

13 (5) fully disclose the total amount and terms of compensation for such
14 services;

15 (6) contain the name, business address and telephone number of the
16 consultant and the street address (if different) and facsimile number or
17 email address of the consultant where communications from the debtor may
18 be delivered;

19 (7) be dated and personally signed by the borrower and the consultant
20 and be witnessed and acknowledged by a New York notary public; and

21 (8) contain the following notice, which shall be printed in at least
22 fourteen-point boldface type, completed with the name of the provider,
23 and located in immediate proximity to the space reserved for the
24 debtor's signature:

25 "NOTICE REQUIRED BY NEW YORK LAW

26 You may cancel this contract, without any penalty or obligation, at
27 any time before midnight of _____ (fifth business day after
28 execution).

1 (Name of consultant) (the "consultant") or anyone working
2 for the consultant may not take any money from you or ask you for money
3 until the consultant has completely finished doing everything this
4 contract says the consultant will do.

5 You should consider contacting your student loan servicer before sign-
6 ing any legal document concerning your student loan. In addition, you
7 may want to visit the New York State Department of Financial Services'
8 student lending resource center at www.dfs.ny.gov/studentprotection. The
9 law requires that this contract contain the entire agreement between you
10 and the provider. You should not rely upon any other written or oral
11 agreement or promise."

12 The provider shall accurately enter the date on which the right to
13 cancel ends.

14 (b) (1) The borrower has the right to cancel, without any penalty or
15 obligation, any contract with a consultant until midnight of the fifth
16 business day following the day on which the consultant and the borrower
17 sign a consulting contract. Cancellation occurs when the borrower, or a
18 representative of the borrower, either delivers written notice of
19 cancellation in person to the address specified in the consulting
20 contract or sends a written communication by facsimile, by United States
21 mail or by an established commercial letter delivery service. A dated
22 proof of facsimile delivery or proof of mailing creates a presumption
23 that the notice of cancellation has been delivered on the date the
24 facsimile is sent or the notice is deposited in the mail or with the
25 delivery service. Cancellation of the contract shall release the
26 borrower from all obligations to pay fees or any other compensation to
27 the consultant

1 (2) The contract shall be accompanied by two copies of a form,
2 captioned "notice of cancellation" in at least twelve-point bold type.
3 This form shall be attached to the contract, shall be easily detachable,
4 and shall contain the following statement written in the same language
5 as used in the contract, and the contractor shall insert accurate infor-
6 mation as to the date on which the right to cancel ends and the contrac-
7 tor's contact information:

8 "NOTICE OF CANCELLATION

9 Note: You may cancel this contract, without any penalty or obligation,
10 at any time before midnight of _____ (Enter date)

11 To cancel this contract, sign and date both copies of this cancella-
12 tion notice and personally deliver one copy or send it by facsimile,
13 United States mail, or an established commercial letter delivery
14 service, indicating cancellation to the Consultant at one of the follow-
15 ing:

16 Name of Consultant _____

17 Street Address _____

18 City, State, Zip _____

19 Facsimile: _____

20 I hereby cancel this transaction.

21 Name of Borrower: _____

22 Signature of Borrower: _____

23 Date: _____ "

24 (3) Within ten days following receipt of a notice of cancellation
25 given in accordance with this subdivision, the consultant shall return
26 any original contract and any other documents signed by or provided by
27 the borrower. Cancellation shall release the borrower of all obli-
28 gations to pay any fees or compensation to the consultant.

1 § 705. Penalties and other provisions. (a) If the superintendent
2 finds, after notice and hearing, that a consultant has violated any
3 provision of this article, the superintendent may: (1) make null and
4 void any agreement between the borrower and the consultant; and (2)
5 impose a civil penalty of not more than ten thousand dollars for each
6 violation.

7 (b) If the consultant violates any provision of this article and the
8 borrower suffers damage because of the violation, the borrower may
9 recover actual and consequential damages and costs from the consultant
10 in an action based on this article. If the consultant intentionally or
11 recklessly violates any provision of this article, the court may award
12 the borrower treble damages, attorneys' fees and costs.

13 (c) Any provision of a student debt consulting contract that attempts
14 or purports to limit the liability of the consultant under this article
15 shall be null and void. Inclusion of such provision shall at the option
16 of the borrower render the contract void. Any provision in a contract
17 which attempts or purports to require arbitration of any dispute arising
18 under this article shall be void at the option of the borrower. Any
19 waiver of the provisions of this article shall be void and unenforceable
20 as contrary to public policy.

21 (d) The provisions of this article are not exclusive and are in addi-
22 tion to any other requirements, rights, remedies, and penalties provided
23 by law.

24 § 706. Rules and regulations. In addition to such powers as may other-
25 wise be prescribed by this chapter, the superintendent is hereby author-
26 ized and empowered to promulgate such rules and regulations as may in
27 the judgment of the superintendent be consistent with the purposes of

1 this article, or appropriate for the effective administration of this
2 article.

3 § 2. Section 712 of the banking law is amended by adding a new subdi-
4 vision 3 to read as follows:

5 3. The department may also require the submission of the fingerprints
6 of the applicant, which may be submitted to the division of criminal
7 justice services and the federal bureau of investigation for state and
8 national criminal history record checks.

9 § 3. This act shall take effect immediately, provided, however, that
10 section one of this act shall take effect October 1, 2020.

11 PART NN

12 Section 1. Paragraph 2 of subsection (a) of section 104 of the finan-
13 cial services law is amended to read as follows:

14 (2) "Financial product or service" shall mean: (A) any financial prod-
15 uct or financial service offered or provided by any person regulated or
16 required to be regulated by the superintendent pursuant to the banking
17 law or the insurance law or any other financial product or service
18 offered or sold to consumers [except financial products or services: (i)
19 regulated under the exclusive jurisdiction of a federal agency or
20 authority, (ii) regulated for the purpose of consumer or investor
21 protection by any other state agency, state department or state public
22 authority, or (iii) where rules or regulations promulgated by the super-
23 intendent on such financial product or service would be preempted by
24 federal law] or small businesses; [and]

25 (B) the sale or provision to a consumer or small business of any secu-
26 rity, investment advice, or money management device;

1 (C) any warranty sold or provided to a consumer or small business or
2 any guarantee or suretyship provided to a consumer;

3 (D) any merchant cash advance provided to a consumer or small busi-
4 ness; or

5 (E) any contract involving any provision of subparagraphs (A) through
6 (D) of this paragraph.

7 "Financial product or service" shall [also] not include [the follow-
8 ing, when offered or provided by a provider of consumer goods or
9 services: (i) the extension of credit directly to a consumer exclusive-
10 ly for the purpose of enabling that consumer to purchase such consumer
11 good or service directly from the seller, (ii) the collection of debt
12 arising from such credit, or (iii) the sale or conveyance of such debt
13 that is delinquent or otherwise in default] financial products or
14 services where the rules or regulations promulgated by the superinten-
15 dent on such financial products or services would be preempted by feder-
16 al law.

17 § 2. Subsection (a) of section 104 of the financial services law is
18 amended by adding a new paragraph 6 to read as follows:

19 (6) "Small business" shall mean a business which is independently
20 owned and operated, has less than ten million dollars in annual gross
21 receipts or sales, and employs one hundred or less persons.

22 § 3. Subsection (a) of section 206 of the financial services law is
23 amended and a new subsection (g) is added to read as follows:

24 (a) For each fiscal year commencing on or after April first, two thou-
25 sand twelve, assessments to defray operating expenses, including all
26 direct and indirect costs, of the department, except expenses incurred
27 in the liquidation of banking organizations, shall be assessed by the
28 superintendent in accordance with this subsection. Persons regulated

1 under the insurance law shall be assessed by the superintendent for the
2 operating expenses of the department that are solely attributable to
3 regulating persons under the insurance law, which shall include any
4 expenses that were permissible to be assessed in fiscal year two thou-
5 sand nine-two thousand ten, with the assessments allocated pro rata upon
6 all domestic insurers and all licensed United States branches of alien
7 insurers domiciled in this state within the meaning of paragraph four of
8 subsection (b) of section seven thousand four hundred eight of the
9 insurance law, in proportion to the gross direct premiums and other
10 considerations, written or received by them in this state during the
11 calendar year ending December thirty-first immediately preceding the end
12 of the fiscal year for which the assessment is made (less return premi-
13 ums and considerations thereon) for policies or contracts of insurance
14 covering property or risks resident or located in this state the issu-
15 ance of which policies or contracts requires a license from the super-
16 intendent. Persons regulated under the banking law shall be assessed by
17 the superintendent for the operating expenses of the department that are
18 solely attributable to regulating persons under the banking law in such
19 proportions as the superintendent shall deem just and reasonable.
20 Persons regulated under this chapter shall be assessed by the super-
21 intendent for the operating expenses of the department that are solely
22 attributable to regulated persons under this chapter in such proportions
23 as the superintendent shall deem just and reasonable. Operating expenses
24 of the department not covered by the assessments set forth above shall
25 be assessed by the superintendent in such proportions as the superinten-
26 dent shall deem just and reasonable upon all domestic insurers and all
27 licensed United States branches of alien insurers domiciled in this
28 state within the meaning of paragraph four of subsection (b) of section

1 seven thousand four hundred eight of the insurance law, and upon any
2 regulated person under this chapter and the banking law, other than
3 mortgage loan originators, except as otherwise provided by sections one
4 hundred fifty-one and two hundred twenty-eight of the workers' compen-
5 sation law and by section sixty of the volunteer firefighters' benefit
6 law. The provisions of this subsection shall not be applicable to a bank
7 holding company, as that term is defined in article three-A of the bank-
8 ing law. Persons regulated under the banking law will not be assessed
9 for expenses that the superintendent deems to benefit solely persons
10 regulated under the insurance law, and persons regulated under the
11 insurance law will not be assessed for expenses that the superintendent
12 deems to benefit solely persons regulated under the banking law.

13 (g) The expenses of every examination of the affairs of any regulated
14 person subject to this chapter, shall be borne and paid by such regu-
15 lated person so examined, but the superintendent, with the approval of
16 the comptroller, may, in the superintendent's discretion for good cause
17 shown, remit such charges.

18 § 4. The financial services law is amended by adding a new section 312
19 to read as follows:

20 § 312. Restitution. In any administrative proceeding or judicial
21 action brought under this chapter, the banking law, or the insurance
22 law, the superintendent may, in addition to any other penalty or sanc-
23 tion imposed by law, order the individual or entity subject to such
24 proceeding or action to make restitution to all consumers harmed by such
25 individual or entity's conduct.

26 § 5. The financial services law is amended by adding a new section 313
27 to read as follows:

1 § 313. Unlicensed actors. Any person or entity that is required by
2 this chapter, the banking law, or the insurance law to be licensed,
3 certified, registered, authorized, chartered, accredited, or incorpo-
4 rated and that is not specifically exempted from such applicable law
5 shall be subject to the laws of this chapter, the banking law, and the
6 insurance law, and the penalties contained therein as if such person or
7 entity was so licensed, certified, registered, authorized, chartered,
8 accredited, or incorporated, even if such person or entity does not
9 possess the required license, certification, registration, authori-
10 zation, charter, accreditation, or incorporation.

11 § 6. Subsection (a) of section 408 of the financial services law is
12 amended to read as follows:

13 (a) In addition to any civil or criminal liability provided by law,
14 the superintendent may, after notice and hearing, levy a civil penalty:

15 (1) not to exceed the greater of five thousand dollars [per] for each
16 offense[,]; a multiple of two times the aggregate damages attributable
17 to the offense; or a multiple of two times the aggregate economic gain
18 attributable to the offense for:

19 (A) any [intentional] fraud, [or intentional] misrepresentation [of a
20 material fact], or unfair, deceptive, or abusive act or practice with
21 respect to a financial product or service or involving any person offer-
22 ing to provide or providing financial products or services or involving
23 any service provider utilized by any person offering to provide or
24 providing financial products or services; or

25 (B) any violation of state or federal fair debt collection practices
26 or federal or state fair lending laws; [and] or

27 [(2) not to exceed one thousand dollars for] (C) any other violation
28 of this chapter or the regulations issued thereunder, provided that

1 there shall be no civil penalty under this section for violations of
2 article five of this chapter or the regulations issued thereunder; and

3 [(3)] (2) provided, however, that:

4 (A) penalties for regulated persons under the banking law shall be as
5 provided for in the banking law and penalties for regulated persons
6 under the insurance law shall be as provided for in the insurance law;
7 and

8 (B) the superintendent shall not impose or collect any penalty under
9 this section in addition to any penalty or fine for the same act or
10 omission that is imposed under the insurance law or banking law; and

11 (C) nothing in this section shall affect the construction or interpre-
12 tation of the term "fraud" as it is used in any other provision of the
13 consolidated or unconsolidated law.

14 § 7. Paragraph 1 of subsection (c) of section 109 of the insurance
15 law, as amended by section 55 of part A of chapter 62 of the laws of
16 2011, is amended to read as follows:

17 (1) If the superintendent finds after notice and hearing that any
18 authorized insurer, representative of the insurer, licensed insurance
19 agent, licensed insurance broker, licensed adjuster, or any other person
20 or entity licensed, certified, registered, or authorized pursuant to
21 this chapter, has wilfully violated the provisions of this chapter or
22 any regulation promulgated thereunder, then the superintendent may order
23 the person or entity to pay to the people of this state a penalty in a
24 sum not exceeding [one] ten thousand dollars for each offense.

25 § 8. This act shall take effect immediately.

1 Section 1. The banking law is amended by adding a new section 4-d to
2 read as follows:

3 § 4-d. Protecting vulnerable adults from financial exploitation. 1.
4 Definitions. As used in this section:

5 (a) "Banking institution" means any bank, trust company, savings bank,
6 savings and loan association, credit union, or branch of a foreign bank-
7 ing corporation, which is chartered, organized or licensed under the
8 laws of this state or any other state or the United States, and, in the
9 ordinary course of business takes deposit accounts in this state.

10 (b) "Vulnerable adult" means an individual who, because of mental
11 and/or physical impairment is potentially unable to manage his or her
12 own resources or protect himself or herself from financial exploitation.

13 (c) "Financial exploitation" means: (i) the improper taking, withhold-
14 ing, appropriation, or use of a vulnerable adult's money, assets, or
15 property; or (ii) any act or omission by a person, including through the
16 use of a power of attorney, guardianship, or any other authority regard-
17 ing a vulnerable adult to: (A) obtain control, through deception, intim-
18 idation or undue influence, over the vulnerable adult's money, assets,
19 or property or (B) convert the vulnerable adult's money, assets, or
20 property.

21 (d) "Transaction hold" means a delay in the completion of one or more
22 financial transactions pending an investigation by a banking institu-
23 tion, adult protective services, or a law enforcement agency.

24 (e) "Adult protective services" means the division of the New York
25 City Human Resources Administration and each county's department of
26 human services or department of social services responsible for provid-
27 ing adult protective services pursuant to section four hundred seventy-
28 three of the social services law.

1 (f) "Law enforcement agency" means any agency, including the financial
2 frauds and consumer protection unit of the department of financial
3 services, which is empowered by law to conduct an investigation or to
4 make an arrest for a felony, and any agency which is authorized by law
5 to prosecute or participate in the prosecution of a felony.

6 2. Application of transaction hold. (a) If a banking institution
7 reasonably believes: (i) that financial exploitation of a vulnerable
8 adult may have occurred, may have been attempted, or is being attempted;
9 and (ii) that the placement of a transaction hold may be necessary to
10 protect a vulnerable adult's money, assets, or property from financial
11 exploitation, then the banking institution may, at its discretion, apply
12 a transaction hold on the account of a vulnerable adult, the account on
13 which a vulnerable adult is a beneficiary, including a trust or guardi-
14 anship account, or the account of a person who is reasonably believed by
15 the banking institution to be engaging in the financial exploitation of
16 a vulnerable adult.

17 (b) A banking institution may also apply a transaction hold on the
18 account of a vulnerable adult, the account on which a vulnerable adult
19 is a beneficiary, including a trust or guardianship account, or the
20 account of a person who is reasonably believed by the banking institu-
21 tion to be engaging in the financial exploitation of a vulnerable adult,
22 if: (i) adult protective services or a law enforcement agency provides
23 information to the banking institution establishing a reasonable basis
24 to believe that financial exploitation of a vulnerable adult may have
25 occurred, may have been attempted, or is being attempted; and (ii) the
26 placement of a transaction hold may be necessary to protect a vulnerable
27 adult's money, assets, or property from financial exploitation.

28 (c) A banking institution that applies a transaction hold shall:

1 (i) make a reasonable effort to provide notice, orally or in writing,
2 to all parties authorized to transact business on the account on which a
3 transaction hold was placed within two business days of when the trans-
4 action hold was placed;

5 (ii) immediately, but no later than one business day after the trans-
6 action hold is placed, report the transaction hold, including the basis
7 for the banking institution's belief that the financial exploitation of
8 a vulnerable adult may have occurred, may have been attempted, or is
9 being attempted, to adult protective services and to a law enforcement
10 agency;

11 (iii) at the request of adult protective services or a law enforcement
12 agency, provide all information and documents that relate to the trans-
13 action hold within three business days of the request for the informa-
14 tion or documents; and

15 (iv) notwithstanding the transaction hold, make funds available from
16 the account on which a transaction hold is placed to allow the vulner-
17 able adult or other account holder to meet his or her ongoing obli-
18 gations such as housing and other living expenses or emergency expenses
19 as determined by adult protective services, a law enforcement agency or
20 a not-for-profit organization that regularly provides services to
21 vulnerable adults in the community in which the vulnerable adult
22 resides.

23 (d) During the pendency of a transaction hold, a banking institution
24 may, in its discretion, also make funds available from the account on
25 which a transaction hold is placed to allow the vulnerable adult or
26 other account holder to meet his or her ongoing obligations such as
27 housing and other living expenses or emergency expenses, provided the
28 banking institution does not have a reasonable basis to believe that the

1 dispersal of such funds to the vulnerable adult or other account holder
2 will result in the financial exploitation of the vulnerable adult. Any
3 such dispersal of funds pursuant to this subdivision shall be reported
4 within one business day after the dispersal is made to adult protective
5 services and to a law enforcement agency.

6 (e) The superintendent may adopt regulations identifying the factors
7 that a banking institution should consider in determining whether: (i)
8 the financial exploitation of a vulnerable adult may have occurred, may
9 have been attempted, or is being attempted; and (ii) the placement of a
10 transaction hold is necessary to protect a vulnerable adult's money,
11 assets, or property.

12 3. Duration of transaction hold. (a) Subject to paragraphs (b), (c)
13 and (d) of this subdivision, a transaction hold that a banking institu-
14 tion places on an account pursuant to this section shall terminate five
15 business days after the date on which the transaction hold is applied by
16 the banking institution. A banking institution may terminate the trans-
17 action hold at any time during this five day period if the banking
18 institution is satisfied that the termination of the transaction hold is
19 not likely to result in financial exploitation of a vulnerable adult.

20 (b) A transaction hold may be extended beyond the period set forth in
21 paragraph (a) of this subdivision for up to an additional fifteen days
22 at the request of either adult protective services or a law enforcement
23 agency.

24 (c) A transaction hold may be extended beyond the periods set forth in
25 paragraphs (a) and (b) of this subdivision only pursuant to an order
26 issued by a court of competent jurisdiction.

27 (d) A transaction hold may be terminated at any time pursuant to an
28 order issued by a court of competent jurisdiction.

1 4. Immunity. A banking institution or an employee of a banking insti-
2 tution shall be immune from criminal, civil, and administrative liabil-
3 ity for all good faith actions in relation to the application of this
4 section including any good faith determination to apply or not apply a
5 transaction hold on an account where there is reasonable basis to
6 conclude:

7 (a) that financial exploitation of a vulnerable adult may have
8 occurred, may have been attempted, or is being attempted; and

9 (b) that the placement of a transaction hold may be necessary to
10 protect a vulnerable adult's money, assets, or property from financial
11 exploitation, such immunity shall not apply to a determination not to
12 apply a transaction hold when the banking institution or employee acts
13 recklessly or engages in intentional misconduct in making the determi-
14 nation, or the determination results from a conflict of interest.

15 5. Certification program. The department may develop a financial
16 exploitation certification program for banking institutions. Upon
17 completion of the training components required by the program and after
18 establishing the necessary internal policies, procedures, and in-house
19 training programs, a banking institution shall receive from the depart-
20 ment an adult financial exploitation prevention certificate demonstrat-
21 ing that staff at such banking institution have been trained on how to
22 identify, help prevent, and report the financial exploitation of a
23 vulnerable adult. At the discretion of the superintendent, the certif-
24 ication program may be mandatory for banking institutions licensed by
25 the department.

26 6. Regulations. The superintendent may issue such rules and regu-
27 lations that provide the procedures for the enforcement of the terms of

1 this section and any other rules and regulations that he or she deems
2 necessary to implement the terms of this section.

3 § 2. This act shall take effect October 1, 2020; provided, however,
4 that the superintendent of financial services may promulgate any rules
5 or regulations related to this act immediately.

6 PART PP

7 Section 1. Article 27 of the environmental conservation law is amended
8 by adding a new title 30 to read as follows:

9 TITLE 30

10 EXPANDED POLYSTYRENE FOAM CONTAINER AND POLYSTYRENE LOOSE FILL

11 PACKAGING BAN

12 Section 27-3001. Definitions.

13 27-3003. Expanded polystyrene foam container and polystyrene
14 loose fill packaging ban.

15 27-3005. Exemptions.

16 27-3007. Preemption.

17 27-3009. Severability.

18 § 27-3001. Definitions.

19 For the purposes of this title, the following terms shall have the
20 following meanings:

21 1. "Covered food service provider" means a person engaged in the
22 primary or secondary business of selling or distributing prepared food
23 or beverages for on-premise or off-premise consumption including but not
24 limited to: (a) food service establishments, caterers, temporary food
25 service establishments, mobile food service establishments, and push-
26 carts as defined in the New York State Sanitary Code; (b) retail food

1 stores as defined in article 28 of the agriculture and markets law; (c)
2 delicatessens; (d) grocery stores; (e) restaurants; (f) cafeterias; (g)
3 coffee shops; (h) hospitals, adult care facilities, and nursing homes;
4 and (i) elementary and secondary schools, colleges, and universities.

5 2. "Disposable food service container" means a bowl, carton, clam-
6 shell, cup, lid, plate, tray, or any other product that is designed or
7 used for the temporary storage or transport of a prepared food or bever-
8 age including a container generally recognized by the public as being
9 designed for single use.

10 3. "Expanded polystyrene foam" means expanded foam thermoplastics
11 utilizing a styrene monomer and processed by any number of techniques.
12 Such term shall not include rigid polystyrene.

13 4. "Manufacturer" means every person, firm or corporation that produc-
14 es or imports polystyrene loose fill packaging that is sold, offered for
15 sale, or distributed in the state.

16 5. "Polystyrene loose fill packaging" means a void-filling packaging
17 product made of expanded polystyrene that is used as a packaging fill,
18 commonly referred to as packing peanuts.

19 6. "Prepared food" means food or beverages that are cooked, chopped,
20 sliced, mixed, brewed, frozen, heated, squeezed, combined or otherwise
21 prepared on the premises of a covered food service provider for immedi-
22 ate consumption and require no further preparation to be consumed.
23 Prepared food includes but is not limited to ready to eat takeout foods
24 and beverages.

25 7. "Rigid polystyrene" means plastic packaging made from rigid, polys-
26 tyrene resin that has not been expanded, extruded, or foamed.

27 8. "Store" means a retail or wholesale establishment other than a
28 covered food service provider.

1 § 27-3003. Expanded polystyrene foam container and polystyrene loose
2 fill packaging ban.

3 1. (a) Beginning January first, two thousand twenty-two, no covered
4 food service provider or store shall sell, offer for sale, use, or
5 distribute disposable food service containers used to hold prepared food
6 or beverages that contain expanded polystyrene foam.

7 (b) Beginning January first, two thousand twenty-two, no covered food
8 service provider, manufacturer, or store shall sell, offer for sale,
9 use, or distribute polystyrene loose fill packaging.

10 2. The department is authorized to:

11 (a) undertake a review of additional product packaging, and, based on
12 the environmental impacts of such products, promulgate regulations to
13 limit the sale, use, or distribution of such products;

14 (b) conduct education and outreach in multiple languages to covered
15 food service providers, manufacturers, and stores to inform them of the
16 provisions of this title; and

17 (c) promulgate any other such rules and regulations as it shall deem
18 necessary to implement the provisions of this title.

19 § 27-3005. Exemptions.

20 Notwithstanding any inconsistent provision of law, this title shall
21 not apply to:

22 1. Prepackaged food filled or sealed prior to receipt at a covered
23 food service provider; or

24 2. Raw meat or raw fish sold for the purpose of cooking or preparing
25 off-premises by the customer; or

26 3. For purposes of the expanded polystyrene foam container ban,
27 covered food service providers that demonstrate undue financial hard-
28 ship, as determined by the department, provided however that such

1 covered food service providers that have ten or more locations within
2 the state that (a) conduct business under the same business name or (b)
3 operate under common ownership or management or pursuant to a franchise
4 agreement with the same franchisor shall not be eligible for an
5 exemption.

6 § 27-3007. Preemption.

7 1. Except as provided in subdivision two of this section, any local
8 law or ordinance which is inconsistent with any provision of this title
9 or any rule or regulation promulgated hereunder shall be preempted.

10 2. Any provision of any local law or ordinance, or any rule or regu-
11 lation promulgated thereto, governing the prohibition of expanded polys-
12 tyrene use or sale or the offering for sale of polystyrene loose fill
13 packaging, which is inconsistent with the provisions of this title or
14 any rules or regulations promulgated hereunder, shall not be preempted
15 if such local law or ordinance is at least as comprehensive as the
16 provisions of this title or any rules or regulations promulgated here-
17 under.

18 § 27-3009. Severability.

19 If any clause, sentence, paragraph, section or part of this title
20 shall be adjudged by any court of competent jurisdiction to be invalid,
21 such judgment shall not affect, impair or invalidate the remainder ther-
22 eof, but shall be confined in its operation to the clause, sentence,
23 paragraph, section or part thereof directly involved in the controversy
24 in which such judgment shall have been rendered.

25 § 2. The environmental conservation law is amended by adding a new
26 section 71-2730 to read as follows:

27 § 71-2730. Enforcement of title 30 of article 27 of this chapter.

1 1. Any person who shall violate section 27-3003 of this chapter shall
2 be liable to the state of New York for a civil penalty of not more than
3 two hundred fifty dollars for the first violation, not more than five
4 hundred dollars for the second violation in the same calendar year, not
5 more than one thousand dollars for the third violation in the same
6 calendar year, and not more than two thousand dollars for the fourth and
7 each subsequent violation in the same calendar year. A hearing or oppor-
8 tunity to be heard shall be provided prior to the assessment of any
9 civil penalty.

10 2. (a) The department, the department of agriculture and markets, the
11 department of health, and the attorney general are hereby authorized to
12 enforce the provisions of section 27-3003 of this chapter.

13 (b) The provisions of section 27-3003 of this chapter may also be
14 enforced by a village, town, city, or county and the local legislative
15 body thereof may adopt local laws, ordinances or regulations consistent
16 with this title providing for the enforcement of such provisions.

17 3. Any fines that are collected by the state during proceedings by the
18 state to enforce the provisions of section 27-3003 of this chapter shall
19 be paid into the environmental protection fund established pursuant to
20 section ninety-two-s of the finance law. Any fines that are collected
21 by a municipality during proceedings by the municipality to enforce such
22 provisions within the municipality shall be retained by the munici-
23 pality.

24 § 3. This act shall take effect immediately.

1 Section 1. The restore mother nature bond act is enacted to read as
2 follows:

3 ENVIRONMENTAL BOND ACT OF 2020

4 "RESTORE MOTHER NATURE"

5 Section 1. Short title.

6 2. Creation of state debt.

7 3. Bonds of the state.

8 4. Use of moneys received.

9 § 1. Short title. This act shall be known and may be cited as the
10 "environmental bond act of 2020 restore mother nature".

11 § 2. Creation of state debt. The creation of state debt in an amount
12 not exceeding in the aggregate three billion dollars (\$3,000,000,000) is
13 hereby authorized to provide moneys for the single purpose of making
14 environmental improvements that preserve, enhance, and restore New
15 York's natural resources and reduce the impact of climate change by
16 funding capital projects to: restore habitat and reduce flood risk
17 including wetland, floodplain, and stream restoration and protection,
18 acquisition of real property, enhance shoreline protection, forest pres-
19 ervation, development and improvement of fish hatcheries, and removal,
20 alteration, and right-sizing of dams, bridges, and culverts; improve
21 water quality through wastewater infrastructure improvements and
22 upgrades including green infrastructure projects that reduce stormwater
23 impacts, agricultural nutrient management, and expansion of riparian
24 buffers; protect open space and invest in associated recreational
25 infrastructure including land acquisition, development and improvement
26 of park, campground, nature center, and other state recreational facili-
27 ties; expand the use of renewable energy to mitigate climate change
28 including, but not limited to, clean energy or resiliency projects; and

1 other such projects that preserve, enhance, and restore the quality of
2 the state's environment.

3 § 3. Bonds of the state. The state comptroller is hereby authorized
4 and empowered to issue and sell bonds of the state up to the aggregate
5 amount of three billion dollars (\$3,000,000,000) for the purposes of
6 this act, subject to the provisions of article 5 of the state finance
7 law. The aggregate principal amount of such bonds shall not exceed three
8 billion dollars (\$3,000,000,000) excluding bonds issued to refund or
9 otherwise repay bonds heretofore issued for such purpose; provided,
10 however, that upon any such refunding or repayment, the total aggregate
11 principal amount of outstanding bonds may be greater than three billion
12 dollars (\$3,000,000,000) only if the present value of the aggregate debt
13 service of the refunding or repayment bonds to be issued shall not
14 exceed the present value of the aggregate debt service of the bonds to
15 be refunded or repaid. The method for calculating present value shall be
16 determined by law.

17 § 4. Use of moneys received. The moneys received by the state from the
18 sale of bonds sold pursuant to this act shall be expended pursuant to
19 appropriations for capital projects related to design, planning, site
20 acquisition, demolition, construction, reconstruction, and rehabili-
21 tation including but not limited to, projects specified in section two
22 of this act.

23 § 2. This act shall take effect immediately, provided that the
24 provisions of section one of this act shall not take effect unless and
25 until this act shall have been submitted to the people at the general
26 election to be held in November 2020 and shall have been approved by a
27 majority of all votes cast for and against it at such election. Upon
28 approval by the people, section one of this act shall take effect imme-

1 diately. The ballots to be furnished for the use of voters upon
2 submission of this act shall be in the form prescribed by the election
3 law and the proposition or question to be submitted shall be printed
4 thereon in the following form, namely "To address and combat the impact
5 of climate change and damage to the environment, the Environmental Bond
6 Act of 2020 "Restore Mother Nature" authorizes the sale of state bonds
7 up to three billion dollars to fund environmental protection, natural
8 restoration, resiliency, and clean energy projects. Shall the Environ-
9 mental Bond Act of 2020 be approved?".

10 PART RR

11 Section 1. The environmental conservation law is amended by adding a
12 new article 58 to read as follows:

13 ARTICLE 58

14 IMPLEMENTATION OF THE ENVIRONMENTAL BOND ACT OF 2020 "RESTORE MOTHER
15 NATURE"

16 Section 58-0101. Definitions.

17 58-0103. Allocation of moneys.

18 58-0105. Powers and duties.

19 58-0107. Powers and duties of a municipality.

20 58-0109. Consistency with federal tax law.

21 58-0111. Compliance with other law.

22 § 58-0101. Definitions.

23 As used in this article the following terms shall mean and include:

24 1. "Bonds" shall mean general obligation bonds issued pursuant to the
25 environmental bond act of 2020 "restore mother nature" in accordance

1 with article VII of the New York state constitution and article five of
2 the state finance law.

3 2. "Cost" means the expense of an approved project, which shall
4 include but not be limited to appraisal, surveying, planning, engineer-
5 ing and architectural services, plans and specifications, consultant and
6 legal services, site preparation, demolition, construction and other
7 direct expenses incident to such project.

8 3. "Department" shall mean the department of environmental conserva-
9 tion.

10 4. "Municipality" means a local public authority or public benefit
11 corporation, a county, city, town, village, school district, supervisory
12 district, district corporation, improvement district within a county,
13 city, town or village, or Indian nation or tribe recognized by the state
14 or the United States with a reservation wholly or partly within the
15 boundaries of New York state, or any combination thereof.

16 5. "State assistance payment" means payment of the state share of the
17 cost of projects authorized by this article to preserve, enhance,
18 restore and improve the quality of the state's environment.

19 6. "State entity" means any state department, division, agency,
20 office, public authority, or public benefit corporation.

21 § 58-0103. Allocation of moneys.

22 The moneys received by the state from the sale of bonds pursuant to
23 the environmental bond act of 2020 "restore mother nature" shall be
24 expended for project costs to: restore habitat and reduce flood risk
25 including, wetland, floodplain, and stream restoration and protection,
26 acquisition of real property, enhance shoreline protection, forest pres-
27 ervation, development and improvement of fish hatcheries, and removal,
28 alteration, and right-sizing of dams, bridges, and culverts; improve

1 water quality through wastewater infrastructure and upgrades including
2 green infrastructure projects that reduce stormwater impacts, agricul-
3 tural nutrient management and expansion of riparian buffers; protect
4 open space and invest in associated recreational infrastructure includ-
5 ing land acquisition, development and improvement of park, campground,
6 nature center, and other state recreational facilities; expand the use
7 of renewable energy to mitigate climate change, including, but not
8 limited to, clean energy or resiliency projects; and other such projects
9 that preserve, enhance, and restore the quality of the state's environ-
10 ment.

11 § 58-0105. Powers and duties.

12 In implementing the provisions of this article the department is here-
13 by authorized to:

14 1. Administer funds generated pursuant to the environmental bond act
15 of 2020 "restore mother nature".

16 2. In the name of the state, as further provided within this article,
17 contract to make, within the limitations of appropriations available
18 therefor, state assistance payments toward the cost of a project
19 approved, and to be undertaken pursuant to this article.

20 3. Approve vouchers for the payments pursuant to an approved contract.

21 4. Enter into contracts with any person, firm, corporation, not-for-
22 profit corporation, agency or other entity, private or governmental, for
23 the purpose of effectuating the provisions of this article.

24 5. Promulgate such rules and regulations and to develop such forms and
25 procedures necessary to effectuate the provisions of this article,
26 including but not limited to requirements for the form, content, and
27 submission of applications by municipalities for state financial assist-
28 ance.

1 6. Delegate to, or cooperate with, any other state entity in the
2 administration of this article.

3 7. Perform such other and further acts as may be necessary, proper or
4 desirable to carry out the provisions of this article.

5 § 58-0107. Powers and duties of a municipality.

6 A municipality shall have the power and authority to:

7 1. Undertake and carry out any project for which state assistance
8 payments pursuant to contract are received or are to be received pursu-
9 ant to this article and maintain and operate such project.

10 2. Expend money received from the state pursuant to this article for
11 costs incurred in conjunction with the approved project.

12 3. Apply for and receive moneys from the state for the purpose of
13 accomplishing projects undertaken or to be undertaken pursuant to this
14 article.

15 4. Perform such other and further acts as may be necessary, proper or
16 desirable to carry out a project or obligation, duty or function related
17 thereto.

18 § 58-0109. Consistency with federal tax law.

19 All actions undertaken pursuant to this article shall be reviewed for
20 consistency with provisions of the federal internal revenue code and
21 regulations thereunder, in accordance with procedures established in
22 connection with the issuance of any tax exempt bonds pursuant to this
23 article, to preserve the tax exempt status of such bonds.

24 § 58-0111. Compliance with other law.

25 Every recipient of funds to be made available pursuant to this article
26 shall comply with all applicable state, federal and local laws.

27 § 2. The state finance law is amended by adding a new section 97-tttt
28 to read as follows:

1 § 97-tttt. Restore mother nature bond fund. 1. There is hereby estab-
2 lished in the joint custody of the state comptroller and the commission-
3 er of taxation and finance a special fund to be known as the "restore
4 mother nature bond fund".

5 2. The state comptroller shall deposit into the restore mother nature
6 bond fund all moneys received by the state from the sale of bonds and/or
7 notes for uses eligible pursuant to section four of the environmental
8 bond act of 2020 "restore mother nature".

9 3. Moneys in the restore mother nature bond fund, following appropri-
10 ation by the legislature and allocation by the director of the budget,
11 shall be available only for reimbursement of expenditures made from
12 appropriations from the capital projects fund for the purpose of the
13 restore mother nature bond fund, as set forth in the environmental bond
14 act of 2020 "restore mother nature".

15 4. No moneys received by the state from the sale of bonds and/or notes
16 sold pursuant to the environmental bond act of 2020 "restore mother
17 nature" shall be expended for any project until funds therefor have been
18 allocated pursuant to the provisions of this section and copies of the
19 appropriate certificates of approval filed with the chair of the senate
20 finance committee, the chair of the assembly ways and means committee
21 and the state comptroller.

22 § 3. Section 61 of the state finance law is amended by adding a new
23 subdivision 32 to read as follows:

24 32. Thirty years. For the payment of "restore mother nature" projects,
25 as defined in article fifty-eight of the environmental conservation law
26 and undertaken pursuant to a chapter of the laws of two thousand twenty,
27 enacting and constituting the environmental bond act of 2020 "restore
28 mother nature". Thirty years for flood control infrastructure, other

1 environmental infrastructure, wetland and other habitat restoration,
2 water quality projects, acquisition of land, including acquisition of
3 real property, and renewable energy projects. Notwithstanding the fore-
4 going, for the purposes of calculating annual debt service, the state
5 comptroller shall apply a weighted average period of probable life of
6 restore mother nature projects, including any other works or purposes to
7 be financed with state debt. Weighted average period of probable life
8 shall be determined by computing the sum of the products derived from
9 multiplying the dollar value of the portion of the debt contracted for
10 each work or purpose (or class of works or purposes) by the probable
11 life of such work or purpose (or class of works or purposes) and divid-
12 ing the resulting sum by the dollar value of the entire debt after
13 taking into consideration any original issue premium or discount.

14 § 4. If any clause, sentence, paragraph, section or part of this act
15 shall be adjudged by any court of competent jurisdiction to be invalid,
16 such judgment shall not affect, impair or invalidate the remainder ther-
17 eof, but shall be confined in its operation to the clause, sentence,
18 paragraph, section or part thereof directly involved in the controversy
19 in which such judgment shall have been rendered.

20 § 5. This act shall take effect only in the event that section 1 of
21 part XX of a chapter of the laws of 2020, enacting the environmental
22 bond act of 2020 "restore mother nature" is submitted to the people at
23 the general election to be held in November 2020 and is approved by a
24 majority of all votes cast for and against it at such election. Upon
25 such approval, this act shall take effect immediately. Effective imme-
26 diately, the addition, amendment, and/or repeal of any rule or regu-
27 lation necessary for the implementation of the foregoing sections of

1 this act are authorized and directed to be made and completed on or
2 before such effective date.

3 PART SS

4 Section 1. Article 27 of the environmental conservation law is amended
5 by adding a new title 32 to read as follows:

6 TITLE 32

7 PRODUCT STEWARDSHIP

8 Section 27-3201. Definitions.

9 27-3203. Stewardship organization responsibilities.

10 27-3205. Producer responsibilities.

11 27-3207. Retailer and distributor responsibilities.

12 27-3209. Department responsibilities.

13 27-3211. Rules and regulations.

14 27-3213. Enforcement and penalties.

15 27-3215. State preemption.

16 27-3217. Report and criteria for identifying additional covered
17 products or product categories.

18 27-3219. Severability.

19 § 27-3201. Definitions.

20 As used in this title:

21 1. "Brand" means a name, symbol, word, or mark that attributes the
22 product to the owner or licensee of the brand as the producer.

23 2. "Carpet" means a manufactured article that is (i) used in commer-
24 cial buildings or single or multifamily residential buildings, (ii)
25 affixed or placed on the floor or building walking surface as a decora-
26 tive or functional building interior or exterior feature, and (iii)

1 primarily constructed of a top surface of synthetic or natural face
2 fibers or yarns or tufts attached to a backing system made of synthetic
3 or natural materials. "Carpet" includes, but is not limited to, a
4 commercial or residential broadloom carpet, modular carpet tiles, and
5 artificial turf, pad or underlayment used in conjunction with a carpet.
6 "Carpet" does not include handmade rugs, area rugs, or mats.

7 3. "Collection site" means a permanent location in the state at which
8 discarded covered products may be returned by a consumer.

9 4. "Consumer" means a person located in the state who purchases, owns,
10 leases, or uses covered products, including but not limited to an indi-
11 vidual, a business, corporation, limited partnership, not-for-profit
12 corporation, the state, a public corporation, public school, school
13 district, private or parochial school or board of cooperative educa-
14 tional services or governmental entity.

15 5. "Covered product" means carpets or mattresses.

16 6. "Discarded covered product" means covered products that are no
17 longer used for its manufactured purpose.

18 7. "Distributor" or "wholesaler" means a person who buys or otherwise
19 acquires covered products from another source and sells or offers to
20 sell a covered product to retailers in this state.

21 8. "Energy recovery" means the process by which all or a portion of
22 solid waste materials are processed or combusted in order to utilize the
23 heat content or other forms of energy derived from such solid waste
24 materials.

25 9. "Mattress" means any resilient material, or combination of materi-
26 als, that is designed to be used as a bed. Mattress shall not include:

27 a. an unattached mattress pad or mattress topper that is intended to
28 be used with, or on top of a mattress;

1 b. a crib or bassinet mattress or car bed;

2 c. juvenile products, including: a carriage, basket, dressing table,
3 stroller, playpen, infant carrier, lounge pad, crib bumper, and the pads
4 for those juvenile products;

5 d. a water bed or air mattress; or

6 e. a fold-out sofa bed or futon.

7 10. "Producer" means any person who manufactures or renovates a
8 covered product that is sold, offered for sale, or distributed in the
9 state under the manufacturer's own name or brand. "Producer" includes:

10 a. the owner of a trademark or brand under which a covered product is
11 sold, offered for sale, or distributed in this state, whether or not
12 such trademark or brand is registered in the state; and

13 b. any person who imports a covered product into the United States
14 that is sold or offered for sale in the state and that is manufactured
15 by a person who does not have a presence in the United States.

16 11. "Product" means an item sold within the state that is deemed
17 eligible by the department for inclusion in this chapter as a covered
18 product.

19 12. "Product category" means a group of similar products.

20 13. "Proprietary information" means information that is a trade secret
21 or is production, commercial or financial information, that if disclosed
22 would impair the competitive position of the submitter and would make
23 available information not otherwise publicly available.

24 14. "Recycling" means to separate, dismantle or process the materials,
25 components or commodities contained in covered products for the purpose
26 of preparing the materials, components or commodities for use or reuse
27 in new products or components. "Recycling" does not include energy
28 recovery or energy generation by means of combustion, or landfill

1 disposal of discarded covered products or discarded product component
2 materials.

3 15. "Recycling rate" means the percentage of discarded covered
4 products that is managed through recycling or reuse, as defined by this
5 title, and is computed by dividing the amount of discarded covered
6 products collected and recycled or reused by the total amount of
7 discarded covered products collected over a program year.

8 16. "Retailer" means any person who sells or offers for sale a covered
9 product to a consumer in the state.

10 17. "Reuse" means donating or selling a discarded covered product back
11 into the market for its original intended use, when the discarded
12 covered product retains its original performance characteristics and can
13 be used for its original purpose.

14 18. "Sale" or "sell" means a transfer of title to a covered product
15 for consideration, including a remote sale conducted through a sales
16 outlet, catalog, website, or similar electronic means. "Sale" or "sell"
17 includes a lease through which a covered product is provided to a
18 consumer by a producer, distributor, or retailer.

19 19. "Stewardship organization" means a nonprofit entity representing
20 covered product producers, or other designated representatives who are
21 cooperating with one another, to collectively establish and operate a
22 stewardship program for the purpose of complying with this title.

23 20. "Stewardship program" means a program financed and implemented by
24 producers, either individually, or collectively through a producer
25 responsibility organization, that provides for, but is not limited to,
26 the collection, transportation, reuse, recycling or proper management
27 through combustion or disposal, or an appropriate combination thereof,
28 of unwanted products.

1 § 27-3203. Stewardship organization responsibilities.

2 1. A stewardship organization shall be created and financed, individ-
3 ually or collectively, by carpet producers, and a mattress stewardship
4 organization shall be created and financed by mattress producers, indi-
5 vidually or collectively, to administer stewardship programs on behalf
6 of those respective producers.

7 2. On or before July first, two thousand twenty-one, a stewardship
8 organization representing the producer of a covered product must submit
9 a stewardship plan to the department on behalf of the producer and
10 receive approval of the plan.

11 3. A stewardship organization operating a stewardship program must
12 update the stewardship plan every three years, at a minimum, and submit
13 the updated plan to the department for review and approval.

14 4. The stewardship organization must notify the department within
15 thirty days of any significant changes or modifications to the plan or
16 its implementation. Within thirty days of the notification a written
17 plan amendment must be submitted to the department for review and
18 approval.

19 5. The stewardship plan shall include, at a minimum:

20 a. Certification that the stewardship program will accept for
21 collection all discarded covered products;

22 b. Contact information for each individual representing the steward-
23 ship organization, including the address of the stewardship organization
24 where the department will send any notifications and for service of
25 process, designation of a program manager responsible for administering
26 the program, a list of all producers participating in the stewardship
27 program, and contact information for each producer, including the

1 address for service of process, and the brands covered by the product
2 stewardship program;

3 c. A description of the methods by which discarded covered products
4 will be collected with no charge to any person;

5 d. An explanation of how the stewardship program will, by January
6 first, two thousand twenty-two or six months after stewardship plan
7 approval, achieve, at a minimum, a convenience standard of having at
8 least one collection site in each county of the state, and at least one
9 additional collection site for every fifty thousand residents located in
10 a municipality, that accepts covered products from consumers during
11 normal business hours; however, with respect to a city having a popu-
12 lation of one million or more, after consultation with the appropriate
13 local or regional entity responsible for the collection of solid and
14 hazardous waste, the department may otherwise establish an alternative
15 convenience standard. Convenience standards will be evaluated by the
16 department periodically and the department may require additional
17 collection locations to ensure adequate consumer convenience;

18 e. A description of how the effectiveness of the stewardship program
19 will be monitored, evaluated, and maintained;

20 f. The names and locations of collection sites, transporters, and
21 processors who will manage discarded covered products;

22 g. A description of how the discarded covered products will be safely
23 and securely transported, tracked, and handled from collection through
24 final recycling and processing;

25 h. A description of the methods to be used to reuse or recycle
26 discarded covered products to ensure that the components, to the extent
27 feasible, are transformed or remanufactured into finished products for
28 use;

- 1 i. A description of the methods to be used to manage or dispose of
2 discarded covered products that cannot be recycled or reused;
- 3 j. A description of the outreach and educational materials that must
4 be provided to consumers, retailers, collection sites, and transporters
5 of discarded covered products, and how such outreach will be evaluated
6 for effectiveness;
- 7 k. An up-to-date stewardship organization website and toll-free tele-
8 phone number through which a consumer can easily learn how and where to
9 recycle their discarded covered products;
- 10 l. An annual performance goal, as determined by the department,
11 including an estimate of the percentage of discarded covered products
12 that will be collected, reused, and recycled during each year for the
13 next three years of the stewardship plan;
- 14 m. An evaluation of the status of end markets for discarded covered
15 products and what, if any, additional end markets are needed to improve
16 the functioning of the programs; and
- 17 n. A funding mechanism that demonstrates sufficient funding to carry
18 out the plan, including the administrative, operational, and capital
19 costs of the plan.
- 20 6. By July first, two thousand twenty-three, and by July first of each
21 year thereafter, the stewardship organization shall submit a report to
22 the department that includes, for the previous program year, a
23 description of the stewardship program, including, but not limited to,
24 the following:
- 25 a. a description of the methods used to collect, transport, and proc-
26 ess discarded covered products in regions of the state;
- 27 b. identification of all collection sites in the state;

1 c. the weight of all discarded covered products collected and reused
2 or recycled in all regions of the state;

3 d. an evaluation of whether the performance goals and recycling rates
4 established in the stewardship plan have been achieved;

5 e. an estimated weight of discarded covered products and any component
6 materials that were collected pursuant to the stewardship plan, but not
7 recycled; and

8 f. any other information required by regulation promulgated by the
9 department.

10 7. A stewardship organization shall pay the department, the following
11 fees, which shall be adequate to cover the department's full costs of
12 administering and enforcing the stewardship program and shall not exceed
13 the amount necessary to recover costs incurred by the department in
14 connection with the administration and enforcement of the requirements
15 of this title:

16 a. an annual administrative fee to be established by the department in
17 regulations; and

18 b. a one-time fee of five thousand dollars for a plan covering an
19 individual producer, or ten thousand dollars for a plan for producers
20 acting collectively, upon submission of an initial stewardship plan.

21 § 27-3205. Producer responsibilities.

22 1. By January first, two thousand twenty-two, each producer shall,
23 individually or collectively, through a stewardship organization, imple-
24 ment and finance a statewide stewardship program that:

25 a. manages covered products by reducing its waste generation;

26 b. promotes covered product recycling and reuse or mattress recycling
27 and reuse; and

1 c. provides for negotiation and execution of agreements to collect,
2 transport, process, and market the producer's discarded covered products
3 for end-of-life recycling, reuse, or disposal.

4 2. No producer may sell or offer for sale covered products in the
5 state unless the producer is part of a stewardship organization, or
6 individually, operates a stewardship program in compliance with the
7 provisions of this title.

8 3. The stewardship program must be free to the consumer, convenient
9 and adequate to serve the needs of businesses and residents in all areas
10 of the state on an ongoing basis.

11 § 27-3207. Retailer and distributor responsibilities.

12 1. Beginning January first, two thousand twenty-three, no retailer or
13 distributor may sell or offer for sale covered products in the state
14 unless the producer of such covered product is participating in a
15 stewardship program.

16 2. Any retailer or distributor may participate, on a voluntary basis,
17 as a designated collection point pursuant to a product stewardship
18 program and in accordance with applicable law.

19 3. No retailer or distributor shall be found to be in violation of
20 this section if, on the date the covered products were ordered from the
21 producer or its agent, the producer was listed as compliant with this
22 title on the department's website.

23 § 27-3209. Department responsibilities.

24 1. Upon stewardship plan approval, the department shall post informa-
25 tion on its website about the stewardship organizations and its partic-
26 ipating producers who are in compliance with this title.

27 2. Beginning January first, two thousand twenty-two, the department
28 shall post on its website the location of all collection sites identi-

1 fied to the department by the stewardship organization in its plans and
2 annual reports.

3 3. The department shall post on its website each stewardship plan
4 approved by the department.

5 4. Within sixty days after receipt of a proposed stewardship plan or
6 plan amendment, the department shall approve or reject the plan or the
7 plan amendment. If the plan or plan amendment is approved, the depart-
8 ment shall notify the stewardship organization in writing. If the
9 department rejects the plan or plan amendment, the department shall
10 notify the stewardship organization in writing stating the reason for
11 rejecting the plan or plan amendment. A stewardship organization whose
12 plan is rejected must submit a revised plan to the department within
13 thirty days of receiving a notice of rejection.

14 5. The department shall deposit the fees collected pursuant to this
15 title into the stewardship organization fund as established pursuant to
16 section ninety-two-jj of the state finance law.

17 § 27-3211. Rules and regulations.

18 The department is authorized to promulgate any rules and regulations
19 necessary to implement this title.

20 § 27-3213. Enforcement and penalties.

21 1. Except as otherwise provided in this section, any person or entity
22 that violates any provision of or fails to perform any duty imposed
23 pursuant to this title or any rule or regulation promulgated pursuant
24 thereto, or any term or condition of any registration or permit issued
25 pursuant thereto, or any final determination or order of the commission-
26 er made pursuant to this article or article seventy-one of this chapter
27 shall be liable for a civil penalty not to exceed five hundred dollars

1 for each violation and an additional penalty of not more than five
2 hundred dollars for each day during which such violation continues.

3 2. Any retailer or distributor who violates any provision of or fails
4 to perform any duty imposed pursuant to this title or any rule or regu-
5 lation promulgated pursuant thereto, or any term or condition of any
6 registration or permit issued pursuant thereto, or any final determi-
7 nation or order of the commissioner made pursuant to this article or
8 article seventy-one of this chapter shall be liable for a civil penalty
9 not to exceed one thousand dollars for each violation and an additional
10 penalty of not more than one thousand dollars for each day during which
11 such violation continues.

12 3. a. Any producer or stewardship organization who violates any
13 provision of or fails to perform any duty imposed pursuant to this title
14 or any rule or regulation promulgated pursuant thereto, or any term or
15 condition of any registration or permit issued pursuant thereto, or any
16 final determination or order of the commissioner made pursuant to this
17 article or article seventy-one of this chapter shall be liable for a
18 civil penalty not to exceed five thousand dollars for each violation and
19 an additional penalty of not more than one thousand five hundred dollars
20 for each day during which such violation continues. For a second
21 violation committed within twelve months of a prior violation, the
22 producer or stewardship organization shall be liable for a civil penalty
23 not to exceed ten thousand dollars and an additional penalty of not more
24 than three thousand dollars for each day during which such violation
25 continues. For a third or subsequent violation committed within twelve
26 months of any prior violation, the producer or stewardship organization
27 shall be liable for a civil penalty of not to exceed twenty thousand

1 dollars and an additional penalty of six thousand dollars for each day
2 during which such violation continues.

3 b. All producers participating in a stewardship organization shall be
4 jointly and severally liable for any penalties assessed against the
5 stewardship organization pursuant to this title and article seventy-one
6 of this chapter.

7 4. Civil penalties under this section shall be assessed by the depart-
8 ment after an opportunity to be heard pursuant to the provisions of
9 section 71-1709 of this chapter, or by the court in any action or
10 proceeding pursuant to section 71-2727 of this chapter, and in addition
11 thereto, such person or entity may by similar process be enjoined from
12 continuing such violation and any permit, registration or other approval
13 issued by the department may be revoked or suspended or a pending
14 renewal denied.

15 5. The department and the attorney general are hereby authorized to
16 enforce the provisions of this title and all monies collected shall be
17 deposited to the credit of the environmental protection fund established
18 pursuant to section ninety-two-s of the state finance law.

19 § 27-3215. State preemption.

20 Jurisdiction in all matters pertaining to covered products recycling
21 is, by this title, vested exclusively in the state. Any provision of any
22 local law or ordinance, or any rule or regulation promulgated thereto,
23 governing covered product recycling shall, upon the effective date of
24 this title, be preempted; provided however, that nothing in this section
25 shall preclude a person from coordinating, for recycling or reuse, the
26 collection of covered products.

27 § 27-3217. Report and criteria for identifying additional covered
28 products or product categories.

1 1. The department shall by November first, two thousand twenty-two,
2 and biannually thereafter, publish:

3 a. a review and evaluation of the performance of existing stewardship
4 programs in the state;

5 b. legislative recommendations the department would propose to improve
6 existing stewardship programs; and

7 c. recommendations for establishing new stewardship programs. The
8 department may identify a product or product category as a candidate for
9 a stewardship program if it is determined after evaluation of each of
10 the following that:

11 (i) a stewardship program for the product or product category will
12 increase the recovery of materials for reuse and recycling and reduce
13 the need for use of virgin materials;

14 (ii) a stewardship program for the product or product category will
15 reduce the costs of waste management to local governments and taxpayers;

16 (iii) a stewardship program for the product or product category will
17 enhance energy conservation or mitigate climate change impacts;

18 (iv) a stewardship program for the product or product category will be
19 beneficial for existing and new businesses and infrastructure to manage
20 the products and lead to the development of new industries to utilize
21 the recovered materials;

22 (v) there exists public demand for a stewardship program for the prod-
23 uct or product category;

24 (vi) there is success in collecting and processing similar types of
25 products in programs in other states or countries; or

26 (vii) existing voluntary stewardship programs for the product or prod-
27 uct category in the state are not effective in achieving the policy of
28 this chapter.

1 2. At least thirty days prior to publishing the report pursuant to
2 subdivision one of this section the department shall post the report on
3 its publicly accessible website. Within that period, a person may submit
4 to the department written comments regarding the report.

5 § 27-3219. Severability.

6 The provisions of this title shall be severable and if any phrase,
7 clause, sentence or provision of this title, or the applicability there-
8 of to any person or circumstance shall be held invalid, the remainder of
9 this title and the application thereof shall not be affected thereby.

10 § 2. The state finance law is amended by adding a new section 92-jj to
11 read as follows:

12 § 92-jj. Stewardship organization fund. 1. There is hereby established
13 in the joint custody of the state comptroller and the commissioner of
14 the department of taxation and finance a special fund to be known as the
15 "stewardship organization fund".

16 2. The stewardship organization fund shall consist of all revenue
17 collected from fees pursuant to title thirty-two of article twenty-seven
18 of the environmental conservation law and any cost recoveries or other
19 revenues collected pursuant to title thirty-two of article twenty-seven
20 of the environmental conservation law, and any other monies deposited
21 into the fund pursuant to law.

22 3. Moneys of the fund, following appropriation by the legislature,
23 shall be used for execution of stewardship organization program adminis-
24 tration pursuant to title thirty-two of article twenty-seven of the
25 environmental conservation law, and expended for the purposes as set
26 forth in title thirty-two of article twenty-seven of the environmental
27 conservation law.

28 § 3. This act shall take effect immediately.

1

PART TT

2 Section 1. The opening paragraph of subdivision 1 and subdivision 2 of
3 section 24-0107 of the environmental conservation law, as amended by
4 chapter 654 of the laws of 1977, are amended to read as follows:

5 "Freshwater wetlands" means lands and waters of the state [as shown on
6 the freshwater wetlands map which] that have an area of at least twelve
7 and four-tenths acres in size, or if less than twelve and four-tenths
8 acres are of unusual importance; and contain any or all of the follow-
9 ing:

10 2. "Freshwater wetlands map" shall mean a map [promulgated] developed
11 by the department pursuant to section 24-0301 of this article on which
12 are indicated the boundaries of any freshwater wetlands. These maps will
13 serve the purpose of educating the public on the approximate location of
14 wetlands. These maps are for educational purposes only and are not
15 controlling for purposes of determining if a wetlands permit is required
16 pursuant to section 24-0701 of this article.

17 § 2. Subdivisions 1, 2, 3, 4 and 5 of section 24-0301 of the environ-
18 mental conservation law are REPEALED.

19 § 3. Subdivisions 6, 7 and 8 of section 24-0301 of the environmental
20 conservation law, subdivision 6 as amended by chapter 16 of the laws of
21 2010 and subdivision 7 as amended and subdivision 8 as added by chapter
22 645 of the laws of 1977, are amended to read as follows:

23 [6.] 1. Except as provided in subdivision [eight] three of this
24 section, the commissioner shall supervise the maintenance of [such boun-
25 dary] freshwater wetlands maps, which shall be available to the public
26 [for inspection and examination at the regional office of the department
27 in which the wetlands are wholly or partly located and in the office of

1 the clerk of each county in which each such wetland or a portion thereof
2 is located] on the department's website. The commissioner may readjust
3 the map [thereafter to clarify the boundaries of the wetlands, to
4 correct any errors on the map, to effect any additions, deletions or
5 technical changes on the map, and to reflect changes as have occurred as
6 a result of the granting of permits pursuant to section 24-0703 of this
7 article, or natural changes which may have occurred through erosion,
8 accretion, or otherwise. Notice of such readjustment shall be given in
9 the same manner as set forth in subdivision five of this section for the
10 promulgation of final freshwater wetlands maps. In addition, at the time
11 notice is provided pursuant to subdivision five of this section, the
12 commissioner shall update any digital image of the map posted on the
13 department's website to reflect such readjustment] at any time to more
14 accurately depict the approximate location of wetlands.

15 [7.] 2. Except as provided in subdivision [eight] three of this
16 section, the commissioner may, upon his own initiative, and shall, upon
17 a written request by a landowner whose land or a portion thereof may be
18 included within a wetland, or upon the written request of another person
19 or persons or an official body whose interests are shown to be affected,
20 cause to be delineated [more precisely] the boundary line or lines of a
21 freshwater wetland or a portion thereof. [Such more precise delineation
22 of a freshwater wetland boundary line or lines shall be of appropriate
23 scale and sufficient clarity to permit the ready identification of indi-
24 vidual buildings and of other major man-made structures or facilities or
25 significant geographical features with respect to the boundary of any
26 freshwater wetland.] The commissioner shall undertake to delineate the
27 boundary of a particular wetland or wetlands, or a particular part of
28 the boundary thereof only upon a showing by the applicant therefor of

1 good cause for such [more precise] delineation and the establishment of
2 such [more precise] line.

3 [8.] 3. The supervision of the maintenance of any freshwater wetlands
4 map or portion thereof applicable to wetlands within the Adirondack
5 park, the readjustment and precise delineation of wetland boundary lines
6 and the other functions and duties ascribed to the commissioner by
7 subdivisions [six and seven] one and two of this section shall be
8 performed by the Adirondack park agency, which shall make such maps
9 available [for public inspection and examination at its headquarters] on
10 the agency's website.

11 § 4. Subdivisions 1 and 4 of section 24-0701 of the environmental
12 conservation law, subdivision 1 as amended by chapter 654 of the laws of
13 1977 and subdivision 4 as amended by chapter 697 of the laws of 1979,
14 are amended to read as follows:

15 1. [After issuance of the official freshwater wetlands map of the
16 state, or of any selected section or region thereof, any] Any person
17 desiring to conduct on freshwater wetlands [as so designated thereon]
18 any of the regulated activities set forth in subdivision two of this
19 section must obtain a permit as provided in this title.

20 4. [The] On lands in active agricultural use, the activities of farm-
21 ers and other landowners in grazing and watering livestock, making
22 reasonable use of water resources, harvesting natural products of the
23 wetlands, selectively cutting timber, draining land or wetlands for
24 growing agricultural products and otherwise engaging in the use of
25 wetlands or other land for growing agricultural products shall be
26 excluded from regulated activities and shall not require a permit under
27 subdivision one [hereof] of this section, except that structures not
28 required for enhancement or maintenance of the agricultural productivity

1 of the land and any filling activities shall not be excluded hereunder,
2 and provided that the use of land [designated as a freshwater wetland
3 upon the freshwater wetlands map at the effective date thereof] that
4 meets the definition of a freshwater wetland in section 24-0107 of this
5 article for uses other than those referred to in this subdivision shall
6 be subject to the provisions of this article.

7 § 5. Subdivision 5 of section 24-0703 of the environmental conserva-
8 tion law, as amended by section 38 of part D of chapter 60 of the laws
9 of 2012, is amended to read as follows:

10 5. [Prior to the promulgation of the final freshwater wetlands map in
11 a particular area and the implementation of a freshwater wetlands
12 protection law or ordinance, no person shall conduct, or cause to be
13 conducted, any activity for which a permit is required under section
14 24-0701 of this title on any freshwater wetland unless he has obtained a
15 permit from the commissioner under this section.] Any person may inquire
16 of the department as to whether or not a given parcel of land [will be
17 designated] includes a freshwater wetland subject to regulation. The
18 department shall give a definite answer in writing within [thirty] sixty
19 days of such request as to [whether] the status of such parcel [will or
20 will not be so designated]. Provided that, in the event that weather or
21 ground conditions prevent the department from making a determination
22 within [thirty] sixty days, it may extend such period until a determi-
23 nation can be made. Such answer in the affirmative shall be reviewable;
24 such an answer in the negative shall be a complete defense to the
25 enforcement of this article as to such parcel of land. [The commissioner
26 may by regulation adopted after public hearing exempt categories or
27 classes of wetlands or individual wetlands which he determines not to be

1 critical to the furtherance of the policies and purposes of this arti-
2 cle.]

3 § 6. Subdivision 1 of section 24-0901 of the environmental conserva-
4 tion law, as added by chapter 614 of the laws of 1975, is amended to
5 read as follows:

6 1. [Upon completion of the freshwater wetlands map, the] The commis-
7 sioner shall confer with local government officials in each region in
8 which the inventory has been conducted to establish a program for the
9 protection of the freshwater wetlands of the state.

10 § 7. Subdivisions 1 and 5 of section 24-0903 of the environmental
11 conservation law, as added by chapter 614 of the laws of 1975, are
12 amended to read as follows:

13 1. [Upon completion of the freshwater wetlands map of the state, or of
14 any selected section or region thereof, the] The commissioner shall
15 [proceed to] classify freshwater wetlands [so designated thereon] regu-
16 lated pursuant to section 24-0701 of this article according to their
17 most appropriate uses, in light of the values set forth in section
18 24-0105 of this article and the present conditions of such wetlands. The
19 commissioner shall determine what uses of such wetlands are most compat-
20 ible with the foregoing and shall prepare minimum land use regulations
21 to permit only such compatible uses. The classifications may cover
22 freshwater wetlands in more than one governmental subdivision. Permits
23 pursuant to section 24-0701 of this article are required whether or not
24 a classification has been promulgated.

25 5. Prior to the adoption of any land use regulations governing fresh-
26 water wetlands, the commissioner shall hold a public hearing thereon in
27 the area in which the affected freshwater wetlands are located, and give
28 fifteen days prior notice thereof by posting on the department's website

1 or by publication at least once in a newspaper having general circu-
2 lation in the area of the local government involved. The commissioner
3 shall promulgate the regulations within thirty days of such hearing and
4 post such order on the department's website or publish such order [at
5 least once] in a newspaper having general circulation in the area of the
6 local government affected and make such plan available for public
7 inspection and review; such order shall not take effect until thirty
8 days after the filing thereof with the clerk of the county in which such
9 wetland is located.

10 § 8. Subdivisions 2 and 3 of section 34-0104 of the environmental
11 conservation law, as added by chapter 841 of the laws of 1981, are
12 amended to read as follows:

13 2. Upon completion of a preliminary identification of an erosion
14 hazard area, the commissioner or his designated hearing officer shall
15 hold a public hearing in a place reasonably accessible to residents of
16 the affected area in order to afford an opportunity for any person to
17 propose changes in such preliminary identification. The commissioner
18 shall [give notice of such hearing to each owner of record, as shown on
19 the latest completed tax assessment rolls, of lands included within such
20 area, and also to the chief executive officer and clerk of each local
21 government within the boundaries of which any portion of such area may
22 be located, by certified mail at least thirty days prior to the date set
23 for such hearing, and shall] insure that a copy of the preliminary iden-
24 tification is available for public inspection at a convenient location
25 [in such local government]. The commissioner shall also cause notice of
26 such hearing to be published at least once, not more than thirty days
27 nor fewer than ten days before the date set for such hearing, in at
28 least one newspaper having general circulation in the area involved and

1 in the environmental notice publication provided for under section
2 3-0306 of this chapter.

3 3. After considering the testimony given at such hearings and the
4 potential erosion hazard in accordance with the purposes and policies of
5 this article, and after consultation with affected local governments,
6 the commissioner shall issue the final identification of the erosion
7 hazard areas. Such final identification shall not be made less than
8 sixty days from the date of the public hearing required by subdivision
9 two hereof. A copy of such final identification shall be filed in the
10 office of the clerk of each local government in which such area or any
11 portion thereof is located. Notice [that such final identification has
12 been made shall be given each owner of lands included within the erosion
13 hazard area, as such ownership is shown on the latest completed tax
14 assessment rolls, by certified mail in any case where a notice by certi-
15 fied mail was not sent pursuant to subdivision two of this section, and
16 in all other cases by first class mail. Such notice] shall also be given
17 at such time to the chief executive officer of each local government
18 within the boundaries of which such erosion hazard area or any portion
19 thereof is located.

20 § 9. Paragraphs (a) and (b) of subdivision 8 of section 70-0117 of the
21 environmental conservation law, as added by section 1 of part AAA of
22 chapter 59 of the laws of 2009, are amended to read as follows:

23 (a) All persons required to obtain a permit from the department pursu-
24 ant to section 24-0701 of this chapter shall submit to the department an
25 application fee in an amount [not to exceed the following:

26 (i) fifty dollars per application for a permit for a minor project as
27 defined in this article or modification to any existing permit issued
28 pursuant to section 24-0701 of this chapter;

1 (ii) fifty dollars per application for a permit for a residential
2 project defined as associated with one single family dwelling and
3 customary appurtenances thereto;

4 (iii) one hundred dollars per application for multiple family dwelling
5 and customary appurtenances thereto;

6 (iv) two hundred dollars per application for a permit for any other
7 project as defined in this article] specified in regulations promulgated
8 by the department.

9 (b) All persons required to obtain a permit from the department pursu-
10 ant to section 25-0402 of this chapter shall submit to the department an
11 application fee in an amount [not to exceed the following:

12 (i) two hundred dollars per application for a permit for a minor
13 project as defined in this article or modification to any existing
14 permit issued pursuant to section 25-0402 of this chapter;

15 (ii) nine hundred dollars per application for a permit for a project
16 as defined in this article] specified in regulations promulgated by the
17 department.

18 § 10. Paragraph (c) of subdivision 8 of section 70-0117 of the envi-
19 ronmental conservation law, as added by section 1 of part AAA of chapter
20 59 of the laws of 2009, is amended to read as follows:

21 (c) [All fees] Fees collected pursuant to [this] paragraph (a) of this
22 subdivision shall be deposited [into the environmental protection fund
23 pursuant to section ninety-two-s of the state finance law] to the credit
24 of the conservation fund. Fees collected pursuant to paragraph (b) of
25 this subdivision shall be deposited to the credit of the marine
26 resources account of the conservation fund.

27 (d) Application fees required pursuant to this subdivision will not be
28 required for any state department.

1 § 11. The title heading of title 25 of article 71 of the environmental
2 conservation law, as added by chapter 182 of the laws of 1975, is
3 amended to read as follows:

4 ENFORCEMENT OF ARTICLE 25 AND ARTICLE 34

5 § 12. Section 71-2501 of the environmental conservation law, as added
6 by chapter 182 of the laws of 1975, is amended to read as follows:

7 § 71-2501. Applicability of this title.

8 The provisions of this title shall be applicable to the enforcement of
9 article twenty-five and article thirty-four.

10 § 13. Subdivisions 1 and 2 of section 71-2503 of the environmental
11 conservation law, as amended by chapter 666 of the laws of 1989, are
12 amended to read as follows:

13 1. Administrative sanctions.

14 a. Any person who violates, disobeys or disregards any provision of
15 article twenty-five or article thirty-four shall be liable to the people
16 of the state for a civil penalty of not to exceed ten thousand dollars
17 for every such violation, to be assessed, after a hearing or opportunity
18 to be heard, by the commissioner. Each violation shall be a separate and
19 distinct violation and, in the case of a continuing violation, each
20 day's continuance thereof shall be deemed a separate and distinct
21 violation. The penalty may be recovered in an action brought by the
22 commissioner in any court of competent jurisdiction. Such civil penalty
23 may be released or compromised by the commissioner before the matter has
24 been referred to the attorney general; and where such matter has been
25 referred to the attorney general, any such penalty may be released or
26 compromised and any action commenced to recover the same may be settled

1 and discontinued by the attorney general with the consent of the commis-
2 sioner.

3 b. Upon determining that significant damage to the functions and bene-
4 fits of tidal wetlands or coastal erosion hazard areas is occurring or
5 is imminent as a result of any violation of article twenty-five or arti-
6 cle thirty-four, including but not limited to (i) activity taking place
7 requiring a permit under article twenty-five or article thirty-four but
8 for which no permit has been granted or (ii) failure on the part of a
9 permittee to adhere to permit conditions, the commissioner shall have
10 power to direct the violator to cease and desist from violating the act.
11 In such cases the violator shall be provided an opportunity to be heard
12 within ten days of receipt of the notice to cease and desist.

13 c. Following a hearing held pursuant to section 71-1709 of this arti-
14 cle, the commissioner shall have power to direct the violator to cease
15 and desist from violating the act and to restore the affected tidal
16 wetland or area immediately adjacent thereto or coastal erosion hazard
17 areas to its condition prior to the violation, insofar as that is possi-
18 ble within a reasonable time and under the supervision of the commis-
19 sioner. Any order of the commissioner shall be enforceable in an action
20 brought by the commissioner in any court of competent jurisdiction. Any
21 civil penalty or order issued by the commissioner under this subdivision
22 shall be reviewable in a proceeding under article seventy-eight of the
23 civil practice law and rules.

24 2. Criminal sanctions. Any person who violates any provision of arti-
25 cle twenty-five or article thirty-four shall, in addition, for the first
26 offense, be guilty of a violation punishable by a fine of not less than
27 five hundred nor more than five thousand dollars; for a second and each
28 subsequent offense such person shall be guilty of a misdemeanor punisha-

1 ble by a fine of not less than one thousand nor more than ten thousand
2 dollars or a term of imprisonment of not less than fifteen days nor more
3 than six months or both. In addition to or instead of these punishments,
4 any offender shall be punishable by being ordered by the court to
5 restore the affected tidal wetland or area immediately adjacent thereto
6 or coastal erosion hazard areas to its condition prior to the offense,
7 insofar as that is possible. The court shall specify a reasonable time
8 for the completion of the restoration, which shall be effected under the
9 supervision of the commissioner. Each offense shall be a separate and
10 distinct offense and, in the case of a continuing offense, each day's
11 continuance thereof shall be deemed a separate and distinct offense.

12 § 14. Section 71-2505 of the environmental conservation law, as
13 amended by chapter 249 of the laws of 1997, is amended to read as
14 follows:

15 § 71-2505. Enforcement.

16 The attorney general, on his or her own initiative or at the request
17 of the commissioner, shall prosecute persons who violate article twen-
18 ty-five or article thirty-four. In addition the attorney general, on
19 his or her own initiative or at the request of the commissioner, shall
20 have the right to recover a civil penalty of up to ten thousand dollars
21 for every violation of any provision of such [article] articles, and to
22 seek equitable relief to restrain any violation or threatened violation
23 of such [article] articles and to require the restoration of any
24 affected tidal wetland or area immediately adjacent thereto or coastal
25 erosion hazard area to its condition prior to the violation, insofar as
26 that is possible, within a reasonable time and under the supervision of
27 the commissioner. In the case of a continuing violation, each day's
28 continuance thereof shall be deemed a separate and distinct violation.

1 § 15. Section 71-2507 of the environmental conservation law, as added
2 by chapter 182 of the laws of 1975, is amended to read as follows:

3 § 71-2507. Pollution of tidal wetlands or coastal erosion hazard area.

4 Where any tidal wetlands or coastal erosion hazard area are subject to
5 pollution, the commissioner and attorney general shall take all appro-
6 priate action to abate the pollution. In addition, the commissioner may
7 restrict or order cessation of solid waste disposal, deep well disposal,
8 or liquid waste disposal where such is polluting a given area of tidal
9 wetland or coastal erosion hazard area. Where pesticides, chemical
10 products, or fertilizer residues are the polluting agents, the commis-
11 sioner shall confer with other appropriate public officials to limit the
12 use of such substances at their source; after appropriate consultations,
13 the commissioner may make such rules and regulations as he deems neces-
14 sary under section 3-0301 of [the environmental conservation law] this
15 chapter.

16 § 16. This act shall take effect immediately, provided, however, that
17 sections one, two, three, four, five, six, seven, eight and nine of this
18 act shall take effect on January 1, 2022, except that any rule or regu-
19 lation necessary for the timely implementation of this act on its effec-
20 tive date shall be promulgated on or before such date.

21 PART UU

22 Section 1. This act enacts into law components of legislation which
23 are necessary to implement legislation relating to the Bay Park Convey-
24 ance Project. Each component is wholly contained within a Subpart iden-
25 tified as Subparts A through C. The effective date for each particular
26 provision contained within such Subpart is set forth in the last section

1 of such Subpart. Any provision in any section contained within a
2 Subpart, including the effective date of the Subpart, which makes a
3 reference to a section "of this act", when used in connection with that
4 particular component, shall be deemed to mean and refer to the corre-
5 sponding section of the Subpart in which it is found. Section three of
6 this act sets forth the general effective date of this act.

7 SUBPART A

8 Section 1. The county of Nassau, is hereby authorized, acting by and
9 through the county legislature of such county, and the department of
10 environmental conservation, acting by and through the commissioner of
11 such department or his or her designee, for the purpose of constructing,
12 operating, maintaining and repairing a sub-surface sewer main, are here-
13 by authorized to establish (a) permanent easements upon and under the
14 parklands described in sections four, five, seven, eight, ten and eleven
15 of this act, and (b) temporary easements upon and under the parklands
16 described in sections three, six, and nine of this act. Authorization
17 for the temporary easements described in sections three, six, and nine
18 of this act shall cease upon the completion of the construction of such
19 sewer main, at which time the department of environmental conservation
20 shall restore the surface of the parklands disturbed and the parklands
21 shall continue to be used for park purposes as they were prior to the
22 establishment of such temporary easements. Authorization for the perma-
23 nent easements described in sections four, five, seven, eight, ten and
24 eleven of this act shall require that the department of environmental
25 conservation restore the surface of the parklands disturbed and the

1 parklands shall continue to be used for park purposes as they were prior
2 to the establishment of the permanent easements.

3 § 2. The authorization granted in section one of this act shall be
4 effective only upon the condition that the county of Nassau dedicate an
5 amount equal to or greater than the fair market value of the permanent
6 and temporary easements being conveyed and the temporary alienation
7 pursuant to section one of this act to the acquisition of new parklands
8 and/or capital improvements to existing park and recreational facili-
9 ties.

10 § 3. TEMPORARY EASEMENT - Force main shaft construction area. Park-
11 land upon and under which a temporary easement may be established pursu-
12 ant to subdivision (b) of section one of this act is described as all
13 that certain plot, piece or parcel of land with buildings and improve-
14 ments thereon erected, situate, lying and being located at Bay Park,
15 Town of Hempstead, County of Nassau and State of New York being more
16 particularly bounded and described as follows: beginning at a point on
17 the northerly line of the Nassau County Sewage Treatment Plant property,
18 said Point of Beginning being South 68°00' East, as measured along
19 northerly line of said sewage treatment plant, 543 feet plus or minus,
20 from the intersection of the northerly line Nassau County Sewage Treat-
21 ment Plant with the westerly side of Compton Street; running thence
22 South 68°00' East, along the northerly line of said sewage treatment
23 plant, 247 feet plus or minus; thence South 07°04' West 196 feet plus or
24 minus; thence North 78°37' West 33 feet plus or minus; thence North
25 06°10' East 105 feet plus or minus; thence North 30°53' West 56 feet
26 plus or minus; thence North 64°27' West 190 feet plus or minus; thence
27 North 20°21' East 49 feet plus or minus, to the northerly line of the
28 Nassau County Sewage Treatment Plant, at the Point of Beginning.

1 Containing within said bounds 19,700 square feet plus or minus. The
2 above described temporary easement is for the construction of a thirty-
3 foot diameter access shaft. The location of said access shaft is more
4 particularly described in section four of this act. Said parcel being
5 part of property designated as Section: 42 Block: A Lots: 50, 57 on the
6 Nassau County Land and Tax Map.

7 § 4. PERMANENT SUBSURFACE EASEMENT - Access shaft. Parkland upon and
8 under which a permanent easement may be established pursuant to subdivi-
9 sion (a) of section one of this act is described as all that certain
10 plot, piece or parcel of land with buildings and improvements thereon
11 erected, situate, lying and being located at Bay Park, Town of Hemp-
12 stead, County of Nassau and State of New York being more particularly
13 bounded and described as follows: a circular easement with a radius of
14 15 feet, the center of said circle being the following three (3) courses
15 from the intersection of the northerly line of the Nassau County Sewage
16 Treatment Plant with the westerly side of Compton Street: running thence
17 South 68°00' East, along the northerly line of said sewage treatment
18 plant, 581 feet plus or minus to the centerline of the permanent ease-
19 ment for a force main described in section five of this act; thence
20 South 21°34' West, along said centerline, 17 feet plus or minus; thence
21 South 14°28' West, continuing along said centerline, 1,439 feet plus or
22 minus, to the center of the herein described circular easement. Contain-
23 ing within said bound 707 square feet plus or minus. Said permanent
24 easement is for an access shaft that extends from the surface of the
25 ground to an approximate depth of 70 feet. Any permanent surface
26 improvements for cathodic protection, if necessary, would be flush with
27 the ground surface or integrated into site landscaping. Said parcel

1 being part of property designated as Section: 42 Block: A Lots: 50, 57
2 on the Nassau County Land and Tax Map.

3 § 5. PERMANENT SUBSURFACE EASEMENT - Force main. Parkland upon and
4 under which a permanent easement may be established pursuant to subdivi-
5 sion (a) of section one of this act is described as all that certain
6 plot, piece or parcel of land with buildings and improvements thereon
7 erected, situate, lying and being located at Bay Park, Town of Hemp-
8 stead, County of Nassau and State of New York being a 20-foot wide strip
9 of land more particularly bounded and described as follows: beginning at
10 a point on the northerly line of the Nassau County Sewage Treatment
11 Plant property, said Point of Beginning being South 68°00' East, as
12 measured along northerly line of said sewage treatment plant, 571 feet
13 plus or minus, from the intersection of the northerly line Nassau County
14 Sewage Treatment Plant with the westerly side of Compton Street; running
15 thence South 68°00' East, along the northerly line of said sewage treat-
16 ment plant, 20 feet plus or minus; thence South 21°34' West 17 feet plus
17 or minus; thence South 14°28' West 1,463 feet plus or minus; thence
18 North 75°32' West 20 feet plus or minus; thence North 14°28' East 1,464
19 feet plus or minus; thence North 21°34' East 18 feet plus or minus, to
20 the northerly line of the Nassau County Sewage Treatment Plant, at the
21 Point of Beginning. Containing within said bounds 29,600 square feet.
22 The above described permanent easement is for the construction and oper-
23 ation of a six-foot diameter force main at a minimum depth of fifteen
24 feet below the ground surface. Said parcel being part of property desig-
25 nated as Section: 42 Block: A Lots: 50, 57 on the Nassau County Land and
26 Tax Map.

27 § 6. TEMPORARY EASEMENT - Force main shaft construction area. Park-
28 land upon and under which a temporary easement may be established pursu-

1 ant to subdivision (b) of section one of this act is described as all
2 that certain plot, piece or parcel of land with buildings and improve-
3 ments thereon erected, situate, lying and being located at the hamlet of
4 Wantagh, Town of Hempstead, County of Nassau and State of New York being
5 more particularly bounded and described as follows: beginning at a point
6 on the northwesterly line of the herein described temporary easement for
7 the force main shaft construction area, said Point of Beginning being
8 more particularly described as commencing at the intersection of the
9 southerly side of Sunrise Highway Street with the southeasterly side of
10 Lakeview Road; running thence southerly along the southeasterly side of
11 Lakeview Road 243 feet plus or minus, to the centerline of the permanent
12 subsurface easement for force main described in section eight of this
13 act; thence South 60°06' East, along said centerline, 25 feet plus or
14 minus, to the northwesterly line of the temporary easement for the force
15 main shaft construction area, at the Point of Beginning. Running thence
16 North 39°06' East 111 feet plus or minus; thence South 55°47' East 70
17 feet plus or minus; thence South 38°42' West 240 feet plus or minus;
18 thence North 54°11' West 72 feet plus or minus; thence North 39°06' East
19 127 feet plus or minus, to the Point of Beginning. Containing within
20 said bounds 16,900 square feet plus or minus. The above described tempo-
21 rary easement is for the construction of a thirty-foot diameter access
22 shaft. The location of said access shaft is more particularly described
23 in section seven of this act. Said parcel being part of property desig-
24 nated as Section: 56 Block: Y Lot: 259 on the Nassau County Land and Tax
25 Map.

26 § 7. PERMANENT SUBSURFACE EASEMENT - Access shaft. Parkland upon and
27 under which a permanent easement may be established pursuant to subdivi-
28 sion (a) of section one of this act is described as all that certain

1 plot, piece or parcel of land with buildings and improvements thereon
2 erected, situate, lying and being located at Hamlet of Wantagh, Town of
3 Hempstead, County of Nassau and State of New York being more particular-
4 ly bounded and described as follows: a circular easement with a radius
5 of 15 feet, the center of said circle being the following two (2) cours-
6 es from the intersection of the southerly side of Sunrise Highway with
7 the southeasterly side of Lakeview Road: Southerly along the southeast-
8 erly side of Lakeview Road 243 feet plus or minus, to the centerline of
9 the permanent subsurface easement for force main, described in section
10 eight of this act; South 60°06' East, along said centerline, 51 feet
11 plus or minus, to the center of the herein described circular easement.
12 Containing within said bounds a surface area of 707 square feet plus or
13 minus. Said permanent easement is for an access shaft that extends from
14 the surface of the ground to an approximate depth of 70 feet. Any perma-
15 nent surface improvements for cathodic protection, if necessary, would
16 be flush with the ground surface or integrated into site landscaping.
17 Said parcel being part of property designated as Section: 56 Block: Y
18 Lot: 259 on the Nassau County Land and Tax Map.

19 § 8. PERMANENT SUBSURFACE EASEMENT - Force main. Parkland upon and
20 under which a permanent easement may be established pursuant to subdivi-
21 sion (a) of section one of this act is described as all that certain
22 plot, piece or parcel of land with buildings and improvements thereon
23 erected, situate, lying and being located at the Hamlet of Wantagh, Town
24 of Hempstead, County of Nassau and State of New York being a 20-foot
25 wide strip of land more particularly bounded and described as follows:
26 beginning at a point on the southeasterly side of Lakeview Road, said
27 Point of Beginning being southwesterly 222 feet plus or minus, as meas-
28 ured along the southeasterly side of Lakeview Road from the intersection

1 of the southerly side of Sunrise Highway with the southeasterly side of
2 Lakeview Road; thence South 60°06' East 49 feet plus or minus; thence
3 South 32°15' East 1,759 feet plus or minus; thence South 16°16' West 53
4 feet plus or minus; thence North 32°15' West 1,785 feet plus or minus;
5 thence North 60°06' West 53 feet plus or minus, to the southeasterly
6 side of Lakeview Road; thence North 48°13' East, along the southeasterly
7 side of Lakeview Road, 42 feet plus or minus, to the Point of Beginning.
8 Containing within said bounds 72,900 square feet plus or minus. The
9 above described permanent easement is for the construction and operation
10 of a six-foot diameter force main at a minimum depth of fifteen feet
11 below the ground surface. Said parcel being part of property designated
12 as Section: 56 Block: Y Lots: 259 on the Nassau County Land and Tax Map.

13 § 9. TEMPORARY EASEMENT - Force main shaft construction area. Park-
14 land upon and under which a temporary easement may be established pursu-
15 ant to subdivision (b) of section one of this act is described as all
16 that certain plot, piece or parcel of land with buildings and improve-
17 ments thereon erected, situate, lying and being located at the hamlet of
18 Wantagh, Town of Hempstead, County of Nassau and State of New York being
19 more particularly bounded and described as follows: beginning at a point
20 on the northerly line of the herein described temporary easement for the
21 force main shaft construction area, said Point of Beginning being more
22 particularly described as commencing at the intersection of the souther-
23 ly side of Byron Street with the easterly side of Wantagh Parkway;
24 running thence southerly along the easterly side of Wantagh Parkway 319
25 feet plus or minus, to the centerline of the permanent subsurface ease-
26 ment for force main, described in section eleven of this act; thence
27 South 19°15' East, along said centerline, 257 feet plus or minus, to the
28 northerly line of the temporary easement for the force main shaft

1 construction area, at the Point of Beginning. Running thence North
2 87°25' East 122 feet plus or minus; thence south 33°56' East 68 feet
3 plus or minus; thence South 04°43' East 54 feet plus or minus; thence
4 South 86°38' West 78 feet plus or minus; thence South 02°20' East 83
5 feet plus or minus; thence South 47°04' West 103 feet plus or minus;
6 thence South 86°22' West 28 feet plus or minus; thence North 08°39' West
7 264 feet plus or minus; thence North 87°25' East 53 feet plus or minus,
8 to the Point of Beginning. Containing within said bounds 36,500 square
9 feet plus or minus. The above described temporary easement is for the
10 construction of a thirty-foot diameter access shaft. The location of
11 said access shaft is more particularly described in section ten of this
12 act. Said parcel being part of property designated as Section: 63 Block:
13 261 Lots: 765G, 818A (Part of Cedar Creek Park) on the Nassau County
14 Land and Tax Map.

15 § 10. PERMANENT SUBSURFACE EASEMENT - Access shaft. Parkland upon and
16 under which a permanent easement may be established pursuant to subdivi-
17 sion (a) of section one of this act is described as all that certain
18 plot, piece or parcel of land with buildings and improvements thereon
19 erected, situate, lying and being located at Hamlet of Wantagh, Town of
20 Hempstead, County of Nassau and State of New York being more particular-
21 ly bounded and described as follows: a circular easement with a radius
22 of 15 feet, the center of said circle being the following two (2) cours-
23 es from the intersection of the southerly side of Byron Street with the
24 easterly side of Wantagh Parkway: Southerly along the easterly side of
25 Wantagh Parkway 319 feet plus or minus, to the centerline of the perma-
26 nent subsurface easement for force main, described in section eleven of
27 this act; thence South 19°15' East, along said centerline, 315 feet plus
28 or minus, to the center of the herein described circular easement.

1 Containing within said bounds a surface area of 707 square feet plus or
2 minus. Said permanent easement is for an access shaft that extends from
3 the surface of the ground to an approximate depth of 70 feet. Any perma-
4 nent surface improvements for cathodic protection, if necessary, would
5 be flush with the ground surface or integrated into site landscaping.
6 Said parcel being part of property designated as Section: 63 Block: 261
7 Lots: 765G, 818A (Part of Cedar Creek Park) on the Nassau County Land
8 and Tax Map.

9 § 11. PERMANENT SUBSURFACE EASEMENT - Force main. Parkland upon and
10 under which a permanent easement may be established pursuant to subdivi-
11 sion (a) of section one of this act is described as all that certain
12 plot, piece or parcel of land with buildings and improvements thereon
13 erected, situate, lying and being located at the Hamlet of Wantagh, Town
14 of Hempstead, County of Nassau and State of New York being a 20-foot
15 wide strip of land more particularly bounded and described as follows:
16 beginning at a point on the easterly side of Wantagh Parkway, said Point
17 of Beginning being southerly 285 feet plus or minus, as measured along
18 the easterly side of Wantagh Parkway from the intersection of the south-
19 erly side of Byron Street with the easterly side of Wantagh Parkway;
20 running thence South 19°15' East 349 feet plus or minus; thence South
21 02°17' East 1,882 feet plus or minus; thence South 09°25' East 1,202
22 feet plus or minus; thence South 80°35' West 20 feet plus or minus;
23 thence North 09°25' West 1,203 feet plus or minus; thence North 02°17'
24 West 1,880 feet plus or minus; thence North 19°15' West 281 feet plus or
25 minus, to the easterly side of Wantagh Parkway; thence North 02°09'
26 West, along the easterly side of Wantagh Parkway, 68 feet plus or minus,
27 to the Point of Beginning. Containing within said bounds 68,000 square
28 feet plus or minus. The above described permanent easement is for the

1 construction and operation of a six-foot diameter force main at a mini-
2 mum depth of fifteen feet below the ground surface. Said parcel being
3 part of property designated as Section: 63 Block: 261 Lots: 765G, 818A
4 (Part of Cedar Creek Park) on the Nassau County Land and Tax Map.

5 § 12. In the event that the county of Nassau received any funding
6 support or assistance from the federal government for the purchase,
7 maintenance, or improvement of the parklands set forth in sections three
8 through eleven of this act, the discontinuance and alienation of such
9 parklands authorized by the provisions of this act shall not occur until
10 the county of Nassau has complied with any applicable federal require-
11 ments pertaining to the alienation or conversion of parklands, including
12 satisfying the secretary of the interior that the alienation or conver-
13 sion complies with all conditions which the secretary of the interior
14 deems necessary to assure the substitution of other lands shall be
15 equivalent in fair market value and usefulness to the lands being alien-
16 ated or converted.

17 § 13. This act shall take effect immediately.

18 SUBPART B

19 Section 1. The village of East Rockaway, in the county of Nassau, is
20 hereby authorized, acting by and through the village board of such
21 village, and the department of environmental conservation, acting by and
22 through the commissioner of such department or his or her designee, for
23 the purpose of constructing, operating, maintaining and repairing a
24 sub-surface sewer main, are hereby authorized to establish (a) permanent
25 easements upon and under the parklands described in sections four and
26 five of this act, and (b) a temporary easement upon and under the park-

1 lands described in section three of this act. Authorization for the
2 temporary easement described in section three of this act shall cease
3 upon the completion of the construction of the sewer main, at which time
4 the department of environmental conservation shall restore the surface
5 of the parklands disturbed and the parklands shall continue to be used
6 for park purposes as they were prior to the grant of the temporary ease-
7 ment. Authorization for the permanent easements described in sections
8 four and five of this act shall require that the department of environ-
9 mental conservation restore the surface of the parklands disturbed and
10 the parklands shall continue to be used for park purposes as they were
11 prior to the establishment of the permanent easements.

12 § 2. The authorization provided in section one of this act shall be
13 effective only upon the condition that the village of East Rockaway
14 dedicate an amount equal to or greater than the fair market value of the
15 permanent and temporary easements being conveyed and the temporary
16 alienation pursuant to section one of this act to the acquisition of new
17 parklands and/or capital improvements to existing park and recreational
18 facilities within the Village of East Rockaway.

19 § 3. TEMPORARY EASEMENT - Force Main Shaft Construction Area. Park-
20 land upon and under which a temporary easement may be established pursu-
21 ant to subdivision (b) of section one of this act is described as
22 follows: all that certain plot, piece or parcel of land with buildings
23 and improvements thereon erected, situate, lying and being located at
24 Incorporated Village of East Rockaway, and the Hamlet of Oceanside, Town
25 of Hempstead, County of Nassau and State of New York being more partic-
26 ularly bounded and described as follows: beginning at a point on the
27 westerly line of the herein described temporary easement for the force
28 main shaft construction area, said Point of Beginning being more partic-

1 ularly described as commencing at the intersection of the northeasterly
2 side of Long Island Railroad right-of-way with the easterly side of
3 Ocean Avenue; running thence North 12°34' East, along the easterly side
4 of Ocean Avenue, 92 feet plus or minus, to the northerly line of proper-
5 ty designated as Section 38 Block E Lot 14, on the Nassau County Land
6 and Tax Map; thence South 74°46' East, partly along said northerly line,
7 206 feet plus or minus, to the westerly line of the temporary easement,
8 at the Point of Beginning. Running thence North 15°34' East 49 feet plus
9 or minus; thence South 67°33' East 238 feet plus or minus; thence South
10 07°07' West 31 feet plus or minus; thence South 86°06' West 161 feet
11 plus or minus; thence South 64°59' West 117 feet plus or minus; thence
12 North 15°34' East 140 feet plus or minus, to the Point of Beginning.
13 Containing within said bounds 23,000 square feet plus or minus. The
14 above described temporary easement is for the construction of a thirty-
15 foot diameter access shaft. The location of said access shaft is more
16 particularly described in section four of this act. Said parcel being
17 part of property designated as Section: 38, Block: E, Lots: 12, 14, 21A,
18 21B on the Nassau County Land and Tax Map.

19 § 4. PERMANENT SUBSURFACE EASEMENT - Access Shaft. Parkland upon and
20 under which a permanent easement may be established pursuant to subdivi-
21 sion (a) of section one of this act is described as all that certain
22 plot, piece or parcel of land with buildings and improvements thereon
23 erected, situate, lying and being located at Incorporated Village of
24 East Rockaway, and the Hamlet of Oceanside, Town of Hempstead, County of
25 Nassau and State of New York being more particularly bounded and
26 described as follows: a circular easement with a radius of 15 feet, the
27 center of said circle being the following three (3) courses from the
28 intersection of the northeasterly side of Long Island Railroad right-of-

1 way with the easterly side of Ocean Avenue; North 12°34' East, along the
2 easterly side of Ocean Avenue, 92 feet plus or minus, to the northerly
3 line of property designated as Section 38 Block E Lot 14 on the Nassau
4 County Land and Tax Map; South 74°46' East, partly along the said north-
5 erly line, 333 feet plus or minus, to the centerline of the subsurface
6 easement for force main described in section five of this act; thence
7 South 19°04' West, along said centerline, 16 feet plus or minus, to the
8 center of the herein described circular easement. Containing within said
9 bounds a surface area of 707 square feet plus or minus. Said permanent
10 easement is for an access shaft that extends from the surface of the
11 ground to an approximate depth of 70 feet. Any permanent surface
12 improvements for cathodic protection, if necessary, would be flush with
13 the ground surface or integrated into site landscaping. Said parcel
14 being part of property designated as Section: 38, Block: E, Lots: 12,
15 14, 21A, 21B on the Nassau County Land and Tax Map.

16 § 5. PERMANENT SUBSURFACE EASEMENT - Force Main. Parkland upon and
17 under which a permanent easement may be established pursuant to subdivi-
18 sion (a) of section one of this act is described as all that certain
19 plot, piece or parcel of land with buildings and improvements thereon
20 erected, situate, lying and being located at Incorporated Village of
21 East Rockaway, and the Hamlet of Oceanside, County of Nassau and State
22 of New York being a 20-foot wide strip of land more particularly bounded
23 and described as follows: beginning at a point on the westerly line of
24 the herein described permanent subsurface easement, said Point of Begin-
25 ning being more particularly described as commencing at the intersection
26 of the northeasterly side of Long Island Railroad right-of-way with the
27 easterly side of Ocean Avenue; running thence North 12°34' East, along
28 the easterly side of Ocean Avenue, 92 feet plus or minus, to the north-

1 erly line of property designated as Section 38 Block E Lot 14 on the
2 Nassau County Land and Tax Map; thence South 74°46' East, partly along
3 the said northerly line, 323 feet plus or minus, to the westerly line of
4 the permanent easement, at the Point of Beginning. Running thence North
5 19°04' East 73 feet plus or minus, to the northerly line of property
6 designated as Section 38 Block E Lot 21A on the Nassau County Land and
7 Tax Map; thence South 60°10' East, along said northerly line, 20 feet
8 plus or minus; thence South 19°04' West 82 feet plus or minus; thence
9 South 15°40' East 116 feet plus or minus, to the south line of property
10 designated as Section 38 Block E Lot 21A on the Nassau County Land and
11 Tax Map; thence North 88°09' West 21 feet plus or minus; thence North
12 15°40' West 116 feet plus or minus; thence North 19°04' East 19 feet
13 plus or minus, to the Point of Beginning. Containing within said bounds
14 4,100 square feet plus or minus. The above described permanent easement
15 is for the construction and operation of a six-foot diameter force main
16 at a minimum depth of fifteen feet below the ground surface. Said parcel
17 being part of property designated as Section: 38, Block: E, Lots: 12,
18 14, 21A, 21B on the Nassau County Land and Tax Map.

19 § 6. In the event that the village of East Rockaway received any fund-
20 ing support or assistance from the federal government for the purchase,
21 maintenance, or improvement of the parklands set forth in sections three
22 through five of this act, the discontinuance and alienation of such
23 parklands authorized by the provisions of this act shall not occur until
24 the village of East Rockaway has complied with any applicable federal
25 requirements pertaining to the alienation or conversion of parklands,
26 including satisfying the secretary of the interior that the alienation
27 or conversion complies with all conditions which the secretary of the
28 interior deems necessary to assure the substitution of other lands shall

1 be equivalent in fair market value and usefulness to the lands being
2 alienated or converted.

3 § 7. This act shall take effect immediately.

4 SUBPART C

5 Section 1. The village of Rockville Centre, in the county of Nassau,
6 acting by and through the board of trustees of such village, and the
7 department of environmental conservation, acting by and through the
8 commissioner of such department or his or her designee, for the purpose
9 of constructing, operating, maintaining and repairing a sub-surface
10 sewer main, are hereby authorized to establish (a) permanent easements
11 upon and under the parklands described in sections three, four and six
12 of this act, and (b) temporary easements upon and under the parklands
13 described in sections five and seven of this act. Authorization for the
14 temporary easements described in sections five and seven of this act
15 shall cease upon the completion of the construction of the sewer main,
16 at which time the department of environmental conservation shall restore
17 the surface of the parklands disturbed and the parklands shall continue
18 to be used for park purposes as they were prior to the grant of the
19 temporary easements. Authorization for the permanent easements described
20 in sections three, four and six of this act shall require that the
21 department of environmental conservation restore the surface of the
22 parklands disturbed and the parklands shall continue to be used for park
23 purposes as they were prior to the establishment of the permanent ease-
24 ments.

25 § 2. The authorization provided in section one of this act shall be
26 effective only upon the condition that the village of Rockville Centre

1 dedicate an amount equal to or greater than the fair market value of the
2 permanent and temporary easements being conveyed and the temporary
3 alienation pursuant to section one of this act to the acquisition of new
4 parklands and/or capital improvements to existing park and recreational
5 facilities within the village of Rockville Centre.

6 § 3. PERMANENT SUBSURFACE EASEMENT - Force Main. Parkland upon and
7 under which a permanent easement may be established pursuant to subdivi-
8 sion (a) of section one of this act is described as all that certain
9 plot, piece or parcel of land with buildings and improvements thereon
10 erected, situate, lying and being located at Incorporated Village of
11 East Rockaway, and the Incorporated Village of Rockville Centre, Town of
12 Hempstead, County of Nassau and State of New York, being a 20-foot wide
13 strip of land more particularly bounded and described as follows: the
14 Point of Beginning being at the intersection of the northerly side of
15 Mill River Avenue with the easterly side of Riverside Road; running
16 thence northerly along the easterly side of Riverside Road 346 feet plus
17 or minus; thence South 13°01' West 346 feet plus or minus, to the north-
18 erly side of Mill River Avenue; thence westerly along the northerly side
19 of Mill River Avenue, 17 feet plus or minus, to the easterly side of
20 Riverside Road, at the Point of Beginning. Containing within said bounds
21 3,100 square feet plus or minus. The above described permanent easement
22 is for the construction and operation of a six-foot diameter force main
23 at a minimum depth of fifteen feet below the ground surface. Said parcel
24 being part of property designated as Section: 38 Block: 136 Lots: 231 on
25 the Nassau County Land and Tax Map.

26 § 4. PERMANENT SUBSURFACE EASEMENT - Access Shaft. Parkland upon and
27 under which a permanent easement may be established pursuant to subdivi-
28 sion (a) of section one of this act is described as all that certain

1 plot, piece or parcel of land with buildings and improvements thereon
2 erected, situate, lying and being located at Incorporated Village of
3 Rockville Centre, Incorporated Village of East Rockaway, and Incorpo-
4 rated Village of Lynbrook, Town of Hempstead, County of Nassau and State
5 of New York being more particularly bounded and described as a circular
6 easement with a radius of 15 feet, the center of said circle being the
7 following two (2) courses from the intersection of the northerly side of
8 Park Avenue with the easterly side of Oxford Road: Easterly along the
9 northerly side of Park Avenue, 203 feet plus or minus, to the centerline
10 of the permanent subsurface easement for force main described in section
11 six of this act; North 13°01' East, along said centerline, 953 feet plus
12 or minus, to the center of the herein described circular easement.
13 Containing within said bounds a surface area of 707 square feet plus or
14 minus. Said permanent easement is for an access shaft that extends from
15 the surface of the ground to an approximate depth of 70 feet. Any perma-
16 nent surface improvements for cathodic protection, if necessary, would
17 be flush with the ground surface or integrated into site landscaping.
18 Said parcel being part of property designated as Section: 38 Block: F
19 Lots: 39-42, 50C, 50F and Section: 38, Block: T, Lots: 50A, 50B, 50C on
20 the Nassau County Land and Tax Map.

21 § 5. TEMPORARY EASEMENT - Force Main Shaft Construction Area. Park-
22 land upon and under which a temporary easement may be established pursu-
23 ant to subdivision (b) of section one of this act is described as all
24 that certain plot, piece or parcel of land with buildings and improve-
25 ments thereon erected, situate, lying and being located at Incorporated
26 Village of Rockville Centre, Incorporated Village of East Rockaway, and
27 Incorporated Village of Lynbrook, Town of Hempstead, County of Nassau
28 and State of New York being more particularly bounded and described as

1 follows: Beginning at a point on the southerly side of the herein
2 described temporary easement for the force main shaft construction area,
3 said Point of Beginning being more particularly described as commencing
4 at the intersection of the northerly side of Park Avenue with the east-
5 erly side of Oxford Road; running thence easterly along the northerly
6 side of Park Avenue, 203 feet plus or minus, to the centerline of the
7 permanent subsurface easement for force main described in section six of
8 this act; thence North 13°01' East, along said centerline, 920 feet plus
9 or minus, to the southerly line of the temporary easement, at the Point
10 of Beginning. Running thence North 76°19' West 136 feet plus or minus,
11 to the easterly terminus of Merton Avenue (unopened); thence North
12 76°19' West, through the unopened part of Merton Avenue, 48 feet plus or
13 minus; thence North 14°49' East 5' feet plus or minus, to the northerly
14 side of Merton Avenue; thence North 14°49' East 27' feet plus or minus;
15 thence South 76°29' East 66 feet plus or minus; thence North 36°47' East
16 61 feet plus or minus; thence North 78°41' East 145 feet plus or minus;
17 thence South 65°54' East 46 feet plus or minus; thence South 29°39' West
18 147 feet plus or minus; thence North 76°19' West 42 feet plus or minus,
19 to the Point of Beginning. Containing within said bounds 22,800 square
20 feet plus or minus. The above described temporary easement is for the
21 construction of a thirty-foot diameter access shaft. The location of
22 said access shaft is more particularly described in section four of this
23 act. Said parcel being part of property designated as Section: 38 Block:
24 F Lots: 39-42, 50C, 50F and Section: 38, Block: T, Lots: 50A, 50B, 50C
25 on the Nassau County Land and Tax Map.

26 § 6. PERMANENT SUBSURFACE EASEMENT - Force Main. Parkland upon and
27 under which a permanent easement may be established pursuant to subdivi-
28 sion (a) of section one of this act is described as all that certain

1 plot, piece or parcel of land with buildings and improvements thereon
2 erected, situate, lying and being located at Incorporated Village of
3 Rockville Centre, Incorporated Village of East Rockaway, and Incorpo-
4 rated Village of Lynbrook, Town of Hempstead, County of Nassau and State
5 of New York being a 20-foot wide strip of land more particularly bounded
6 and described as follows: beginning at a point on the northerly side of
7 Park Avenue, said Point of Beginning 193 feet plus or minus easterly, as
8 measured along the northerly side of Park Avenue from the intersection
9 of the northerly side of Park Avenue with the easterly side of Oxford
10 Road; running thence North 13°01' East 956 feet plus or minus; thence
11 North 44°00' East 446 feet plus or minus, to the northeasterly line of
12 property designated as Section 38 Block F Lot 50F, on the Nassau County
13 Land and Tax Map; thence South 53°10' East, along said northeasterly
14 line, 20 feet plus or minus; thence South 44°00' West 443 feet plus or
15 minus; thence South 13°01' West 950 feet plus or minus, to the northerly
16 side of Park Avenue; thence North 79°36' West, along said northerly
17 side, 20 feet plus or minus to the Point of Beginning; containing within
18 said bounds 28,000 square feet plus or minus. The above described perma-
19 nent easement is for the construction and operation of a six-foot diam-
20 eter force main at a minimum depth of fifteen feet below the ground
21 surface. Said parcel being part of property designated as Section: 38
22 Block: F Lots: 39-42, 50C, 50F and Section: 38, Block: T, Lots: 50A,
23 50B, 50C on the Nassau County Land and Tax Map.

24 § 7. TEMPORARY EASEMENT - Force Main Shaft Construction Area. Park-
25 land upon and under which a temporary easement may be established pursu-
26 ant to subdivision (b) of section one of this act is described as all
27 that certain plot, piece or parcel of land with buildings and improve-
28 ments thereon erected, situate, lying and being located at Incorporated

1 Village of Rockville Centre, Town of Hempstead, County of Nassau and
2 State of New York being more particularly bounded and described as
3 follows: beginning at a point on the northerly side of Sunrise Highway
4 (New York State Route 27A), said Point of Beginning being distant 254
5 feet plus or minus westerly as measured along the northerly side of
6 Sunrise Highway from the intersection of the northerly side of Sunrise
7 Highway with the westerly side of Forest Avenue; running thence North
8 $86^{\circ}15'$ West, along the northerly side of Sunrise Highway, 175 feet plus
9 or minus; thence South $68^{\circ}26'$ West, continuing along the northerly side
10 of Sunrise Highway, 111 feet plus or minus; thence North $14^{\circ}47'$ West 162
11 feet plus or minus, to the southerly side of the Long Island Rail Road
12 right-of-way; thence South $86^{\circ}59'$ East, along the southerly side of the
13 Long Island Rail Road, 479 feet plus or minus; thence South $01^{\circ}59'$ West
14 75 feet plus or minus, to the northerly side of the travelled way of
15 Sunrise Highway, then 160 feet plus or minus along the arc or a circular
16 curve to the left that has a radius of 850 feet and a chord that bears
17 South $80^{\circ}03'$ West 160 feet plus or minus to the Point of Beginning.
18 Containing within said bounds 50,300 square feet plus or minus. The
19 above described temporary easement is necessary for the construction of
20 temporary access to the aqueduct below Sunrise Highway area. Said parcel
21 being part of property designated as Section: 38 Block: 291 Lot: 17 on
22 the Nassau County Land and Tax Map.

23 § 8. In the event that the village of Rockville Centre received any
24 funding support or assistance from the federal government for the
25 purchase, maintenance, or improvement of the parklands set forth in
26 sections three through seven of this act, the discontinuance and alien-
27 ation of such parklands authorized by the provisions of this act shall
28 not occur until the village of Rockville Centre has complied with any

1 applicable federal requirements pertaining to the alienation or conver-
2 sion of parklands, including satisfying the secretary of the interior
3 that the alienation or conversion complies with all conditions which the
4 secretary of the interior deems necessary to assure the substitution of
5 other lands shall be equivalent in fair market value and usefulness to
6 the lands being alienated or converted.

7 § 9. This act shall take effect immediately.

8 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
9 sion, section, subpart or part of this act shall be adjudged by a court
10 of competent jurisdiction to be invalid, such judgment shall not affect,
11 impair, or invalidate the remainder thereof, but shall be confined in
12 its operation to the clause, sentence, paragraph, subdivision, section,
13 subpart or part thereof directly involved in the controversy in which
14 such judgment shall have been rendered. It is hereby declared to be the
15 intent of the legislature that this act would have been enacted even if
16 such invalid provisions had not been included herein.

17 § 3. This act shall take effect immediately, provided, however, that
18 the applicable effective date of Subparts A through C of this act shall
19 be as specifically set forth in the last section of such Subparts.

20 PART VV

21 Section 1. Subdivision 13 of section 23-0101 of the environmental
22 conservation law, as amended by chapter 846 of the laws of 1981, is
23 amended and four new subdivisions 21, 22, 23, and 24 are added to read
24 as follows:

25 13. "Plug and abandon" means the plugging, and replugging if neces-
26 sary, and abandonment of a well or well bore including the placing of

1 all bridges, plugs, and fluids therein and the restoration and reclama-
2 tion of the surface of affected land in the immediate vicinity to a
3 reasonable condition consistent with the adjacent terrain unless such
4 restoration and reclamation of the surface is waived by the landowner
5 and approved by the department.

6 21. "Abandoned" means wells or affected land regulated pursuant to
7 titles 1, 3, 5, 7, 11, 13 and 19 of this article for which the responsi-
8 ble owner or operator neglects or refuses to comply with its statutory
9 or regulatory obligations and responsibilities related to such wells or
10 affected land, after notice and as determined by the department.

11 22. "Affected land" means land or lands in the immediate vicinity of
12 wells, including well pads and access roads, that are disturbed or
13 impacted, or potentially disturbed or impacted, by activities regulated
14 pursuant to titles 1, 3, 5, 7, 11, 13 and 19 of this article.

15 23. "Orphaned" means wells or affected land regulated pursuant to
16 titles 1, 3, 5, 7, 9, 11, 13 and 19 of this article for which no respon-
17 sible owner or operator exists or can be reasonably found, as determined
18 by the department.

19 24. "Well" and "well bore" means an existing or proposed hole, drilled
20 or constructed, that is cased, uncased or both, for the purpose of
21 producing oil or gas or both, or for the purpose of a storage, solution
22 mining, injection, monitoring, stratigraphic, brine disposal or geother-
23 mal well regulated pursuant to titles 1, 3, 5, 7, 9, 11, 13 and 19 of
24 this article.

25 § 2. Subdivision 8 of section 23-0305 of the environmental conserva-
26 tion law, as added by chapter 846 of the laws of 1981, paragraph e as
27 amended by chapter 386 of the laws of 2005, paragraph f as amended by

1 chapter 721 of the laws of 1989, and paragraph k as added by chapter 891
2 of the laws of 1984, is amended to read as follows:

3 8. With respect to oil pools or fields [and], natural gas pools or
4 fields, underground gas storage reservoirs, and wells and their affected
5 land regulated pursuant to titles one, three, five, seven, nine, eleven,
6 thirteen, and nineteen of this article, the department shall have power
7 to:

8 a. Make such investigations as it deems proper to determine whether
9 waste exists or is imminent.

10 b. Require identification of ownership of producing leases, tanks,
11 plants, structures and facilities for the transportation and refining of
12 oil and gas.

13 c. Classify and reclassify wells or affected land as abandoned or
14 orphaned, pools as oil or gas pools, or wells as oil [or], gas,
15 injection, monitoring, or underground storage wells, and require iden-
16 tification of wells as an oil, gas, injection, monitoring, or under-
17 ground storage well, including the delineation of boundaries for
18 purposes material to the interpretation or administration of this arti-
19 cle.

20 d. Require the drilling, casing, operation, plugging and replugging of
21 wells and reclamation of surrounding land in accordance with rules and
22 regulations of the department in such manner as to prevent or remedy the
23 following, including but not limited to: the escape of oil, gas, brine
24 or water out of one stratum into another; the intrusion of water into
25 oil or gas strata other than during enhanced recovery operations; the
26 pollution of fresh water supplies by oil, gas, salt water or other
27 contaminants; and blowouts, cavings, seepages and fires.

1 e. Enter, take temporary possession of, repair, plug or replug any
2 abandoned or orphaned well as provided in the rules and regulations,
3 whenever any owner or operator neglects or refuses to comply with such
4 rules and regulations. Such repairing, plugging or replugging by the
5 department shall be at the expense of the owner or operator whose duty
6 it may be to repair or plug the well and who shall hold harmless the
7 state of New York for all accounts, damages, costs and judgments arising
8 from the repairing, plugging or replugging of the well and the surface
9 restoration of the affected land. Primary liability for the expense of
10 such repairing, plugging or replugging and first recourse for the recov-
11 ery thereof shall be to the operator unless a contract for the
12 production, development, exploration or other working of the well, to
13 which the lessor or other grantor of the oil and gas rights is a party,
14 shall place such liability on the owner or on the owner of another
15 interest in the land on which the well is situated. When an operator
16 violates any provision of this article, any rule or regulation promul-
17 gated thereunder, or any order issued pursuant thereto in reference to
18 repairing, plugging or replugging an abandoned or orphaned well, the
19 operator may not transfer the operator's responsibility therefor by
20 surrendering the lease. Prior to the commencement of drilling of any
21 well, the operator shall be required to furnish to the department, and
22 continuously maintain, a bond acceptable to it conditioned upon the
23 performance of said operator's plugging responsibilities with respect to
24 said well. Upon the approval of the department, in lieu of such bond,
25 the operator may deposit cash or negotiable bonds of the United States
26 Government of like amount in an escrow account conditioned upon the
27 performance of said operator's plugging responsibilities with respect to
28 said well. Any interest accruing as a result of the aforementioned

1 escrow deposit shall be the exclusive property of the operator. The
2 aforementioned bonding requirements shall remain the obligation of the
3 original operator regardless of changes in operators unless a subsequent
4 operator has furnished the appropriate bond or substitute as herein
5 provided acceptable to the department and approval for the transfer of
6 the well operatorship, which includes plugging and surface restoration
7 responsibilities, to the subsequent operator has been granted by the
8 department. The failure of any operator to maintain a bond or other
9 financial security as prescribed herein shall be deemed a breach of
10 plugging and surface restoration responsibilities and entitle the
11 department to claim the proceeds of the bond or other financial securi-
12 ty. The cost of repairing, plugging or replugging any well, where such
13 action is necessary or incident to the commencing or carrying on of
14 storage operations pursuant to section 23-1103 or 23-1301 shall be borne
15 by the operator of the storage facility.

16 f. Require that every person who produces, sells, purchases, acquires,
17 stores or injects oil or gas and associated fluids and every person who
18 transports oil or gas in this state shall keep and maintain complete and
19 accurate records of the quantities thereof. Quantities of associated
20 fluids injected or produced may be reported as estimated volumes. True
21 copies or duplicates shall be kept or made available for examination
22 within this state by the department or its agents at all reasonable
23 times and every such person shall file with the department such reports
24 concerning production, sales, purchases, acquisitions, injection, trans-
25 portation or storage on a form provided by the department or approved by
26 the department prior to submittal.

27 g. In addition to the powers provided for in titles 1, 3, 5 and 13 of
28 article 71, order an immediate suspension of drilling or production

1 operations whenever such operations are being carried on in violation of
2 this article or any rule or regulation promulgated thereunder or order
3 issued pursuant thereto. Any order issued pursuant to this paragraph may
4 be reviewed upon application of an aggrieved party by means of an order
5 to show cause which order shall be issued by any justice of the supreme
6 court in the judicial district in which any order applies and shall be
7 returnable on the third succeeding business day following the issuance
8 of such order. Service of such show cause order shall be made upon the
9 regional office of the department for the region in which such order
10 applies, and upon the attorney general by delivery of such order to an
11 assistant attorney general at an office of the attorney general in the
12 county in which venue of the proceeding is designated, or if there is no
13 office of the attorney general within such county, at the office of the
14 attorney general nearest such county. Except as hereinabove specified,
15 the proceeding to review an order under this paragraph shall be governed
16 by article seventy-eight of the civil practice law and rules.

17 h. Require the immediate reporting of any non-routine incident includ-
18 ing but not limited to casing and drill pipe failures, casing cement
19 failures, fishing jobs, fires, seepages, blowouts and other incidents
20 during drilling, completion, producing, plugging or replugging oper-
21 ations that may affect the health, safety, welfare or property of any
22 person. The department may require the operator, or any agent thereof,
23 to record any data which the department believes may be of subsequent
24 use for adequate evaluation of a non-routine incident.

25 i. Require the taking and making of well logs, well samples, direc-
26 tional surveys and reports on well locations and elevations, drilling
27 and production, and further require their filing pursuant to the
28 provisions of this article. Upon the request of the state geologist, the

1 department shall cause such duplicate samples or copies of records and
2 reports as may be required pursuant to this article to be furnished to
3 him.

4 j. Give notice to persons engaged in underground mining operations of
5 the commencement of any phase of oil or gas well operations which may
6 affect the safety of such underground mining operations or of the mining
7 properties involved. Rules and regulations promulgated under this arti-
8 cle shall specify the distance from underground mining operations within
9 which such notice shall be given and shall contain such other provisions
10 as in the judgment of the department shall be necessary in the interest
11 of safety. The department shall not be required to furnish any notice
12 required by this paragraph unless the person or persons engaged in
13 underground mining operations or having rights in mining properties have
14 notified the department of the existence and location of such under-
15 ground mining operations or properties.

16 k. (1) Except as to production of gas from lands under the waters of
17 Lake Erie, in order to satisfy the financial security requirements
18 contained in paragraph e of this subdivision for wells [less than six
19 thousand feet in depth] for which the department [either] on or after
20 October first, nineteen hundred sixty-three shall have issued or shall
21 issue permits to drill, deepen, convert or plug back such wells or, on
22 or after June fifth, nineteen hundred seventy-three, shall have issued
23 acknowledgements of notices of intention to drill such wells or, for all
24 wells subject to this article for which requests for transfer of well
25 operatorship, which includes plugging and surface restoration responsi-
26 bilities, are approved by the department on or after the effective date
27 of the chapter of the laws of two thousand twenty that amended this
28 paragraph, without any way affecting any obligations to plug such wells,

1 the operator shall provide a bond or other financial security acceptable
2 to the department [in the following amount:

3 (i) for wells less than two thousand five hundred feet in depth:

4 (a) twenty-five hundred dollars per well, provided that the operator
5 shall not be required to provide financial security under this item
6 exceeding twenty-five thousand dollars for up to twenty-five wells;

7 (b) for twenty-six to fifty wells, twenty-five thousand dollars, plus
8 twenty-five hundred dollars per well in excess of twenty-five wells,
9 provided that the operator shall not be required to provide financial
10 security under this item exceeding forty thousand dollars;

11 (c) for fifty-one to one hundred wells, forty thousand dollars, plus
12 twenty-five hundred dollars per well in excess of fifty wells, provided
13 that the operator shall not be required to provide financial security
14 under this item exceeding seventy thousand dollars;

15 (d) for over one hundred wells, seventy thousand dollars, plus twen-
16 ty-five hundred dollars per well in excess of one hundred wells,
17 provided that the operator shall not be required to provide financial
18 security under this item exceeding one hundred thousand dollars.

19 (ii) for wells between two thousand five hundred feet and six thousand
20 feet in depth:

21 (a) five thousand dollars per well, provided that the operator shall
22 not be required to provide financial security under this item exceeding
23 forty thousand dollars for up to twenty-five wells;

24 (b) for twenty-six to fifty wells, forty thousand dollars, plus five
25 thousand dollars per well in excess of twenty-five wells, provided that
26 the operator shall not be required to provide financial security under
27 this item exceeding sixty thousand dollars;

1 (c) for fifty-one to one hundred wells, sixty thousand dollars, plus
2 five thousand dollars per well in excess of fifty wells, provided that
3 the operator shall not be required to provide financial security under
4 this item exceeding one hundred thousand dollars;

5 (d) for over one hundred wells, one hundred thousand dollars, plus
6 five thousand dollars per well in excess of one hundred wells, provided
7 that the operator shall not be required to provide financial security
8 under this item exceeding one hundred fifty thousand dollars].

9 (2) [In the event that an operator shall have wells described in
10 clauses (i) and (ii) of subparagraph (1) of this paragraph, in lieu of
11 providing financial security under the provisions of each such clause,
12 such operator may file financial security as if all such wells were
13 between two thousand five hundred feet and six thousand feet in depth.

14 (3)] For all wells [greater than six thousand feet in depth] that
15 require financial security, the operator [may be required to] shall
16 provide [additional] the department with financial security consistent
17 with criteria contained in rules and regulations [to be adopted], and
18 any subsequent rules and regulations adopted by the department to imple-
19 ment this [subparagraph] article. The department is authorized to adopt
20 rules and regulations determining the amount, type, conditions, and
21 terms of the financial security.

22 § 3. Subdivision 9 of section 23-0305 of the environmental conserva-
23 tion law, as amended by chapter 846 of the laws of 1981, paragraph d as
24 amended by chapter 721 of the laws of 1989, paragraph e as amended by
25 chapter 386 of the laws of 2005, and paragraph f as added by chapter 891
26 of the laws of 1984, is amended to read as follows:

27 9. With respect to solution mining areas the department shall have the
28 power to:

1 a. Require identification of ownership of producing leases and
2 solution mining equipment such as structures, tanks, gathering systems
3 and facilities for the transportation of salt brine.

4 a-1. Classify and reclassify wells or affected land as abandoned or
5 orphaned, or wells or unrestored lands regulated pursuant to titles 1,
6 3, 5, 7, 9, 11, 13, and 19 of this article, and require well identifica-
7 tion as a solution mining well or monitoring well.

8 b. Require the drilling, casing, operation and plugging of wells in
9 accordance with rules and regulations of the department in such a manner
10 as to prevent the loss or escape of oil or gas reserves to the surface
11 or to other strata; the intrusion of brine or water into commercial oil
12 or gas reserves; the pollution of fresh water supplies by oil, gas or
13 salt water, and to facilitate the efficient use of ground and surface
14 waters in solution mining.

15 c. Give notice to persons engaging in underground mining operations of
16 the commencing of any phase of solution mining well operations which may
17 affect the safety of such underground mining operations or of the mining
18 properties involved. Rules and regulations of the department adopted
19 pursuant hereto shall specify the distance from such underground mining
20 operations within which such notice shall be given and shall contain
21 such other provisions as in the judgment of the department shall be
22 necessary in the interest of safety. The department shall not be
23 required to furnish any notice pursuant hereto unless the person or
24 persons engaged in underground mining operations or having rights in
25 mining properties have notified the department of the existence and
26 location of such underground mining operations or properties.

27 d. Require metering or other measuring of brine produced by solution
28 mining, and the maintenance of the records from each cavity or group of

1 interconnected cavities until the wells in a cavity have been plugged
2 and [abandoned] affected land restored. These records shall be given to
3 the department on request.

4 e. Enter, take temporary possession of, repair, plug or replug any
5 abandoned or orphaned well as provided in the rules and regulations,
6 whenever any operator neglects or refuses to comply with such rules and
7 regulations. Such repairing, plugging or replugging by the department
8 shall be at the expense of the owner or operator whose duty it shall be
9 to repair or plug the well and who shall hold harmless the state of New
10 York for all accounts, damages, costs and judgments arising for the
11 repairing, plugging or replugging of the well and the surface restora-
12 tion of the affected land. Primary liability for the expense of such
13 plugging or replugging and first recourse for the recovery thereof shall
14 be to the operator unless a contract for the production, development,
15 exploration or other working of the well, to which the lessor or other
16 grantor of the solution salt rights is a party, shall place such liabil-
17 ity on the owner or on the owner of another interest in the land on
18 which the well is situated. When an operator violates any provision of
19 this article, any rule or regulation promulgated thereunder, or any
20 order issued pursuant thereto in reference to repairing, plugging or
21 replugging an abandoned or orphaned well, the operator may not transfer
22 the operator's responsibility therefor by surrendering the lease. Prior
23 to the commencement of drilling of any well to which this subdivision
24 applies, the operator shall be required to furnish to the department,
25 and continuously maintain, a bond acceptable to it conditioned upon the
26 performance of said operator's plugging and surface restoration respon-
27 sibilities with respect to said well. Upon the approval of the depart-
28 ment, in lieu of such bond, the operator may deposit cash or negotiable

1 bonds of the United States Government of like amount in an escrow
2 account conditioned upon the performance of said operator's plugging and
3 surface restoration responsibilities with respect to said well. Any
4 interest accruing as a result of aforementioned escrow deposit shall be
5 the exclusive property of the operator. The aforementioned bonding
6 requirements shall remain the obligation of the original operator
7 regardless of changes in operators unless a subsequent operator has
8 furnished the appropriate bond or substitute as herein provided accepta-
9 ble to the department and approval for the transfer of the well plugging
10 [responsibility] and surface restoration responsibilities to the subse-
11 quent operator has been granted by the department. The failure of any
12 operator to maintain a bond or other financial security as prescribed
13 herein shall be deemed a breach of plugging and surface restoration
14 responsibilities and entitle the department to claim the proceeds of the
15 bond or other financial security. Any order issued pursuant to this
16 paragraph may be reviewed upon application of an aggrieved party by
17 means of an order to show cause which order shall be issued by any
18 justice of the supreme court in the judicial district in which any such
19 order applies and shall be returnable on the third succeeding business
20 day following the issuance of such order. Service of such show cause
21 order shall be made upon the regional office of the department for the
22 region in which such order applies, and upon the attorney general by
23 delivery of such order to an assistant attorney general at an office of
24 the attorney general in the county in which venue of the proceeding is
25 designated, or if there is no office of the attorney general within such
26 county, at the office of the attorney general nearest such county.
27 Except as hereinabove specified, the proceeding to review an order under

1 this paragraph shall be governed by article seventy-eight of the civil
2 practice law and rules.

3 f. (1) In order to satisfy the financial security requirements
4 contained in paragraph e of this subdivision for all wells for which the
5 department [either] on or after October first, nineteen hundred sixty-
6 three shall have issued or shall issue permits to drill, deepen, convert
7 or plug back such wells or, on or after June fifth, nineteen hundred
8 seventy-three, shall have issued acknowledgements of notices of inten-
9 tion to drill such wells or for all wells subject to this article for
10 which requests for transfers of well operatorship, which includes plug-
11 ging and surface restoration responsibilities, are approved by the
12 department on or after the effective date of the chapter of the laws of
13 two thousand twenty that amended this paragraph, without in any way
14 affecting any obligation to plug such wells, the operator shall provide
15 a bond or other financial security acceptable to the department [in the
16 following amount:

17 (i) for wells less than two thousand five hundred feet in depth:

18 (a) twenty-five hundred dollars per well, provided that the operator
19 shall not be required to provide financial security under this item
20 exceeding twenty-five thousand dollars for up to twenty-five wells;

21 (b) for twenty-six to fifty wells, twenty-five thousand dollars, plus
22 twenty-five hundred dollars per well in excess of twenty-five wells,
23 provided that the operator shall not be required to provide financial
24 security under this item exceeding forty thousand dollars;

25 (c) for fifty-one to one hundred wells, forty thousand dollars, plus
26 twenty-five hundred dollars per well in excess of fifty wells, provided
27 that the operator shall not be required to provide financial security
28 under this item exceeding seventy thousand dollars;

1 (d) for over one hundred wells, seventy thousand dollars, plus twen-
2 ty-five hundred dollars per well in excess of one hundred wells,
3 provided that the operator shall not be required to provide financial
4 security under this item exceeding one hundred thousand dollars.

5 (ii) for wells between two thousand five hundred feet and six thousand
6 feet in depth:

7 (a) five thousand dollars per well provided that the operator shall
8 not be required to provide financial security under this item exceeding
9 forty thousand dollars for up to twenty-five wells;

10 (b) for twenty-six to fifty wells, forty thousand dollars, plus five
11 thousand dollars per well in excess of twenty-five wells, provided that
12 the operator shall not be required to provide financial security under
13 this item exceeding sixty thousand dollars;

14 (c) for fifty-one to one hundred wells, sixty thousand dollars, plus
15 five thousand dollars per well in excess of fifty wells, provided that
16 the operator shall not be required to provide financial security under
17 this item exceeding one hundred fifty thousand dollars;

18 (d) for over one hundred wells, one hundred thousand dollars, plus
19 five thousand dollars per well in excess of one hundred wells, provided
20 that the operator shall not be required to provide financial security
21 under this item exceeding one hundred fifty thousand dollars].

22 (2) [In the event that an operator shall have wells described in
23 clauses (i) and (ii) of subparagraph (1) of this paragraph, in lieu of
24 providing financial security under the provisions of each such clause,
25 such operator may file financial security as if all such wells were
26 between two thousand five hundred feet and six thousand feet in depth.

27 (3) For wells greater than six thousand feet in depth, the operator
28 may be required to provide additional financial security consistent with

1 criteria contained in rules and regulation to be adopted to implement
2 this subparagraph] For all wells that require financial security, the
3 operator shall provide the department with financial security consistent
4 with criteria contained in rules and regulations, and any subsequent
5 rules and regulations adopted by the department to implement this arti-
6 cle. The department is authorized to adopt rules and regulations deter-
7 mining the amount, type, conditions, and terms of the financial
8 security.

9 § 4. Subdivision 14 of section 23-0305 of the environmental conserva-
10 tion law, as added by chapter 410 of the laws of 1987 and paragraph f as
11 amended by chapter 386 of the laws of 2005, is amended to read as
12 follows:

13 14. With respect to wells drilled deeper than five hundred feet below
14 the earth's surface for the purpose of conducting stratigraphic tests,
15 for finding or producing hot water or steam, for injecting fluids to
16 recover heat from the surrounding geologic materials or for the disposal
17 of brines, the department shall have the power to:

18 a. Require all exploration, drilling and development operations to be
19 conducted in accordance with standards promulgated by the department in
20 rules and regulations.

21 b. Conduct investigations to determine the extent of compliance with
22 this section and all rules, regulations and orders issued pursuant ther-
23 eto.

24 c. Classify [a well as one subject to] and reclassify wells or
25 affected lands as abandoned or orphaned, to wells or unrestored lands
26 regulated pursuant to titles 1, 3, 5, 7, 9, 11, 13 and 19 of this
27 [section] article and require [its] well identification as a geothermal,
28 stratigraphic or brine disposal well.

1 d. Require the drilling, casing, operation, plugging and replugging of
2 wells subject to this section and reclamation of surrounding land in
3 accordance with rules and regulations of the department.

4 e. Enter, take temporary possession of, repair, plug or replug any
5 abandoned or orphaned well [subject to this section] as provided in the
6 rules and regulations, whenever the well's owner or operator neglects or
7 refuses to comply with such rules and regulations. Such repairing, plug-
8 ging or replugging by the department shall be at the expense of the
9 owner or operator whose duty it shall be to repair or plug the well and
10 who shall hold harmless the state of New York for all accounts, damages,
11 costs and judgments arising from the repairing, plugging or replugging
12 of the well and the surface restoration of the affected land.

13 f. (1) Require that the operator furnish to the department, and
14 continuously maintain, a bond or other financial security conditioned
15 upon the satisfactory performance of the operator's plugging and surface
16 restoration responsibilities with respect to said [well] wells for which
17 the department shall have issued or shall issue permits to drill, deep-
18 en, convert or plug back or, for all wells subject to this article for
19 which requests for transfers of well operatorship, which includes plug-
20 ging and surface restoration responsibilities, are approved by the
21 department on or after the effective date of the chapter of the laws of
22 two thousand twenty that amended this paragraph. The failure of any
23 operator to maintain a bond or other financial security as prescribed
24 herein shall be deemed a breach of plugging and surface restoration
25 responsibilities and entitle the department to claim the proceeds of the
26 bond or other financial security. Such bond or other financial security
27 shall be for an amount as determined [pursuant to the provisions of

1 paragraph k of subdivision eight of this section] by and acceptable to
2 the department.

3 (2) For all wells that require financial security, the operator shall
4 provide the department with financial security consistent with criteria
5 contained in rules and regulations, and any subsequent rules and regu-
6 lations adopted by the department to implement this article. The depart-
7 ment is authorized to adopt rules and regulations determining the
8 amount, type, conditions, and terms of the financial security.

9 g. In addition to the powers provided for in titles one, three, five
10 and thirteen of article seventy-one of this chapter, order an immediate
11 suspension of operations carried on in violation of the oil, gas and
12 solution mining law or any rule or regulation promulgated thereunder or
13 order issued pursuant thereto.

14 h. Require the immediate reporting of any non-routine incident,
15 including but not limited to casing and drill pipe failures, casing
16 cement failures, fishing jobs, fires, seepages, blowouts and other inci-
17 dents during drilling, completion, producing, plugging or replugging
18 operations that may affect the health, safety, welfare or property of
19 any person or which may be injurious to plants or animals. The depart-
20 ment may require the operator or any agent thereof to record and provide
21 any data which the department believes may be of use for adequate evalu-
22 ation of a non-routine incident.

23 i. Require the taking and making of logs, samples, directional surveys
24 and reports on locations, elevations, drilling and production, and
25 further require filing of such information pursuant to the provisions of
26 the oil, gas and solution mining law. Upon the request of the state
27 geologist, the department shall cause such samples or copies of records
28 and reports to be furnished to the state geologist.

1 j. Give notice to persons engaged in underground mining operations of
2 the commencement of any phase of geothermal, stratigraphic and brine
3 disposal well operations which may affect the safety of such underground
4 mining operations or of the mining properties involved. The department
5 shall not be required to furnish any notice required by this paragraph
6 unless the person or persons engaged in underground mining operations or
7 having rights in mining properties have notified the department of the
8 existence and location of such underground mining operations or proper-
9 ties.

10 § 5. This act shall take effect immediately.

11 PART WW

12 Section 1. Subdivision 3 of section 23-0501 of the environmental
13 conservation law, as added by chapter 386 of the laws of 2005, is renun-
14 bered subdivision 4 and a new subdivision 3 is added to read as follows:

15 3. No permits shall be issued authorizing an applicant to drill, deep-
16 en, plug back, or convert wells that use high-volume hydraulic fractur-
17 ing to complete or recomplete natural gas resources. For purpose of this
18 section, high-volume hydraulic fracturing shall be defined as the stimu-
19 lation of a well using three hundred thousand or more gallons of water
20 as the base fluid for hydraulic fracturing for all stages in a well
21 completion, regardless of whether the well is vertical or directional,
22 including horizontal.

23 § 2. This act shall take effect immediately.

24 PART XX

1 Section 1. The vehicle and traffic law is amended by adding a new
2 section 102-c to read as follows:

3 § 102-c. Bicycle with electric assist. Every motor vehicle, including
4 one partially powered by human power, other than one registered or capa-
5 ble of being registered pursuant to this chapter as a motorcycle or
6 limited use motorcycle, having a seat or a saddle for the use of the
7 rider and designed to travel on two wheels which has an electric motor
8 no greater than seven hundred fifty watts, equipped with operable
9 pedals, meeting the equipment and manufacturing requirements for bicy-
10 cles adopted by the Consumer Product Safety Commission under 16 C.F.R.
11 Part 1512.1 et seq. and meeting the requirements of one of the following
12 three classes:

13 (a) "Class one bicycle with electric assist." A bicycle with electric
14 assist having an electric motor that provides assistance only when the
15 person operating such bicycle with electric assist is pedaling, and that
16 ceases to provide assistance when such bicycle with electric assist
17 reaches a speed of twenty miles per hour.

18 (b) "Class two bicycle with electric assist." A bicycle with electric
19 assist having an electric motor that may be used exclusively to propel
20 such bicycle with electric assist, and that is not capable of providing
21 assistance when such bicycle with electric assist reaches a speed of
22 twenty miles per hour.

23 (c) "Class three bicycle with electric assist." Solely within a city
24 having a population of one million or more, a bicycle with electric
25 assist having an electric motor that may be used exclusively to propel
26 such bicycle with electric assist, and that is not capable of providing
27 assistance when such bicycle with electric assist reaches a speed of
28 twenty-five miles per hour.

1 § 2. Section 125 of the vehicle and traffic law, as amended by chapter
2 365 of the laws of 2008, is amended to read as follows:

3 § 125. Motor vehicles. Every vehicle operated or driven upon a public
4 highway which is propelled by any power other than muscular power,
5 except (a) electrically-driven mobility assistance devices operated or
6 driven by a person with a disability, (a-1) electric personal assistive
7 mobility devices operated outside a city with a population of one
8 million or more, (a-2) bicycle with electric assist as defined in
9 section one hundred two-c of this article, (b) vehicles which run only
10 upon rails or tracks, (c) snowmobiles as defined in article forty-seven
11 of this chapter, and (d) all terrain vehicles as defined in article
12 forty-eight-B of this chapter. For the purposes of title four of this
13 chapter, the term motor vehicle shall exclude fire and police vehicles
14 other than ambulances. For the purposes of titles four and five of this
15 chapter the term motor vehicles shall exclude farm type tractors and all
16 terrain type vehicles used exclusively for agricultural purposes, or for
17 snow plowing, other than for hire, farm equipment, including self-pro-
18 pelled machines used exclusively in growing, harvesting or handling farm
19 produce, and self-propelled caterpillar or crawler-type equipment while
20 being operated on the contract site.

21 § 3. Subparagraph b of paragraph 1 of subdivision (a) of section 1202
22 of the vehicle and traffic law, as amended by chapter 679 of the laws of
23 1970, is amended to read as follows:

24 b. On a sidewalk, except a bicycle with electric assist as defined in
25 section one hundred two-c of this chapter;

26 § 4. The article heading of article 34 of the vehicle and traffic law,
27 as amended by chapter 694 of the laws of 1995, is amended to read as
28 follows:

1 OPERATION OF BICYCLES [AND], PLAY

2 DEVICES AND BICYCLES WITH ELECTRIC ASSIST

3 § 5. Section 1231 of the vehicle and traffic law, as amended by chap-
4 ter 694 of the laws of 1995, is amended to read as follows:

5 § 1231. Traffic laws apply to persons riding bicycles or skating or
6 gliding on in-line skates or persons operating bicycles with electric
7 assist; local laws. 1. Every person riding a bicycle or skating or

8 gliding on in-line skates upon a roadway shall be granted all of the
9 rights and shall be subject to all of the duties applicable to the driv-
10 er of a vehicle by this title, except as to special regulations in this
11 article and except as to those provisions of this title which by their
12 nature can have no application.

13 2. (a) Except as provided by local law, ordinance, order, rule or
14 regulation enacted or promulgated pursuant to paragraph (b) of this
15 subdivision, bicycles with electric assist may only be operated on
16 public highways with a posted speed limit of thirty miles per hour or
17 less, including non-interstate public highways, private roads open to
18 motor vehicle traffic, and designated bicycle or in-line skate lanes.

19 Every person operating a bicycle with electric assist upon a highway or
20 roadway shall be granted all of the rights and shall be subject to all
21 of the duties applicable to the driver of a vehicle by this title,
22 except as to special requirements in this article and except as to those
23 provisions of this title which by their nature can have no application.

24 (b) The governing body of any county, city, town or village may, by
25 local law, ordinance, order, rule or regulation, further regulate the
26 maximum speed, time, place and manner of the operation of a bicycle with
27 electric assist including requiring the use of protective headwear and
28 wearing readily visible reflective clothing or material, and limiting or

1 prohibiting the use thereof in specified areas under the jurisdiction of
2 such county, city, town or village or prohibit entirely the use of bicy-
3 cles with electric assist within such county, city, town or village.
4 Notwithstanding title eight of this chapter, the governing body of any
5 county, city, town or village shall not authorize the use of bicycles
6 with electric assist upon sidewalks or regulate the parking, standing or
7 stopping of bicycles with electric assist on sidewalks.

8 § 6. The vehicle and traffic law is amended by adding a new section
9 1232-a to read as follows:

10 § 1232-a. Operating bicycles with electric assist. 1. Every person
11 operating a bicycle with electric assist shall yield the right of way to
12 pedestrians.

13 2. Every operator of a bicycle with electric assist shall be sixteen
14 years of age or older.

15 3. The operation of a class three bicycle with electric assist outside
16 a city having a population of one million or more is prohibited.

17 4. No person shall operate a class one or class two bicycle with elec-
18 tric assist in excess of twenty miles per hour. No person shall operate
19 a class three bicycle with electric assist in excess of twenty-five
20 miles per hour.

21 5. No person shall operate a bicycle with electric assist on a side-
22 walk.

23 6. A first violation of the provisions of this section shall result in
24 no fine. A second or subsequent violation shall result in a civil fine
25 not to exceed fifty dollars.

26 § 7. Subdivision 1 of section 1233 of the vehicle and traffic law, as
27 amended by chapter 703 of the laws of 2004, is amended to read as
28 follows:

1 1. No person operating a bicycle with electric assist or riding upon
2 any bicycle, coaster, in-line skates, roller skates, skate board, sled,
3 or toy vehicle shall attach the same or himself or herself to any vehi-
4 cle being operated upon a roadway.

5 § 8. Section 1234 of the vehicle and traffic law, as amended by chap-
6 ter 16 of the laws of 1996, is amended to read as follows:

7 § 1234. Riding or operating on roadways, shoulders, bicycle or in-line
8 skate lanes [and], bicycle or in-line skate paths and lanes reserved
9 for non-motorized vehicles and devices. (a) Upon all roadways, any
10 bicycle, bicycle with electric assist or in-line skate shall be driven
11 or operated either on a usable bicycle or in-line skate lane or, if a
12 usable bicycle or in-line skate lane has not been provided, near the
13 right-hand curb or edge of the roadway or upon a usable right-hand
14 shoulder in such a manner as to prevent undue interference with the flow
15 of traffic except when preparing for a left turn or when reasonably
16 necessary to avoid conditions that would make it unsafe to continue
17 along near the right-hand curb or edge. Conditions to be taken into
18 consideration include, but are not limited to, fixed or moving objects,
19 vehicles, bicycles, in-line skates, pedestrians, animals, surface
20 hazards or traffic lanes too narrow for a bicycle, bicycle with electric
21 assist or person on in-line skates and a vehicle to travel safely side-
22 by-side within the lane.

23 (b) Persons riding bicycles or skating or gliding on in-line skates
24 upon a roadway shall not ride more than two abreast. Persons operating
25 bicycles with electric assist upon a roadway shall ride single file.
26 Persons riding bicycles or skating or gliding on in-line skates or oper-
27 ating a bicycle with electric assist upon a shoulder, bicycle or in-line
28 skate lane, or bicycle or in-line skates path, intended for the use of

1 bicycles, electric personal assistive mobility device, bicycles with
2 electric assist, or in-line skates may ride two or more abreast if
3 sufficient space is available, except that when passing a vehicle, bicy-
4 cle [or], electric personal assistive mobility device, bicycle with
5 electric assist, person on in-line skates, or pedestrian, standing or
6 proceeding along such shoulder, lane or path, persons riding bicycles,
7 operating bicycles with electric assist, or skating or gliding on
8 in-line skates shall ride, operate, skate, or glide single file. Persons
9 riding bicycles or skating or gliding on in-line skates upon a roadway
10 shall ride, skate, or glide single file when being overtaken by a vehi-
11 cle.

12 (c) Any person operating a bicycle, bicycle with electric assist or
13 skating or gliding on in-line skates who is entering the roadway from a
14 private road, driveway, alley or over a curb shall come to a full stop
15 before entering the roadway.

16 § 9. Section 1235 of the vehicle and traffic law, as amended by chap-
17 ter 703 of the laws of 2004, is amended to read as follows:

18 § 1235. Carrying articles. No person operating a bicycle shall carry
19 any package, bundle, or article which prevents the driver from keeping
20 at least one hand upon the handle bars. No person operating a bicycle
21 with electric assist shall carry any package, bundle or article which
22 prevents the operator from keeping at least one hand upon the handle
23 bars or which obstructs his or her vision. No person skating or gliding
24 on in-line skates shall carry any package, bundle, or article which
25 obstructs his or her vision in any direction. No person operating a
26 skate board shall carry any package, bundle, or article which obstructs
27 his or her vision in any direction.

1 § 10. Section 1236 of the vehicle and traffic law, subdivision (a) as
2 amended by chapter 16 of the laws of 2009 and subdivisions (d) and (e)
3 as added by chapter 887 of the laws of 1976, is amended to read as
4 follows:

5 § 1236. Lamps and other equipment on bicycles and bicycles with elec-
6 tric assist. (a) Every bicycle or bicycle with electric assist when in
7 use during the period from one-half hour after sunset to one-half hour
8 before sunrise shall be equipped with a lamp on the front which shall
9 emit a white light visible during hours of darkness from a distance of
10 at least five hundred feet to the front and with a red or amber light
11 visible to the rear for three hundred feet. Effective July first, nine-
12 teen hundred seventy-six, at least one of these lights shall be visible
13 for two hundred feet from each side.

14 (b) No person shall operate a bicycle or bicycle with electric assist
15 unless it is equipped with a bell or other device capable of giving a
16 signal audible for a distance of at least one hundred feet, except that
17 a bicycle or bicycle with electric assist shall not be equipped with nor
18 shall any person use upon a bicycle or bicycle with electric assist any
19 siren or whistle.

20 (c) Every bicycle shall be equipped with a brake which will enable the
21 operator to make the braked wheels skid on dry, level, clean pavement.
22 Every bicycle with electric assist shall be equipped with a system that
23 enables the operator to bring the device to a controlled stop.

24 (d) Every new bicycle shall be equipped with reflective tires or,
25 alternately, a reflex reflector mounted on the spokes of each wheel,
26 said tires and reflectors to be of types approved by the commissioner.
27 The reflex reflector mounted on the front wheel shall be colorless or

1 amber, and the reflex reflector mounted on the rear wheel shall be
2 colorless or red.

3 (e) Every bicycle when in use during the period from one-half hour
4 after sunset to one-half hour before sunrise shall be equipped with
5 reflective devices or material meeting the standards established by
6 rules and regulations promulgated by the commissioner; provided, howev-
7 er, that such standards shall not be inconsistent with or otherwise
8 conflict with the requirements of subdivisions (a) and (d) of this
9 section.

10 § 11. The section heading of section 1238 of the vehicle and traffic
11 law, as amended by chapter 267 of the laws of 1993, is amended to read
12 as follows:

13 Passengers on bicycles under one year of age prohibited; passengers
14 and operators under fourteen years of age to wear protective headgear;
15 operators of class three bicycles with electric assist to wear protec-
16 tive headgear.

17 § 12. Section 1238 of the vehicle and traffic law is amended by adding
18 a new subdivision 5-c to read as follows:

19 5-c. No person shall ride upon, propel or otherwise operate a class
20 three bicycle with electric assist unless such person is wearing a
21 helmet meeting standards established by the commissioner. For the
22 purposes of this subdivision, wearing a helmet means having a properly
23 fitting helmet fixed securely on the head of such wearer with the helmet
24 straps securely fastened.

25 § 13. Subdivision 6 of section 1238 of the vehicle and traffic law, as
26 added by chapter 267 of the laws of 1993, paragraph (a) as amended by
27 chapter 402 of the laws of 2001, and paragraph (c) as amended by chapter
28 703 of the laws of 2004, is amended to read as follows:

1 6. (a) Any person who violates the provisions of subdivision five,
2 five-a [or], five-b or five-c of this section shall pay a civil fine not
3 to exceed fifty dollars.

4 (b) The court shall waive any fine for which a person who violates the
5 provisions of subdivision five and subdivision five-c of this section
6 would be liable if such person supplies the court with proof that
7 between the date of violation and the appearance date for such violation
8 such person purchased or rented a helmet.

9 (c) The court may waive any fine for which a person who violates the
10 provisions of subdivision five, five-a, [or] five-b, or five-c of this
11 section would be liable if the court finds that due to reasons of
12 economic hardship such person was unable to purchase a helmet or due to
13 such economic hardship such person was unable to obtain a helmet from
14 the statewide in-line skate and bicycle helmet distribution program, as
15 established in section two hundred six of the public health law, or a
16 local distribution program. Such waiver of a fine shall not apply to a
17 second or subsequent conviction under subdivision five-c of this
18 section.

19 § 14. Subdivision 8 of section 1238 of the vehicle and traffic law, as
20 amended by chapter 694 of the laws of 1995, is amended to read as
21 follows:

22 8. A police officer shall only issue a summons for a violation of
23 subdivision two, five, [or] five-a, or five-c of this section by a
24 person less than fourteen years of age to the parent or guardian of such
25 person if the violation by such person occurs in the presence of such
26 person's parent or guardian and where such parent or guardian is eigh-
27 teen years of age or more. Such summons shall only be issued to such

1 parent or guardian, and shall not be issued to the person less than
2 fourteen years of age.

3 § 15. Section 1240 of the vehicle and traffic law, as added by chapter
4 468 of the laws of 2001, is amended to read as follows:

5 § 1240. Leaving the scene of an incident involving a wheeled non-mo-
6 torized means of conveyance or involving a bicycle with electric assist
7 without reporting in the second degree. 1. Any person age eighteen years
8 or older operating a wheeled non-motorized means of conveyance, includ-
9 ing, but not limited to bicycles, in-line skates, roller skates and
10 skate boards, or operating a bicycle with electric assist, who, knowing
11 or having cause to know, that physical injury, as defined in subdivision
12 nine of section 10.00 of the penal law, has been caused to another
13 person, due to the operation of such non-motorized means of conveyance
14 or bicycle with electric assist by such person, shall, before leaving
15 the place where the said physical injury occurred, stop, and provide his
16 name and residence, including street and street number, to the injured
17 party, if practical, and also to a police officer, or in the event that
18 no police officer is in the vicinity of the place of said injury, then
19 such person shall report said incident as soon as physically able to the
20 nearest police station or judicial officer.

21 2. Leaving the scene of an incident involving a wheeled non-motorized
22 means of conveyance or involving a bicycle with electric assist without
23 reporting in the second degree is a violation.

24 § 16. Section 1241 of the vehicle and traffic law, as added by chapter
25 468 of the laws of 2001, is amended to read as follows:

26 § 1241. Leaving the scene of an incident involving a wheeled non-mo-
27 torized means of conveyance or involving a bicycle with electric assist
28 without reporting in the first degree. 1. Any person age eighteen years

1 or older operating a wheeled non-motorized means of conveyance, includ-
2 ing, but not limited to bicycles, in-line skates, roller skates and
3 skate boards, or operating a bicycle with electric assist, who, knowing
4 or having cause to know, that serious physical injury, as defined in
5 subdivision ten of section 10.00 of the penal law, has been caused to
6 another person, due to the operation of such non-motorized means of
7 conveyance or bicycle with electric assist by such person, shall, before
8 leaving the place where the said serious physical injury occurred, stop,
9 and provide his name and residence, including street and street number,
10 to the injured party, if practical, and also to a police officer, or in
11 the event that no police officer is in the vicinity of the place of said
12 injury, then such person shall report said incident as soon as phys-
13 ically able to the nearest police station or judicial officer.

14 2. Leaving the scene of an incident involving a wheeled non-motorized
15 means of conveyance or involving a bicycle with electric assist without
16 reporting in the first degree is a class B misdemeanor.

17 § 17. The vehicle and traffic law is amended by adding a new section
18 1242 to read as follows:

19 § 1242. Operation of a bicycle with electric assist while under the
20 influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) No
21 person shall operate a bicycle with electric assist while his or her
22 ability to operate such bicycle with electric assist is impaired by the
23 consumption of alcohol.

24 (i) A violation of this subdivision shall be an offense and shall be
25 punishable by a fine of not less than three hundred dollars nor more
26 than five hundred dollars, or by imprisonment in a penitentiary or coun-
27 ty jail for not more than fifteen days, or by both such fine and impri-
28 sonment.

1 (ii) A person who operates a bicycle with electric assist in violation
2 of this subdivision after being convicted of a violation of any subdivi-
3 sion of this section within the preceding five years shall be punished
4 by a fine of not less than five hundred dollars nor more than seven
5 hundred fifty dollars, or by imprisonment of not more than thirty days
6 in a penitentiary or county jail or by both such fine and imprisonment.

7 (iii) A person who operates a bicycle with electric assist in
8 violation of this subdivision after being convicted two or more times of
9 a violation of any subdivision of this section within the preceding ten
10 years shall be guilty of a misdemeanor, and shall be punished by a fine
11 of not less than seven hundred fifty dollars nor more than fifteen
12 hundred dollars, or by imprisonment of not more than one hundred eighty
13 days in a penitentiary or county jail or by both such fine and imprison-
14 ment.

15 (b) No person shall operate a bicycle with electric assist while he or
16 she has .08 of one per centum or more by weight of alcohol in his or her
17 blood, breath, urine, or saliva, as determined by the chemical test made
18 pursuant to the provisions of subdivision five of this section.

19 (c) No person shall operate a bicycle with electric assist while he or
20 she is in an intoxicated condition.

21 (d) No person shall operate a bicycle with electric assist while his
22 or her ability to operate such bicycle with electric assist is impaired
23 by the use of a drug as defined by section one hundred fourteen-a of
24 this chapter.

25 (e) No person shall operate a bicycle with electric assist while his
26 or her ability to operate such bicycle with electric assist is impaired
27 by the combined influence of drugs or of alcohol and any drug or drugs
28 as defined by section one hundred fourteen-a of this chapter.

1 (f) (i) A violation of paragraph (b), (c), (d), or (e) of this subdivi-
2 vision shall be a misdemeanor and shall be punishable by imprisonment in
3 a penitentiary or county jail for not more than one year, or by a fine
4 of not less than five hundred dollars nor more than one thousand
5 dollars, or by both such fine and imprisonment.

6 (ii) A person who operates a bicycle with electric assist in violation
7 of paragraph (b), (c), (d) or (e) of this subdivision after having been
8 convicted of a violation of paragraph (b), (c), (d) or (e) of this
9 subdivision, or of operating a bicycle with electric assist while intox-
10 icated or while under the influence of drugs, or while under the
11 combined influence of drugs or of alcohol and any drug or drugs, within
12 the preceding ten years, shall be guilty of a class E felony and shall
13 be punished by a period of imprisonment as provided in the penal law, or
14 by a fine of not less than one thousand dollars nor more than five thou-
15 sand dollars, or by both such fine and imprisonment.

16 (iii) A person who operates a bicycle with electric assist in
17 violation of paragraph (b), (c), (d) or (e) of this subdivision after
18 having been twice convicted of a violation of any of such paragraph (b),
19 (c), (d) or (e) of this subdivision or of operating a bicycle with elec-
20 tric assist while intoxicated or under the influence of drugs, or while
21 under the combined influence of drugs or of alcohol and any drug or
22 drugs, within the preceding ten years, shall be guilty of a class D
23 felony and shall be punished by a fine of not less than two thousand
24 dollars nor more than ten thousand dollars or by a period of imprison-
25 ment as provided in the penal law, or by both such fine and imprison-
26 ment.

27 2. Sentencing limitations. Notwithstanding any provision of the penal
28 law, no judge or magistrate shall impose a sentence of unconditional

1 discharge or a violation of paragraph (b), (c), (d) or (e) of subdivi-
2 sion one of this section nor shall he or she impose a sentence of condi-
3 tional discharge unless such conditional discharge is accompanied by a
4 sentence of a fine as provided in this section.

5 3. Sentencing: previous convictions. When sentencing a person for a
6 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
7 section pursuant to subparagraph (ii) of paragraph (f) of subdivision
8 one of this section, the court shall consider any prior convictions the
9 person may have for a violation of subdivision two, two-a, three, four,
10 or four-a of section eleven hundred ninety-two of this title within the
11 preceding ten years. When sentencing a person for a violation of para-
12 graph (b), (c), (d) or (e) of subdivision one of this section pursuant
13 to subparagraph (iii) of paragraph (f) of subdivision one of this
14 section, the court shall consider any prior convictions the person may
15 have for a violation of subdivision two, two-a, three, four, or four-a
16 of section eleven hundred ninety-two of this title within the preceding
17 ten years. When sentencing a person for a violation of subparagraph
18 (ii) of paragraph (a) of subdivision one of this section, the court
19 shall consider any prior convictions the person may have for a violation
20 of any subdivision of section eleven hundred ninety-two of this title
21 within the preceding five years. When sentencing a person for a
22 violation of subparagraph (iii) of paragraph (a) of subdivision one of
23 this section, the court shall consider any prior convictions the person
24 may have for a violation of any subdivision of section eleven hundred
25 ninety-two of this title within the preceding ten years.

26 4. Arrest and testing. (a) Notwithstanding the provisions of section
27 140.10 of the criminal procedure law, a police officer may, without a
28 warrant, arrest a person, in case of a violation of any paragraph of

1 subdivision one of this section, if such violation is coupled with an
2 accident or collision in which such person is involved, which in fact
3 had been committed, though not in the police officer's presence, when he
4 or she has reasonable cause to believe that the violation was committed
5 by such person. For the purposes of this subdivision, police officer
6 shall also include a peace officer authorized to enforce this chapter
7 when the alleged violation constitutes a crime.

8 (b) Breath test for operators of bicycles with electric assist. Every
9 person operating a bicycle with electric assist which has been involved
10 in an accident or which is operated in violation of any of the
11 provisions of this section which regulate the manner in which a bicycle
12 with electric assist is to be properly operated shall, at the request of
13 a police officer, submit to a breath test to be administered by the
14 police officer. If such test indicates that such operator has consumed
15 alcohol, the police officer may request such operator to submit to a
16 chemical test in the manner set forth in subdivision five of this
17 section.

18 5. Chemical tests. (a) Any person who operates a bicycle with electric
19 assist shall be requested to consent to a chemical test of one or more
20 of the following: breath, blood, urine, or saliva for the purpose of
21 determining the alcoholic or drug content of his or her blood, provided
22 that such test is administered at the direction of a police officer: (i)
23 having reasonable cause to believe such person to have been operating in
24 violation of this subdivision or paragraph (a), (b), (c), (d) or (e) of
25 subdivision one of this section and within two hours after such person
26 has been placed under arrest for any such violation or (ii) within two
27 hours after a breath test as provided in paragraph (b) of subdivision
28 four of this section indicates that alcohol has been consumed by such

1 person and in accordance with the rules and regulations established by
2 the police force of which the officer is a member.

3 (b) For the purpose of this subdivision "reasonable cause" shall be
4 determined by viewing the totality of circumstances surrounding the
5 incident which, when taken together, indicate that the operator was
6 operating a bicycle with electric assist in violation of any paragraph
7 of subdivision one of this section. Such circumstances may include, but
8 are not limited to: evidence that the operator was operating a bicycle
9 with electric assist in violation of any provision of this chapter,
10 local law, ordinance, order, rule or regulation which regulates the
11 manner in which a bicycle with electric assist be properly operated at
12 the time of the incident; any visible indication of alcohol or drug
13 consumption or impairment by the operator; and other evidence surround-
14 ing the circumstances of the incident which indicates that the operator
15 has been operating a bicycle with electric assist while impaired by the
16 consumption of alcohol or drugs or was intoxicated at the time of the
17 incident.

18 6. Chemical test evidence. (a) Upon the trial of any such action or
19 proceeding arising out of actions alleged to have been committed by any
20 person arrested for a violation of any paragraph of subdivision one of
21 this section, the court shall admit evidence of the amount of alcohol or
22 drugs in the defendant's blood as shown by a test administered pursuant
23 to the provisions of subdivision five of this section.

24 (b) The following effect shall be given to evidence of blood alcohol
25 content, as determined by such tests, of a person arrested for a
26 violation of any paragraph of subdivision one of this section and who
27 was operating a bicycle with electric assist:

1 (i) evidence that there was .05 of one per centum or less by weight of
2 alcohol in such person's blood shall be prima facie evidence that the
3 ability of such person to operate a bicycle with electric assist was not
4 impaired by the consumption of alcohol, and that such person was not in
5 an intoxicated condition.

6 (ii) evidence that there was more than .05 of one per centum but less
7 than .07 of one per centum by weight of alcohol in such person's blood
8 shall be prima facie evidence that such person was not in an intoxicated
9 condition, but such evidence shall be relevant evidence but not be given
10 prima facie effect, in determining whether the ability of such person to
11 operate a bicycle with electric assist was impaired by the consumption
12 of alcohol.

13 (iii) evidence that there was .07 of one per centum or more but less
14 than .08 of one per centum by weight of alcohol in his or her blood
15 shall be prima facie evidence that such person was not in an intoxicated
16 condition, but such evidence shall be given prima facie effect in deter-
17 mining whether the ability of such person to operate a bicycle with
18 electric assist was impaired by the consumption of alcohol.

19 (c) Evidence of a refusal to submit to a chemical test or any portion
20 thereof shall be admissible in any trial or hearing provided the request
21 to submit to such a test was made in accordance with the provisions of
22 subdivision five of this section.

23 7. Limitations. (a) A bicycle with electric assist operator may be
24 convicted of a violation of paragraphs (a), (b), (c), (d) and (e) of
25 subdivision one of this section, notwithstanding that the charge laid
26 before the court alleged a violation of paragraph (b), (c), (d) or (e)
27 of subdivision one of this section, and regardless of whether or not
28 such condition is based on a plea of guilty.

1 (b) In any case wherein the charge laid before the court alleges a
2 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
3 section, any plea of guilty thereafter entered in satisfaction of such
4 charge must include at least a plea of guilty to the violation of the
5 provisions of one of the paragraphs of such subdivision one and no other
6 disposition by plea of guilty to any other charge in satisfaction of
7 such charge shall be authorized; provided, however, if the district
8 attorney upon reviewing the available evidence determines that the
9 charge of a violation of subdivision one of this section is not
10 warranted, he or she may consent, and the court may allow, a disposition
11 by plea of guilty to another charge in satisfaction of such charge.

12 8. Enforcement upon crash. Notwithstanding any provision of this
13 section, no part of this section may be enforced unless in conjunction
14 with a crash involving an operator of a bicycle with electric assist.
15 For the purposes of this subdivision, "crash" shall mean colliding with
16 a vehicle, person, building or other object.

17 § 18. This act shall take effect immediately.

18 PART YY

19 Section 1. Section 13 of part U1 of chapter 62 of the laws of 2003,
20 amending the vehicle and traffic law and other laws relating to increas-
21 ing certain motor vehicle transaction fees, as amended by section 1 of
22 part A of chapter 58 of the laws of 2017, is amended to read as follows:

23 § 13. This act shall take effect immediately; [provided however that
24 sections one through seven of this act, the amendments to subdivision 2
25 of section 205 of the tax law made by section eight of this act, and
26 section nine of this act shall expire and be deemed repealed on April 1,

1 2020; provided further, however, that the provisions of section eleven
2 of this act shall take effect April 1, 2004 and shall expire and be
3 deemed repealed on April 1, 2020].

4 § 2. Section 2 of part B of chapter 84 of the laws of 2002, amending
5 the state finance law relating to the costs of the department of motor
6 vehicles, as amended by section 2 of part A of chapter 58 of the laws of
7 2015, is amended to read as follows:

8 § 2. This act shall take effect April 1, 2002; provided, however, if
9 this act shall become a law after such date it shall take effect imme-
10 diately and shall be deemed to have been in full force and effect on and
11 after April 1, 2002[; provided further, however, that this act shall
12 expire and be deemed repealed on April 1, 2020].

13 § 3. This act shall take effect immediately.

14 PART ZZ

15 Section 1. Section 5 of chapter 751 of the laws of 2005, amending the
16 insurance law and the vehicle and traffic law relating to establishing
17 the accident prevention course internet technology pilot program, as
18 amended by section 3 of part D of chapter 58 of the laws of 2016, is
19 amended to read as follows:

20 § 5. This act shall take effect on the one hundred eightieth day after
21 it shall have become a law and shall expire and be deemed repealed April
22 1, [2020] 2022; provided that any rules and regulations necessary to
23 implement the provisions of this act on its effective date are author-
24 ized and directed to be completed on or before such date.

25 § 2. This act shall take effect immediately.

1

PART AAA

2 Section 1. The vehicle and traffic law is amended by adding a new
3 section 114-e to read as follows:

4 § 114-e. Electric scooter. Every two-wheeled device that is no more
5 than sixty inches in length, twenty-six inches in width, and fifty-five
6 inches in height, which is designed to transport one person sitting or
7 standing on the device and can be propelled by any power other than
8 muscular power.

9 § 2. Section 125 of the vehicle and traffic law, as amended by chapter
10 365 of the laws of 2008, is amended to read as follows:

11 § 125. Motor vehicles. Every vehicle operated or driven upon a public
12 highway which is propelled by any power other than muscular power,
13 except (a) electrically-driven mobility assistance devices operated or
14 driven by a person with a disability, (a-1) electric personal assistive
15 mobility devices operated outside a city with a population of one
16 million or more, (a-2) electric scooters, (b) vehicles which run only
17 upon rails or tracks, (c) snowmobiles as defined in article forty-seven
18 of this chapter, and (d) all terrain vehicles as defined in article
19 forty-eight-B of this chapter. For the purposes of title four of this
20 chapter, the term motor vehicle shall exclude fire and police vehicles
21 other than ambulances. For the purposes of titles four and five of this
22 chapter the term motor vehicles shall exclude farm type tractors and all
23 terrain type vehicles used exclusively for agricultural purposes, or for
24 snow plowing, other than for hire, farm equipment, including self-pro-
25 pelled machines used exclusively in growing, harvesting or handling farm
26 produce, and self-propelled caterpillar or crawler-type equipment while
27 being operated on the contract site.

1 § 3. Subparagraph b of paragraph 1 of subdivision (a) of section 1202
2 of the vehicle and traffic law, as amended by chapter 679 of the laws of
3 1970, is amended to read as follows:

4 b. On a sidewalk, except an electric scooter as defined in section one
5 hundred fourteen-e of this chapter;

6 § 4. The vehicle and traffic law is amended by adding a new article
7 34-D to read as follows:

8 ARTICLE 34-D

9 OPERATION OF ELECTRIC SCOOTERS

10 Section 1280. Effect of requirements.

11 1281. Traffic laws apply to persons operating electric scooters;
12 local laws.

13 1282. Operating electric scooters.

14 1283. Clinging to vehicles.

15 1284. Riding on roadways, shoulders and lanes reserved for non-
16 motorized vehicles and devices.

17 1285. Lamps and other equipment.

18 1286. Operators to wear protective headgear.

19 1287. Leaving the scene of an incident involving an electric
20 scooter without reporting.

21 1288. Operation of an electric scooter while under the influence
22 of alcohol or drugs.

23 § 1280. Effect of requirements. The parent of any child and the guard-
24 ian of any ward shall not authorize or knowingly permit any such child
25 or ward to violate any of the provisions of this article.

26 § 1281. Traffic laws apply to persons operating electric scooters;
27 local laws. 1. Electric scooters may only be operated on public highways
28 with a posted speed limit of thirty miles per hour or less, including

1 non-interstate public highways, private roads open to motor vehicle
2 traffic, and designated bicycle or in-line skate lanes. Every person
3 operating an electric scooter upon a highway or roadway shall be granted
4 all of the rights and shall be subject to all of the duties applicable
5 to the driver of a vehicle by this title, except as to special require-
6 ments in this article and except as to those provisions of this title
7 which by their nature can have no application.

8 2. The governing body of any county, city, town or village may, by
9 local law, ordinance, order, rule or regulation, further regulate the
10 maximum speed, time, place and manner of the operation of electric
11 scooters including requiring the use of protective headgear and wearing
12 readily visible reflective clothing or material, and limiting or prohib-
13 iting the use thereof in specified areas under the jurisdiction of such
14 county, city, town or village or prohibit entirely the use of electric
15 scooters within such county, city, town or village. Notwithstanding
16 title eight of this chapter, the governing body of any county, city,
17 town or village may not authorize the use of electric scooters upon
18 sidewalks and it may not regulate the parking, standing or stopping of
19 electric scooters on sidewalks.

20 § 1282. Operating electric scooters. 1. No electric scooter shall be
21 used to carry more than one person at one time. No person operating an
22 electric scooter shall carry any person as a passenger in a pack
23 fastened to the operator or fastened to such scooter.

24 2. No person operating an electric scooter shall carry any package,
25 bundle or article which prevents the operator from keeping at least one
26 hand upon the handle bars or which obstructs his or her vision in any
27 direction.

1 3. Every person operating an electric scooter shall yield the right of
2 way to pedestrians.

3 4. Every operator of an electric scooter shall be sixteen years of age
4 or older.

5 5. No person shall operate an electric scooter in excess of fifteen
6 miles per hour.

7 6. The operation of an electric scooter on a sidewalk is prohibited.

8 7. (a) The governing body of any county, city, town or village may, by
9 local law, ordinance, order, rule or regulation, authorize and regulate
10 shared electric scooter systems within such county, city, town or
11 village. No such shared systems shall operate within a city, town or
12 village except as authorized by such local law, ordinance, order, rule
13 or regulation. No such shared electric scooter system shall operate on
14 public highways in a county with a population of no less than one
15 million five hundred eighty-five thousand and no more than one million
16 five hundred eighty-seven thousand as of the two thousand ten decennial
17 census. For the purposes of this subdivision, the term shared electric
18 scooter system shall mean a network of self-service and publicly avail-
19 able electric scooters, and related infrastructure, in which an electric
20 scooter trip begins and/or ends on any public highway.

21 (b) Notwithstanding any other provision of law to the contrary, all
22 trip data, personal information, images, videos, and other recorded
23 images collected by any shared electric scooter system which is author-
24 ized to operate within a city, town or village pursuant to this section:

25 (i) shall be for the exclusive use of such shared electric scooter
26 system and shall not be sold, distributed or otherwise made available
27 for any commercial purpose and (ii) shall not be disclosed or otherwise
28 made accessible except: (1) to the person who is the subject of such

1 data, information or record; or (2) if necessary to comply with a lawful
2 court order, judicial warrant signed by a judge appointed pursuant to
3 article III of the United States constitution, or subpoena for individ-
4 ual data, information or records properly issued pursuant to the crimi-
5 nal procedure law or the civil practice law and rules. Provided, howev-
6 er, that nothing contained in this paragraph shall be deemed to preclude
7 the exchange of such data, information or recorded images solely for the
8 purpose of administering such authorized shared system.

9 8. A first violation of the provisions of this section shall result in
10 no fine. A second or subsequent violation shall result in a civil fine
11 not to exceed fifty dollars.

12 § 1283. Clinging to vehicles. 1. No person operating an electric
13 scooter shall attach such scooter, or himself or herself to any vehicle
14 being operated upon a roadway.

15 2. No vehicle operator shall knowingly permit any person to attach any
16 electric scooter or himself or herself to such operator's vehicle in
17 violation of subdivision one of this section.

18 § 1284. Riding on roadways, shoulders and lanes reserved for non-mo-
19 torized vehicles and devices. 1. Upon all roadways, any electric scooter
20 shall be operated either on a usable bicycle or in-line skate lane or,
21 if a usable bicycle or in-line skate lane has not been provided, near
22 the right-hand curb or edge of the roadway or upon a usable right-hand
23 shoulder in such a manner as to prevent undue interference with the flow
24 of traffic except when preparing to turn left at an intersection or when
25 reasonably necessary to avoid conditions that would make it unsafe to
26 continue along near the right-hand curb or edge of the roadway. Condi-
27 tions to be taken into consideration include, but are not limited to,
28 fixed or moving objects, vehicles, bicycles, in-line skaters, pedestri-

1 ans, animals, surface hazards and traffic lanes too narrow for an elec-
2 tric scooter and a vehicle to travel safely side-by-side within the
3 lane.

4 2. Persons operating electric scooters upon a roadway shall ride
5 single file. Persons operating electric scooters upon a shoulder, bicy-
6 cle or in-line skate lane, or bicycle or in-line skate path, intended
7 for the use of bicycles, electric personal assistive mobility devices,
8 electric scooters, or in-line skates may ride two or more abreast if
9 sufficient space is available, except that when passing a vehicle, bicy-
10 cle, electric personal assistive mobility device, electric scooter,
11 person on in-line skates or pedestrian standing or proceeding along such
12 shoulder, lane or path, persons operating electric scooters shall oper-
13 ate such scooter in single file.

14 3. Any person operating an electric scooter who is entering the road-
15 way from a private road, driveway, alley or over a curb shall come to a
16 full stop before entering the roadway.

17 § 1285. Lamps and other equipment. 1. Every electric scooter when in
18 use during the period from one-half hour after sunset to one-half hour
19 before sunrise shall be equipped with a lamp on the front which shall
20 emit a white light visible during hours of darkness from a distance of
21 at least five hundred feet to the front and with a red light visible to
22 the rear for three hundred feet. At least one of these lights shall be
23 visible for two hundred feet from each side.

24 2. No person shall operate an electric scooter unless it is equipped
25 with a bell or other device capable of giving a signal audible for a
26 distance of at least one hundred feet, except that such scooter shall
27 not be equipped with nor shall any person use upon such scooter any
28 siren or whistle.

1 3. Every electric scooter shall be equipped with a system that enables
2 the operator to bring the device to a controlled stop.

3 § 1286. Operators to wear protective headgear. 1. No person sixteen or
4 seventeen years of age shall ride upon, propel or otherwise operate an
5 electric scooter unless such person is wearing a helmet meeting stand-
6 ards established by the commissioner pursuant to the provisions of
7 subdivision two-a of section twelve hundred thirty-eight of this title.
8 As used in this subdivision, wearing a helmet means having a properly
9 fitting helmet fixed securely on the head of such wearer with the helmet
10 straps securely fastened.

11 2. Any person who violates the provisions of subdivision one of this
12 section shall pay a civil fine not to exceed fifty dollars.

13 3. The court shall waive any fine for which a person who violates the
14 provisions of subdivision one of this section would be liable if such
15 person supplies the court with proof that between the date of violation
16 and the appearance date for such violation such person purchased or
17 rented a helmet, which meets the requirements of subdivision one of this
18 section, or if the court finds that due to reasons of economic hardship
19 such person was unable to purchase a helmet or due to such economic
20 hardship such person was unable to obtain a helmet from the statewide
21 in-line skate and bicycle helmet distribution program, as established in
22 section two hundred six of the public health law or a local distribution
23 program. Such waiver of fine shall not apply to a second or subsequent
24 conviction under subdivision one of this section.

25 4. The failure of any person to comply with the provisions of this
26 section shall not constitute contributory negligence or assumption of
27 risk, and shall not in any way bar, preclude or foreclose an action for

1 personal injury or wrongful death by or on behalf of such person, nor in
2 any way diminish or reduce the damages recoverable in any such action.

3 § 1287. Leaving the scene of an incident involving an electric scooter
4 without reporting. 1. (a) Any person eighteen years of age or older
5 operating an electric scooter who, knowing or having cause to know, that
6 physical injury, as defined in subdivision nine of section 10.00 of the
7 penal law, has been caused to another person, due to the operation of
8 such electric scooter by such person shall, before leaving the place
9 where such physical injury occurred, stop and provide his or her name
10 and residence, including street and street number, to the injured party,
11 if practical, and also to a police officer, or in the event that no
12 police officer is in the vicinity of the place of said injury, then such
13 person shall report said incident as soon as physically able to the
14 nearest police station or judicial officer.

15 (b) A violation of paragraph (a) of this subdivision shall be a
16 violation.

17 2. (a) Any person eighteen years of age or older operating an electric
18 scooter who, knowing or having cause to know, that serious physical
19 injury, as defined in subdivision ten of section 10.00 of the penal law,
20 has been caused to another person, due to the operation of such electric
21 scooter by such person shall, before leaving the place where such seri-
22 ous physical injury occurred, stop and provide his or her name and resi-
23 dence, including street and street number, to the injured party, if
24 practical, and also to a police officer, or in the event that no police
25 officer is in the vicinity of the place of said injury, then such person
26 shall report said incident as soon as physically able to the nearest
27 police station or judicial officer.

1 (b) A violation of paragraph (a) of this subdivision shall be a class
2 B misdemeanor.

3 § 1288. Operation of an electric scooter while under the influence of
4 alcohol or drugs. 1. Offenses; criminal penalties. (a) No person shall
5 operate an electric scooter while his or her ability to operate such
6 electric scooter is impaired by the consumption of alcohol.

7 (i) A violation of this subdivision shall be an offense and shall be
8 punishable by a fine of not less than three hundred dollars nor more
9 than five hundred dollars, or by imprisonment in a penitentiary or coun-
10 ty jail for not more than fifteen days, or by both such fine and impri-
11 sonment.

12 (ii) A person who operates an electric scooter in violation of this
13 subdivision after being convicted of a violation of any subdivision of
14 this section within the preceding five years shall be punished by a fine
15 of not less than five hundred dollars nor more than seven hundred fifty
16 dollars, or by imprisonment of not more than thirty days in a penitenti-
17 ary or county jail or by both such fine and imprisonment.

18 (iii) A person who operates an electric scooter in violation of this
19 subdivision after being convicted two or more times of a violation of
20 any subdivision of this section within the preceding ten years shall be
21 guilty of a misdemeanor, and shall be punished by a fine of not less
22 than seven hundred fifty dollars nor more than fifteen hundred dollars,
23 or by imprisonment of not more than one hundred eighty days in a peni-
24 tentiary or county jail or by both such fine and imprisonment.

25 (b) No person shall operate an electric scooter while he or she has
26 .08 of one per centum or more by weight of alcohol in his or her blood,
27 breath, urine, or saliva, as determined by the chemical test made pursu-
28 ant to the provisions of subdivision five of this section.

1 (c) No person shall operate an electric scooter while he or she is in
2 an intoxicated condition.

3 (d) No person shall operate an electric scooter while his or her abil-
4 ity to operate such electric scooter is impaired by the use of a drug as
5 defined by section one hundred fourteen-a of this chapter.

6 (e) No person shall operate an electric scooter while his or her abil-
7 ity to operate such electric scooter is impaired by the combined influ-
8 ence of drugs or of alcohol and any drug or drugs as defined by section
9 one hundred fourteen-a of this chapter.

10 (f)(i) A violation of paragraph (b), (c), (d) or (e) of this subdivi-
11 sion shall be a misdemeanor and shall be punishable by imprisonment in a
12 penitentiary or county jail for not more than one year, or by a fine of
13 not less than five hundred dollars nor more than one thousand dollars,
14 or by both such fine and imprisonment.

15 (ii) A person who operates an electric scooter in violation of para-
16 graph (b), (c), (d) or (e) of this subdivision after having been
17 convicted of a violation of paragraph (b), (c), (d) or (e) of this
18 subdivision, or of operating an electric scooter while intoxicated or
19 while under the influence of drugs, or while under the combined influ-
20 ence of drugs or of alcohol and any drug or drugs, within the preceding
21 ten years, shall be guilty of a class E felony and shall be punished by
22 a period of imprisonment as provided in the penal law, or by a fine of
23 not less than one thousand dollars nor more than five thousand dollars,
24 or by both such fine and imprisonment.

25 (iii) A person who operates an electric scooter in violation of para-
26 graph (b), (c), (d) or (e) of this subdivision after having been twice
27 convicted of a violation of any of such paragraph (b), (c), (d) or (e)
28 of this subdivision or of operating an electric scooter while intoxicat-

1 ed or under the influence of drugs, or while under the combined influ-
2 ence of drugs or of alcohol and any drug or drugs, within the preceding
3 ten years, shall be guilty of a class D felony and shall be punished by
4 a fine of not less than two thousand dollars nor more than ten thousand
5 dollars or by a period of imprisonment as provided in the penal law, or
6 by both such fine and imprisonment.

7 2. Sentencing limitations. Notwithstanding any provision of the penal
8 law, no judge or magistrate shall impose a sentence of unconditional
9 discharge for a violation of paragraph (b), (c), (d) or (e) of subdivi-
10 sion one of this section nor shall he or she impose a sentence of condi-
11 tional discharge unless such conditional discharge is accompanied by a
12 sentence of a fine as provided in this section.

13 3. Sentencing; previous convictions. When sentencing a person for a
14 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
15 section pursuant to subparagraph (ii) of paragraph (f) of subdivision
16 one of this section, the court shall consider any prior convictions the
17 person may have for a violation of subdivision two, two-a, three, four,
18 or four-a of section eleven hundred ninety-two of this title within the
19 preceding ten years. When sentencing a person for a violation of para-
20 graph (b), (c), (d) or (e) of subdivision one of this section pursuant
21 to subparagraph (iii) of paragraph (f) of subdivision one of this
22 section, the court shall consider any prior convictions the person may
23 have for a violation of subdivision two, two-a, three, four, or four-a
24 of section eleven hundred ninety-two of this title within the preceding
25 ten years. When sentencing a person for a violation of subparagraph (ii)
26 of paragraph (a) of subdivision one of this section, the court shall
27 consider any prior convictions the person may have for a violation of
28 any subdivision of section eleven hundred ninety-two of this title with-

1 in the preceding five years. When sentencing a person for a violation of
2 subparagraph (iii) of paragraph (a) of subdivision one of this section,
3 the court shall consider any prior convictions the person may have for a
4 violation of any subdivision of section eleven hundred ninety-two of
5 this title within the preceding ten years.

6 4. Arrest and testing. (a) Notwithstanding the provisions of section
7 140.10 of the criminal procedure law, a police officer may, without a
8 warrant, arrest a person, in case of a violation of any paragraph of
9 subdivision one of this section, if such violation is coupled with an
10 accident or collision in which such person is involved, which in fact
11 had been committed, though not in the police officer's presence, when he
12 or she has reasonable cause to believe that the violation was committed
13 by such person. For the purposes of this subdivision police officer
14 shall also include a peace officer authorized to enforce this chapter
15 when the alleged violation constitutes a crime.

16 (b) Breath test for operators of electric scooters. Every person
17 operating an electric scooter which has been involved in an accident or
18 which is operated in violation of any of the provisions of this section
19 which regulate the manner in which an electric scooter is to be properly
20 operated shall, at the request of a police officer, submit to a breath
21 test to be administered by the police officer. If such test indicates
22 that such operator has consumed alcohol, the police officer may request
23 such operator to submit to a chemical test in the manner set forth in
24 subdivision five of this section.

25 5. Chemical tests. (a) Any person who operates an electric scooter
26 shall be requested to consent to a chemical test of one or more of the
27 following: breath, blood, urine, or saliva for the purpose of determin-
28 ing the alcoholic or drug content of his or her blood, provided that

1 such test is administered at the direction of a police officer: (i)
2 having reasonable cause to believe such person to have been operating in
3 violation of this subdivision or paragraph (a), (b), (c), (d) or (e) of
4 subdivision one of this section and within two hours after such person
5 has been placed under arrest for any such violation or (ii) within two
6 hours after a breath test as provided in paragraph (b) of subdivision
7 four of this section indicates that alcohol has been consumed by such
8 person and in accordance with the rules and regulations established by
9 the police force of which the officer is a member.

10 (b) For the purpose of this subdivision "reasonable cause" shall be
11 determined by viewing the totality of circumstances surrounding the
12 incident which, when taken together, indicate that the operator was
13 operating an electric scooter in violation of any paragraph of subdivi-
14 sion one of this section. Such circumstances may include, but are not
15 limited to: evidence that the operator was operating an electric scooter
16 in violation of any provision of this chapter, local law, ordinance,
17 order, rule or regulation which regulates the manner in which an elec-
18 tric scooter be properly operated at the time of the incident; any visi-
19 ble indication of alcohol or drug consumption or impairment by the oper-
20 ator; and other evidence surrounding the circumstances of the incident
21 which indicates that the operator has been operating an electric scooter
22 while impaired by the consumption of alcohol or drugs or was intoxicated
23 at the time of the incident.

24 6. Chemical test evidence. (a) Upon the trial of any such action or
25 proceeding arising out of actions alleged to have been committed by any
26 person arrested for a violation of any paragraph of subdivision one of
27 this section, the court shall admit evidence of the amount of alcohol or

1 drugs in the defendant's blood as shown by a test administered pursuant
2 to the provisions of subdivision five of this section.

3 (b) The following effect shall be given to evidence of blood alcohol
4 content, as determined by such tests, of a person arrested for a
5 violation of any paragraph of subdivision one of this section and who
6 was operating an electric scooter:

7 (i) evidence that there was .05 of one per centum or less by weight of
8 alcohol in such person's blood shall be prima facie evidence that the
9 ability of such person to operate an electric scooter was not impaired
10 by the consumption of alcohol, and that such person was not in an intox-
11 icated condition.

12 (ii) evidence that there was more than .05 of one per centum but less
13 than .07 of one per centum by weight of alcohol in such person's blood
14 shall be prima facie evidence that such person was not in an intoxicated
15 condition, but such evidence shall be relevant evidence but not be given
16 prima facie effect, in determining whether the ability of such person to
17 operate an electric scooter was impaired by the consumption of alcohol.

18 (iii) evidence that there was .07 of one per centum or more but less
19 than .08 of one per centum by weight of alcohol in his or her blood
20 shall be prima facie evidence that such person was not in an intoxicated
21 condition, but such evidence shall be given prima facie effect in deter-
22 mining whether the ability of such person to operate an electric scooter
23 was impaired by the consumption of alcohol.

24 (c) Evidence of a refusal to submit to a chemical test or any portion
25 thereof shall be admissible in any trial or hearing provided the request
26 to submit to such a test was made in accordance with the provisions of
27 subdivision five of this section.

1 7. Limitations. (a) An electric scooter operator may be convicted of a
2 violation of paragraphs (a), (b), (d) and (e) of subdivision one of this
3 section, notwithstanding that the charge laid before the court alleged a
4 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
5 section, and regardless of whether or not such condition is based on a
6 plea of guilty.

7 (b) In any case wherein the charge laid before the court alleges a
8 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
9 section, any plea of guilty thereafter entered in satisfaction of such
10 charge must include at least a plea of guilty to the violation of the
11 provisions of one of the paragraphs of subdivision one of this section
12 and no other disposition by plea of guilty to any other charge in satis-
13 faction of such charge shall be authorized; provided, however, if the
14 district attorney upon reviewing the available evidence determines that
15 the charge of a violation of subdivision one of this section is not
16 warranted, he or she may consent, and the court may allow, a disposition
17 by a plea of guilty to another charge in satisfaction of such charge.

18 8. Enforcement upon crash. Notwithstanding any provision of this
19 section, no part of this section may be enforced unless in conjunction
20 with a crash involving an operator of an electric scooter. For the
21 purposes of this subdivision, crash shall mean falling to the ground or
22 colliding with a vehicle, person, building or other object.

23 § 5. This act shall take effect immediately.

24 PART BBB

25 Section 1. Section 410 of the economic development law is REPEALED.

1 § 2. Section 3102-b of public authorities law, as added by chapter 562
2 of the laws of 1982 and as renumbered by chapter 291 of the laws of
3 1990, the opening paragraph as amended by chapter 616 of the laws of
4 1991, paragraph (a) of subdivision 1, subdivision 3 and paragraph (a) of
5 subdivision 6 as amended by chapter 191 of the laws of 2010, subdivi-
6 sions 5 and 6 as added by chapter 828 of the laws of 1987, is amended to
7 read as follows:

8 § 3102-b. Centers for advanced technology. In order to encourage
9 greater collaboration between private industry and the universities of
10 the state in the development and application of new technologies, the
11 [foundation] department of economic development (hereinafter "depart-
12 ment") is authorized to designate for advanced technology such areas as
13 integrated electronics, optics, biotechnology, telecommunications, auto-
14 mation and robotics, electronics packaging, imaging technology and
15 others identified by the [foundation] department as having significant
16 potential for economic growth in New York, or in which the application
17 of new technologies could significantly enhance the productivity and
18 stability of New York businesses. Such designations shall be made in
19 accordance with the standards and criteria set forth in subdivision two
20 of this section. Centers so designated shall be eligible for support
21 from the [foundation] department in the manner provided for in subdivi-
22 sion three of this section, and for such additional support as may
23 otherwise be provided by law.

24 1. As used in this section:

25 (a) "center for advanced technology" or "center" means a university or
26 university-affiliated research institute or a consortium of such insti-
27 tutions, designated by the [foundation] department, which conducts a
28 continuing program of basic and applied research, development, and tech-

1 nology commercialization in one or more technological areas, in collab-
2 oration with and through the support of private business and industry;
3 and

4 (b) "applicant" means a university or university-affiliated research
5 institute or a consortium of such institutions which request designation
6 as a center in accordance with such requirements as are established by
7 the [foundation] department for this purpose. For the purposes of this
8 subdivision, universities, university-affiliated research institutes or
9 a consortium of such institutions designated as centers of excellence
10 under section four hundred ten of the economic development law at the
11 time of the effective date of the chapter of the laws of two thousand
12 twenty that amended this subdivision may apply for designation as
13 centers for advanced technology.

14 2. The [foundation] department shall:

15 (a) identify technological areas for which centers should be desig-
16 nated including technological areas that are related to industries with
17 significant potential for economic growth and development in New York
18 state and technological areas that are related to the enhancement of
19 productivity in various industries located in New York state.

20 (b) establish criteria that applicants must satisfy for designation as
21 a center, including, but not limited to the following:

22 (i) an established record of research, development and instruction in
23 the area or areas of technology involved;

24 (ii) the capacity to conduct research and development activities in
25 collaboration with business and industry;

26 (iii) the capacity to secure substantial private and other govern-
27 mental funding for the proposed center, in amounts at least equal to the
28 total of support sought from the state;

1 (iv) the ability and willingness to cooperate with other institutions
2 in the state in conducting research and development activities, and in
3 disseminating research results; and to work with technical and community
4 colleges in the state to enhance the quality of technical education in
5 the area or areas of technology involved;

6 (v) the ability and willingness to cooperate with the [foundation]
7 department and other economic development agencies in promoting the
8 growth and development in New York state of industries based upon or
9 benefiting from the area or areas of technology involved.

10 (c) establish such requirements as it deems appropriate for the
11 format, content and filing of applications for designation as centers
12 for advanced technology.

13 (d) establish such procedures as it deems appropriate for the evalu-
14 ation of applications for designation as centers for advanced technolo-
15 gy, including the establishment of peer review panels composed of
16 nationally recognized experts in the technological areas and industries
17 to which the application is related.

18 3. (a) From such funds as may be appropriated for this purpose by the
19 legislature, the [foundation] department may provide financial support,
20 through contracts or other means, to designated centers for advanced
21 technology, in order to enhance and accelerate the development of such
22 centers. Funds received pursuant to this subdivision may be used for
23 purchase of equipment and fixtures, employment of faculty and support
24 staff, provision of graduate fellowships, and other purposes approved by
25 the [foundation] department, but may not be used for capital
26 construction. In each case, the amount provided by the [foundation]
27 department to a center shall be matched by commitments of support from
28 private and governmental other than state sources provided that:

1 (i) funds or in-kind resources provided by the public or private
2 university of which the center is a part may be counted towards the
3 match;

4 (ii) such match shall not be required on a project-by-project basis;

5 (iii) matching funds received from businesses with no more than one
6 hundred employees shall count as double the actual dollar amount toward
7 the center's overall match requirement;

8 (iv) funds used by the center for any workforce development activities
9 required by the [foundation] department shall not be included as part of
10 the center's award when determining the amount of matching funds
11 required by the [foundation] department. Such activities shall include,
12 but are not limited to, helping incumbent workers expand their skill
13 sets through short courses, seminars, and workshops; providing indus-
14 try-driven research assistant opportunities for students, and aiding in
15 the development of undergraduate and graduate courses in the center's
16 technology focus to help ensure that students are trained to meet the
17 needs of industry;

18 (v) centers may use not more than twenty-five percent of indirect
19 costs towards any match requirements.

20 (b) The amount provided by the [foundation] department shall be made
21 in accordance with the following:

22 (i) for the academic year in which it is first funded as a designated
23 center, and the five subsequent years, the amount provided by the [foun-
24 dation] department to a center shall be matched equally by the center;

25 (ii) beginning in the sixth academic year following the academic year
26 in which a center is first funded as a designated center and for each
27 academic year thereafter, amounts provided by the [foundation] depart-
28 ment of up to seven hundred fifty thousand dollars shall be matched

1 equally by the center, amounts in excess of seven hundred fifty thousand
2 dollars shall be matched by the center in amounts of at least the
3 percentage set forth herein: in the sixth year, one hundred twenty
4 percent; in the seventh year, one hundred forty percent; in the eighth
5 year, one hundred sixty percent; in the ninth year, one hundred eighty
6 percent; in the tenth year and each year thereafter, two hundred
7 percent;

8 (iii) beginning in the ninth academic year following the academic year
9 in which a center is first funded as a designated center, the [founda-
10 tion] department shall evaluate such center's area of advanced technolo-
11 gy to determine whether it has continued significant potential for
12 enhancing economic growth in New York, or whether the application of
13 technologies in the area could significantly enhance the productivity
14 and stability of New York businesses;

15 (iv) upon a finding by the [foundation] department that an area of
16 advanced technology has continued significant potential for enhancing
17 economic growth in New York, or that the application of technologies in
18 the area could significantly enhance the productivity and stability of
19 New York businesses, the [foundation] department will initiate a redesi-
20 gnation process in accordance with the standards and criteria set forth
21 in paragraph (b) of subdivision two and in accordance with paragraphs
22 (c) and (d) of subdivision two of this section.

23 (1) In the event a new center is selected in the redesignation proc-
24 ess, the [foundation] department shall provide funds to such new center
25 in accordance with the funding match requirements set forth in subpara-
26 graphs (i) and (ii) of paragraph (a) of this subdivision.

27 (2) In the event a previously designated center is redesignated in the
28 same area of technology, which redesignation is effective for the tenth

1 academic year following the first academic year of both designation and
2 funding, then, in that year and in each year thereafter, the [founda-
3 tion] department shall provide funds of up to seven hundred fifty thou-
4 sand dollars to be matched equally by the center, amounts in excess of
5 seven hundred fifty thousand dollars shall be matched by the center in
6 amounts of at least two hundred percent.

7 (3) In the event a currently designated center is not selected in the
8 redesignation process for an additional term, or upon a finding by the
9 [foundation] department that the area of advanced technology does not
10 have significant potential for enhancing economic growth in New York, or
11 upon a finding that the application of technologies in that area would
12 not significantly enhance the productivity and stability of New York
13 businesses, then the [foundation] department shall, in the tenth academ-
14 ic year following such center's first both designation and funding,
15 which year shall be the final year of funding for such center, provide
16 an amount of up to five hundred thousand dollars.

17 (c) Continued funding of the operations of each center shall be based
18 upon a showing that: the center continues to comply with the criteria
19 established by the [foundation] department pursuant to paragraph (b) of
20 subdivision two of this section; a demonstration of assistance to small
21 businesses in New York state through research, technology transfer or
22 other means as approved by the [foundation] department; evidence of
23 partnerships with other appropriate entities to develop outreach
24 networks and ensure that companies receive access to appropriate federal
25 funding for technology development and commercialization as well as
26 non-research assistance such as general business consulting. Appropriate
27 partners are those with which the center demonstrates a relationship
28 that enhances and advances the center's ability to aid economic growth

1 in New York state; and compliance with the rules, regulations and guide-
2 lines of the [foundation] department; and, compliance with any contracts
3 between the [foundation] department and the designated center.

4 (d) Each center shall report on its activities to the [foundation]
5 department in a manner and according to the schedule established by the
6 [foundation] department, and shall provide such additional information
7 as the [foundation] department may require provided, that quantifiable
8 economic development impact measures are not restricted to any period
9 less than five years and that centers provide a full description of all
10 non-quantifiable measures. The [foundation] department shall evaluate
11 center operations using methods such as site visits, reporting of speci-
12 fied information and peer review evaluations using experts in the field
13 of technology in which the center was designated. The [foundation]
14 department shall notify each center of the results of its evaluations
15 and findings of deficiencies in the operation of such center or its
16 research, education, or technology commercialization activities and
17 shall work with such centers to remedy such findings. If such factors
18 are not remedied, the [foundation] department may withdraw the state
19 funding support, in whole or in part, or withdraw the center desig-
20 nation.

21 (e) In order to encourage that the results of center research benefit
22 New York state, designation and continued funding of each center shall
23 be contingent upon each center's establishing within its licensing
24 guidelines the following: after payment of the inventor's share, a
25 reduced payment due to the university of any royalty, income or other
26 consideration earned from the license or sale of intellectual property
27 rights created or developed at, or through the use of, the facilities of
28 the center by any person or entity if the manufacturing or use resulting

1 from such intellectual property rights occurs within New York state. The
2 [foundation] department shall promulgate rules and regulations regarding
3 the provisions of the licensing guidelines described herein as they
4 apply to such reduced payment, and such provisions shall be subject to
5 the approval of the [foundation] department.

6 4. From such funds as may be appropriated for this purpose by the
7 legislature, the [foundation] department may provide grants to any one
8 university or university-affiliated research institution for purposes of
9 planning and program development aimed at enabling such university or
10 university-affiliated research institution to qualify for designation as
11 a center. Such grants shall be awarded on a competitive basis, and shall
12 be available only to those applicants which in the judgment of the
13 [foundation] department may reasonably be expected to be designated as
14 centers. No applicant shall receive more than one such grant.

15 5. (a) From such funds as may be appropriated for the purpose of
16 incentive grants or other funds which may be available from the [founda-
17 tion] department to enhance center activities in areas of crucial inter-
18 est in the state's economic development, the [foundation] department may
19 provide grants, on a competitive basis, to centers for projects includ-
20 ing, but not limited to, those which:

21 (i) explore new technologies with commercial application conducted
22 jointly by two or more centers or a center and non-center university,
23 college or community college;

24 (ii) are aimed at enhancing or accelerating the process of bringing
25 new products, particularly those under development by new small busi-
26 nesses, to the marketplace; or

1 (iii) increase technology transfer projects with the state's mature
2 manufacturing industries in applying technology in their manufacturing
3 processes or for new product development.

4 (b) State support for incentive grants may be matched on an individual
5 basis by the [foundation] department, which may consider the type of
6 project and the availability of amounts from private, university and
7 governmental, other than state, sources.

8 6. (a) The [foundation] department shall make an annual report of the
9 centers for advanced technology program to the governor and the legisla-
10 ture not later than September first of each year. Such report shall
11 include, but not be limited to, the results of the [foundation's]
12 department's evaluation of each center, a description of the achievement
13 of each center, any deficiencies in the operation of each center or its
14 research, education and technology commercialization activities, remedi-
15 al actions recommended by the [foundation] department, remedial actions
16 taken by each center, a description of the small business assistance
17 provided by each center, a description of any incentive grant program
18 awarded a grant by the [foundation] department and the achievements of
19 such program, and the amount of financial assistance provided by the
20 [foundation] department and the level of matching funds provided by each
21 center and the uses of such monies.

22 (b) Annual reports shall include a discussion of any fields of tech-
23 nology that the [foundation] department has identified as having signif-
24 icant potential for economic growth or improved productivity and stabil-
25 ity of New York businesses and in which no center for advanced
26 technology has been designated and recommendations of the [foundation]
27 department as to actions that should be taken.

1 § 3. This act shall take effect immediately; provided, however that
2 section one of this act shall not take effect until June 30, 2021.

3 PART CCC

4 Section 1. Subsections (e) and (g) of section 7002 of the insurance
5 law, as amended by chapter 188 of the laws of 2003, are amended to read
6 as follows:

7 (e) "Industrial insured" means an insured:

8 (1) whose net worth exceeds one hundred million dollars;

9 (2) who is a member of a holding company system whose net worth
10 exceeds one hundred million dollars;

11 (3) who is the metropolitan transportation authority and its statutory
12 subsidiaries. When filing an application to form a pure captive insur-
13 ance company the metropolitan transportation authority shall submit
14 written notice of such filing to the governor, the temporary president
15 of the senate and the speaker of the assembly; [or]

16 (4) who is the power authority of the state of New York and any statu-
17 tory subsidiary or affiliate thereof. When filing an application to form
18 a pure captive insurance company the power authority shall submit writ-
19 ten notice of such filing to the governor, the temporary president of
20 the senate and the speaker of the assembly; or

21 (5) who is a city with a population of one million or more. When
22 filing an application to form a pure captive insurance company, a city
23 with a population of one million or more shall submit written notice of
24 such filing to the governor, the temporary president of the senate and
25 the speaker of the assembly.

1 (g) "Industrial insured group" means any group of unaffiliated indus-
2 trial insureds that are engaged in similar or related businesses or
3 activities, however, the metropolitan transportation authority, the
4 power authority of the state of New York and any statutory subsidiary or
5 affiliate thereof and cities with a population of one million or more
6 shall not be a member of an industrial insured group, and that collec-
7 tively:

8 (1) own, control or hold with power to vote all of the outstanding
9 voting shares of stock of a group captive insurance company incorporated
10 as a stock insurer; or

11 (2) represent one hundred percent of the voting members of a group
12 captive insurance company organized as a mutual insurer.

13 § 2. Section 1005 of the public authorities law is amended by adding a
14 new subdivision 28 to read as follows:

15 28. The authority may establish a subsidiary corporation for the
16 purpose of forming a pure captive insurance company as provided in
17 section seven thousand two of the insurance law. The members of such
18 subsidiary corporation of the authority shall be the same persons hold-
19 ing the offices of members of the authority. Such subsidiary corporation
20 shall have all of the privileges, immunities, tax exemptions and other
21 exemptions of the authority and of the authority's property, functions
22 and activities. The subsidiary corporation of the authority shall be
23 subject to suit in accordance with section one thousand seventeen of
24 this title. The employees of any such subsidiary corporation, except
25 those who are also employees of the authority, shall not be deemed
26 employees of the authority.

1 § 3. Subdivision (a) of section 1500 of the tax law, as amended by
2 section 21 of part A of chapter 59 of the laws of 2014, is amended to
3 read as follows:

4 (a) The term "insurance corporation" includes a corporation, associ-
5 ation, joint stock company or association, person, society, aggregation
6 or partnership, by whatever name known, doing an insurance business,
7 and, notwithstanding the provisions of section fifteen hundred twelve of
8 this article, shall include (1) a risk retention group as defined in
9 subsection (n) of section five thousand nine hundred two of the insur-
10 ance law, (2) the state insurance fund and (3) a corporation, associ-
11 ation, joint stock company or association, person, society, aggregation
12 or partnership doing an insurance business as a member of the New York
13 insurance exchange described in section six thousand two hundred one of
14 the insurance law. The definition of the "state insurance fund"
15 contained in this subdivision shall be limited in its effect to the
16 provisions of this article and the related provisions of this chapter
17 and shall have no force and effect other than with respect to such
18 provisions. The term "insurance corporation" shall also include a
19 captive insurance company doing a captive insurance business, as defined
20 in subsections (c) and (b), respectively, of section seven thousand two
21 of the insurance law; provided, however, "insurance corporation" shall
22 not include the metropolitan transportation authority, the power author-
23 ity of New York or any statutory subsidiary or affiliate thereof, or a
24 public benefit corporation or not-for-profit corporation formed by a
25 city with a population of one million or more pursuant to subsection (a)
26 of section seven thousand five of the insurance law, each of which is
27 expressly exempt from the payment of fees, taxes or assessments, whether
28 state or local; and provided further "insurance corporation" does not

1 include any combinable captive insurance company. The term "insurance
2 corporation" shall also include an unauthorized insurer operating from
3 an office within the state, pursuant to paragraph five of subsection (b)
4 of section one thousand one hundred one and subsection (i) of section
5 two thousand one hundred seventeen of the insurance law. The term
6 "insurance corporation" also includes a health maintenance organization
7 required to obtain a certificate of authority under article forty-four
8 of the public health law.

9 § 4. Subdivision (a) of section 1502-b of the tax law, as amended by
10 section 22 of part A of chapter 59 of the laws of 2014, is amended to
11 read as follows:

12 (a) In lieu of the taxes and tax surcharge imposed by sections fifteen
13 hundred one, fifteen hundred two-a, fifteen hundred five-a, and fifteen
14 hundred ten of this article, every captive insurance company licensed by
15 the superintendent of financial services pursuant to the provisions of
16 article seventy of the insurance law, other than the metropolitan trans-
17 portation authority, the power authority of New York or any statutory
18 subsidiary or affiliate thereof, and a public benefit corporation or
19 not-for-profit corporation formed by a city with a population of one
20 million or more pursuant to subsection (a) of section seven thousand
21 five of the insurance law, each of which is expressly exempt from the
22 payment of fees, taxes or assessments whether state or local, and other
23 than combinable captive insurance company, shall, for the privilege of
24 exercising its corporate franchise, pay a tax on (1) all gross direct
25 premiums, less return premiums thereon, written on risks located or
26 resident in this state and (2) all assumed reinsurance premiums, less
27 return premiums thereon, written on risks located or resident in this
28 state. The rate of the tax imposed on gross direct premiums shall be

1 four-tenths of one percent on all or any part of the first twenty
2 million dollars of premiums, three-tenths of one percent on all or any
3 part of the second twenty million dollars of premiums, two-tenths of one
4 percent on all or any part of the third twenty million dollars of premi-
5 ums, and seventy-five thousandths of one percent on each dollar of
6 premiums thereafter. The rate of the tax on assumed reinsurance premiums
7 shall be two hundred twenty-five thousandths of one percent on all or
8 any part of the first twenty million dollars of premiums, one hundred
9 and fifty thousandths of one percent on all or any part of the second
10 twenty million dollars of premiums, fifty thousandths of one percent on
11 all or any part of the third twenty million dollars of premiums and
12 twenty-five thousandths of one percent on each dollar of premiums there-
13 after. The tax imposed by this section shall be equal to the greater of
14 (i) the sum of the tax imposed on gross direct premiums and the tax
15 imposed on assumed reinsurance premiums or (ii) five thousand dollars.
16 § 5. This act shall take effect immediately.

17 PART DDD

18 Section 1. Legislative findings and intent. The legislature hereby
19 finds, determines and declares the following:

20 The planning, development and operation of the Hudson River Park as a
21 public park continues to be a matter of importance to the state. As
22 detailed in the 1998 law creating the park and the trust, chapter 592 of
23 the laws of 1998, the creation, development, operation and maintenance
24 of the Hudson River Park will enhance and protect the natural, cultural
25 and historic aspects of the Hudson River, enhance and afford quality
26 public access to the river, allow for an array of cultural and recre-

1 ational programs and provide a host of other public benefits. The chang-
2 es to the 1998 law by this act are intended to, after decades of delay
3 and inaction, finally effectuate the park's general project plan as
4 defined in chapter 592 of the laws of 1998, which continues to be the
5 operative planning document guiding park development, protection and
6 reuse of a portion of the Hudson River waterfront in lower Manhattan
7 south of 59th street, and are intended to ensure the realization of that
8 vision and the park's continuing viability for years to come. Nothing
9 herein is intended to alter or override any prior determinations
10 concerning park planning, development or operation.

11 § 2. Paragraph (c) of subdivision 9 of section 7 of chapter 592 of the
12 laws of 1998, constituting the Hudson river park act, as amended by
13 chapter 517 of the laws of 2013, is amended to read as follows:

14 (c) [The city of New York shall use best efforts to relocate the tow
15 pound on Pier 76. Subsequent to relocation of the tow pound, the city of
16 New York shall promptly convey to the trust a possessory interest in
17 Pier 76 consistent with such interest previously conveyed with respect
18 to other portions of the park, provided that at least fifty percent of
19 the Pier 76 footprint shall be used for park uses that are limited to
20 passive and active open space and which shall be contiguous to water and
21 provided further that the remaining portion shall be for park/commercial
22 use. Upon such conveyance, Pier 76 shall become part of the park.] (i)
23 On or before December 31, 2020, the city of New York shall convey to the
24 trust a possessory interest in Pier 76 consistent with such interest
25 previously conveyed with respect to other portions of the park. Upon
26 such conveyance, Pier 76 shall become part of the park and following
27 redevelopment at least fifty percent of the Pier 76 footprint shall be
28 used for park uses that are limited to passive and active open space and

1 which shall be contiguous to water; and provided further that the
2 remaining portion shall be for park/commercial use. (ii) The city of New
3 York shall, prior to December 31, 2020, cease using Pier 76 for any
4 purposes. Should the city of New York continue to occupy Pier 76 for any
5 purpose subsequent to the conveyance of December 31, 2020, the city of
6 New York shall (A) compensate the trust in the amount of twelve million
7 dollars, and (B) beginning February 1, 2021, pay rent in the amount of
8 three million dollars for each complete or partial month of occupancy.
9 (iii) On or after the effective date of the chapter of the laws of 2020
10 which amended this paragraph, the trust shall be entitled to reasonable
11 access to Pier 76 for the purpose of conducting assessments and
12 inspections necessary to further redevelopment of Pier 76 following its
13 inclusion in the park.

14 § 3. This act shall take effect immediately.

15 PART EEE

16 Section 1. Section 5 of chapter 451 of the laws of 2017, enacting the
17 New York Buy American Act, is amended to read as follows:

18 § 5. This act shall take effect April 1, 2018 and shall apply to any
19 state contracts executed and entered into on or after such date and
20 shall exclude such contracts that have been previously awarded or have
21 pending bids or pending requests for proposals issued as of April 1,
22 2018, and shall not apply to projects that have commenced project design
23 and environmental studies prior to such date[; provided, however, that
24 this act shall expire and be deemed repealed April 15, 2020].

25 § 2. This act shall take effect immediately.

1

PART FFF

2 Section 1. The labor law is amended by adding a new section 224-a to
3 read as follows:

4 § 224-a. Prevailing wage requirements applicable to construction
5 projects performed under private contract. 1. Subject to the provisions
6 of this section, each "covered project" as defined in this section shall
7 be subject to prevailing wage requirements in accordance with section
8 two hundred twenty and two hundred twenty-b of this article. A "covered
9 project" shall mean construction work done under contract which is paid
10 for in whole or in part out of public funds as such term is defined in
11 this section where the amount of all such public funds, when aggregated,
12 is at least thirty percent of the total construction project costs and
13 where such project costs are over five million dollars except as
14 provided for by section two hundred twenty-four-c of this article.

15 2. For purposes of this section, "paid for in whole or in part out of
16 public funds" shall mean any of the following:

17 a. The payment of money, by a public entity directly to or on behalf
18 of the contractor, subcontractor, developer or owner that is not subject
19 to repayment;

20 b. The savings achieved from fees, rents, interest rates, or other
21 loan costs, or insurance costs that are lower than market rate costs;
22 savings from reduced taxes as a result of tax credits, tax abatements,
23 tax exemptions or tax increment financing; and any other savings from
24 reduced, waived, or forgiven costs that would have otherwise been at a
25 higher or market rate but for the involvement of the public entity;

26 c. Money loaned by the public entity that is to be repaid on a contin-
27 gent basis; or

1 d. Credits that are applied by the public entity against repayment of
2 obligations to the public entity.

3 3. For purposes of this section, "paid for in whole or in part out of
4 public funds" shall not include:

5 a. Benefits under section four hundred twenty-one-a of the real prop-
6 erty tax law;

7 b. Funds that are not provided primarily to promote, incentivize, or
8 ensure that construction work is performed, which would otherwise be
9 captured in subdivision two of this section;

10 c. Funds used to incentivize or ensure the development of a comprehen-
11 sive sewage system, including connection to existing sewer lines or
12 creation of new sewage lines or sewer capacity, provided, however, that
13 such work shall be deemed to be a public work covered under the
14 provisions of this article;

15 d. tax benefits provided for projects the value of which are not able
16 to be calculated at the time the work is to be performed; and

17 e. any other public monies, credits, savings or loans, determined by
18 the public subsidy board created in section two hundred twenty-four-c of
19 this article as exempt from this definition.

20 4. For purposes of this section "covered project" shall not include
21 any of the following:

22 a. Construction work on one or two family dwellings where the property
23 is the owner's primary residence, or construction work performed on
24 property where the owner of the property owns no more than four dwelling
25 units;

26 b. Construction work performed under a contract with a not-for-profit
27 corporation as defined in section one hundred two of the not-for-profit
28 corporation law, other than a not-for-profit corporation formed exclu-

1 sively for the purpose of holding title to property and collecting
2 income thereof or a local development corporation formed pursuant to
3 section fourteen hundred eleven of the not-for-profit corporation law,
4 where the not-for-profit corporation has gross annual revenue and
5 support less than five million dollars;

6 c. Construction work performed on a multiple residence and/or ancil-
7 lary amenities or installations that is wholly privately owned in any of
8 the following circumstances except as provided for by section two
9 hundred twenty-four-c of this article:

10 (i) where no less than thirty percent of the residential units are
11 affordable for households up to eighty percent of the area median
12 income, provided that area median income shall be adjusted for family
13 size, as calculated by the United States department of housing and urban
14 development, provided that the period of affordability for a residential
15 unit deemed affordable under the provisions of this paragraph shall be
16 for no less than fifteen years from the date of construction; or

17 (ii) where no less than thirty-five percent of the residential units
18 involves the provision of supportive housing services for vulnerable
19 populations;

20 (iii) where construction work is performed on a building paid for in
21 whole or in part out of public funds on affordable units for purposes of
22 ensuring that the affordable units are created or retained and are
23 subject to a regulatory agreement with a local, state, or federal
24 governmental entity; or

25 (iv) any other affordable or subsidized housing as determined by the
26 public subsidy board established by section two hundred twenty-four-c of
27 this article.

1 d. Construction work performed on a manufactured home park as defined
2 in paragraph three of subdivision a of section two hundred thirty-three
3 of the real property law where the manufactured home park is subject to
4 a regulatory agreement with a local, state, or federal governmental
5 entity for no less than fifteen years;

6 e. Construction work performed under a pre-hire collective bargaining
7 agreement between an owner or contractor and a bona fide building and
8 construction trade labor organization which has established itself as
9 the collective bargaining representative for all persons who will
10 perform work on such a project, and which provides that only contractors
11 and subcontractors who sign a pre-negotiated agreement with the labor
12 organization can perform work on such a project, or construction work
13 performed under a labor peace agreement, project labor agreement, or any
14 other construction work performed under an enforceable agreement between
15 an owner or contractor and a bona fide building and construction trade
16 labor organization;

17 f. Construction work performed on projects funded by section sixteen-n
18 of the urban development corporation act or the downtown revitalization
19 initiative;

20 g. Construction work and engineering and consulting services performed
21 in connection with the installation of a renewable energy system, renew-
22 able heating or cooling system, or energy storage system, with a capaci-
23 ty equal to or under five megawatts alternating current;

24 h. Construction work performed on supermarket retail space built or
25 renovated with tax incentives provided under the food retail expansion
26 to support health (FRESH) program through the New York city industrial
27 development agency;

1 i. Construction work performed for interior fit-outs and improvements
2 under ten thousand square feet through small business incubation
3 programs operated by the New York city economic development corporation;

4 j. Construction work on space to be used as a school under twenty
5 thousand square feet, pursuant to a lease from a private owner to the
6 New York city department of education and the school construction
7 authority; or

8 k. Construction work performed on projects that received tax benefits
9 related to brownfield remediation, brownfield redevelopment, or historic
10 rehabilitation pursuant to sections twenty-one, twenty-two, one hundred
11 eighty-seven-g or one hundred eighty-seven-h of the tax law, subdivi-
12 sions seventeen, eighteen, or twenty-six of section two hundred ten-B of
13 the tax law, subsections (dd), (ee), (oo) or (pp) of section six hundred
14 six of the tax law, or subdivisions (u), (v) or (y) of section fifteen
15 hundred eleven of the tax law.

16 5. For purposes of this section, "public entity" shall include, but
17 shall not be limited to, the state, a local development corporation as
18 defined in subdivision eight of section eighteen hundred one of the
19 public authorities law or section fourteen hundred eleven of the not-
20 for-profit corporation law, a municipal corporation as defined in
21 section one hundred nineteen-n of the general municipal law, an indus-
22 trial development agency formed pursuant to article eighteen-A of the
23 general municipal law or industrial development authorities formed
24 pursuant to article eight of the public authorities law, and any state,
25 local or interstate or international authorities as defined in section
26 two of the public authorities law; and shall include any trust created
27 by any such entities.

1 6. For purposes of this section, "construction" means work which shall
2 be as defined by the public subsidy board to require payment of prevail-
3 ing wage, and which may involve the employment of laborers, workers, or
4 mechanics.

5 7. For purposes of this section and section two hundred twenty-four-b
6 of this article, the "fiscal officer" shall be deemed to be the commis-
7 sioner.

8 8. The enforcement of any construction work deemed to be a covered
9 project pursuant to this section, and any additional requirements, shall
10 be subject, in addition to this section, only to the requirements of
11 sections two hundred twenty, two hundred twenty-four-b, two hundred
12 twenty-four-c, and two hundred twenty-b of this article and within the
13 jurisdiction of the fiscal officer; provided, however, nothing contained
14 in this section shall be deemed to construe any covered project as
15 otherwise being considered public work pursuant to this article; and
16 further provided:

17 a. The owner or developer of such covered project shall certify under
18 penalty of perjury within five days of commencement of construction work
19 whether the project at issue is subject to the provisions of this
20 section through the use of a standard form developed by the fiscal offi-
21 cer.

22 b. The owners or developers of a property who are undertaking a
23 project under private contract, may seek guidance from the public subsi-
24 dy board contained in section two hundred twenty-four-c of this article,
25 and such board may render an opinion as to whether or not the project is
26 a covered project within the meaning of this article. Any such determi-
27 nation shall not be reviewable by the fiscal officer, nor shall it be

1 reviewable by the department pursuant to section two hundred twenty of
2 this article.

3 c. The owner or developer of a covered project shall be responsible
4 for retaining original payroll records in accordance with section two
5 hundred twenty of this article for a period of six years from the
6 conclusion of such work. All payroll records maintained by an owner or
7 developer pursuant to this section shall be subject to inspection on
8 request of the fiscal officer. Such owner or developer may authorize
9 the prime contractor of the construction project to take responsibility
10 for retaining and maintaining payroll records, but will be held jointly
11 and severally liable for any violations of such contractor. All records
12 obtained by the fiscal officer shall be subject to the Freedom of Infor-
13 mation Law.

14 d. Each public entity providing any of the public funds listed in
15 subdivision two of this section to an owner, developer, contractor or
16 subcontractor of a project shall identify the nature and dollar value of
17 such funds and whether any such funds are excluded under subdivision
18 three of this section and shall so notify the recipient of such funds of
19 such determination and of their obligations under paragraph a of this
20 subdivision.

21 e. The fiscal officer may issue rules and regulations governing the
22 provisions of this section. Violations of this section shall be grounds
23 for determinations and orders pursuant to section two hundred twenty-b
24 of this article.

25 9. Each owner and developer subject to the requirements of this
26 section shall comply with the objectives and goals of minority and
27 women-owned business enterprises pursuant to article fifteen-A of the
28 executive law and service-disabled veteran-owned businesses pursuant to

1 article seventeen-B of the executive law. The department in consulta-
2 tion with the directors of the division of minority and women's business
3 development and of the division of service-disabled veterans' business
4 development shall make training and resources available to assist minor-
5 ity and women-owned business enterprises and service-disabled veteran-
6 owned business enterprises on covered projects achieve and maintain
7 compliance with prevailing wage requirements. The department shall make
8 such training and resources available online and shall afford minority
9 and women-owned business enterprises and service-disabled veteran-owned
10 business enterprises an opportunity to submit comments on such training.

11 10. a. The fiscal officer shall report to the governor, the temporary
12 president of the senate, and the speaker of the assembly by July first,
13 two thousand twenty-two, and annually thereafter, on the participation
14 of minority and women-owned business enterprises in relation to covered
15 projects and contracts for public work subject to the provisions of this
16 section and section two hundred twenty of this article respectively as
17 well as the diversity practices of contractors and subcontractors
18 employing laborers, workers, and mechanics on such projects.

19 b. Such reports shall include aggregated data on the utilization and
20 participation of minority and women-owned business enterprises, the
21 employment of minorities and women in construction-related jobs on such
22 projects, and the commitment of contractors and subcontractors on such
23 projects to adopting practices and policies that promote diversity with-
24 in the workforce. The reports shall also examine the compliance of
25 contractors and subcontractors with other equal employment opportunity
26 requirements and anti-discrimination laws, in addition to any other
27 employment practices deemed pertinent by the commissioner.

1 c. The fiscal officer may require any owner or developer to disclose
2 information on the participation of minority and women-owned business
3 enterprises and the diversity practices of contractors and subcontrac-
4 tors involved in the performance of any covered project. It shall be
5 the duty of the fiscal officer to consult and to share such information
6 in order to effectuate the requirements of this section.

7 11. If construction work is not deemed to be a covered project, wheth-
8 er by virtue of an exclusion of such project under subdivision four of
9 this section, or by virtue or not receiving sufficient public money to
10 be deemed "paid for in whole or in part out of public funds", such
11 project shall not be subject to the requirements of sections two hundred
12 twenty and two hundred twenty-b of this article.

13 § 2. The labor law is amended by adding two new sections 224-b and
14 224-c to read as follows:

15 § 224-b. Stop-work orders. Where a complaint is received pursuant to
16 this article, or where the fiscal officer upon his or her own investi-
17 gation, finds cause to believe that any person, in connection with the
18 performance of any contract for public work pursuant to section two
19 hundred twenty of this article or any covered project pursuant to
20 section two hundred twenty-four-a of this article, has substantially and
21 materially failed to comply with or intentionally evaded the provisions
22 of this article, the fiscal officer may notify such person in writing of
23 his or her intention to issue a stop-work order. Such notice shall (i)
24 be served in a manner consistent with section three hundred eight of the
25 civil practice law and rules; (ii) notify such person of his or her
26 right to a hearing; and (iii) state the factual basis upon which the
27 fiscal officer has based his or her decision to issue a stop-work order.
28 Any documents, reports, or information that form a basis for such deci-

1 sion shall be provided to such person within a reasonable time before
2 the hearing. Such hearing shall be expeditiously conducted.

3 Following the hearing, if the fiscal officer issues a stop-work order,
4 it shall be served by regular mail, and a second copy may be served by
5 telefacsimile or by electronic mail, with service effective upon receipt
6 of any such order. Such stop-work order shall also be served with regard
7 to a worksite by posting a copy of such order in a conspicuous location
8 at the worksite. The order shall remain in effect until the fiscal offi-
9 cer directs that the stop-work order be removed, upon a final determi-
10 nation on the complaint or where such failure to comply or evade has
11 been deemed corrected. If the person against whom such order is issued
12 shall within thirty days after issuance of the stop-work order makes an
13 application in affidavit form for a redetermination review of such order
14 the fiscal officer shall make a decision in writing on the issues raised
15 in such application. The fiscal officer may direct a conditional release
16 from a stop-work order upon a finding that such person has taken mean-
17 ingful and good faith steps to comply with the provisions of this arti-
18 cle.

19 § 224-c. Public subsidy board. 1. A board on public subsidies, herein-
20 after "the board", is hereby created, to consist of eleven members. The
21 eleven members shall be appointed by the governor as follows: one member
22 upon the recommendation of the temporary president of the senate, one
23 member upon the recommendation of the speaker of the assembly, the
24 commissioner, the president of the empire state development corporation,
25 the director of the division of the budget, one person representing
26 employees in the construction industry, and one person representing
27 employers in the construction industry. The commissioner shall act as
28 the chair. The members shall serve at the pleasure of the authority

1 recommending, designating, or otherwise appointing such member and shall
2 serve without salary or compensation but shall be reimbursed for neces-
3 sary expenses incurred in the performance of their duties.

4 2. The board shall meet on an as needed basis and shall have the power
5 to conduct public hearings. The board may also consult with employers
6 and employees, and their respective representatives, in the construction
7 industry and with such other persons, including the commissioner, as it
8 shall determine. No public officer or employee appointed to the board
9 shall forfeit any position or office by virtue of appointment to such
10 board. Any proceedings of the board which relate to a particular indi-
11 vidual or project shall be confidential.

12 3. The board may examine and make recommendations which shall have the
13 full force and effect of law, regarding the following:

14 (a) the minimum threshold percentage of public funds set forth in
15 paragraph c of subdivision one of section two hundred twenty-four-a of
16 this article;

17 (b) the minimum dollar threshold of projects set forth in paragraph c
18 of subdivision one of section two hundred twenty-four-a of this article;

19 (c) construction work excluded as a covered project, as set forth in
20 subparagraphs (i), (ii) and (iii) of paragraph c of subdivision four of
21 section two hundred twenty-four-a of this article;

22 (d) the definition of construction for purposes of section two hundred
23 twenty-four-a of this article; or

24 (e) particular instances of benefits, monies or credits as to whether
25 or not they should constitute public funds.

26 4. In making its recommendations, the board shall examine the impact
27 of such thresholds and circumstances on private development in light of
28 available public subsidies, existing labor market conditions, prevailing

1 wage and supplement practices, and shall consider the extent to which
2 adjustments to such thresholds and circumstances could ameliorate
3 adverse impacts, if any, or expand opportunities for prevailing wage and
4 supplement standards on publicly subsidized private construction
5 projects in any region or regions of the state.

6 5. The board shall be empowered to issue binding determinations to any
7 public entity, or any private or not-for-profit owner or developer as to
8 any particular matter related to an existing or potential covered
9 project. In such instances the board shall make a determination based
10 upon documents, or testimony, or both in its sole discretion. Any such
11 proceeding shall be confidential. The determination issued by the board
12 shall be final, and may not be appealed to the commissioner, nor shall
13 any private right of action accrue to any individual to enforce the
14 terms of this article.

15 § 3. The labor law is amended by adding a new section 813-a to read as
16 follows:

17 § 813-a. Annual reports by apprenticeship programs. 1. On an annual
18 basis, all apprenticeship programs covered under the provisions of this
19 article shall report to the department on the participation of appren-
20 tices currently enrolled in such apprenticeship program. The data to be
21 included in such report shall include, at a minimum: (a) the total
22 number of apprentices in such apprenticeship program; (b) the demograph-
23 ic information of such apprentices to the extent such data is available,
24 including, but not limited to, the age, gender, race, ethnicity, and
25 national origin of such apprentices; (c) the rate of advancement and
26 graduation of such apprentices; and (d) the rate of placement of such
27 apprentices onto job sites as well as the demographic information of
28 such apprentices to the extent such data is available, including, but

1 not limited to the age, gender, race, ethnicity, and national origin of
2 such apprentices.

3 2. The department shall make such data publicly available on its
4 website by July first, two thousand twenty-two and on an annual basis,
5 but no later than December thirty-first of each following year.

6 3. The commissioner may promulgate rules and regulations necessary for
7 the implementation of this section.

8 § 4. Severability clause. If any clause, sentence, paragraph, subdivi-
9 sion, or section of this act shall be adjudged by any court of competent
10 jurisdiction to be invalid, such judgment shall not affect, impair, or
11 invalidate the remainder thereof, but shall be confined in its operation
12 to the clause, sentence, paragraph, subdivision, or section thereof
13 directly involved in the controversy in which such judgment shall have
14 been rendered. It is hereby declared to be the intent of the legislature
15 that this act would have been enacted even if such invalid provisions
16 had not been included herein.

17 § 5. This act shall take effect on July 1, 2021 and shall apply to
18 contracts for construction executed, incentive agreements executed,
19 procurements or solicitations issued, or applications for building
20 permits on or after such date; provided however that this act shall not
21 apply to any appropriations of public funds made prior to the day on
22 which this act shall have become a law, or to re-appropriations of such
23 funds first appropriated prior to the day on which this act shall have
24 become a law. Effective immediately, the addition, amendment and/or
25 repeal of any rule or regulation necessary for the implementation of
26 this act on its effective date are authorized to be made and completed
27 on or before such effective date.

1 PART GGG

2 Section 1. The legislature hereby establishes the New York digital
3 marketplace worker classification task force (hereinafter referred to as
4 the "task force") to provide the governor and the legislature with a
5 legislative recommendation addressing the conditions of employment and
6 classification of workers in the modern economy of on-demand workers
7 connected to customers via the internet.

8 § 2. 1. The task force shall consist of nine members to be appointed
9 as follows:

10 a. seven members appointed by the governor;

11 b. one member appointed by the temporary president of the senate; and

12 c. one member appointed by the speaker of the assembly.

13 2. The members of the task force shall include but not be limited to
14 representatives of businesses impacted, labor groups and workers.

15 3. The members of the task force shall receive no compensation for
16 their services but shall be allowed their actual and necessary expenses
17 incurred in the performance of their duties pursuant to this act.

18 4. Any vacancies in the membership of the task force shall be filled
19 in the same manner provided for in the initial appointment.

20 5. The task force may consult with any organization, government enti-
21 ty, or person, in the development of its legislative recommendation
22 report required under section three of this act.

23 § 3. On or before May 1, 2020, the task force shall submit to the
24 governor, the temporary president of the senate and the speaker of the
25 assembly, a legislative recommendation containing, but not limited to,
26 the following:

- 1 a. the necessary wages sufficient to provide adequate maintenance and
2 to protect the health of the workers engaged in work in the modern econ-
3 omy, addressing specific categories of benefits available to workers;
4 b. the proper classification of workers;
5 c. the criteria necessary to determine if a worker is an employee;
6 d. laws regulating safety and health for workers currently classified
7 as independent contractors;
8 e. collective bargaining;
9 f. the availability of anti-discrimination, opportunity and privacy
10 protections for workers currently classified as independent contractors;
11 and
12 g. any other statutory changes necessary.

13 § 4. The labor law is amended by adding a new section 44 to read as
14 follows:

15 § 44. Classification of digital marketplace workers. a. For purposes
16 of this section, "digital marketplace company" means an organization,
17 including, but not limited to a corporation, limited liability company,
18 partnership, sole proprietor, or any other entity, that operates a
19 website or smartphone application, or both, that customers use to
20 purchase, schedule and/or otherwise arrange services including, but not
21 limited to repair, maintenance, construction, painting, assembly, clean-
22 ing, laundry, housekeeping, delivery, transportation, cooking, tutoring,
23 massage, acupuncture, babysitting, home care, healthcare, first aid,
24 companionship, or instruction, and where such company utilizes one or
25 more individuals to provide such services. Such organization: (i) estab-
26 lishes the gross amounts earned by the individual providing such
27 services; (ii) establishes the amounts charged to the consumer; (iii)
28 collects payment from the consumer; (iv) pays the individual; or any

1 combination of the foregoing actions; and the individual may provide
2 such services in the name of the individual, or in the name of a busi-
3 ness, or as a separate business entity, and without regard the consumer
4 of such personal services may be an individual, business, other entity,
5 or any combination thereof. Provided, however, no governmental entity
6 shall be considered a digital marketplace company.

7 b. (1) The commissioner is hereby authorized to promulgate regulations
8 determining the appropriate classification of individuals providing
9 services for a digital marketplace company as defined in subdivision a
10 of this section and such regulations shall have the force and effect of
11 law.

12 (2) Such regulations shall set forth the appropriate standard for
13 determination of whether a worker should be classified as an employee or
14 an independent contractor, and shall consider the following conditions:
15 (i) whether the individual is free from the control and direction of the
16 digital marketplace company in connection with the performance of the
17 work; (ii) whether the individual performs work that is outside the
18 usual course of the digital marketplace company's business; and (iii)
19 whether the individual is customarily engaged in an independently estab-
20 lished trade, occupation, profession or business that is similar to the
21 service at issue.

22 (3) Workers classified as employees as provided for in this section or
23 who satisfy any other legal test for employment, or have been determined
24 by a court or administrative agency to be employees, shall not have any
25 rights or protections diminished by application of this section.

26 c. The commissioner may exempt any company from application of this
27 section, provided such company has entered into a collectively negoti-
28 ated agreement with a recognized collective bargaining agent.

1 § 5. This act shall take effect immediately; provided, however, that
2 section four of this act shall take effect May 1, 2020.

3 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
4 sion, section or part of this act shall be adjudged by any court of
5 competent jurisdiction to be invalid, such judgment shall not affect,
6 impair, or invalidate the remainder thereof, but shall be confined in
7 its operation to the clause, sentence, paragraph, subdivision, section
8 or part thereof directly involved in the controversy in which such judg-
9 ment shall have been rendered. It is hereby declared to be the intent of
10 the legislature that this act would have been enacted even if such
11 invalid provisions had not been included herein.

12 § 3. This act shall take effect immediately provided, however, that
13 the applicable effective date of Parts A through GGG of this act shall
14 be as specifically set forth in the last section of such Parts.