

STATE OF NEW YORK

S. 2008--A

A. 3008--A

SENATE - ASSEMBLY

January 23, 2017

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [] is old law to be omitted.

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card fees for crime victims (Part H); to amend the vehicle and traffic law, in relation to the reinstatement fee for non-residents (Part I); to amend the vehicle and traffic law, in relation to increasing fees for original and duplicate certificates of title (Part J); to amend the vehicle and traffic law, in relation to additional fees for certain identification cards (Part K); to amend the vehicle and traffic law, in relation to the definition of "drug", the scope of the written test, the suspension of a license for driving while impaired by drugs, the license sanctions for refusing to submit to a chemical test and prohibiting the use of mobile telephones and portable electronic devices when a vehicle is not in motion and by persons under 18 (Part L); to amend the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part M); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part N); to amend chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, in relation to the minority and women-owned business enterprise program (Part O); to amend the infrastructure investment act, in relation to the definition of an authorized entity that may utilize design-build contracts, and in relation to the effectiveness thereof (Part P); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending the expiration date thereof (Part Q); to amend the business corporation law, the cooperative corporations law, the executive law, the general associations law, the general business law, the limited liability company law, the not-for-profit corporation law, the partnership law, the private housing finance law, the arts and cultural affairs law, the real property law and the tax law, in relation to streamlining the process by which service of process is served against a corporate or other entity with the secretary of state; and to repeal certain provisions of the real property law relating thereto (Part R); to amend the real property law, in relation to streamlining the licensing process for real estate professionals (Part S); to amend the environmental conservation law and the executive law, in relation to local waterfront revitalization (Part T); to amend the executive law, in relation to the chairperson of the state athletic commission (Part U); authorizing utility and cable television assessments to provide funds to the department of health from cable television assessment revenues and to the departments of agriculture and markets, environmental conservation, office of parks, recreation and historic preservation, and state from utility assessment revenues (Part V); to amend chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to making permanent certain authority of the dormitory authority of the state of New York (Part W); to amend the insurance law, in relation to administrative supervision (Part X); to amend the insurance law, the banking law, and the financial services law in relation to the enforcement of the insurance, banking, and financial services laws against unlicensed participants (Part Y); to amend the banking law, in relation to the



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

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

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

12

PART A



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

5 § 13. This act shall take effect immediately; provided however that
6 sections one through seven of this act, the amendments to subdivision 2
7 of section 205 of the tax law made by section eight of this act, and
8 section nine of this act shall expire and be deemed repealed on April 1,
9 2020; [provided further, however, that the amendments to subdivision 3
10 of section 205 of the tax law made by section eight of this act shall
11 expire and be deemed repealed on March 31, 2018;] provided further,
12 however, that the provisions of section eleven of this act shall take
13 effect April 1, 2004 and shall expire and be deemed repealed on April 1,
14 2020.

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

17 PART B

18 Section 1. Paragraph (f) of subdivision 15 of section 385 of the vehi-
19 cle and traffic law, as amended by section 4 of part C of chapter 59 of
20 the laws of 2004, the third undesignated paragraph as amended by chapter
21 277 of the laws of 2014, is amended to read as follows:

22 (f) 1. The department of transportation, or other issuing authority,
23 may issue an annual permit for a vehicle designed and constructed to
24 carry loads that are not of one piece or item, which is registered in
25 this state. Motor carriers having apportioned vehicles registered under
26 the international registration plan must either have a currently valid
27 permit at the time this provision becomes effective or shall have desig-
28 nated New York as its base state or one of the eligible jurisdictions of
29 operation under the international registration plan in order to be
30 eligible to receive a permit issued pursuant to [subparagraph] clause
31 (i), (ii) or (ii-a) of subparagraph eight of this paragraph. No permit
32 issued pursuant to this paragraph shall be valid for the operation or
33 movement of vehicles on any state or other highway within any city not
34 wholly included within one county unless such permit was issued by the
35 city department of transportation of such city.

36 2. Effective January first, two thousand five, no vehicle or combina-
37 tion of vehicles issued a permit pursuant to this paragraph shall cross
38 a bridge designated as an R-posted bridge by the commissioner of trans-
39 portation or any other permit issuing authority absent a determination
40 by such commissioner or permit issuing authority that the permit appli-
41 cant has demonstrated special circumstances warranting the crossing of
42 such bridge or bridges and a determination by such commissioner or
43 permit issuing authority that such bridge or bridges may be crossed
44 safely, provided, however, that in no event shall a vehicle or combina-
45 tion of vehicles issued a permit under this paragraph be permitted to
46 cross a bridge designated as an R-posted bridge if such vehicle or
47 combination of vehicles has a maximum gross weight exceeding one hundred
48 two thousand pounds, and provided further, however, that nothing
49 contained herein shall be deemed to authorize any vehicle or combination
50 of vehicles to cross any such bridge within any city not wholly included
51 within one county unless such vehicle or combination of vehicles has
52 been issued a valid permit by the city department of transportation of
53 such city pursuant to this subdivision.

1 3. No vehicle having a model year of two thousand six or newer shall
2 be issued a permit pursuant to this paragraph unless each axle of such
3 vehicle or combination of vehicles, other than steerable or trackable
4 axles, is equipped with two tires on each side of the axle, any air
5 pressure controls for lift axles are located outside the cab of the
6 vehicle and are beyond the reach of occupants of the cab while the vehi-
7 cle is in motion, the weight on any grouping of two or more axles is
8 distributed such that no axle in the grouping carries less than eighty
9 percent of any other axle in the grouping and any liftable axle is
10 steerable or trackable; and, further provided, after December thirty-
11 first, two thousand nineteen, no permit shall be issued pursuant to this
12 paragraph to a vehicle of any model year that does not meet the require-
13 ments of this provision, except that such permits may be issued prior to
14 January first, two thousand twenty to a vehicle that does not meet the
15 requirement concerning axle grouping weight distribution, but meets all
16 other requirements of this section.

17 4. A divisible load permit may only be transferred to a replacement
18 vehicle by the same registrant or transferred with the permitted vehicle
19 as part of the sale or transfer of the permit holder's business; or, if
20 the divisible load permit is issued pursuant to [subparagraph] clause
21 (iv), (v) or (vi) of subparagraph eight of this paragraph for use within
22 the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange
23 and Dutchess and has been effective for the five years preceding a
24 transfer of such permit, the permit may be transferred with the permit-
25 ted vehicle in the sale of the permitted vehicle to the holder of a
26 permit issued pursuant to [subparagraph] clause (iv), (v) or (vi) of
27 subparagraph eight of this paragraph for use within the counties of
28 Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess.

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

36 6. Until June thirtieth, nineteen hundred ninety-four, no more than
37 sixteen thousand power units shall be issued annual permits by the
38 department for any twelve-month period in accordance with this para-
39 graph. After June thirtieth, nineteen hundred ninety-four, no more than
40 sixteen thousand five hundred power units shall be issued annual permits
41 by the department for any twelve-month period. After December thirty-
42 first, nineteen hundred ninety-five, no more than seventeen thousand
43 power units shall be issued annual permits by the department for any
44 twelve-month period. After December thirty-first, two thousand three, no
45 more than twenty-one thousand power units shall be issued annual permits
46 by the department for any twelve-month period. After December thirty-
47 first, two thousand five, no more than twenty-two thousand power units
48 shall be issued annual permits by the department for any twelve-month
49 period. After December thirty-first, two thousand six, no more than
50 twenty-three thousand power units shall be issued annual permits by the
51 department for any twelve-month period. After December thirty-first, two
52 thousand seven, no more than twenty-four thousand power units shall be
53 issued annual permits by the department for any twelve-month period.
54 After December thirty-first, two thousand eight, no more than twenty-
55 five thousand power units shall be issued annual permits by the depart-
56 ment for any twelve-month period. After December thirty-first, two thou-

1 sand sixteen, no more than twenty-seven thousand power units shall be
2 issued annual permits by the department for any twelve-month period.
3 After December thirty-first, two thousand eighteen, no more than twen-
4 ty-nine thousand power units shall be issued annual permits by the
5 department for any twelve-month period. After December thirty-first, two
6 thousand twenty, no more than thirty thousand power units shall be
7 issued annual permits by the department for any twelve-month period.
8 After December thirty-first, two thousand twenty-two, no more than thir-
9 ty-one thousand power units shall be issued annual permits by the
10 department for any twelve-month period. After December thirty-first, two
11 thousand twenty-three, no more than thirty-two thousand power units
12 shall be issued annual permits by the department for any twelve-month
13 period. After December thirty-first, two thousand twenty-four, no more
14 than thirty-three thousand power units shall be issued annual permits by
15 the department for any twelve-month period. After December thirty-
16 first, two thousand twenty-five, no more than thirty-five thousand power
17 units shall be issued annual permits by the department for any twelve-
18 month period.

19 Whenever permit application requests exceed permit availability, the
20 department shall renew annual permits that have been expired for less
21 than four years which meet program requirements, and then shall issue
22 permit applicants having less than three divisible load permits such
23 additional permits as the applicant may request, providing that the
24 total of existing and new permits does not exceed three. Remaining
25 permits shall be allocated by lottery in accordance with procedures
26 established by the commissioner in rules and regulations. After December
27 thirty-first, two thousand sixteen, the department may permanently
28 increase the maximum number of power units issued an annual permit by no
29 more than two thousand additional permits above the previous year's
30 total in accordance with procedures established by the commissioner in
31 rules and regulations.

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

37 8. For a vehicle issued a permit in accordance with [subparagraphs]
38 clauses (iii), (iv), (v) and (vi) of this [paragraph] subparagraph, such
39 a vehicle must have been registered in this state prior to January
40 first, nineteen hundred eighty-six or be a vehicle or combination of
41 vehicles which replace such type of vehicle which was registered in this
42 state prior to such date provided that the manufacturer's recommended
43 maximum gross weight of the replacement vehicle or combination of vehi-
44 cles does not exceed the weight for which a permit may be issued and the
45 maximum load to be carried on the replacement vehicle or combination of
46 vehicles does not exceed the maximum load which could have been carried
47 on the vehicle being replaced or the registered weight of such vehicle,
48 whichever is lower, in accordance with the following [subparagraphs]
49 clauses:

50 (i) A permit may be issued for a vehicle having at least three axles
51 and a wheelbase not less than sixteen feet and for a vehicle with a
52 trailer not exceeding forty-eight feet. The maximum gross weight of such
53 a vehicle shall not exceed forty-two thousand five hundred pounds plus
54 one thousand two hundred fifty pounds for each foot and major fraction
55 of a foot of the distance from the center of the foremost axle to the
56 center of the rearmost axle, or one hundred two thousand pounds, which-

1 ever is more restrictive provided, however, that any four axle group
2 weight shall not exceed sixty-two thousand pounds, any tridem axle group
3 weight shall not exceed fifty-seven thousand pounds, any tandem axle
4 weight does not exceed forty-seven thousand pounds and any single axle
5 weight shall not exceed twenty-five thousand pounds.

6 Any additional special authorizations contained in a currently valid
7 annual permit shall cease upon the expiration of such current annual
8 permit.

9 (ii) A permit may be issued subject to bridge restrictions for a vehi-
10 cle or a combination of vehicles having at least six axles and a wheel
11 base of at least thirty-six and one-half feet. The maximum gross weight
12 of such vehicle or combination of vehicles shall not exceed one hundred
13 seven thousand pounds and any tridem axle group weight shall not exceed
14 fifty-eight thousand pounds and any tandem axle group weight shall not
15 exceed forty-eight thousand pounds.

16 (ii-a) A permit may be issued subject to bridge restrictions for a
17 combination of vehicles having at least seven axles and a wheelbase of
18 at least forty-three feet. The maximum gross weight of such combination
19 of vehicles shall not exceed one hundred seventeen thousand pounds, any
20 four axle group weight shall not exceed sixty-three thousand pounds, any
21 tridem axle group weight shall not exceed fifty-eight thousand pounds,
22 any tandem axle group weight shall not exceed forty-eight thousand
23 pounds, and any single axle weight shall not exceed twenty-five thousand
24 pounds.

25 Each axle of such combination of vehicles, other than steerable or
26 trackable axles, shall be equipped with two tires on each side of the
27 axle, any air pressure controls for lift axles shall be located outside
28 the cab of the combination of vehicles and shall be beyond the reach of
29 occupants of the cab while the combination of vehicles is in motion, the
30 weight on any grouping of two or more axles shall be distributed such
31 that no axle in the grouping carries less than eighty percent of any
32 other axle in the grouping, and any liftable axle of such combination of
33 vehicles shall be steerable or trackable.

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

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

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

51 After January first, nineteen hundred ninety-five, the operation of
52 such a vehicle shall be further limited and a permit may only be issued
53 for such a vehicle having a maximum gross weight not exceeding seventy-
54 nine thousand pounds and any tandem axle group weight shall not exceed
55 fifty-nine thousand pounds, and any tridem shall not exceed sixty-four
56 thousand pounds.

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

7 No vehicle having a model year of two thousand six or newer shall be
8 issued a permit pursuant to this subparagraph for use within the coun-
9 ties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and
10 Dutchess unless it is equipped with at least four axles, and further
11 provided, after December thirty-first, two thousand fourteen, no permit
12 shall be issued pursuant to this [subparagraph] clause for use within
13 the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange
14 and Dutchess to a vehicle of any model year unless the vehicle is
15 equipped with at least four axles.

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

25 Within a city not wholly included within one county and the counties
26 of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess,
27 a permit may be issued for a vehicle or combination of vehicles having
28 at least five axles and a wheelbase of at least thirty feet. The maximum
29 gross weight of such vehicle or combination of vehicles shall not exceed
30 ninety-three thousand pounds and any tridem axle group weight shall not
31 exceed fifty-seven thousand pounds and any tandem axle group weight
32 shall not exceed forty-five thousand pounds.

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

39 Until December thirty-first, nineteen hundred ninety-four, the maximum
40 gross weight of a vehicle or combination of vehicles permitted under
41 this [subparagraph] clause shall not exceed one hundred twenty thousand
42 pounds and any tandem or tridem axle group weight shall not exceed
43 sixty-nine thousand pounds, provided, however, that any replacement
44 vehicle or combination of vehicles permitted after the effective date of
45 this [subparagraph] clause shall have at least six axles, any tandem
46 axle group shall not exceed fifty thousand pounds and any tridem axle
47 group shall not exceed sixty-nine thousand pounds.

48 After December thirty-first, nineteen hundred ninety-four, the tridem
49 axle group weight of any vehicle or combination of vehicles issued a
50 permit under this [subparagraph] clause shall not exceed sixty-seven
51 thousand pounds, any tandem axle group weight shall not exceed fifty
52 thousand pounds and any single axle weight shall not exceed twenty-five
53 thousand seven hundred fifty pounds.

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

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

6 After December thirty-first, two thousand six, no permits shall be
7 issued under this [subparagraph] clause for use within the counties of
8 Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for
9 a vehicle or combination of vehicles having less than seven axles or
10 having a wheelbase of less than forty-three feet, provided, however,
11 that permits may be issued for use within the counties of Westchester,
12 Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for vehicles or
13 combinations of vehicles where the permit applicant demonstrates that
14 the applicant acquired the vehicle or combination of vehicles prior to
15 December thirty-first, two thousand six, and that if the vehicle or
16 combination of vehicles was acquired by the applicant after the effec-
17 tive date of this provision, such vehicle or combination of vehicles is
18 less than fifteen years old. In instances where the application is for a
19 combination of vehicles, the applicant shall demonstrate that the power
20 unit of such combination satisfies the conditions of this [subparagraph]
21 clause. In no event shall a permit be issued under this [subparagraph]
22 clause for use within the counties of Westchester, Rockland, Nassau,
23 Suffolk, Putnam, Orange and Dutchess for a vehicle or combination of
24 vehicles having less than seven axles or having a wheelbase of less than
25 forty-three feet after December thirty-first, two thousand fourteen.

26 Except as otherwise provided by this subparagraph for the period
27 ending December thirty-first, two thousand fourteen, after December
28 thirty-first, two thousand three, any combination of vehicles issued a
29 permit under this [subparagraph] clause for use within the counties of
30 Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess
31 shall not exceed one hundred twenty thousand pounds, shall have at least
32 seven axles, shall have a wheelbase of at least forty-three feet, and
33 single axle weight shall not exceed twenty-five thousand seven hundred
34 fifty pounds, any tandem axle group weight shall not exceed forty-eight
35 thousand pounds, any tridem axle group weight shall not exceed sixty-
36 three thousand pounds and any four axle group shall not exceed sixty-
37 five thousand pounds.

38 From the date of enactment of this paragraph, permit applications
39 under [subparagraphs] clauses (i), (ii), (ii-a), (iii), (iv), (v) and
40 (vi) of this [paragraph] subparagraph for vehicles registered in this
41 state may be honored by the commissioner of transportation or other
42 appropriate authority. The commissioner of transportation and other
43 appropriate authorities may confer and develop a system through rules
44 and regulations to assure compliance herewith.

45 § 2. This act shall take effect immediately.

46

PART C

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

50 (b) Moneys in the public transportation systems operating assistance
51 account shall be paid on a quarterly basis beginning October first,
52 nineteen hundred eighty-one. However, if there is a demonstrated cash
53 shortfall in any eligible system, payments to such system may be accel-
54 erated. Such payments shall be made in accordance with a schedule as

1 specified by appropriation for the payment of operating costs of public
2 mass transportation systems outside the metropolitan commuter transpor-
3 tation district as defined by section twelve hundred sixty-two of the
4 public authorities law, eligible to receive operating assistance pursu-
5 ant to section eighteen-b of the transportation law. Provided, however
6 that no payment shall be made to any public transportation system that
7 is operating in violation of an order by the public transportation safe-
8 ty board pursuant to subdivision nine of section two hundred seventeen
9 of the transportation law until such time that said public transporta-
10 tion system has fully complied with said order or unless the order is
11 otherwise lifted.

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

15 (b) Moneys in the metropolitan mass transportation operating assist-
16 ance account shall be paid on a quarterly basis beginning October first,
17 nineteen hundred [eight-one] eighty-one. However, if there is a demon-
18 strated cash shortfall in any eligible system, payments to such system
19 may be accelerated. Such moneys shall be paid in accordance with sched-
20 ules as specified by appropriations for payment of operating costs of
21 public transportation systems in the metropolitan transportation commu-
22 ter district in order to meet the operating expenses of such systems,
23 provided, however, with respect to the metropolitan transportation
24 authority, its affiliates and subsidiaries, and notwithstanding any
25 general or special law to the contrary, other than such a law which
26 makes specific reference to this section, and subject to the provisions
27 of section twelve hundred seventy-c of the public authorities law, so
28 long as the metropolitan transportation authority dedicated tax fund
29 established by section twelve hundred seventy-c of the public authori-
30 ties law shall exist, any such appropriation to the metropolitan trans-
31 portation authority, its affiliates or its subsidiaries shall be deemed
32 to be an appropriation to the metropolitan transportation authority and
33 the total amount paid pursuant to such appropriation or appropriations
34 shall be deposited to such metropolitan transportation authority dedi-
35 cated tax fund and distributed in accordance with the provisions of
36 section twelve hundred seventy-c of the public authorities law. Nothing
37 contained in this subdivision shall be deemed to restrict the right of
38 the state to amend, repeal, modify or otherwise alter statutes imposing
39 or relating to the taxes producing revenues for deposit in the metropol-
40 itan mass transportation operating assistance account or the appropri-
41 ations relating thereto. The metropolitan transportation authority shall
42 not include within any resolution, contract or agreement with holders of
43 the bonds or notes issued under section twelve hundred sixty-nine of the
44 public authorities law any provision which provides that a default
45 occurs as a result of the state exercising its right to amend, repeal,
46 modify or otherwise alter such taxes or appropriations. Provided,
47 however that no payment shall be made to any public transportation
48 system that is operating in violation of an order by the public trans-
49 portation safety board pursuant to subdivision nine of section two
50 hundred seventeen of the transportation law until such time that said
51 public transportation system has fully complied with said order or
52 unless the order is otherwise lifted.

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

1 Moneys of the fund shall be made available for financing any of the
2 following types of capital projects within the counties comprising the
3 metropolitan commuter transportation district, except those counties
4 comprising the city of New York, but only to the extent that such
5 projects are on an adopted transportation plan and approved by a desig-
6 nated transportation coordinating committee, if one exists, or by the
7 metropolitan planning organization as created pursuant to section
8 fifteen-a of the transportation law if no designated transportation
9 coordinating committee exists: capacity and infrastructure improvements
10 to state, county, town, city, village roads, highways, parkways and
11 bridges; or state, county, town, city or village mass transportation
12 projects; provided, however, that in Nassau and Suffolk counties such
13 moneys shall be available only for capacity improvements to state roads,
14 highways, parkways and bridges. The amount of state funds historically
15 appropriated statewide, other than bond funds, for transportation capi-
16 tal purposes from other sources shall not be reduced because of the
17 availability of such moneys made available pursuant to this chapter, nor
18 shall such moneys be used to match federal aid. Prior to the allocation
19 of state advance funds appropriated pursuant to this section, the muni-
20 cipality responsible for the project shall certify to the commissioner
21 of transportation that the amount of funds appropriated for transporta-
22 tion capital purposes by that municipality shall not be reduced because
23 of the availability of such state advance funds, and that such moneys
24 shall not be used to match federal aid. Provided, however that no
25 payment shall be made to any public transportation system that is oper-
26 ating in violation of an order by the public transportation safety board
27 pursuant to subdivision nine of section two hundred seventeen of the
28 transportation law until such time that said public transportation
29 system has fully complied with said order or unless the order is other-
30 wise lifted.

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

34 a. The commissioner shall pay to each public transportation system
35 that makes an application therefor, in quarterly installments, a mass
36 transportation operating assistance service payment. For the purposes of
37 this section, the quarters shall be April through June, July through
38 September, October through December and January through March.
39 Provided, however that no payment shall be made to any public transpor-
40 tation system that is operating in violation of an order by the public
41 transportation safety board pursuant to subdivision nine of section two
42 hundred seventeen of this chapter until such time that said public
43 transportation system has fully complied with said order or unless the
44 order is otherwise lifted.

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

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

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

54 11. To investigate and enforce the safety of rail fixed guideway
55 public transportation systems with the public transportation agency
56 safety plan approved by the board.



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

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

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

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

12 § 6. This act shall take effect immediately.

13

PART D

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

17 (g) The length of a tow truck or car carrier, inclusive of load and
18 bumpers, shall be not more than forty feet, except that a car carrier
19 may have an overhang that extends beyond the rear bumper of such car
20 carrier by not more than [three] four feet and except, further, that a
21 wheel lift that is less than fifteen feet in length shall not be
22 included as part of the length of a tow truck or car carrier when such
23 wheel lift is in use by such tow truck or car carrier to tow another
24 motor vehicle.

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

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

36 6. Stinger-steered automobile transporters or stinger-steered boat
37 transporters, while operating on qualifying and access highways. Such
38 vehicles shall not, however, exceed [seventy-five] eighty feet exclusive
39 of an overhang of not more than [three] four feet on the front and
40 [four] six feet on the rear of the vehicle[.]; and

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

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

51 (c) Notwithstanding the provisions of paragraph (a) of this subdivi-
52 sion, an overhang of not more than three feet on the front and four feet
53 on the rear of an automobile transporter or an overhang of not more than
54 four feet on the front and six feet on the rear of a stinger-steered

1 automobile transporter or a boat transporter or stinger-steered boat
2 transporter shall be permitted.

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

6 10. A single vehicle or a combination of vehicles having three axles
7 or more and equipped with pneumatic tires, when loaded, may have a total
8 weight on all axles not to exceed thirty-four thousand pounds, plus one
9 thousand pounds for each foot and major fraction of a foot of the
10 distance from the center of the foremost axle to the center of the rear-
11 most axle. Axles to be counted as provided in subdivision five of this
12 section. In no case, however, shall the total weight exceed eighty thou-
13 sand pounds except for a vehicle if operated by an engine fueled prima-
14 rily by natural gas which may have a maximum gross weight of eighty-two
15 thousand pounds. For any vehicle or combination of vehicles having a
16 total gross weight less than seventy-one thousand pounds, the higher of
17 the following shall apply:

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

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

25
$$W = 500 ((L \times N) / (N - 1) + (12 \times N) + 36)$$

26 where W equals overall gross weight on any group of two or more consec-
27 utive axles to the nearest five hundred pounds, L equals distance in
28 feet from the center of the foremost axle to the center of the rearmost
29 axle of any group of two or more consecutive axles, and N equals number
30 of axles in group under consideration, except that two consecutive sets
31 of tandem axles may carry a gross load of thirty-four thousand pounds
32 each providing the overall distance between the first and last axles of
33 such consecutive sets of tandem axles is thirty-six feet or more.

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

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

39 24. The provisions of subdivisions six, seven, eight, nine, ten, elev-
40 en and twelve of this section shall not apply to any tow truck that is
41 transporting a disabled vehicle from the place where the vehicle became
42 disabled to the nearest appropriate repair facility and has a gross
43 vehicle weight that is equal to or exceeds the gross vehicle weight of
44 the disabled vehicle being transported.

45 § 6. Subparagraph (iii) of paragraph b of subdivision 2 of section 510
46 of the vehicle and traffic law, as amended by chapter 349 of the laws of
47 1993, is amended to read as follows:

48 (iii) such registrations shall be suspended when necessary to comply
49 with subdivision nine of section one hundred forty or subdivision four
50 of section one hundred forty-five of the transportation law or when the
51 motor carrier has been issued an out of service order by the United
52 States department of transportation. The commissioner shall have the
53 authority to deny a registration or renewal application to any other
54 person for the same vehicle and may deny a registration or renewal
55 application for any other motor vehicle registered in the name of the
56 applicant where it has been determined that such registrant's intent has

1 been to evade the purposes of this subdivision and where the commission-
2 er has reasonable grounds to believe that such registration or renewal
3 will have the effect of defeating the purposes of this subdivision. Any
4 suspension issued pursuant to this subparagraph shall remain in effect
5 until such time as the commissioner is notified by the United States
6 department of transportation or the New York state department of trans-
7 portation that the out of service order resulting in the suspension is
8 no longer in effect.

9 § 7. This act shall take effect immediately.

10

PART E

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

13 3. With intent to obtain railroad, subway, bus, air, taxi or any other
14 public transportation service or to use any highway, parkway, road,
15 bridge or tunnel without payment of the lawful charge or toll therefor,
16 or to avoid payment of the lawful charge or toll for such transportation
17 service which has been rendered to him or for such use of any highway,
18 parkway, road, bridge or tunnel, he obtains or attempts to obtain such
19 service or use or avoids or attempts to avoid payment therefor by force,
20 intimidation, stealth, deception or mechanical tampering, or by unjusti-
21 fiable failure or refusal to pay; or

22 § 2. The vehicle and traffic law is amended by adding a new section
23 518 to read as follows:

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

39 b. Such compact or agreement shall also provide such terms and proce-
40 dures as are necessary and proper to facilitate its administration. Any
41 such compact or agreement shall specify the violations subject to the
42 compact or agreement, and shall include a determination of comparable
43 violations in each state if any such violations are of a substantially
44 similar nature but are not denominated or described in precisely the
45 same words in each party state.

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

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

51 (c) It shall be unlawful for any person to operate, drive or park a
52 motor vehicle on a toll highway, bridge and/or tunnel facility, under
53 the jurisdiction of the tolling authority, if such number plate is not
54 easily readable, nor shall any number plate be covered by glass or any



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

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

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

23 § 5. This act shall take effect immediately.

24

PART F

25 Section 1. Subdivision 5 of section 227 of the vehicle and traffic
26 law, as amended by section 3 of part CC of chapter 58 of the laws of
27 2015, is amended to read as follows:

28 5. All penalties and forfeited security collected pursuant to the
29 provisions of this article shall be paid to the department of audit and
30 control to the credit of the justice court fund and shall be subject to
31 the applicable provisions of section eighteen hundred three of this
32 chapter. After such audit as shall reasonably be required by the comp-
33 troller, such penalties and forfeited security shall be paid quarterly
34 or, in the discretion of the comptroller, monthly, to the appropriate
35 jurisdiction in which the violation occurred in accordance with the
36 provisions of section ninety-nine-a of the state finance law, except
37 that the sum of four dollars for each violation occurring in such juris-
38 diction for which a complaint has been filed with the administrative
39 tribunal established pursuant to this article shall be retained by the
40 state. Notwithstanding any law to the contrary an additional annual sum
41 of three million dollars collected from fines and assessed to the city
42 of New York, shall be deposited into the general fund in accordance with
43 the provisions of section ninety-nine-a of the state finance law. The
44 amount distributed during the first three quarters to the city of
45 Rochester in any given fiscal year shall not exceed seventy percent of
46 the amount which will be otherwise payable. Provided, however, that if
47 the full costs of administering this article shall exceed the amounts
48 received and retained by the state for any period specified by the
49 commissioner, then such additional sums as shall be required to offset
50 such costs shall be retained by the state out of the penalties and
51 forfeited security collected pursuant to this article.

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

1 c. for compliance with or violations of subdivision nineteen of
2 section three hundred eighty-five of this chapter, notwithstanding any
3 inconsistent provision of law, except as provided in section ninety of
4 the state finance law, the fees and fines collected by the state pursu-
5 ant to sections two hundred twenty-seven, three hundred eighty-five and
6 eighteen hundred three of this chapter and section ninety-nine-a of the
7 state finance law, shall be made available to the state comptroller for
8 deposit in the general fund except that fines collected within a city
9 not wholly included within one county shall be paid to such city in
10 accordance with the procedures set forth in subdivision four of section
11 two hundred twenty-seven of this chapter for deposit into the general
12 fund of such city, and except that an annual amount of three million
13 dollars of fines collected within the city of New York pursuant to arti-
14 cle two-A of this chapter be deposited by the comptroller to the general
15 fund.

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

19 3. The comptroller is hereby authorized to implement alternative
20 procedures, including guidelines in conjunction therewith, relating to
21 the remittance of fines, penalties, forfeitures and other moneys by town
22 and village justice courts, and by the Nassau and Suffolk counties traf-
23 fic and parking violations agencies, and by the city of Buffalo traffic
24 violations agency, and by the city of New York pursuant to article two-A
25 of the vehicle and traffic law, to the justice court fund and for the
26 distribution of such moneys by the justice court fund. Notwithstanding
27 any law to the contrary, the alternative procedures utilized may
28 include:

29 a. electronic funds transfer;

30 b. remittance of funds by the justice court to the chief fiscal office
31 of the town or village, or, in the case of the Nassau and Suffolk coun-
32 ties traffic and parking violations agencies, to the county treasurer,
33 or, in the case of the Buffalo traffic violations agency, to the city of
34 Buffalo comptroller, for distribution in accordance with instructions by
35 the comptroller or, in the case of the city of New York, pursuant to
36 article two-A of the vehicle and traffic law to the city comptroller;
37 and/or

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

39 The comptroller may require such reporting and record keeping as he or
40 she deems necessary to ensure the proper distribution of moneys in
41 accordance with applicable laws. A justice court or the Nassau and
42 Suffolk counties traffic and parking violations agencies or the city of
43 Buffalo traffic violations agency or the city of New York pursuant to
44 article two-A of the vehicle and traffic law may utilize these proce-
45 dures only when permitted by the comptroller, and such permission, once
46 given, may subsequently be withdrawn by the comptroller on due notice.

47 § 4. This act shall take effect immediately.

48

PART G

49 Section 1. Legislative intent. The purpose of this act is to expand
50 access to important and enhanced transportation options for residents
51 and visitors throughout the State, while ensuring the safety, reliabil-
52 ity, and cost-effectiveness of those services within the State of New
53 York.

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

3 ARTICLE 44-B

4 TRANSPORTATION NETWORK COMPANY SERVICES

5 Section 1691. Definitions.

6 1692. General provisions.

7 1693. Financial responsibility of transportation network compa-
8 nies.

9 1694. Disclosures.

10 1695. Insurance provisions.

11 1696. Driver and vehicle requirements.

12 1697. Maintenance of records.

13 1698. Audit procedures; confidentiality of records.

14 1699. Criminal history background check of transportation
15 network company drivers.

16 1700. Controlling authority.

17 § 1691. Definitions. As used in this article: 1. "Transportation
18 network company vehicle" or "TNC vehicle" means a vehicle that is:

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

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

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

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

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

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

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

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

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

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

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

44 3. "Transportation network company" or "TNC" means a person, corpo-
45 ration, partnership, sole proprietorship, or other entity that is
46 licensed pursuant to this article and is operating in New York state
47 exclusively using a digital network to connect transportation network
48 company passengers to transportation network company drivers who provide
49 TNC prearranged trips.

50 4. "Transportation network company driver" or "TNC driver" means an
51 individual who:

52 (a) Receives connections to potential passengers and related services
53 from a transportation network company in exchange for payment of a fee
54 to the transportation network company; and

55 (b) Uses a TNC vehicle to offer or provide a TNC prearranged trip to
56 transportation network company passengers upon connection through a

1 digital network controlled by a transportation network company in
2 exchange for compensation or payment of a fee.

3 5. "Transportation network company passenger" or "passenger" means a
4 person or persons who use a transportation network company's digital
5 network to connect with a transportation network company driver who
6 provides TNC prearranged trips to the passenger in the TNC vehicle
7 between points chosen by the passenger.

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

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

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

16 (c) ending when the last requesting passenger departs from the TNC
17 vehicle.

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

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

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

27 (iii) a regional transportation provider.

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

30 § 1692. General provisions. 1. A TNC or a TNC driver is not a common
31 carrier, as defined in subdivision six of section two of the transporta-
32 tion law; a contract carrier of passengers by motor vehicle, as defined
33 in subdivision nine of section two of the transportation law; or a motor
34 carrier, as defined in subdivision seventeen of section two of the
35 transportation law; nor do they provide taxicab or for-hire vehicle
36 service. Moreover, a TNC driver shall not be required to register the
37 TNC vehicle such TNC driver uses for TNC prearranged trips as a commer-
38 cial or for-hire vehicle, as set forth in article fourteen of this chap-
39 ter.

40 2. A TNC may not operate in the state of New York without first having
41 obtained a license issued by the department in a form and manner and
42 with applicable fees as provided for by regulations promulgated by the
43 commissioner. As a condition of obtaining a license, a TNC shall be
44 required to submit to the department proof of a group policy issued
45 pursuant to section three thousand four hundred fifty-five of the insur-
46 ance law. Failure of a TNC to obtain a license before operation, pursu-
47 ant to this subdivision shall constitute a misdemeanor. No license
48 shall be suspended or revoked except upon notice to the TNC and after an
49 opportunity to be heard.

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

52 4. On behalf of a TNC driver, a TNC may charge a fare for the services
53 provided to passengers; provided that, if a fare is collected from a
54 passenger, the TNC shall disclose to the passengers the fare or fare
55 calculation method on its website or within the application service. The
56 TNC shall also provide the passengers with the applicable rates being

1 charged and an estimated fare before the passenger enters the TNC vehi-
2 cle.

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

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

- 10 (a) The origin and destination of the trip;
11 (b) The total time and distance of the trip; and
12 (c) An itemization of the total fare paid, if any.

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

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

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

20 § 1693. Financial responsibility of transportation network companies.

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

- 24 (a) while the TNC driver is logged onto the TNC's digital network; and
25 (b) while the TNC driver is engaged in a TNC prearranged trip.

26 2. (a) The following automobile financial responsibility insurance
27 requirements shall apply while a TNC driver is logged onto the TNC's
28 digital network and is available to receive transportation requests but
29 is not engaged in a TNC prearranged trip: insurance against loss from
30 the liability imposed by law for damages, including damages for care and
31 loss of services, because of bodily injury to or death of any person,
32 and injury to or destruction of property arising out of the ownership,
33 maintenance, use or operation of a personal vehicle or vehicles within
34 this state, exclusive of interest and costs, with respect to each such
35 occurrence, of at least fifty thousand dollars because of bodily injury
36 to or death of one person in any one accident and, subject to said limit
37 for one person, to a limit of at least one hundred thousand dollars
38 because of bodily injury to or death of two or more persons in any one
39 accident, and to a limit of at least twenty-five thousand dollars
40 because of injury to or destruction of property of others in any one
41 accident provided, however, that such policy need not be for a period
42 coterminous with the registration period of the personal vehicle
43 insured, and coverage in satisfaction of the financial responsibility
44 requirements set forth in section three thousand four hundred twenty of
45 the insurance law, article fifty-one of the insurance law, and such
46 other requirements or regulations that may apply for the purposes of
47 satisfying the financial responsibility requirements with respect to the
48 use or operation of a motor vehicle.

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

- 51 (i) insurance maintained by the TNC driver; or
52 (ii) insurance provided through a group policy maintained by the TNC;
53 or
54 (iii) a combination of subparagraphs (i) and (ii) of this paragraph.

55 3. (a) The following automobile financial responsibility insurance
56 requirements shall apply while a TNC driver is engaged in a TNC prear-

1 ranged trip: insurance against loss from the liability imposed by law
2 for damages, including damages for care and loss of services, because of
3 bodily injury to or death of any person, and injury to or destruction of
4 property arising out of the ownership, maintenance, use, or operation of
5 a personal vehicle or vehicles within this state, subject to a limit,
6 exclusive of interest and costs, with respect to each such occurrence,
7 of at least one million dollars because of bodily injuries, death and
8 property damage, provided, however, that such policy need not be for a
9 period coterminous with the registration period of the personal vehicle
10 insured, and coverage in satisfaction of the financial responsibility
11 requirements set forth in section three thousand four hundred twenty of
12 the insurance law, article fifty-one of the insurance law, and such
13 other requirements or regulations that may apply for the purposes of
14 satisfying the financial responsibility requirements with respect to the
15 use or operation of a motor vehicle.

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

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

19 (ii) insurance provided through a group policy maintained by the TNC;
20 or

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

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

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

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

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

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

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

51 8. Insurance satisfying the requirements of this section may be used,
52 when the TNC vehicle is being used or operated during the period speci-
53 fied in subdivision one of this section, to satisfy the financial
54 responsibility requirements set forth in subdivision four of section
55 three hundred eleven of this chapter, and any other requirements or
56 regulations that may apply for the purposes of satisfying the financial

1 responsibility requirements with respect to the use or operation of a
2 motor vehicle.

3 9. A TNC driver shall carry proof of coverage satisfying subdivisions
4 two and three of this section with him or her at all times during his or
5 her use or operation of a TNC vehicle in connection with a TNC's digital
6 network. Such proof of coverage shall be in such form as the commission-
7 er shall prescribe, which may be in the form of an insurance identifica-
8 tion card as defined in section three hundred eleven of this chapter.
9 Any insurance identification card issued pursuant to the provisions of
10 this article shall be in addition to the insurance identification card
11 required pursuant to article six of this chapter, and nothing contained
12 in this article shall be deemed to supersede the requirements of such
13 article six. Whenever the production of an insurance identification card
14 is required by law, a TNC driver shall (a) produce the insurance iden-
15 tification card issued pursuant to article six of this chapter and, (b)
16 if such driver either (i) was logged onto the TNC's digital network or
17 (ii) was engaged in a TNC prearranged trip and the activity under this
18 subdivision is being covered primarily by insurance purchased by a TNC
19 such driver shall also produce the insurance identification card
20 required pursuant to this article.

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

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

26 12. A group policy placed by an excess line broker under paragraph
27 (b) of subdivision seven of this section shall not include a mandatory
28 arbitration clause in a policy issued pursuant to this section. Nothing
29 in this section supercedes the mandatory arbitration requirements
30 contained in section five thousand one hundred five of the insurance
31 law.

32 § 1694. Disclosures. A TNC shall disclose in writing to TNC drivers
33 the following before they are allowed to accept a request for a TNC
34 prearranged trip on the TNC's digital network:

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

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

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

45 § 1695. Insurance provisions. 1. Insurers that write motor vehicle
46 insurance in this state may, in the insurance policy, exclude any and
47 all coverage afforded under the policy issued to an owner or operator of
48 a TNC vehicle for any loss or injury that occurs while a TNC driver is
49 logged on to a TNC's digital network or while a driver provides a prear-
50 ranged trip, including:

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

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

54 (c) uninsured and underinsured motorist coverage; and

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

4 2. Such exclusions shall apply notwithstanding any requirement under
5 the law to the contrary. Nothing in this section implies or requires
6 that an owner's policy of liability insurance or other motor vehicle
7 insurance policy provide coverage while the TNC driver is logged on to
8 the TNC's digital network, while the TNC driver is engaged in a TNC
9 prearranged trip or while the TNC driver otherwise uses or operates a
10 TNC vehicle to transport passengers for compensation.

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

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

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

26 6. In a claims coverage investigation, a TNC and any insurer poten-
27 tially providing coverage under this article shall, within fifteen days
28 after a claim has been filed, facilitate the exchange of relevant infor-
29 mation with directly involved parties and any insurer of the TNC driver
30 if applicable, including the precise times that a TNC driver logged on
31 and off of the TNC's digital network in the twelve hour period imme-
32 diately preceding and in the twelve hour period immediately following
33 the accident and disclose to one another a clear description of the
34 coverage, exclusions and limits provided under any motor vehicle insur-
35 ance maintained under this article.

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

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

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

45 (b) Except as provided under paragraph (a) of this subdivision, the
46 name of a TNC driver associated with such insurance information is
47 designated confidential whether or not so marked, is not subject to
48 disclosure by a third party by the department of motor vehicles without
49 prior consent of the TNC, and is exempt from disclosure pursuant to
50 article six of the public officers law. Nothing in this section shall be
51 considered as limiting the applicability of any other exemptions under
52 article six of the public officers law.

53 § 1696. Driver and vehicle requirements. 1. (a) At all times, an indi-
54 vidual acting as a TNC driver shall be permitted by the TNC as follows:

55 (i) The individual shall submit an application to the TNC, which shall
56 include information regarding his or her address, age, driver's license,

1 motor vehicle registration, automobile liability insurance, and other
2 information required by the TNC;

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

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

10 (B) The United States Department of Justice National Sex Offender
11 public website;

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

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

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

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

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

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

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

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

30 (c) Upon review of all information received and retained by the TNC
31 and upon verifying that the individual is not disqualified pursuant to
32 this section from receiving a TNC driver permit, a TNC may issue a TNC
33 driver permit to the applicant. The TNC shall review all information
34 received relating to such applicant and hold such information for six
35 years along with a certification that such applicant qualifies to
36 receive a TNC driver permit.

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

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

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

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

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

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

53 (e) The name of a TNC driver associated with enrollment in the depart-
54 ment's LENS reporting system is designated confidential whether or not
55 so marked, is not subject to disclosure to a third party by the depart-
56 ment without prior consent of the TNC, and is exempt from disclosure

1 pursuant to article six of the public officers law. Nothing in this
2 section shall be construed as limiting the applicability of any other
3 exemptions under article six of the public officers law.

4 (f) No person shall operate a TNC vehicle or operate as a TNC driver
5 unless such person holds a valid TNC driver permit issued pursuant to
6 this section. A violation of this paragraph shall be a traffic infrac-
7 tion punishable by a fine of not less than seventy-five nor more than
8 three hundred dollars, or by imprisonment for not more than fifteen
9 days, or by both such fine and imprisonment.

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

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

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

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

32 (d) A TNC shall implement and maintain a policy of providing accessi-
33 bility to passengers or potential passengers with a disability and
34 accommodation of service animals as such term is defined in section one
35 hundred twenty-three-b of the agriculture and markets law and shall to
36 the extent practicable adopt findings established by the New York state
37 TNC accessibility task force adopted pursuant to section eighteen of the
38 chapter of the laws of two thousand seventeen that added this section.
39 A TNC shall not impose additional charges for providing services to
40 persons with physical disabilities because of those disabilities.

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

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

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

52 (b) Reflective, illuminated, or otherwise patently visible in the
53 darkness.

54 § 1697. Maintenance of records. A TNC shall maintain the following
55 records:

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

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

6 § 1698. Audit procedures; confidentiality of records. 1. For the sole
7 purpose of verifying that a TNC is in compliance with the requirements
8 of this article and no more than biannually, the department shall
9 reserve the right to visually inspect a sample of records that the TNC
10 is required to maintain, upon request by the department that shall be
11 fulfilled in no less than thirty business days by the TNC. The sample
12 shall be chosen randomly by the department in a manner agreeable to both
13 parties. The audit shall take place at a mutually agreed location in New
14 York. Any record furnished to the department may exclude information
15 that would tend to identify specific drivers or passengers.

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

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

21 (c) In response to a specific complaint against any TNC driver or TNC,
22 the department is authorized to inspect records held by the TNC that are
23 necessary to investigate and resolve the complaint. The TNC and the
24 department shall endeavor to have the inspection take place at a mutual-
25 ly agreed location in New York. Any record furnished to the department
26 may exclude information that would tend to identify specific drivers or
27 passengers, unless the identity of a driver or passenger is relevant to
28 the complaint.

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

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

37 § 1699. Criminal history background check of transportation network
38 company drivers. 1. A TNC shall conduct a criminal history background
39 check using a lawful method approved by the department pursuant to para-
40 graph (a) of subdivision two of this section for persons applying to
41 drive for such company.

42 2. (a) The method used to conduct a criminal history background check
43 pursuant to subdivision one of this section shall be established in
44 regulations adopted by the department within thirty days of the effec-
45 tive date of this subdivision. Such regulations shall establish the
46 method used to conduct such background checks and any processes and
47 operations necessary to complete such checks. The review of criminal
48 history information and determinations about whether or not an applicant
49 is issued a TNC driver permit shall be controlled by paragraphs (b), (c)
50 and (d) of this subdivision.

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

53 (i) stands convicted in the last three years of: unlawful fleeing a
54 police officer in a motor vehicle in violation of sections 270.35,
55 270.30 or 270.25 of the penal law, reckless driving in violation of
56 section twelve hundred twelve of this chapter, operating while license

1 or privilege is suspended or revoked in violation of section five
2 hundred eleven of this chapter, excluding subdivision seven of such
3 section, a misdemeanor offense of operating a motor vehicle while under
4 the influence of alcohol or drugs in violation of section one thousand
5 one hundred ninety-two of this chapter, or leaving the scene of an acci-
6 dent in violation of subdivision two of section six hundred of this
7 chapter. In calculating the three year period under this subparagraph,
8 any period of time during which the person was incarcerated after the
9 commission of such offense shall be excluded and such three year period
10 shall be extended by a period or periods equal to the time spent incar-
11 cerated and shall be determined in a manner consistent with regulations
12 established by the department; or

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

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

37 (d) Upon receipt of criminal conviction information pursuant to this
38 section for any applicant, such applicant shall promptly be provided
39 with a copy of such information as well as a copy of article twenty-
40 three-A of the correction law. Such applicant shall also be informed of
41 his or her right to seek correction of any incorrect information
42 contained in such criminal history information pursuant to the regu-
43 lations and procedures established by the division of criminal justice
44 services.

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

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

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

53 5. Any TNC found to have negligently, recklessly, or intentionally
54 violated any requirements established pursuant to this section, shall on
55 the first instance, be subject to a civil penalty of not more than ten
56 thousand dollars. For any subsequent instance within the period of two

1 years from any initial violation, such TNC shall be subject to a civil
2 penalty of not more than fifty thousand dollars, or the suspension or
3 revocation of its TNC license or both.

4 § 1700. Controlling authority. 1. Notwithstanding any other provision
5 of law, the regulation of TNCs and TNC drivers is governed exclusively
6 by the provisions of the chapter of the laws of two thousand seventeen
7 which added this section and any rules promulgated by the state through
8 its agencies consistent with such chapter. No county, town, city or
9 village may enact a tax or any fee or other surcharge on a TNC, a TNC
10 driver, or a TNC vehicle used by a TNC driver or require a license,
11 permit, or additional insurance coverage or any other limitations or
12 restrictions, where such fee, surcharge, unauthorized tax, license,
13 permit, insurance coverage, limitation or restriction, relates to facil-
14 itating or providing TNC prearranged trips, or subjects a TNC, a TNC
15 driver, or a TNC vehicle used by a TNC driver to operational, or other
16 requirements.

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

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

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

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

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

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

44 § 5. Section 600 of the vehicle and traffic law, as amended by chapter
45 49 of the laws of 2005, is amended to read as follows:

46 § 600. Leaving scene of an incident without reporting. 1. Property
47 damage. a. Any person operating a motor vehicle who, knowing or having
48 cause to know that damage has been caused to the real property or to the
49 personal property, not including animals, of another, due to an incident
50 involving the motor vehicle operated by such person shall, before leav-
51 ing the place where the damage occurred, stop, exhibit his or her
52 license and insurance identification card for such vehicle, when such
53 card is required pursuant to articles six and eight of this chapter, and
54 give his or her name, residence, including street and number, insurance
55 carrier and insurance identification information including but not
56 limited to the number and effective dates of said individual's insurance

1 policy, and license number to the party sustaining the damage, or in
2 case the person sustaining the damage is not present at the place where
3 the damage occurred then he or she shall report the same as soon as
4 physically able to the nearest police station, or judicial officer. In
5 addition to the foregoing, any such person shall also: (i) produce the
6 proof of insurance coverage required pursuant to article forty-four-B of
7 this chapter if such person is a TNC driver operating a TNC vehicle
8 while the incident occurred who was either (A) logged on to the TNC's
9 digital network and available to receive transportation requests but not
10 engaged in a TNC prearranged trip or (B) was logged on to the TNC's
11 digital network and was engaged in a TNC prearranged trip; and (ii)
12 disclose whether he or she, at the time such incident occurred, was
13 either (A) logged on to the TNC's digital network and available to
14 receive transportation requests but not engaged in a TNC prearranged
15 trip or (B) was logged on to the TNC's digital network and was engaged
16 in a TNC prearranged trip.

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

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

27 2. Personal injury. a. Any person operating a motor vehicle who,
28 knowing or having cause to know that personal injury has been caused to
29 another person, due to an incident involving the motor vehicle operated
30 by such person shall, before leaving the place where the said personal
31 injury occurred, stop, exhibit his or her license and insurance iden-
32 tification card for such vehicle, when such card is required pursuant to
33 articles six and eight of this chapter, and give his or her name, resi-
34 dence, including street and street number, insurance carrier and insur-
35 ance identification information including but not limited to the number
36 and effective dates of said individual's insurance policy and license
37 number, to the injured party, if practical, and also to a police offi-
38 cer, or in the event that no police officer is in the vicinity of the
39 place of said injury, then, he or she shall report said incident as soon
40 as physically able to the nearest police station or judicial officer.
41 In addition to the foregoing, any such person shall also: (i) produce
42 the proof of insurance coverage required pursuant to article
43 forty-four-B of this chapter if such person is a TNC driver operating a
44 TNC vehicle at the time of the incident who was either (A) logged on to
45 the TNC's digital network and available to receive transportation
46 requests but not engaged in a TNC prearranged trip or (B) was logged on
47 to the TNC's digital network and was engaged in a TNC prearranged trip;
48 and (ii) disclose whether he or she, at the time such incident occurred,
49 was either (A) logged on to the TNC's digital network and available to
50 receive transportation requests but not engaged in a TNC prearranged
51 trip or (B) was logged on to the TNC's digital network and was engaged
52 in a TNC prearranged trip.

53 b. It shall be the duty of any member of a law enforcement agency who
54 is at the scene of the accident to request the said operator or opera-
55 tors of the motor vehicles, when physically capable of doing so, to
56 exchange the information required hereinabove and such member of a law

1 enforcement agency shall assist such operator or operators in making
2 such exchange of information in a reasonable and harmonious manner.

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

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

38 § 5-a. Section 601 of the vehicle and traffic law, as amended by chap-
39 ter 672 of the laws of 2004, is amended to read as follows:

40 § 601. Leaving scene of injury to certain animals without reporting.
41 Any person operating a motor vehicle which shall strike and injure any
42 horse, dog, cat or animal classified as cattle shall stop and endeavor
43 to locate the owner or custodian of such animal or a police, peace or
44 judicial officer of the vicinity, and take any other reasonable and
45 appropriate action so that the animal may have necessary attention, and
46 shall also promptly report the matter to such owner, custodian or offi-
47 cer (or if no one of such has been located, then to a police officer of
48 some other nearby community), exhibiting his or her license and insur-
49 ance identification card for such vehicle, when such card is required
50 pursuant to articles six and eight of this chapter, giving his or her
51 name and residence, including street and street number, insurance carri-
52 er and insurance identification information and license number. In addi-
53 tion to the foregoing, any such person shall also: (i) produce the proof
54 of insurance coverage required pursuant to article forty-four-B of this
55 chapter is such person is a TNC driver operating a TNC vehicle at the
56 time of the incident who was either (A) logged on to the TNC's digital

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

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

22 § 3455. Transportation network company group insurance policies. (a)
23 For purposes of this section, the following definitions shall apply:

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

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

29 (3) "Transportation network company group policy" or "group policy"
30 means a group policy, including certificates issued to the group
31 members, where the group policyholder is a transportation network compa-
32 ny and the policy provides insurance to the transportation network
33 company and to group members:

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

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

39 (C) in satisfaction of the financial responsibility requirements set
40 forth in section three thousand four hundred twenty of this article,
41 subdivision four of section three hundred eleven of the vehicle and
42 traffic law, article fifty-one of this chapter, and such other require-
43 ments or regulations that may apply for the purposes of satisfying the
44 financial responsibility requirements with respect to the use or opera-
45 tion of a motor vehicle.

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

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

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

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

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

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

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

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

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

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

15 (3) The coverage described in paragraphs one and two of this
16 subsection may be provided in one group policy or in separate group
17 policies.

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

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

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

26 (1) wholly by the group policyholder;

27 (2) wholly by the group members; or

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

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

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

34 (B) be retained by the group policyholder.

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

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

40 (B) paid or refunded to those group members insured on the date the
41 payment or refund is made to the group policyholder, if distributed by
42 the group policyholder, or on the date of mailing, if distributed
43 directly by the insurer, subject to the following requirements:

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

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

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

52 (3) Notwithstanding paragraphs one and two of this subsection, if a
53 dividend accrues upon termination of coverage under a transportation
54 network company group policy, the premium for which was paid out of
55 funds contributed by group members specifically for the coverage, the
56 dividend shall be paid or refunded by the group policyholder to the

1 group members insured on the date the payment or refund is made to the
2 group policyholder, net of reasonable expenses incurred by the group
3 policyholder in paying or refunding the dividend to such group members.

4 (4) For the purposes of this subsection, "dividend" means a return by
5 the insurer of a transportation network company group policy of excess
6 premiums to the group policyholder in light of favorable loss experi-
7 ence, including retrospective premium credits or retrospective premium
8 refunds. The term "dividend" does not include reimbursements or fees
9 received by a group policyholder in connection with the operation or
10 administration of a transportation network company group policy, includ-
11 ing administrative reimbursements, fees for services provided by the
12 group policyholder, or transactional service fees.

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

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

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

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

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

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

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

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

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

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

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

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

23 (B) An insurer's cancellation of an individual certificate shall not
24 become effective until thirty days after the insurer mails or delivers
25 written notice of cancellation to the group member at the group member's
26 mailing address and to the group policyholder at the mailing address
27 shown in the group policy.

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

31 (B) The group policyholder shall mail or deliver written notice to
32 each affected group member of the group policyholder's cancellation of
33 the group policy or certificate and the effective date of cancellation.
34 The group policyholder shall mail or deliver the written notice to the
35 group member's mailing address at least thirty days prior to the effec-
36 tive date of cancellation.

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

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

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

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

49 (5) Where the group policyholder nonrenews the group policy, the group
50 policyholder shall mail or deliver written notice to each group member
51 advising the group member of nonrenewal of the group policy and the
52 effective date of nonrenewal. The group policyholder shall mail or
53 deliver written notice at least thirty days prior to the nonrenewal.

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

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

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

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

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

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

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

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

32 § 6-a. Subsection (g) of section 5102 of the insurance law is amended
33 to read as follows:

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

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

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

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

46 (d) [Where] (1) Except as provided in paragraph two of this
47 subsection, where there is reasonable belief more than one insurer would
48 be the source of first party benefits, the insurers may agree among
49 themselves, if there is a valid basis therefor, that one of them will
50 accept and pay the claim initially. If there is no such agreement, then
51 the first insurer to whom notice of claim is given shall be responsible
52 for payment. Any such dispute shall be resolved in accordance with the
53 arbitration procedures established pursuant to section five thousand one
54 hundred five of this article and [regulation] regulations as promulgated
55 by the superintendent, and any insurer paying first-party benefits shall
56 be reimbursed by other insurers for their proportionate share of the

1 costs of the claim and the allocated expenses of processing the claim,
2 in accordance with the provisions entitled "other coverage" contained in
3 regulation and the provisions entitled "other sources of first-party
4 benefits" contained in regulation. If there is no such insurer and the
5 motor vehicle accident occurs in this state, then an applicant who is a
6 qualified person as defined in article fifty-two of this chapter shall
7 institute the claim against the motor vehicle accident indemnification
8 corporation.

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

24 § 9. Subsection (b) of section 2305 of the insurance law, as amended
25 by chapter 11 of the laws of 2008, paragraph 13 as amended by chapter
26 136 of the laws of 2008, is amended to read as follows:

27 (b) rate filings for:
28 (1) workers' compensation insurance;
29 (2) motor vehicle insurance, or surety bonds, required by section
30 three hundred seventy of the vehicle and traffic law or article forty-
31 four-B of the vehicle and traffic law;
32 (3) joint underwriting;
33 (4) motor vehicle assigned risk insurance;
34 (5) insurance issued by the New York Property Insurance Underwriting
35 Association;
36 (6) risk sharing plans authorized by section two thousand three
37 hundred eighteen of this article;
38 (7) title insurance;
39 (8) medical malpractice liability insurance;
40 (9) insurance issued by the Medical Malpractice Insurance Association;
41 (10) mortgage guaranty insurance;
42 (11) credit property insurance, as defined in section two thousand
43 three hundred forty of this article; [and]
44 (12) gap insurance; and
45 (13) [Private] private passenger automobile insurance, except as
46 provided in section two thousand three hundred fifty of this article[.],
47 shall be filed with the superintendent and shall not become effective
48 unless either the filing has been approved or thirty days, which the
49 superintendent may with cause extend an additional thirty days and with
50 further cause extend an additional fifteen days, have elapsed and the
51 filing has not been disapproved as failing to meet the requirements of
52 this article, including the standard that rates be not otherwise unrea-
53 sonable. After a rate filing becomes effective, the filing and support-
54 ing information shall be open to public inspection. If a filing is
55 disapproved, then notice of such disapproval order shall be given, spec-
56 ifying in what respects such filing fails to meet the requirements of

1 this article. Upon his or her request, the superintendent shall be
 2 provided with support and assistance from the workers' compensation
 3 board and other state agencies and departments with appropriate juris-
 4 diction. The loss cost multiplier for each insurer providing coverage
 5 for workers' compensation, as defined by regulation promulgated by the
 6 superintendent, shall be promptly displayed on the department's website
 7 and updated in the event of any change.

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

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

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

24 ARTICLE 6-H

25 TRANSPORTATION NETWORK COMPANY DRIVER'S

26 INJURY COMPENSATION FUND

27 Section 160-aaaa. Definitions.

28 160-bbbb. Transportation network company driver's injury compen-
 29 sation fund, Inc.

30 160-cccc. Supervision of transportation network companies.

31 160-dddd. Management of the fund.

32 160-eeee. Plan of operation.

33 160-ffff. Membership.

34 160-gggg. Securing of compensation.

35 160-hhhh. Assessment of fund members.

36 160-iiii. Certified financial statements.

37 160-jjjj. Exemption from taxes.

38 160-kkkk. Liability insurance.

39 160-llll. Regulations.

40 160-mmmm. Violations.

41 § 160-aaaa. Definitions. As used in this article:

42 1. "Transportation network company driver" or "TNC driver" means an
 43 individual who:

44 (a) receives connections to potential passengers and related services
 45 from a transportation network company in exchange for payment of a fee
 46 to the transportation network company;

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

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

55 2. "Transportation network company passenger" or "passenger" means a
 56 person or persons who use a transportation network company's digital

1 network to connect with a transportation network company driver who
2 provides TNC prearranged trips to the passenger in the TNC vehicle
3 between points chosen by the passenger.

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

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

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

14 6. "Transportation network company vehicle" or "TNC vehicle" means a
15 vehicle that is:

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

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

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

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

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

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

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

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

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

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

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

42 (i) beginning when a transportation network company driver accepts a
43 passenger's request for a trip through a digital network controlled by a
44 transportation network company;

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

47 (iii) ending when the last requesting passenger departs from the TNC
48 vehicle.

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

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

54 (ii) use of a taxicab, livery, luxury limousine, or other for-hire
55 vehicle, as defined in the vehicle and traffic law, section 19-502 of

1 the administrative code of the city of New York, or as otherwise defined
2 in local law; or

3 (iii) a regional transportation provider.

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

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

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

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

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

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

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

22 § 160-bbbb. Transportation network company driver's injury compen-
23 sation fund, Inc. There is hereby created a not-for-profit corporation
24 to be known as the New York transportation network company driver's
25 injury compensation fund, Inc. To the extent that the provisions of the
26 not-for-profit corporation law do not conflict with the provisions of
27 this article, or with the plan of operation established pursuant to this
28 article, the not-for-profit corporation law shall apply to the fund,
29 which shall be a type C corporation pursuant to such law. If an applica-
30 ble provision of this article or of the fund's plan of operation relates
31 to a matter embraced in a provision of the not-for-profit corporation
32 law but is not in conflict therewith, both provisions shall apply. The
33 fund shall perform its functions in accordance with its plan of opera-
34 tion established and approved pursuant to section one hundred sixty-eeee
35 of this article and shall exercise its powers through a board of direc-
36 tors established pursuant to this article.

37 § 160-cccc. Supervision of transportation network companies. A trans-
38 portation network company shall, with respect to the provisions of this
39 article, be subject to the supervision and oversight of the department
40 as provided in this article.

41 § 160-dddd. Management of the fund. 1. Within thirty (30) days of the
42 effective date of this article, there shall be appointed a board of
43 directors of the fund. The board of directors of the fund shall consist
44 of nine directors appointed by the governor, one of whom shall be chosen
45 by the governor; one of whom shall be chosen upon nomination of the
46 temporary president of the senate; one of whom shall be chosen upon
47 nomination of the speaker of the assembly; one of whom shall be chosen
48 upon nomination of the american federation of labor-congress of indus-
49 trial organizations of New York; and five of whom shall be chosen upon
50 nomination of transportation network company members of the fund.

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

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

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

3 5. (a) All of the directors shall have equal voting rights and five or
4 more directors shall constitute a quorum. The affirmative vote of four
5 directors shall be necessary for the transaction of any business or the
6 exercise of any power or function of the fund.

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

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

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

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

22 (a) establish procedures for collecting and managing the assets of the
23 fund;

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

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

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

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

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

35 (g) establish procedures to ensure prompt and accurate notification to
36 the fund by its members of all accidents and injuries to transportation
37 network company drivers, and provide for full reimbursement of the fund
38 by any transportation network company whose failure to provide such
39 notification results in the imposition of a penalty on the fund by the
40 board; and

41 (h) contain such additional provisions as the board of the fund may
42 deem necessary or proper for the execution of the powers and duties of
43 the fund.

44 § 160-ffff. Membership. 1. The membership of the fund shall be
45 composed of all transportation network companies. Each transportation
46 network company shall be required, as a condition of doing business
47 within this state, to pay the department a ten thousand dollar annual
48 fee for the purpose of registering as a member of the fund and receiving
49 a certificate of registration. Such sums shall be used by the depart-
50 ment for the administration of this article. The initial registration
51 fee shall be due no later than ninety days after the effective date of
52 this article. The department shall have the power to assess an addi-
53 tional fee against each registrant in the amount necessary to provide it
54 with sufficient funds to cover its expenses in performing its duties
55 pursuant to this article. The department shall provide the fund with an
56 updated list of registrants on a monthly basis.



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

5 (a) be members of the fund;

6 (b) be registered with the department as members of the fund; and

7 (c) submit to the department of motor vehicles a copy of its certif-
8 icate of registration as proof of such membership and registration.

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

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

19 § 160-gggg. Securing of compensation. 1. Within two hundred ten days
20 of the effective date of this article, the fund shall secure the payment
21 of workers' compensation to all: transportation network company drivers
22 entitled thereto pursuant to this chapter by either:

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

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

29 2. If the fund initially seeks to apply to the board for authorization
30 to self-insure pursuant to subdivision three of section fifty of the
31 workers' compensation law, it shall submit its application and accompa-
32 nying proof to the board within one hundred fifty days of the effective
33 date of this article. The board shall notify the fund and the secretary
34 in writing of any change in the fund's status as a self-insurer or of
35 any additional requirements that the board may deem necessary for
36 continuation of such status.

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

44 4. No provision of this article shall be construed to alter or affect
45 the liability under the workers' compensation law of any transportation
46 network company with respect to transportation network company drivers
47 prior to the fund liability date.

48 § 160-hhhh. Assessment of fund members. 1. To pay:

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

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

54 (c) its expenses in carrying out its powers and duties under this
55 article; and

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

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

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

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

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

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

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

26 3. The department of motor vehicles or the department shall not issue,
27 continue or renew any license or registration certificate for the opera-
28 tion of any transportation network company unless such transportation
29 network company, as a condition of maintaining its license and/or regis-
30 tration certificate, adds the surcharge required by this section to
31 every invoice and billing for covered services sent to, and every credit
32 payment for covered services received from, its transportation network
33 company passengers and pays to the fund no later than the fifteenth day
34 of each month the total surcharges due pursuant to this article.

35 4. Each transportation network company shall submit to the fund with
36 its monthly payment a detailed accounting of the charge and surcharge
37 amounts charged to and received from transportation network company
38 passengers for covered services during the previous month. The first
39 such payment and accounting shall be due on the fifteenth day of the
40 month following the imposition of the surcharge pursuant to subdivision
41 two of this section.

42 5. Should the fund determine that the surcharge amounts that have been
43 paid to it are inadequate to meet its obligations under this article, it
44 shall determine the surcharge rate required to eliminate such deficiency
45 and shall file such revised surcharge rate with the department in
46 accordance with subdivision two of this section. Commencing thirty days
47 after such filing, the members of the fund shall charge the revised
48 surcharge rate and shall pay to the fund the total amount of surcharges
49 in accordance with this article.

50 6. For the purposes of conducting payroll audits, an insurer providing
51 coverage to the fund pursuant to this article may treat the members of
52 the fund as policyholders. Members of the fund shall be required to do
53 all things required of employers pursuant to section one hundred thir-
54 ty-one of the workers' compensation law, and shall be required to
55 provide the board access to any and all records and information as
56 otherwise required by the workers' compensation law and the regulations

1 promulgated thereunder, and shall be liable as provided in the workers'
2 compensation law for any failure so to do.

3 § 160-iiii. Certified financial statements. No later than May first of
4 each year, the fund shall submit to the governor and legislature certi-
5 fied financial statements prepared in accordance with generally accepted
6 accounting principles by a certified public accountant. The members of
7 the fund shall be required on and after January first of each year to
8 afford the certified public accountant convenient access at all reason-
9 able hours to all books, records, and other documents, including but not
10 limited to invoices and vouchers, necessary or useful in the preparation
11 of such statements and in the verification of the monthly statements
12 submitted to the fund.

13 § 160-jjjj. Exemption from taxes. The fund shall be exempt from
14 payment of all fees and taxes levied by this state or any of its subdi-
15 visions, except taxes levied on real property.

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

22 § 160-llll. Regulations. The department shall adopt regulations imple-
23 menting the provisions of this article, including the conduct and notice
24 of hearings held pursuant to section one hundred sixty-mmmmm of this
25 article.

26 § 160-mmmmm. Violations. 1. If the secretary believes a violation of
27 this article by a fund member may have occurred, upon notice to the fund
28 member, a hearing shall be held by the secretary to determine whether
29 such violation occurred.

30 2. Except as otherwise provided in this section, a fund member that is
31 found, after a hearing held pursuant to subdivision one of this section,
32 to have violated a provision of this article, or a rule promulgated by
33 the department pursuant to this article, shall be liable for a fine in
34 an amount not to exceed ten thousand dollars per violation.

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

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

42 1. All taxes, interest, penalties and fees collected or received by
43 the commissioner or the commissioner's duly authorized agent under arti-
44 cles nine (except section one hundred eighty-two-a thereof and except as
45 otherwise provided in section two hundred five thereof), nine-A,
46 twelve-A (except as otherwise provided in section two hundred eighty-
47 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
48 section three hundred twelve thereof), eighteen, nineteen, twenty
49 (except as otherwise provided in section four hundred eighty-two there-
50 of), twenty-B, twenty-one, twenty-two, twenty-six, [twenty-six-B,] twen-
51 ty-eight (except as otherwise provided in section eleven hundred two or
52 eleven hundred three thereof), twenty-eight-A, twenty-nine-B (except as
53 otherwise provided in section twelve hundred ninety-eight thereof),
54 thirty-one (except as otherwise provided in section fourteen hundred
55 twenty-one thereof), thirty-three and thirty-three-A of this chapter
56 shall be deposited daily in one account with such responsible banks,

1 banking houses or trust companies as may be designated by the comp-
2 troller, to the credit of the comptroller. Such an account may be estab-
3 lished in one or more of such depositories. Such deposits shall be kept
4 separate and apart from all other money in the possession of the comp-
5 troller. The comptroller shall require adequate security from all such
6 depositories. Of the total revenue collected or received under such
7 articles of this chapter, the comptroller shall retain in the comp-
8 troller's hands such amount as the commissioner may determine to be
9 necessary for refunds or reimbursements under such articles of this
10 chapter out of which amount the comptroller shall pay any refunds or
11 reimbursements to which taxpayers shall be entitled under the provisions
12 of such articles of this chapter. The commissioner and the comptroller
13 shall maintain a system of accounts showing the amount of revenue
14 collected or received from each of the taxes imposed by such articles.
15 The comptroller, after reserving the amount to pay such refunds or
16 reimbursements, shall, on or before the tenth day of each month, pay
17 into the state treasury to the credit of the general fund all revenue
18 deposited under this section during the preceding calendar month and
19 remaining to the comptroller's credit on the last day of such preceding
20 month, (i) except that the comptroller shall pay to the state department
21 of social services that amount of overpayments of tax imposed by article
22 twenty-two of this chapter and the interest on such amount which is
23 certified to the comptroller by the commissioner as the amount to be
24 credited against past-due support pursuant to subdivision six of section
25 one hundred seventy-one-c of this article, (ii) and except that the
26 comptroller shall pay to the New York state higher education services
27 corporation and the state university of New York or the city university
28 of New York respectively that amount of overpayments of tax imposed by
29 article twenty-two of this chapter and the interest on such amount which
30 is certified to the comptroller by the commissioner as the amount to be
31 credited against the amount of defaults in repayment of guaranteed
32 student loans and state university loans or city university loans pursu-
33 ant to subdivision five of section one hundred seventy-one-d and subdi-
34 vision six of section one hundred seventy-one-e of this article, (iii)
35 and except further that, notwithstanding any law, the comptroller shall
36 credit to the revenue arrearage account, pursuant to section
37 ninety-one-a of the state finance law, that amount of overpayment of tax
38 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
39 or thirty-three of this chapter, and any interest thereon, which is
40 certified to the comptroller by the commissioner as the amount to be
41 credited against a past-due legally enforceable debt owed to a state
42 agency pursuant to paragraph (a) of subdivision six of section one
43 hundred seventy-one-f of this article, provided, however, he shall cred-
44 it to the special offset fiduciary account, pursuant to section ninety-
45 one-c of the state finance law, any such amount creditable as a liabil-
46 ity as set forth in paragraph (b) of subdivision six of section one
47 hundred seventy-one-f of this article, (iv) and except further that the
48 comptroller shall pay to the city of New York that amount of overpayment
49 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
50 thirty-B or thirty-three of this chapter and any interest thereon that
51 is certified to the comptroller by the commissioner as the amount to be
52 credited against city of New York tax warrant judgment debt pursuant to
53 section one hundred seventy-one-l of this article, (v) and except
54 further that the comptroller shall pay to a non-obligated spouse that
55 amount of overpayment of tax imposed by article twenty-two of this chap-
56 ter and the interest on such amount which has been credited pursuant to

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

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

21 1. All taxes, interest, penalties and fees collected or received by
22 the commissioner or the commissioner's duly authorized agent under arti-
23 cles nine (except section one hundred eighty-two-a thereof and except as
24 otherwise provided in section two hundred five thereof), nine-A,
25 twelve-A (except as otherwise provided in section two hundred eighty-
26 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
27 section three hundred twelve thereof), eighteen, nineteen, twenty
28 (except as otherwise provided in section four hundred eighty-two there-
29 of), twenty-one, twenty-two, twenty-six, [twenty-six-B,] twenty-eight
30 (except as otherwise provided in section eleven hundred two or eleven
31 hundred three thereof), twenty-eight-A, twenty-nine-B (except as other-
32 wise provided in section twelve hundred ninety-eight thereof), thirty-
33 one (except as otherwise provided in section fourteen hundred twenty-one
34 thereof), thirty-three and thirty-three-A of this chapter shall be
35 deposited daily in one account with such responsible banks, banking
36 houses or trust companies as may be designated by the comptroller, to
37 the credit of the comptroller. Such an account may be established in one
38 or more of such depositories. Such deposits shall be kept separate and
39 apart from all other money in the possession of the comptroller. The
40 comptroller shall require adequate security from all such depositories.
41 Of the total revenue collected or received under such articles of this
42 chapter, the comptroller shall retain in the comptroller's hands such
43 amount as the commissioner may determine to be necessary for refunds or
44 reimbursements under such articles of this chapter out of which amount
45 the comptroller shall pay any refunds or reimbursements to which taxpay-
46 ers shall be entitled under the provisions of such articles of this
47 chapter. The commissioner and the comptroller shall maintain a system of
48 accounts showing the amount of revenue collected or received from each
49 of the taxes imposed by such articles. The comptroller, after reserving
50 the amount to pay such refunds or reimbursements, shall, on or before
51 the tenth day of each month, pay into the state treasury to the credit
52 of the general fund all revenue deposited under this section during the
53 preceding calendar month and remaining to the comptroller's credit on
54 the last day of such preceding month, (i) except that the comptroller
55 shall pay to the state department of social services that amount of
56 overpayments of tax imposed by article twenty-two of this chapter and



1 the interest on such amount which is certified to the comptroller by the
2 commissioner as the amount to be credited against past-due support
3 pursuant to subdivision six of section one hundred seventy-one-c of this
4 article, (ii) and except that the comptroller shall pay to the New York
5 state higher education services corporation and the state university of
6 New York or the city university of New York respectively that amount of
7 overpayments of tax imposed by article twenty-two of this chapter and
8 the interest on such amount which is certified to the comptroller by the
9 commissioner as the amount to be credited against the amount of defaults
10 in repayment of guaranteed student loans and state university loans or
11 city university loans pursuant to subdivision five of section one
12 hundred seventy-one-d and subdivision six of section one hundred seven-
13 ty-one-e of this article, (iii) and except further that, notwithstanding
14 any law, the comptroller shall credit to the revenue arrearage account,
15 pursuant to section ninety-one-a of the state finance law, that amount
16 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-
17 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest
18 thereon, which is certified to the comptroller by the commissioner as
19 the amount to be credited against a past-due legally enforceable debt
20 owed to a state agency pursuant to paragraph (a) of subdivision six of
21 section one hundred seventy-one-f of this article, provided, however, he
22 shall credit to the special offset fiduciary account, pursuant to
23 section ninety-one-c of the state finance law, any such amount credita-
24 ble as a liability as set forth in paragraph (b) of subdivision six of
25 section one hundred seventy-one-f of this article, (iv) and except
26 further that the comptroller shall pay to the city of New York that
27 amount of overpayment of tax imposed by article nine, nine-A, twenty-
28 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any
29 interest thereon that is certified to the comptroller by the commission-
30 er as the amount to be credited against city of New York tax warrant
31 judgment debt pursuant to section one hundred seventy-one-l of this
32 article, (v) and except further that the comptroller shall pay to a
33 non-obligated spouse that amount of overpayment of tax imposed by arti-
34 cle twenty-two of this chapter and the interest on such amount which has
35 been credited pursuant to section one hundred seventy-one-c, one hundred
36 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or
37 one hundred seventy-one-l of this article and which is certified to the
38 comptroller by the commissioner as the amount due such non-obligated
39 spouse pursuant to paragraph six of subsection (b) of section six
40 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct
41 a like amount which the comptroller shall pay into the treasury to the
42 credit of the general fund from amounts subsequently payable to the
43 department of social services, the state university of New York, the
44 city university of New York, or the higher education services corpo-
45 ration, or the revenue arrearage account or special offset fiduciary
46 account pursuant to section ninety-one-a or ninety-one-c of the state
47 finance law, as the case may be, whichever had been credited the amount
48 originally withheld from such overpayment, and (vii) with respect to
49 amounts originally withheld from such overpayment pursuant to section
50 one hundred seventy-one-l of this article and paid to the city of New
51 York, the comptroller shall collect a like amount from the city of New
52 York.

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

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

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

36 ARTICLE 29-B

37 STATE ASSESSMENT FEE ON TRANSPORTATION NETWORK COMPANY

38 PREARRANGED TRIPS

39 Section 1291. Definitions.

40 1292. Imposition.

41 1293. Presumption.

42 1294. Returns and payment of state assessment fee.

43 1295. Records to be kept.

44 1296. Secrecy of returns and reports.

45 1297. Practice and procedure.

46 1298. Deposit and disposition of revenue.

47 § 1291. Definitions. (a) "Person" means an individual, partnership,
48 limited liability company, society, association, joint stock company,
49 corporation, estate, receiver, trustee, assignee, referee or any other
50 person acting in a fiduciary or representative capacity, whether
51 appointed by a court or otherwise, any combination of individuals and
52 any other form of unincorporated enterprise owned or conducted by two or
53 more persons.

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



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

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

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

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

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

13 § 1292. Imposition. There is hereby imposed on every TNC a state
14 assessment fee of 5.5% of the gross trip fare of every TNC prearranged
15 trip provided by such TNC that originates anywhere in the state outside
16 the city and terminates anywhere in this state.

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

23 § 1294. Returns and payment of state assessment fee. (a) Every person
24 liable for the state assessment fee imposed by this article shall file a
25 return on a calendar-quarterly basis with the commissioner. Each return
26 shall show the number of TNC prearranged trips in the quarter for which
27 the return is filed, together with such other information as the commis-
28 sioner may require. The returns required by this section shall be filed
29 within thirty days after the end of the quarterly period covered there-
30 by. If the commissioner deems it necessary in order to ensure the
31 payment of the state assessment fee imposed by this article, the commis-
32 sioner may require returns to be made for shorter periods than
33 prescribed by the foregoing provisions of this section, and upon such
34 dates as the commissioner may specify. The form of returns shall be
35 prescribed by the commissioner and shall contain such information as the
36 commissioner may deem necessary for the proper administration of this
37 article. The commissioner may require amended returns to be filed within
38 thirty days after notice and to contain the information specified in the
39 notice. The commissioner may require that the returns be filed electron-
40 ically.

41 (b) Every person required to file a return under this article shall,
42 at the time of filing such return, pay to the commissioner the total of
43 all state assessment fees on the correct number of trips subject to such
44 fee under this article. The amount so payable to the commissioner for
45 the period for which a return is required to be filed shall be due and
46 payable to the commissioner on the date specified for the filing of the
47 return for such period, without regard to whether a return is filed or
48 whether the return that is filed correctly shows the correct number of
49 trips or the amount of fees due thereon. The commissioner may require
50 that the fee be paid electronically.

51 § 1295. Records to be kept. Every person liable for the state assess-
52 ment fee imposed by this article shall keep:

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

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

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

5 § 1296. Secrecy of returns and reports. (a) Except in accordance with
6 proper judicial order or as otherwise provided by law, it shall be
7 unlawful for the commissioner, any officer or employee of the depart-
8 ment, any person engaged or retained by the department on an independent
9 contract basis, or any person who in any manner may acquire knowledge of
10 the contents of a return or report filed with the commissioner pursuant
11 to this article, to divulge or make known in any manner any particulars
12 set forth or disclosed in any such return or report. The officers
13 charged with the custody of such returns and reports shall not be
14 required to produce any of them or evidence of anything contained in
15 them in any action or proceeding in any court, except on behalf of the
16 commissioner in an action or proceeding under the provisions of this
17 chapter or in any other action or proceeding involving the collection of
18 a state assessment fee due under this article to which the state or the
19 commissioner is a party or a claimant, or on behalf of any party to any
20 action, proceeding or hearing under the provisions of this article when
21 the returns, reports or facts shown thereby are directly involved in
22 such action, proceeding or hearing, in any of which events the court, or
23 in the case of a hearing, the division of tax appeals may require the
24 production of, and may admit into evidence, so much of said returns,
25 reports or of the facts shown thereby, as are pertinent to the action,
26 proceeding or hearing and no more. The commissioner or the division of
27 tax appeals may, nevertheless, publish a copy or a summary of any deci-
28 sion rendered after a hearing required by this article. Nothing in this
29 section shall be construed to prohibit the delivery to a person who has
30 filed a return or report or to such person's duly authorized represen-
31 tative of a certified copy of any return or report filed in connection
32 with such person's state assessment fee. Nor shall anything in this
33 section be construed to prohibit the publication of statistics so clas-
34 sified as to prevent the identification of particular returns or reports
35 and the items thereof, or the inspection by the attorney general or
36 other legal representatives of the state of the return or report of any
37 person required to pay the state assessment fee who shall bring action
38 to review the state assessment fee based thereon, or against whom an
39 action or proceeding under this chapter has been recommended by the
40 commissioner or the attorney general or has been instituted, or the
41 inspection of the returns or reports required under this article by the
42 comptroller or duly designated officer or employee of the state depart-
43 ment of audit and control, for purposes of the audit of a refund of any
44 state assessment fee paid by a person required to pay the state assess-
45 ment fee under this article. Provided, further, nothing in this section
46 shall be construed to prohibit the disclosure, in such manner as the
47 commissioner deems appropriate, of the names and other appropriate iden-
48 tifying information of those persons required to pay state assessment
49 fee under this article.

50 (b) Notwithstanding the provisions of subdivision (a) of this section,
51 the commissioner, in his or her discretion, may require or permit any or
52 all persons liable for any state assessment fee imposed by this article,
53 to make payment to banks, banking houses or trust companies designated
54 by the commissioner and to file returns with such banks, banking houses
55 or trust companies as agents of the commissioner, in lieu of paying any
56 such state assessment fee directly to the commissioner. However, the

1 commissioner shall designate only such banks, banking houses or trust
2 companies as are already designated by the comptroller as depositories
3 pursuant to section twelve hundred eighty-eight of this chapter.

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

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

33 (e) (1) Any officer or employee of the state who willfully violates
34 the provisions of subdivision (a) of this section shall be dismissed
35 from office and be incapable of holding any public office for a period
36 of five years thereafter.

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

39 § 1297. Practice and procedure. The provisions of article twenty-seven
40 of this chapter shall apply with respect to the administration of and
41 procedure with respect to the state assessment fee imposed by this arti-
42 cle in the same manner and with the same force and effect as if the
43 language of such article twenty-seven had been incorporated in full into
44 this article and had expressly referred to the state assessment fee
45 under this article, except to the extent that any such provision is
46 either inconsistent with a provision of this article or is not relevant
47 to this article.

48 § 1298. Deposit and disposition of revenue. All taxes, fees, interest
49 and penalties collected or received by the commissioner under this arti-
50 cle shall be deposited and disposed of pursuant to the provisions of
51 section one hundred seventy-one-a of this chapter. From such taxes,
52 interest and penalties collected or received by the commissioner under
53 this article, 27.27% shall be deposited to the credit of the local tran-
54 sit assistance fund established in section eighty-nine-i of the state
55 finance law for the support of local transit systems, operations or

1 projects other than the metropolitan transportation authority or any
2 subsidiary or affiliate of the metropolitan transportation authority.

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

5 § 1822. Violation of the state assessment fee on transportation
6 network company prearranged trips. Any willful act or omission by any
7 person that constitutes a violation of any provision of article twenty-
8 nine-B of this chapter shall constitute a misdemeanor.

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

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

25 § 18. 1. For purposes of this section, transportation network company
26 shall mean a transportation network company as defined by article
27 forty-four-B of the vehicle and traffic law.

28 2. There is hereby established the New York State Transportation
29 Network Company Accessibility Task Force to analyze and advise on how to
30 maximize effective and integrated transportation services for persons
31 with disabilities in the transportation network company market. The New
32 York State Transportation Network Company Accessibility Task Force shall
33 consist of eleven members. Two members of the New York State Transporta-
34 tion Network Company Accessibility Task Force shall be appointed by the
35 speaker of the assembly. Two members of the New York State Transporta-
36 tion Network Company Accessibility Task Force shall be appointed by the
37 temporary president of the senate. Seven members of the New York State
38 Transportation Network Company Accessibility Task Force shall be
39 appointed by the governor and shall include, but not be limited to, two
40 representatives of groups who serve persons with disabilities and two
41 representatives from a transportation network company. The governor
42 shall designate two chairpersons to the New York State Transportation
43 Network Company Accessibility Task Force.

44 3. The New York State Transportation Network Company Accessibility
45 Task Force shall study the demand responsive transportation marketplace
46 and shall, in addition to any responsibilities assigned by the governor:

47 (a) conduct a needs assessment concerning the demand for demand respon-
48 sive accessible transportation; (b) conduct a resource assessment
49 concerning the availability of accessible demand responsive transporta-
50 tion services for persons with disabilities; (c) identify opportunities
51 for, and barriers to, increasing accessible demand responsive transporta-
52 tion service for persons with mobility disabilities; (d) propose stra-
53 tegies for increasing accessible demand responsive transportation
54 service for persons with disabilities; and (e) any other issues deter-
55 mined important to the task force in establishing a recommendation
56 pursuant to subdivision five of this section.

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

5 5. The New York State Transportation Network Company Accessibility
6 Task Force shall complete a report addressing the activities described
7 in subdivision two of this section and make a recommendation, supported
8 by such activities, recommending the amount of accessibility necessary
9 for adequate transportation for disabled passengers in order to utilize
10 such services and present such findings at a public meeting where its
11 members shall accept such report, pursuant to majority vote of the task
12 force, and present such report to the governor, the speaker of the
13 assembly and the temporary president of the senate, and make such report
14 publicly available for review.

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

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

20 § 89-i. Local transit assistance fund. 1. There is hereby established
21 in the joint custody of the state comptroller and the commissioner of
22 taxation and finance a fund to be known as the "local transit assistance
23 fund". Moneys in the local transit assistance fund shall be kept sepa-
24 rately from and shall not be commingled with any other moneys in the
25 joint or sole custody of the state comptroller or the commissioner of
26 taxation and finance.

27 2. The comptroller shall establish the following separate and distinct
28 account within the local transit assistance fund: Non-MTA transit
29 assistance account.

30 3. The local transit assistance fund shall consist of all monies
31 collected therefore or credited or transferred thereto from any other
32 fund, account, or source, including a portion of the revenues derived
33 from article twenty-nine-B of the tax law pursuant to section twelve
34 hundred ninety-eight of the tax law. Any interest received by the comp-
35 troller on monies on deposit in the local transit assistance fund shall
36 be retained in and become a part of such fund.

37 4. Monies in the local transit assistance fund shall, following appro-
38 riation by the legislature, be utilized for the support of local trans-
39 it systems, operations or projects, and shall not be appropriated to the
40 metropolitan transportation authority, its affiliates or its subsid-
41 iaries. In the first year that monies are appropriated from this fund,
42 and in any subsequent years as may be required by the director of the
43 budget, such monies shall be disbursed according to a plan developed
44 during the prior fiscal year by the commissioner of transportation and
45 approved by the director of the budget. The first such plan shall be
46 submitted by the commissioner by March thirty-first, two thousand eigh-
47 teen.

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

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

55 § 21. Each agency that is designated to perform any function or duty
56 pursuant to this act shall be authorized to establish rules and regu-

1 lations for the administration and execution of such authority in a
2 manner consistent with the provisions of this act and for the protection
3 of the public, health, safety and welfare of persons within this state.
4 § 22. This act shall take effect on the ninetieth day after it shall
5 have become a law; provided that the amendments to subdivision 1 of
6 section 171-a of the tax law made by section twelve of this act shall
7 not affect the expiration of such subdivision and shall expire there-
8 with, when upon such date the provisions of section thirteen of this act
9 shall take effect.

10

PART H

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

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

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

19

PART I

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

23 (i) A non-resident whose driving privileges have been revoked pursuant
24 to sections five hundred ten, eleven hundred ninety-three and eleven
25 hundred ninety-four of this chapter shall, upon application for rein-
26 statement of such driving privileges, pay to the commissioner of motor
27 vehicles a fee of [twenty-five] one hundred dollars. When the basis for
28 the revocation is a finding of driving after having consumed alcohol
29 pursuant to the provisions of section eleven hundred ninety-two-a of
30 this chapter, the fee to be paid to the commissioner shall be one
31 hundred dollars. Such fee is not refundable and shall not be returned to
32 the applicant regardless of the action the commissioner may take on such
33 person's application for reinstatement of such driving privileges.

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

36

PART J

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

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

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

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

48 (h) Notwithstanding any other provision of law, the increase of twen-
49 ty-five dollars for the fee assessed for filing an application for a
50 certificate of title and the increase of twenty dollars for the fee

1 assessed for filing an application for duplicate title, collected pursu-
2 ant to paragraphs one and three of subdivision (a) of this section,
3 shall be deposited to the credit of the dedicated highway and bridge
4 trust fund, established pursuant to section eighty-nine-b of the state
5 finance law.

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

11 PART K

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

14 (f) In addition to any other fee prescribed in this section, an addi-
15 tional fee of five dollars shall be charged for any non-driver identifi-
16 cation card or renewal or amendment of such card that is issued pursuant
17 to and bears a marking reflecting compliance with the Real ID Act of
18 2005, Public Law 109-13, and regulations promulgated thereunder at 6 CFR
19 37 et seq. The fee collected pursuant to this paragraph shall be paid to
20 the commissioner and shall be deposited into the dedicated highway
21 bridge and trust fund pursuant to section eighty-nine-b of the state
22 finance law.

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

25 (f-2) In addition to any other fee prescribed in this section, an
26 additional fee of five dollars shall be charged for any license, renewal
27 or amendment of such license that is issued pursuant to and bears a
28 marking reflecting compliance with the Real ID Act of 2005, Public Law
29 109-13, and regulations promulgated thereunder at 6 CFR 37 et seq. The
30 fee collected pursuant to this paragraph shall be paid to the commis-
31 sioner and shall be deposited into the dedicated highway bridge and
32 trust fund pursuant to section eighty-nine-b of the state finance law.

33 § 3. This act shall take effect immediately.

34 PART L

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

37 § 114-a. Drug. The term "drug" when used in this chapter, means and
38 includes any substance listed in section thirty-three hundred six of the
39 public health law and any substance or combination of substances that
40 impair, to any extent, the physical and mental abilities which a driver
41 is expected to possess in order to operate a vehicle as a reasonable and
42 prudent driver.

43 § 2. Subparagraph (i) of paragraph (a) of subdivision 4 of section 502
44 of the vehicle and traffic law, as amended by chapter 97 of the laws of
45 2016, is amended to read as follows:

46 (i) Upon submission of an application for a driver's license, the
47 applicant shall be required to take and pass a test, or submit evidence
48 of passage of a test, with respect to the laws relating to traffic, the
49 laws relating to driving while ability is impaired and while intoxicat-
50 ed, under the overpowering influence of "Road Rage", or "Work Zone Safe-
51 ty" awareness as defined by the commissioner, the law relating to exer-
52 cising due care to avoid colliding with a parked, stopped or standing

1 authorized emergency vehicle or hazard vehicle pursuant to section eleven
2 hundred forty-four-a of this chapter, the ability to read and compre-
3 hend traffic signs and symbols, bicycle and pedestrian safety and such
4 other matters as the commissioner may prescribe, and to satisfactorily
5 complete a course prescribed by the commissioner of not less than four
6 hours and not more than five hours, consisting of classroom driver
7 training and highway safety instruction or the equivalent thereof. Such
8 test shall include at least seven written questions concerning the
9 effects of consumption of alcohol or drugs on the ability of a person to
10 operate a motor vehicle and the legal and financial consequences result-
11 ing from violations of section eleven hundred ninety-two of this chap-
12 ter, prohibiting the operation of a motor vehicle while under the influ-
13 ence of alcohol or drugs. Such test shall include one or more written
14 questions concerning the devastating effects of "Road Rage" on the abil-
15 ity of a person to operate a motor vehicle and the legal and financial
16 consequences resulting from assaulting, threatening or interfering with
17 the lawful conduct of another person legally using the roadway. Such
18 test shall include one or more questions concerning the potential
19 dangers to persons and equipment resulting from the unsafe operation of
20 a motor vehicle in a work zone. Such test may include one or more ques-
21 tions concerning the law for exercising due care to avoid colliding with
22 a parked, stopped or standing vehicle pursuant to section eleven hundred
23 forty-four-a of this chapter. Such test may include one or more ques-
24 tions concerning bicycle and pedestrian safety. Such test shall be
25 administered by the commissioner. The commissioner shall cause the
26 applicant to take a vision test and a test for color blindness. Upon
27 passage of the vision test, the application may be accepted and the
28 application fee shall be payable.

29 § 3. Subparagraph (v) of paragraph (b) of subdivision 2 of section 510
30 of the vehicle and traffic law, as amended by chapter 3 of the laws of
31 1995, is amended to read as follows:

32 (v) For a period of six months where the holder is convicted of, or
33 receives a youthful offender or other juvenile adjudication in
34 connection with, any misdemeanor or felony defined in article two
35 hundred twenty or two hundred twenty-one of the penal law, any violation
36 of the federal controlled substances act, [any crime in violation of
37 subdivision four of section eleven hundred ninety-two of this chapter]
38 or any out-of-state or federal misdemeanor or felony drug-related
39 offense; provided, however, that any time actually served in custody
40 pursuant to a sentence or disposition imposed as a result of such
41 conviction or youthful offender or other juvenile adjudication shall be
42 credited against the period of such suspension and, provided further,
43 that the court shall determine that such suspension need not be imposed
44 where there are compelling circumstances warranting an exception.

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

48 i. Where suspension of a driver's license is mandatory hereunder based
49 upon a conviction of, or youthful offender or other juvenile adjudi-
50 cation in connection with, any misdemeanor or felony as defined in arti-
51 cle two hundred twenty or two hundred twenty-one of the penal law, any
52 violation of the federal controlled substances act, [any crime in
53 violation of subdivision four of section eleven hundred ninety-two of
54 this chapter] or any out-of-state or federal misdemeanor or felony drug-
55 related offense, the commissioner may issue a restricted use license
56 pursuant to section five hundred thirty of this chapter.

1 j. Where suspension of a driver's license is mandatory hereunder based
2 upon a conviction of, or youthful offender or other juvenile adjudi-
3 cation in connection with, any misdemeanor or felony as defined in arti-
4 cle two hundred twenty or two hundred twenty-one of the penal law, any
5 violation of the federal controlled substances act, [any crime in
6 violation of subdivision four of section eleven hundred ninety-two of
7 this chapter] or any out-of-state or federal misdemeanor or felony drug-
8 related offense and the individual does not have a driver's license or
9 the individual's driver's license was suspended at the time of
10 conviction or youthful offender or other juvenile adjudication, the
11 commissioner shall not issue a new license nor restore the former
12 license for a period of six months after such individual would otherwise
13 have become eligible to obtain a new license or to have the former
14 license restored; provided, however, that during such delay period the
15 commissioner may issue a restricted use license pursuant to section five
16 hundred thirty of this [chapter] title to such previously suspended
17 licensee.

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

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

34 § 6. Clauses a and b of subparagraph 1 of paragraph (d) of subdivision
35 2 of section 1194 of the vehicle and traffic law, as amended by chapter
36 732 of the laws of 2006, are amended to read as follows:

37 a. Any license which has been revoked pursuant to paragraph (c) of
38 this subdivision shall not be restored for at least [one year] eighteen
39 months after such revocation, nor thereafter, except in the discretion
40 of the commissioner. However, no such license shall be restored for at
41 least [eighteen] twenty-four months after such revocation, nor thereaft-
42 er except in the discretion of the commissioner, in any case where the
43 person has had a prior revocation resulting from refusal to submit to a
44 chemical test, or has been convicted of or found to be in violation of
45 any subdivision of section eleven hundred ninety-two or section eleven
46 hundred ninety-two-a of this article not arising out of the same inci-
47 dent, within the five years immediately preceding the date of such revo-
48 cation; provided, however, a prior finding that a person under the age
49 of twenty-one has refused to submit to a chemical test pursuant to
50 subdivision three of section eleven hundred ninety-four-a of this arti-
51 cle shall have the same effect as a prior finding of a refusal pursuant
52 to this subdivision solely for the purpose of determining the length of
53 any license suspension or revocation required to be imposed under any
54 provision of this article, provided that the subsequent offense or
55 refusal is committed or occurred prior to the expiration of the

1 retention period for such prior refusal as set forth in paragraph (k) of
2 subdivision one of section two hundred one of this chapter.

3 b. Any license which has been revoked pursuant to paragraph (c) of
4 this subdivision or pursuant to subdivision three of section eleven
5 hundred ninety-four-a of this article, where the holder was under the
6 age of twenty-one years at the time of such refusal, shall not be
7 restored for at least [one year] eighteen months, nor thereafter, except
8 in the discretion of the commissioner. Where such person under the age
9 of twenty-one years has a prior finding, conviction or youthful offender
10 adjudication resulting from a violation of section eleven hundred nine-
11 ty-two or section eleven hundred ninety-two-a of this article, not aris-
12 ing from the same incident, such license shall not be restored for at
13 least [one year] twenty-four months or until such person reaches the age
14 of twenty-one years, whichever is the greater period of time, nor there-
15 after, except in the discretion of the commissioner.

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

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

32 (b) An operator of any motor vehicle upon a public highway who holds a
33 mobile telephone to, or in the immediate proximity of, his or her ear
34 [while such vehicle is in motion] is presumed to be engaging in a call
35 within the meaning of this section[]; provided, however, that an operator
36 of a commercial motor vehicle who holds a mobile telephone to, or in the
37 immediate proximity of, his or her ear while such vehicle is temporarily
38 stationary because of traffic, a traffic control device, or other momen-
39 tary delays is also presumed to be engaging in a call within the meaning
40 of this section except that a person operating a commercial motor vehi-
41 cle while using a mobile telephone to engage in a call when such vehicle
42 is stopped at the side of, or off, a public highway in a location where
43 such vehicle is not otherwise prohibited from stopping by law, rule,
44 regulation or any lawful order or direction of a police officer shall
45 not be presumed to be engaging in a call within the meaning of this
46 section]. The presumption established by this subdivision is rebuttable
47 by evidence tending to show that the operator was not engaged in a call.

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

51 2-a. No person under eighteen years of age shall operate a motor vehi-
52 cle upon a public highway while engaging in a call with a hand held or
53 hands free mobile telephone. For the purposes of this subdivision,
54 engaging in a call shall include making or receiving a call with a hand
55 held or hands free mobile telephone.



1 3. [Subdivision] Subdivisions two and two-a of this section shall not
2 apply to (a) the use of a mobile telephone for the sole purpose of
3 communicating with any of the following regarding an emergency situ-
4 ation: an emergency response operator; a hospital, physician's office or
5 health clinic; an ambulance company or corps; a fire department,
6 district or company; or a police department, (b) any of the following
7 persons while in the performance of their official duties: a police
8 officer or peace officer; a member of a fire department, district or
9 company; or the operator of an authorized emergency vehicle as defined
10 in section one hundred one of this chapter, or (c) the use of a hands-
11 free mobile telephone except as applied to persons under the age of
12 eighteen years.

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

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

29 4. A person who [holds] uses a portable electronic device in a
30 conspicuous manner while operating a motor vehicle or while operating a
31 [commercial] motor vehicle on a public highway [including while tempo-
32 rarily stationary because of traffic, a traffic control device, or other
33 momentary delays] but not including when such [commercial] motor vehicle
34 is stopped at the side of, or off, a public highway in a location where
35 such vehicle is not otherwise prohibited from stopping by law, rule,
36 regulation or any lawful order or direction of a police officer is
37 presumed to be using such device[, except that a person operating a
38 commercial motor vehicle while using a portable electronic device when
39 such vehicle is stopped at the side of, or off, a public highway in a
40 location where such vehicle is not otherwise prohibited from stopping by
41 law, rule, regulation or any lawful order or direction of a police offi-
42 cer shall not be presumed to be using such device]. The presumption
43 established by this subdivision is rebuttable by evidence tending to
44 show that the operator was not using the device within the meaning of
45 this section.

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

49 (a) "Portable electronic device" shall mean any hand-held mobile tele-
50 phone, as defined by subdivision one of section twelve hundred twenty-
51 five-c of this article, personal digital assistant (PDA), handheld
52 device with mobile data access, laptop computer, pager, broadband
53 personal communication device, two-way messaging device, electronic
54 game, or portable computing device, or any other [electronic] personal
55 wireless communications device when used to input, write, send, receive,
56 or read text or images for present or future communication including

1 doing so for the purpose of SMS texting, emailing, instant messaging or
2 engaging in any other form of electronic data retrieval or electronic
3 data communication.

4 (b) "Using" shall mean holding or making contact with a portable elec-
5 tronic device [while] for the purpose of viewing, taking or transmitting
6 images, playing games, or, for the purpose of present or future communi-
7 cation: performing a command or request to access a world wide web page,
8 composing, sending, reading, viewing, accessing, browsing, transmitting,
9 saving or retrieving e-mail, text messages, instant messages, or other
10 electronic data.

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

13 (e) "Personal wireless communications device" shall: (i) mean a device
14 through which personal wireless services (as defined in section
15 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332
16 (c)(7)(C)(i)), are transmitted; and

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

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

22 3. No person shall operate a motor vehicle unless such person is
23 restrained by a safety belt approved by the commissioner. No person
24 sixteen years of age or over shall be a passenger in [the front seat of]
25 a motor vehicle unless such person is restrained by a safety belt
26 approved by the commissioner.

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

29 PART M

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

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

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

39 PART N

40 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
41 New York state urban development corporation act, relating to the powers
42 of the New York state urban development corporation to make loans, as
43 amended by section 1 of part G of chapter 58 of the laws of 2016, is
44 amended to read as follows:

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

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

3

PART O

4 Section 1. The opening paragraph of subdivision (h) of section 121 of
5 chapter 261 of the laws of 1988, amending the state finance law and
6 other laws relating to the New York state infrastructure trust fund, as
7 amended by section 2 of part Q of chapter 58 of the laws of 2015, is
8 amended to read as follows:

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

12 § 2. This act shall take effect immediately.

13

PART P

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

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

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

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

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

35 § 3. Notwithstanding the provisions of section 38 of the highway law,
36 section 136-a of the state finance law, [section] sections 359, 1678,
37 1680, 1680-a and 2879-a of the public authorities law, [section]
38 sections 407-a, 6281 and 7210 of the education law, sections 8 and 9 of
39 the public buildings law, section 11 of chapter 795 of the laws of 1967,
40 sections 8 and 9 of section 1 of chapter 359 of the laws of 1968 as
41 amended, section 29 of chapter 337 of the laws of 1972, section 21 of
42 chapter 464 of the laws of 1972, section 103 of the general municipal
43 law, and the provisions of any other law to the contrary, and in
44 conformity with the requirements of this act, an authorized [state]
45 entity may utilize the alternative delivery method referred to as
46 design-build contracts, in consultation with relevant local labor organ-
47 izations and construction industry, for capital projects related to [the
48 state's physical infrastructure, including, but not limited to, the
49 state's highways, bridges, dams, flood control projects, canals, and
50 parks, including, but not limited to, to repair damage caused by natural
51 disaster, to correct health and safety defects, to comply with federal
52 and state laws, standards, and regulations, to extend the useful life of

1 or replace the state's highways, bridges, dams, flood control projects,
2 canals, and parks or to improve or add to the state's highways, bridges,
3 dams, flood control projects, canals, and parks] publicly owned capital
4 assets; provided that [for the contracts executed by the department of
5 transportation, the office of parks, recreation and historic preserva-
6 tion, or the department of environmental conservation,] the total cost
7 of each such project shall not be less than one million two hundred
8 thousand dollars (\$1,200,000).

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

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

14 (a) Step one. Generation of a list of entities that have demonstrated
15 the general capability to perform the design-build contract. Such list
16 shall consist of a specified number of entities, as determined by an
17 authorized [state] entity, and shall be generated based upon the author-
18 ized [state] entity's review of responses to a publicly advertised
19 request for qualifications. The authorized [state] entity's request for
20 qualifications shall include a general description of the project, the
21 maximum number of entities to be included on the list, and the selection
22 criteria to be used in generating the list. Such selection criteria
23 shall include the qualifications and experience of the design and
24 construction team, organization, demonstrated responsibility, ability of
25 the team or of a member or members of the team to comply with applicable
26 requirements, including the provisions of articles 145, 147 and 148 of
27 the education law, past record of compliance with the labor law, and
28 such other qualifications the authorized [state] entity deems appropri-
29 ate which may include but are not limited to project understanding,
30 financial capability and record of past performance. The authorized
31 [state] entity shall evaluate and rate all entities responding to the
32 request for qualifications. Based upon such ratings, the authorized
33 [state] entity shall list the entities that shall receive a request for
34 proposals in accordance with subdivision (b) of this section. To the
35 extent consistent with applicable federal law, the authorized [state]
36 entity shall consider, when awarding any contract pursuant to this
37 section, the participation of: (i) firms certified pursuant to article
38 15-A of the executive law as minority or women-owned businesses and the
39 ability of other businesses under consideration to work with minority
40 and women-owned businesses so as to promote and assist participation by
41 such businesses; [and] (ii) small business concerns identified pursuant
42 to subdivision (b) of section 139-g of the state finance law.

43 (b) Step two. Selection of the proposal which is the best value to the
44 [state] authorized entity. The authorized [state] entity shall issue a
45 request for proposals to the entities listed pursuant to subdivision (a)
46 of this section. If such an entity consists of a team of separate enti-
47 ties, the entities that comprise such a team must remain unchanged from
48 the entity as listed pursuant to subdivision (a) of this section unless
49 otherwise approved by the authorized [state] entity. The request for
50 proposals shall set forth the project's scope of work, and other
51 requirements, as determined by the authorized [state] entity. The
52 request for proposals shall specify the criteria to be used to evaluate
53 the responses and the relative weight of each such criteria. Such
54 criteria shall include the proposal's cost, the quality of the
55 proposal's solution, the qualifications and experience of the design-
56 build entity, and other factors deemed pertinent by the authorized

1 [state] entity, which may include, but shall not be limited to, the
2 proposal's project implementation, ability to complete the work in a
3 timely and satisfactory manner, maintenance costs of the completed
4 project, maintenance of traffic approach, and community impact. Any
5 contract awarded pursuant to this act shall be awarded to a responsive
6 and responsible entity that submits the proposal, which, in consider-
7 ation of these and other specified criteria deemed pertinent to the
8 project, offers the best value to the [state] authorized entity, as
9 determined by the authorized [state] entity. Nothing herein shall be
10 construed to prohibit the authorized entity from negotiating final
11 contract terms and conditions including cost.

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

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

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

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

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

33 § 8. Each contract entered into by the authorized [state] entity
34 pursuant to this section shall comply with the objectives and goals of
35 minority and women-owned business enterprises pursuant to article 15-A
36 of the executive law or, for projects receiving federal aid, shall
37 comply with applicable federal requirements for disadvantaged business
38 enterprises.

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

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

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

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

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

53 § 12. Nothing contained in this act shall limit the right or obli-
54 gation of the authorized [state] entity to comply with the provisions of
55 any existing contract, including any existing contract with or for the

1 benefit of the holders of the obligations of the authorized [state]
2 entity, or to award contracts as otherwise provided by law.

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

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

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

9 2. Utilizing a cost-plus not to exceed guaranteed maximum price form
10 of contract in which the authorized [state] entity shall be entitled to
11 monitor and audit all project costs. In establishing the schedule and
12 process for determining a guaranteed maximum price, the contract between
13 the authorized [state] entity and the contractor shall:

14 (i) describe the scope of the work and the cost of performing such
15 work;

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

17 (iii) include a list of all drawings, specifications and other infor-
18 mation on which the guaranteed maximum price is based;

19 (iv) include the dates for substantial and final completion on which
20 the guaranteed maximum price is based; and

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

22 3. Utilizing a lump sum contract in which the contractor agrees to
23 accept a set dollar amount for a contract which comprises a single bid
24 without providing a cost breakdown for all costs such as for equipment,
25 labor, materials, as well as such contractor's profit for completing all
26 items of work comprising the project.

27 (b) Capital projects undertaken by an authorized [state] entity may
28 include an incentive clause in the contract for various performance
29 objectives, but the incentive clause shall not include an incentive that
30 exceeds the quantifiable value of the benefit received by the [state]
31 authorized entity. The authorized [state] entity shall establish such
32 performance and payment bonds as it deems necessary.

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

35 § 14. Prequalified contractors. (a) Notwithstanding any other
36 provision of law, the authorized [state] entity may maintain a list of
37 prequalified contractors who are eligible to submit a proposal pursuant
38 to this act and entry into such list shall be continuously available.
39 Prospective contractors may be prequalified as contractors to provide
40 particular types of construction, in accordance with general criteria
41 established by the authorized [state] entity which may include, but
42 shall not be limited to, the experience, past performance, ability to
43 undertake the type and complexity of work, financial capability, respon-
44 sibility, compliance with equal employment opportunity requirements and
45 anti-discrimination laws, and reliability. Such prequalification may be
46 by categories designed by size and other factors.

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

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

1 § 15-a. Any contract awarded pursuant to this act shall be deemed to
2 be awarded pursuant to a competitive procurement for purposes of section
3 2879-a of the public authorities law.

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

6 § 17. This act shall take effect immediately [and shall expire and be
7 deemed repealed 2 years after such date, provided that, projects with
8 requests for qualifications issued prior to such repeal shall be permit-
9 ted to continue under this act notwithstanding such repeal].

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

14

PART Q

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

21 § 2. This act shall take effect immediately, provided however, that
22 section one of this act shall be deemed to have been in full force and
23 effect on and after April 1, 2003 and shall expire March 31, [2017]
24 2018.

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

27

PART R

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

30 (d) Any designated post office address maintained by the secretary of
31 state as agent of a domestic corporation or foreign corporation for the
32 purpose of mailing process shall be the post office address, within or
33 without the state, to which a person shall mail process against such
34 corporation as required by this article. Any designated [post-office]
35 post office address to which the secretary of state or a person shall
36 mail a copy of any process served upon [him] the secretary of state as
37 agent of a domestic corporation or a foreign corporation, shall continue
38 until the filing of a certificate under this chapter directing the mail-
39 ing to a different [post-office] post office address.

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

43 (a) In addition to such designation of the secretary of state, every
44 domestic corporation or authorized foreign corporation may designate a
45 registered agent in this state upon whom process against such corpo-
46 ration may be served. The agent shall be a natural person who is a resi-
47 dent of or has a business address in this state [or], a domestic corpo-
48 ration or foreign corporation of any type or kind formed[,] or
49 authorized to do business in this state, under this chapter or under any
50 other statute of this state, or domestic limited liability company or
51 foreign limited liability company formed or authorized to do business in
52 this state.



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

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

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

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

49 (3) That sixty days prior to the filing of the certificate of resigna-
50 tion or receipt of process with the department of state the party has
51 sent a copy of the certificate of resignation for receipt of process by
52 registered or certified mail to the address of the registered agent of
53 the designating corporation, if other than the party filing the certif-
54 icate of resignation[,] for receipt of process, or if the [resigning]
55 designating corporation has no registered agent, then to the last
56 address of the designating corporation known to the party, specifying

1 the address to which the copy was sent. If there is no registered agent
2 and no known address of the designating corporation, the party shall
3 attach an affidavit to the certificate stating that a diligent but
4 unsuccessful search was made by the party to locate the corporation,
5 specifying what efforts were made.

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

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

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

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

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

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

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

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

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

35 (b) A certificate of change which changes only the post office address
36 to which [the secretary of state] a person shall mail a copy of any
37 process against a corporation served upon [him or] the secretary of
38 state and/or the address of the registered agent, provided such address
39 being changed is the address of a person, partnership, limited liability
40 company or other corporation whose address, as agent, is the address to
41 be changed or who has been designated as registered agent for such
42 corporation, may be signed[, verified] and delivered to the department
43 of state by such agent. The certificate of change shall set forth the
44 statements required under subparagraphs [(a)] (1), (2) and (3) of para-
45 graph (a) of this section; that a notice of the proposed change was
46 mailed to the corporation by the party signing the certificate not less
47 than thirty days prior to the date of delivery to the department and
48 that such corporation has not objected thereto; and that the party sign-
49 ing the certificate is the agent of such corporation to whose address
50 [the secretary of state] a person is required to mail copies of process
51 served on the secretary of state or the registered agent, if such be the
52 case. A certificate signed[, verified] and delivered under this para-
53 graph shall not be deemed to effect a change of location of the office
54 of the corporation in whose behalf such certificate is filed.

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

4 (8) If the surviving or resulting entity is a foreign corporation or
5 other business entity, a designation of the secretary of state as its
6 agent upon whom process against it may be served in the manner set forth
7 in paragraph (b) of section three hundred six of this chapter, in any
8 action or special proceeding, and a post office address, within or with-
9 out this state, to which [the secretary of state] a person shall mail a
10 copy of any process against it served upon [him] the secretary of state.
11 Such post office address shall supersede any prior address designated as
12 the address to which process shall be mailed;

13 § 11. Clause (G) of subparagraph 2 of paragraph (e) of section 907 of
14 the business corporation law, as amended by chapter 494 of the laws of
15 1997, is amended to read as follows:

16 (G) A designation of the secretary of state as its agent upon whom
17 process against it may be served in the manner set forth in paragraph
18 (b) of section 306 (Service of process), in any action or special
19 proceeding, and a 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. Such post office
22 address shall supersede any prior address designated as the address to
23 which process shall be mailed.

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

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

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

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

40 § 14. Subparagraph 2 of paragraph (a) and paragraph (c) of section
41 1309-A of the business corporation law, subparagraph 2 of paragraph (a)
42 as added by chapter 725 of the laws of 1964 and paragraph (c) as amended
43 by chapter 172 of the laws of 1999, are amended to read as follows:

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

47 (c) A certificate of change of application for authority which changes
48 only the post office address to which [the secretary of state] a person
49 shall mail a copy of any process against an authorized foreign corpo-
50 ration served upon [him or which] the secretary of state and/or changes
51 the address of its registered agent, provided such address is the
52 address of a person, partnership, limited liability company or other
53 corporation whose address, as agent, is the address to be changed or who
54 has been designated as registered agent for such authorized foreign
55 corporation, may be signed and delivered to the department of state by
56 such agent. The certificate of change of application for authority shall

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

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

16 (1) The name of the foreign corporation as it appears on the index of
17 names of existing domestic and authorized foreign corporations of any
18 type or kind in the department of state, division of corporations [or,]
19 and the fictitious name, if any, the corporation has agreed to use in
20 this state pursuant to paragraph (d) of section 1301 of this [chapter]
21 article.

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

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

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

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

32 § 1311. Termination of existence.

33 When an authorized foreign corporation is dissolved or its authority
34 or existence is otherwise terminated or cancelled in the jurisdiction of
35 its incorporation or when such foreign corporation is merged into or
36 consolidated with another foreign corporation, a certificate of the
37 secretary of state, or official performing the equivalent function as to
38 corporate records, of the jurisdiction of incorporation of such foreign
39 corporation attesting to the occurrence of any such event or a certified
40 copy of an order or decree of a court of such jurisdiction directing the
41 dissolution of such foreign corporation, the termination of its exist-
42 ence or the cancellation of its authority shall be delivered to the
43 department of state. The filing of the certificate, order or decree
44 shall have the same effect as the filing of a certificate of surrender
45 of authority under section 1310 (Surrender of authority). The secretary
46 of state shall continue as agent of the foreign corporation upon whom
47 process against it may be served in the manner set forth in paragraph
48 (b) of section 306 (Service of process), in any action or special
49 proceeding based upon any liability or obligation incurred by the
50 foreign corporation within this state prior to the filing of such
51 certificate, order or decree and [he] the person serving such process
52 shall [promptly cause a copy of any such] send the process [to be
53 mailed] by [registered] certified mail, return receipt requested, to
54 such foreign corporation at the post office address on file in his
55 office specified for such purpose and shall provide the secretary of
56 state with proof of such mailing in the manner set forth in paragraph

1 (b) of section 306 (service of process). The post office address may be
2 changed by signing and delivering to the department of state a certif-
3 icate of change setting forth the statements required under section
4 1309-A (Certificate of change; contents) to effect a change in the post
5 office address under subparagraph seven of paragraph (a) [(4)] of
6 section 1308 (Amendments or changes).

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

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

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

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

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

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

32 § 21. The opening paragraph of subdivision 2 and subdivision 3 of
33 section 18 of the general associations law, as amended by chapter 13 of
34 the laws of 1938, are amended and two new subdivisions 5 and 6 are added
35 to read as follows:

36 Every association doing business within this state shall file in the
37 department of state a certificate in its associate name, signed [and
38 acknowledged] by its president, or a vice-president, or secretary, or
39 treasurer, or managing director, or trustee, designating the secretary
40 of state as an agent upon whom process in any action or proceeding
41 against the association may be served within this state, and setting
42 forth an address to which [the secretary of state] a person shall mail a
43 copy of any process against the association which may be served upon
44 [him] the secretary of state pursuant to law. Annexed to the certif-
45 icate of designation shall be a statement, executed in the same manner
46 as the certificate is required to be executed under this section, which
47 shall set forth:

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

53 5. Any designated post office address maintained by the secretary of
54 state as agent in any action or proceeding against the association for
55 the purpose of mailing process shall be the post office address, within
56 or without the state, to which a person shall mail process against such



1 association as required by this article. Such address shall continue
2 until the filing of a certificate under this chapter directing the mail-
3 ing to a different post office address.

4 6. "Process" means judicial process and all orders, demands, notices
5 or other papers required or permitted by law to be personally served on
6 an association, for the purpose of acquiring jurisdiction of such asso-
7 ciation in any action or proceeding, civil or criminal, whether judi-
8 cial, administrative, arbitrative or otherwise, in this state or in the
9 federal courts sitting in or for this state.

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

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

31 2. Proof of mailing shall be by affidavit of compliance with this
32 section. Service of process on such association shall be complete when
33 the secretary of state is so served. If the action or proceeding is
34 instituted in a court of limited jurisdiction, service of process may be
35 made in the manner provided in this section if the cause of action arose
36 within the territorial jurisdiction of the court and the office of the
37 defendant, as set forth in its statement filed pursuant to section eigh-
38 teen of this [chapter] article, is within such territorial jurisdiction.

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

42 2. Service of such process upon the secretary of state shall be made
43 by personally delivering to and leaving with him [or], a deputy secre-
44 tary of state, or with a person authorized by the secretary of state to
45 receive such service, a copy thereof at the office of the department of
46 state in the city of Albany, and such service shall be sufficient
47 service provided that notice of such service and a copy of such process
48 are forthwith sent by the attorney general to such person, partnership,
49 corporation, company, trust or association, by registered or certified
50 mail with return receipt requested, at his or its office as set forth in
51 the "broker-dealer's statement", "salesman's statement" or "investment
52 advisor's statement" filed in the department of law pursuant to section
53 three hundred fifty-nine-e or section three hundred fifty-nine-eee of
54 this article, or in default of the filing of such statement, at the last
55 address known to the attorney general. Service of such process shall be
56 complete on receipt by the attorney general of a return receipt purport-



1 ing to be signed by the addressee or a person qualified to receive his
2 or its registered or certified mail, in accordance with the rules and
3 customs of the post office department, or, if acceptance was refused by
4 the addressee or his or its agent, on return to the attorney general of
5 the original envelope bearing a notation by the postal authorities that
6 receipt thereof was refused.

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

9 § 686. Designation of secretary of state as agent for service of proc-
10 ess; service of process. Any person who shall offer to sell or sell a
11 franchise in this state as a franchisor, subfranchisor or franchise
12 sales agent shall be deemed to have irrevocably appointed the secretary
13 of state as his or its agent upon whom may be served any summons,
14 complaint, subpoena, subpoena duces tecum, notice, order or other proc-
15 ess directed to such person, or any partner, principal, officer, sales-
16 man or director thereof, or his or its successor, administrator or exec-
17 utor, in any action, investigation, or proceeding which arises under
18 this article or a rule hereunder, with the same force and validity as if
19 served personally on such person. Service of such process upon the
20 secretary of state shall be made by personally delivering to and leaving
21 with [him] the secretary of state or a deputy [secretary of state], or
22 with any person authorized by the secretary of state to receive such
23 service, a copy thereof at the office of the department of state, and
24 such service shall be sufficient provided that notice of such service
25 and a copy of such process are sent forthwith by the department to such
26 person, by registered or certified mail with return receipt requested,
27 at his address as set forth in the application for registration of his
28 offering prospectus or in the registered offering prospectus itself
29 filed with the department of law pursuant to this article, or in default
30 of the filing of such application or prospectus, at the last address
31 known to the department. Service of such process shall be complete upon
32 receipt by the department of a return receipt purporting to be signed by
33 the addressee or a person qualified to receive his or its registered or
34 certified mail, in accordance with the rules and customs of the post
35 office department, or, if acceptance was refused or unclaimed by the
36 addressee or his or its agent, or if the addressee moved without leaving
37 a forwarding address, upon return to the department of the original
38 envelope bearing a notation by the postal authorities that receipt ther-
39 eof was refused or that such mail was otherwise undeliverable.

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

43 (4) a designation of the secretary of state as agent of the limited
44 liability company upon whom process against it may be served and the
45 post office address, within or without this state, to which [the secre-
46 tary of state] a person shall mail a copy of any process against the
47 limited liability company served upon [him or her] the secretary of
48 state;

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

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

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

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

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

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

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

25 (2) the date the articles of organization were filed by the department
26 of state; and

27 (3) each change effected thereby.

28 (b) A certificate of change which changes only the post office address
29 to which [the secretary of state] a person shall mail a copy of any
30 process against a limited liability company served upon [him or] the
31 secretary of state and/or the address of the registered agent, provided
32 such address being changed is the address of a person, partnership,
33 limited liability company or corporation whose address, as agent, is the
34 address to be changed or who has been designated as registered agent for
35 such limited liability company may be signed and delivered to the
36 department of state by such agent. The certificate of change shall set
37 forth the statements required under subdivision (a) of this section;
38 that a notice of the proposed change was mailed to the domestic limited
39 liability company by the party signing the certificate not less than
40 thirty days prior to the date of delivery to the department of state and
41 that such domestic limited liability company has not objected thereto;
42 and that the party signing the certificate is the agent of such limited
43 liability company to whose address [the secretary of state] a person is
44 required to mail copies of process served on the secretary of state or
45 the registered agent, if such be the case. A certificate signed and
46 delivered under this subdivision shall not be deemed to effect a change
47 of location of the office of the limited liability company in whose
48 behalf such certificate is filed.

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

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

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

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

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

22 (2) The commissioner of taxation and finance and the secretary of
23 state may agree to allow limited liability companies to include the
24 statement specified in paragraph one of this subdivision on tax reports
25 filed with the department of taxation and finance in lieu of biennial
26 statements and in a manner prescribed by the commissioner of taxation
27 and finance. If this agreement is made, starting with taxable years
28 beginning on or after January first, two thousand sixteen, each limited
29 liability company required to file the statement specified in paragraph
30 one of this subdivision that is subject to the filing fee imposed by
31 paragraph three of subsection (c) of section six hundred fifty-eight of
32 the tax law shall provide such statement annually on its filing fee
33 payment form filed with the department of taxation and finance in lieu
34 of filing a statement under this section with the department of state.
35 However, each limited liability company required to file a statement
36 under this section must continue to file the biennial statement required
37 by this section with the department of state until the limited liability
38 company in fact has filed a filing fee payment form with the department
39 of taxation and finance that includes all required information. After
40 that time, the limited liability company shall continue to provide annu-
41 ally the statement specified in paragraph one of this subdivision on its
42 filing fee payment form in lieu of the biennial statement required by
43 this subdivision.

44 (3) If the agreement described in paragraph two of this subdivision is
45 made, the department of taxation and finance shall deliver to the
46 department of state the statement specified in paragraph one of this
47 subdivision contained on filing fee payment forms. The department of
48 taxation and finance must, to the extent feasible, also include the
49 current name of the limited liability company, department of state iden-
50 tification number for such limited liability company, the name, signa-
51 ture and capacity of the signer of the statement, name and street
52 address of the filer of the statement, and the email address, if any, of
53 the filer of the statement.

54 § 31. Paragraphs 2 and 3 of subdivision (a), subparagraph (ii) of
55 paragraph 2 and subparagraph (ii) of paragraph 3 of subdivision (e) of

1 section 301-A of the limited liability company law, as added by chapter
2 448 of the laws of 1998, are amended to read as follows:

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

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

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

26 (ii) Where service of a copy of process was effected by mailing in
27 accordance with this section, proof of service shall be by affidavit of
28 compliance with this section filed, together with the process, within
29 thirty days after receipt of the return receipt signed by the limited
30 liability company or other official proof of delivery or of the original
31 envelope mailed. If a copy of the process is mailed in accordance with
32 this section, there shall be filed with the affidavit of compliance
33 either the return receipt signed by such limited liability company or
34 other official proof of delivery, if acceptance was refused by it, the
35 original envelope with a notation by the postal authorities that accept-
36 ance was refused. If acceptance was refused a copy of the notice and
37 process together with notice of the mailing by registered or certified
38 mail and refusal to accept shall be promptly sent to such limited
39 liability company at the same address by ordinary mail and the affidavit
40 of compliance shall so state. Service of process shall be complete ten
41 days after such papers are filed with the clerk of the court. The
42 refusal to accept delivery of the registered or certified mail or to
43 sign the return receipt shall not affect the validity of the service and
44 such limited liability company refusing to accept such registered or
45 certified mail shall be charged with knowledge of the contents thereof.

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

49 (a) Service of process on the secretary of state as agent of a domes-
50 tic limited liability company [or], authorized foreign limited liability
51 company, or other business entity that has designated the secretary of
52 state as agent for service of process pursuant to article ten of this
53 chapter, shall be made by mailing the process and notice of service
54 thereof by certified mail, return receipt requested, to such limited
55 liability company or other business entity, at the post office address,
56 on file in the department of state, specified for this purpose. On the

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

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

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

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

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

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

36 § 804-A. Certificate of change. (a) A foreign limited liability compa-
37 ny may amend its application for authority from time to time to (i)
38 specify or change the location of the limited liability company's
39 office; (ii) specify or change the post office address to which [the
40 secretary of state] a person shall mail a copy of any process against
41 the limited liability company served upon [him] the secretary of state;
42 and (iii) to make, revoke or change the designation of a registered
43 agent, or to specify or change the address of a registered agent. Any
44 one or more such changes may be accomplished by filing a certificate of
45 change which shall be entitled "Certificate of Change of (name
46 of limited liability company) under section 804-A of the Limited Liabil-
47 ity Company Law" and shall be signed and delivered to the department of
48 state. It shall set forth:

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

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

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

55 (b) A certificate of change which changes only the post office address
56 to which [the secretary of state] a person shall mail a copy of any

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

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

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

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

29 (11) a designation of the secretary of state as its agent upon whom
30 process against it may be served in the manner set forth in article
31 three of this chapter in any action or special proceeding, and a post
32 office address, within or without this state, to which [the secretary of
33 state] a person shall mail a copy of any process served upon [him or
34 her] the secretary of state. Such post office address shall supersede
35 any prior address designated as the address to which process shall be
36 mailed;

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

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

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

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

55 (5) a statement that the secretary of state has been designated as
56 agent of the foreign professional service limited liability company upon

1 whom process against it may be served and the post office address, with-
2 in or without this state, to which [the secretary of state] a person
3 shall mail a copy of any process against it served upon [him or her] the
4 secretary of state;

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

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

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

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

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

34 (b) Service of process on the secretary of state as agent of a domes-
35 tic corporation formed under article four of this chapter or an author-
36 ized foreign corporation shall be made by mailing the process and notice
37 of service thereof by certified mail, return receipt requested, to such
38 corporation or other business entity, at the post office address, on
39 file in the department of state, specified for this purpose. On the same
40 day that such process is mailed, a duplicate copy of such process and
41 proof of mailing shall be personally [delivering] delivered to and
42 [leaving] left with the secretary of state or his or her deputy, or with
43 any person authorized by the secretary of state to receive such service,
44 at the office of the department of state in the city of Albany, [dupli-
45 cate copies of such process] together with the statutory fee, which fee
46 shall be a taxable disbursement. Proof of mailing shall be by affidavit
47 of compliance with this section. Service of process on such corporation
48 or other business entity shall be complete when the secretary of state
49 is so served. [The secretary of state shall promptly send one of such
50 copies by certified mail, return receipt requested, to such corporation,
51 at the post office address, on file in the department of state, speci-
52 fied for the purpose.] If a domestic corporation formed under article
53 four of this chapter or an authorized foreign corporation has no such
54 address on file in the department of state, the [secretary of state
55 shall so mail such] duplicate copy of the process shall be mailed to

1 such corporation at the address of its office within this state on file
2 in the department.

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

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

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

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

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

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

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

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

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

35 (b) A certificate of change which changes only the post office address
36 to which [the secretary of state] a person shall mail a copy of any
37 process against the corporation served upon [him or] the secretary of
38 state and/or the address of the registered agent, provided such address
39 being changed is the address of a person, partnership, limited liability
40 company or other corporation whose address, as agent, is the address to
41 be changed or who has been designated as registered agent for such
42 corporation, may be signed and delivered to the department of state by
43 such agent. The certificate of change shall set forth the statements
44 required under subparagraphs (1), (2) and (3) of paragraph (a) of this
45 section; that a notice of the proposed change was mailed to the corpo-
46 ration by the party signing the certificate not less than thirty days
47 prior to the date of delivery to the department and that such corpo-
48 ration has not objected thereto; and that the party signing the certif-
49 icate is the agent of such corporation to whose address [the secretary
50 of state] a person is required to mail copies of any process against the
51 corporation served upon [him] the secretary of state or the registered
52 agent, if such be the case. A certificate signed and delivered under
53 this paragraph shall not be deemed to effect a change of location of the
54 office of the corporation in whose behalf such certificate is filed.



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

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

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

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

20 § 50. Subparagraph 6 of paragraph (a) of section 1304 of the not-for-
21 profit corporation law, as renumbered by chapter 590 of the laws of
22 1982, is amended to read as follows:

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

28 § 51. Subparagraph 7 of paragraph (a) of section 1308 of the not-for-
29 profit corporation law, as renumbered by chapter 186 of the laws of
30 1983, is amended to read as follows:

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

34 § 52. Subparagraph 2 of paragraph (a) and paragraph (c) of section
35 1310 of the not-for-profit corporation law, paragraph (c) as amended by
36 chapter 172 of the laws of 1999, are amended to read as follows:

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

40 (c) A certificate of change of application for authority which changes
41 only the post office address to which [the secretary of state] a person
42 shall mail a copy of any process against an authorized foreign corpo-
43 ration served upon [him or] the secretary of state and/or which changes
44 the address of its registered agent, provided such address is the
45 address of a person, partnership, limited liability company or other
46 corporation whose address, as agent, is the address to be changed or who
47 has been designated as registered agent for such authorized foreign
48 corporation, may be signed and delivered to the department of state by
49 such agent. The certificate of change of application for authority shall
50 set forth the statements required under subparagraphs (1), (2), (3) and
51 (4) of paragraph (b) of this section; that a notice of the proposed
52 change was mailed by the party signing the certificate to the authorized
53 foreign corporation not less than thirty days prior to the date of
54 delivery to the department and that such corporation has not objected
55 thereto; and that the party signing the certificate is the agent of such
56 foreign corporation to whose address [the secretary of state] a person

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

6 § 53. Subparagraph 6 of paragraph (a) and subparagraph 4 of paragraph
7 (d) of section 1311 of the not-for-profit corporation law are amended to
8 read as follows:

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

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

15 § 54. Section 1312 of the not-for-profit corporation law, as amended
16 by chapter 375 of the laws of 1998, is amended to read as follows:

17 § 1312. Termination of existence.

18 When an authorized foreign corporation is dissolved or its authority
19 or existence is otherwise terminated or cancelled in the jurisdiction of
20 its incorporation or when such foreign corporation is merged into or
21 consolidated with another foreign corporation, a certificate of the
22 secretary of state, or official performing the equivalent function as to
23 corporate records, of the jurisdiction of incorporation of such foreign
24 corporation attesting to the occurrence of any such event or a certified
25 copy of an order or decree of a court of such jurisdiction directing the
26 dissolution of such foreign corporation, the termination of its exist-
27 ence or the cancellation of its authority shall be delivered to the
28 department of state. The filing of the certificate, order or decree
29 shall have the same effect as the filing of a certificate of surrender
30 of authority under section 1311 (Surrender of authority). The secretary
31 of state shall continue as agent of the foreign corporation upon whom
32 process against it may be served in the manner set forth in paragraph
33 (b) of section 306 (Service of process), in any action or special
34 proceeding based upon any liability or obligation incurred by the
35 foreign corporation within this state prior to the filing of such
36 certificate, order or decree and [he] the person serving such process
37 shall promptly cause a copy of any such process to be mailed by [regis-
38 tered] certified mail, return receipt requested, to such foreign corpo-
39 ration at the post office address on file in his office specified for
40 such purpose. The post office address may be changed by signing and
41 delivering to the department of state a certificate of change setting
42 forth the statements required under section 1310 (Certificate of change,
43 contents) to effect a change in the post office address under subpara-
44 graph [(a) (4)] (7) of paragraph (a) of section 1308 (Amendments or
45 changes).

46 § 55. Subdivision (c) of section 121-104 of the partnership law, as
47 added by chapter 950 of the laws of 1990, is amended to read as follows:

48 (c) Any designated post office address maintained by the secretary of
49 state as agent of a domestic limited partnership or foreign limited
50 partnership for the purpose of mailing process shall be the post office
51 address, within or without the state, to which a person shall mail proc-
52 ess against such limited partnership as required by this article. Any
53 designated post office address to which the secretary of state or a
54 person shall mail a copy of process served upon [him] the secretary of
55 state as agent of a domestic limited partnership or foreign limited

1 partnership shall continue until the filing of a certificate under this
2 article directing the mailing to a different post office address.

3 § 56. Paragraphs 1, 2 and 3 of subdivision (a) of section 121-104-A of
4 the partnership law, as added by chapter 448 of the laws of 1998, are
5 amended to read as follows:

6 (1) the name of the limited partnership and the date that its [arti-
7 cles of organization] certificate of limited partnership or application
8 for authority was filed by the department of state.

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

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

28 § 57. Subdivision (a) of section 121-105 of the partnership law, as
29 added by chapter 950 of the laws of 1990, is amended to read as follows:

30 (a) In addition to the designation of the secretary of state, each
31 limited partnership or authorized foreign limited partnership may design-
32 nate a registered agent upon whom process against the limited partner-
33 ship may be served. The agent must be (i) a natural person who is a
34 resident of this state or has a business address in this state, [or]
35 (ii) a domestic corporation or a foreign corporation authorized to do
36 business in this state, or a domestic limited liability company or a
37 foreign limited liability company authorized to do business in this
38 state.

39 § 58. Subdivisions (a) and (c) of section 121-109 of the partnership
40 law, as added by chapter 950 of the laws of 1990 and as relettered by
41 chapter 341 of the laws of 1999, are amended to read as follows:

42 (a) Service of process on the secretary of state as agent of a domes-
43 tic or authorized foreign limited partnership, or other business entity
44 that has designated the secretary of state as agent for service of proc-
45 ess pursuant to this chapter, shall be made [as follows:

46 (1) By] by mailing the process and notice of service of process pursu-
47 ant to this section by certified mail, return receipt requested, to such
48 domestic or authorized foreign limited partnership or other business
49 entity, at the post office address, on file in the department of state,
50 specified for that purpose. On the same day as the process is mailed, a
51 duplicate copy of such process and proof of mailing shall be personally
52 [delivering] delivered to and [leaving] left with [him or his] the
53 secretary of state or a deputy, or with any person authorized by the
54 secretary of state to receive such service, at the office of the depart-
55 ment of state in the city of Albany, [duplicate copies of such process]
56 together with the statutory fee, which fee shall be a taxable disburse-

1 ment. Proof of mailing shall be by affidavit of compliance with this
2 section. Service of process on such limited partnership or other busi-
3 ness entity shall be complete when the secretary of state is so served.

4 [(2) The service on the limited partnership is complete when the
5 secretary of state is so served.]

6 (3) The secretary of state shall promptly send one of such copies by
7 certified mail, return receipt requested, addressed to the limited part-
8 nership at the post office address, on file in the department of state,
9 specified for that purpose.]

10 (c) The [secretary of state] department of state shall keep a record
11 of all process served upon [him] it under this section and shall record
12 therein the date of such service [and his action with reference there-
13 to]. It shall, upon request made within ten years of such service, issue
14 a certificate under its seal certifying as to the receipt of the process
15 by an authorized person, the date and place of such service and the
16 receipt of the statutory fee. Process served upon the secretary of state
17 under this chapter shall be destroyed by him after a period of ten years
18 from such service.

19 § 59. Paragraph 3 of subdivision (a) and subparagraph 4 of paragraph
20 (i) of subdivision (c) of section 121-201 of the partnership law, para-
21 graph 3 of subdivision (a) as amended by chapter 264 of the laws of
22 1991, and subparagraph 4 of paragraph (i) of subdivision (c) as amended
23 by chapter 44 of the laws of 2006, are amended to read as follows:

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

29 (4) a statement that the secretary of state has been designated as
30 agent of the limited partnership upon whom process against it may be
31 served and the post office address, within or without this state, to
32 which [the secretary of state] a person shall mail a copy of any process
33 against it served upon [him or her] the secretary of state;

34 § 60. Paragraph 4 of subdivision (b) of section 121-202 of the part-
35 nership law, as amended by chapter 576 of the laws of 1994, is amended
36 to read as follows:

37 (4) a change in the name of the limited partnership, or a change in
38 the post office address to which [the secretary of state] a person shall
39 mail a copy of any process against the limited partnership served on
40 [him] the secretary of state, or a change in the name or address of the
41 registered agent, if such change is made other than pursuant to section
42 121-104 or 121-105 of this article.

43 § 61. Section 121-202-A of the partnership law, as added by chapter
44 448 of the laws of 1998, paragraph 2 of subdivision (a) as amended by
45 chapter 172 of the laws of 1999, is amended to read as follows:

46 § 121-202-A. Certificate of change. (a) A certificate of limited part-
47 nership may be changed by filing with the department of state a certif-
48 icate of change entitled "Certificate of Change of (name of limit-
49 ed partnership) under Section 121-202-A of the Revised Limited
50 Partnership Act" and shall be signed and delivered to the department of
51 state. A certificate of change may (i) specify or change the location of
52 the limited partnership's office; (ii) specify or change the post office
53 address to which [the secretary of state] a person shall mail a copy of
54 process against the limited partnership served upon [him] the secretary
55 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.

28 § 62. Paragraph 4 of subdivision (a) and subparagraph 5 of paragraph
29 (i) of subdivision (d) of section 121-902 of the partnership law, para-
30 graph 4 of subdivision (a) as amended by chapter 172 of the laws of 1999
31 and subparagraph 5 of paragraph (i) of subdivision (d) as amended by
32 chapter 44 of the laws of 2006, are amended to read as follows:

33 (4) a designation of the secretary of state as its agent upon whom
34 process against it may be served and the post office address, within or
35 without this state, to which [the secretary of state] a person shall
36 mail a copy of any process against it served upon [him] the secretary of
37 state;

38 (5) a statement that the secretary of state has been designated as its
39 agent upon whom process against it may be served and the post office
40 address, within or without this state, to which [the secretary of state]
41 a person shall mail a copy of any process against it served upon [him or
42 her] the secretary of state;

43 § 63. Section 121-903-A of the partnership law, as added by chapter
44 448 of the laws of 1998, is amended to read as follows:

45 § 121-903-A. Certificate of change. (a) A foreign limited partnership
46 may change its application for authority by filing with the department
47 of state a certificate of change entitled "Certificate of Change
48 of (name of limited partnership) under Section 121-903-A of the
49 Revised Limited Partnership Act" and shall be signed and delivered to
50 the department of state. A certificate of change may (i) change the
51 location of the limited partnership's office; (ii) change the post
52 office address to which [the secretary of state] a person shall mail a
53 copy of process against the limited partnership served upon [him] the
54 secretary of state; and (iii) make, revoke or change the designation of
55 a registered agent, or to specify or change the address of its regis-
56 tered agent. It shall set forth:

1 (1) the name of the foreign limited partnership and, if applicable,
2 the fictitious name the foreign limited partnership has agreed to use in
3 this state pursuant to section 121-902 of this article;

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

6 (3) each change effected thereby.

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

28 § 64. Paragraph 6 of subdivision (b) of section 121-905 of the part-
29 nership law, as added by chapter 950 of the laws of 1990, is amended to
30 read as follows:

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

34 § 65. Paragraph 7 of subdivision (a) of section 121-1103 of the part-
35 nership law, as added by chapter 950 of the laws of 1990, is amended to
36 read as follows:

37 (7) A designation of the secretary of state as its agent upon whom
38 process against it may be served in the manner set forth in section
39 121-109 of this article in any action or special proceeding, and a post
40 office address, within or without this state, to which [the secretary of
41 state] a person shall mail a copy of any process served upon [him] the
42 secretary of state. Such post office address shall supersede any prior
43 address designated as the address to which process shall be mailed.

44 § 66. Subparagraphs 2 and 4 of paragraph (I) and clause 4 of subpara-
45 graph (A) of paragraph (II) of subdivision (a) of section 121-1500 of
46 the partnership law, subparagraph 2 of paragraph (I) as added by chapter
47 576 of the laws of 1994, subparagraph 4 of paragraph (I) as amended by
48 chapter 643 of the laws of 1995 and such paragraph as redesignated by
49 chapter 767 of the laws of 2005 and clause 4 of subparagraph (A) of
50 paragraph (II) as amended by chapter 44 of the laws of 2006, are amended
51 to read as follows:

52 (2) the address, within this state, of the principal office of the
53 partnership without limited partners;

54 (4) a designation of the secretary of state as agent of the partner-
55 ship without limited partners upon whom process against it may be served
56 and the post office address, within or without this state, to which the

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

3 (4) a statement that the secretary of state has been designated as
4 agent of the registered limited liability partnership upon whom process
5 against it may be served and the post office address, within or without
6 this state, to which [the secretary of state] a person shall mail a copy
7 of any process against it served upon [him or her] the secretary of
8 state;

9 § 67. Paragraphs (ii) and (iii) of subdivision (g) of section 121-1500
10 of the partnership law, as amended by section 8 of part S of chapter 59
11 of the laws of 2015, are amended to read as follows:

12 (ii) the address, within this state, of the principal office of the
13 registered limited liability partnership, (iii) the post office address,
14 within or without this state, to which [the secretary of state] a person
15 shall mail a copy of any process accepted against it served upon [him or
16 her] the secretary of state, which address shall supersede any previous
17 address on file with the department of state for this purpose, and

18 § 68. Subdivision (j-1) of section 121-1500 of the partnership law, as
19 added by chapter 448 of the laws of 1998, is amended to read as follows:

20 (j-1) A certificate of change which changes only the post office
21 address to which [the secretary of state] a person shall mail a copy of
22 any process against a registered limited liability partnership served
23 upon [him] the secretary of state and/or the address of the registered
24 agent, provided such address being changed is the address of a person,
25 partnership, limited liability company or corporation whose address, as
26 agent, is the address to be changed or who has been designated as regis-
27 tered agent for such registered limited liability partnership shall be
28 signed and delivered to the department of state by such agent. The
29 certificate of change shall set forth: (i) the name of the registered
30 limited liability partnership and, if it has been changed, the name
31 under which it was originally filed with the department of state; (ii)
32 the date of filing of its initial registration or notice statement;
33 (iii) each change effected thereby; (iv) that a notice of the proposed
34 change was mailed to the limited liability partnership by the party
35 signing the certificate not less than thirty days prior to the date of
36 delivery to the department of state and that such limited liability
37 partnership has not objected thereto; and (v) that the party signing the
38 certificate is the agent of such limited liability partnership to whose
39 address [the secretary of state] a person is required to mail copies of
40 process served on the secretary of state or the registered agent, if
41 such be the case. A certificate signed and delivered under this subdivi-
42 sion shall not be deemed to effect a change of location of the office of
43 the limited liability partnership in whose behalf such certificate is
44 filed. The certificate of change shall be accompanied by a fee of five
45 dollars.

46 § 69. Subdivision (a) of section 121-1502 of the partnership law, as
47 amended by chapter 643 of the laws of 1995, paragraph (v) as amended by
48 chapter 470 of the laws of 1997, is amended to read as follows:

49 (a) In order for a foreign limited liability partnership to carry on
50 or conduct or transact business or activities as a New York registered
51 foreign limited liability partnership in this state, such foreign limit-
52 ed liability partnership shall file with the department of state a
53 notice which shall set forth: (i) the name under which the foreign
54 limited liability partnership intends to carry on or conduct or transact
55 business or activities in this state; (ii) the date on which and the
56 jurisdiction in which it registered as a limited liability partnership;

1 (iii) the address, within this state, of the principal office of the
2 foreign limited liability partnership; (iv) the profession or
3 professions to be practiced by such foreign limited liability partner-
4 ship and a statement that it is a foreign limited liability partnership
5 eligible to file a notice under this chapter; (v) a designation of the
6 secretary of state as agent of the foreign limited liability partnership
7 upon whom process against it may be served and the post office address
8 within or without this state, to which [the secretary of state] a person
9 shall mail a copy of any process against it [or] served upon [it] the
10 secretary of state; (vi) if the foreign limited liability partnership is
11 to have a registered agent, its name and address in this state and a
12 statement that the registered agent is to be the agent of the foreign
13 limited liability partnership upon whom process against it may be
14 served; (vii) a statement that its registration as a limited liability
15 partnership is effective in the jurisdiction in which it registered as a
16 limited liability partnership at the time of the filing of such notice;
17 (viii) a statement that the foreign limited liability partnership is
18 filing a notice in order to obtain status as a New York registered
19 foreign limited liability partnership; (ix) if the registration of the
20 foreign limited liability partnership is to be effective on a date later
21 than the time of filing, the date, not to exceed sixty days from the
22 date of filing, of such proposed effectiveness; and (x) any other
23 matters the foreign limited liability partnership determines to include
24 in the notice. Such notice shall be accompanied by either (1) a copy of
25 the last registration or renewal registration (or similar filing), if
26 any, filed by the foreign limited liability partnership with the juris-
27 diction where it registered as a limited liability partnership or (2) a
28 certificate, issued by the jurisdiction where it registered as a limited
29 liability partnership, substantially to the effect that such foreign
30 limited liability partnership has filed a registration as a limited
31 liability partnership which is effective on the date of the certificate
32 (if such registration, renewal registration or certificate is in a
33 foreign language, a translation thereof under oath of the translator
34 shall be attached thereto). Such notice shall also be accompanied by a
35 fee of two hundred fifty dollars.

36 § 70. Subparagraphs (ii) and (iii) of paragraph (I) of subdivision (f)
37 of section 121-1502 of the partnership law, as amended by section 9 of
38 part S of chapter 59 of the laws of 2015, are amended to read as
39 follows:

40 (ii) the address, within this state, of the principal office of the
41 New York registered foreign limited liability partnership, (iii) the
42 post office address, within or without this state, to which [the secre-
43 tary of state] a person shall mail a copy of any process accepted
44 against it served upon [him or her] the secretary of state, which
45 address shall supersede any previous address on file with the department
46 of state for this purpose, and

47 § 71. Clause 5 of subparagraph (A) of paragraph (II) of subdivision
48 (f) of section 121-1502 of the partnership law, as amended by chapter 44
49 of the laws of 2006, is amended to read as follows:

50 (5) a statement that the secretary of state has been designated as
51 agent of the foreign limited liability partnership upon whom process
52 against it may be served and the post office address, within or without
53 this state, to which [the secretary of state] a person shall mail a copy
54 of any process against it served upon [him or her] the secretary of
55 state;

1 § 72. Subdivision (i-1) of section 121-1502 of the partnership law, as
2 added by chapter 448 of the laws of 1998, is amended to read as follows:

3 (i-1) A certificate of change which changes only the post office
4 address to which [the secretary of state] a person shall mail a copy of
5 any process against a New York registered foreign limited liability
6 partnership served upon [him] the secretary of state and/or the address
7 of the registered agent, provided such address being changed is the
8 address of a person, partnership, limited liability company or corpo-
9 ration whose address, as agent, is the address to be changed or who has
10 been designated as registered agent of such registered foreign limited
11 liability partnership shall be signed and delivered to the department of
12 state by such agent. The certificate of change shall set forth: (i) the
13 name of the New York registered foreign limited liability partnership;
14 (ii) the date of filing of its initial registration or notice statement;
15 (iii) each change effected thereby; (iv) that a notice of the proposed
16 change was mailed to the limited liability partnership by the party
17 signing the certificate not less than thirty days prior to the date of
18 delivery to the department of state and that such limited liability
19 partnership has not objected thereto; and (v) that the party signing the
20 certificate is the agent of such limited liability partnership to whose
21 address [the secretary of state] a person is required to mail copies of
22 process served on the secretary of state or the registered agent, if
23 such be the case. A certificate signed and delivered under this subdivi-
24 sion shall not be deemed to effect a change of location of the office of
25 the limited liability partnership in whose behalf such certificate is
26 filed. The certificate of change shall be accompanied by a fee of five
27 dollars.

28 § 73. Subdivision (a) of section 121-1505 of the partnership law, as
29 added by chapter 470 of the laws of 1997, is amended and two new subdivi-
30 sions (d) and (e) are added to read as follows:

31 (a) Service of process on the secretary of state as agent of a regis-
32 tered limited liability partnership or New York registered foreign
33 limited liability partnership under this article shall be made by mail-
34 ing the process and notice of service thereof by certified mail, return
35 receipt requested, to such registered limited liability partnership or
36 New York registered foreign limited liability partnership, at the post
37 office address on file in the department of state specified for such
38 purpose. On the same date that such process is mailed, a duplicate copy
39 of such process and proof of mailing together with the statutory fee,
40 which fee shall be a taxable disbursement shall be personally [deliver-
41 ing] delivered to and [leaving] left with the secretary of state or a
42 deputy, or with any person authorized by the secretary of state to
43 receive such service, at the office of the department of state in the
44 city of Albany, [duplicate copies of such process] together with the
45 statutory fee, which fee shall be a taxable disbursement. Proof of mail-
46 ing shall be by affidavit of compliance with this section. Service of
47 process on such registered limited liability partnership or New York
48 registered foreign limited liability partnership shall be complete when
49 the secretary of state is so served. [The secretary of state shall
50 promptly send one of such copies by certified mail, return receipt
51 requested, to such registered limited liability partnership, at the post
52 office address on file in the department of state specified for such
53 purpose.]

54 (d) The department of state shall keep a record of each process served
55 upon the secretary of state under this chapter, including the date of
56 such service. It shall, upon request made within ten years of such

1 service, issue a certificate under its seal certifying as to the receipt
2 of the process by an authorized person, the date and place of such
3 service and the receipt of the statutory fee. Process served upon the
4 secretary of state under this chapter shall be destroyed by the depart-
5 ment of state after a period of ten years from such service.

6 (e) Any designated post office address maintained by the secretary of
7 state as agent of a registered limited liability partnership or New York
8 registered foreign limited liability partnership for the purpose of
9 mailing process shall be the post office address, within or without the
10 state, to which a person shall mail process against such limited liabil-
11 ity company as required by this article. Such address shall continue
12 until the filing of a certificate under this chapter directing the mail-
13 ing to a different post office address.

14 § 74. Subdivision (b) of section 121-1506 of the partnership law, as
15 added by chapter 448 of the laws of 1998, paragraph 4 as amended by
16 chapter 172 of the laws of 1999, is amended to read as follows:

17 (b) The party (or the party's legal representative) whose post office
18 address has been supplied by a limited liability partnership as its
19 address for process may resign. A certificate entitled "Certificate of
20 Resignation for Receipt of Process under Section 121-1506(b) of the
21 Partnership Law" shall be signed by such party and delivered to the
22 department of state. It shall set forth:

23 (1) The name of the limited liability partnership and the date that
24 its certificate of registration was filed by the department of state.

25 (2) That the address of the party has been designated by the limited
26 liability partnership as the post office address to which [the secretary
27 of state] a person shall mail a copy of any process served on the secre-
28 tary of state as agent for such limited liability partnership and that
29 such party wishes to resign.

30 (3) That sixty days prior to the filing of the certificate of resigna-
31 tion with the department of state the party has sent a copy of the
32 certificate of resignation for receipt of process by registered or
33 certified mail to the address of the registered agent of the [desig-
34 nated] designating limited liability partnership, if other than the
35 party filing the certificate of resignation, for receipt of process, or
36 if the [resigning] designating limited liability partnership has no
37 registered agent, then to the last address of the [designated] designat-
38 ing limited liability partnership, known to the party, specifying the
39 address to which the copy was sent. If there is no registered agent and
40 no known address of the designating limited liability partnership the
41 party shall attach an affidavit to the certificate stating that a dili-
42 gent but unsuccessful search was made by the party to locate the limited
43 liability partnership, specifying what efforts were made.

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

49 § 75. Paragraph 16 of subdivision 1 of section 103 of the private
50 housing finance law, as added by chapter 22 of the laws of 1970, is
51 amended to read as follows:

52 (16) A designation of the secretary of state as agent of the corpo-
53 ration upon whom process against it may be served and the post office
54 address, within or without this state, to which [the secretary of state]
55 a person shall mail a copy of any process against it served upon [him]
56 the secretary of state.

1 § 76. Subdivision 7 of section 339-n of the real property law is
2 REPEALED and subdivisions 8 and 9 are renumbered subdivisions 7 and 8.

3 § 76-a. Subdivision 15 of section 20.03 of the arts and cultural
4 affairs law, as added by chapter 656 of the laws of 1991, is amended to
5 read as follows:

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

21 § 77. Subdivision 2 of section 339-s of the real property law, as
22 added by chapter 346 of the laws of 1997, is amended to read as follows:

23 2. [Each such declaration, and any amendment or amendments thereof
24 shall be filed with the department of state] (a) The board of managers
25 for each condominium subject to this article shall file with the secre-
26 tary of state a certificate, in writing, signed, designating the secre-
27 tary of state as agent of the board of managers upon whom process
28 against it may be served and the post office address to which a person
29 shall mail a copy of such process. The certificate shall be accompanied
30 by a fee of sixty dollars.

31 (b) Any board of managers may change the address to which a person
32 shall mail a copy of process served upon the secretary of state, by
33 filing a signed certificate of amendment with the department of state.
34 Such certificate shall be accompanied by a fee of sixty dollars.

35 (c) Service of process on the secretary of state as agent of a board
36 of managers shall be made by mailing the process and notice of service
37 of process pursuant to this section by certified mail, return receipt
38 requested, to such board of managers, at the post office address, on
39 file in the department of state, specified for this purpose. On the same
40 day that such process is mailed, a duplicate copy of such process and
41 proof of mailing shall be personally delivered to and left with the
42 secretary of state or a deputy, or with any person authorized by the
43 secretary of state to receive such service, at the office of the depart-
44 ment of state in the city of Albany, a duplicate copy of such process
45 with proof of mailing together with the statutory fee, which shall be a
46 taxable disbursement. Proof of mailing shall be by affidavit of compli-
47 ance with this section. Service of process on a board of managers shall
48 be complete when the secretary of state is so served.

49 (d) As used in this article, "process" shall mean judicial process and
50 all orders, demands, notices or other papers required or permitted by
51 law to be personally served on a board of managers, for the purpose of
52 acquiring jurisdiction of such board of managers in any action or
53 proceeding, civil or criminal, whether judicial, administrative, arbi-
54 trative or otherwise, in this state or in the federal courts sitting in
55 or for this state.

1 (e) Nothing in this section shall affect the right to serve process in
2 any other manner permitted by law.

3 (f) The department of state shall keep a record of each process served
4 under this section, including the date of service. It shall, upon
5 request, made within ten years of such service, issue a certificate
6 under its seal certifying as to the receipt of process by an authorized
7 person, the date and place of such service and the receipt of the statu-
8 tory fee. Process served on the secretary of state under this section
9 shall be destroyed by the department of state after a period of ten
10 years from such service.

11 (g) Any designated post office address maintained by the secretary of
12 state as agent of the board of managers for the purpose of mailing proc-
13 ess shall be the post office address, within or without the state, to
14 which a person shall mail process against such board as required by this
15 article. Such address shall continue until the filing of a certificate
16 under this chapter directing the mailing to a different post office
17 address.

18 § 78. Subdivisions 3 and 4 of section 442-g of the real property law,
19 as amended by chapter 482 of the laws of 1963, are amended to read as
20 follows:

21 3. Service of such process upon the secretary of state shall be made
22 by personally delivering to and leaving with [him or his] the secretary
23 of state or a deputy, or with any person authorized by the secretary of
24 state to receive such service, at the office of the department of state
25 in the city of Albany, [duplicate copies] a copy of such process and
26 proof of mailing together with a fee of five dollars if the action is
27 solely for the recovery of a sum of money not in excess of two hundred
28 dollars and the process is so endorsed, and a fee of ten dollars in any
29 other action or proceeding, which fee shall be a taxable disbursement.
30 If such process is served upon behalf of a county, city, town or
31 village, or other political subdivision of the state, the fee to be paid
32 to the secretary of state shall be five dollars, irrespective of the
33 amount involved or the nature of the action on account of which such
34 service of process is made. [If the cost of registered mail for trans-
35 mitting a copy of the process shall exceed two dollars, an additional
36 fee equal to such excess shall be paid at the time of the service of
37 such process.] Proof of mailing shall be by affidavit of compliance with
38 this section. Proof of service shall be by affidavit of compliance with
39 this subdivision filed by or on behalf of the plaintiff together with
40 the process, within ten days after such service, with the clerk of the
41 court in which the action or special proceeding is pending. Service
42 made as provided in this section shall be complete ten days after such
43 papers are filed with the clerk of the court and shall have the same
44 force and validity as if served on him personally within the state and
45 within the territorial jurisdiction of the court from which the process
46 issues.

47 4. The [secretary of state] person serving such process shall [prompt-
48 ly] send [one of] such [copies] process by [registered] certified mail,
49 return receipt requested, to the nonresident broker or nonresident
50 salesman at the post office address of his main office as set forth in
51 the last application filed by him.

52 § 79. Subdivision 2 of section 203 of the tax law, as amended by chap-
53 ter 100 of the laws of 1964, is amended to read as follows:

54 2. Every foreign corporation (other than a moneyed corporation)
55 subject to the provisions of this article, except a corporation having a
56 certificate of authority [under section two hundred twelve of the gener-



1 al corporation law] or having authority to do business by virtue of
2 section thirteen hundred five of the business corporation law, shall
3 file in the department of state a certificate of designation in its
4 corporate name, signed and acknowledged by its president or a vice-pre-
5 sident or its secretary or treasurer, under its corporate seal, desig-
6 nating the secretary of state as its agent upon whom process in any
7 action provided for by this article may be served within this state, and
8 setting forth an address to which [the secretary of state] a person
9 shall mail a copy of any such process against the corporation which may
10 be served upon [him] the secretary of state. In case any such corpo-
11 ration shall have failed to file such certificate of designation, it
12 shall be deemed to have designated the secretary of state as its agent
13 upon whom such process against it may be served; and until a certificate
14 of designation shall have been filed the corporation shall be deemed to
15 have directed [the secretary of state] a person serving process to mail
16 copies of process served upon [him] the secretary of state to the corpo-
17 ration at its last known office address within or without the state.
18 When a certificate of designation has been filed by such corporation
19 [the secretary of state] a person serving process shall mail copies of
20 process thereafter served upon [him] the secretary of state to the
21 address set forth in such certificate. Any such corporation, from time
22 to time, may change the address to which [the secretary of state] a
23 person is directed to mail copies of process, by filing a certificate to
24 that effect executed, signed and acknowledged in like manner as a
25 certificate of designation as herein provided. Service of process upon
26 any such corporation or upon any corporation having a certificate of
27 authority [under section two hundred twelve of the general corporation
28 law] or having authority to do business by virtue of section thirteen
29 hundred five of the business corporation law, in any action commenced at
30 any time pursuant to the provisions of this article, may be made by
31 either (1) personally delivering to and leaving with the secretary of
32 state, a deputy secretary of state or with any person authorized by the
33 secretary of state to receive such service [duplicate copies] a copy
34 thereof at the office of the department of state in the city of Albany,
35 in which event [the secretary of state] a person serving such process
36 shall forthwith send by [registered] certified mail, return receipt
37 requested, [one of such copies] a duplicate copy to the corporation at
38 the address designated by it or at its last known office address within
39 or without the state, or (2) personally delivering to and leaving with
40 the secretary of state, a deputy secretary of state or with any person
41 authorized by the secretary of state to receive such service, a copy
42 thereof at the office of the department of state in the city of Albany
43 and by delivering a copy thereof to, and leaving such copy with, the
44 president, vice-president, secretary, assistant secretary, treasurer,
45 assistant treasurer, or cashier of such corporation, or the officer
46 performing corresponding functions under another name, or a director or
47 managing agent of such corporation, personally without the state. Proof
48 of such personal service without the state shall be filed with the clerk
49 of the court in which the action is pending within thirty days after
50 such service, and such service shall be complete ten days after proof
51 thereof is filed.

52 § 80. Section 216 of the tax law, as added by chapter 415 of the laws
53 of 1944, the opening paragraph as amended by chapter 100 of the laws of
54 1964 and redesignated by chapter 613 of the laws of 1976, is amended to
55 read as follows:

1 § 216. Collection of taxes. Every foreign corporation (other than a
2 moneyed corporation) subject to the provisions of this article, except a
3 corporation having a certificate of authority [under section two hundred
4 twelve of the general corporation law] or having authority to do busi-
5 ness by virtue of section thirteen hundred five of the business corpo-
6 ration law, shall file in the department of state a certificate of
7 designation in its corporate name, signed and acknowledged by its presi-
8 dent or a vice-president or its secretary or treasurer, under its corpo-
9 rate seal, designating the secretary of state as its agent upon whom
10 process in any action provided for by this article may be served within
11 this state, and setting forth an address to which [the secretary of
12 state] a person shall mail a copy of any such process against the corpo-
13 ration which may be served upon him. In case any such corporation shall
14 have failed to file such certificate of designation, it shall be deemed
15 to have designated the secretary of state as its agent upon whom such
16 process against it may be served; and until a certificate of designation
17 shall have been filed the corporation shall be deemed to have directed
18 [the secretary of state] a person to mail [copies] a copy of process
19 served upon [him] the secretary of state to the corporation at its last
20 known office address within or without the state. When a certificate of
21 designation has been filed by such corporation [the secretary of state]
22 a person serving such process shall mail [copies] a copy of process
23 thereafter served upon [him] a person serving such process to the
24 address set forth in such certificate. Any such corporation, from time
25 to time, may change the address to which [the secretary of state] a
26 person is directed to mail copies of process, by filing a certificate to
27 that effect executed, signed and acknowledged in like manner as a
28 certificate of designation as herein provided. Service of process upon
29 any such corporation or upon any corporation having a certificate of
30 authority [under section two hundred twelve of the general corporation
31 law] or having authority to do business by virtue of section thirteen
32 hundred five of the business corporation law, in any action commenced at
33 any time pursuant to the provisions of this article, may be made by
34 either (1) personally delivering to and leaving with the secretary of
35 state, a deputy secretary of state or with any person authorized by the
36 secretary of state to receive such service [duplicate copies] a copy
37 thereof at the office of the department of state in the city of Albany,
38 in which event [the secretary of state] a person serving such process
39 shall forthwith send by [registered] certified mail, return receipt
40 requested, [one of such copies] a duplicate copy to the corporation at
41 the address designated by it or at its last known office address within
42 or without the state, or (2) personally delivering to and leaving with
43 the secretary of state, a deputy secretary of state or with any person
44 authorized by the secretary of state to receive such service, a copy
45 thereof at the office of the department of state in the city of Albany
46 and by delivering a copy thereof to, and leaving such copy with, the
47 president, vice-president, secretary, assistant secretary, treasurer,
48 assistant treasurer, or cashier of such corporation, or the officer
49 performing corresponding functions under another name, or a director or
50 managing agent of such corporation, personally without the state. Proof
51 of such personal service without the state shall be filed with the clerk
52 of the court in which the action is pending within thirty days after
53 such service, and such service shall be complete ten days after proof
54 thereof is filed.

55 § 81. Subdivisions (a) and (b) of section 310 of the tax law, as added
56 by chapter 400 of the laws of 1983, are amended to read as follows:

1 (a) Designation for service of process.--Every petroleum business
2 which is a corporation, except such a petroleum business having a
3 certificate of authority [under section two hundred twelve of the gener-
4 al corporation law] or having authority to do business by virtue of
5 section thirteen hundred five of the business corporation law, shall
6 file in the department of state a certificate of designation in its
7 corporate name, signed and acknowledged by its president or vice-presi-
8 dent or its secretary or treasurer, under its corporate seal, designat-
9 ing the secretary of state as its agent upon whom process in any action
10 provided for by this article may be served within this state, and
11 setting forth an address to which [the secretary of state] a person
12 shall mail a copy of any such process against such petroleum business
13 which may be served upon [him] the secretary of state. In case any such
14 petroleum business shall have failed to file such certificate of desig-
15 nation, it shall be deemed to have designated the secretary of state as
16 its agent upon whom such process against it may be served; and until a
17 certificate of designation shall have been filed such a petroleum busi-
18 ness shall be deemed to have directed [the secretary of state] a person
19 to mail copies of process served upon [him] the secretary of state to
20 such petroleum business at its last known office address within or with-
21 out the state. When a certificate of designation has been filed by such
22 a petroleum business [the secretary of state] a person serving process
23 shall mail copies of process thereafter served upon [him] the secretary
24 of state to the address set forth in such certificate. Any such petrole-
25 um business, from time to time, may change the address to which [the
26 secretary of state] a person is directed to mail copies of process, by
27 filing a certificate to that effect executed, signed and acknowledged in
28 like manner as a certificate of designation as herein provided.

29 (b) Service of process.--Service of process upon any petroleum busi-
30 ness which is a corporation (including any such petroleum business
31 having a certificate of authority [under section two hundred twelve of
32 the general corporation law] or having authority to do business by
33 virtue of section thirteen hundred five of the business corporation
34 law), in any action commenced at any time pursuant to the provisions of
35 this article, may be made by either (1) personally delivering to and
36 leaving with the secretary of state, a deputy secretary of state or with
37 any person authorized by the secretary of state to receive such service
38 [duplicate copies] a copy thereof at the office of the department of
39 state in the city of Albany, in which event [the secretary of state] a
40 person serving process shall forthwith send by [registered] certified
41 mail, return receipt requested, [one of such copies] a duplicate copy to
42 such petroleum business at the address designated by it or at its last
43 known office address within or without the state, or (2) personally
44 delivering to and leaving with the secretary of state, a deputy secre-
45 tary of state or with any person authorized by the secretary of state to
46 receive such service, a copy thereof at the office of the department of
47 state in the city of Albany and by delivering a copy thereof to, and
48 leaving such copy with, the president, vice-president, secretary,
49 assistant secretary, treasurer, assistant treasurer, or cashier of such
50 petroleum business, or the officer performing corresponding functions
51 under another name, or a director or managing agent of such petroleum
52 business, personally without the state. Proof of such personal service
53 without the state shall be filed with the clerk of the court in which
54 the action is pending within thirty days after such service, and such
55 service shall be complete ten days after proof thereof is filed.

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

3

PART S

4 Section 1. Subdivision 6 of section 441-a of the real property law, as
5 amended by chapter 183 of the laws of 2006, is amended to read as
6 follows:

7 6. Pocket card. The department shall prepare, issue and deliver, with
8 the assistance of the department of motor vehicles, [to each licensee]
9 upon payment of a fee of five dollars by a licensee, a pocket card in
10 such form and manner as the department shall prescribe, but which shall
11 contain the photo, name and business address of the licensee, and, in
12 the case of a real estate salesman, the name and business address of the
13 broker with whom he or she is associated and shall certify that the
14 person whose name appears thereon is a licensed real estate broker or
15 salesman, as may be. Such cards must be shown on demand. In the case of
16 loss, destruction or damage, the secretary of state may, upon submission
17 of satisfactory proof, issue a duplicate pocket card upon payment of a
18 fee of ten dollars.

19 § 2. This act shall take effect immediately.

20

PART T

21 Section 1. Subdivision 2 of section 54-1101 of the environmental
22 conservation law, as amended by section 4 of part U of chapter 58 of the
23 laws of 2016, is amended to read as follows:

24 2. State assistance payments and/or technical assistance, as defined
25 in section nine hundred seventeen of the executive law, shall not exceed
26 [fifty] seventy-five percent of the cost of the program. For the purpose
27 of determining the amount of state assistance payments, costs shall not
28 be more than the amount set forth in the application for state assist-
29 ance payments approved by the secretary. The state assistance payments
30 shall be paid on audit and warrant of the state comptroller on a certifi-
31 cate of availability of the director of the budget.

32 § 2. The opening paragraph and paragraph a of subdivision 1 of section
33 918 of the executive law, as added by chapter 840 of the laws of 1981,
34 are amended to read as follows:

35 The secretary may enter into a contract or contracts for grants or
36 payments to be made, within the limits of any appropriations therefor,
37 for the following:

38 a. To any local governments, or to two or more local governments, for
39 projects approved by the secretary which lead to preparation of a water-
40 front revitalization program; provided, however, that such grants or
41 payments shall not exceed [fifty] seventy-five percent of the approved
42 cost of such projects;

43 § 3. This act shall take effect immediately.

44

PART U

45 Section 1. Paragraph (e) of subdivision 1 of section 169 of the execu-
46 tive law, as amended by section 9 of part A of chapter 60 of the laws of
47 2012, is amended to read as follows:

48 (e) [chairman of state athletic commission,] director of the office of
49 victim services, chairman of human rights appeal board, chairman of the
50 industrial board of appeals, chairman of the state commission of

1 correction, members of the board of parole, member-chairman of unemploy-
2 ment insurance appeal board, director of veterans' affairs, and vice-
3 chairman of the workers' compensation board;
4 § 2. This act shall take effect immediately.

5

PART V

6 Section 1. Expenditures of moneys appropriated in a chapter of the
7 laws of 2017 to the department of agriculture and markets from the
8 special revenue funds-other/state operations, miscellaneous special
9 revenue fund-339, public service account shall be subject to the
10 provisions of this section. Notwithstanding any other provision of law
11 to the contrary, direct and indirect expenses relating to the department
12 of agriculture and markets' participation in general ratemaking
13 proceedings pursuant to section 65 of the public service law or certif-
14 ication proceedings pursuant to article 7 or 10 of the public service
15 law, shall be deemed expenses of the department of public service within
16 the meaning of section 18-a of the public service law. No later than
17 August 15, 2018, the commissioner of the department of agriculture and
18 markets shall submit an accounting of such expenses, including, but not
19 limited to, expenses in the 2017 -- 2018 fiscal year for personal and
20 non-personal services and fringe benefits, to the chair of the public
21 service commission for the chair's review pursuant to the provisions of
22 section 18-a of the public service law.

23 § 2. Expenditures of moneys appropriated in a chapter of the laws of
24 2017 to the department of state from the special revenue funds-
25 other/state operations, miscellaneous special revenue fund-339, public
26 service account shall be subject to the provisions of this section.
27 Notwithstanding any other provision of law to the contrary, direct and
28 indirect expenses relating to the activities of the department of
29 state's utility intervention unit pursuant to subdivision 4 of section
30 94-a of the executive law, including, but not limited to participation
31 in general ratemaking proceedings pursuant to section 65 of the public
32 service law or certification proceedings pursuant to article 7 or 10 of
33 the public service law, shall be deemed expenses of the department of
34 public service within the meaning of section 18-a of the public service
35 law. No later than August 15, 2018, the secretary of state shall submit
36 an accounting of such expenses, including, but not limited to, expenses
37 in the 2017 -- 2018 fiscal year for personal and non-personal services
38 and fringe benefits, to the chair of the public service commission for
39 the chair's review pursuant to the provisions of section 18-a of the
40 public service law.

41 § 3. Expenditures of moneys appropriated in a chapter of the laws of
42 2017 to the office of parks, recreation and historic preservation from
43 the special revenue funds-other/state operations, miscellaneous special
44 revenue fund-339, public service account shall be subject to the
45 provisions of this section. Notwithstanding any other provision of law
46 to the contrary, direct and indirect expenses relating to the office of
47 parks, recreation and historic preservation's participation in general
48 ratemaking proceedings pursuant to section 65 of the public service law
49 or certification proceedings pursuant to article 7 or 10 of the public
50 service law, shall be deemed expenses of the department of public
51 service within the meaning of section 18-a of the public service law. No
52 later than August 15, 2018, the commissioner of the office of parks,
53 recreation and historic preservation shall submit an accounting of such
54 expenses, including, but not limited to, expenses in the 2017 -- 2018

1 fiscal year for personal and non-personal services and fringe benefits,
2 to the chair of the public service commission for the chair's review
3 pursuant to the provisions of section 18-a of the public service law.

4 § 4. Expenditures of moneys appropriated in a chapter of the laws of
5 2017 to the department of environmental conservation from the special
6 revenue funds-other/state operations, environmental conservation special
7 revenue fund-301, utility environmental regulation account shall be
8 subject to the provisions of this section. Notwithstanding any other
9 provision of law to the contrary, direct and indirect expenses relating
10 to the department of environmental conservation's participation in state
11 energy policy proceedings, or certification proceedings pursuant to
12 article 7 or 10 of the public service law, shall be deemed expenses of
13 the department of public service within the meaning of section 18-a of
14 the public service law. No later than August 15, 2018, the commissioner
15 of the department of environmental conservation shall submit an account-
16 ing of such expenses, including, but not limited to, expenses in the
17 2017 -- 2018 fiscal year for personal and non-personal services and
18 fringe benefits, to the chair of the public service commission for the
19 chair's review pursuant to the provisions of section 18-a of the public
20 service law.

21 § 5. Notwithstanding any other law, rule or regulation to the contra-
22 ry, expenses of the department of health public service education
23 program incurred pursuant to appropriations from the cable television
24 account of the state miscellaneous special revenue funds shall be deemed
25 expenses of the department of public service. No later than August 15,
26 2018, the commissioner of the department of health shall submit an
27 accounting of expenses in the 2017 -- 2018 fiscal year to the chair of
28 the public service commission for the chair's review pursuant to the
29 provisions of section 217 of the public service law.

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

32

PART W

33 Section 1. Section 2 of part BB of chapter 58 of the laws of 2012,
34 amending the public authorities law relating to authorizing the dormito-
35 ry authority to enter into certain design and construction management
36 agreements, as amended by section 1 of part S of chapter 58 of the laws
37 of 2015, is amended to read as follows:

38 § 2. This act shall take effect immediately [and shall expire and be
39 deemed repealed April 1, 2017].

40 § 2. This act shall take effect immediately.

41

PART X

42 Section 1. Legislative findings. In order to increase the authority of
43 the superintendent of financial services to respond to the harm posed by
44 impaired insurers in this state, the legislature finds that it is in the
45 best interest of the people of this state to enact an administrative
46 supervision statute. The superintendent of financial services has the
47 right and responsibility to enforce the insurance law and the authority
48 to seek redress against any person responsible for the impairment or
49 insolvency of the insurer, and nothing in this act is intended to
50 restrict or limit such right, responsibility, or authority.

51 § 2. The insurance law is amended by adding a new section 1123 to read
52 as follows:

1 § 1123. Administrative supervision. (a) For the purposes of this
2 subsection, "insurer" shall have the meaning set forth in paragraph one
3 of subsection (b) of section seven thousand four hundred one of this
4 chapter, and shall include a licensed United States branch of an alien
5 insurer entered through this state.

6 (b) (1) The superintendent may issue an order placing a domestic insur-
7 er under administrative supervision if the superintendent determines
8 that one or more of the conditions set forth in section seven thousand
9 four hundred two of this chapter exists. Upon such a determination, the
10 superintendent shall furnish the insurer with a written list of require-
11 ments to abate the condition or conditions within the time specified in
12 the order, which shall not exceed one hundred eighty days. The domestic
13 insurer may challenge the order by requesting an administrative hearing
14 pursuant to the adjudicatory proceeding rules in article three of the
15 state administrative procedure act and regulations promulgated by the
16 superintendent but the order shall remain in full force and effect
17 during the course of the adjudicatory proceeding. Upon issuance of the
18 order, the superintendent shall advise such domestic insurer of its
19 right to request a hearing challenging the order pursuant to the adjudi-
20 catory proceeding rules in article three of the state administrative
21 procedure act and regulations promulgated by the superintendent.

22 (2) If, at the end of the period specified in the order, the super-
23 intendent determines that the condition or conditions that gave rise to
24 the order still exists or exist, then administrative supervision shall
25 continue. The insurer may request a hearing to challenge the superinten-
26 dent's determination to continue administrative supervision.

27 (3) If the superintendent determines that the condition or conditions
28 that gave rise to administrative supervision no longer exists or exist,
29 then the superintendent shall release the insurer from supervision.

30 (c) During the period of supervision, the superintendent may prohibit
31 the insurer from engaging in any of the following activities without the
32 superintendent's prior approval:

33 (1) disposing of, conveying, or encumbering any of its assets or its
34 business in force;

35 (2) withdrawing any funds from its bank accounts;

36 (3) lending any of its funds;

37 (4) investing any of its funds;

38 (5) paying any claims;

39 (6) transferring any of its property;

40 (7) incurring any debt, obligation, or liability;

41 (8) merging or consolidating with another company;

42 (9) approving new premiums or renewing any policies;

43 (10) entering into any new reinsurance contract or treaty;

44 (11) terminating, surrendering, forfeiting, converting, or lapsing any
45 insurance policy, certificate, or contract, except for nonpayment of
46 premiums due;

47 (12) releasing, paying, or refunding premium deposits, accrued cash or
48 loan values, unearned premiums, or other reserves on any insurance poli-
49 cy, certificate, or contract;

50 (13) making any material change in management;

51 (14) increasing salaries and benefits of officers or directors or the
52 payment of bonuses, dividends, or other payments; or

53 (15) such other activities that the superintendent determines are
54 necessary to protect policyholders or the people of this state.

1 (d) The superintendent may appoint as administrative supervisor, at
2 the insurer's expense, one or more persons not employed by any insurer
3 or interested in such insurer, except as a policyholder.

4 (e)(1) The expenses of administrative supervision pursuant to this
5 subsection shall be borne and paid by the insurer so supervised.

6 (2) In the event that an insurer becomes subject to a proceeding under
7 article seventy-four of this chapter within one year of the superinten-
8 dent releasing the insurer from administrative supervision, all accrued
9 and outstanding expenses incurred in connection with administrative
10 supervision shall be treated as actual and necessary costs and expenses
11 of the administration of such proceeding under article seventy-four of
12 this chapter.

13 (f) All matters pertaining to a proceeding or determination pursuant
14 to this subsection shall be confidential and not subject to subpoena or
15 public inspection under article six of the public officers law or any
16 other statute, except to the extent that the superintendent finds
17 release of information necessary to protect the public.

18 (g) Nothing in this subsection shall be construed as precluding the
19 superintendent from initiating judicial proceedings to place an insurer
20 in rehabilitation, liquidation, conservation, or dissolution
21 proceedings.

22 § 3. Subsection (a) of section 1309 of the insurance law is amended to
23 read as follows:

24 (a) Whenever the superintendent finds from a financial statement or
25 report on examination that an authorized insurer is unable to pay its
26 outstanding lawful obligations as they mature in the regular course of
27 business, as shown by an excess of required reserves and other liabil-
28 ities over admitted assets, or by its not having sufficient assets to
29 reinsure all outstanding risks with other solvent authorized assuming
30 insurers after paying all accrued claims owed, such insurer shall be
31 deemed insolvent and the superintendent may proceed against it pursuant
32 to the provisions of article seventy-four of this chapter or may place
33 the insurer under administrative supervision pursuant to section one
34 thousand one hundred twenty-three of this chapter.

35 § 4. Subsection (a) of section 1310 of the insurance law is amended to
36 read as follows:

37 (a) Whenever the superintendent finds from a financial statement, or a
38 report on examination, of any domestic stock insurer that [(i)] (1) the
39 admitted assets are less than the aggregate amount of its liabilities
40 and outstanding capital stock or [(ii)] (2) the admitted assets of any
41 such insurer [which] that is required to maintain a minimum surplus to
42 policyholders are less than the aggregate amount of its liabilities and
43 the amount of its minimum surplus to policyholders, [he] the superinten-
44 dent shall determine the amount of the impairment and order the insurer
45 to eliminate the impairment within such period as [he] the superinten-
46 dent designates, not more than ninety days from the service of the
47 order. [He] The superintendent may also order the insurer not to issue
48 any new policies while the impairment exists. If the impairment as
49 determined by the provisions of [item (i) hereof] paragraph one of this
50 subsection equals or exceeds twenty-five percent of the insurer's
51 outstanding capital stock, or as determined by the provisions of [item
52 (i) or (ii) hereof] paragraph one or two of this subsection is such that
53 the insurer does not have the minimum capital or minimum surplus to
54 policyholders required by this chapter, and if at the expiration of such
55 designated period, such insurer has not satisfied the superintendent
56 that such impairment has been eliminated, the superintendent may proceed

1 against the insurer pursuant to the provisions of article seventy-four
2 of this chapter on the ground that its condition is such that its
3 further transaction of business will be hazardous to its policyholders
4 or its creditors or the public or the superintendent may place the
5 insurer under administrative supervision pursuant to section one thou-
6 sand one hundred twenty-three of this chapter.

7 § 5. Subsection (c) of section 1311 of the insurance law is amended to
8 read as follows:

9 (c) If the impairment so determined is such that such insurer does not
10 have the minimum surplus required for item (iii) of subsection (a)
11 [hereof] of this section, and if when such designated period expires the
12 insurer has not satisfied the superintendent that such impairment has
13 been eliminated, the superintendent may proceed against such insurer
14 pursuant to the provisions of article seventy-four of this chapter on
15 the ground that its further transaction of business will be hazardous to
16 its policyholders, its creditors or the public or the superintendent may
17 place the insurer under administrative supervision pursuant to section
18 one thousand one hundred twenty-three of this chapter.

19 § 6. Paragraph 2 of subsection (c) of section 1312 of the insurance
20 law is amended to read as follows:

21 (2) If at the expiration of such designated period such insurer has
22 not satisfied the superintendent that such impairment has been elimi-
23 nated, the superintendent may proceed against such insurer pursuant to
24 the provisions of article seventy-four of this chapter as an insurer
25 whose condition is such that its further transaction of business in the
26 United States will be hazardous to its policyholders, its creditors or
27 the public in the United States or the superintendent may place the
28 insurer under administrative supervision pursuant to subsection (b) of
29 section one thousand one hundred twenty-three of this chapter.

30 § 7. This act shall take effect immediately.

31 PART Y

32 Section 1. Subsections (c) and (d) of section 109 of the insurance
33 law, paragraph 1 of subsection (c) as amended by section 55 of part A of
34 chapter 62 of the laws of 2011, is amended and a new subsection (e) is
35 added to read as follows:

36 (c) (1) If the superintendent finds after notice and hearing that any
37 [authorized] insurer, representative of the insurer, [licensed] insur-
38 ance agent, [licensed] insurance broker, [licensed] adjuster, or any
39 other person or entity [licensed, certified, registered, or authorized
40 pursuant] subject to this chapter, has wilfully violated the provisions
41 of this chapter or any regulation promulgated thereunder, then the
42 superintendent may order the person or entity to pay to the people of
43 this state a penalty in a sum not exceeding [one] the greater of (A) ten
44 thousand dollars for each offense; (B) a multiple of two times the
45 aggregate damages attributable to the violation; or (C) a multiple of
46 two times the aggregate economic gain attributable to the violation. The
47 superintendent may promulgate regulations implementing the terms of this
48 subsection.

49 (2) Failure to pay such penalty within thirty days after the order,
50 unless it is suspended by an order of a court of competent jurisdiction,
51 shall constitute a further violation of the provisions of this chapter.

52 (3) No penalty shall be imposed pursuant to this subsection if a mone-
53 tary penalty is otherwise provided in this chapter.

1 (d) (1) The superintendent may maintain a civil action in the name of
2 the people of the state to recover a judgment for a money penalty
3 imposed by law or to enforce any order issued by the superintendent for
4 the violation of any provision of this chapter.

5 (2) Notwithstanding any law to the contrary, the superintendent may,
6 in his or her sole discretion, either (A) prosecute any such action and
7 retain charge and control of the action; or (B) refer such action to the
8 department of law for prosecution.

9 (e) Any person or entity that is required by this chapter to be
10 licensed, certified, registered, or authorized shall be subject to the
11 laws of this chapter and the penalties contained herein as if the person
12 or entity was so licensed, certified, registered, or authorized, even if
13 the person or entity does not possess the required license, certif-
14 ication, registration, or authorization.

15 § 2. Section 44 of the banking law is amended by adding two new subdi-
16 visions 10 and 11 to read as follows:

17 10. The superintendent may maintain a civil action in the name of the
18 people of the state to recover a judgement for a money penalty imposed
19 by law or to enforce any order issued by the superintendent for the
20 violation of any provision of this chapter. Notwithstanding any law to
21 the contrary, the superintendent may, in his or her discretion, either
22 (a) prosecute any such action and retain charge and control of the
23 action; or (b) refer such action to the department of law for prose-
24 cution.

25 11. Any person or entity who engages in activity that is regulated in
26 this chapter without being licensed, certified, registered, authorized,
27 chartered, accredited, incorporated or otherwise obtaining any permis-
28 sion of the superintendent required by this chapter before engaging in
29 such activity shall be subject to the laws of this chapter and the
30 penalties contained herein as if the person or entity was so licensed,
31 certified, registered, authorized, chartered, accredited, incorporated,
32 or otherwise approved by the superintendent.

33 § 3. Subsection (a) of section 309 of the financial services law is
34 amended and a new subsection (c) is added to read as follows:

35 (a) In addition to such other remedies as are provided under this
36 chapter, the superintendent may maintain and prosecute an action against
37 any person subject to this chapter, the insurance law or the banking
38 law, or the person's officers, directors, trustees or agents, for the
39 purpose of obtaining an injunction restraining such person or persons
40 from doing any acts in violation of the provisions of this chapter, the
41 insurance law or the banking law. The superintendent may commence such
42 action against any person or entity that is required by this chapter,
43 the banking law, or the insurance law to be licensed, certified, regis-
44 tered, authorized, chartered, accredited, or incorporated, as if the
45 person or entity was so licensed, certified, registered, authorized,
46 chartered, accredited, or incorporated, even if the person or entity
47 does not possess the required license, certification, registration,
48 authorization, charter, accreditation, or incorporation.

49 (c) Notwithstanding any law to the contrary, the superintendent may,
50 in his or her discretion, either (i) prosecute any such action and
51 retain charge and control of the action; or (ii) refer such action to
52 the department of law for prosecution.

53 § 4. This act shall take effect immediately.

1 Section 1. The banking law is amended by adding a new article 14-A to
2 read as follows:

3 ARTICLE XIV-A

4 STUDENT LOAN SERVICERS

5 Section 710. Definitions.

6 711. Licensing.

7 712. Application for a student loan servicer license; fees.

8 713. Application process to receive license to engage in the
9 business of student loan servicing.

10 714. Changes in officers and directors.

11 715. Changes in control.

12 716. Grounds for suspension or revocation of license.

13 717. Books and records; reports and electronic filing.

14 718. Rules and regulations.

15 719. Prohibited practices.

16 720. Servicing student loans without a license.

17 721. Responsibilities.

18 722. Examinations.

19 723. Penalties for violation of this article.

20 724. Severability of provisions.

21 725. Compliance with other laws.

22 § 710. Definitions. 1. "Applicant" shall mean any person applying for
23 a license to be a student loan servicer.

24 2. "Borrower" shall mean any resident of this state who has received a
25 student loan or agreed to pay a student loan or any person who shares
26 responsibility with such resident for repaying a student loan.

27 3. "Borrower benefit" shall mean an incentive offered to a borrower in
28 connection with the origination of a student loan, including but not
29 limited to an interest rate reduction, principal rebate, fee waiver or
30 rebate, loan cancellation, or cosigner release.

31 4. "Exempt organization" shall mean any banking organization, foreign
32 banking corporation, national bank, federal savings association, federal
33 credit union, or any bank, trust company, savings bank, savings and loan
34 association, or credit union organized under the laws of any other
35 state, or any person exempted by the superintendent of financial
36 services pursuant to regulations promulgated in accordance with this
37 article.

38 5. "Person" shall mean any individual, association, corporation,
39 limited liability company, partnership, trust, unincorporated organiza-
40 tion, government or political subdivision of a government, and any other
41 entity.

42 6. "Servicer" or "student loan servicer" shall mean a person licensed
43 pursuant to section seven hundred eleven of this article to engage in
44 the business of servicing any student loan of a borrower.

45 7. "Servicing" shall mean:

46 (a) receiving any payment from a borrower pursuant to the terms of any
47 student loan;

48 (b) applying any payment to a borrower's account pursuant to the terms
49 of a student loan or the contract governing the servicing of any such
50 loan;

51 (c) providing any notification of amounts owed on a student loan by or
52 on account of any borrower;

53 (d) during a period when a borrower is not required to make a payment
54 on a student loan, maintaining account records for the student loan and
55 communicating with the borrower regarding the student loan on behalf of
56 the owner of the student loan promissory note;



1 (e) interacting with a borrower with respect to or regarding any
2 attempt to avoid default on the borrower's student loan, or facilitating
3 the activities described in paragraph (a) or (b) of this subdivision; or

4 (f) performing other administrative services with respect to a borrow-
5 er's student loan.

6 8. "Student loan" shall mean any loan to a borrower to finance postse-
7 condary education or expenses related to postsecondary education.

8 § 711. Licensing. 1. No person shall engage in the business of servic-
9 ing student loans owed by one or more borrowers residing in this state
10 without first being licensed by the superintendent as a student loan
11 servicer in accordance with this article and such regulations as may be
12 prescribed by the superintendent.

13 2. The licensing provisions of this subdivision shall not apply to any
14 exempt organization, or any person that shall be exempted in accordance
15 with regulations prescribed by the superintendent hereunder; provided
16 that such exempt organization notifies the superintendent that the
17 exempt organization is acting as a student loan servicer in this state
18 and complies with sections seven hundred nineteen and seven hundred
19 twenty-one of this article and any regulation applicable to student loan
20 servicers promulgated by the superintendent.

21 § 712. Application for a student loan servicer license; fees. 1. The
22 application for a license to be a student loan servicer shall be in
23 writing, under oath, and in the form prescribed by the superintendent.
24 Notwithstanding article three of the state technology law or any other
25 law to the contrary, the superintendent may require that an application
26 for a license or any other submission or application for approval as may
27 be required by this article be made or executed by electronic means if
28 he or she deems it necessary to ensure the efficient and effective
29 administration of this article. The application shall include a
30 description of the activities of the applicant, in such detail and for
31 such periods as the superintendent may require, including:

32 (a) an affirmation of financial solvency noting such capitalization
33 requirements as may be required by the superintendent, and access to
34 such credit as may be required by the superintendent;

35 (b) a financial statement prepared by a certified public accountant,
36 the accuracy of which is sworn to under oath before a notary public by
37 an officer or other representative of the applicant who is authorized to
38 execute such documents;

39 (c) the fingerprints of the applicant, or its members, officers, part-
40 ners, directors and principals as may be appropriate, which may be
41 submitted to the division of criminal justice services and the federal
42 bureau of investigation for state and national criminal history record
43 checks;

44 (d) an affirmation that the applicant, or its members, officers, part-
45 ners, directors and principals as may be appropriate, are at least twen-
46 ty-one years of age;

47 (e) information as to the character, fitness, financial and business
48 responsibility, background and experiences of the applicant, or its
49 members, officers, partners, directors and principals as may be appro-
50 priate;

51 (f) any additional detail or information required by the superinten-
52 dent.

53 2. An application to become a student loan servicer or any application
54 with respect to a student loan servicer shall be accompanied by a fee as
55 prescribed pursuant to section eighteen-a of this chapter.

1 § 713. Application process to receive license to engage in the busi-
2 ness of student loan servicing. 1. Upon the filing of an application for
3 a license, if the superintendent shall find that the financial responsi-
4 bility, experience, character, and general fitness of the applicant and,
5 if applicable, the members, officers, partners, directors and principals
6 of the applicant are such as to command the confidence of the community
7 and to warrant belief that the business will be operated honestly, fair-
8 ly, and efficiently within the purpose of this article, the superinten-
9 dent shall thereupon issue a license in duplicate to engage in the busi-
10 ness of servicing student loans described in section seven hundred ten
11 of this article in accordance with the provisions of this article. If
12 the superintendent shall not so find, the superintendent shall not issue
13 a license, and the superintendent shall so notify the applicant. The
14 superintendent shall transmit one copy of a license to the applicant and
15 file another copy in the office of the department of financial services.
16 Upon receipt of such license, a student loan servicer shall be author-
17 ized to engage in the business of servicing student loans in accordance
18 with the provisions of this article. Such license shall remain in full
19 force and effect until it is surrendered by the servicer or revoked or
20 suspended as hereinafter provided.

21 2. The superintendent may refuse to issue a license pursuant to this
22 article if he or she shall find that the applicant, or any person who is
23 a director, officer, partner, agent, employee, member, substantial
24 stockholder of the applicant, consultant or person having a relationship
25 with the applicant similar to a consultant:

26 (a) has been convicted of a crime involving an activity which is a
27 felony under this chapter or under article one hundred fifty-five, one
28 hundred seventy, one hundred seventy-five, one hundred seventy-six, one
29 hundred eighty, one hundred eighty-five, one hundred eighty-seven, one
30 hundred ninety, two hundred, two hundred ten or four hundred seventy of
31 the penal law or any comparable felony under the laws of any other state
32 or the United States, provided that such crime would be a felony if
33 committed and prosecuted under the laws of this state;

34 (b) has had a license or registration revoked by the superintendent or
35 any other regulator or jurisdiction;

36 (c) has been an officer, director, partner, member or substantial
37 stockholder of an entity which has had a license or registration revoked
38 by the superintendent or any other regulator or jurisdiction; or

39 (d) has been an agent, employee, officer, director, partner or member
40 of an entity, or a consultant to, or person having had a similar
41 relationship with, any entity which has had a license or registration
42 revoked by the superintendent where such person shall have been found by
43 the superintendent to bear responsibility in connection with the revoca-
44 tion.

45 3. The term "substantial stockholder", as used in this subdivision,
46 shall be deemed to refer to a person owning or controlling directly or
47 indirectly ten per centum or more of the total outstanding stock of a
48 corporation.

49 § 714. Changes in officers and directors. Upon any change of any of
50 the executive officers, directors, partners or members of any student
51 loan servicer, the student loan servicer shall submit to the superinten-
52 dent the name, address, and occupation of each new officer, director,
53 partner or member, and provide such other information as the superinten-
54 dent may require.

55 § 715. Changes in control. 1. It shall be unlawful, except with the
56 prior approval of the superintendent, for any action to be taken which

1 results in a change of control of the business of a student loan servi-
2 cer. Prior to any change of control, the person desirous of acquiring
3 control of the business of a student loan servicer shall make written
4 application to the superintendent and pay an investigation fee as
5 prescribed pursuant to section eighteen-a of this chapter to the super-
6 intendent. The application shall contain such information as the super-
7 intendent, by rule or regulation, may prescribe as necessary or appro-
8 priate for the purpose of making the determination required by
9 subdivision two of this section. Such information shall include, but not
10 be limited to, the information and other material required for a student
11 loan servicer by subdivision one of section seven hundred twelve of this
12 article.

13 2. The superintendent shall approve or disapprove the proposed change
14 of control of a student loan servicer in accordance with the provisions
15 of section seven hundred thirteen of this article.

16 3. For a period of six months from the date of qualification thereof
17 and for such additional period of time as the superintendent may
18 prescribe, in writing, the provisions of subdivisions one and two of
19 this section shall not apply to a transfer of control by operation of
20 law to the legal representative, as hereinafter defined, of one who has
21 control of a student loan servicer. Thereafter, such legal represen-
22 tative shall comply with the provisions of subdivisions one and two of
23 this section. The provisions of subdivisions one and two of this section
24 shall be applicable to an application made under this section by a legal
25 representative. The term "legal representative", for the purposes of
26 this subdivision, shall mean a person duly appointed by a court of
27 competent jurisdiction to act as executor, administrator, trustee,
28 committee, conservator or receiver, including a person who succeeds a
29 legal representative and a person acting in an ancillary capacity there-
30 to in accordance with the provisions of such court appointment.

31 4. As used in this section the term "control" means the possession,
32 directly or indirectly, of the power to direct or cause the direction of
33 the management and policies of a student loan servicer, whether through
34 the ownership of voting stock of such student loan servicer, the owner-
35 ship of voting stock of any person which possesses such power or other-
36 wise. Control shall be presumed to exist if any person, directly or
37 indirectly, owns, controls or holds with power to vote ten per centum or
38 more of the voting stock of any student loan servicer or of any person
39 which owns, controls or holds with power to vote ten per centum or more
40 of the voting stock of any student loan servicer, but no person shall be
41 deemed to control a student loan servicer solely by reason of being an
42 officer or director of such student loan servicer. The superintendent
43 may in his discretion, upon the application of a student loan servicer
44 or any person who, directly or indirectly, owns, controls or holds with
45 power to vote or seeks to own, control or hold with power to vote any
46 voting stock of such student loan servicer, determine whether or not the
47 ownership, control or holding of such voting stock constitutes or would
48 constitute control of such student loan servicer for purposes of this
49 section.

50 § 716. Grounds for suspension or revocation of license. 1. The super-
51 intendent may revoke any license to engage in the business of a student
52 loan servicer issued pursuant to this article if he or she shall find
53 that:

54 (a) a servicer has violated any provision of this article, any rule or
55 regulation promulgated by the superintendent under and within the
56 authority of this article, or any other applicable law;

1 (b) any fact or condition exists which, if it had existed at the time
2 of the original application for such license, would have warranted the
3 superintendent refusing originally to issue such license;

4 (c) a servicer does not cooperate with an examination or investigation
5 by the superintendent;

6 (d) a servicer engages in fraud, intentional misrepresentation, or
7 gross negligence in servicing a student loan;

8 (e) the competence, experience, character, or general fitness of the
9 servicer, an individual controlling, directly or indirectly, ten percent
10 or more of the outstanding interests, or any person responsible for
11 servicing a student loan for the servicer indicates that it is not in
12 the public interest to permit the servicer to continue servicing student
13 loans;

14 (f) the servicer engages in unsafe or injurious practice;

15 (g) the servicer is insolvent, suspends payment of its obligations, or
16 makes a general assignment for the benefit of its creditors; or

17 (h) a servicer has violated the laws of this state, any other state
18 law or any federal law involving fraudulent or dishonest dealing, or a
19 final judgment has been entered against a student loan servicer in a
20 civil action upon grounds of fraud, misrepresentation or deceit.

21 2. As a part of his or her determination regarding suspension or revo-
22 cation, the superintendent is authorized to require the fingerprinting
23 of any person, officer, director, partner, member or employee of a
24 student loan servicer. Such fingerprints shall be submitted to the divi-
25 sion of criminal justice services for a state criminal history record
26 check and may be submitted to the federal bureau of investigation for a
27 national criminal history record check.

28 3. The superintendent may, on good cause shown, or where there is a
29 substantial risk of public harm, suspend any license for a period not
30 exceeding thirty days, pending investigation. "Good cause", as used in
31 this subdivision, shall exist when a student loan servicer has defaulted
32 or is likely to default in performing its financial engagements or
33 engages in dishonest or inequitable practices which may cause substan-
34 tial harm to the persons afforded the protection of this article.

35 4. Except as provided in subdivision three of this section, no license
36 shall be revoked or suspended except after notice and a hearing thereon.
37 Any order of suspension issued after notice and a hearing may include as
38 a condition of reinstatement that the student loan servicer make resti-
39 tution to consumers of fees or other charges which have been improperly
40 charged or collected, including but not limited to by allocating
41 payments contrary to a borrower's direction or in a manner that fails to
42 help a borrower avoid default, as determined by the superintendent. Any
43 hearing held pursuant to the provisions of this section shall be
44 noticed, conducted and administered in compliance with the state admin-
45 istrative procedure act.

46 5. Any student loan servicer may surrender any license by delivering
47 to the superintendent written notice that the student loan servicer
48 thereby surrenders such license, but such surrender shall not affect the
49 servicer's civil or criminal liability for acts committed prior to the
50 surrender. If such surrender is made after the issuance by the super-
51 intendent of a statement of charges and notice of hearing, the super-
52 intendent may proceed against the servicer as if the surrender had not
53 taken place.

54 6. No revocation, suspension, or surrender of any license shall impair
55 or affect the obligation of any pre-existing lawful contract between the

1 student loan servicer and any person, including the department of finan-
2 cial services.

3 7. Every license issued pursuant to this article shall remain in full
4 force and effect until the same shall have been surrendered, revoked or
5 suspended in accordance with any other provisions of this article.

6 8. Whenever the superintendent shall revoke or suspend a license
7 issued pursuant to this article, he or she shall forthwith execute in
8 duplicate a written order to that effect. The superintendent shall file
9 one copy of the order in the office of the department of financial
10 services and shall forthwith serve the other copy upon the student loan
11 servicer. Any such order may be reviewed in the manner provided by arti-
12 cle seventy-eight of the civil practice law and rules. An application
13 for review as authorized by this section must be made within thirty days
14 from the date of the order of suspension or revocation.

15 § 717. Books and records; reports and electronic filing. 1. Each
16 student loan servicer and exempt organization shall keep and use in its
17 business such books, accounts and records as will enable the superinten-
18 dent to determine whether the servicer or exempt organization is compliy-
19 ing with the provisions of this article and with the rules and regu-
20 lations lawfully made by the superintendent. Every servicer and exempt
21 organization shall preserve such books, accounts, and records, for at
22 least three years.

23 2. (a) Each student loan servicer shall annually, on or before a date
24 to be determined by the superintendent, file a report with the super-
25 intendent giving such information as the superintendent may require
26 concerning the business and operations during the preceding calendar
27 year of such servicer under authority of this article. Such report shall
28 be subscribed and affirmed as true by the servicer under the penalties
29 of perjury and shall be in the form prescribed by the superintendent.

30 (b) In addition to annual reports, the superintendent may require such
31 additional regular or special reports as he or she may deem necessary to
32 the proper supervision of student loan servicers under this article.
33 Such additional reports shall be subscribed and affirmed as true by the
34 servicer under the penalties of perjury and shall be in the form
35 prescribed by the superintendent.

36 3. Notwithstanding article three of the state technology law or any
37 other law to the contrary, the superintendent may require that any
38 submission or approval as may be required by the superintendent be made
39 or executed by electronic means if he or she deems it necessary to
40 ensure the efficient administration of this article.

41 § 718. Rules and regulations. 1. In addition to such powers as may
42 otherwise be prescribed by this chapter, the superintendent is hereby
43 authorized and empowered to promulgate such rules and regulations as may
44 in the judgment of the superintendent be consistent with the purposes of
45 this article, or appropriate for the effective administration of this
46 article, including, but not limited to:

47 (a) Such rules and regulations in connection with the activities of
48 student loan servicers and exempt organizations as may be necessary and
49 appropriate for the protection of borrowers in this state.

50 (b) Such rules and regulations as may be necessary and appropriate to
51 define unfair, deceptive or abusive acts or practices in connection with
52 the activities of student loan servicers and exempt organizations in
53 servicing student loans.

54 (c) Such rules and regulations as may define the terms used in this
55 article and as may be necessary and appropriate to interpret and imple-
56 ment the provisions of this article.

1 (d) Such rules and regulations as may be necessary for the enforcement
2 of this article.

3 2. The superintendent is hereby authorized and empowered to make such
4 specific rulings, demands and findings as the superintendent may deem
5 necessary for the proper conduct of the student loan servicing industry.

6 § 719. Prohibited practices. No student loan servicer shall:

7 1. Directly or indirectly employ any scheme, device or artifice to
8 defraud or mislead a borrower.

9 2. Engage in any unfair, deceptive or predatory act or practice toward
10 any person or misrepresent or omit any material information in
11 connection with the servicing of a student loan, including, but not
12 limited to, misrepresenting the amount, nature or terms of any fee or
13 payment due or claimed to be due on a student loan, the terms and condi-
14 tions of the loan agreement or the borrower's obligations under the
15 loan.

16 3. Misapply payments to the outstanding balance of any student loan or
17 to any related interest or fees.

18 4. Provide inaccurate information to a consumer reporting agency.

19 5. Refuse to communicate with an authorized representative of the
20 borrower who provides a written authorization signed by the borrower,
21 provided that the servicer may adopt procedures reasonably related to
22 verifying that the representative is in fact authorized to act on behalf
23 of the borrower.

24 6. Make any false statement or make any omission of a material fact in
25 connection with any information or reports filed with a governmental
26 agency or in connection with any investigation conducted by the super-
27 intendent or another governmental agency.

28 § 720. Servicing student loans without a license. 1. Whenever, in the
29 opinion of the superintendent, a person is engaged in the business of
30 servicing student loans, either actually or through subterfuge, without
31 a license from the superintendent, the superintendent may order that
32 person to desist and refrain from engaging in the business of servicing
33 student loans in the state. If, within thirty days after an order is
34 served, a request for a hearing is filed in writing and the hearing is
35 not held within sixty days of the filing, the order shall be rescinded.

36 2. The superintendent may maintain a civil action to enforce any order
37 issued by the superintendent pursuant to this section.

38 3. This section shall not apply to exempt organizations.

39 § 721. Responsibilities. 1. If a student loan servicer regularly
40 reports information to a consumer reporting agency, the servicer shall
41 accurately report a borrower's payment performance to at least one
42 consumer reporting agency that compiles and maintains files on consumers
43 on a nationwide basis as defined in Section 603(p) of the federal Fair
44 Credit Reporting Act (15 U.S.C. Sec. 1681a(p)), upon acceptance as a
45 data furnisher by that consumer reporting agency.

46 2. (a) Except as provided in federal law or required by a student loan
47 agreement, a student loan servicer shall inquire of a borrower how to
48 apply a borrower's nonconforming payment. A borrower's direction on how
49 to apply a nonconforming payment shall remain in effect for any future
50 nonconforming payment during the term of a student loan until the
51 borrower provides different directions.

52 (b) For purposes of this subdivision, "nonconforming payment" shall
53 mean a payment that is either more or less than the borrower's required
54 student loan payment.

55 3. (a) If the sale, assignment, or other transfer of the servicing of
56 a student loan results in a change in the identity of the person to whom

1 the borrower is required to send subsequent payments or direct any
2 communications concerning the student loan, a student loan servicer
3 shall transfer all information regarding a borrower, a borrower's
4 account, and a borrower's student loan, including but not limited to the
5 borrower's repayment status and any borrower benefits associated with
6 the borrower's student loan, to the new student loan servicer servicing
7 the borrower's student loan within forty-five days.

8 (b) A student loan servicer shall adopt policies and procedures to
9 verify that it has received all information regarding a borrower, a
10 borrower's account, and a borrower's student loan, including but not
11 limited to the borrower's repayment status and any borrower benefits
12 associated with the borrower's student loan, when the servicer obtains
13 the right to service a student loan.

14 4. If a student loan servicer sells, assigns, or otherwise transfers
15 the servicing of a student loan to a new servicer, the sale, assignment
16 or other transfer shall be completed at least seven days before the
17 borrower's next payment is due.

18 5. (a) A student loan servicer that sells, assigns, or otherwise
19 transfers the servicing of a student loan shall require as a condition
20 of such sale, assignment or other transfer that the new student loan
21 servicer shall honor all borrower benefits originally represented as
22 being available to a borrower during the repayment of the student loan
23 and the possibility of such benefits, including any benefits that were
24 represented as being available but for which the borrower had not yet
25 qualified.

26 (b) A student loan servicer that obtains the right to service a
27 student loan shall honor all borrower benefits originally represented as
28 being available to a borrower during the repayment of the student loan
29 and the possibility of such benefits, including any benefits that were
30 represented as being available but for which the borrower had not yet
31 qualified.

32 6. A student loan servicer shall respond within thirty days after
33 receipt to a written inquiry from a borrower or a borrower's represen-
34 tative.

35 7. A student loan servicer shall preserve records of each student loan
36 and all communications with borrowers for not less than two years
37 following the final payment on a student loan or the sale, assignment or
38 other transfer of the servicing of a student loan, whichever occurs
39 first, or such longer period as may be required by any other provision
40 of law.

41 § 722. Examinations. 1. The superintendent may at any time, and as
42 often as he or she may determine, either personally or by a person duly
43 designated by the superintendent, investigate the business and examine
44 the books, accounts, records, and files used therein of every student
45 loan servicer. For that purpose the superintendent and his or her duly
46 designated representative shall have free access to the offices and
47 places of business, books, accounts, papers, records, files, safes and
48 vaults of all student loan servicers. The superintendent and any person
49 duly designated by him or her shall have the authority to require the
50 attendance of and to examine under oath all persons whose testimony he
51 or she may require relative to such business.

52 2. No person subject to investigation or examination under this
53 section may knowingly withhold, abstract, remove, mutilate, destroy or
54 secrete any books, records, computer records or other information.

55 3. The expenses incurred in making any examination pursuant to this
56 section shall be assessed against and paid by the student loan servicer

1 so examined, except that traveling and subsistence expenses so incurred
2 shall be charged against and paid by servicers in such proportions as
3 the superintendent shall deem just and reasonable, and such propor-
4 tionate charges shall be added to the assessment of the other expenses
5 incurred upon each examination. Upon written notice by the superinten-
6 dent of the total amount of such assessment, the servicer shall become
7 liable for and shall pay such assessment to the superintendent.

8 4. In any hearing in which a department employee acting under authori-
9 ty of this chapter is available for cross-examination, any official
10 written report, worksheet, other related papers, or duly certified copy
11 thereof, compiled, prepared, drafted, or otherwise made by such depart-
12 ment employee, after being duly authenticated by the employee, may be
13 admitted as competent evidence upon the oath of the employee that such
14 worksheet, investigative report, or other related documents were
15 prepared as a result of an examination of the books and records of a
16 servicer or other person, conducted pursuant to the authority of this
17 chapter.

18 5. Unless otherwise exempt pursuant to subdivision two of section
19 seven hundred eleven of this article, affiliates of a student loan
20 servicer shall be subject to examination by the superintendent on the
21 same terms as the servicer, but only when reports from, or examination
22 of, a servicer provides evidence of unlawful activity between a servicer
23 and affiliate benefitting, affecting, or arising from the activities
24 regulated by this article.

25 § 723. Penalties for violation of this article. 1. In addition to such
26 penalties as may otherwise be applicable by law, the superintendent may,
27 after notice and hearing, require any person found violating the
28 provisions of this article or the rules or regulations promulgated here-
29 under to pay to the people of this state an additional penalty for each
30 violation of the article or any regulation or policy promulgated here-
31 under a sum not to exceed an amount as determined pursuant to section
32 forty-four of this chapter for each such violation.

33 2. Nothing in this article shall limit any statutory or common-law
34 right of any person to bring any action in any court for any act, or the
35 right of the state to punish any person for any violation of any law.

36 § 724. Severability of provisions. If any provision of this article,
37 or the application of such provision to any person or circumstance,
38 shall be held invalid, illegal or unenforceable, the remainder of the
39 article, and the application of such provision to persons or circum-
40 stances other than those as to which it is held invalid, illegal or
41 unenforceable, shall not be affected thereby.

42 § 725. Compliance with other laws. 1. Student loan servicers shall
43 engage in the business of servicing student loans in conformity with the
44 provisions of this chapter, such rules and regulations as may be promul-
45 gated by the superintendent thereunder and all applicable federal laws
46 and the rules and regulations promulgated thereunder.

47 2. Nothing in this section shall be construed to limit any otherwise
48 applicable state or federal law or regulations.

49 § 2. Subdivision 10 of section 36 of the banking law, as amended by
50 chapter 182 of the laws of 2011, is amended to read as follows:

51 10. All reports of examinations and investigations, correspondence and
52 memoranda concerning or arising out of such examination and investi-
53 gations, including any duly authenticated copy or copies thereof in the
54 possession of any banking organization, bank holding company or any
55 subsidiary thereof (as such terms "bank holding company" and "subsid-
56 iary" are defined in article three-A of this chapter), any corporation

1 or any other entity affiliated with a banking organization within the
2 meaning of subdivision six of this section and any non-banking subsid-
3 iary of a corporation or any other entity which is an affiliate of a
4 banking organization within the meaning of subdivision six-a of this
5 section, foreign banking corporation, licensed lender, licensed cashier
6 of checks, licensed mortgage banker, registered mortgage broker,
7 licensed mortgage loan originator, licensed sales finance company,
8 registered mortgage loan servicer, licensed student loan servicer,
9 licensed insurance premium finance agency, licensed transmitter of
10 money, licensed budget planner, any other person or entity subject to
11 supervision under this chapter, or the department, shall be confidential
12 communications, shall not be subject to subpoena and shall not be made
13 public unless, in the judgment of the superintendent, the ends of
14 justice and the public advantage will be subserved by the publication
15 thereof, in which event the superintendent may publish or authorize the
16 publication of a copy of any such report or any part thereof in such
17 manner as may be deemed proper or unless such laws specifically author-
18 ize such disclosure. For the purposes of this subdivision, "reports of
19 examinations and investigations, and any correspondence and memoranda
20 concerning or arising out of such examinations and investigations",
21 includes any such materials of a bank, insurance or securities regulato-
22 ry agency or any unit of the federal government or that of this state
23 any other state or that of any foreign government which are considered
24 confidential by such agency or unit and which are in the possession of
25 the department or which are otherwise confidential materials that have
26 been shared by the department with any such agency or unit and are in
27 the possession of such agency or unit.

28 § 3. Subdivisions 1, 2, 3 and 5 of section 39 of the banking law,
29 subdivisions 1, 2 and 5 as amended by chapter 123 of the laws of 2009
30 and subdivision 3 as amended by chapter 155 of the laws of 2012, are
31 amended to read as follows:

32 1. To appear and explain an apparent violation. Whenever it shall
33 appear to the superintendent that any banking organization, bank holding
34 company, registered mortgage broker, licensed mortgage banker, licensed
35 student loan servicer, registered mortgage loan servicer, licensed mort-
36 gage loan originator, licensed lender, licensed cashier of checks,
37 licensed sales finance company, licensed insurance premium finance agen-
38 cy, licensed transmitter of money, licensed budget planner, out-of-state
39 state bank that maintains a branch or branches or representative or
40 other offices in this state, or foreign banking corporation licensed by
41 the superintendent to do business or maintain a representative office in
42 this state has violated any law or regulation, he or she may, in his or
43 her discretion, issue an order describing such apparent violation and
44 requiring such banking organization, bank holding company, registered
45 mortgage broker, licensed mortgage banker, licensed student loan servi-
46 cer, licensed mortgage loan originator, licensed lender, licensed cashier
47 of checks, licensed sales finance company, licensed insurance premium
48 finance agency, licensed transmitter of money, licensed budget planner,
49 out-of-state state bank that maintains a branch or branches or represen-
50 tative or other offices in this state, or foreign banking corporation to
51 appear before him or her, at a time and place fixed in said order, to
52 present an explanation of such apparent violation.

53 2. To discontinue unauthorized or unsafe and unsound practices. When-
54 ever it shall appear to the superintendent that any banking organiza-
55 tion, bank holding company, registered mortgage broker, licensed mort-
56 gage banker, licensed student loan servicer, registered mortgage loan

1 servicer, licensed mortgage loan originator, licensed lender, licensed
2 cashier of checks, licensed sales finance company, licensed insurance
3 premium finance agency, licensed transmitter of money, licensed budget
4 planner, out-of-state state bank that maintains a branch or branches or
5 representative or other offices in this state, or foreign banking corpo-
6 ration licensed by the superintendent to do business in this state is
7 conducting business in an unauthorized or unsafe and unsound manner, he
8 or she may, in his or her discretion, issue an order directing the
9 discontinuance of such unauthorized or unsafe and unsound practices, and
10 fixing a time and place at which such banking organization, bank holding
11 company, registered mortgage broker, licensed mortgage banker, licensed
12 student loan servicer, registered mortgage loan servicer, licensed mort-
13 gage loan originator, licensed lender, licensed cashier of checks,
14 licensed sales finance company, licensed insurance premium finance agen-
15 cy, licensed transmitter of money, licensed budget planner, out-of-state
16 state bank that maintains a branch or branches or representative or
17 other offices in this state, or foreign banking corporation may volun-
18 tarily appear before him or her to present any explanation in defense of
19 the practices directed in said order to be discontinued.

20 3. To make good impairment of capital or to ensure compliance with
21 financial requirements. Whenever it shall appear to the superintendent
22 that the capital or capital stock of any banking organization, bank
23 holding company or any subsidiary thereof which is organized, licensed
24 or registered pursuant to this chapter, is impaired, or the financial
25 requirements imposed by subdivision one of section two hundred two-b of
26 this chapter or any regulation of the superintendent on any branch or
27 agency of a foreign banking corporation or the financial requirements
28 imposed by this chapter or any regulation of the superintendent on any
29 licensed lender, registered mortgage broker, licensed mortgage banker,
30 licensed student loan servicer, licensed cashier of checks, licensed
31 sales finance company, licensed insurance premium finance agency,
32 licensed transmitter of money, licensed budget planner or private banker
33 are not satisfied, the superintendent may, in the superintendent's
34 discretion, issue an order directing that such banking organization,
35 bank holding company, branch or agency of a foreign banking corporation,
36 registered mortgage broker, licensed mortgage banker, licensed student
37 loan servicer, licensed lender, licensed cashier of checks, licensed
38 sales finance company, licensed insurance premium finance agency,
39 licensed transmitter of money, licensed budget planner, or private bank-
40 er make good such deficiency forthwith or within a time specified in
41 such order.

42 5. To keep books and accounts as prescribed. Whenever it shall appear
43 to the superintendent that any banking organization, bank holding compa-
44 ny, registered mortgage broker, licensed mortgage banker, licensed
45 student loan servicer, registered mortgage loan servicer, licensed mort-
46 gage loan originator, licensed lender, licensed cashier of checks,
47 licensed sales finance company, licensed insurance premium finance agen-
48 cy, licensed transmitter of money, licensed budget planner, agency or
49 branch of a foreign banking corporation licensed by the superintendent
50 to do business in this state, does not keep its books and accounts in
51 such manner as to enable him or her to readily ascertain its true condi-
52 tion, he or she may, in his or her discretion, issue an order requiring
53 such banking organization, bank holding company, registered mortgage
54 broker, licensed mortgage banker, licensed student loan servicer, regis-
55 tered mortgage loan servicer, licensed mortgage loan originator,
56 licensed lender, licensed cashier of checks, licensed sales finance

1 company, licensed insurance premium finance agency, licensed transmitter
2 of money, licensed budget planner, or foreign banking corporation, or
3 the officers or agents thereof, or any of them, to open and keep such
4 books or accounts as he or she may, in his or her discretion, determine
5 and prescribe for the purpose of keeping accurate and convenient records
6 of its transactions and accounts.

7 § 4. Paragraph (a) of subdivision 1 of section 44 of the banking law,
8 as amended by chapter 155 of the laws of 2012, is amended to read as
9 follows:

10 (a) Without limiting any power granted to the superintendent under any
11 other provision of this chapter, the superintendent may, in a proceeding
12 after notice and a hearing, require any safe deposit company, licensed
13 lender, licensed casher of checks, licensed sales finance company,
14 licensed insurance premium finance agency, licensed transmitter of
15 money, licensed mortgage banker, licensed student loan servicer, regis-
16 tered mortgage broker, licensed mortgage loan originator, registered
17 mortgage loan servicer or licensed budget planner to pay to the people
18 of this state a penalty for any violation of this chapter, any regu-
19 lation promulgated thereunder, any final or temporary order issued
20 pursuant to section thirty-nine of this article, any condition imposed
21 in writing by the superintendent in connection with the grant of any
22 application or request, or any written agreement entered into with the
23 superintendent.

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

26 PART AA

27 Section 1. The banking law is amended by adding a new section 4-d to
28 read as follows:

29 § 4-d. Protecting vulnerable adults from financial exploitation. 1.
30 Definitions. As used in this section:

31 (a) "Banking institution" means any bank, trust company, savings bank,
32 savings and loan association, credit union, or branch of a foreign bank-
33 ing corporation, which is chartered, organized or licensed under the
34 laws of this state or any other state or the United States, and, in the
35 ordinary course of business takes deposit accounts in this state.

36 (b) "Vulnerable adult" means an individual who, because of mental
37 and/or physical impairment is potentially unable to manage his or her
38 own resources or protect himself or herself from financial exploitation.

39 (c) "Financial exploitation" means: (i) the improper taking, withhold-
40 ing, appropriation, or use of a vulnerable adult's money, assets, or
41 property; or (ii) any act or omission by a person, including through the
42 use of a power of attorney, guardianship, or any other authority regard-
43 ing a vulnerable adult to: (A) obtain control, through deception, intim-
44 idation or undue influence, over the vulnerable adult's money, assets,
45 or property or (B) convert the vulnerable adult's money, assets, or
46 property.

47 (d) "Transaction hold" means a delay in the completion of one or more
48 financial transactions pending an investigation by a banking institu-
49 tion, adult protective services, or a law enforcement agency.

50 (e) "Adult protective services" means the division of the New York
51 City Human Resources Administration and each county's department of
52 human services or department of social services responsible for provid-
53 ing adult protective services pursuant to section four hundred seventy-
54 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:

29 (i) make a reasonable effort to provide notice, orally or in writing,
30 to all parties authorized to transact business on the account on which a
31 transaction hold was placed within two business days of when the trans-
32 action hold was placed;

33 (ii) immediately, but no later than one business day after the trans-
34 action hold is placed, report the transaction hold, including the basis
35 for the banking institution's belief that the financial exploitation of a
36 vulnerable adult may have occurred, may have been attempted, or is being
37 attempted, to adult protective services and to a law enforcement agency;

38 (iii) at the request of adult protective services or a law enforcement
39 agency, provide all information and documents that relate to the trans-
40 action hold within three business days of the request for the informa-
41 tion or documents; and

42 (iv) notwithstanding the transaction hold, make funds available from
43 the account on which a transaction hold is placed to allow the vulner-
44 able adult or other account holder to meet his or her ongoing obli-
45 gations such as housing and other living expenses or emergency expenses
46 as determined by adult protective services, a law enforcement agency or
47 a not-for-profit organization that regularly provides services to
48 vulnerable adults in the community in which the vulnerable adult
49 resides.

50 (d) During the pendency of a transaction hold, a banking institution
51 may, in its discretion, also make funds available from the account on
52 which a transaction hold is placed to allow the vulnerable adult or
53 other account holder meet his or her ongoing obligations such as housing
54 and other living expenses or emergency expenses, provided the banking
55 institution does not have a reasonable basis to believe that the
56 dispersal of such funds to the vulnerable adult or other account holder

1 will result in the financial exploitation of the vulnerable adult. Any
2 such dispersal of funds pursuant to this subdivision shall be reported
3 within one business day after the dispersal is made to adult protective
4 services and to a law enforcement agency.

5 (e) The superintendent may adopt regulations identifying the factors
6 that a banking institution should consider in determining whether: (i)
7 the financial exploitation of a vulnerable adult may have occurred, may
8 have been attempted, or is being attempted; and (ii) the placement of a
9 transaction hold is necessary to protect a vulnerable adult's money,
10 assets, or property.

11 3. Duration of transaction hold. (a) Subject to paragraphs (b), (c)
12 and (d) of this subdivision, a transaction hold that a banking institu-
13 tion places on an account pursuant to this section shall terminate five
14 business days after the date on which the transaction hold is applied by
15 the banking institution. A banking institution may terminate the trans-
16 action hold at any time during this five day period if the banking
17 institution is satisfied that the termination of the transaction hold is
18 not likely to result in financial exploitation of a vulnerable adult.

19 (b) A transaction hold may be extended beyond the period set forth in
20 paragraph (a) of this subdivision for up to an additional fifteen days
21 at the request of either adult protective services or a law enforcement
22 agency.

23 (c) A transaction hold may be extended beyond the periods set forth in
24 paragraphs (a) and (b) of this subdivision only pursuant to an order
25 issued by a court of competent jurisdiction.

26 (d) A transaction hold may be terminated at any time pursuant an order
27 issued by a court of competent jurisdiction.

28 4. Immunity. A banking institution or an employee of a banking insti-
29 tution shall be immune from criminal, civil, and administrative liabil-
30 ity for all good faith actions in relation to the application of this
31 section including any good faith determination to apply or not apply a
32 transaction hold on an account. Where there is reasonable basis to
33 conclude: (a) that financial exploitation of a vulnerable adult may have
34 occurred, may have been attempted, or is being attempted; and (b) that
35 the placement of a transaction hold may be necessary to protect a
36 vulnerable adult's money, assets, or property from financial exploita-
37 tion, such immunity shall not apply to a determination not to apply a
38 transaction hold when the banking institution or employee acts reckless-
39 ly or engages in intentional misconduct in making the determination, or
40 the determination results from a conflict of interest.

41 5. Certification program. The department may develop a financial
42 exploitation certification program for banking institutions. Upon
43 completion of the training components required by the program and after
44 establishing the necessary internal policies, procedures, and in-house
45 training programs, a banking institution shall receive from the depart-
46 ment an adult financial exploitation prevention certificate demonstrat-
47 ing that staff at such banking institution have been trained on how to
48 identify, help prevent, and report the financial exploitation of a
49 vulnerable adult. At the discretion of the superintendent, the certif-
50 ication program may be mandatory for banking institutions licensed by
51 the department.

52 6. Regulations. The superintendent may issue such rules and regu-
53 lations that provide the procedures for the enforcement of the terms of
54 this section and any other rules and regulations that he or she deems
55 necessary to implement the terms of this section.

1 § 2. This act shall take effect on the one hundred eightieth day after
2 it shall have become a law.

3

PART BB

4 Section 1. The financial services law is amended by adding a new
5 section 105 to read as follows:

6 § 105. Disqualification. (a) Definitions. (1) Covered individual. The
7 term "covered individual," when used in this section, means (A) an indi-
8 vidual operating under or required to operate under a license, registra-
9 tion, permit certification or authorization under this chapter, the
10 banking law, the insurance law, or the regulations promulgated there-
11 under, (B) an owner, director, trustee, officer, employee, member or
12 partner of a covered entity, or (C) an individual otherwise engaged in
13 the business of banking, insurance or financial services in the state.

14 (2) Covered entity. The term "covered entity," when used in this
15 section, means any entity (A) operating under or required to operate
16 under a license, registration, permit, certificate or authorization
17 under the banking law or the insurance law; (B) authorized, accredited,
18 chartered or incorporated or possessing or required to possess other
19 similar status under the banking law, or the insurance law; (C) regu-
20 lated by the superintendent pursuant to this chapter; (D) that has
21 submitted an application to the superintendent (i) for a license, regis-
22 tration, permit, certificate or authorization under the banking law or
23 the insurance law, (ii) to be authorized, accredited, chartered or
24 incorporated under the banking law, or the insurance law or to be regu-
25 lated pursuant to this chapter.

26 (3) Disqualifying event. For purposes of this section, an individual
27 commits a "disqualifying event," when he or she:

28 (A) has violated a written agreement between the superintendent and
29 the covered individual;

30 (B) has willfully violated an agreement between the superintendent and
31 a covered entity;

32 (C) has engaged or participated in any unsafe or unsound practice in
33 connection with any covered entity;

34 (D) has willfully made or caused to be made in any application,
35 filing, or submission with the superintendent, any statement which was
36 at the time and in the light of the circumstances under which it was
37 made false or misleading with respect to any material fact, or has omit-
38 ted to state in any such application or report any material fact which
39 is required to be stated therein;

40 (E) has been convicted within five years of any felony or misdemeanor
41 that:

42 (i) involves the purchase or sale of any financial product or service,
43 the taking of a false oath, the making of a false report, bribery,
44 perjury, burglary, any substantially equivalent activity however denomi-
45 nated, or conspiracy to commit any such offense;

46 (ii) arises out of the conduct of the business of a covered entity or
47 in connection with the promotion, sale or delivery of a financial prod-
48 uct or service;

49 (iii) involves the larceny, theft, robbery, extortion, forgery, coun-
50 terfeiting, fraudulent concealment, embezzlement, fraudulent conversion,
51 or misappropriation of funds, or securities, or substantially equivalent
52 activity however denominated; or



1 (iv) has a direct bearing on the individual's fitness or ability to
2 perform one or more of the duties or responsibilities necessarily
3 related to the license, position, or job in question;

4 (F) has been found by a federal financial regulatory authority, a
5 state financial regulatory authority, or a foreign financial regulatory
6 authority that is recognized by the superintendent as such to have:

7 (i) made or caused to be made in any application for registration or
8 report required to be filed with the financial regulatory authority, or
9 in any proceeding before the financial regulatory authority with respect
10 to registration, any statement that was at the time and in the light of
11 the circumstances under which it was made false or misleading with
12 respect to any material fact, or has omitted to state in any application
13 or report to the financial regulatory authority any material fact that
14 is required to be stated therein; or

15 (ii) violated any banking law, or statute or regulation regarding
16 transactions in securities, or contracts of sale of a commodity for
17 future delivery, traded on or subject to the rules of a contract market
18 or any board of trade; or

19 (G) is subject to any final order of any federal financial regulatory
20 authority, a state financial regulatory authority, or a foreign finan-
21 cial regulatory authority that is recognized by the superintendent as
22 such that:

23 (i) bars such person from association with an entity regulated by such
24 commission, authority, agency, or officer, or from engaging in the busi-
25 ness of securities, insurance, banking, savings association activities,
26 or credit union activities; or

27 (ii) constitutes a final order based on violations of any laws or
28 regulations that prohibits fraudulent, manipulative, or deceptive
29 conduct.

30 (b) Disqualification. Without limiting any power granted to the super-
31 intendent under any other provision of state or federal law, (1) whenev-
32 er the superintendent has reason to believe that a covered individual
33 has committed a disqualifying event that is of such severity as to have
34 a direct bearing on the individual's fitness or ability to (A) serve as
35 an owner, director, trustee, officer, employee, member or partner of a
36 covered entity or having any association with a covered entity, (B) hold
37 any license, registration, permit, certification or authorization issued
38 by the department, or (C) otherwise engage in the business of banking,
39 insurance, or financial services in the state, (2) the superintendent
40 may serve a statement of the charges against such covered individual and
41 a notice of an opportunity to appear before the superintendent to show
42 cause why he or she should not be disqualified from (A) serving as an
43 owner, director, trustee, officer, employee, member or partner of a
44 covered entity or having any association with a covered entity, (B)
45 holding any license, registration, permit, certification or authori-
46 zation issued by the department, or (C) otherwise engaging in the busi-
47 ness of banking, insurance, or financial services in the state.

48 (c) Order of disqualification. Without limiting any power granted to
49 the superintendent under any other provision of state or federal law, if
50 such covered individual waives a hearing, or fails to appear in person
51 or by a duly authorized representative without good cause shown at the
52 time and place set for the hearing or, if after a hearing, (1) the
53 superintendent finds that the covered individual has engaged in a
54 disqualifying event that is of such severity as to have a direct bearing
55 on the individual's fitness or ability to (A) serve as an owner, direc-
56 tor, trustee, officer, employee, member or partner of a covered entity

1 or having any association with a covered entity, (B) hold any license,
2 registration, permit, certification or authorization issued by the
3 department, or (C) otherwise engage in the business of banking, insur-
4 ance, or financial services in the state, (2) the superintendent may
5 issue an order disqualifying the covered individual from (A) serving as
6 an owner, director, trustee, officer, employee, member or partner of a
7 covered entity or having any association with a covered entity, (B)
8 holding any license, registration, permit, certification or authori-
9 zation issued by the department, or (C) otherwise engaging in the busi-
10 ness of banking, insurance, or financial services in the state. Such
11 order of disqualification may also prohibit the covered individual's
12 performance of any contractual agreements with any covered entity. Such
13 order of disqualification may be for the covered individual's lifetime
14 or for any shorter period determined by the superintendent to be in the
15 public's interest. Any order issued pursuant to this subsection and the
16 findings of fact upon which it is based may not be made public or
17 disclosed to anyone, except as provided in subdivision ten of section
18 thirty-six of the banking law or in connection with proceedings for a
19 violation of this section.

20 (d) Suspension pending determination of charges. (1) In connection
21 with, or at any time after service of the written notice pursuant to
22 subsection (b) of this section, the superintendent may suspend for a
23 period of up to one hundred eighty days, pending the determination of
24 the charges, a covered individual from serving as a director, trustee,
25 officer, employee, member or partner of a covered entity or having any
26 association with a covered entity; or holding any license, registration,
27 certification or authorization issued by the department, if the super-
28 intendent has reason to believe that by reason of the conduct giving
29 rise to the alleged disqualifying event:

30 (A) a covered entity has suffered or will probably suffer financial
31 loss;

32 (B) the interests of the depositors at a covered entity have been or
33 could be prejudiced; or

34 (C) the covered individual demonstrates willful disregard for the
35 safety and soundness of a covered entity.

36 (2) The superintendent may extend the suspension for additional peri-
37 ods of up to one hundred eighty days if the hearing conducted pursuant
38 to subsection (c) of this section is not completed within the prior
39 suspension period due to the request of the covered individual.

40 (3) Any suspension order issued pursuant to this subsection shall
41 become effective upon service, unless it is amended or rescinded by the
42 superintendent or a court of competent jurisdiction, or replaced by an
43 order issued pursuant to subsection (c) of this section. Such suspension
44 order may be reviewed in the manner provided by article seventy-eight of
45 the civil practice law and rules.

46 (e) Rules and regulations. The superintendent may issue such rules and
47 regulations as are necessary to implement the provisions of this
48 section.

49 § 2. This act shall take effect January 1, 2018.

50

PART CC

51 Section 1. The banking law is amended by adding a new section 340-a to
52 read as follows:

53 § 340-a. Exemption for certain lenders and partnering organizations.

54 1. For purposes of this section:

1 (a) "Exempt entity" shall mean an entity exempted pursuant to subdivi-
2 sion two of this section.

3 (b) "Limited lending activity" shall mean the lending of money to an
4 individual borrower for which no interest or fees, except as otherwise
5 provided for in this section, are charged and for which the borrower may
6 make full or partial repayment of the loan prior to the disbursement of
7 the loan proceeds.

8 2. Notwithstanding this section and sections one, ten, fourteen, thir-
9 ty-six-b and thirty-eight of this chapter, the superintendent may allow
10 an entity to engage in limited lending activity without being subject to
11 the requirements of this chapter, if the entity:

12 (a) engages in no activity regulated by this chapter except the making
13 of zero-interest loans and any activity incidental thereto;

14 (b) is exempt from federal income taxes under section 501 (c) (3) of
15 the Internal Revenue Code and is organized and operated exclusively for
16 one or more of the purposes described in section 501 (c) (3) of the
17 Internal Revenue Code;

18 (c) pays no part of its net earnings to a private shareholder or indi-
19 vidual;

20 (d) pays or receives no broker's fee in connection with any loan that
21 it makes; and

22 (e) satisfies the other requirements set forth in this section.

23 3. (a) An application to operate as an exempt entity shall be filed
24 with the superintendent, in a manner prescribed by the superintendent,
25 along with a fee in the amount of five hundred dollars. The superinten-
26 dent shall investigate the financial condition and responsibility,
27 financial and business experience, character and general fitness of the
28 applicant and, if the superintendent finds these qualities are such as
29 to warrant the belief that the applicant's business will be conducted
30 honestly, fairly, equitably, carefully and efficiently within the
31 purposes and intent of this section, and in a manner commanding the
32 confidence and trust of the community, the superintendent shall advise
33 the applicant in writing of the superintendent's approval of the appli-
34 cation for an exemption pursuant to this section. The superintendent
35 may, in his or her discretion, refuse to grant an exemption if he or she
36 finds that one or more of the provisions of this section were not met or
37 are not being met by the applicant or that denial of the exemption is in
38 the best interests of the public.

39 (b) The superintendent may suspend or revoke any exemption granted
40 pursuant to this section, if he or she finds that:

41 (i) any such entity, knowingly or without the exercise of due care to
42 prevent such violation, has violated any provision of this section or
43 article, or has failed to comply with any demand, or requirement made by
44 the superintendent;

45 (ii) there has been any material misstatement or failure to give a
46 true and correct answer in an application or in response to any question
47 posed by the superintendent;

48 (iii) the exempt entity has defrauded any borrower or willfully failed
49 to perform any written agreement with such person; or

50 (iv) any fact or condition exists which, if it had existed at the time
51 of the original application for an exemption, would have warranted the
52 superintendent to refuse to grant such exemption.

53 (c) Except as provided for in paragraph (d) of this subdivision, no
54 exemption granted hereunder shall be suspended or revoked except after a
55 hearing. The superintendent shall give the exempt entity at least ten
56 days written notice of the time and place of such hearing by registered

1 mail addressed to the principal place of business of the exempt entity.
2 Any order suspending or revoking an exemption shall recite the grounds
3 upon which it is based and shall not be effective until ten days after
4 written notice has been sent by registered mail to the exempt entity's
5 principal place of business.

6 (d) Upon, or at any time after service of written notice pursuant to
7 paragraph (c) of this subdivision, the superintendent may suspend, pend-
8 ing the determination of the charges, an exemption issued pursuant to
9 this section if the superintendent has reason to believe that an exempt
10 entity:

11 (i) has defaulted or is likely to default in the performance of its
12 financial engagements;

13 (ii) is engaging in dishonest or inequitable practices; or

14 (iii) poses a substantial harm to the persons afforded the protection
15 of this section.

16 4. (a) Every exempt entity shall maintain records relating to its
17 lending activities for at least five years.

18 (b) Every exempt entity shall file an annual report with the super-
19 intendent on or before March fifteenth of each year, containing informa-
20 tion that the superintendent requires concerning lending activities by
21 the entity, including any loans facilitated by a partnering nonprofit
22 organization described in subdivision thirteen of this section, within
23 the state during the preceding calendar year.

24 5. Every loan made by an exempt entity shall comply with the following
25 requirements:

26 (a) The loan shall be unsecured.

27 (b) No interest may be imposed.

28 (c) Except for a reimbursement of up to ten dollars to cover an insuf-
29 ficient funds fee incurred by an exempt entity due to actions of the
30 borrower, no administrative or other fees may be imposed on a borrower.
31 No exempt entity shall charge more than two insufficient funds fees to
32 the same borrower in a single month.

33 (d) The following information shall be disclosed to the borrower in
34 writing, in a typeface no smaller than twelve-point type and in the
35 primary language of the borrower, at the time the loan application is
36 received by the exempt entity:

37 (i) the amount to be borrowed, that no interest will be charged on the
38 loan, and the total dollar cost of the loan to the borrower if the loan
39 is paid back on time, including the principal amount borrowed, the
40 repayment installment amount, the frequency of payment, and the insuffi-
41 cient funds fee, if applicable; and

42 (ii) an explanation of whether, and under what circumstances, a
43 borrower may exit a loan agreement.

44 (e) The principal amount upon origination of the loan shall be no less
45 than two hundred fifty dollars and no more than two thousand five
46 hundred dollars, and a term of not less than the following:

47 (i) ninety days for loans whose principal balance upon origination is
48 less than five hundred dollars;

49 (ii) one hundred twenty days for loans whose principal balance upon
50 origination is at least five hundred dollars, but is less than one thou-
51 sand five hundred dollars; or

52 (iii) one hundred eighty days for loans whose principal balance upon
53 origination is at least one thousand five hundred dollars.

54 6. The exempt entity may restructure a borrower's loan only if the
55 loan as restructured continues to comply with the requirements in para-
56 graphs (a), (b) and (c) of subdivision five of this section.

1 7. An exempt entity shall not sell or assign unpaid debt arising out
2 of any loans made pursuant to the authority of this section to third
3 parties for collection.

4 8. Prior to disbursement of loan proceeds, the exempt entity shall at
5 no cost to the borrower either:

6 (a) provide a credit education program or seminar to the borrower that
7 has been previously reviewed and approved by the superintendent for use
8 in complying with this section; or

9 (b) obtain evidence that the borrower has attended a credit education
10 program or seminar offered by an independent third party that has been
11 previously reviewed and approved by the superintendent for use in
12 complying with this section.

13 9. An exempt entity shall report each borrower's payment performance
14 to at least one consumer reporting agency that compiles and maintains
15 files on consumers on a nationwide basis. For purposes of this section,
16 a consumer reporting agency that compiles and maintains files on consum-
17 ers on a nationwide basis is one that meets the definition in section
18 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. Sec.
19 1681a(p)). Any exempt entity that is accepted as a data furnisher shall
20 report all borrower payment performance since the inception of lending
21 by such entity, as soon as practicable after such individual is accepted
22 into the exempt entity's lending program, but in no event more than six
23 months after its acceptance into the program.

24 10. The exempt entity shall underwrite each loan and shall ensure that
25 a loan is not made if, through its underwriting, the entity determines
26 that the borrower's total monthly debt service payments, at the time of
27 loan origination, including the loan for which the borrower is being
28 considered, and across all outstanding forms of credit that can be inde-
29 pendently verified by the exempt entity, exceeds fifty percent of the
30 borrower's gross monthly household income, unless a lesser amount is
31 mandated by subparagraph (iii) of paragraph (c) of this subdivision. The
32 exempt entity shall in every case:

33 (a) Obtain information and documentation pertaining to all of a
34 borrower's outstanding debt obligations during the loan application and
35 underwriting process, including but not limited to verified information
36 from a credit report and loans that are self-reported by the borrower
37 but not available through independent verification.

38 (b) Not include for purposes of a debt-to-income ratio evaluation,
39 loans from friends or family, except if in the judgment of the exempt
40 entity, such inclusion is necessary to protect the interests of the
41 consumer.

42 (c) Verify the borrower's household income to determine the borrower's
43 debt-to-income ratio using information from any of the following sourc-
44 es:

45 (i) electronic means or services deemed acceptable by the superinten-
46 dent;

47 (ii) Internal Revenue Service form W-2, tax returns, payroll receipts,
48 bank statements, or other third-party documents that provide reasonably
49 reliable evidence of the borrower's actual income; or

50 (iii) a signed statement from the borrower stating sources and amounts
51 of income, if the borrower's actual income cannot be independently veri-
52 fied using electronic means or services, Internal Revenue Service forms,
53 tax returns, payroll receipts, bank statements, or other third-party
54 documents. If income is verified using a signed statement from a borrow-
55 er, a loan shall not be made if the borrower's total monthly debt
56 service payments, at the time of loan origination, including the loan



1 for which the borrower is being considered, and across all outstanding
2 forms of credit, exceeds twenty-five percent of the borrower's gross
3 monthly household income.

4 11. The exempt entity shall notify each borrower, at least two days
5 prior to each payment due date, of the amount due and the payment due
6 date. Notification may be provided by any means mutually acceptable to
7 the borrower and the exempt entity. A borrower shall have the right to
8 opt out of this notification at any time, upon electronic or written
9 request to the exempt entity. The exempt entity shall notify each
10 borrower of this right prior to disbursing loan proceeds.

11 12. No exempt entity, in connection with, or incidental to, the facil-
12 itating of any loan made pursuant to this section, shall offer, sell, or
13 require a borrower to contract for "credit insurance" or insurance on
14 tangible personal or real property of any type securing any loan.

15 13. An exempt entity may partner with a nonprofit organization for the
16 purpose of facilitating zero-interest loans by the exempt entity pursu-
17 ant to this section. This nonprofit organization shall not be subject to
18 this section, provided that it satisfies the requirements applicable to
19 an exempt entity set forth in paragraphs (b), (c) and (d) of subdivision
20 two of this section and provided that:

21 (a) The exempt entity notifies the superintendent within fifteen days
22 of entering into a written agreement with a partnering nonprofit organ-
23 ization, on such form and in such manner as the superintendent may
24 prescribe. At a minimum, this notification shall include the name of the
25 partnering nonprofit organization, the contact information for a person
26 responsible for the lending activities facilitated by that partnering
27 organization, a copy of the agreement and the address or addresses at
28 which the partnering organization can be reached.

29 (b) The exempt entity includes information regarding the loans facili-
30 tated by the partnering organization in the annual report required
31 pursuant to subdivision four of this section.

32 (c) The superintendent may, at his or her sole discretion, disqualify
33 a partnering nonprofit organization upon a determination that this
34 organization has acted in violation of this section or any regulation
35 adopted hereunder.

36 14. The superintendent may examine or request a special report from
37 each exempt entity and each partnering nonprofit organization for
38 compliance with the provisions of this section at any time. Any entity
39 so examined shall make available to the superintendent or his or her
40 representative all books and records requested by the superintendent
41 related to the lending activities facilitated by that entity. In addi-
42 tion to the application fee provided for in paragraph (a) of subdivision
43 three of this section, the cost of any such examination shall be paid
44 for by the entity being examined.

45 15. All reports of examinations and investigations, correspondence and
46 memoranda concerning or arising out of any examination or investigation
47 of an exempt entity shall be subject to the provisions of subdivision
48 ten of section thirty-six of this chapter.

49 16. The superintendent is hereby authorized and empowered to make such
50 general rules and regulations, and such specific rulings, demands and
51 findings as he or she may deem necessary for the proper conduct of the
52 lending activities exempted from licensing under this section.

53 § 2. This act shall take effect on the one hundred eightieth day after
54 it shall have become a law.

1 Section 1. The state finance law is amended by adding a new section
2 89-i to read as follows:

3 § 89-i. Paid family leave risk adjustment fund. 1. There is hereby
4 established in the sole custody of the superintendent of financial
5 services a special fund, to be known as the "paid family leave risk
6 adjustment fund".

7 2. Such fund shall consist of money received by the superintendent
8 from insurance carriers as payments into any risk adjustment mechanism
9 established by regulation in accordance with paragraph two of subsection
10 (n) of section four thousand two hundred thirty-five of the insurance
11 law.

12 3. All moneys retained in such fund shall be held on behalf of insur-
13 ance carriers and paid out by the superintendent to insurance carriers
14 pursuant to the risk adjustment mechanism established by regulation in
15 accordance with paragraph two of subsection (n) of section four thousand
16 two hundred thirty-five of the insurance law.

17 4. The funds so received and deposited in such risk adjustment fund
18 shall not be deemed to be state funds.

19 § 2. This act shall take effect immediately.

20

PART EE

21 Section 1. Section 340 of the banking law, as amended by chapter 22 of
22 the laws of 1990, is amended to read as follows:

23 § 340. Doing business without license prohibited. 1. No person or
24 other entity shall engage in the business of making loans in the princi-
25 pal amount of twenty-five thousand dollars or less for any loan to an
26 individual for personal, family, household, or investment purposes and
27 in a principal amount of fifty thousand dollars or less to an individual
28 or business for business and commercial loans, [and charge, contract
29 for, or receive a greater rate of interest than the lender would be
30 permitted by law to charge if he were not a licensee hereunder] except
31 as authorized by this article or by regulations issued by the super-
32 intendent and without first obtaining a license from the superintendent.

33 2. For the purposes of this section, a person or entity shall be
34 considered as engaging in the business of making loans in New York, and
35 subject to the licensing and other requirements of this article, if it
36 solicits loans in the amounts prescribed by this section [within this
37 state] and, in connection with such solicitation, makes loans, purchases
38 or otherwise acquires from others loans or other forms of financing, or
39 arranges or facilitates the funding of loans, to individuals then resi-
40 dent in this state or to businesses located or doing business in this
41 state, except that no person or entity shall be considered as engaging
42 in the business of making loans in this state on the basis of isolated[,
43 incidental] or occasional transactions which otherwise meet the require-
44 ments of this section.

45 3. When necessary to facilitate low cost lending in any community, the
46 superintendent shall have the power to adopt regulations that provide an
47 exemption from the licensure requirement in subdivision one of this
48 section for a person or entity. The superintendent may also adopt any
49 such additional rules or regulations that he or she deems necessary to
50 implement the terms of this section including the exemption provision in
51 this subdivision.

52 4. Nothing in this article shall apply to licensed collateral loan
53 brokers.

54 § 2. This act shall take effect January 1, 2018.

1

PART FF

2 Section 1. Paragraph (b) of subdivision 6 of section 1304 of the real
3 property actions and proceedings law, as amended by section 7 of part Q
4 of chapter 73 of the laws of 2016, is amended to read as follows:

5 (b) (1) "Home loan" means a home loan, including an open-end credit
6 plan, [other than a reverse mortgage transaction,] in which:

7 (i) The principal amount of the loan at origination did not exceed the
8 conforming loan size that was in existence at the time of origination
9 for a comparable dwelling as established by the federal housing adminis-
10 tration or federal national mortgage association;

11 (ii) The borrower is a natural person;

12 (iii) The debt is incurred by the borrower primarily for personal,
13 family, or household purposes;

14 (iv) The loan is secured by a mortgage or deed of trust on real estate
15 upon which there is located or there is to be located a structure or
16 structures intended principally for occupancy of from one to four fami-
17 lies which is or will be occupied by the borrower as the borrower's
18 principal dwelling; and

19 (v) The property is located in this state.

20 (2) A home loan shall include a loan secured by a reverse mortgage
21 that meets the requirements of clauses (i) through (v) of subparagraph
22 one of this paragraph.

23 § 2. Subdivision (a) of rule 3408 of the civil practice law and rules,
24 as amended by section 2 of part Q of chapter 73 of the laws of 2016, is
25 amended to read as follows:

26 (a) [In] 1. Except as provided in paragraph two of this subdivision,
27 in any residential foreclosure action involving a home loan as such term
28 is defined in section thirteen hundred four of the real property actions
29 and proceedings law, in which the defendant is a resident of the proper-
30 ty subject to foreclosure, plaintiff shall file proof of service within
31 twenty days of such service, however service is made, and the court
32 shall hold a mandatory conference within sixty days after the date when
33 proof of service upon such defendant is filed with the county clerk, or
34 on such adjourned date as has been agreed to by the parties, for the
35 purpose of holding settlement discussions pertaining to the relative
36 rights and obligations of the parties under the mortgage loan documents,
37 including, but not limited to: [1.] (i) determining whether the parties
38 can reach a mutually agreeable resolution to help the defendant avoid
39 losing his or her home, and evaluating the potential for a resolution in
40 which payment schedules or amounts may be modified or other workout
41 options may be agreed to, including, but not limited to, a loan modifi-
42 cation, short sale, deed in lieu of foreclosure, or any other loss miti-
43 gation option; or [2.] (ii) whatever other purposes the court deems
44 appropriate.

45 2. Paragraph one of this subdivision shall not apply to a home loan
46 secured by a reverse mortgage where the default was triggered by the
47 death of the last surviving borrower unless the last surviving borrow-
48 er's spouse, if any, is a resident of the property subject to foreclo-
49 sure.

50 § 3. This act shall take effect immediately; provided, however, that:

51 (a) the amendments to paragraph (b) of subdivision 6 of section 1304
52 of the real property actions and proceedings law, made by section one of
53 this act, shall take effect on the same date and in the same manner as
54 section 7 of part Q of chapter 73 of the laws of 2016 takes effect; and

1 (b) the amendments to subdivision (a) of rule 3408 of the civil prac-
2 tice law and rules, made by section two of this act, shall be subject to
3 the expiration and reversion of such subdivision pursuant to subdivision
4 e of section 25 of chapter 507 of the laws of 2009, as amended.

5

PART GG

6 Section 1. This act enacts into law major components of legislation
7 relating to assessments, distribution of assets, and insurers deemed to
8 be in a hazardous financial condition. Each component is wholly
9 contained within a Subpart identified as Subparts A through C. The
10 effective date for each particular provision contained within such
11 Subpart is set forth in the last section of such Subpart. Any provision
12 in any section contained within a Subpart, including the effective date
13 of the Subpart, which makes references to a section "of this act", when
14 used in connection with that particular component, shall be deemed to
15 mean and refer to the corresponding section of the Subpart in which it
16 is found. Section three of this act sets forth the general effective
17 date of this act.

18

SUBPART A

19 Section 1. Subsection (a) of section 206 of the financial services
20 law, is amended and a new subsection (g) is added to read as follows:
21 (a) For each fiscal year commencing on or after April first, two thou-
22 sand twelve, assessments to defray operating expenses, including all
23 direct and indirect costs, of the department, except expenses incurred
24 in the liquidation of banking organizations, shall be assessed by the
25 superintendent in accordance with this subsection. Persons regulated
26 under the insurance law shall be assessed by the superintendent for the
27 operating expenses of the department that are solely attributable to
28 regulating persons under the insurance law, which shall include any
29 expenses that were permissible to be assessed in fiscal year two thou-
30 sand nine-two thousand ten, with the assessments allocated pro rata upon
31 all domestic insurers and all licensed United States branches of alien
32 insurers domiciled in this state within the meaning of paragraph four of
33 subsection (b) of section seven thousand four hundred eight of the
34 insurance law, in proportion to the gross direct premiums and other
35 considerations, written or received by them in this state during the
36 calendar year ending December thirty-first immediately preceding the end
37 of the fiscal year for which the assessment is made (less return premi-
38 ums and considerations thereon) for policies or contracts of insurance
39 covering property or risks resident or located in this state the issu-
40 ance of which policies or contracts requires a license from the super-
41 intendent. Persons regulated under the banking law shall be assessed by
42 the superintendent for the operating expenses of the department that are
43 solely attributable to regulating persons under the banking law in such
44 proportions as the superintendent shall deem just and reasonable.
45 Persons regulated under this chapter shall be assessed by the super-
46 intendent for the operating expenses of the department that are solely
47 attributable to regulated persons under this chapter in such proportions
48 as the superintendent shall deem just and reasonable. Operating expenses
49 of the department not covered by the assessments set forth above shall
50 be assessed by the superintendent in such proportions as the superinten-
51 dent shall deem just and reasonable upon all domestic insurers and all
52 licensed United States branches of alien insurers domiciled in this

1 state within the meaning of paragraph four of subsection (b) of section
2 seven thousand four hundred eight of the insurance law, and upon any
3 regulated person under this chapter and the banking law, other than
4 mortgage loan originators, except as otherwise provided by sections one
5 hundred fifty-one and two hundred twenty-eight of the workers' compen-
6 sation law and by section sixty of the volunteer firefighters' benefit
7 law. The provisions of this subsection shall not be applicable to a bank
8 holding company, as that term is defined in article three-A of the bank-
9 ing law. Persons regulated under the banking law will not be assessed
10 for expenses that the superintendent deems to benefit solely persons
11 regulated under the insurance law, and persons regulated under the
12 insurance law will not be assessed for expenses that the superintendent
13 deems to benefit solely persons regulated under the banking law.

14 (g) The expenses of every examination of the affairs of any regulated
15 person subject to this chapter, shall be borne and paid by the regulated
16 person so examined, but the superintendent, with the approval of the
17 comptroller, may, in the superintendent's discretion for good cause
18 shown, remit such charges.

19 § 2. This act shall take effect January 1, 2018.

20

SUBPART B

21 Section 1. Legislative findings. In order to provide an appropriate
22 scheme of distribution of assets of all insolvent insurers, the legisla-
23 ture finds that it is in the best interest of the people of this state
24 to amend statutes regarding the priority of distribution under Article
25 74 of the Insurance Law.

26 § 2. Paragraph 1 of subsection (a) of section 7434 of the insurance
27 law, as amended by chapter 134 of the laws of 1999, is amended to read
28 as follows:

29 (1) Upon the recommendation of the superintendent, as receiver, and
30 under the direction of the court, distribution payments shall be made in
31 a manner that will assure the proper recognition of priorities and a
32 reasonable balance between the expeditious completion of the [liqui-
33 dation] proceeding subject to this article and the protection of unliq-
34 uidated and undetermined claims. The priority of distribution of claims
35 from [an] all insolvent [property/casualty insurer] insurers in any
36 proceeding subject to this article, unless otherwise specified, shall be
37 in accordance with the order in which each class of claims is set forth
38 in this paragraph and as provided in this paragraph. Every claim in each
39 class shall be paid in full or adequate funds retained for such payment
40 before the members of the next class receive any payment. No subclasses
41 shall be established within any class. No claim by a shareholder, poli-
42 cyholder, contract holder or other creditor shall be permitted to
43 circumvent the priority classes through the use of equitable remedies.
44 The order of distribution of claims shall be:

45 (i) Class one. Claims with respect to the actual and necessary costs
46 and expenses of administration, incurred by the liquidator, rehabilita-
47 tor or conservator under this article.

48 (ii) Class two. All claims under policies or contracts, including such
49 claims of the federal or any state or local government for losses
50 incurred, third party claims, claims for unearned premiums, and all
51 claims of a security fund, guaranty association or the equivalent except
52 claims arising under reinsurance contracts.

53 (iii) Class three. Claims of the federal government except those under
54 class two above.

1 (iv) Class four. Claims for wages owing to employees of an insurer
2 against whom a proceeding under this article is commenced for services
3 rendered within one year before commencement of the proceeding, not
4 exceeding one thousand two hundred dollars to each employee, and claims
5 for unemployment insurance contributions required by article eighteen of
6 the labor law. Such priority shall be in lieu of any other similar
7 priority which may be authorized by law.

8 (v) Class five. Claims of state and local governments except those
9 under class two above.

10 (vi) Class six. Claims of general creditors including[, but not limit-
11 ed to,] claims arising under reinsurance contracts.

12 (vii) Class seven. Claims filed late or any other claims other than
13 claims under class eight or class nine below.

14 (viii) Class eight. Claims for advanced or borrowed funds made pursu-
15 ant to section one thousand three hundred seven of this chapter.

16 (ix) Class nine. Claims of shareholders or other owners in their
17 capacity as shareholders.

18 § 3. Section 7435 of the insurance law, as added by chapter 802 of the
19 laws of 1985, paragraph 7 of subsection (a) as amended by chapter 300 of
20 the laws of 1996, is amended to read as follows:

21 § 7435. Distribution for life insurers. (a) Upon the recommendation of
22 the superintendent, as receiver, and under the direction of the court,
23 distribution payments shall be made in a manner that will assure the
24 proper recognition of priorities and a reasonable balance between the
25 expeditious completion of the proceeding subject to this article and the
26 protection of unliquidated and undetermined claims. The priority of
27 distribution of claims from the estate of [a] an insolvent life insur-
28 ance company in any proceeding subject to this article shall be in
29 accordance with the order in which each class of claims is [herein] set
30 forth in this section and as provided in this section. Every claim in
31 each class shall[, subject to such limitations as may be prescribed by
32 law and do not directly conflict with the express provisions of this
33 section,] be paid in full or adequate funds retained for such payment
34 before the members of the next class receive any payment. No subclasses
35 shall be established within any class. No claim by a shareholder, poli-
36 cyholder, annuitant, or other creditor shall be permitted to circumvent
37 the priority classes through the use of equitable remedies. The order of
38 distribution of claims shall be:

39 (1) Class one. Claims with respect to the actual and necessary costs
40 and expenses of administration, incurred by the liquidator, rehabilita-
41 tor, conservator or ancillary rehabilitator under this article, or by
42 The Life Insurance Guaranty Corporation or The Life Insurance Company
43 Guaranty Corporation of New York, and claims described in subsection (d)
44 of section seven thousand seven hundred thirteen of this chapter.

45 (2) Class two. [Debts due to employees for services performed to the
46 extent that they do not exceed one thousand two hundred dollars and
47 represent payment for services performed within one year before the
48 commencement of a proceeding under this article. Such priority shall be
49 in lieu of any other similar priority which may be authorized by law as
50 to wages or compensation of employees] All claims under insurance poli-
51 cies, including such claims of the federal or any state or local govern-
52 ment, annuity contracts, and funding agreements, and all claims of the
53 The Life Insurance Company Guaranty Corporation of New York or any other
54 guaranty corporation or association of this state or another jurisdic-
55 tion, other than claims provided for in paragraph one of this subsection
56 and claims for interest.

1 (3) Class three. [All claims for payment for goods furnished or
2 services rendered to the impaired or insolvent insurer in the ordinary
3 course of business within ninety days prior to the date on which the
4 insurer was determined to be impaired or insolvent, whichever is appli-
5 cable] Claims of the federal government except claims provided for in
6 paragraph two of this subsection.

7 (4) Class four. [All claims under insurance policies, annuity
8 contracts and funding agreements, and all claims of The Life Insurance
9 Company Guaranty Corporation of New York or any other guaranty corpo-
10 ration or association of this state or another jurisdiction, other than
11 (i) claims provided for in paragraph one of this subsection, and (ii)
12 claims for interest] Debts due to employees for services performed to
13 the extent that they do not exceed one thousand two hundred dollars and
14 represent payment for services performed within one year before the
15 commencement of a proceeding under this article. Such priority shall be
16 in lieu of any other similar priority that may be authorized by law as
17 to wages or compensation of employees.

18 (5) Class five. [Claims of the federal or any state or local govern-
19 ment. Claims, including those of any governmental body for a penalty or
20 forfeiture, shall be allowed to this class only to the extent of the
21 pecuniary loss sustained from the act, transaction or proceeding out of
22 which the penalty or forfeiture arose, with reasonable and actual costs
23 occasioned thereby. The remainder of such claims shall be postponed to
24 the class of claims under paragraph eight of this subsection] All claims
25 for payment for goods furnished or services rendered to the impaired or
26 insolvent insurer in the ordinary course of business within ninety days
27 prior to the date on which the insurer was determined to be impaired or
28 insolvent, whichever is applicable.

29 (6) Class six. [Claims of general creditors and any other claims other
30 than claims under paragraphs seven and eight of this subsection] Claims
31 of any state or local government other than claims provided for under
32 paragraph two of this subsection. Claims, including those of any govern-
33 mental body for a penalty or forfeiture, shall be allowed to this class
34 only to the extent of pecuniary loss sustained from the act, trans-
35 action, or proceeding out of which the penalty or forfeiture arose, with
36 reasonable and actual costs occasioned thereby. The remainder of such
37 claims shall be postponed to the class of claims under paragraph nine of
38 this subsection.

39 (7) Class seven. [Surplus, capital or contribution notes, or similar
40 obligations] Claims of general creditors and any other claims other than
41 claims under paragraphs eight and nine of this subsection.

42 (8) Class eight. [The claims of (i) policyholders, other than claims
43 under paragraph four of this subsection, and (ii) shareholders or other
44 owners] Surplus, capital, or contribution notes, or similar obligations.

45 (9) Class nine. The claims of policyholders or annuitants, other than
46 claims under paragraph two of this subsection, and shareholders or other
47 owners.

48 (b) Every claim under a separate account agreement providing, in
49 effect, that the assets in the separate account shall not be chargeable
50 with liabilities arising out of any other business of the insurer shall
51 be satisfied out of the assets in the separate account equal to the
52 reserves maintained in such account for such agreement and, to the
53 extent, if any, not fully discharged thereby, shall be treated as a
54 class four claim against the estate of the life insurance company.

55 (c) For purposes of this section:

1 (1) "The estate of the life insurance company" shall mean the general
2 assets of such company less any assets held in separate accounts that,
3 pursuant to section four thousand two hundred forty of this chapter, are
4 not chargeable with liabilities arising out of any other business of the
5 insurer.

6 (2) "Insurance policies, annuity contracts and funding agreements"
7 shall mean all policies and contracts of any of the kinds of insurance
8 specified in paragraph one, two or three of subsection (a) of section
9 one thousand one hundred thirteen of this chapter and all funding agree-
10 ments described in section three thousand two hundred twenty-two of this
11 chapter, including all separate account agreements, except that separate
12 account agreements referred to in subsection (b) of this section shall
13 be included only to the extent referred to therein.

14 (3) "Separate account agreement or agreements" shall mean any agree-
15 ment or agreements for separate accounts referred to in section four
16 thousand two hundred forty of this chapter.

17 § 4. This act shall take effect immediately.

18

SUBPART C

19 Section 1. Section 1104 of the insurance law, the section heading as
20 amended and subsections (c) and (d) as added by chapter 235 of the laws
21 of 1989, the opening paragraph of subsection (c) as amended by chapter
22 598 of the laws of 2000, is amended to read as follows:

23 § 1104. Revocation or suspension of license; restriction of license
24 authority or limitation on premiums written. (a) The superintendent may
25 revoke any license, certificate of authority, or registration issued to
26 any foreign or alien insurer to do an insurance business in this state
27 if, after notice to and hearing, [he] the superintendent finds that such
28 insurer has failed to comply with any requirement imposed upon it by the
29 provisions of this chapter and if in [his] the superintendent's judgment
30 such revocation is reasonably necessary to protect the interests of the
31 people of this state. The superintendent may, in his or her discretion,
32 reinstate any such license, certificate of authority, or registration if
33 [he] the superintendent finds that a ground for such revocation no long-
34 er exists.

35 (b) The superintendent shall revoke the certificate of authority of
36 any corporation or agent convicted of violating section two thousand six
37 hundred three of this chapter.

38 (c) [The] (1) Notwithstanding any other provision of this chapter, the
39 superintendent may [suspend the license, restrict the license authority,
40 or limit the amount of premiums written in this state of any accident
41 and health insurance company, property/casualty insurance company,
42 co-operative property/casualty insurance company, title insurance compa-
43 ny, mortgage guaranty insurance company, reciprocal insurer, Lloyds
44 underwriters or nonprofit property/casualty insurance company] take one
45 or more of the actions specified in subparagraph (B) of paragraph four
46 of this subsection against an insurer, except those insurers subject to
47 the provisions of subsection (c) of section two thousand three hundred
48 forty-three of this chapter, if after a hearing on a record, unless
49 waived by the affected insurer, the superintendent determines that such
50 insurer's surplus to policyholders is not adequate in relation to the
51 insurer's outstanding liabilities or to its financial needs or if the
52 superintendent otherwise determines that the continued operation of the
53 insurer might be deemed to be hazardous to the insurer's policyholders,
54 creditors, or to the general public.



1 (2) All matters pertaining to a proceeding or determination pursuant
2 to this subsection shall be confidential and not subject to subpoena or
3 public inspection under article six of the public officers law or any
4 other statute, except to the extent that the superintendent finds
5 release of information necessary to protect the public. The hearing
6 shall be initiated within twenty days after written notice to the insur-
7 er. Any determination pursuant to this subsection shall contain findings
8 specifying the factors deemed significant in regard to the particular
9 insurer, and shall set forth the reasons supporting the suspension,
10 restriction or limitation ordered by the superintendent.

11 (3) The superintendent may consider the following factors [shall be
12 considered by the superintendent] in making [such] a determination as to
13 whether an insurer's surplus to policyholders is adequate in relation to
14 the insurer's outstanding liabilities or to its financial needs:

15 [(1)] (A) the size of the insurer as measured by its admitted assets,
16 capital and surplus to policyholders, reserves, premium writings, insur-
17 ance in force and other appropriate criteria, with such surplus to poli-
18 cyholders for foreign insurers adjusted in accordance with section one
19 thousand four hundred thirteen of this chapter;

20 [(2)] (B) the extent to which the insurer's business is diversified
21 among the several kinds of insurance;

22 [(3)] (C) the number and size of risks insured in each kind of insur-
23 ance and the insurer's loss experience in regard to such risks;

24 [(4)] (D) the extent of geographical dispersion of the insurer's
25 risks;

26 [(5)] (E) the nature and extent of the insurer's reinsurance program;

27 [(6)] (F) the quality, diversification and liquidity of the insurer's
28 investment portfolio;

29 [(7)] (G) the recent past and projected future trends in regard to the
30 insurer's loss experience and in the size of the insurer's surplus to
31 policyholders;

32 [(8)] (H) the surplus to policyholders maintained by other comparable
33 insurers;

34 [(9)] (I) the adequacy of the insurer's reserves; and

35 [(10)] (J) the quality and liquidity of investments in subsidiaries
36 made pursuant to this chapter.

37 (4) (A) The superintendent may consider the following standards, either
38 singly or a combination of two or more, to determine whether the contin-
39 ued operation of any insurer might be deemed to be hazardous to its
40 policyholders, creditors, or to the general public:

41 (i) adverse findings reported in financial condition and market
42 conduct examination reports, audit reports, actuarial opinions, reports,
43 or summaries, or other reports;

44 (ii) the national association of insurance commissioners insurance
45 regulatory information system and its other financial analysis solvency
46 tools and reports;

47 (iii) whether the insurer has made adequate provision, according to
48 presently accepted actuarial standards of practice, for the anticipated
49 cash flows required by the contractual obligations and related expenses
50 of the insurer, when considered in light of the assets held by the
51 insurer with respect to such reserves and related actuarial items,
52 including the investment earnings on such assets, and the considerations
53 anticipated to be received and retained under such policies and
54 contracts;

55 (iv) the ability of an assuming reinsurer to perform and whether the
56 insurer's reinsurance program provides sufficient protection for the

1 insurer's remaining surplus after taking into account the insurer's cash
2 flow and the classes of business written as well as the financial condi-
3 tion of the assuming reinsurer;

4 (v) whether the insurer's operating loss in the last twelve-month
5 period or any shorter period of time, including net capital gain or
6 loss, change in non-admitted assets, and cash dividends paid to share-
7 holders, is greater than fifty percent of the insurer's remaining
8 surplus to policyholders in excess of the minimum required;

9 (vi) whether the insurer's operating loss in the last twelve-month
10 period or any shorter period of time, excluding net capital gains, is
11 greater than twenty percent of the insurer's remaining surplus to poli-
12 cyholders in excess of the minimum required;

13 (vii) whether a reinsurer, an obligor, any entity in the insurer's
14 holding company system, as defined in paragraph six of subsection (a) of
15 section one thousand five hundred one of this chapter, or any subsidiary
16 of an insurer, is insolvent, threatened with insolvency, or delinquent
17 in payment of its monetary or other obligations, and which in the opin-
18 ion of the superintendent may affect the solvency of the insurer;

19 (viii) contingent liabilities, pledges, or guarantees that either
20 individually or collectively involve a total amount that in the super-
21 intendent's opinion may affect the insurer's solvency;

22 (ix) whether any person who controls an insurer, as defined in para-
23 graph two of subsection (a) of section one thousand five hundred one of
24 this chapter, is delinquent in the transmitting to, or payment of, net
25 premiums to the insurer;

26 (x) the age and collectability of receivables;

27 (xi) whether the management of an insurer, including officers, direc-
28 tors, or any other person who directly or indirectly controls the opera-
29 tion of the insurer, fails to possess and demonstrate the competence,
30 fitness, and reputation deemed necessary to serve the insurer in such
31 position;

32 (xii) whether the insurer's management has failed to respond to an
33 inquiry of the superintendent relative to the insurer's condition or has
34 furnished false and misleading information concerning such an inquiry;

35 (xiii) whether the insurer has failed to meet financial filing
36 requirements or filing requirements pursuant to articles fifteen,
37 sixteen, or seventeen of this chapter, or regulations promulgated there-
38 under, in the absence of a reason satisfactory to the superintendent;

39 (xiv) whether the insurer's management either has filed any false or
40 misleading sworn financial statement, or has released false or mislead-
41 ing financial statements to lending institutions or to the general
42 public, or has made a false or misleading entry, or has omitted an entry
43 of material amount in the insurer's books;

44 (xv) whether the insurer has grown so rapidly and to such an extent
45 that it lacks adequate financial and administrative capacity to meet its
46 obligations in a timely manner;

47 (xvi) whether the insurer has experienced or is expected to experience
48 in the foreseeable future cash flow or liquidity problems;

49 (xvii) whether management has established reserves that do not comply
50 with minimum standards established by this chapter or regulations
51 promulgated thereunder, statutory accounting standards, as adopted by
52 the superintendent, sound actuarial principles and standards of prac-
53 tice;

54 (xviii) whether management persistently engages in material under
55 reserving that results in adverse development;

1 (xix) whether any transaction with an affiliate, a subsidiary, or a
2 parent for which the insurer receives assets or capital gains, or both,
3 do not provide sufficient value, liquidity, or diversity to assure the
4 insurer's ability to meet its outstanding obligations as they mature;
5 and

6 (xx) any other finding determined by the superintendent to be hazard-
7 ous to the insurer's policyholders, creditors, or to the general public.

8 (B) If the superintendent determines that the insurer's surplus to
9 policyholders is not adequate in relation to the insurer's outstanding
10 liabilities or to its financial needs or if the superintendent otherwise
11 determines that the continued operation of the insurer may be hazardous
12 to its policyholders, creditors, or to the general public, then the
13 superintendent may, upon a determination, suspend the insurer's license,
14 certificate of authority, or registration, restrict the insurer's
15 license, certificate of authority, or registration authority, or issue
16 an order requiring the insurer to do one or more of the following:

17 (i) reduce the total amount of present and potential liability for
18 policy benefits by reinsurance;

19 (ii) reduce, suspend, or limit the volume of business being accepted
20 or renewed, or limit the amount of premiums written in this state;

21 (iii) reduce general insurance and commission expenses by specified
22 methods;

23 (iv) increase the insurer's capital and surplus;

24 (v) suspend or limit the declaration and payment of dividends by an
25 insurer to its stockholders or policyholders;

26 (vi) file reports on a form and in a manner acceptable to the super-
27 intendent concerning the market value of an insurer's assets;

28 (vii) limit or withdraw from certain investments or discontinue
29 certain investment practices to the extent the superintendent deems
30 necessary;

31 (viii) document the adequacy of premium rates in relation to the risks
32 insured;

33 (ix) file, in addition to regular annual statements, interim financial
34 reports on a form and in a manner prescribed by the superintendent,
35 which may include a form adopted by the national association of insur-
36 ance commissioners;

37 (x) correct corporate governance practice deficiencies, and adopt and
38 utilize governance practices acceptable to the superintendent;

39 (xi) provide a business plan to the superintendent in order to contin-
40 ue to transact business in this state; or

41 (xii) notwithstanding any other provision of law, adjust rates for any
42 non-life insurance policy or contract written by the insurer that the
43 superintendent considers necessary to improve the insurer's financial
44 condition.

45 (d) [The superintendent shall identify and review those licensed
46 property/casualty insurers needing immediate or targeted regulatory
47 attention, and shall include the number of insurers so identified in the
48 report required by section three hundred thirty-four of this chapter.
49 Such report shall also include the name of each licensed
50 property/casualty insurer placed in formal conservatorship, rehabili-
51 tation or liquidation during the preceding year. Nothing herein shall be
52 construed to restrict or diminish any right or power of the superinten-
53 dent under any other provision of this chapter] For the purposes of this
54 section, "insurer" shall mean any person, firm, association, corpo-
55 ration, or joint-stock company authorized to do an insurance business in
56 this state by a license in force pursuant to the provisions of this

1 chapter or exempted by the provisions of this chapter from such licens-
2 ing, except that, for purposes of this section, the term "insurer" shall
3 not include any health maintenance organization operating pursuant to
4 section one thousand one hundred nine of this chapter or any continuing
5 care retirement community operating pursuant to section one thousand one
6 hundred nineteen of this chapter.

7 § 2. This act shall take effect immediately.

8 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
9 sion, section or subpart of this act shall be adjudged by any court of
10 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 or subpart thereof directly involved in the controversy in which such
14 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 HH

21 Section 1. Paragraph (a) of subdivision 2 of section 179 of the navi-
22 gation law, as amended by section 2 of part X of chapter 58 of the laws
23 of 2015, is amended to read as follows:

24 (a) An account which shall be credited with all license fees and
25 penalties collected pursuant to paragraph (b) of subdivision one and
26 paragraph (a) of subdivision four of section one hundred seventy-four of
27 this article except as provided in section one hundred seventy-nine-a of
28 this article, the portion of the surcharge collected pursuant to para-
29 graph (d) of subdivision four of section one hundred seventy-four of
30 this article, penalties collected pursuant to paragraph (b) of subdivi-
31 sion four of section one hundred seventy-four-a of this article, money
32 collected pursuant to section one hundred eighty-seven of this article,
33 all penalties collected pursuant to section one hundred ninety-two of
34 this article, and registration fees collected pursuant to subdivision
35 two of section 17-1009 of the environmental conservation law.

36 § 2. The navigation law is amended by adding a new section 179-a to
37 read as follows:

38 § 179-a. New York environmental protection and spill remediation
39 account. 1. There is hereby created an account within the miscellaneous
40 capital projects fund, the New York environmental protection and spill
41 remediation account. The New York environmental protection and spill
42 remediation account shall consist of license fees received by the state
43 pursuant to section one hundred seventy-four of this article, in an
44 amount equal to expenditures made from this account.

45 2. These moneys, after appropriation by the legislature, and within
46 the amounts set forth and for the several purposes specified, shall be
47 available to reimburse the department of environmental conservation for
48 expenditures associated with the purposes of costs incurred under this
49 article, including cleanup and removal of petroleum spills, and other
50 capital, investigation, maintenance and remediation costs.

51 3. All payments made from the New York environmental protection and
52 spill remediation account shall be made by the administrator upon
53 certification by the commissioner.



1 4. Spending pursuant to this section shall be included in the annual
2 report required by section one hundred ninety-six of this article.

3 § 3. Subdivision 3 of section 176 of the navigation law, as added by
4 chapter 845 of the laws of 1977, is amended to read as follows:

5 3. Any unexplained discharge of petroleum within state jurisdiction or
6 discharge of petroleum occurring in waters beyond state jurisdiction
7 that for any reason penetrates within state jurisdiction shall be
8 removed by or under the direction of the department. Except for those
9 expenses incurred by the party causing such discharge, any expenses
10 incurred in the removal of discharges shall be paid promptly from the
11 New York environmental protection and spill compensation fund pursuant
12 to [section] sections one hundred and eighty-six and one hundred seven-
13 ty-nine-a of this article and any reimbursements due such fund shall be
14 collected in accordance with the provisions of section one hundred and
15 eighty-seven of this article.

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

18

PART II

19 Section 1. This act shall be known and may be cited as the "clean
20 water infrastructure act of 2017".

21 § 2. Article 15 of the environmental conservation law is amended by
22 adding a new title 33 to read as follows:

23

TITLE 33

24

SOURCE WATER PROTECTION PROJECTS

25

Section 15-3301. Definitions.

26

15-3303. Land acquisition projects for source water protection.

27

§ 15-3301. Definitions.

28

As used in this title the following terms shall mean:

29

1. "Land acquisition projects" means open space acquisition projects
30 undertaken with willing sellers including, but not limited to, the
31 purchase of conservation easements, undertaken by a municipality, a
32 not-for-profit corporation, or purchase of conservation easements by a
33 soil and water conservation district.

34

2. "Municipality" means the same as such term as defined in section
35 56-0101 of this chapter.

36

3. "Not-for-profit corporation" means a corporation formed pursuant to
37 the not-for-profit corporation law and qualified for tax-exempt status
38 under the federal internal revenue code.

39

4. "Soil and water conservation district" means the same as such term
40 as defined in section five of the soil and water conservation districts
41 law.

42

5. "State assistance payment" means payment of the state share of the
43 cost of projects authorized by this title to preserve, enhance, restore
44 and improve the quality of the state's environment.

45

§ 15-3303. Land acquisition projects for source water protection.

46

1. The commissioner is authorized to provide state assistance to muni-
47 cipalities, not-for-profit corporations and soil and water conservation
48 districts to undertake land acquisition projects for source water
49 protection, in cooperation with willing sellers. Projects shall develop,
50 expand or enhance water quality protection, including but not limited to
51 aquifers, watersheds, reservoirs, lakes, rivers and streams. The
52 department shall set forth the state share of land acquisition projects
53 in any request for proposal issued to solicit projects.



1 2. Any conservation easement acquired pursuant to this section that
2 encumbers lands in a county designated state certified agricultural
3 district shall allow agricultural activity on such lands provided that
4 the activity complies with all applicable technical standards estab-
5 lished by the natural resources conservation service.

6 3. In evaluating projects pursuant to this section, the department
7 shall give priority first to projects which protect or recharge drinking
8 water sources and watersheds including riparian buffers and second to
9 projects which improve resilience.

10 4. No state assistance may be provided pursuant to this section to
11 fund any project committed to in any agreement pursuant to a filtration
12 avoidance determination.

13 5. The commissioner may enter into a contract with a municipality or a
14 not-for-profit corporation for the undertaking of a land acquisition
15 project. Costs under such contracts are subject to final computation by
16 the department upon completion of the project, and shall not exceed the
17 maximum eligible cost set forth in any such contract.

18 6. The cost of a source water protection land acquisition project may
19 include the cost of preparation of a plan for the preservation of the
20 real property interest in land acquired pursuant to this section except
21 where such considerations have already been undertaken as part of any
22 existing plan applicable to the newly acquired real property interest in
23 land.

24 7. The soil and water conservation committee in consultation with the
25 commissioner of agriculture and markets is authorized to provide state
26 assistance payments to county soil and water conservation districts for
27 land acquisition projects for source water protection consistent with
28 section eleven-b of the soil and water conservation districts law.
29 Projects shall develop, expand or enhance water quality protection,
30 including but not limited to aquifers, watersheds, reservoirs, lakes,
31 rivers and streams. Such committee shall give priority to projects
32 which establish buffers from waters which serves as or are tributaries
33 to drinking water supplies for such projects using state assistance
34 pursuant to this section.

35 8. a. Real property acquired, developed, improved, restored or reha-
36 ilitated by or through a municipality with funds made available pursu-
37 ant to this title shall not be sold, leased, exchanged, donated or
38 otherwise disposed of or used for other than water quality protection
39 purposes without approval from the department, which shall provide for
40 the substitution of other lands of equal environmental value and fair
41 market value and reasonably equivalent usefulness and location to those
42 to be discontinued, sold or disposed of, and such other requirements as
43 shall be approved by the commissioner; provided, however, that such real
44 property may be sold, leased, exchanged, donated or otherwise disposed
45 of to the state, another municipality or a not-for-profit for the same
46 purposes.

47 b. Real property acquired by a not-for-profit organization with funds
48 made available pursuant to this title shall not be sold, leased,
49 exchanged, donated or otherwise disposed of, except to a municipality or
50 the state for the same purposes, without the approval of the department.

51 9. If the state acquires a real property interest in land purchased by
52 a municipality or not-for-profit with funds made available pursuant to
53 this title, the state shall pay the fair market value of such interest
54 less the amount of funding provided by the state pursuant to this
55 section.

1 § 3. The public health law is amended by adding a new section 1113 to
2 read as follows:

3 § 1113. Lead service line replacement grant program. Notwithstanding
4 section one hundred sixty-three of the state finance law or any incon-
5 sistent provision of law to the contrary, and within amounts appropri-
6 ated therefor, the department shall award grants to municipalities with-
7 out a formal competitive process, for purposes of replacing lead service
8 lines used to supply drinking water. When determining which municipi-
9 palities shall receive awards and the amount of such awards, the depart-
10 ment shall consider for each municipality the cost of replacing lead
11 service lines and the number of persons who receive drinking water from
12 such service lines, and shall give priority to those municipalities with
13 low-income communities, according to a methodology as shall be deter-
14 mined by the department.

15 § 4. Article 27 of the environmental conservation law is amended by
16 adding a new title 12 to read as follows:

17 TITLE 12

18 CLEANUP AND ABATEMENT OF CERTAIN SOLID WASTE SITE AND DRINKING WATER
19 CONTAMINATION

20 Section 27-1201. Definitions.

21 27-1203. Mitigation and cleanup of solid waste sites.

22 27-1205. Mitigation of contaminants in drinking water.

23 27-1207. Use and reporting of solid waste and drinking water
24 response account.

25 27-1209. Rules and regulations.

26 § 27-1201. Definitions.

27 When used in this title:

28 1. "Mitigation and cleanup" means the investigation, sampling, manage-
29 ment, removal, remediation or restoration of a solid waste site and all
30 other actions required to restore or protect drinking water supplies,
31 groundwater, or other environmental media and restoration of the site to
32 a condition that it is no longer causing or contributing to pollution of
33 groundwater, water supplies or the environment.

34 2. "Solid waste site" means a disposal facility as defined in regu-
35 lations where solid waste has been improperly disposed as determined by
36 the department or a court of competent jurisdiction, or an active or
37 inactive solid waste management facility as defined in regulations where
38 an impact to drinking water supplies, groundwater contamination or other
39 environmental contamination is known or suspected. Solid waste site
40 shall not include a site subject to investigation or remediation pursu-
41 ant to title thirteen or fourteen of this article.

42 3. "Solid waste and drinking water response account" means the account
43 established pursuant to subdivision one of section ninety-seven-b of the
44 state finance law.

45 § 27-1203. Mitigation and cleanup of solid waste sites.

46 1. The solid waste site cleanup priorities in this state are:

47 a. first, to mitigate and cleanup any solid waste site causing or
48 contributing to impairments of drinking water quality; and

49 b. second, to mitigate and cleanup solid waste sites which are causing
50 or contributing to other environmental contamination which may impact
51 public health.

52 2. The owner or operator of a solid waste site shall, at the depart-
53 ment's written request, submit to and cooperate with any and all remedi-
54 al measures deemed necessary by the department for the mitigation and
55 cleanup of solid waste. The department may implement all necessary meas-



1 ures to mitigate and cleanup the solid waste site after making all
2 reasonable efforts to identify and compel the owner or operator to coop-
3 erate with the department. The department is not required to commence a
4 hearing or issue an order prior to using moneys from the solid waste and
5 drinking water response account.

6 3. All necessary and reasonable expenses of mitigation and cleanup of
7 a solid waste site shall be paid by the person or persons who owned,
8 operated or maintained the solid waste site except as provided in subdi-
9 vision four of this section, or from the solid waste and drinking water
10 response account and shall be a debt recoverable by the state from all
11 persons who owned, operated or maintained the solid waste site, and a
12 lien may be imposed upon real property pursuant to subdivision sixteen
13 of section ninety-seven-b of the state finance law, and a charge may be
14 placed on the premises upon which the solid waste site is maintained and
15 upon any real or personal property, equipment, vehicles, and inventory
16 controlled by such person or persons. Moneys recovered shall be paid to
17 the solid waste and drinking water response account.

18 4. a. The department shall make all reasonable efforts to recover the
19 full amount of any funds expended from the solid waste and drinking
20 water response account for mitigation and cleanup through litigation or
21 cooperative agreements. Any and all moneys recovered, repaid or reim-
22 bursed pursuant to this section shall be deposited with the comptroller
23 and credited to such fund.

24 b. When a municipality develops and implements a plan to investigate,
25 mitigate and cleanup a solid waste site, as approved by the department,
26 for a site which is owned or has been operated by such municipality or
27 when the department, pursuant to an agreement with a municipality,
28 develops and implements such a plan, the commissioner shall, in the name
29 of the state, agree in such agreement to provide from the solid waste
30 and drinking water response account, within the limitations of appropri-
31 ations therefor, seventy-five percent of the eligible design and
32 construction costs of such program which are not recovered from or reim-
33 bursed or paid by a responsible party or the federal government.

34 5. The department shall have the authority to enter all solid waste
35 sites for the purpose of investigation, mitigation and cleanup.

36 § 27-1205. Mitigation of contaminants in drinking water.

37 1. Whenever the commissioner of health has required a public water
38 system to take action to reduce exposure to contaminants pursuant to
39 section eleven hundred twelve of the public health law, or at any time
40 upon the request of the commissioner of health, the department may
41 undertake all reasonable and necessary measures to ensure that safe
42 drinking water is expeditiously made available to all people in any area
43 of the state in which contamination is known to be present. Such area
44 shall include, at a minimum, all properties served by the water system
45 and any land and any surface or underground water sources identified by
46 the department or department of health as causing or contributing to the
47 contamination. The department's measures may include the installation
48 of treatment systems, including but not limited to installation of
49 onsite water supplies, or the provision of alternative water supply
50 sources to ensure that water meets applicable maximum contaminant levels
51 or other threshold concentrations set by the department of health.

52 2. If the department, in consultation with the department of health,
53 is able to identify a source of contamination which caused or contrib-
54 uted to contamination, the department shall require the owner or opera-
55 tor of the source of contamination to investigate, develop and implement
56 a plan to remediate the source of contamination.



1 3. The department shall make all reasonable efforts to recover the
2 full amount of any funds expended from the solid waste and drinking
3 water response account for a drinking water response through litigation
4 or cooperative agreements. Any and all moneys recovered, repaid or
5 reimbursed pursuant to this section shall be deposited with the comp-
6 troller and credited to such account.

7 a. When a municipality develops and implements a plan to respond to
8 drinking water contamination, determined pursuant to subdivision one of
9 this section, and the plan is approved by the department, for a site
10 which is owned or has been operated by such municipality or when the
11 department, pursuant to an agreement with a municipality, develops and
12 implements such a plan, the commissioner shall, in the name of the
13 state, agree in such agreement to provide from the solid waste and
14 drinking water response account, within the limitations of appropri-
15 ations therefor, seventy-five percent of the eligible design and
16 construction costs of such program and which are not recovered from or
17 reimbursed or paid by a responsible party or the federal government.

18 § 27-1207. Use and reporting of solid waste and drinking water response
19 account.

20 1. The solid waste and drinking water response account shall be made
21 available to the department for the following purposes:

- 22 a. enumeration and assessment of solid waste sites;
- 23 b. investigation and environmental characterization of solid waste
24 sites, including environmental sampling;
- 25 c. mitigation and cleanup of solid waste sites;
- 26 d. mitigation of drinking water contamination;
- 27 e. monitoring of solid waste sites; and
- 28 f. administration and enforcement of the requirements of this title.

29 2. On or before July first, two thousand nineteen and July first of
30 each succeeding year, the department shall report on the status of the
31 program.

32 § 27-1209. Rules and regulations.

33 The commissioner shall have the power to promulgate rules and regu-
34 lations necessary and appropriate to carry out the purposes of this
35 title.

36 § 5. Subdivisions 1, 2 and 6 and paragraphs (i) and (j) of subdivision
37 3 of section 97-b of the state finance law, subdivision 1 as amended and
38 paragraph (j) of subdivision 3 as added by section 4 of part I of chap-
39 ter 1 of the laws of 2003, subdivision 2 as amended by section 5 of part
40 X of chapter 58 of the laws of 2015, paragraph (i) of subdivision 3 as
41 amended by section 1 of part R of chapter 59 of the laws of 2007, subdi-
42 vision 6 as amended by chapter 38 of the laws of 1985, are amended and a
43 new paragraph (k) is added to subdivision 3 to read as follows:

44 1. There is hereby established in the custody of the state comptroller
45 a nonlapsing revolving fund to be known as the "hazardous waste remedial
46 fund", which shall consist of [a "site investigation and construction
47 account",] an "industry fee transfer account", an "environmental resto-
48 ration project account", "hazardous waste cleanup account", [and] a
49 "hazardous waste remediation oversight and assistance account" and a
50 "solid waste and drinking water response account".

51 2. Such fund shall consist of all of the following:

- 52 (a) [moneys appropriated for transfer to the fund's site investigation
53 and construction account; (b) all fines and other sums accumulated in
54 the fund prior to April first, nineteen hundred eighty-eight pursuant to
55 section 71-2725 of the environmental conservation law for deposit in the
56 fund's site investigation and construction account; (c)] all moneys

1 collected or received by the department of taxation and finance pursuant
2 to section 27-0923 of the environmental conservation law for deposit in
3 the fund's industry fee transfer account; [(d)] (b) all moneys paid into
4 the fund pursuant to section 72-0201 of the environmental conservation
5 law which shall be deposited in the fund's industry fee transfer
6 account; [(e)] (c) all moneys paid into the fund pursuant to paragraph
7 (b) of subdivision one of section one hundred eighty-six of the naviga-
8 tion law which shall be deposited in the fund's industry fee transfer
9 account; [(f)] (d) all [monies] moneys recovered under sections 56-0503,
10 56-0505 and 56-0507 of the environmental conservation law into the
11 fund's environmental restoration project account; [(g)] (e) all fees
12 paid into the fund pursuant to section 72-0402 of the environmental
13 conservation law which shall be deposited in the fund's industry fee
14 transfer account; [(h)] (f) payments received for all state costs
15 incurred in negotiating and overseeing the implementation of brownfield
16 site cleanup agreements pursuant to title fourteen of article twenty-
17 seven of the environmental conservation law shall be deposited in the
18 hazardous waste remediation oversight and assistance account; (g) all
19 moneys recovered pursuant to title twelve of article twenty-seven of the
20 environmental conservation law into the fund's solid waste and drinking
21 water response account and [(i)] (h) other moneys credited or trans-
22 ferred thereto from any other fund or source for deposit in the fund's
23 [site investigation and construction] hazardous waste cleanup account.

24 (i) with respect to moneys in the hazardous waste remediation over-
25 sight and assistance account, non-bondable costs associated with hazard-
26 ous waste remediation projects. Such costs shall be limited to agency
27 staff costs associated with the administration of state assistance for
28 brownfield opportunity areas pursuant to section nine hundred seventy-r
29 of the general municipal law, agency staff costs associated with the
30 administration of technical assistance grants pursuant to titles thir-
31 teen and fourteen of article twenty-seven of the environmental conserva-
32 tion law, and costs of the department of environmental conservation
33 related to the geographic information system required by section 3-0315
34 of the environmental conservation law; [and]

35 (j) with respect to moneys in the hazardous waste remediation over-
36 sight and assistance account, technical assistance grants pursuant to
37 titles thirteen and fourteen of article twenty-seven of the environ-
38 mental conservation law[.]; and

39 (k) With respect to moneys in the solid waste and drinking water
40 response account, when allocated, shall be available to the department
41 of environmental conservation to undertake mitigation and cleanup as the
42 department of environmental conservation may determine necessary due to
43 environmental conditions related to a solid waste site pursuant to title
44 twelve of article twenty-seven of the environmental conservation law
45 which indicates that conditions on such property are impairing drinking
46 water quality, ground water quality or creating other environmental
47 contamination and to ensure the provision of safe drinking water in
48 areas determined to have drinking water contamination by the department
49 of health.

50 6. The commissioner of the department of environmental conservation
51 shall make all reasonable efforts to recover the full amount of any
52 funds expended from the fund pursuant to paragraph (a) and paragraph (k)
53 of subdivision three of this section through litigation or cooperative
54 agreements with responsible persons. Any and all moneys recovered or
55 reimbursed pursuant to this section through voluntary agreements or

1 court orders shall be deposited with the comptroller and credited to the
2 account of such fund from which such expenditures were made.

3 § 6. Section 97-b of the state finance law is amended by adding a new
4 subdivision 16 to read as follows:

5 16. (a) All costs and damages for which a person is liable to the
6 state of New York under titles twelve and thirteen of article twenty-
7 seven of the environmental conservation law shall constitute a lien in
8 favor of the state upon all real property and rights to such property
9 which: (i) belongs to such person; and (ii) are subject to mitigation or
10 cleanup pursuant to title twelve of article twenty-seven of the environ-
11 mental conservation law or an inactive hazardous waste disposal site
12 remedial program pursuant to title thirteen of article twenty-seven of
13 the environmental conservation law.

14 (b) The lien imposed by this subdivision shall arise at the later of
15 the following: (i) the time costs are first incurred by the state with
16 respect to a response action pursuant to titles twelve and thirteen of
17 article twenty-seven of the environmental conservation law; or (ii) the
18 time that the person referred to in paragraph (a) of this subdivision is
19 provided (by certified or registered mail) written notice of potential
20 liability. Such lien shall continue until the liability for the costs,
21 or a judgment against the person arising out of such liability, is
22 satisfied, becomes unenforceable, is otherwise vacated by court order or
23 is released by the commissioner of environmental conservation where a
24 legally enforceable agreement satisfactory to the commissioner has been
25 executed relating to the cleanup and removal costs and damage costs or
26 reimbursing the hazardous waste remedial fund for cleanup and removal
27 costs and damage costs, or the attachment or enforcement of the lien is
28 determined by the commissioner not to be in the public interest.

29 (c) The lien shall state: (i) that the lienor is the hazardous waste
30 remedial fund; (ii) the name of record owner of the real property on
31 which the lien has attached; (iii) the real property subject to the
32 lien, with a description thereof sufficient for identification; (iv)
33 that the real property described in the notice is or has been subject to
34 mitigation or cleanup pursuant to title twelve of article twenty-seven
35 of the environmental conservation law or an inactive hazardous waste
36 disposal site remedial program pursuant to title thirteen of article
37 twenty-seven of the environmental conservation law and that costs have
38 been incurred by the lienor as a result of such activities; (v) that the
39 owner is potentially liable for costs; and (vi) that a lien has attached
40 to the described real property.

41 (d) The lien imposed by this subdivision shall be subject to the
42 rights of any purchaser entitled to the affirmative defense set forth in
43 subparagraph three of paragraph (a) of subdivision four of section
44 27-1323 of the environmental conservation law, holder of a security
45 interest, or judgment lien creditor whose interest is perfected under
46 New York state law before notice of the lien has been filed pursuant to
47 paragraph (e) of this subdivision.

48 (e) A notice of lien imposed by this subdivision shall be filed pursu-
49 ant to the requirements of section one hundred eighty-one-c of the navi-
50 gation law; provided however, that a copy of the notice of lien is
51 served upon the owner of the real property subject to the lien in
52 accordance with the provisions of section eleven of the lien law.

53 (f) The costs constituting the lien may be recovered in an action in
54 rem in a court of competent jurisdiction. Nothing in this subdivision
55 shall affect the right of the state to bring an action against any
56 person to recover all costs and damages for which such person is liable

1 under titles twelve and thirteen of article twenty-seven of the environ-
2 mental conservation law.

3 § 7. The public authorities law is amended by adding a new section
4 1285-s to read as follows:

5 § 1285-s. New York state regional water infrastructure projects. 1.
6 For purposes of this section, "municipality" means any county, city,
7 town, village, district corporation, county or town improvement
8 district, any public benefit corporation or public authority established
9 pursuant to the laws of New York or any agency of New York state which
10 is empowered to construct and operate a waste water or drinking water
11 infrastructure project, or any two or more of the foregoing which are
12 acting jointly in connection with such a project.

13 2. (a) The corporation shall establish, with funds appropriated for
14 such purpose, a New York state regional water infrastructure grants
15 program to provide state assistance to municipalities for waste water
16 and drinking water infrastructure projects that have a regional impact
17 or demonstrated efficiencies. Such regional projects shall benefit or
18 serve multiple municipalities, and may include shared infrastructure,
19 consolidation or interconnection of systems of multiple municipalities,
20 or projects that otherwise achieve efficiencies.

21 (b) A municipality may make an application for a regional water
22 infrastructure grant in a manner, form and timeframe and containing such
23 information as the corporation may require provided however, such
24 requirements shall not include a requirement for prior listing on the
25 intended use plan.

26 3. Moneys for the regional water infrastructure grants program shall
27 be segregated from all other funds of or in the custody of the corpo-
28 ration and shall only be used to provide state assistance to munici-
29 palities in accordance with the provisions of this section and to
30 provide for the administrative and management costs of the program.

31 4. Moneys for the regional water infrastructure grants program may be
32 invested as provided in subdivision six of section twelve hundred eight-
33 y-five-j of this title.

34 5. Contracts for the construction of projects financed with state
35 assistance made available pursuant to this section shall be subject to
36 the requirements of section two hundred twenty of the labor law and
37 shall be considered "state contracts" subject to the requirements and
38 provisions of article fifteen-A of the executive law.

39 § 8. Section 1285-q of the public authorities law, as added by section
40 6 of part I of chapter 1 of the laws of 2003, subdivisions 1 and 3 as
41 amended by section 43 of part BB of chapter 56 of the laws of 2015, is
42 amended to read as follows:

43 § 1285-q. Financing of hazardous waste site remediation and solid
44 waste and drinking water response site projects. In order to effectuate
45 the purposes of this title, the corporation shall have the following
46 additional special powers:

47 1. Subject to chapter fifty-nine of the laws of two thousand, but
48 notwithstanding any other provisions of law to the contrary, in order to
49 assist the corporation in undertaking the administration and the financ-
50 ing of hazardous waste site remediation projects for payment of the
51 state's share of the costs of the remediation of hazardous waste sites
52 and solid waste and drinking water response sites, in accordance with
53 [title] titles twelve and thirteen of article twenty-seven of the envi-
54 ronmental conservation law and section ninety-seven-b of the state
55 finance law, and for payment of state costs associated with the remedi-
56 ation of offsite contamination at significant threat sites as provided

1 in section 27-1411 of the environmental conservation law, and beginning
2 in state fiscal year two thousand fifteen - two thousand sixteen for
3 environmental restoration projects pursuant to title five of article
4 fifty-six of the environmental conservation law provided that funding
5 for such projects shall not exceed ten percent of the funding appropri-
6 ated for the purposes of financing hazardous waste site remediation
7 projects, pursuant to [title] titles twelve and thirteen of article
8 twenty-seven of the environmental conservation law in any state fiscal
9 year pursuant to capital appropriations made to the department of envi-
10 ronmental conservation, the director of the division of budget and the
11 corporation are each authorized to enter into one or more service
12 contracts, none of which shall exceed twenty years in duration, upon
13 such terms and conditions as the director and the corporation may agree,
14 so as to annually provide to the corporation in the aggregate, a sum not
15 to exceed the annual debt service payments and related expenses required
16 for any bonds and notes authorized pursuant to section twelve hundred
17 ninety of this title. Any service contract entered into pursuant to this
18 section shall provide that the obligation of the state to fund or to pay
19 the amounts therein provided for shall not constitute a debt of the
20 state within the meaning of any constitutional or statutory provision
21 and shall be deemed executory only to the extent of moneys available for
22 such purposes, subject to annual appropriation by the legislature. Any
23 such service contract or any payments made or to be made thereunder may
24 be assigned and pledged by the corporation as security for its bonds and
25 notes, as authorized pursuant to section twelve hundred ninety of this
26 title.

27 2. The comptroller is hereby authorized to receive from the corpo-
28 ration any portion of bond proceeds paid to provide funds for or reim-
29 burse the state for its costs associated with any hazardous waste site
30 remediation and solid waste and drinking water response projects and to
31 credit such amounts to the capital projects fund or any other appropri-
32 ate fund.

33 3. The maximum amount of bonds that may be issued for the purpose of
34 financing hazardous waste site remediation and solid waste and drinking
35 water response projects and environmental restoration projects author-
36 ized by this section shall not exceed two billion two hundred million
37 dollars and shall not exceed one hundred million dollars for appropri-
38 ations enacted for any state fiscal year, provided that the bonds not
39 issued for such appropriations may be issued pursuant to reappropriation
40 in subsequent fiscal years. No bonds shall be issued for the repayment
41 of any new appropriation enacted after March thirty-first, two thousand
42 twenty-six for hazardous waste site remediation projects authorized by
43 this section. Amounts authorized to be issued by this section shall be
44 exclusive of bonds issued to fund any debt service reserve funds, pay
45 costs of issuance of such bonds, and bonds or notes issued to refund or
46 otherwise repay bonds or notes previously issued. Such bonds and notes
47 of the corporation shall not be a debt of the state, and the state shall
48 not be liable thereon, nor shall they be payable out of any funds other
49 than those appropriated by this state to the corporation for debt
50 service and related expenses pursuant to any service contracts executed
51 pursuant to subdivision one of this section, and such bonds and notes
52 shall contain on the face thereof a statement to such effect.

53 § 9. Subdivision 9 of section 97-b of the state finance law is
54 REPEALED.

1 § 10. Subdivision 4 of section 52-0303 of the environmental conserva-
2 tion law, as added by chapter 512 of the laws of 1986, is amended to
3 read as follows:

4 4. A provision that in the event that any federal payments and respon-
5 sible party payments become available which were not included in the
6 calculation of the state share pursuant to subdivision two of this
7 section, the amount of the state share shall be recalculated accordingly
8 and the municipality shall pay to the state for deposit in the [design
9 and construction] hazardous waste cleanup account of the hazardous waste
10 remedial fund established under section ninety-seven-b of the state
11 finance law the amount by which the state payment actually made exceeds
12 the recalculated state share.

13 § 11. The opening paragraph, and paragraphs i and j of subdivision 4
14 of section 27-1305 of the environmental conservation law, as amended by
15 section 3 of part E of chapter 1 of the laws of 2003, are amended to
16 read as follows:

17 On or before July first, nineteen hundred eighty-six and July first of
18 each succeeding year, the department shall prepare a status report on
19 the implementation of the plan, and an update of the policies, program
20 objectives, methods and strategies as outlined in the plan which guide
21 the overall inactive hazardous waste site remediation program and solid
22 waste site and drinking water response mitigation and cleanup programs.
23 Such status report shall reflect information available to the department
24 as of March thirty-first of each year, and shall include an accounting
25 of all [monies] moneys expended or encumbered from the environmental
26 quality bond act of nineteen hundred eighty-six or the hazardous waste
27 remedial fund during the preceding fiscal year, such accounting to sepa-
28 rately list:

29 i. [monies] moneys expended or encumbered in stand-by contracts
30 entered into pursuant to section 3-0309 of this chapter and the purposes
31 for which these stand-by contracts were entered into; [and]

32 j. moneys expended or encumbered pursuant to title twelve of this
33 article; and

34 k. an accounting of payments received and payments obligated to be
35 received pursuant to this title and title twelve of this article, and a
36 report of the department's attempts to secure such obligations.

37 § 12. Subparagraph (ii) of paragraph b of subdivision 3 of section
38 27-1313 of the environmental conservation law is REPEALED.

39 § 13. Paragraph b of subdivision 1 and paragraphs b and f of subdivi-
40 sion 5 of section 27-1313 of the environmental conservation law, para-
41 graph b of subdivision 1 as added by section 5 of part E of chapter 1 of
42 the laws of 2003, paragraph b as amended by and paragraph f of subdivi-
43 sion 5 as added by chapter 857 of the laws of 1982, are amended and a
44 new subdivision 11 is added to read as follows:

45 b. The department shall have the authority to require, and may under-
46 take directly, the development and implementation of a department-ap-
47 proved inactive hazardous waste disposal site remedial program, in
48 accordance with section ninety-seven-b of the state finance law.

49 b. In the event that the commissioner has found that hazardous wastes
50 at a site constitute a significant threat to the environment, but after
51 a reasonable attempt to determine who may be responsible is either
52 unable to determine who may be responsible, [or] is unable to locate a
53 person who may be responsible, or is unable after making all reasonable
54 effort to secure voluntary agreement to pay the costs of necessary reme-
55 dial actions from owners or operators or other responsible persons, the
56 department may develop and implement an inactive hazardous waste

1 disposal site remedial program for such site. The commissioner shall
2 make every effort, in an action brought before a court of appropriate
3 jurisdiction or in accordance with the requirements for notice, hearing
4 and review provided for in this title, to secure appropriate relief from
5 any person subsequently identified or located who is responsible for the
6 disposal of hazardous waste at such site, including, but not limited to,
7 development and implementation of an inactive hazardous waste disposal
8 site remedial program, payment of the cost of such a program, recovery
9 of any reasonable expenses incurred by the state, money damages and
10 penalties.

11 f. The commissioner shall make every effort, in an action brought
12 before a court of appropriate jurisdiction or in accordance with the
13 requirements for notice, hearing and review provided for in this title
14 to secure appropriate relief from the owner or operator of such site
15 and/or any person responsible for the disposal of hazardous wastes at
16 such site pursuant to applicable principles of statutory or common law
17 liability, including, but not limited to, development and implementation
18 of an inactive hazardous waste disposal site remedial program, payment
19 of the cost of such program, recovery of any reasonable expenses
20 incurred by the state, money damages and penalties.

21 11. A remedial decision by the state or the department or a response
22 action taken by the department or ordered by the department under this
23 section shall not constitute a final decision or order until the depart-
24 ment files an action to enforce such decision or order or to collect a
25 penalty for violation of such order or to recover its response costs.

26 § 14. The section heading and subdivision 1 of section 27-1316 of the
27 environmental conservation law, as added by section 8 of part E of chap-
28 ter 1 of the laws of 2003, are amended to read as follows:

29 [Citizen technical] Technical assistance grants.

30 1. The commissioner is authorized to provide, or order a person acting
31 under order or on consent, to provide grants to any eligible municipi-
32 ality or not-for-profit corporation exempt from taxation under section
33 501(c)(3) of the internal revenue code who may be affected by an inac-
34 tive hazardous waste disposal site remedial program. To qualify to
35 receive such assistance, a community group must demonstrate that its
36 membership represents the interests of the community affected by such
37 site, and that members', or in the case of a municipality its residents,
38 health, economic well-being or enjoyment of the environment are poten-
39 tially affected by such site. An eligible municipality shall be a coun-
40 ty, city, town, village, or Indian tribe or nation residing within New
41 York state, with a population of ten thousand or less, provided, howev-
42 er, that the department may make a municipality eligible if it deter-
43 mines that a municipality is a hardship community. A municipality shall
44 not be eligible for a grant for any site which is owned or has been
45 operated by such municipality. Such grants shall be known as technical
46 assistance grants and may be used to obtain technical assistance in
47 interpreting information with regard to the nature of the hazard posed
48 by hazardous waste located at or emanating from an inactive hazardous
49 waste disposal site or sites and the development and implementation of
50 an inactive hazardous waste disposal site remedial program or programs.
51 Such grants may also be used:

52 (a) to advise affected residents on any health assessment; and

53 (b) for training funds for the education of interested affected commu-
54 nity members or municipality to enable them to more effectively partic-
55 ipate in the remedy selection process.

1 Grants awarded under this section may not be used for the purposes of
2 collecting field sampling data, political activity or lobbying legisla-
3 tive bodies.

4 § 15. Subdivision 1 of section 27-1321 of the environmental conserva-
5 tion law, as amended by section 22 of part G of chapter 58 of the laws
6 of 2012, is amended to read as follows:

7 1. Notwithstanding any other provision of law to the contrary, any
8 person who is, by professional training or experience and attainment,
9 qualified to analyze and interpret matters pertaining to the treatment,
10 storage, disposal, or transport of hazardous materials or hazardous
11 wastes, and who voluntarily and without expectation of monetary compen-
12 sation provides assistance or advice in mitigating the effects of an
13 accidental or threatened discharge of any hazardous materials or hazard-
14 ous wastes, or in preventing, cleaning up, or disposing of any such
15 discharge, shall not be subject to a penalty or to civil liability for
16 damages or injuries alleged to have been sustained by any person or
17 entity by reason of an act or omission in the giving of such assistance
18 or advice. For the purposes of this section, the term "hazardous materi-
19 als" shall have the same meaning as that term is defined in regulations
20 promulgated by the commissioner of transportation pursuant to section
21 fourteen-f of the transportation law, and the term "hazardous wastes"
22 shall mean those wastes identified or listed pursuant to subdivision one
23 of section [27-0903] 27-1301 of this article and any rules and regu-
24 lations promulgated thereunder.

25 § 16. Subdivision 10 of section 71-2702 of the environmental conserva-
26 tion law, as added by chapter 671 of the laws of 1986, is amended to
27 read as follows:

28 10. "Substance hazardous to public health, safety or the environment"
29 means any substance which:

30 (a) is identified or listed as a hazardous waste in regulations
31 promulgated pursuant to section 27-0903 of this chapter and all amend-
32 ments thereto, regardless of whether at the time of release the
33 substance was actually a waste; [or]

34 (b) appears on the list in regulations promulgated pursuant to para-
35 graph (a) of subdivision one of section 37-0103 of this chapter and all
36 amendments thereto[.];

37 (c) is petroleum; or

38 (d) poses a present or potential hazard to the environment when
39 improperly treated, stored, transported, disposed of, or otherwise
40 managed.

41 § 17. Paragraph a of subdivision 1 of section 71-2725 of the environ-
42 mental conservation law is REPEALED.

43 § 18. Subdivision 4 of section 11-b of the soil and water conservation
44 districts law, as amended by chapter 538 of the laws of 1996, is amended
45 to read as follows:

46 4. Eligible costs that may be funded pursuant to this section are
47 architectural and engineering services, plans and specifications,
48 including watershed based or individual agricultural nonpoint source
49 pollution assessments, consultant and legal services, conservation ease-
50 ments and associated transaction costs specific to title thirty-three of
51 article fifteen of the environmental conservation law and other direct
52 expenses related to project implementation.

53 § 19. If any clause, sentence, paragraph, section or part of this act
54 shall be adjudged by any court of competent jurisdiction to be invalid,
55 such judgment shall not affect, impair or invalidate the remainder ther-
56 eof, but shall be confined in its operation to the clause, sentence,

1 paragraph, section or part thereof directly involved in the controversy
2 in which such judgment shall have been rendered.
3 § 20. This act shall take effect immediately.

4

PART JJ

5 Section 1. Paragraph (a) of subdivision 6 of section 92-s of the state
6 finance law, as amended by chapter 432 of the laws of 1997, is amended
7 to read as follows:

8 (a) All moneys heretofore and hereafter deposited in the environmental
9 protection transfer account shall be transferred by the comptroller to
10 the solid waste account, the parks, recreation and historic preservation
11 account, the climate change mitigation and adaptation account or the
12 open space account upon the request of the director of the budget.

13 § 2. Subdivision 5 of section 27-1012 of the environmental conserva-
14 tion law, as amended by section 6 of part F of chapter 58 of the laws of
15 2013, is amended to read as follows:

16 5. All monies collected or received by the department of taxation and
17 finance pursuant to this title shall be deposited to the credit of the
18 comptroller with such responsible banks, banking houses or trust compa-
19 nies as may be designated by the comptroller. Such deposits shall be
20 kept separate and apart from all other moneys in the possession of the
21 comptroller. The comptroller shall require adequate security from all
22 such depositories. Of the total revenue collected, the comptroller shall
23 retain the amount determined by the commissioner of taxation and finance
24 to be necessary for refunds out of which the comptroller must pay any
25 refunds to which a deposit initiator may be entitled. After reserving
26 the amount to pay refunds, the comptroller must, by the tenth day of
27 each month, pay into the state treasury to the credit of the general
28 fund the revenue deposited under this subdivision during the preceding
29 calendar month and remaining to the comptroller's credit on the last day
30 of that preceding month; provided, however, that, beginning April first,
31 two thousand [thirteen] fourteen, and all fiscal years thereafter,
32 [fifteen] twenty-three million dollars plus all funds received from the
33 payments due each fiscal year pursuant to subdivision four of this
34 section in excess of [the amount received from April first, two thousand
35 twelve through March thirty-first, two thousand thirteen] one hundred
36 twenty-two million two hundred thousand dollars, shall be deposited to
37 the credit of the environmental protection fund established pursuant to
38 section ninety-two-s of the state finance law.

39 § 3. This act shall take effect immediately and shall be deemed to
40 have been in full force and effect on and after April 1, 2016.

41

PART KK

42 Section 1. Approximately 40 percent of the food produced in the United
43 States today goes uneaten. Much of this organic waste is disposed of in
44 solid waste landfills, where its decomposition accounts for over 15
45 percent of our nation's emissions of methane, a potent greenhouse gas.
46 Meanwhile, an estimated 2.8 million New Yorkers are facing hunger and
47 food insecurity. This legislation is designed to address these multiple
48 challenges by: encouraging the prevention of food waste generation by
49 commercial generators and residents; directing the recovery of excess
50 edible food from high-volume commercial food waste generators; and
51 ensuring that a significant portion of inedible food waste from large

1 volume food waste generators is managed in a sustainable manner, and
2 does not end up being sent to landfills or incinerators.

3 § 2. Article 27 of the environmental conservation law is amended by
4 adding a new title 22 to read as follows:

5 TITLE 22

6 FOOD DONATION AND FOOD SCRAPS RECYCLING

7 Section 27-2201. Definitions.

8 27-2203. Designated food scraps generator responsibilities.

9 27-2205. Transporter responsibilities.

10 27-2207. Transfer station or other intermediary responsibil-
11 ities.

12 27-2209. Food scraps disposal prohibition.

13 27-2211. Department responsibilities.

14 27-2213. Regulations.

15 27-2215. Exclusions.

16 27-2217. Preemption and severability.

17 § 27-2201. Definitions.

18 1. "Designated food scraps generator" means a person who generates at
19 a single location an annual average of two tons per week or more of
20 excess food and food scraps, including, but not limited to, supermar-
21 kets, restaurants, higher educational institutions, hotels, food proces-
22 sors, correctional facilities, sports or entertainment venues, hospitals
23 and other health care facilities. For a location with multiple independ-
24 ent food service businesses, such as a mall or college campus, the enti-
25 ty responsible for contracting for solid waste hauling services is
26 responsible for managing excess food and food scraps from the independ-
27 ent businesses.

28 2. "Excess food" means edible food that is not sold or used by its
29 generator.

30 3. "Food scraps" means inedible food, trimmings from the preparation
31 of food, food-soiled paper, and edible food that is not donated. Food
32 scraps shall not include food from residential sources or any food which
33 is subject to a recall or seizure due to the presence of pathogens,
34 including but not limited to: Listeria Monocytogenes, confirmed Clos-
35 tridium Botulinum, E. coli 0157:H7 and all salmonella in ready-to-eat
36 foods.

37 4. "Organics recycler" means a facility that recycles food scraps
38 through use as animal feed or a feed ingredient, rendering, land appli-
39 cation, composting, aerobic digestion, anaerobic digestion, or ethanol
40 production. Animal scraps, food soiled paper, and post-consumer food
41 scraps are prohibited for use as animal feed or as a feed ingredient.
42 The product created from food scraps by a composting or digestion facil-
43 ity, or other treatment system, must be used in a beneficial manner as a
44 soil amendment and shall not be combusted or landfilled. The department
45 may designate other techniques or technologies by regulation, provided
46 they do not include combustion or landfilling.

47 5. "Person" means any individual, business entity, partnership, compa-
48 ny, corporation, not-for-profit corporation, association, governmental
49 entity, public benefit corporation, public authority, firm, organization
50 or any other group of individuals, or any officer or employee or agent
51 thereof.

52 6. "Single location" means contiguous property under common ownership,
53 which may include one or more buildings.

54 § 27-2203. Designated food scraps generator responsibilities.

55 1. No later than January first, two thousand twenty-one:

1 (a) all designated food scraps generators shall separate their excess
2 food for donation for human consumption to the maximum extent practica-
3 ble, and in accordance with applicable laws, rules and regulations
4 related to food donation; and

5 (b) except as provided in paragraph (c) of this subdivision, each
6 designated food scraps generator that is within fifty miles of an organ-
7 ics recycler, to the extent that the recycler has capacity to accept a
8 substantial portion or all of the generator's excess food and food
9 scraps as determined by the department on a yearly basis, shall:

10 (i) separate its remaining excess food and food scraps from other
11 solid waste that cannot be effectively processed by the organics recy-
12 cler that will be managing the materials. Whenever practicable, excess
13 food and food scraps should be removed from packaging at the point of
14 generation or be sent to a facility that can remove the packaging from
15 the product;

16 (ii) ensure proper storage for excess food and food scraps collection
17 on site which shall preclude such materials from becoming odorous or
18 attracting vectors;

19 (iii) post instructions and provide training for employees concerning
20 the proper methods to separate and store excess food and food scraps;
21 and

22 (iv) obtain a transporter that will deliver its excess food and food
23 scraps to an organics recycler, either directly or through an interme-
24 diary, self-haul its food scraps to an organics recycler, either direct-
25 ly or through an intermediary, or provide for organics recycling
26 on-site.

27 (c) The provisions of paragraph (b) of this subdivision shall not
28 apply to any designated food scraps generator that has all of its solid
29 waste processed in a mixed solid waste composting or mixed solid waste
30 anaerobic digestion facility.

31 2. All designated food scraps generators shall submit an annual report
32 to the department on or before March first, two thousand twenty-two, and
33 annually thereafter, in an electronic format. The annual report must
34 summarize the amount of excess food donated and the amount of excess
35 food not donated, the amount of food scraps recycled, the organics recy-
36 cler or recyclers and associated transporters used, and any other infor-
37 mation as required by the department.

38 3. A designated food scraps generator may petition the department for
39 a temporary waiver from some or all of the requirements of this title.
40 The petition must include evidence of undue hardship based on the unique
41 circumstances of the generator. A waiver shall be no longer than one
42 year in duration.

43 § 27-2205. Transporter responsibilities.

44 1. Any transporter that collects source-separated excess food and food
45 scraps for recycling from a designated food scraps generator shall:

46 (a) deliver collected excess food and food scraps to a transfer
47 station or other intermediary that will deliver such excess food and
48 food scraps to an organics recycler; or

49 (b) deliver such food scraps directly to an organics recycler.

50 2. Any transporter that collects source-separated excess food and food
51 scraps from a designated food scraps generator shall not deliver those
52 excess food and food scraps to a combustion facility or a landfill nor
53 commingle the material with any other solid waste unless such waste can
54 be processed by an organics recycler.

55 § 27-2207. Transfer station or other intermediary responsibilities.

1 Any transfer station or other intermediary that receives source-sepa-
2 rated excess food and food scraps from a designated food scraps genera-
3 tor must ensure that the food scraps are taken to an organics recycler.
4 No transfer station or other intermediary may commingle the material
5 with any other solid waste unless such waste can be processed by an
6 organics recycler.

7 § 27-2209. Food scraps disposal prohibition.

8 Solid waste combustion facilities and landfills shall not accept
9 source-separated excess food and food scraps from designated food scraps
10 generators required to send their excess food not donated and food
11 scraps to an organics recycler as outlined under section 27-2203 of this
12 title, either directly or from an intermediary, after January first, two
13 thousand twenty-one, unless the designated food scraps generator has
14 received a temporary waiver under subdivision three of section 27-2203
15 of this title.

16 § 27-2211. Department responsibilities.

17 1. The department shall, in consultation with industry represen-
18 tatives, publish on its website: (a) the methodology the department will
19 use to determine who is a designated food scrap generator; and (b) a
20 list of all designated food scraps generators, organics recyclers, and
21 all transporters that manage source-separated organics.

22 2. No later than October first, two thousand twenty, the department
23 shall assess the capacity of organic recyclers and notify designated
24 food scraps generators if they are required to comply with the
25 provisions of paragraph (b) of subdivision one of section 27-2203 of
26 this title.

27 3. The department shall develop and make available educational materi-
28 als to assist designated food scraps generators with compliance with
29 this title. The department shall also develop education materials on
30 food waste minimization and encourage municipalities to disseminate
31 these materials both on their municipal websites and in any such future
32 mailings to their residents as they may distribute.

33 § 27-2213. Regulations.

34 The department may promulgate rules and regulations necessary to
35 implement the provisions of this title. At a minimum, the department
36 shall promulgate rules and regulations that set forth how designated
37 food scraps generators shall comply with the provisions of paragraph (a)
38 and subparagraph (i) of paragraph (b) of subdivision one of section
39 27-2203 of this title.

40 § 27-2215. Exclusions.

41 1. This title shall not apply to any designated food scraps generators
42 located in a city with a population of one million or more which has a
43 local law, ordinance or regulation in place which requires the diversion
44 of excess food and food scraps from disposal.

45 2. This title does not apply to elementary and secondary schools.

46 § 27-2217. Preemption and severability.

47 1. Any provision of any local law or ordinance, or any regulation
48 promulgated thereto, governing the recycling of food scraps shall upon
49 the effective date of this title be preempted, except in a city with a
50 population of one million or more. However, local laws or ordinances,
51 or parts thereof, affecting the recycling of food scraps that include
52 generators not covered by this title shall not be preempted.

53 2. The provisions of this title shall be severable and if any portion
54 thereof or the applicability thereof to any person or circumstances is
55 held invalid, the remainder of this title and the application thereof
56 shall not be affected thereby.

1 § 3. This act shall take effect immediately.

2

PART LL

3 Section 1. The public authorities law is amended by adding a new
4 section 1005-d to read as follows:

5 § 1005-d. Sharing employees, services and resources; indemnity and
6 defense. 1. For the purposes of this section, the following words and
7 terms shall have the following meanings unless the context indicates
8 another meaning or intent:

9 (a) "Department" means the department of transportation.

10 (b) "Services and assistance" includes but is not limited to engineer-
11 ing services; environmental sampling and testing; facility, property,
12 infrastructure and equipment maintenance; and equipment and materials
13 storage.

14 2. One or more shared services agreements may be executed between the
15 department and the authority, canal corporation, or both of them, only
16 for (a) an emergency situation, (b) extreme weather conditions, and (c)
17 the provision of services and assistance to support the operation and
18 maintenance of the canal system and related infrastructure, as deemed
19 appropriate, including but limited to share employees, services or
20 resources as deemed appropriate including, but not limited to, for the
21 performance of work and activities by the department on the facilities
22 and property under the jurisdiction of the authority or canal corpo-
23 ration, and for the performance of work and activities by the authority
24 or canal corporation on the facilities and property under the jurisdic-
25 tion of the department. Such agreement or any project undertaken pursu-
26 ant to such an agreement shall not be deemed to impair the rights of
27 bondholders and may provide for, but not be limited to, the management,
28 supervision and direction of such employees' performance of such
29 services. All shared employees shall remain employees of their respec-
30 tive employers and all applicable collectively bargained agreements
31 shall remain in effect for the entire length of the shared services
32 agreement. Further, such shared services agreement shall not amend,
33 repeal or replace the terms of any agreement that is collectively nego-
34 tiated between an employer and an employee organization, including an
35 agreement or interest arbitration award made pursuant to article four-
36 teen of the civil service law.

37 3. The authority shall defend any unit, entity, officer or employee of
38 the department, using the forces of the department of law pursuant to
39 subdivision eleven of this section in any action, proceeding, claim,
40 demand or the prosecution of any appeal arising from or occasioned by
41 the acts or omissions to act in the performance of the functions of the
42 authority or canal corporation pursuant to a shared services agreement.

43 4. Defense pursuant to subdivision three of this section shall be
44 conditioned upon the full cooperation of the department.

45 5. The authority shall indemnify and hold harmless any unit, entity,
46 officer or employee of the department in the amount of any judgment
47 obtained against the department or in the amount of any settlement the
48 department enters into with the consent of the authority for any and all
49 claims, damages or liabilities arising from or occasioned by the acts or
50 omissions to act of the authority or canal corporation pursuant to a
51 shared services agreement; provided, however, that the act or omission
52 from which such judgment or settlement arose occurred while the authori-
53 ty or canal corporation was acting within the scope of its functions
54 pursuant to a shared services agreement. No such settlement of any such



1 action, proceeding, claim or demand shall be made without the approval
2 of the authority's board of trustees or its designee.

3 6. Any claim or proceeding commenced against any unit, entity, officer
4 or employee of the authority or canal corporation that arises pursuant
5 to any shared services agreement shall not be construed in any way to
6 impair, alter, limit, modify, abrogate or restrict any immunity avail-
7 able to or conferred upon any unit, entity, officer or employee of the
8 authority or canal corporation, or to impair, alter, limit, modify,
9 abrogate or restrict any right to defense and indemnification provided
10 for any governmental officer or employee by, in accordance with, or by
11 reason of, any other provision of state or federal statutory or common
12 law.

13 7. (a) The state shall defend any unit, entity, officer or employee of
14 the authority and canal corporation using the forces of the department
15 of law in any action, proceeding, claim, demand or the prosecution of
16 any appeal arising from or occasioned by the acts or omissions to act in
17 the performance of the functions of the department pursuant to a shared
18 services agreement.

19 (b) Defense pursuant to paragraph (a) of this subdivision shall be
20 conditioned upon the full cooperation of the authority and canal corpo-
21 ration.

22 (c) The state shall indemnify and hold harmless any unit, entity,
23 officer or employee of the authority or canal corporation in the amount
24 of any judgment obtained against the authority or canal corporation in
25 the amount of any settlement the authority or canal corporation enters
26 into with the consent of the state for any and all claims, damages or
27 liabilities arising from or occasioned by the acts or omissions to act
28 on behalf of the department pursuant to a shared services agreement,
29 provided, however, that the act or omission from which such judgment or
30 settlement arose occurred while the department was acting within the
31 scope of its functions pursuant to a shared services agreement. Any such
32 settlement shall be executed pursuant to section twenty-a of the court
33 of claims act.

34 (d) Any claim or proceeding commenced against any unit, entity, offi-
35 cer or employee of the department pursuant to any shared services agree-
36 ment shall not be construed in any way to impair, alter, limit, modify,
37 abrogate or restrict any immunity available to or conferred upon any
38 unit, entity, officer or employee of the department, or to impair,
39 alter, limit, modify, abrogate or restrict any right to defense and
40 indemnification provided for any governmental officer or employee by, in
41 accordance with, or by reason of, any other provision of state or feder-
42 al statutory or common law.

43 (e) Any payment made pursuant to this subdivision or any monies paid
44 for a claim against or settlement with the department, authority or
45 canal corporation pursuant to this subdivision and pursuant to a shared
46 services agreement shall be paid from appropriations for payment by the
47 state pursuant to the court of claims act.

48 8. This section shall not in any way affect the obligation of any
49 claimant to give notice to the state, authority, or canal corporation
50 under section ten and section eleven of the court of claims act or any
51 other provision of law provided, however, that notice served upon the
52 state, authority, or canal corporation who is a party to the shared
53 services agreement shall be valid notice on all parties to the agree-
54 ment, when such claim arises out of such shared services agreement. The
55 state, authority and canal corporation shall notify each other when they

1 receive a notice of claim, notice of intention to make a claim or a
2 claim arising out of such agreement.

3 9. The provisions of this section shall not be construed to impair,
4 alter, limit or modify the rights and obligations of any insurer under
5 any insurance agreement.

6 10. Notwithstanding any other provision of law, when employed pursuant
7 to a shared services agreement, employees of the authority, canal corpo-
8 ration and department shall be deemed employees of all such entities and
9 the state for purposes of the workers' compensation law.

10 11. At the request of the authority or canal corporation, services and
11 assistance and legal services for the authority or canal corporation
12 shall be performed by forces or officers of the department and the
13 department of law respectively, and all other state officers, depart-
14 ments, boards, divisions and commissions shall render services within
15 their respective functions.

16 § 2. Subdivision 1 of section 17 of the public officers law is amended
17 by adding a new paragraph (z) to read as follows:

18 (z) For purposes of this section, the term "employee" shall include
19 members of the governing boards, officers and employees of the power
20 authority of the state of New York or its subsidiaries.

21 § 3. This act, being necessary for the prosperity of the state and its
22 inhabitants, shall be liberally construed to effect the purposes and
23 secure the beneficial intents hereof.

24 § 4. If any provision of any section of this act or the application
25 thereof to any person or circumstance shall be adjudged invalid by a
26 court of competent jurisdiction, such order or judgment shall be
27 confined in its operation to the controversy in which it was rendered,
28 and shall not affect or invalidate the remainder of any provision of any
29 section of this act or the application thereof to any other person or
30 circumstance and to this end the provisions of each section of this act
31 are hereby declared to be severable.

32 § 5. This act shall take effect immediately.

33

PART MM

34 Section 1. Expenditures of moneys by the New York state energy
35 research and development authority for services and expenses of the
36 energy research, development and demonstration program, including
37 grants, the energy policy and planning program, the zero emissions vehi-
38 cle and electric vehicle rebate program, and the Fuel NY program shall
39 be subject to the provisions of this section. Notwithstanding the
40 provisions of subdivision 4-a of section 18-a of the public service law,
41 all moneys committed or expended in an amount not to exceed \$19,700,000
42 shall be reimbursed by assessment against gas corporations, as defined
43 in subdivision 11 of section 2 of the public service law and electric
44 corporations as defined in subdivision 13 of section 2 of the public
45 service law, where such gas corporations and electric corporations have
46 gross revenues from intrastate utility operations in excess of \$500,000
47 in the preceding calendar year, and the total amount which may be
48 charged to any gas corporation and any electric corporation shall not
49 exceed one cent per one thousand cubic feet of gas sold and .010 cent
50 per kilowatt-hour of electricity sold by such corporations in their
51 intrastate utility operations in calendar year 2015. Such amounts shall
52 be excluded from the general assessment provisions of subdivision 2 of
53 section 18-a of the public service law. The chair of the public service
54 commission shall bill such gas and/or electric corporations for such

1 amounts on or before August 10, 2017 and such amounts shall be paid to
2 the New York state energy research and development authority on or
3 before September 10, 2017. Upon receipt, the New York state energy
4 research and development authority shall deposit such funds in the ener-
5 gy research and development operating fund established pursuant to
6 section 1859 of the public authorities law. The New York state energy
7 research and development authority is authorized and directed to: (1)
8 transfer \$1 million to the state general fund for services and expenses
9 of the department of environmental conservation, \$150,000 to the state
10 general fund for services and expenses of the department of agriculture
11 and markets, and \$750,000 to the University of Rochester laboratory for
12 laser energetics from the funds received; and (2) commencing in 2016,
13 provide to the chair of the public service commission and the director
14 of the budget and the chairs and secretaries of the legislative fiscal
15 committees, on or before August first of each year, an itemized record,
16 certified by the president and chief executive officer of the authority,
17 or his or her designee, detailing any and all expenditures and commit-
18 ments ascribable to moneys received as a result of this assessment by
19 the chair of the department of public service pursuant to section 18-a
20 of the public service law. This itemized record shall include an item-
21 ized breakdown of the programs being funded by this section and the
22 amount committed to each program. The authority shall not commit for
23 any expenditure, any moneys derived from the assessment provided for in
24 this section, until the chair of such authority shall have submitted,
25 and the director of the budget shall have approved, a comprehensive
26 financial plan encompassing all moneys available to and all anticipated
27 commitments and expenditures by such authority from any source for the
28 operations of such authority. Copies of the approved comprehensive
29 financial plan shall be immediately submitted by the chair to the chairs
30 and secretaries of the legislative fiscal committees. Any such amount
31 not committed by such authority to contracts or contracts to be awarded
32 or otherwise expended by the authority during the fiscal year shall be
33 refunded by such authority on a pro-rata basis to such gas and/or elec-
34 tric corporations, in a manner to be determined by the department of
35 public service.

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

38 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
39 sion, section or part of this act shall be adjudged by any court of
40 competent jurisdiction to be invalid, such judgment shall not affect,
41 impair, or invalidate the remainder thereof, but shall be confined in
42 its operation to the clause, sentence, paragraph, subdivision, section
43 or part thereof directly involved in the controversy in which such judg-
44 ment shall have been rendered. It is hereby declared to be the intent of
45 the legislature that this act would have been enacted even if such
46 invalid provisions had not been included herein.

47 § 3. This act shall take effect immediately provided, however, that
48 the applicable effective date of Parts A through MM of this act shall be
49 as specifically set forth in the last section of such Parts.