

**FY 2019 NEW YORK STATE EXECUTIVE BUDGET
TRANSPORTATION
ECONOMIC DEVELOPMENT AND
ENVIRONMENTAL CONSERVATION
ARTICLE VII LEGISLATION**

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S. -----
Senate

IN SENATE--Introduced by Sen

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

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

BUDGBI

(Enacts into law major components of
legislation necessary to implement
the state transportation, economic
development and environmental
conservation budget for the
2018-2019 state fiscal year)

BUDGBI. TED (Executive)

AN ACT

to amend the vehicle and traffic law
and the transportation law, in
relation to enhancing the ability of
the state to enforce state and
federal law relating to motor carri-
ers, commercial drivers and bus
operators and to increase penalties
for violations of state law relating
thereto (Part A); to amend the high-
way law, in relation to roadside

IN SENATE

Senate introducer's signature

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

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

IN ASSEMBLY

Assembly introducer's signature

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

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

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

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

rest areas (Part B); to amend the transportation law, in relating to enhancing the ability of the state to enforce state and federal law relating to the safety of rail fixed guideway public transportation systems under the oversight of the public transportation safety board (Part C); to amend the public authorities law, in relation to agreements for fiber optics (Part D); to amend the transportation law, in relation to authorizing the department of transportation to charge one hundred twenty dollars for a semi-annual inspection of certain for-profit fleets (Part E); to amend the highway law and the transportation corporations law, in relation to occupancy of the state right of way for a fee; and to amend the general municipal law, in relation to small wireless facilities development (Part F); to amend the vehicle and traffic law, in relation to seat belt requirements, proper safety restraints for children under the age of 8, prohibiting the use of mobile telephones and portable electronic devices by persons under the age of 18, and permitting junior license holders to operate a vehicle in New York City; and to amend the vehicle and traffic law and the public officers law, in relation to authorizing political subdivisions and commuter railroads to establish demonstration programs and to implement railroad grade crossing monitoring systems by means of photo devices (Part G); to amend part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, in relation to demonstrations and tests; in relation to the submission or reports; and in relation to extending the effectiveness thereof; relates to demonstrations and testing of motor vehicles equipped with autonomous vehicle technology; and to repeal section 1226 of the vehicle and traffic law, relating to control of steering mechanisms (Part H); to amend the state finance law, in

relation to removing the authorization for the OSC to prescribe a reporting requirement to the city of New York (Part I); to amend the vehicle and traffic law, in relation to establishing a pre-licensing course internet program; and providing for the repeal of such provisions upon expiration thereof (Part J); to amend the vehicle and traffic law, in relation to the disposition of certain proceeds collected by the commissioner of motor vehicles; to amend the transportation law and the tax law, in relation to the disposition of certain fees and assessments; to amend the state finance law, in relation to the special obligation reserve and payment account of the dedicated highway and bridge trust fund; to amend the public authorities law, in relation to the metropolitan transportation authority finance fund; and to amend the state finance law, in relation to the metropolitan transportation authority financial assistance fund; to repeal subdivision 5 of section 317 of the vehicle and traffic law relating to certain assessments charged and collected by the commissioner of motor vehicles; to repeal subdivision 6 of section 423-a of the vehicle and traffic law relating to funds collected by the department of motor vehicles from the sale of certain assets; and to repeal subdivision 4 of section 94 of the transportation law relating to certain fees collected by the commissioner of transportation (Part K); to amend the public authorities law, in relation to creation of transportation improvement subdistricts; and to amend the real property tax law, in relation to authorizing a tax levy to fund certain operations of the Metropolitan Transportation Authority (Part L); to amend the public authorities law, in relation to the funding of the capital program of the metropolitan transportation authority (Part M); to amend the public authorities law, in relation to acceleration of procure-

ment contracts made with foreign enterprises; in relation to acceleration of procurements made for smaller purchases; and in relation to the modification of service or funding agreements (Part N); 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 O); to amend the 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 P); to amend the executive law, the state finance law, the public authorities law, the public buildings law, and the penal law, in relation to the reauthorization of the minority and women-owned business enterprise program; to amend chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure fund, in relation to the effectiveness of certain provisions thereof; and to amend the executive law, in relation to establishing the workforce diversity program; and providing for the repeal of certain provisions upon expiration thereof (Part Q); to amend the infrastructure investment act, in relation to authorized entities and design-build contracts (Part R); 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 S); 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 T); to amend the general municipal law, in relation to brownfield opportunity areas (Part U); to repeal section 159-j of the executive law, relating to the local share requirement for providers under the federal community services block grant program (Part V); to amend the banking law, in relation to student loan servicers (Subpart A); to amend the financial services law, in relation to student debt collectors (Subpart B); and to amend the education law, in relation to student loan debtors (Subpart C) (Part W); to amend chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, in relation to the effectiveness thereof (Part X); to amend part S of chapter 58 of the laws of 2016, amending the New York state urban development corporation act relating to transferring the statutory authority for the promulgation of marketing orders from the department of agriculture and markets to the New York state urban development corporation, in relation to the effectiveness thereof (Part Y); to amend the real property tax law, in relation to the taxation of forest land; to amend the environmental conservation law, in relation to timber harvest notification and the creation of forest protection and management programs; and to amend the state finance law, in relation to the procurement of wood and wood fiber projects (Part Z); to amend the state finance law and the environmental conservation law, in relation to the environmental protection fund, the hazardous waste

remedial fund and the mitigation and remediation of solid waste sites; and to repeal certain provisions of the state finance law and the environmental conservation law relating thereto (Part AA); to amend the environmental conservation law, in relation to the donation of excess food and recycling of food scraps (Part BB); to amend the environmental conservation law, in relation to the Central Pine Barrens area and core preservation area (Part CC); 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 DD); authorizing the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY 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 EE); to amend the public authorities law, in relation to energy-related projects, programs and services of the power authority of the state of New York (Part FF); and to amend the public authorities law, in relation to the provision of renewable power and energy by the power authority of the state of New York (Part GG)

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 2018-2019
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through GG. 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,
7 including the effective date of the Part, which makes a reference to a
8 section "of this act", when used in connection with that particular
9 component, shall be deemed to mean and refer to the corresponding
10 section of the Part in which it is found. Section three of this act sets
11 forth the general effective date of this act.

12 PART A

13 Section 1. Subparagraph (iii) of paragraph (b) of subdivision 2 of
14 section 510 of the vehicle and traffic law, as amended by chapter 349 of
15 1993, is amended to read as follows:

16 (iii) such registrations shall be suspended when necessary to comply
17 with subdivision nine of section one hundred forty or subdivision four
18 of section one hundred forty-five of the transportation law or with an
19 out of service order issued by the United States department of transpor-
20 tation. The commissioner shall have the authority to deny a registration
21 or renewal application to any other person for the same vehicle and may
22 deny a registration or renewal application for any other motor vehicle
23 registered in the name of the applicant where it has been determined
24 that such registrant's intent has been to evade the purposes of this
25 subdivision and where the commissioner has reasonable grounds to believe
26 that such registration or renewal will have the effect of defeating the

1 purposes of this subdivision. Any suspension issued pursuant to this
2 subdivision by reason of an out of service order issued by the United
3 States department of transportation shall remain in effect until such
4 time as the commissioner is notified by the United States department of
5 transportation or the commissioner of transportation that the order
6 resulting in the suspension is no longer in effect.

7 § 2. Subdivision 3 of section 145 of the transportation law, as added
8 by chapter 635 of the laws of 1983, is amended to read as follows:

9 3. In addition to, or in lieu of, any sanctions set forth in this
10 section, the commissioner may, after a hearing, impose a penalty not to
11 exceed a maximum of five thousand dollars in any one proceeding upon any
12 person if the commissioner finds that such person or officer, agent or
13 employee thereof has failed to comply with the requirements of this
14 chapter or any rule, regulation or order of the commissioner promulgated
15 thereunder. Provided, however, that the commissioner may, after a hear-
16 ing, impose a penalty not to exceed ten thousand dollars in a second
17 proceeding for another violation committed within eighteen months and a
18 penalty not to exceed twenty-five thousand dollars in a third proceeding
19 for additional violations committed within eighteen months. If such
20 penalty is not paid within four months, the amount thereof may be
21 entered as a judgment in the office of the clerk of the county of Albany
22 and in any other county in which the person resides, has a place of
23 business or through which it operates. Thereafter, if said judgment has
24 not been satisfied within ninety days, any certificate or permit held by
25 any such person may be revoked upon notice but without a further hear-
26 ing. Provided, however, that if a person shall apply for a rehearing of
27 the determination of the penalty pursuant to the provisions of section
28 eighty-nine of this chapter, judgment shall not be entered until a

1 determination has been made on the application for a rehearing. Further
2 provided however, that if after a rehearing a penalty is imposed and
3 such penalty is not paid within four months of the date of service of
4 the rehearing decision, the amount of such penalty may be entered as a
5 judgment in the office of the clerk of the county of Albany and in any
6 other county in which the person resides, has a place of business or
7 through which it operates. Thereafter, if said judgment has not been
8 satisfied within ninety days, any certificate or permit held by any such
9 person may be revoked upon notice but without a further hearing.

10 § 3. This act shall take effect immediately.

11 PART B

12 Section 1. Subdivision 3 of section 20 of the highway law, as amended
13 by chapter 736 of the laws of 1984, is amended to read as follows:

14 3. The commissioner may in his discretion develop such sites by
15 providing any or all of the following: a water supply, sanitary facili-
16 ties, parking space for automobiles or such other commercial or non-com-
17 mercial facilities as are suitable for rest and relaxation stops by
18 highway travelers. The commissioner may also permit the installation of
19 vending machines dispensing such food, drink and other articles as he
20 deems appropriate or desirable. Such sites shall be suitably marked and
21 markings indicating their location may be erected on highways leading
22 thereto.

23 § 2. This act shall take effect immediately.

24 PART C

1 Section 1. Section 217 of the transportation law is amended by adding
2 a new subdivision 9 to read as follows:

3 9. To enforce the requirements of section five thousand three hundred
4 twenty-nine of title forty-nine of the United States Code, as amended
5 from time to time, as it pertains to rail fixed guideway public trans-
6 portation systems.

7 § 2. This act shall take effect immediately.

8 PART D

9 Section 1. Subdivision 6 of section 2897 of the public authorities law
10 is amended by adding a new paragraph f to read as follows:

11 f. Notwithstanding anything to the contrary contained in this section,
12 disposals for use of the New York state thruway authority's fiber optic
13 system, or any part thereof, may be made through agreements based on set
14 fees rather than public auction or negotiation, provided that:

15 (i) the thruway authority has determined the disposal of such property
16 complies with all applicable provisions of this chapter;

17 (ii) disposal of such property is in the best interest of the thruway
18 authority; and

19 (iii) the set fees established for use of the fiber optic system, or
20 part thereof, will be based on an appraisal of the fair market value of
21 the property.

22 Disposals of the fiber optic system, or any part thereof, will not
23 require the explanatory statements required by this section.

24 § 2. This act shall take effect immediately.

25 PART E

1 Section 1. The transportation law is amended by adding a new section
2 144 to read as follows:

3 § 144. Fees and charges. The commissioner or authorized officer or
4 employee of the department shall charge and collect one hundred twenty
5 dollars for the inspection or re-inspection of all motor vehicles trans-
6 porting passengers subject to the department's inspection requirements
7 pursuant to section one hundred forty of this article, except such motor
8 vehicles operated under contract with a municipality to provide state-
9 wide mass transportation operating assistance eligible service or motor
10 vehicles used primarily to transport passengers pursuant to subpara-
11 graphs (i), (iii) and (v) of paragraph a of subdivision two of section
12 one hundred forty of this article. The department may deny inspection of
13 any motor vehicle transporting passengers subject to the department's
14 inspection requirements if such fee is not paid within ninety days of
15 the date noted on the department invoice.

16 § 2. This act shall take effect immediately.

17 PART F

18 Section 1. The first undesignated paragraph of subdivision 24-b of
19 section 10 of the highway law, as amended by chapter 155 of laws of
20 1985, is amended to read as follows:

21 Have power, whenever such commissioner of transportation deems it is
22 necessary as a result of work of construction, reconstruction or mainte-
23 nance of state highways, to provide for the removal, relocation,
24 replacement or reconstruction of privately, publicly or cooperatively
25 owned water, storm and sewer lines and facilities, facilities for the
26 transmission and/or distribution of communications, power, electricity,

1 light, heat, gas, crude products, steam and other similar commodities,
2 municipal utility facilities, or facilities of a corporation organized
3 pursuant to the transportation corporations law that are located on
4 privately owned property. Notwithstanding any other provision of any
5 law, the commissioner of transportation may enter into an agreement with
6 a fiber optic utility for occupancy of the state right of way, provided
7 however, any provider occupying a right of way in fulfillment of a state
8 grant award through the New NY Broadband Program shall not be subject to
9 a fee for such occupancy, and provided further, any fee for occupancy
10 charged to a fiber optic utility shall be prohibited from being passed
11 through in whole or in part as a fee, charge, increased service cost, or
12 by any other means by a fiber optic utility to any person or entity that
13 contracts with such fiber optic utility for service, and provided
14 further that any compensation received by the state pursuant to such
15 agreement shall be deposited by the comptroller into the special obli-
16 gation reserve and payment account of the dedicated highway and bridge
17 trust fund established pursuant to section eighty-nine-b of the state
18 finance law. If such work requires additional property or if it is
19 necessary that the relocation of such facilities be made to other prop-
20 erty, he may acquire such property as may be necessary for the purposes
21 of this subdivision, in the same manner as other property is acquired
22 for state highway purposes pursuant to this chapter, and he and the
23 owner of such facilities may enter into a written agreement to convey
24 such property as deemed necessary for the purposes of this subdivision
25 to such owner on terms beneficial to the state. The expense of such
26 removal, relocation, replacement or reconstruction and cost of property
27 acquisition shall be a proper charge against funds available for the
28 construction, reconstruction or maintenance of state highways. Except

1 when such facilities are owned by a corporation organized pursuant to
2 the transportation corporations law, the work of such removal, relo-
3 cation, replacement or reconstruction shall be performed by contract in
4 the same manner as provided for state highways in article three of this
5 chapter, or, by the use of departmental forces and equipment and of
6 materials purchased therefor, unless the commissioner of transportation
7 consents to having the owner of such facilities provide for the work of
8 such removal, relocation, replacement or reconstruction. In the case
9 where such facilities are owned by a corporation organized pursuant to
10 the transportation corporations law, the work of such removal, relo-
11 cation, replacement or reconstruction shall be provided for by such
12 corporation unless it consents to having the commissioner of transporta-
13 tion provide for such work to be performed by contract, in accordance
14 with specifications provided by such corporation, in the same manner as
15 provided for state highways in article three of this chapter, or, by the
16 use of departmental forces and equipment and of materials purchased
17 therefor. Upon the completion of the work, such facilities shall be
18 maintained by the owners thereof.

19 § 2. The transportation corporations law is amended by adding a new
20 section 7 to read as follows:

21 § 7. Agreement for fiber optic utility occupancy of state right of
22 way. Notwithstanding any other provision of any law, the commissioner of
23 transportation may enter into an agreement with a fiber optic utility
24 for occupancy of the state right of way, provided however, any provider
25 occupying a right of way in fulfillment of a state grant award through
26 the New NY Broadband Program shall not be subject to a fee for such
27 occupancy, and provided further, any fee for occupancy charged to a
28 fiber optic utility shall be prohibited from being passed through in

1 whole or in part as a fee, charge, increased service cost, or by any
2 other means by a fiber optic utility to any person or entity that
3 contracts with such fiber optic utility for service, and provided
4 further that any compensation received by the state pursuant to such
5 agreement shall be deposited by the comptroller into the special obli-
6 gation reserve and payment account of the dedicated highway and bridge
7 trust fund established pursuant to section eighty-nine-b of the state
8 finance law.

9 § 3. The general municipal law is amended by adding a new article 13-E
10 to read as follows:

11 ARTICLE 13-E

12 SMALL WIRELESS FACILITIES DEPLOYMENT

13 Section 300. Definitions.

14 301. Use of right of way.

15 302. Collocation of small wireless facilities and micro wireless
16 facilities.

17 303. Access to municipal corporation structures.

18 304. Local authority

19 305. Dispute resolution.

20 306. Indemnification.

21 § 300. Definitions. For the purposes of this article, the following
22 terms shall have the following meanings unless the context indicates
23 otherwise:

24 1. "Antenna" means communications equipment that transmits or receives
25 electromagnetic radio frequency signals used in the provision of wire-
26 less services.

1 2. "Applicable codes" means the New York State uniform fire prevention
2 and building code as adopted, and as may be amended, pursuant to article
3 eighteen of the executive law.

4 3. "Applicant" means any person or entity that files an application
5 with a municipal corporation to install or modify wireless facilities on
6 behalf of a communications service provider or wireless provider.

7 4. "Application" means a request submitted by an applicant to a local
8 government for a permit to collocate small wireless facilities; or to
9 approve the installation or modification of a utility pole or wireless
10 support structure.

11 5. "Application fee" means the one time fee charged to an applicant by
12 a municipal corporation for review of an application. The application
13 fee may not exceed the actual reasonable costs incurred by the municipal
14 corporation in connection with its review of the application.

15 6. "Pole" means: (i) a utility pole, other than a utility pole for
16 designated services, owned or operated by a municipal corporation in the
17 right of way, including a utility pole that provides lighting or traffic
18 control functions, including light poles, traffic signals, and struc-
19 tures for signage; and (ii) a pole or similar structure owned or oper-
20 ated by a municipal corporation in the right of way that supports only
21 wireless facilities.

22 7. "Base station" means wireless facilities or a wireless support
23 structure or utility pole that currently supports wireless facilities.
24 The term does not include a tower, as defined in 47 U.S.C. §
25 1.40001(b)(9), or associated wireless facilities.

26 8. "Collocate" means to install, mount, maintain, modify, operate, or
27 replace wireless facilities on or adjacent to a wireless support struc-

1 ture or utility pole. The term "collocation" has a corresponding mean-
2 ing.

3 9. "Communications service provider" means a cable operator, as
4 defined in 47 U.S.C. § 522(5); a provider of information service, as
5 defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined
6 in 47 U.S.C. § 153(51); or a wireless provider.

7 10. "FCC" means the Federal Communications Commission of the United
8 States.

9 11. "Fee" means a one-time charge.

10 12. "Law" means federal, state, or local law, statute, common law,
11 code, rule, regulation, order, or ordinance.

12 13. "Micro wireless facility" means a wireless facility that meets the
13 following qualifications: (i) is not larger in dimension than twenty-
14 four inches in length, fifteen inches in width, and twelve inches in
15 height; and (ii) any exterior antenna is no longer than eleven inches.

16 14. "Permit" means a written authorization required by a municipal
17 corporation to perform an action or initiate, continue, or complete a
18 project relating to the installation or modification of wireless facili-
19 ties.

20 15. "Person" means an individual, corporation, limited liability
21 company, partnership, association, trust, or other entity or organiza-
22 tion.

23 16. "Rate" means a recurring charge.

24 17. "Right of way" or "ROW" means the area on, below, or above a
25 public roadway, highway, street, sidewalk, alley, utility easement, or
26 similar property, but not including a federal interstate highway.

27 18. "Small wireless facility" means a wireless facility that meets
28 both of the following qualifications: (i) each antenna is located inside

1 an enclosure of no more than six cubic feet in volume or, in the case of
2 an antenna that has exposed elements, the antenna and all of its exposed
3 elements could fit within an imaginary enclosure of no more than six
4 cubic feet; and (ii) all other wireless equipment associated with the
5 facility is cumulatively no more than twenty-eight cubic feet in volume.
6 The following types of associated ancillary equipment are not included
7 in the calculation of equipment volume: electric meter, concealment
8 elements, telecommunications demarcation box, ground-based enclosures,
9 grounding equipment, power transfer switch, cut-off switch, and vertical
10 cable runs for the connection of power and other services.

11 19. "Substantial modification" means a proposed modification to an
12 existing wireless support structure or base station which will substan-
13 tially change the physical dimensions of the wireless support structure
14 or base station under the objective standard for substantial change
15 adopted by the Federal Communications Commission pursuant to 47 C.F.R. §
16 1.40001.

17 20. "Utility pole" means a pole or similar structure that is used in
18 whole or in part by a communications service provider or for electric
19 distribution, lighting, traffic control, signage, or a similar function.
20 Such term shall not include structures supporting only wireless facili-
21 ties.

22 21. "Utility pole for designated services" means a utility pole owned
23 or operated in the ROW by a municipal corporation, a public utility
24 district, an electric membership corporation, or a rural electric coop-
25 erative that is designed to, or used in whole or in part for the purpose
26 of carrying electric distribution lines or cables or wires for telecom-
27 munications, cable, or electric service.

1 22. "Wireless facility" means equipment at a fixed location that
2 enables wireless communications between user equipment and a communi-
3 cations network, including: (i) equipment associated with wireless
4 communications; and (ii) radio transceivers, antennas, coaxial or
5 fiber-optic cable, regular and backup power supplies, and comparable
6 equipment, regardless of technological configuration. The term includes
7 small wireless facilities and micro wireless facilities. The term does
8 not include the structure or improvements on, under, or within which the
9 equipment is collocated. The term does not include: (i) the structure or
10 improvements on, under, or within which the equipment is collocated; or
11 (ii) coaxial or fiber-optic cable that is between wireless structures or
12 utility poles or that is otherwise not immediately adjacent to or
13 directly associated with a particular antenna.

14 23. "Wireless infrastructure provider" means any person, including a
15 person authorized to provide telecommunications service in the state,
16 that builds or installs wireless communication transmission equipment,
17 wireless facilities or wireless support structures, but that is not a
18 wireless services provider.

19 24. "Wireless provider" means a wireless infrastructure provider or a
20 wireless services provider.

21 25. "Wireless services" means any services, whether at a fixed
22 location or mobile, provided using wireless facilities.

23 26. "Wireless services provider" means any person or entity that
24 provides wireless services.

25 27. "Wireless support structure" means a freestanding structure, such
26 as a monopole; tower, either guyed or self-supporting; billboard; or,
27 other existing or proposed structure designed to support or capable of

1 supporting wireless facilities. Such term shall not include a utility
2 pole.

3 § 301. Use of right of way. 1. Applicability. This section shall only
4 apply to the activities of a wireless provider within the right of way.

5 2. Exclusive use prohibited. A municipal corporation may not enter
6 into an exclusive arrangement with any person for use of the right of
7 way for the construction, operation, marketing, or maintenance of wire-
8 less facilities or wireless support structures or the collocation of
9 small wireless facilities or micro wireless facilities.

10 3. Right of way rates and fees. A municipal corporation may only
11 charge a wireless provider a rate or fee for the use of the right of way
12 with respect to the construction, installation, mounting, maintenance,
13 modification, operation, or replacement of a wireless facility or wire-
14 less support structure in the right of way, including collocation in
15 such right of way, if the municipal corporation charges other communi-
16 cations service providers or publicly, cooperatively, or municipally
17 owned utilities for the use of the right of way. If a municipal corpo-
18 ration is authorized by applicable law to charge a rate or fee to those
19 persons or entities, and does so, any such rate or fee for a wireless
20 provider must be: (i) limited to no more than the direct and actual cost
21 of managing the right of way; and (ii) competitively neutral with regard
22 to other users of the right of way, including investor, municipal corpo-
23 ration, or cooperatively owned entities. No rate or fee may: (i) result
24 in a double recovery where existing rates, fees, or taxes already
25 recover the direct and actual costs of managing the rights of way; (ii)
26 be in the form of a franchise or other fee based on revenue or customer
27 counts; (iii) be unreasonable or discriminatory; (iv) violate any appli-
28 cable law; or (v) exceed an annual amount equal to twenty dollars times

1 the number of utility poles or wireless support structures in the munic-
2 ipal corporation's geographic jurisdiction on which the wireless provid-
3 er has collocated a small wireless facility antenna. Notwithstanding the
4 foregoing, in recognition of the public benefits of the deployment of
5 wireless services, a municipal corporation is permitted, on a nondiscri-
6 minatory basis, to refrain from charging any rate or fee to a wireless
7 provider for the use of the right of way.

8 4. Rate or fee adjustment. Should a municipal corporation have an
9 existing rate or fee to construct, install, mount, maintain, modify,
10 operate, or replace a wireless facility or wireless support structure in
11 the ROW, including collocation in such ROW, controlled by the municipal
12 corporation and such rate or fee does not comply with the requirements
13 in subdivision three of this section, not later than six months follow-
14 ing the effective date of this article, the municipal corporation shall
15 implement a revised rate or fee to ensure compliance with such subdivi-
16 sion three for all affected persons.

17 5. Right of access. Subject to the provisions of this section and
18 approval of an application, if required, a wireless provider shall have
19 the right, as a permitted use not subject to zoning review or approval,
20 but subject to the issuance of a permit by the municipal corporation as
21 provided in this article, to collocate wireless facilities and
22 construct, modify, maintain, and operate utility poles, wireless support
23 structures, conduit, cable, and related appurtenances and facilities
24 along, across, upon, and under the ROW. Such structures and facilities
25 shall be so constructed and maintained as not to obstruct or hinder the
26 usual travel or public safety on such ROW or obstruct the legal use of
27 such ROW by other utilities. Each new or modified utility pole and wire-
28 less support structure installed in the ROW shall not exceed the greater

1 of (i) ten feet in height above the tallest existing utility pole in
2 place as of the effective date of this article located within five
3 hundred feet of the new pole in the same ROW; or (ii) fifty feet above
4 ground level. New wireless facilities in the ROW may not extend (i) more
5 than ten feet above an existing utility pole or wireless support struc-
6 ture in place as of the effective date of this article; or (ii) above
7 the height permitted for a new utility pole or wireless support struc-
8 ture under this section. Notwithstanding the foregoing:

9 a. Subject to this article, a wireless provider shall have the right
10 to construct, modify and maintain a utility pole, wireless support
11 structure, or wireless facility that exceeds these size limits along,
12 across, upon and under the ROW, subject to review in accordance with
13 applicable municipal zoning regulations; and

14 b. Applicants shall comply with nondiscriminatory undergrounding
15 requirements after obtaining prior zoning approval in areas zoned for
16 single family residential use, provided that such requirements shall not
17 prohibit the replacement of existing structures or result in an effec-
18 tive prohibition of services. In all other zoning districts, prior
19 zoning approval shall not be required for undergrounding new infrastruc-
20 ture associated with small wireless facilities.

21 6. No discrimination. The municipal corporation, in the exercise of
22 its administration and regulation related to the management of the ROW
23 must be competitively neutral with regard to other users of the ROW,
24 including that terms may not be unreasonable or discriminatory and may
25 not violate any applicable law.

26 7. Damage and repair. The municipal corporation may require a wireless
27 provider to repair all damage to the ROW directly caused by the activ-
28 ities of the wireless provider, while occupying, installing, repairing

1 or maintaining wireless facilities, wireless support structures, or
2 utility poles in the ROW and to return the ROW to its functional equiv-
3 alence before the damage pursuant to the competitively neutral, reason-
4 able requirements and specifications of the municipal corporation. If
5 the wireless provider fails to make the repairs reasonably required by
6 the municipal corporation within a reasonable time after written notice,
7 the municipal corporation may effect those repairs and charge the appli-
8 cable party the reasonable, documented actual cost of such repairs.

9 § 302. Collocation of small wireless facilities and micro wireless
10 facilities. 1. Applicability. The provisions of this section shall apply
11 to activities of a wireless provider within or outside of the right of
12 way.

13 2. Except as expressly provided in this article, no municipal corpo-
14 ration may regulate, prohibit or charge for the collocation of
15 small/micro wireless facilities.

16 3. Small wireless facilities and micro wireless facilities shall be
17 classified as permitted uses and not subject to zoning review or
18 approval if they are collocated: (i) in the right of way in any zoning
19 district; or (ii) outside the right of way in property not zoned exclu-
20 sively for single family residential use.

21 4. A municipal corporation may require an applicant to obtain one or
22 more permits to collocate a small wireless facility, provided such
23 permits are of general applicability and do not apply exclusively to
24 wireless facilities. A municipal corporation shall receive applications
25 for, process, and issue such Permits subject to the following require-
26 ments: (i) no municipal corporation may, directly or indirectly, require
27 an applicant to perform services unrelated to the collocation for which
28 approval is sought, such as in-kind contributions to the municipal

1 corporation, including reserving fiber, conduit, or pole space for the
2 municipal corporation; (ii) no applicant shall be required to provide
3 more information to obtain a permit than communications service provid-
4 ers that are not wireless providers; (iii) within ten days of receiving
5 an application, a municipal corporation shall determine and notify the
6 applicant whether the application is complete. If an application is
7 incomplete, the municipal corporation shall specifically identify what
8 information is missing; (iv) an application shall be processed on a
9 nondiscriminatory basis and shall be deemed approved if the municipal
10 corporation fails to otherwise approve or deny the application within
11 sixty days of receipt; and (v) a municipal corporation shall approve an
12 application unless it does not meet the requirements of this article.
13 The municipal corporation shall document the basis for any denial,
14 including the specific code provisions on which the denial was based,
15 and send the documentation to the applicant on or before the day the
16 municipal corporation denies the application. The applicant may cure the
17 deficiencies identified by the municipal corporation and resubmit the
18 application within thirty days of the denial without paying an addi-
19 tional application fee. The municipal corporation shall approve or deny
20 the revised application within thirty days. Any subsequent review shall
21 be limited to the deficiencies cited in the denial; (vi) an applicant
22 seeking to collocate small wireless facilities within the jurisdiction
23 of a single municipal corporation shall be allowed, at the applicant's
24 discretion, to file a consolidated application and receive a single
25 permit for the collocation of multiple small wireless facilities; (vii)
26 collocation for which a permit has been granted shall commence within
27 one year of approval and shall be pursued to completion; and (viii) no
28 municipal corporation may institute, either expressly or de facto, a

1 moratorium on: a. filing, receiving, or processing applications; or b.
2 issuing permits or other approvals, if any, for the collocation of small
3 wireless facilities.

4 5. Application fees shall be subject to the following requirements:

5 (i) a municipal corporation may charge an application fee only if such
6 fee is required for similar types of commercial development within the
7 municipal corporation's jurisdiction; (ii) a municipal corporation shall
8 only charge a fee for the actual, direct, and reasonable costs incurred
9 by the municipal corporation relating to the granting or processing of
10 an application. Such fees shall be reasonably related in time to the
11 incurring of such costs. Where such costs are already recovered by
12 existing fees, rates, or taxes paid by a wireless provider, no applica-
13 tion fee shall be assessed to recover such costs; (iii) a fee may not
14 include: a. travel expenses incurred by a third party in its review of
15 an application; or b. direct payment or reimbursement of third party
16 rates or fees charged on a contingency basis or a result-based arrange-
17 ment; (iv) in any controversy concerning the appropriateness of a fee,
18 the municipal corporation shall have the burden of proving that the fee
19 is reasonably related to the actual, direct, and reasonable costs
20 incurred by the municipal corporation; (v) total application fees, where
21 permitted, shall not exceed the lesser of the amount charged by the
22 municipal corporation for: a. a building permit for any similar commer-
23 cial construction, activity, or land use development; or b. one hundred
24 dollars each for up to five small wireless facilities addressed in an
25 application and fifty dollars for each additional small wireless facili-
26 ty addressed in the application.

27 6. No municipal corporation shall require an application for: (i)
28 routine maintenance; (ii) the replacement of wireless facilities with

1 wireless facilities that are substantially similar or the same size or
2 smaller; or (iii) the installation, placement, maintenance, operation or
3 replacement of micro wireless facilities that are strung on cables
4 between existing utility poles, in compliance with the national elec-
5 trical safety code. A municipal corporation may require a permit to work
6 within the right of way for such activities, if applicable. Any such
7 permits shall be subject to the requirements of this section.

8 § 303. Access to municipal corporation structures. 1. Collocation of
9 small wireless facilities on or adjacent to municipal corporation poles
10 and utility poles for designated services. (i) Exclusive arrangements
11 prohibited. A person owning or controlling municipal poles or utility
12 poles for designated services may not enter into an exclusive arrange-
13 ment with any person for the right to attach to or adjacent to such
14 poles.

15 (ii) Rates. a. The rates and fees for collocations on or adjacent to
16 municipal corporation poles or utility poles for designated services
17 shall be nondiscriminatory regardless of the services provided by the
18 collocating person; b. the rate to collocate on or adjacent to utility
19 poles for designated services may not exceed the annual recurring rate
20 that would be permitted under rules adopted by the FCC under 47 U.S.C. §
21 224(e) if the rates were regulated by the FCC or twenty dollars per year
22 per wooden utility pole or two hundred dollars per year per metal,
23 concrete, or fiberglass utility pole, whichever is less; c. the rate to
24 collocate on municipal corporation poles shall recover the actual,
25 direct, and reasonable costs related to the applicant's application for
26 and use of space on the municipal corporation pole; d. the total annual
27 rate for collocations and any activities related to such collocations
28 shall not exceed the lesser of actual, direct, and reasonable costs

1 related to the collocation on or adjacent to the pole or twenty dollars
2 per year per wooden utility pole or two hundred dollars per year per
3 metal, concrete, or fiberglass utility pole, whichever is less; e. in
4 any controversy concerning the appropriateness of a rate for a municipal
5 corporation's pole, the municipal corporation shall have the burden of
6 proving that the rates are reasonably related to the actual, direct, and
7 reasonable costs incurred for use of space on the pole for such period;
8 f. should a municipal corporation, municipally-owned or operated-per-
9 son, public utility district, or cooperative have an existing pole
10 attachment rate, fee, or other term that does not comply with the
11 requirements of this section, the municipal corporation, municipally-
12 owned or operated person, public utility district, or cooperative shall,
13 not later than six months following the effective date of this article,
14 reform such rate, fee, or term in compliance with this subdivision.

15 (iii) Rates, fees, and terms to be offered. Persons owning or control-
16 ling municipal corporation poles and utility poles for designated
17 services shall offer rates, fees, and other terms that comply with the
18 provision set forth in this section within the later of six months of
19 the effective date of this article or three months after receiving a
20 request to collocate its first small wireless facility on a municipal
21 corporation pole or a utility pole for designated services owned or
22 controlled by a municipal corporation.

23 2. Collocation on or adjacent to municipal corporation wireless
24 support structures and utility poles outside the right of way. A munici-
25 pal corporation shall authorize the collocation of small wireless facil-
26 ities and micro wireless facilities on or adjacent to wireless support
27 structures and utility poles owned or controlled by a municipal corpo-
28 ration that are not located within the right of way to the same extent

1 the municipal corporation permits access to such structures for other
2 commercial projects or uses. Such collocations shall be subject to
3 reasonable and nondiscriminatory rates, fees, and terms as provided in
4 an agreement between the municipal corporation and the wireless provid-
5 er.

6 § 304. Local authority. Subject to the provisions of this article and
7 applicable federal law, a municipal corporation may continue to exercise
8 zoning, land use, planning and permitting authority within its territo-
9 rial boundaries, including with respect to wireless support structure
10 and utility poles; except that no municipal corporation shall have or
11 exercise any jurisdiction or authority over the design, engineering,
12 construction, installation, or operation of any small wireless facility
13 or micro wireless facility located in an interior structure or upon the
14 site of any campus, stadium, or athletic facility not otherwise owned or
15 controlled by the municipal corporation, other than to comply with
16 applicable codes. Nothing in this article authorizes the state or any
17 political subdivision, including a municipal corporation, to require
18 wireless facility deployment or to regulate wireless services.

19 § 305. Dispute resolution. Courts of competent jurisdiction shall have
20 jurisdiction to determine all disputes arising under this article.

21 § 306. Indemnification. No municipal corporation shall require a
22 wireless provider to indemnify and hold the municipal corporation and
23 its officers and employees harmless against any claims, lawsuits, judg-
24 ments, costs, liens, losses, expenses or fees, except when a court of
25 competent jurisdiction has found that the negligence of the wireless
26 provider while installing, repairing or maintaining caused the harm that
27 created such claims, lawsuits, judgments, costs, liens, losses,
28 expenses, or fees or to require a wireless provider to obtain insurance

1 naming the municipal corporation or its officers and employees an addi-
2 tional insured against any of the foregoing.

3 § 4. This act shall take effect immediately; provided, however, that
4 section three of this act shall take effect on the thirtieth day after
5 it shall have become a law.

6 PART G

7 Section 1. Paragraph (c) of subdivision 3 of section 501 of the vehi-
8 cle and traffic law, as added by chapter 449 of the laws of 1989, is
9 amended to read as follows:

10 (c) in the city of New York, [driving shall be prohibited] from five
11 o'clock in the morning to nine o'clock in the evening, when accompanied
12 by a person at least twenty-one years of age and who is a duly licensed
13 parent, guardian, person in a position of loco parentis to the licensee,
14 driver education teacher, or driving school instructor, when operating a
15 vehicle equipped with dual brake controls.

16 § 2. Subdivision 2 of section 510-c of the vehicle and traffic law, as
17 amended by section 5 of part B of chapter 55 of the laws of 2014, is
18 amended to read as follows:

19 2. For purposes of this section, the term "serious traffic violation"
20 shall mean operating a motor vehicle in violation of any of the follow-
21 ing provisions of this chapter: articles twenty-five and twenty-six;
22 subdivision one of section six hundred; section six hundred one;
23 sections eleven hundred eleven, eleven hundred seventy, eleven hundred
24 seventy-two and eleven hundred seventy-four; subdivisions (a), (b), (c),
25 (d) and (f) of section eleven hundred eighty, provided that the
26 violation involved ten or more miles per hour over the established

1 limit; section eleven hundred eighty-two; subdivision [three-a] three-b
2 of section twelve hundred twenty-nine-c for violations involving use of
3 safety belts or seats by a child under the age of sixteen; and section
4 twelve hundred twelve of this chapter.

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

8 2-a. No person under eighteen years of age shall operate a motor vehi-
9 cle upon a public highway while engaging in a call with a hand-held or
10 hands-free mobile telephone. For the purposes of this subdivision,
11 engaging in a call shall include making or receiving a call with a hand-
12 held or hands-free mobile telephone.

13 3. [Subdivision] Subdivisions two and two-a of this section shall not
14 apply to (a) the use of a mobile telephone for the sole purpose of
15 communicating with any of the following regarding an emergency situ-
16 ation: an emergency response operator; a hospital, physician's office or
17 health clinic; an ambulance company or corps; a fire department,
18 district or company; or a police department, (b) any of the following
19 persons while in the performance of their official duties: a police
20 officer or peace officer; a member of a fire department, district or
21 company; or the operator of an authorized emergency vehicle as defined
22 in section one hundred one of this chapter, or (c) except as applied to
23 persons under the age of eighteen years, the use of a hands-free mobile
24 telephone.

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

1 (a) "Portable electronic device" shall mean any hand-held mobile tele-
2 phone, as defined by subdivision one of section twelve hundred twenty-
3 five-c of this article, personal digital assistant (PDA), handheld
4 device with mobile data access, laptop computer, pager, broadband
5 personal communication device, two-way messaging device, electronic
6 game, or portable computing device, or any other [electronic] personal
7 wireless communications device when used to input, write, send, receive,
8 or read text or images for present or future communication, including
9 doing so for the purpose of SMS texting, emailing, instant messaging, or
10 engaging in any other form of electronic data retrieval or electronic
11 data communication.

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

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

21 (e) "Personal wireless communications device" (i) means a device
22 through which personal wireless services (as defined in section
23 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C.
24 332(c)(7)(C)(i))) are transmitted; and

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

1 § 6. Subdivision 4 of section 1225-d of the vehicle and traffic law,
2 as amended by section 10 of part C of chapter 58 of the laws of 2013, is
3 amended to read as follows:

4 4. A person who [holds] uses a portable electronic device in a
5 conspicuous manner while operating a motor vehicle or while operating a
6 commercial motor vehicle on a public highway including while temporarily
7 stationary because of traffic, a traffic control device, or other momen-
8 tary delays but not including when such commercial motor vehicle is
9 stopped at the side of, or off, a public highway in a location where
10 such vehicle is not otherwise prohibited from stopping by law, rule,
11 regulation or any lawful order or direction of a police officer is
12 presumed to be using such device, except that a person operating a
13 commercial motor vehicle while using a portable electronic device when
14 such vehicle is stopped at the side of, or off, a public highway in a
15 location where such vehicle is not otherwise prohibited from stopping by
16 law, rule, regulation or any lawful order or direction of a police offi-
17 cer shall not be presumed to be using such device. The presumption
18 established by this subdivision is rebuttable by evidence tending to
19 show that the operator was not using the device within the meaning of
20 this section.

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

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

1 § 8. Subdivision 13 of section 1229-c of the vehicle and traffic law,
2 as amended by chapter 20 of the laws of 2008, is amended to read as
3 follows:

4 13. Notwithstanding the provisions of subdivision four of this
5 section, no person shall operate a school bus for which there are no
6 applicable federal school bus safety standards unless all occupants are
7 restrained by a safety belt approved by the commissioner or, regarding
8 occupants age four or older but under age [seven] eight, are restrained
9 pursuant to subdivision one or two of this section.

10 § 9. The vehicle and traffic law is amended by adding a new section
11 1170-a to read as follows:

12 § 1170-a. Owner liability for failure of operator to obey signal indi-
13 cating approach of train. (a) 1. Notwithstanding any other provision of
14 law, any political subdivision as defined herein is hereby authorized
15 and empowered to adopt and amend a local law, ordinance or resolution
16 establishing a demonstration program imposing monetary liability on the
17 owner of a vehicle for failure of an operator thereof to comply with
18 section eleven hundred seventy of this article. Such demonstration
19 program shall empower a political subdivision to install and operate
20 railroad grade crossing photo violation-monitoring devices at any rail-
21 road sign or signal over which it has jurisdiction. The cost of the
22 photo violation monitoring devices may be borne by the political subdi-
23 vision, a commuter railroad operating within such political subdivision,
24 or a combination of both such political subdivision and commuter rail-
25 road pursuant to a memorandum of understanding.

26 2. Such demonstration program shall utilize necessary technologies to
27 ensure, to the extent practicable, that photographs produced by such
28 railroad grade crossing photo violation-monitoring systems shall not

1 include images that identify the driver, the passengers or the contents
2 of the vehicle. Notwithstanding any foregoing, no notice of liability
3 issued pursuant to this section shall be dismissed solely because a
4 photograph or photographs allow for the identification of the contents
5 of a vehicle, provided that such political subdivision has made a
6 reasonable effort to comply with the provisions of this paragraph.

7 (b) Within the jurisdiction of any such political subdivision which
8 has adopted a local law, ordinance or resolution pursuant to subdivision
9 (a) of this section, the owner of a vehicle shall be liable for a penal-
10 ty imposed pursuant to this section if such vehicle was used or operated
11 with the permission of the owner, express or implied, in violation of
12 section eleven hundred seventy of this article, and such violation is
13 evidence by information obtained from a railroad grade crossing photo
14 violation-monitoring system; provided, however, that no owner of a vehi-
15 cle shall be liable for a penalty imposed pursuant to this section where
16 the operator of such vehicle has been convicted of the underlying
17 violation of section eleven hundred seventy of this article.

18 (c) For purposes of this section, the following terms shall have the
19 following meaning:

20 1. "Owner" shall have the meaning provided in article two-B of this
21 chapter;

22 2. "Railroad grade crossing photo violation-monitoring system" shall
23 mean a vehicle sensor installed to work in conjunction with a railroad
24 sign or signal which automatically produces two or more photographs, two
25 or more microphotographs, a videotape or other recorded images of each
26 vehicle at the time it is used or operated in violation of section elev-
27 en hundred seventy of this article;

1 3. "Political subdivision" shall mean a county, city, town, or village
2 located in the metropolitan commuter transportation district, as such
3 district is defined in section twelve hundred sixty-two of the public
4 authorities law; and

5 4. "Commuter railroad" shall mean a railroad owned and operated by the
6 metropolitan transportation authority within the metropolitan commuter
7 transportation district, as such term is defined in section twelve
8 hundred sixty-two of the public authorities law.

9 (d) A certificate, sworn to or affirmed by a technician employed by
10 the commuter railroad or by the political subdivision in which the
11 charged violation occurred, or a facsimile thereof, based upon
12 inspection of photographs, microphotographs, videotape or other recorded
13 images produced by a railroad grade crossing photo violation-monitoring
14 system, shall be prima facie evidence of the facts contained therein.
15 Any photographs, microphotographs, videotape or other recorded images
16 evidencing such a violation shall be available for inspection in any
17 proceeding to adjudicate the liability for such violation pursuant to a
18 local law, ordinance or resolution adopted pursuant to this section.

19 (e) An owner liable for a violation of section eleven hundred seventy
20 of this article pursuant to a local law, ordinance or resolution adopted
21 pursuant to this section shall be liable for monetary penalties in
22 accordance with a schedule of fines and penalties to be established in
23 such local law, ordinance or resolution. The liability of the owner
24 pursuant to this section shall not exceed two hundred fifty dollars for
25 each violation; provided, however, that an adjudicating authority may
26 provide for an additional penalty not in excess of fifty dollars for
27 each violation for the failure to respond to a notice of liability with-
28 in the prescribed period of time.

1 (f) An imposition of liability under a local law, ordinance or resol-
2 ution adopted pursuant to this section shall not be deemed a conviction
3 as an operator and shall not be made part of the operating record of the
4 person upon whom such liability is imposed nor shall it be used for
5 insurance purposes in the provision of motor vehicle insurance coverage.

6 (g) 1. A notice of liability shall be sent by first class mail to each
7 person alleged to be liable as an owner for a violation of section elev-
8 en hundred seventy of this article pursuant to this section. Personal
9 delivery on the owner shall not be required. A manual or automatic
10 record of mailing prepared in the ordinary course of business shall be
11 prima facie evidence of the facts contained therein.

12 2. A notice of liability shall contain the name and address of the
13 person alleged to be liable as an owner for a violation of section elev-
14 en hundred seventy of this article pursuant to this section, the regis-
15 tration number of the vehicle involved in such violation, the location
16 where such violation took place, the date and time of such violation and
17 the identification number of the camera which recorded the violation or
18 other document locator number.

19 3. The notice of liability shall contain information advising the
20 person charged of the manner and the time in which he or she may contest
21 the liability alleged in the notice. Such notice of liability shall also
22 contain a warning to advise the person charged that failure to contest
23 in the manner and time provided shall be deemed an admission of liabil-
24 ity and that a default judgment may be entered thereon.

25 4. The notice of liability shall be prepared and mailed by the poli-
26 tical subdivision, or by any other entity authorized by such political
27 subdivision to prepare and mail such notification of violation.

1 (h) Adjudication of the liability imposed upon owners by this section
2 shall be by the court having jurisdiction over traffic infractions,
3 except that if such political subdivision has established an administra-
4 tive tribunal to hear and determine complaints of traffic infractions
5 constituting parking, standing or stopping violations such political
6 subdivision may, by local law, authorize such adjudication by such
7 tribunal.

8 (i) If an owner receives a notice of liability pursuant to this
9 section for any time period during which the vehicle was reported to a
10 law enforcement agency as having been stolen, it shall be a valid
11 defense to an allegation of liability for a violation of section eleven
12 hundred seventy of this article pursuant to this section that the vehi-
13 cle has been reported to the police as stolen prior to the time the
14 violation occurred and had not been recovered by such time. For purposes
15 of asserting the defense provided by this subdivision it shall be suffi-
16 cient that a certified copy of a police report on the stolen vehicle be
17 sent by first class mail to the court having jurisdiction or parking
18 violations bureau.

19 (j) 1. In such political subdivision where the adjudication of liabil-
20 ity imposed upon owners pursuant to this section is by a court having
21 jurisdiction, and an owner who is a lessor of a vehicle to which a
22 notice of liability was issued pursuant to subdivision (g) of this
23 section shall not be liable for the violation of section eleven hundred
24 seventy of this article, provided that he or she sends to the court
25 having jurisdiction of a copy of the rental, lease or other such
26 contract document covering such vehicle on the date of the violation,
27 with the name and address of the lessee clearly legible, within thirty-
28 seven days after receiving notice from the court of the date and time of

1 such violation, together with the other information contained in the
2 original notice of liability. Failure to send such information within
3 such thirty-seven day time period shall render the owner liable for the
4 penalty prescribed by this section. Where the lessor complies with the
5 provisions of this paragraph, the lessee of such vehicle on the date of
6 such violation shall be deemed to be the owner of such vehicle for
7 purposes of this section, shall be subject to liability for the
8 violation of section eleven hundred seventy of this article pursuant to
9 subdivision (g) of this section.

10 2. (i) In any political subdivision which has authorized the adjudi-
11 cation of liability imposed upon owners by this section by a parking
12 violations bureau, an owner who is a lessor of a vehicle to which a
13 notice of liability was issued pursuant to subdivision (g) of this
14 section shall not be liable for the violation of section eleven hundred
15 seventy of this article, provided that:

16 (A) prior to the violation, the lessor has filed with the bureau in
17 accordance with the provisions of section two hundred thirty-nine of
18 this chapter; and

19 (B) within thirty-seven days after receiving notice from the bureau of
20 the date and time of a liability, together with the other information
21 contained in the original notice of liability, the lessor submits to the
22 bureau the correct name and address of the lessee of the vehicle identi-
23 fied in the notice of liability at the time of such violation, together
24 with such other additional information contained in the rental, lease or
25 other contract document, as may be reasonably required by the bureau
26 pursuant to regulations that may be promulgated for such purpose.

1 (ii) Failure to comply with clause (B) of subparagraph (i) of this
2 paragraph shall render the owner liable for the penalty prescribed in
3 this section.

4 (iii) Where the lessor complies with the provisions of this paragraph,
5 the lessee of such vehicle on the date of such violation shall be deemed
6 to be the owner of such vehicle for purposes of this section, shall be
7 subject to liability for such violation pursuant to this section and
8 shall be sent a notice of liability pursuant to this section and shall
9 be sent a notice of liability pursuant to subdivision (g) of this
10 section.

11 (k) 1. If the owner liable for a violation of section eleven hundred
12 seventy of this article pursuant to this section was not the operator of
13 the vehicle at the time of the violation, the owner may maintain an
14 action for indemnification against the operator.

15 2. Notwithstanding any other provision of this section, no owner of a
16 vehicle shall be subject to a monetary fine imposed pursuant to this
17 section if the operator of such vehicle was operating such vehicle with-
18 out the consent of the owner at the time such operator failed to comply
19 with the provisions of section eleven hundred seventy of this article.
20 For purposes of this subdivision there shall be a presumption that the
21 operator of such vehicle was operating such vehicle with the consent of
22 the owner at the time such operator failed to comply with the provisions
23 of section eleven hundred seventy of this article.

24 (l) Nothing in this section shall be construed to limit the liability
25 of an operator of a vehicle for any violation of section eleven hundred
26 seventy of this article.

27 (m) In any such political subdivision which adopts a demonstration
28 program pursuant to subdivision (a) of this section, such political

1 subdivision shall submit an annual report on the results of the use of a
2 railroad grade crossing photo violation-monitoring system to the gover-
3 nor, the temporary president of the senate and the speaker of the assem-
4 bly on or before June first, two thousand eighteen and on the same date
5 in each succeeding year in which the demonstration program is operable.
6 Such report shall include, but not be limited to:

- 7 1. a description of the location where railroad grade crossing photo
8 violation-monitoring system was used;
- 9 2. the aggregate number, type and severity of accidents reported at
10 intersections where a railroad grade crossing photo violation-monitoring
11 system is used for the year preceding the installation of such system,
12 to the extent the information is maintained by the department;
- 13 3. the aggregate number, type and severity of accidents reported at
14 intersections where a railroad grade crossing photo violation-monitoring
15 system is used, to the extent the information is maintained by the
16 department;
- 17 4. the number of violations recorded at each intersection where a
18 railroad grade crossing photo violation-monitoring system is used and in
19 the aggregate on a daily, weekly, and monthly basis;
- 20 5. the total number of notices of liability issued for violations
21 recorded by such systems;
- 22 6. the number of fines and total amount of fines paid after first
23 notice of liability issued for violations recorded by such systems;
- 24 7. the number of violations adjudicated and results of such adjudi-
25 cations including breakdowns of dispositions made for violations
26 recorded by such systems;
- 27 8. the total amount of revenue realized by such political subdivision
28 from such adjudications;

1 9. expenses incurred by such political subdivision in connection with
2 the program; and

3 10. quality of the adjudication process and its results.

4 (n) It shall be an affirmative defense to any prosecution for a
5 violation of section eleven hundred seventy of this article pursuant to
6 a local law or ordinance adopted pursuant to this section that there is
7 verified evidence that the railroad signal indications were malfunction-
8 ing at the time of the alleged violation.

9 § 10. The vehicle and traffic law is amended by adding a new section
10 1633 to read as follows:

11 § 1633. Railroad grade crossing enforcement; demonstration program.

12 (a) 1. Notwithstanding any other provision of law, the Long Island Rail
13 Road and the Metro-North Commuter Railroad (hereinafter referred to as
14 "the commuter railroads") are hereby authorized and empowered to imple-
15 ment a demonstration program imposing monetary liability on the owner of
16 a vehicle for failure of an operator thereof to comply with section
17 eleven hundred seventy of this chapter. Such demonstration program shall
18 empower each of the commuter railroads to install and operate railroad
19 grade crossing photo verification-monitoring devices at any railroad
20 sign or signal that indicates the approach of one of its trains. A
21 violation committed pursuant to the provisions of this section shall be
22 deemed a traffic infraction, and adjudication of the traffic infraction
23 against the owner shall be in accordance with the provisions of this
24 chapter.

25 2. Such demonstration program shall utilize necessary technologies to
26 ensure, to the extent practicable, that photographs produced by such
27 railroad grade crossing photo violation-monitoring systems shall not
28 include images that identify the driver, the passengers or the contents

1 of the vehicle. Provided, however, that no notice of liability issued
2 pursuant to this section shall be dismissed solely because a photograph
3 or photographs allow for the identification of the contents of a vehi-
4 cle, provided that the commuter railroad has made a reasonable effort to
5 comply with the provisions of this paragraph.

6 (b) Within the jurisdiction of any such commuter railroad pursuant to
7 subdivision (a) of this section, and subject to the adjudicatory process
8 of the appropriate political subdivision, the owner of a vehicle shall
9 be liable for a penalty imposed pursuant to this section if such vehicle
10 was used or operated with the permission of the owner, express or
11 implied, in violation of section eleven hundred seventy of this chapter,
12 and such violation is evidenced by information obtained from a railroad
13 grade crossing photo violation-monitoring system; provided, however,
14 that no owner of a vehicle shall be liable for a penalty imposed pursu-
15 ant to this section where the operator of such vehicle has been
16 convicted of the underlying violation of section eleven hundred seventy
17 of this chapter.

18 (c) For purposes of this section, the following terms shall have the
19 following meaning:

20 1. "Owner" shall have the meaning provided in article two-B of this
21 chapter;

22 2. "Railroad grade crossing photo violation-monitoring system" shall
23 mean a vehicle sensor installed to work in conjunction with a railroad
24 sign or signal which automatically produces two or more photographs, two
25 or more microphotographs, a videotape or other recorded images of each
26 vehicle at the time it is used or operated in violation of section elev-
27 en hundred seventy of this chapter;

1 3. "Political subdivision" shall mean a county, city, town or village
2 located in the metropolitan commuter transportation district, as such
3 district is defined in section twelve hundred sixty-two of the public
4 authorities law;

5 (d) A certificate, sworn to or affirmed by a technician employed by
6 the commuter railroad where the charged violation occurred, or a facsim-
7 ile thereof, based upon inspection of photographs, microphotographs,
8 videotape or other recorded images produced by a railroad grade crossing
9 photo violation-monitoring system, shall be prima facie evidence of the
10 facts contained therein. Any photographs, microphotographs, videotape
11 or other recorded images evidencing such a violation shall be available
12 for inspection in any proceeding to adjudicate the liability for such
13 violation pursuant to law.

14 (e) An owner liable for a violation of section eleven hundred seventy
15 of this chapter pursuant to a railroad grade crossing demonstration
16 project adopted pursuant to this section shall be liable for monetary
17 penalties not to exceed two hundred fifty dollars for each violation;
18 provided, however, that an adjudicating authority may provide for an
19 additional penalty of not in excess of fifty dollars for each violation
20 for the failure to respond to a notice of liability within the
21 prescribed period of time.

22 (f) An imposition of liability pursuant to this section shall not be
23 deemed a conviction as an operator and shall not be made part of the
24 operating record of the person upon whom such liability is imposed nor
25 shall it be used for insurance purposes in the provision of the motor
26 vehicle insurance coverage.

27 (g) 1. A notice of liability shall be sent by first class mail to each
28 person alleged to be liable as an owner for a violation of section elev-

1 en hundred seventy of this chapter pursuant to this section. Personal
2 delivery on the owner shall not be required. A manual or automatic
3 record of mailing prepared in the ordinary course of business shall be
4 prima facie evidence of the facts contained therein.

5 2. A notice of liability shall contain the name and address of the
6 person alleged to be liable as an owner for a violation of section elev-
7 en hundred seventy of this chapter pursuant to this section, the regis-
8 tration number of the vehicle involved in such violation, the location
9 where such violation took place, the date and time of such violation and
10 the identification number of the camera which recorded the violation or
11 other document locator number.

12 3. The notice of liability shall contain information advising the
13 person charged of the manner and the time in which he or she may contest
14 the liability alleged in the notice. Such notice of liability shall also
15 contain a warning to advise the person charged that failure to contest
16 in the manner and time provided shall be deemed an admission of liabil-
17 ity and that a default judgment may be entered thereon.

18 4. The notice of liability shall be prepared and mailed by the commu-
19 ter railroad, or by any other entity authorized by such commuter rail-
20 road to prepare and mail such notification of violation.

21 (h) Adjudication of the liability imposed upon owners by this section
22 shall be by the court having jurisdiction over traffic infractions,
23 except that if a political subdivision has established an administrative
24 tribunal to hear and determine complaints of traffic infractions consti-
25 tuting parking, standing or stopping violations such political subdivi-
26 sion may, by local law, authorize such adjudication by such tribunal.

27 (i) If an owner receives a notice of liability pursuant to this
28 section for any time period during which the vehicle was reported to a

1 law enforcement agency as having been stolen, it shall be a valid
2 defense to an allegation of liability for a violation of section eleven
3 hundred seventy of this chapter pursuant to this section that the vehi-
4 cle had been reported to the police as stolen prior to the time the
5 violation occurred and has not been recovered by such time. For purposes
6 of asserting the defense provided by this subdivision it shall be suffi-
7 cient that a certified copy of a police report on the stolen vehicle be
8 sent by first class mail to the court having jurisdiction or parking
9 violations bureau.

10 (j) 1. In any political subdivision where the adjudication of liabil-
11 ity imposed upon owners pursuant to this section is by a court having
12 jurisdiction, an owner who is a lessor of a vehicle to which a notice of
13 liability was issued pursuant to subdivision (g) of this section shall
14 not be liable for the violation of section eleven hundred seventy of
15 this chapter, provided that he or she send to the court having jurisdic-
16 tion a copy of the rental, lease or other such contract document cover-
17 ing such vehicle on the date of the violation, with the name and address
18 of the lessee clearly legible, within thirty-seven days after receiving
19 notice from the court of the date and time of such violation, together
20 with the other information contained in the original notice of liabil-
21 ity. Failure to send such information within such thirty-seven day time
22 period shall render the owner liable for the penalty prescribed by this
23 section. Where the lessor complies with the provisions of this para-
24 graph, the lessee of such vehicle on the date of such violation shall be
25 deemed to be the owner of such vehicle for purposes of this section,
26 shall be subject to liability for the violation of section eleven
27 hundred seventy of this chapter pursuant to this section and shall be
28 sent a notice of liability pursuant to subdivision (g) of this section.

1 2. (i) In any political subdivision which has authorized the adjudi-
2 cation of liability imposed upon owners by this section by a parking
3 violations bureau, an owner who is a lessor of a vehicle to which a
4 notice of liability was issued pursuant to subdivision (g) of this
5 section shall not be liable for the violation of section eleven hundred
6 seventy of this chapter, provided that:

7 (A) prior to the violation, the lessor has filed with the bureau in
8 accordance with the provisions of section two hundred thirty-nine of
9 this chapter; and

10 (B) within thirty-seven days after receiving notice from the bureau of
11 the date and time of a liability, together with the other information
12 contained in the original notice of liability, the lessor submits to the
13 bureau the correct name and address of the lessee of the vehicle identi-
14 fied in the notice of liability at the time of such violation, together
15 with such other additional information contained in the rental, lease or
16 other contract document, as may be reasonably required by the bureau
17 pursuant to regulations that may be reasonably required by the bureau
18 pursuant to regulations that may be promulgated for such purpose.

19 (ii) Failure to comply with clause (B) of subparagraph (i) of this
20 paragraph shall render the owner liable for the penalty prescribed in
21 this section.

22 (iii) Where the lessor complies with the provision of this paragraph,
23 the lessee of such vehicle on the date of such violation shall be deemed
24 to be the owner of such vehicle for purposes of this section, shall be
25 subject to liability for such violation pursuant to this section and
26 shall be sent a notice of liability pursuant to subdivision (g) of this
27 section.

1 (k) 1. If the owner liable for a violation of section eleven hundred
2 seventy of this chapter pursuant to this section was not the operator of
3 the vehicle at the time of the violation, the owner may maintain an
4 action for indemnification against the operator.

5 2. Notwithstanding any other provision of this section, no owner of a
6 vehicle shall be subject to a monetary fine imposed pursuant to this
7 section if the operator of such vehicle was operating such vehicle with-
8 out the consent of the owner at the time such operator failed to obey a
9 railroad sign or signal indicating the approach of a train. For purposes
10 of this subdivision there shall be a presumption that the operator of
11 such vehicle was operating such vehicle with the consent of the owner at
12 the time such operator failed to obey a railroad sign or signal indicat-
13 ing the approach of a train.

14 (l) Nothing in this section shall be construed to limit the liability
15 of an operator of a vehicle for any violation of section eleven hundred
16 seventy of this chapter.

17 (m) Where a commuter railroad adopts a demonstration program pursuant
18 to subdivision (a) of this section, such railroad shall submit an annual
19 report on the results of the use of a railroad grade crossing photo
20 violation-monitoring system to the governor, the temporary president of
21 the senate and the speaker of the assembly on or before June first, two
22 thousand eighteen and on the same date in each succeeding year in which
23 the demonstration program is operable. Such report shall include, but
24 not be limited to:

25 1. a description of the locations where railroad grade crossing photo
26 violation-monitoring systems were used;

27 2. the aggregate number, type and severity of accidents reported at
28 intersections where a railroad grade crossing photo violation-monitoring

1 system is used for the year preceding the installation of such system,
2 to the extent the information is maintained by the department;

3 3. The aggregate number, type and severity of accidents reported at
4 intersections where a railroad grade crossing photo violation-monitoring
5 system is used, to the extent the information is maintained by the
6 department;

7 4. the number of violations recorded at each intersection where a
8 railroad grade crossing photo violation-monitoring system is used and in
9 the aggregate on a daily, weekly, and monthly basis;

10 5. the total number of notices of liability issued for violations
11 recorded by such systems;

12 6. the number of fines and total amount of fines paid after first
13 notice of liability issued for violations recorded by such systems;

14 7. the number of violations adjudicated and results of such adjudi-
15 cations including breakdowns of dispositions made for violations
16 recorded by such systems;

17 8. the total amount of revenue realized by all applicable political
18 subdivision from such adjudications;

19 9. expenses incurred by such commuter railroad in connection with the
20 program; and

21 10. quality of the adjudication process and its results.

22 (n) It shall be an affirmative defense to any prosecution for a
23 violation of section eleven hundred seventy of this chapter pursuant to
24 a local law or ordinance adopted pursuant to this section that there is
25 verified evidence that the railroad signal indications were malfunction-
26 ing at the time of the alleged violation.

1 § 11. The opening paragraph of subdivision 1 of section 1803 of the
2 vehicle and traffic law, as amended by chapter 385 of the laws of 1999,
3 is amended to read as follows:

4 Except as otherwise provided in subdivision five of section two
5 hundred twenty-seven of this chapter [and as provided in], section
6 sixteen hundred thirty-three of this chapter and section eleven hundred
7 ninety-seven of this chapter, section ninety of the state finance law
8 and sections fourteen-f and one hundred forty of the transportation law,
9 all fines and penalties collected under a sentence or judgment of
10 conviction of a violation of this chapter or of any act relating to the
11 use of highways by motor vehicles or trailers, now in force or hereafter
12 enacted, shall be distributed in the following manner:

13 § 12. Section 1803 of the vehicle and traffic law is amended by adding
14 a new subdivision 10 to read as follows:

15 10. Where a commuter railroad establishes a railroad grade crossing
16 demonstration program pursuant to section sixteen hundred thirty-three
17 of this chapter, all fines, penalties and forfeitures collected pursuant
18 to such section shall be paid to the county, city, town, or village
19 having jurisdiction of the railroad grade crossing.

20 § 13. Subdivision 2 of section 87 of the public officers law is
21 amended by adding a new paragraph (p) to read as follows:

22 (p) are photographs, microphotographs, videotape or other recorded
23 images prepared under the authority of section eleven hundred seventy-a
24 or section sixteen hundred thirty-three of the vehicle and traffic law.

25 § 14. This act shall take effect immediately; provided, however, that:

26 (a) sections one, two, seven and eight of this act of this act shall
27 take effect on the first of November next succeeding the date on which
28 it shall have become a law;

1 (b) sections three, four, five and six of this act shall take effect
2 October 1, 2018; and provided, further that:

3 (c) sections nine, ten, eleven, twelve and thirteen of this act shall
4 take effect on the thirtieth day after it shall have become a law.

5 PART H

6 Section 1. Paragraph a of section 1 of part FF of chapter 55 of the
7 laws of 2017 relating to motor vehicles equipped with autonomous vehicle
8 technology, is amended to read as follows:

9 a. Notwithstanding the provisions of section 1226 of the vehicle and
10 traffic law, the New York state commissioner of motor vehicles may
11 approve demonstrations and tests consisting of the operation of a motor
12 vehicle equipped with autonomous vehicle technology while such motor
13 vehicle is engaged in the use of such technology on public highways
14 within this state for the purposes of demonstrating and assessing the
15 current development of autonomous vehicle technology and to begin iden-
16 tifying potential impacts of such technology on safety, traffic control,
17 traffic enforcement, emergency services, and such other areas as may be
18 identified by such commissioner. Provided, however, that such [demon-
19 strations and tests shall only take place under the direct supervision
20 of the New York state police. Such] demonstrations and tests shall take
21 place in a manner and form prescribed by the commissioner of motor vehi-
22 cles including, but not limited to: a requirement that a natural person
23 holding a valid license for the operation of the motor vehicle's class
24 be present within such vehicle for the duration of the time it is oper-
25 ated on public highways; a requirement that the motor vehicle utilized
26 in such demonstrations and tests complies with all applicable federal

1 motor vehicle safety standards and New York state motor vehicle
2 inspection standards; and a requirement that the motor vehicle utilized
3 in such demonstrations and tests has in place, at a minimum, financial
4 security in the amount of five million dollars. Nothing in this act
5 shall authorize the motor vehicle utilized in such demonstrations and
6 tests to operate in violation of article 22 or title 7 of the vehicle
7 and traffic law, excluding section 1226 of such law.

8 § 2. Section 2 of part FF of chapter 55 of the laws of 2017 relating
9 to motor vehicles equipped with autonomous vehicle technology, is
10 amended to read as follows:

11 § 2. The commissioner of motor vehicles shall, in consultation with
12 the superintendent of state police, submit a report to the governor, the
13 temporary president of the senate, the speaker of the assembly, and the
14 chairs of the senate and assembly transportation committees on the
15 demonstrations and tests authorized by section one of this act. Such
16 report shall include, but not be limited to, a description of the param-
17 eters and purpose of such demonstrations and tests, the location or
18 locations where demonstrations and tests were conducted, the demon-
19 strations' and tests' impacts on safety, traffic control, traffic
20 enforcement, emergency services, and such other areas as may be identi-
21 fied by such commissioner. Such commissioner shall submit such report on
22 or before June [1, 2018] first of each year section one of this act
23 remains in effect.

24 § 3. Section 3 of part FF of chapter 55 of the laws of 2017 relating
25 to motor vehicles equipped with autonomous vehicle technology, is
26 amended to read as follows:

1 § 3. This act shall take effect April 1, 2017; provided, however, that
2 section one of this act shall expire and be deemed repealed April 1,
3 [2018] 2020.

4 § 4. a. The New York state commissioner of motor vehicles may approve
5 demonstrations and tests consisting of the operation of a motor vehicle
6 equipped with autonomous vehicle technology while such motor vehicle is
7 engaged in the use of such technology on public highways within this
8 state for the purposes of demonstrating and assessing the current devel-
9 opment of autonomous vehicle technology and to begin identifying poten-
10 tial impacts of such technology on safety, traffic control, traffic
11 enforcement, emergency services, and such other areas as may be identi-
12 fied by such commissioner. Such demonstrations and tests shall take
13 place in a manner and form prescribed by the commissioner of motor vehi-
14 cles including, but not limited to: a requirement that the motor vehicle
15 utilized in such demonstrations and tests complies with all applicable
16 federal motor vehicle safety standards and New York state motor vehicle
17 inspection standards; and a requirement that the motor vehicle utilized
18 in such demonstrations and tests has in place, at a minimum, financial
19 security in the amount of five million dollars. Nothing in this act
20 shall authorize the motor vehicle utilized in such demonstrations and
21 tests to operate in violation of article 22 or title 7 of the vehicle
22 and traffic law, excluding section 1226 of such law.

23 b. For the purposes of this section, the term "autonomous vehicle
24 technology" shall mean the hardware and software that are collectively
25 capable of performing part or all of the dynamic driving task on a
26 sustained basis, and the term "dynamic driving task" shall mean all of
27 the real-time operational and tactical functions required to operate a

1 vehicle in on-road traffic, excluding the strategic functions such as
2 trip scheduling and selection of destinations and waypoints.

3 § 5. The commissioner of motor vehicles shall, in consultation with
4 the superintendent of state police, submit a report to the governor, the
5 temporary president of the senate, the speaker of the assembly, and the
6 chairs of the senate and assembly transportation committees on the
7 demonstrations and tests authorized by section four of this act. Such
8 report shall include, but not be limited to, a description of the param-
9 eters and purpose of such demonstrations and tests, the location or
10 locations where demonstrations and tests were conducted, the demon-
11 strations' and tests' impacts on safety, traffic control, traffic
12 enforcement, emergency services, and such other areas as may be identi-
13 fied by such commissioner. Such commissioner shall submit such report on
14 or before June first of each year section four of this act remains in
15 effect.

16 § 6. Section 1226 of the vehicle and traffic law is REPEALED.

17 § 7. The commissioner of motor vehicles and the superintendent of
18 financial services shall establish regulations consistent with this act.

19 § 8. This act shall take effect immediately; provided, however, that:

20 (a) the amendments to subdivision a of section 1 of part FF of chapter
21 55 of the laws of 2017 made by section one of this act shall not affect
22 the repeal of such section and shall be deemed to be repealed therewith;
23 and

24 (b) sections four, five and six of this act shall take effect April 1,
25 2020.

1 Section 1. The closing paragraph of subdivision 3 of section 99-a of
2 the state finance law, as amended by section 3 of part GG of chapter 55
3 of the laws of 2017, is amended to read as follows:

4 The comptroller may require such reporting and record keeping as he or
5 she deems necessary to ensure the proper distribution of moneys in
6 accordance with applicable laws. A justice court or the Nassau and
7 Suffolk counties traffic and parking violations agencies or the city of
8 Buffalo traffic violations agency [or the city of New York pursuant to
9 article two-A of the vehicle and traffic law] may utilize these proce-
10 dures only when permitted by the comptroller, and such permission, once
11 given, may subsequently be withdrawn by the comptroller on due notice.

12 § 2. The closing paragraph of subdivision 3 of section 99-a of the
13 state finance law, as amended by section 10 of chapter 157 of the laws
14 of 2017, is amended to read as follows:

15 The comptroller may require such reporting and record keeping as he or
16 she deems necessary to ensure the proper distribution of moneys in
17 accordance with applicable laws. A justice court or the Nassau and
18 Suffolk counties traffic and parking violations agencies or the city of
19 Buffalo traffic violations agency or the city of Rochester traffic
20 violations agency [or the city of New York pursuant to article two-A of
21 the vehicle and traffic law] may utilize these procedures only when
22 permitted by the comptroller, and such permission, once given, may
23 subsequently be withdrawn by the comptroller on due notice.

24 § 3. This act shall take effect immediately; provided, however, that
25 the amendments to the closing paragraph of subdivision 3 of section 99-a
26 of the state finance law as made by section two of this act shall take
27 effect on the same date and in the same manner as section 10 of chapter
28 157 of the laws of 2017 takes effect, and shall be subject to the expi-

1 ration of such subdivision pursuant to section 4 of part GG of chapter
2 55 of the laws of 2017, as amended, and shall be deemed expired there-
3 with.

4 PART J

5 Section 1. The vehicle and traffic law is amended by adding a new
6 article 12-D to read as follows:

7 ARTICLE 12-D

8 PRE-LICENSING COURSE INTERNET PILOT PROGRAM

9 Section 399-p. Pre-licensing course internet pilot program.

10 399-q. Application.

11 399-r. Regulations and fees.

12 399-s. Pilot program scope and duration.

13 399-t. Report by commissioner.

14 § 399-p. Pre-licensing course internet pilot program. The commissioner
15 shall establish, by regulation, a comprehensive pilot program to allow
16 use of the internet, for the administration and completion of an
17 approved pre-licensing course, which shall be deemed the equivalent of
18 the course required by subparagraph (i) of paragraph (a) of subdivision
19 four of section five hundred two of this chapter.

20 § 399-q. Application. An applicant for participation in the pilot
21 program established pursuant to this article shall be an approved spon-
22 sor of an internet accident prevention course, pursuant to article
23 twelve-C of this title, prior to the effective date of this article. In
24 order to be approved for participation in such pilot program, the course
25 must comply with provisions of law, rules and regulations applicable
26 thereto. The commissioner may, in his or her discretion, impose a fee

1 for the submission of each application. Such fee shall not exceed seven
2 thousand five hundred dollars, which shall be deposited in the dedicated
3 highway and bridge trust fund established pursuant to section eighty-
4 nine-b of the state finance law.

5 § 399-r. Regulations and fees. 1. The commissioner is authorized to
6 promulgate any rules and regulations necessary to implement the
7 provisions of this article and to insure that the internet pilot
8 program, as approved by the commissioner, can validate: student identity
9 at registration and throughout the course; participation throughout the
10 course; that time the requirements are met; and successful completion of
11 the course. Provided, however, that any rules and regulations promulgat-
12 ed pursuant to this article shall not stipulate any particular location
13 for delivery of a pre-licensing course or limit the time of day during
14 which such course may be taken.

15 2. The commissioner is authorized to impose a fee upon each pre-li-
16 censing course sponsoring agency approved to deliver such course, which
17 shall not exceed eight dollars for each student who completes such
18 course, and which shall be deposited in the dedicated highway and bridge
19 trust fund established pursuant to section eighty-nine-b of the state
20 finance law.

21 § 399-s. Pilot program scope and duration. The commissioner shall
22 conduct a pilot program designed to evaluate utilizing the internet for
23 delivering an approved pre-licensing course, which shall be deemed the
24 equivalent of the course required by subparagraph (i) of paragraph (a)
25 of subdivision four of section five hundred two of this chapter, by
26 permitting qualified applicants to participate in the pilot program for
27 a period of five years.

1 § 399-t. Report by commissioner. Within five years of the establish-
2 ment and implementation of this article, the commissioner shall report
3 to the governor, the temporary president of the senate and the speaker
4 of the assembly on the pre-licensing course internet pilot program and
5 its results. Such reports shall include recommendations as to the future
6 use of internet as an effective way, in addition to classroom presenta-
7 tion, to deliver to the public approved pre-licensing courses, and qual-
8 ifications for participants in such approved internet delivered
9 programs.

10 § 2. Paragraph (h) of subdivision 4 of section 502 of the vehicle and
11 traffic law, as added by section 1 of part L of chapter 59 of the laws
12 of 2009, is amended to read as follows:

13 (h) Course completion certificate fee. The fee for a course completion
14 certificate provided by the department to an entity that is approved by
15 the commissioner to offer the pre-licensing course, required by this
16 subdivision, for issuance by such entity to students upon their
17 completion of such pre-licensing course shall be one dollar. Such fee
18 shall be paid by such entity and shall not be charged to a person who
19 takes the course in any manner. The provisions of this paragraph shall
20 not apply to a pre-licensing course established pursuant to article
21 twelve-D of this chapter.

22 § 3. This act shall take effect on the one hundred eightieth day after
23 it shall have become a law and shall expire and be deemed repealed five
24 years after the date that the pre-licensing course internet pilot
25 program is established and implemented by the commissioner of motor
26 vehicles pursuant to article 12-D of the vehicle and traffic law, as
27 added by section one of this act; provided that any rules and regu-
28 lations necessary to implement the provisions of this act on its effec-

1 tive date are authorized and directed to be completed on or before such
2 date; and provided, further, that the commissioner of motor vehicles
3 shall notify the legislative bill drafting commission of the date he or
4 she establishes and implements the pre-licensing course internet pilot
5 program pursuant to article 12-D of the vehicle and traffic law, as
6 added by section one of this act, in order that such commission may
7 maintain an accurate and timely effective data base of the official text
8 of the laws of the state of New York in furtherance of effecting the
9 provisions of section 44 of the legislative law and section 70-b of the
10 public officers law.

11 PART K

12 Section 1. Section 399-1 of the vehicle and traffic law, as amended by
13 section 1 of part D of chapter 58 of the laws of 2016, is amended to
14 read as follows:

15 § 399-1. Application. Applicants for participation in the pilot
16 program established pursuant to this article shall be among those acci-
17 dent prevention course sponsoring agencies that have a course approved
18 by the commissioner pursuant to article twelve-B of this title prior to
19 the effective date of this article and which deliver such course to the
20 public. Provided, however, the commissioner may, in his or her
21 discretion, approve applications after such date. In order to be
22 approved for participation in such pilot program, the course must comply
23 with the provisions of law, rules and regulations applicable thereto.
24 The commissioner may, in his or her discretion, impose a fee for the
25 submission of each application to participate in the pilot program
26 established pursuant to this article. Such fee shall not exceed seven

1 thousand five hundred dollars. [The proceeds from such fee shall be
2 deposited by the comptroller into the special obligation reserve and
3 payment account of the dedicated highway and bridge trust fund estab-
4 lished pursuant to section eighty-nine-b of the state finance law for
5 the purposes established in this section.]

6 § 2. Paragraph a of subdivision 5 of section 410 of the vehicle and
7 traffic law, as amended by section 4 of part D of chapter 58 of the laws
8 of 2016, is amended to read as follows:

9 a. The annual fee for registration or reregistration of a motorcycle
10 shall be eleven dollars and fifty cents. Beginning April first, nine-
11 teen hundred ninety-eight the annual fee for registration or reregistra-
12 tion of a motorcycle shall be seventeen dollars and fifty cents[, of
13 which two dollars and fifty cents shall be deposited by the comptroller
14 into the special obligation reserve and payment account of the dedicated
15 highway and bridge trust fund established pursuant to section eighty-
16 nine-b of the state finance law for the purposes established in this
17 section].

18 § 3. Paragraph (c-1) of subdivision 2 of section 503 of the vehicle
19 and traffic law, as amended by section 5 of part D of chapter 58 of the
20 laws of 2016, is amended to read as follows:

21 (c-1) In addition to the fees established in paragraphs (b) and (c) of
22 this subdivision, a fee of fifty cents for each six months or portion
23 thereof of the period of validity shall be paid upon the issuance of any
24 permit, license or renewal of a license which is valid for the operation
25 of a motorcycle, except a limited use motorcycle. [Fees collected pursu-
26 ant to this paragraph shall be deposited by the comptroller into the
27 special obligation reserve and payment account of the dedicated highway

1 and bridge trust fund established pursuant to section eighty-nine-b of
2 the state finance law for the purposes established in this section.]

3 § 4. Subdivision 5 of section 317 of the vehicle and traffic law is
4 REPEALED.

5 § 5. Paragraph (b) of subdivision 1-a of section 318 of the vehicle
6 and traffic law, as amended by section 9 of part D of chapter 58 of the
7 laws of 2016, is amended to read as follows:

8 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
9 sion, an order of suspension issued pursuant to paragraph (a) or (e) of
10 this subdivision may be terminated if the registrant pays to the commis-
11 sioner a civil penalty in the amount of eight dollars for each day up to
12 thirty days for which financial security was not in effect, plus ten
13 dollars for each day from the thirty-first to the sixtieth day for which
14 financial security was not in effect, plus twelve dollars for each day
15 from the sixty-first to the ninetieth day for which financial security
16 was not in effect. [Of each eight dollar penalty, six dollars will be
17 deposited in the general fund and two dollars in the special obligation
18 reserve and payment account of the dedicated highway and bridge trust
19 fund established pursuant to section eighty-nine-b of the state finance
20 law for the purposes established in this section.] Of each ten dollar
21 penalty collected, [six] eight dollars will be deposited in the general
22 fund[, two dollars will be deposited in the special obligation reserve
23 and payment account of the dedicated highway and bridge trust fund
24 established pursuant to section eighty-nine-b of the state finance law
25 for the purposes established in this section,] and two dollars shall be
26 deposited in the dedicated highway and bridge trust fund established
27 pursuant to section eighty-nine-b of the state finance law and the dedi-
28 cated mass transportation fund established pursuant to section eighty-

1 nine-c of the state finance law and distributed according to the
2 provisions of subdivision (d) of section three hundred one-j of the tax
3 law. Of each twelve dollar penalty collected, [six] eight dollars will
4 be deposited into the general fund[, two dollars will be deposited into
5 the special obligation reserve and payment account of the dedicated
6 highway and bridge trust fund established pursuant to section eighty-
7 nine-b of the state finance law for the purposes established in this
8 section,] and four dollars shall be deposited in the dedicated highway
9 and bridge trust fund established pursuant to section eighty-nine-b of
10 the state finance law and the dedicated mass transportation fund estab-
11 lished pursuant to section eighty-nine-c of the state finance law and
12 distributed according to the provisions of subdivision (d) of section
13 three hundred one-j of the tax law. The foregoing provision shall apply
14 only once during any thirty-six month period and only if the registrant
15 surrendered the certificate of registration and number plates to the
16 commissioner not more than ninety days from the date of termination of
17 financial security or submits to the commissioner new proof of financial
18 security which took effect not more than ninety days from the termi-
19 nation of financial security.

20 § 6. Subdivision 6 of section 423-a of the vehicle and traffic law is
21 REPEALED.

22 § 7. Paragraph (a) of subdivision 3 of section 89-b of the state
23 finance law, as amended by section 11 of part D of chapter 58 of the
24 laws of 2016, is amended to read as follows:

25 (a) The special obligation reserve and payment account shall consist
26 (i) of all moneys required to be deposited in the dedicated highway and
27 bridge trust fund pursuant to the provisions of sections two hundred
28 five, two hundred eighty-nine-e, three hundred one-j, five hundred

1 fifteen and eleven hundred sixty-seven of the tax law, section four
2 hundred one of the vehicle and traffic law, and section thirty-one of
3 chapter fifty-six of the laws of nineteen hundred ninety-three, (ii) all
4 fees, fines or penalties collected by the commissioner of transportation
5 and the commissioner of motor vehicles pursuant to section fifty-two,
6 section three hundred twenty-six, section eighty-eight of the highway
7 law, subdivision fifteen of section three hundred eighty-five[, section
8 four hundred twenty-three-a, section four hundred ten, section three
9 hundred seventeen, section three hundred eighteen, article twelve-C, and
10 paragraph (c-1) of subdivision two of section five hundred three] of the
11 vehicle and traffic law, section two of the chapter of the laws of two
12 thousand three that amended this paragraph, subdivision (d) of section
13 three hundred four-a, paragraph one of subdivision (a) and subdivision
14 (d) of section three hundred five, subdivision six-a of section four
15 hundred fifteen and subdivision (g) of section twenty-one hundred twen-
16 ty-five of the vehicle and traffic law, section fifteen of this chapter,
17 excepting moneys deposited with the state on account of betterments
18 performed pursuant to subdivision twenty-seven or subdivision thirty-
19 five of section ten of the highway law, and [sections ninety-four, one
20 hundred thirty-five, and] section one hundred forty-five of the trans-
21 portation law, (iii) any moneys collected by the department of transpor-
22 tation for services provided pursuant to agreements entered into in
23 accordance with section ninety-nine-r of the general municipal law, and
24 (iv) any other moneys collected therefor or credited or transferred
25 thereto from any other fund, account or source.

26 § 8. Paragraph (a) of subdivision 3 of section 89-b of the state
27 finance law, as amended by section 12 of part D of chapter 58 of the
28 laws of 2016, is amended to read as follows:

1 (a) The special obligation reserve and payment account shall consist
2 (i) of all moneys required to be deposited in the dedicated highway and
3 bridge trust fund pursuant to the provisions of sections two hundred
4 eighty-nine-e, three hundred one-j, five hundred fifteen and eleven
5 hundred sixty-seven of the tax law, section four hundred one of the
6 vehicle and traffic law, and section thirty-one of chapter fifty-six of
7 the laws of nineteen hundred ninety-three, (ii) all fees, fines or
8 penalties collected by the commissioner of transportation and the
9 commissioner of motor vehicles pursuant to section fifty-two, section
10 three hundred twenty-six, section eighty-eight of the highway law,
11 subdivision fifteen of section three hundred eighty-five[, section four
12 hundred twenty-three-a, section four hundred ten, section three hundred
13 seventeen, section three hundred eighteen, article twelve-C, and para-
14 graph (c-1) of subdivision two of section five hundred three] of the
15 vehicle and traffic law, section fifteen of this chapter, excepting
16 moneys deposited with the state on account of betterments performed
17 pursuant to subdivision twenty-seven or subdivision thirty-five of
18 section ten of the highway law, and [sections ninety-four, one hundred
19 thirty-five, and] section one hundred forty-five of the transportation
20 law, (iii) any moneys collected by the department of transportation for
21 services provided pursuant to agreements entered into in accordance with
22 section ninety-nine-r of the general municipal law, and (iv) any other
23 moneys collected therefor or credited or transferred thereto from any
24 other fund, account or source.

25 § 9. Subdivision 4 of section 94 of the transportation law is
26 REPEALED.

1 § 10. Subdivision 4 of section 135 of the transportation law, as
2 amended by section 4 of part C of chapter 57 of the laws of 2014, is
3 amended to read as follows:

4 4. [All revenues collected pursuant to this section shall be deposited
5 by the comptroller into the special obligation reserve and payment
6 account of the dedicated highway and bridge trust fund established
7 pursuant to section eighty-nine-b of the state finance law for the
8 purposes established in this section.] Fees will be based on revenues
9 from the preceding calendar year and shall be assessed on or before July
10 first and are payable by September first of each year. On or before
11 January first of each year following assessment of fees pursuant to this
12 section, the commissioner shall report to the railroad companies annual
13 costs associated with this assessment.

14 § 11. Subsection (b) of section 805 of the tax law, as amended by
15 section 1 of part C of chapter 25 of the laws of 2009, is amended to
16 read as follows:

17 (b) On or before the twelfth and twenty-sixth day of each succeeding
18 month, after reserving such amount for such refunds and deducting such
19 amounts for such costs, as provided for in subsection (a) of this
20 section, the commissioner shall certify to the comptroller the amount of
21 all revenues so received during the prior month as a result of the
22 taxes, interest and penalties so imposed. The amount of revenues so
23 certified shall be paid over by the fifteenth and the final business day
24 of each succeeding month from such account without appropriation into
25 the [mobility tax trust account of the metropolitan transportation
26 authority financial assistance fund established pursuant to section
27 ninety-two-ff of the state finance law, for payment, pursuant to appro-
28 priations by the legislature to the] metropolitan transportation author-

1 ity finance fund established pursuant to section twelve hundred seven-
2 ty-h of the public authorities law, provided, however, that the
3 comptroller shall ensure that any payments to the metropolitan transpor-
4 tation authority finance fund which are due to be paid by the final
5 business day in the month of December pursuant to this subsection shall
6 be received by the metropolitan transportation authority finance fund on
7 the same business day in which it is paid.

8 § 12. Section 4 of the state finance law is amended by adding a new
9 subdivision 12 to read as follows:

10 12. Notwithstanding subdivision one of this section and any other law
11 to the contrary, the revenue (including taxes, interest and penalties)
12 from the metropolitan commuter transportation mobility tax imposed
13 pursuant to article twenty-three of the tax law which are paid in
14 accordance with subsection (b) of section eight hundred five of the tax
15 law into the metropolitan transportation authority finance fund estab-
16 lished by section twelve hundred seventy-h of the public authorities law
17 shall be made pursuant to statute but without an appropriation.

18 § 13. Subdivision 2 of section 1270-h of the public authorities law,
19 as added by section 16 of part H of chapter 25 of the laws of 2009, is
20 amended to read as follows:

21 2. The comptroller shall deposit into the metropolitan transportation
22 authority finance fund (a) monthly, pursuant to appropriation, [into the
23 metropolitan transportation authority finance fund] the moneys deposited
24 in the mobility tax trust account of the metropolitan transportation
25 authority financial assistance fund pursuant to [article twenty-three of
26 the tax law, and] any [other] provision of law directing or permitting
27 the deposit of moneys in such fund, and (b) without appropriation, the

1 revenue including taxes, interest and penalties collected in accordance
2 with article twenty-three of the tax law.

3 § 14. Subdivisions 3 and 5 of section 92-ff of the state finance law,
4 as added by section 16 of part G of chapter 25 of the laws of 2009, are
5 amended to read as follows:

6 3. Such fund shall consist of all moneys collected [therefore] there-
7 for or credited or transferred thereto from any other fund, account or
8 source, including, without limitation, the [revenues derived from the
9 metropolitan commuter transportation mobility tax imposed by article
10 twenty-three of the tax law;] revenues derived from the special supple-
11 mental tax on passenger car rentals imposed by section eleven hundred
12 sixty-six-a of the tax law; revenues derived from the transportation
13 surcharge imposed by article twenty-nine-A of the tax law; the supple-
14 mental registration fees imposed by article seventeen-C of the vehicle
15 and traffic law; and the supplemental metropolitan commuter transporta-
16 tion district license fees imposed by section five hundred three of the
17 vehicle and traffic law. Any interest received by the comptroller on
18 moneys on deposit in the metropolitan transportation authority financial
19 assistance fund shall be retained in and become a part of such fund.

20 5. (a) The "mobility tax trust account" shall consist of [revenues
21 required to be deposited therein pursuant to the provisions of article
22 twenty-three of the tax law and all other] moneys credited or trans-
23 ferred thereto from any [other] fund or source pursuant to law.

24 (b) Moneys in the "mobility tax trust account" shall, pursuant to
25 appropriation by the legislature, be transferred on a monthly basis to
26 the metropolitan transportation authority finance fund established by
27 section twelve hundred seventy-h of the public authorities law and
28 utilized in accordance with said section. It is the intent of the legis-

1 lature to enact two appropriations from the mobility tax trust account
2 to the metropolitan transportation authority finance fund established by
3 section twelve hundred seventy-h of the public authorities law. One such
4 appropriation shall be equal to the amounts expected to be available
5 [for such purpose pursuant to article twenty-three of the tax law or]
6 from any [other] monies described in paragraph (a) of this subdivision
7 during the two thousand [nine] eighteen--two thousand [ten] nineteen
8 fiscal year and shall be effective in that fiscal year. The other such
9 appropriation shall be equal to the amounts expected to be available
10 [for such purpose pursuant to article twenty-three of the tax law or]
11 from any [other] monies described in paragraph (a) of this subdivision
12 during the two thousand [ten] nineteen--two thousand [eleven] twenty
13 fiscal year and shall, notwithstanding the provisions of section forty
14 of this chapter, take effect on the first day of the two thousand [ten]
15 nineteen--two thousand [eleven] twenty fiscal year and lapse on the last
16 day of that fiscal year. It is the intent of the governor to submit and
17 the legislature to enact for each fiscal year after the two thousand
18 [nine] eighteen--two thousand [ten] nineteen fiscal year in an annual
19 budget bill: (i) an appropriation for the amount expected to be avail-
20 able in the mobility tax trust account during such fiscal year for the
21 metropolitan transportation authority [pursuant to article twenty-three
22 of the tax law or] from any [other] monies described in paragraph (a) of
23 this subdivision; and (ii) an appropriation for the amount projected by
24 the director of the budget to be deposited in the mobility tax trust
25 account [pursuant to article twenty-three of the tax law or] from any
26 [other] monies described in paragraph (a) of this subdivision for the
27 next succeeding fiscal year. Such appropriation for payment of revenues
28 projected to be deposited in the succeeding fiscal year shall, notwith-

1 standing the provisions of section forty of this chapter, take effect on
2 the first day of such succeeding fiscal year and lapse on the last day
3 of such fiscal year. If for any fiscal year commencing on or after the
4 first day of April, two thousand ten the governor fails to submit a
5 budget bill containing the foregoing, or the legislature fails to enact
6 a bill with such provisions, then the metropolitan transportation
7 authority shall notify the comptroller, the director of the budget, the
8 chairperson of the senate finance committee and the chairperson of the
9 assembly ways and means committee of amounts required to be disbursed
10 from the appropriation made during the preceding fiscal year for payment
11 in such fiscal year. In no event shall the comptroller make any payments
12 from such appropriation prior to May first of such fiscal year, and
13 unless and until the director of the budget, the chairperson of the
14 senate finance committee and the chairperson of the assembly ways and
15 means committee have been notified of the required payments and the
16 timing of such payments to be made from the mobility tax trust account
17 to the metropolitan transportation authority finance fund established by
18 section twelve hundred seventy-h of the public authorities law at least
19 forty-eight hours prior to any such payments. Until such time as
20 payments pursuant to such appropriation are made in full, revenues in
21 the mobility tax trust account shall not be paid over to any person
22 other than the metropolitan transportation authority.

23 § 15. This act shall take effect April 1, 2018; provided however, that
24 the amendments to section 399-1 of the vehicle and traffic law made by
25 section one of this act shall not affect the repeal of such section and
26 shall be deemed repealed therewith; and provided further, however, that
27 the amendments to paragraph (a) of subdivision 3 of section 89-b of the
28 state finance law made by section seven of this act shall be subject to

1 the expiration and reversion of such paragraph pursuant to section 13 of
2 part U1 of chapter 62 of the laws of 2003, as amended, when upon such
3 date the provisions of section eight of this act shall take effect.

4 PART L

5 Section 1. Legislative findings and declaration. It is hereby found
6 and declared that:

7 Within the metropolitan commuter transportation district created and
8 established by section 1262 of the public authorities law there have
9 been and will be geographic areas that receive special economic and
10 other benefits from capital elements undertaken in connection with a
11 capital program approved pursuant to section 1269-b of the public
12 authorities law.

13 It is further found and declared that it is a matter of statewide
14 concern that the transportation facilities of the metropolitan transpor-
15 tation authority, the New York city transit authority and their subsid-
16 iaries be maintained and expanded to ensure the economic health of the
17 metropolitan commuter transportation district and in furtherance thereof
18 that all of the real property within those subdistricts that are deter-
19 mined to be the beneficiary of such special economic and other benefits
20 should contribute to the funding of the metropolitan transportation
21 authority's capital programs at a level determined to be appropriate to
22 the special benefits received within such subdistrict.

23 For these reasons it is declared that these changes are necessary to
24 protect and promote the sound enhancement, renewal and expansion of the
25 transportation facilities of the metropolitan transportation authority,
26 the New York city transit authority and their subsidiaries, including

1 the planning, design, acquisition, construction, reconstruction, reha-
2 bilitation and improvement of such facilities through the establishment
3 of transportation improvement subdistricts and the use of increases in
4 the fair market value of real property in such subdistricts resulting
5 from such improvements to transportation facilities to provide funding
6 for the metropolitan transportation authority's approved capital
7 programs.

8 § 2. Section 1261 of the public authorities law is amended by adding a
9 new subdivision 25 to read as follows:

10 25. "Transportation improvement subdistrict" shall mean an area within
11 the metropolitan commuter transportation district which area has been
12 established pursuant to section twelve hundred sixty-nine-h of this
13 article and included on the list of transportation improvement subdis-
14 tricts as provided in article fifteen-D of the real property tax law.

15 § 3. The public authorities law is amended by adding a new section
16 1269-h to read as follows:

17 § 1269-h. Transportation improvement subdistricts. 1. The board of the
18 metropolitan transportation authority shall establish a transportation
19 improvement subdistrict pursuant to the procedure set forth in this
20 section including, but not limited to, the projects listed below:

21 (a) Phases one, two, three and four of the Second Avenue Subway
22 project;

23 (b) The project to bring the Long Island Rail Road into Grand Central
24 Terminal ("East Side Access Project");

25 (c) Penn Station Access; and

26 (d) 125th MNR and subway stations.

27 2. From time to time, the board of the metropolitan transportation
28 authority may create and establish transportation improvement subdis-

1 tricts as it deems necessary and appropriate provided that the planned
2 capital program elements in an approved capital program that are
3 expected to result in an increase in the fair market value of real prop-
4 erty in such transportation improvement subdistrict have an estimated
5 capital cost greater than one hundred million dollars.

6 3. Prior to the vote by the board of the metropolitan transportation
7 authority to create and establish a transportation improvement subdis-
8 trict, the following shall have occurred:

9 (a) The legal description of the boundaries of the transportation
10 improvement subdistrict shall have been prepared. A transportation
11 improvement subdistrict may be established anywhere within a city of a
12 population of one million or more that is within the metropolitan commu-
13 ter transportation district provided that a transportation improvement
14 subdistrict shall include only whole tax parcels, but shall extend no
15 further than one mile in any direction from any part of the transporta-
16 tion improvement.

17 (b) There shall have been an analysis performed by or on behalf of the
18 authority and submitted to the board of the metropolitan transportation
19 authority that indicates that the aggregate fair market value of the
20 real property within the proposed boundaries of such transportation
21 improvement subdistrict increased or is forecast to increase more than
22 it would have increased if no work performed or anticipated to be
23 performed pursuant to one or more capital program elements had occurred.
24 Such analysis shall identify generally the estimated level of average
25 incremental increase in the fair market value of real property within
26 the proposed transportation improvement subdistrict as a result of the
27 implementation of the specified capital program elements since nineteen
28 hundred eighty-one.

1 (c) The authority shall conduct a public hearing on the establishment
2 of such proposed transportation improvement subdistrict. Notice of the
3 hearing shall: (i) be written in a clear and coherent manner; (ii)
4 generally identify the boundaries of the proposed transportation
5 improvement subdistrict; (iii) state the percentage of the incremental
6 real property tax levied on all parcels within the proposed transporta-
7 tion improvement subdistrict that the authority proposes to be assessed;
8 (iv) provide the internet address where a detailed map of the boundaries
9 of the proposed transportation improvement subdistrict is publicly
10 accessible, together with a copy of the analysis provided to the board
11 of the metropolitan transportation authority pursuant to paragraph (b)
12 of this subdivision; (v) be sent to the mayor of a city with a popu-
13 lation of one million or more in which the proposed transportation
14 improvement subdistrict is located at least thirty days prior to such
15 public hearing; and (vi) be posted on the authority's website for at
16 least thirty days prior to such public hearing.

17 (d) After such hearing and at any time prior to the adoption of the
18 resolution recommending establishment of a transportation improvement
19 subdistrict, the authority may amend the boundaries of the recommended
20 transportation improvement subdistrict.

21 (e) The resolution by which the board of the metropolitan transporta-
22 tion authority shall establish a transportation improvement subdistrict
23 shall include a detailed statement of the reasons why the board consid-
24 ers that the proposed transportation improvement subdistrict has bene-
25 fitted or will benefit from implementation of the specified capital
26 program elements and shall specify the percentage of the incremental
27 real property tax levied on all parcels within each of the following

1 transportation improvement subdistricts that shall be assessed provided
2 that such percentage may not exceed fifty percent.

3 (f) Upon approval by the board of the metropolitan transportation
4 authority of a resolution establishing a transportation improvement
5 subdistrict, the authority shall add it to the list of approved trans-
6 portation improvement subdistricts set forth in article fifteen-D of the
7 real property tax law that it shall maintain on the authority's publicly
8 available website and also shall notify the metropolitan transportation
9 authority capital program review board.

10 (g) The adoption by the board of the metropolitan transportation
11 authority of a resolution establishing a transportation improvement
12 subdistrict shall not be subject to provisions of article eight, nine-
13 teen, twenty-four or twenty-five of the environmental conservation law,
14 or to any local law or ordinance adopted pursuant to such article.

15 § 4. The real property tax law is amended by adding a new article 15-D
16 to read as follows:

17 ARTICLE 15-D

18 TRANSPORTATION IMPROVEMENT DISTRICTS

19 Section 1596. Definitions.

20 1597. Levying assessment.

21 1598. Collection of assessment.

22 § 1596. Definitions. As used or referred to in this article, unless a
23 different meaning clearly appears from the context:

24 1. "Baseline real property tax" shall mean the total real property
25 taxes levied on a parcel last levied prior to the effective date of the
26 resolution of the metropolitan transportation authority establishing the
27 transportation improvement subdistrict in which such parcel is located

1 and shall also include any payments in lieu of taxes made with respect
2 to any such parcel.

3 2. "Incremental real property tax" shall mean that portion of the real
4 property taxes levied on a parcel each year in excess of the baseline
5 real property tax and shall include any payments in lieu of taxes made
6 with respect to any parcel.

7 3. "Real property" shall mean "real property" as defined in subdivi-
8 sion twelve of section one hundred two of this chapter.

9 4. "Parcel" shall mean a "parcel" as defined in subdivision eleven of
10 section one hundred two of this chapter.

11 5. "Taxing jurisdiction" shall mean a municipal corporation or special
12 district which imposes a charge upon real property located within a city
13 of a population of one million or more.

14 6. "Transportation improvement subdistrict" shall mean a transporta-
15 tion improvement subdistrict duly approved by the board of the metropol-
16 itan transportation authority pursuant to section twelve hundred sixty-
17 nine-h of the public authorities law and added to the list of such
18 transportation improvement subdistricts maintained by the metropolitan
19 transportation authority.

20 § 1597. Levying assessment. 1. For the sole purpose of providing an
21 additional stable and reliable dedicated funding source for the metro-
22 politan transportation authority, the New York city transit authority
23 and their subsidiaries to preserve, operate and improve essential trans-
24 it and transportation services in the metropolitan commuter transporta-
25 tion district, an assessment equal to not more than seventy-five percent
26 of the incremental real property tax levied on all parcels within each
27 of the following transportation improvement subdistricts shall be
28 levied, commencing, for each parcel in a transportation improvement

1 subdistrict, with the first levy of real property taxes on such parcel
2 occurring on or after the date of calculation of the baseline real prop-
3 erty tax for such parcel. For the transportation improvement subdis-
4 tricts established pursuant to subdivision two of section twelve hundred
5 sixty-nine-h of the public authorities law, such assessment shall
6 commence for each parcel in such subdistrict with the first levy of real
7 property taxes on such parcel on or after the date that the metropolitan
8 transportation authority adopts a resolution establishing such subdis-
9 trict. The baseline real property tax that shall be used to determine
10 the amount of such assessment shall be the first levy of real property
11 taxes on any parcel in such subdistrict following the approval of the
12 planning process for such project by the capital program review board.

13 2. Notwithstanding any law to the contrary, the metropolitan transpor-
14 tation authority shall have no liability to any taxing jurisdiction or
15 to any real property taxpayer for any tax certiorari proceeding or any
16 other judicial or administrative proceeding commenced with respect to
17 any real property tax assessment.

18 § 1598. Collection of assessment. 1. Each taxing jurisdiction will
19 timely collect and pay over the assessment to the metropolitan transpor-
20 tation authority in a form and manner prescribed by such authority.

21 2. In the event that any taxing jurisdiction with responsibility for
22 collecting the transportation improvement subdistrict assessment does
23 not pay such assessments within thirty days of the receipt of such
24 assessment, the metropolitan transportation authority shall notify the
25 state comptroller in writing and such comptroller shall, upon review and
26 determination that an assessment was not paid, deduct any amount not
27 paid from any amount of state aid or any other state payment due to such

1 taxing jurisdiction. The state comptroller shall remit the amounts so
2 deducted and recovered to the metropolitan transportation authority.

3 § 5. This act shall take effect immediately.

4 PART M

5 Section 1. Legislative intent. Historically, under existing law, and
6 pursuant to its master lease with the New York city transit authority
7 (NYCT), the city of New York is required to pay for the capital needs of
8 the NYCT. This obligation has never ceased from the initial chapter
9 establishing the NYCT and transferring the operation of the city's
10 subway system to the NYCT in 1953. This legislation clarifies this long-
11 standing obligation and establishes a process for state assistance when
12 a disaster emergency is declared.

13 § 2. Subdivision 1 of section 1269-b of the public authorities law, as
14 amended by chapter 637 of the laws of 1996, is amended to read as
15 follows:

16 1. (a) On or before October first, nineteen hundred eighty-one, and
17 on or before October first of every fifth year thereafter, through and
18 including October first, nineteen hundred ninety-one, the authority
19 shall submit to the metropolitan transportation authority capital
20 program review board two capital program plans for the five year period
21 commencing January first of the following year;

22 (b) not later than ten days after the effective date of this paragraph
23 the authority shall submit to the metropolitan transportation authority
24 capital program review board two capital program plans for the five-year
25 period commencing January first, nineteen hundred ninety-five; and

1 (c) on or before October first, nineteen hundred ninety-nine and every
2 fifth year thereafter, the authority shall submit to the metropolitan
3 transportation authority capital program review board two capital
4 program plans for the five-year period commencing January first of the
5 following year.

6 For each of the periods described above, one such plan shall contain
7 the capital program for the transit facilities operated by the New York
8 city transit authority and its subsidiaries and for the Staten Island
9 rapid transit operating authority; the other such plan shall contain the
10 capital program for the railroad facilities, not including the Staten
11 Island rapid transit operating authority, under the jurisdiction of the
12 authority.

13 Each plan shall set system-wide goals and objectives for capital
14 spending, establish standards for service and operations, and describe
15 each capital element proposed to be initiated in each of the years
16 covered by the plan and explain how each proposed element supports the
17 achievement of the service and operational standards established in the
18 plan. Each plan shall also set forth an estimate of the amount of capi-
19 tal funding required each year and the expected sources of such funding,
20 except that for such capital funding required each year for transit
21 facilities operated by the New York city transit authority and its
22 subsidiaries, the city of New York shall provide in full all funding
23 required to meet the capital needs of the New York city transit authori-
24 ty in such plan. Each plan subsequent to the first such plan and each
25 proposed amendment or modification thereof shall also describe the
26 current status of each capital element included in the previously
27 approved plan, if any. Each plan shall be accompanied or supplemented by

1 such supporting materials as the metropolitan transportation authority
2 capital program review board shall require.

3 A capital element shall mean either a category of expenditure itemized
4 in a plan, as hereinafter provided, for which a specified maximum dollar
5 amount is proposed to be expended, or a particularly described capital
6 project within one or more categories for which no maximum expenditure
7 is proposed, but for which an estimate of expected cost is provided. A
8 capital element shall be deemed to have been initiated for purposes of
9 this section if in connection with such element the authority shall
10 certify that (i) purchase or construction contracts have been entered
11 into, obligating in the aggregate an amount exceeding ten percent of the
12 maximum or estimated cost of the element as set forth in a plan, (ii)
13 financing specific to the project has been undertaken, or (iii) in a
14 case where such element is limited to design or engineering, a contract
15 therefor has been entered into.

16 § 3. Section 1269-b of the public authorities law is amended by adding
17 a new subdivision 10 to read as follows:

18 10. In the case of a disaster emergency declared pursuant to section
19 twenty-eight of the executive law, where such disaster emergency relates
20 to the continuing failures and the condition of the track, signals and
21 other infrastructure of the transit facilities operated by the New York
22 city transit authority, the state may appropriate revenues it deems
23 necessary and appropriate to fund the capital costs of repairs and
24 construction deemed essential to ensure the continued safe and effective
25 operation of such transit facilities. Upon any such appropriation, the
26 city of New York shall, within sixty days, appropriate an identical sum
27 to provide for capital repairs and construction.

28 § 4. This act shall take effect immediately.

1

PART N

2 Section 1. Paragraph (a) of subdivision 5 of section 2879 of the
3 public authorities law, as amended by chapter 531 of the laws of 1993,
4 is amended to read as follows:

5 (a) Each corporation shall notify the commissioner of economic devel-
6 opment of the award of a procurement contract for the purchase of goods
7 or services from a foreign business enterprise in an amount equal to or
8 greater than one million dollars simultaneously with notifying the
9 successful bidder therefor. [No corporation shall thereafter enter into
10 a procurement contract for said goods or services until at least fifteen
11 days has elapsed, except for procurement contracts awarded on an emer-
12 gency or critical basis, or where the commissioner of economic develop-
13 ment waives the provisions of this sentence.] The notification to the
14 commissioner of economic development shall include the name, address and
15 telephone and facsimile number of the foreign business enterprise, a
16 brief description of the goods or services to be obtained pursuant to
17 the proposed procurement contract, the amount of the proposed procure-
18 ment contract, the term of the proposed procurement contract, and the
19 name of the individual at the foreign business enterprise or acting on
20 behalf of the same who is principally responsible for the proposed
21 procurement contract. Such notification shall be used by the commission-
22 er of economic development solely to provide notification to New York
23 state business enterprises of opportunities to participate as subcon-
24 tractors and suppliers on such procurement contracts, to promote and
25 encourage the location and development of new business in the state, to
26 assist New York state business enterprises in obtaining offset credits
27 from foreign countries, and to otherwise investigate, study and under-

1 take means of promoting and encouraging the prosperous development and
2 protection of the legitimate interest and welfare of New York state
3 business enterprises, industry and commerce.

4 § 2. Subdivision 7 of section 1209 of the public authorities law, as
5 amended by section 1 of part 00 of chapter 54 of the laws of 2016, is
6 amended to read as follows:

7 7. (a) Except as otherwise provided in this section, all purchase
8 contracts for supplies, materials or equipment involving an estimated
9 expenditure in excess of one [hundred thousand] million dollars and all
10 contracts for public work involving an estimated expenditure in excess
11 of one [hundred thousand] million dollars shall be awarded by the
12 authority to the lowest responsible bidder after obtaining sealed bids
13 in the manner hereinafter set forth. The aforesaid shall not apply to
14 contracts for personal, architectural, engineering or other professional
15 services. The authority may reject all bids and obtain new bids in the
16 manner provided by this section when it is deemed in the public interest
17 to do so or, in cases where two or more responsible bidders submit iden-
18 tical bids which are the lowest bids, award the contract to any of such
19 bidders or obtain new bids from such bidders. Nothing herein shall obli-
20 gate the authority to seek new bids after the rejection of bids or after
21 cancellation of an invitation to bid. Nothing in this section shall
22 prohibit the evaluation of bids on the basis of costs or savings includ-
23 ing life cycle costs of the item to be purchased, discounts, and
24 inspection services so long as the invitation to bid reasonably sets
25 forth the criteria to be used in evaluating such costs or savings. Life
26 cycle costs may include but shall not be limited to costs or savings
27 associated with installation, energy use, maintenance, operation and
28 salvage or disposal.

1 (b) Section twenty-eight hundred seventy-nine of this chapter shall
2 apply to the authority's acquisition of goods or services of any kind,
3 in the actual or estimated amount of fifteen thousand dollars or more,
4 provided that (i) a contract for services in the actual or estimated
5 amount of less than one [hundred thousand] million dollars shall not
6 require approval by the board of the authority regardless of the length
7 of the period over which the services are rendered, and provided further
8 that a contract for services in the actual or estimated amount of one
9 [hundred thousand] million dollars or more shall require approval by the
10 board of the authority regardless of the length of the period over which
11 the services are rendered unless such a contract is awarded to the
12 lowest responsible bidder after obtaining sealed bids and (ii) the board
13 of the authority may by resolution adopt guidelines that authorize the
14 award of contracts to small business concerns, to service disabled
15 veteran owned businesses certified pursuant to article seventeen-B of
16 the executive law, or minority or women-owned business enterprises
17 certified pursuant to article fifteen-A of the executive law, or
18 purchases of goods or technology that are recycled or remanufactured, in
19 an amount not to exceed four hundred thousand dollars without a formal
20 competitive process and without further board approval. The board of the
21 authority shall adopt guidelines which shall be made publicly available
22 for the awarding of such contract without a formal competitive process.

23 § 3. Subparagraph (i) of paragraph (f) and subparagraph (i) of para-
24 graph (g) of subdivision 9 of section 1209 of the public authorities
25 law, as amended by section 3 of part 00 of chapter 54 of the laws of
26 2016, are amended to read as follows:

27 (i) Except for a contract with a value of one [hundred] million
28 dollars or less that is awarded pursuant to this paragraph to the propo-

1 ser whose proposal is the lowest cost, the authority may award a
2 contract pursuant to this paragraph only after a resolution approved by
3 a two-thirds vote of its members then in office at a public meeting of
4 the authority with such resolution (A) disclosing the other proposers
5 and the substance of their proposals, (B) summarizing the negotiation
6 process including the opportunities, if any, available to proposers to
7 present and modify their proposals, and (C) setting forth the criteria
8 upon which the selection was made provided however that for purposes of
9 this subparagraph the board may, at its discretion, require such a
10 resolution be approved for contracts with a value of one [hundred]
11 million dollars or less.

12 (i) Except for a contract with a value of one [hundred] million
13 dollars or less that is awarded pursuant to this paragraph to the propo-
14 ser whose proposal is the lowest cost, the authority may award a
15 contract pursuant to this paragraph only after a resolution approved by
16 a vote of not less than two-thirds of its members then in office at a
17 public meeting of the authority with such resolution (A) disclosing the
18 other proposers and the substance of their proposals, (B) summarizing
19 the negotiation process including the opportunities, if any, available
20 to proposers to present and modify their proposals, and (C) setting
21 forth the criteria upon which the selection was made provided however
22 that for purposes of this subparagraph the board may, at its discretion,
23 require such a resolution be approved for contracts with a value of one
24 [hundred] million dollars or less.

25 § 4. Paragraphs (a) and (b) of subdivision 2 of section 1265-a of the
26 public authorities law, as amended by section 8 of part 00 of chapter 54
27 of the laws of 2016, are amended to read as follows:

1 (a) Except as otherwise provided in this section, all purchase
2 contracts for supplies, materials or equipment involving an estimated
3 expenditure in excess of one [hundred thousand] million dollars and all
4 contracts for public work involving an estimated expenditure in excess
5 of one [hundred thousand] million dollars shall be awarded by the
6 authority to the lowest responsible bidder after obtaining sealed bids
7 in the manner hereinafter set forth. For purposes hereof, contracts for
8 public work shall exclude contracts for personal, engineering and archi-
9 tectural, or professional services. The authority may reject all bids
10 and obtain new bids in the manner provided by this section when it is
11 deemed in the public interest to do so or, in cases where two or more
12 responsible bidders submit identical bids which are the lowest bids,
13 award the contract to any of such bidders or obtain new bids from such
14 bidders. Nothing herein shall obligate the authority to seek new bids
15 after the rejection of bids or after cancellation of an invitation to
16 bid. Nothing in this section shall prohibit the evaluation of bids on
17 the basis of costs or savings including life cycle costs of the item to
18 be purchased, discounts, and inspection services so long as the invita-
19 tion to bid reasonably sets forth the criteria to be used in evaluating
20 such costs or savings. Life cycle costs may include but shall not be
21 limited to costs or savings associated with installation, energy use,
22 maintenance, operation and salvage or disposal.

23 (b) Section twenty-eight hundred seventy-nine of this chapter shall
24 apply to the authority's acquisition of goods or services of any kind,
25 in the actual or estimated amount of fifteen thousand dollars or more,
26 provided (i) that a contract for services in the actual or estimated
27 amount of less than one [hundred thousand] million dollars shall not
28 require approval by the board of the authority regardless of the length

1 of the period over which the services are rendered, and provided further
2 that a contract for services in the actual or estimated amount of one
3 [hundred thousand] million dollars or more shall require approval by the
4 board of the authority regardless of the length of the period over which
5 the services are rendered unless such a contract is awarded to the
6 lowest responsible bidder after obtaining sealed bids, and (ii) the
7 board of the authority may by resolution adopt guidelines that authorize
8 the award of contracts to small business concerns, to service disabled
9 veteran owned businesses certified pursuant to article seventeen-B of
10 the executive law, or minority or women-owned business enterprises
11 certified pursuant to article fifteen-A of the executive law, or
12 purchases of goods or technology that are recycled or remanufactured, in
13 an amount not to exceed four hundred thousand dollars without a formal
14 competitive process and without further board approval. The board of the
15 authority shall adopt guidelines which shall be made publicly available
16 for the awarding of such contract without a formal competitive process.

17 § 5. Subparagraph (i) of paragraph (f) and subparagraph (i) of para-
18 graph (g) of subdivision 4 of section 1265-a of the public authorities
19 law, as amended by section 9 of part 00 of chapter 54 of the laws of
20 2016, are amended to read as follows:

21 (i) Except for a contract with a value of one [hundred] million
22 dollars or less that is awarded pursuant to this paragraph to the propo-
23 ser whose proposal is the lowest cost, the authority may award a
24 contract pursuant to this paragraph only after a resolution approved by
25 a two-thirds vote of its members then in office at a public meeting of
26 the authority with such resolution (A) disclosing the other proposers
27 and the substance of their proposals, (B) summarizing the negotiation
28 process including the opportunities, if any, available to proposers to

1 present and modify their proposals, and (C) setting forth the criteria
2 upon which the selection was made provided however that for purposes of
3 this subparagraph the board may, at its discretion, require such a
4 resolution be approved for contracts with a value of one [hundred]
5 million dollars or less.

6 (i) Except for a contract with a value of one [hundred] million
7 dollars or less that is awarded pursuant to this paragraph to the propo-
8 ser whose proposal is the lowest cost, the authority may award a
9 contract pursuant to this paragraph only after a resolution approved by
10 a vote of not less than a two-thirds vote of its members then in office
11 at a public meeting of the authority with such resolution (A) disclosing
12 the other proposers and the substance of their proposals, (B) summariz-
13 ing the negotiation process including the opportunities, if any, avail-
14 able to proposers to present and modify their proposals, and (C) setting
15 forth the criteria upon which the selection was made provided however
16 that for purposes of this subparagraph the board may, at its discretion,
17 require such a resolution be approved for contracts with a value of one
18 [hundred] million dollars or less.

19 § 6. Subdivision 22 of section 553 of the public authorities law, as
20 added by section 12 of part 00 of chapter 54 of the laws of 2016, is
21 amended to read as follows:

22 22. Section twenty-eight hundred seventy-nine of this chapter shall
23 apply to the authority's acquisition of goods or services of any kind,
24 in the actual or estimated amount of fifteen thousand dollars or more,
25 provided that (i) a contract for services in the actual or estimated
26 amount of less than one [hundred thousand] million dollars shall not
27 require approval by the board of the authority regardless of the length
28 of the period over which the services are rendered, and provided further

1 that a contract for services in the actual or estimated amount of one
2 [hundred thousand] million dollars or more shall require approval by the
3 board of the authority regardless of the length of the period over which
4 the services are rendered unless such a contract is awarded to the
5 lowest responsible bidder after obtaining sealed bids and (ii) the board
6 of the authority may by resolution adopt guidelines that authorize the
7 award of contracts to small business concerns, to service disabled
8 veteran owned businesses certified pursuant to article [seventeen-b]
9 seventeen-B of the executive law, or minority or women-owned business
10 enterprises certified pursuant to article [fifteen-a] fifteen-A of the
11 executive law, or purchases of goods or technology that are recycled or
12 remanufactured, in an amount not to exceed four hundred thousand dollars
13 without a formal competitive process and without further board approval.
14 The board of the authority shall adopt guidelines which shall be made
15 publicly available for the awarding of such contract without a formal
16 competitive process.

17 § 7. Section 1266 of the public authorities law is amended by adding a
18 new subdivision 19 to read as follows:

19 19. The board of the authority shall be authorized to terminate, modi-
20 fy or amend any service or funding agreement approved prior to the
21 effective date of this subdivision that does not include a defined dura-
22 tion term, or contains an initial term that explicitly or in effect has
23 a duration longer than twenty years.

24 § 8. This act shall take effect April 1, 2018; provided that the
25 amendments to subdivisions 7 and 9 of section 1209, subdivisions 2 and 4
26 of section 1265-a, and subdivision 22 of section 553 of the public
27 authorities law made by sections two, three, four, five and six of this
28 act shall be subject to the expiration and reversion or repeal of such

1 provisions pursuant to section 15 of part 00 of chapter 54 of the laws
2 of 2016, as amended, and shall expire and be deemed repealed therewith.

3 PART O

4 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
5 of the laws of 1968 constituting the New York state urban development
6 corporation act, as amended by section 1 of part M of chapter 58 of the
7 laws of 2017, is amended to read as follows:

8 3. The provisions of this section shall expire, notwithstanding any
9 inconsistent provision of subdivision 4 of section 469 of chapter 309 of
10 the laws of 1996 or of any other law, on July 1, [2018] 2019.

11 § 2. This act shall take effect immediately and shall be deemed to
12 have been in full force and effect on and after July 1, 2018.

13 PART P

14 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
15 New York state urban development corporation act, relating to the powers
16 of the New York state urban development corporation to make loans, as
17 amended by section 1 of part N of chapter 58 of the laws of 2017, is
18 amended to read as follows:

19 § 2. This act shall take effect immediately provided, however, that
20 section one of this act shall expire on July 1, [2018] 2019, at which
21 time the provisions of subdivision 26 of section 5 of the New York state
22 urban development corporation act shall be deemed repealed; provided,
23 however, that neither the expiration nor the repeal of such subdivision
24 as provided for herein shall be deemed to affect or impair in any manner

1 any loan made pursuant to the authority of such subdivision prior to
2 such expiration and repeal.

3 § 2. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2018.

5 PART Q

6 Section 1. Subdivisions 2, 7, 8, 13, 14, 15, 16, 19, 20, 21 and 22 of
7 section 310 of the executive law, subdivisions 2, 8 and 14 as added by
8 chapter 261 of the laws of 1988, subdivisions 7 and 15 as amended by
9 chapter 22 of the laws of 2014, subdivision 13 as amended by chapter 506
10 of the laws of 2009, subdivision 16, as amended by section 3 of part BB
11 of chapter 59 of the laws of 2006, subdivisions 19, 20, 21 and 22 as
12 added by chapter 175 of the laws of 2010 are amended and a new subdivi-
13 sion 24 is added to read as follows:

14 2. "Contracting agency" shall mean a state agency or state-funded
15 entity which is a party or a proposed party to a state contract or, in
16 the case of a state contract described in paragraph (c) of subdivision
17 thirteen of this section, shall mean the New York state housing finance
18 agency, housing trust fund corporation or affordable housing corpo-
19 ration, whichever has made or proposes to make the grant or loan for the
20 state assisted housing project.

21 7. "Minority-owned business enterprise" shall mean a business enter-
22 prise, including a sole proprietorship, partnership, limited liability
23 company or corporation that is:

24 (a) at least fifty-one percent owned by one or more minority group
25 members;

1 (b) an enterprise in which such minority ownership is real, substan-
2 tial and continuing;

3 (c) an enterprise in which such minority ownership has and exercises
4 the authority to control independently the day-to-day business decisions
5 of the enterprise;

6 (d) an enterprise authorized to do business in this state and inde-
7 pendently owned and operated;

8 (e) an enterprise owned by an individual or individuals, whose owner-
9 ship, control and operation are relied upon for certification, with a
10 personal net worth that does not exceed three million five hundred thou-
11 sand dollars, or such other amount as the director shall set forth in
12 regulations, as adjusted annually on the first of January for inflation
13 according to the consumer price index of the previous year; and

14 (f) an enterprise that is a small business pursuant to subdivision
15 twenty of this section.

16 8. "Minority group member" shall mean a United States citizen or
17 permanent resident alien who is and can demonstrate membership in one of
18 the following groups:

19 (a) Black persons having origins in any of the Black African racial
20 groups;

21 (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban,
22 Central or South American of either Indian or Hispanic origin, regard-
23 less of race;

24 (c) Native American or Alaskan native persons having origins in any of
25 the original peoples of North America.

26 (d) Asian and Pacific Islander persons having origins in any of the
27 Far East countries, South East Asia, the Indian subcontinent or the
28 Pacific Islands.

1 13. "State contract" shall mean: (a) a written agreement or purchase
2 order instrument, providing for a total expenditure in excess of [twen-
3 ty-five] fifty thousand dollars, whereby a contracting agency is commit-
4 ted to expend or does expend or grant funds in return for labor,
5 services including but not limited to legal, financial and other profes-
6 sional services, supplies, equipment, materials or any combination of
7 the foregoing, to be performed for, or rendered or furnished to the
8 contracting agency; (b) a written agreement in excess of [one] two
9 hundred thousand dollars whereby a contracting agency is committed to
10 expend or does expend or grant funds for the acquisition, construction,
11 demolition, replacement, major repair or renovation of real property and
12 improvements thereon; [and] (c) a written agreement in excess of [one]
13 two hundred thousand dollars whereby the owner of a state assisted hous-
14 ing project is committed to expend or does expend funds for the acquisi-
15 tion, construction, demolition, replacement, major repair or renovation
16 of real property and improvements thereon for such project; and (d) a
17 written agreement or purchase order instrument, providing for a total
18 expenditure in excess of fifty thousand dollars, whereby a state-funded
19 entity is committed to expend or does expend funds paid to the state-
20 funded entity by the state of New York, including those paid to the
21 state-funded entity pursuant to an appropriation, for any product or
22 service.

23 14. "Subcontract" shall mean an agreement [providing for a total
24 expenditure in excess of twenty-five thousand dollars for the
25 construction, demolition, replacement, major repair, renovation, plan-
26 ning or design of real property and improvements thereon] between a
27 contractor and any individual or business enterprise, including a sole
28 proprietorship, partnership, corporation, or not-for-profit corporation,

1 in which a portion of a contractor's obligation under a state contract
2 is undertaken or assumed, but shall not include any construction, demo-
3 lition, replacement, major repair, renovation, planning or design of
4 real property or improvements thereon for the beneficial use of the
5 contractor.

6 15. "Women-owned business enterprise" shall mean a business enter-
7 prise, including a sole proprietorship, partnership, limited liability
8 company or corporation that is:

9 (a) at least fifty-one percent owned by one or more United States
10 citizens or permanent resident aliens who are women;

11 (b) an enterprise in which the ownership interest of such women is
12 real, substantial and continuing;

13 (c) an enterprise in which such women ownership has and exercises the
14 authority to control independently the day-to-day business decisions of
15 the enterprise;

16 (d) an enterprise authorized to do business in this state and inde-
17 pendently owned and operated;

18 (e) an enterprise owned by an individual or individuals, whose owner-
19 ship, control and operation are relied upon for certification, with a
20 personal net worth that does not exceed three million five hundred thou-
21 sand dollars, or such other amount as the director shall set forth in
22 regulations, as adjusted annually on the first of January for inflation
23 according to the consumer price index of the previous year; and

24 (f) an enterprise that is a small business pursuant to subdivision
25 twenty of this section.

26 A firm owned by a minority group member who is also a woman may be
27 certified as a minority-owned business enterprise, a women-owned busi-
28 ness enterprise, or both, and may be counted towards either a minority-

1 owned business enterprise goal or a women-owned business enterprise
2 goal, in regard to any contract or any goal, set by an agency or author-
3 ity, but such participation may not be counted towards both such goals.
4 Such an enterprise's participation in a contract may not be divided
5 between the minority-owned business enterprise goal and the women-owned
6 business enterprise goal.

7 16. "Statewide advocate" shall mean the person appointed by the
8 [commissioner] director to serve in the capacity of the minority and
9 women-owned business enterprise statewide advocate.

10 19. "Personal net worth" shall mean the aggregate adjusted net value
11 of the assets of an individual remaining after total liabilities are
12 deducted. Personal net worth includes the individual's share of assets
13 held jointly with said individual's spouse and does not include the
14 individual's ownership interest in the certified minority and women-
15 owned business enterprise, the individual's [equity in his or her prima-
16 ry residence] ownership interest in any holding company that leases real
17 property, machinery, equipment, or vehicles exclusively to the certified
18 minority or women-owned business enterprise, up to two hundred percent
19 of the median value of owner-occupied housing units in the municipality
20 in which the individual resides, or up to five hundred thousand dollars
21 of the present cash value of any qualified retirement savings plan or
22 individual retirement account held by the individual less any penalties
23 for early withdrawal.

24 20. "Small business" as used in this section, unless otherwise indi-
25 cated, shall mean a business which has a significant business presence
26 in the state, is independently owned and operated, not dominant in its
27 field and employs, based on its industry, a certain number of persons as
28 determined by the director[, but not to exceed three hundred], taking

1 into consideration factors which include, but are not limited to, feder-
2 al small business administration standards pursuant to 13 CFR part 121
3 and any amendments thereto. The director may issue regulations on the
4 construction of the terms in this definition.

5 21. "The [2010] disparity study" shall refer to the most recent
6 disparity study commissioned by the [empire state development corpo-
7 ration] department of economic development, pursuant to section three
8 hundred twelve-a of this article[, and published on April twenty-nine,
9 two thousand ten].

10 22. "Diversity practices" shall mean the contractor's practices and
11 policies with respect to:

12 (a) [utilizing] mentoring certified minority and women-owned business
13 enterprises in contracts awarded by a state agency or other public
14 corporation, as subcontractors and suppliers; [and]

15 (b) entering into partnerships, joint ventures or other similar
16 arrangements with certified minority and women-owned business enter-
17 prises as defined in this article or other applicable statute or regu-
18 lation governing an entity's utilization of minority or women-owned
19 business enterprises; and

20 (c) the representation of minority group members and women as members
21 of the board of directors or executive officers of the contractor.

22 24. "State-funded entity" shall mean any unit of local government,
23 including, but not limited to, a county, city, town, village, or school
24 district that is paid pursuant to an appropriation in any state fiscal
25 year.

26 § 2. Subdivision 4 of section 311 of the executive law, as amended by
27 chapter 361 of the laws of 2009, is amended to read as follows:

1 4. The director [may] shall provide assistance to, and facilitate
2 access to programs serving [certified businesses as well as applicants]
3 minority and women-owned business enterprises to ensure that such busi-
4 nesses benefit, as needed, from technical, managerial and financial, and
5 general business assistance; training; marketing; organization and
6 personnel skill development; project management assistance; technology
7 assistance; bond and insurance education assistance; and other business
8 development assistance. The director shall maintain a toll-free number
9 at the department of economic development to be used to answer questions
10 concerning the MWBE certification process. In addition, the director
11 may, either independently or in conjunction with other state agencies:

12 (a) develop a clearinghouse of information on programs and services
13 provided by entities that may assist such businesses;

14 (b) review bonding and paperwork requirements imposed by contracting
15 agencies that may unnecessarily impede the ability of such businesses to
16 compete; and

17 (c) seek to maximize utilization by minority and women-owned business
18 enterprises of available federal resources including but not limited to
19 federal grants, loans, loan guarantees, surety bonding guarantees, tech-
20 nical assistance, and programs and services of the federal small busi-
21 ness administration.

22 § 3. Section 311-a of the executive law, as added by section 4 of part
23 BB of chapter 59 of the laws of 2006, is amended to read as follows:

24 § 311-a. Minority and women-owned business enterprise statewide advo-
25 cate. 1. There is hereby established within the [department of econom-
26 ic] division of minority and women's business development [an office of
27 the minority and women-owned business enterprise] a statewide advocate.
28 The statewide advocate shall be appointed by the [commissioner with the

1 advice of the small business advisory board as established in section
2 one hundred thirty-three of the economic development law and shall serve
3 in the unclassified service of the] director. [The statewide advocate
4 shall be located in the Albany empire state development office.]

5 2. The advocate shall act as a liaison for minority and women-owned
6 business enterprises (MWBES) to assist them in obtaining technical,
7 managerial, financial and other business assistance for certified busi-
8 nesses and applicants. The advocate shall receive and investigate
9 complaints brought by or on behalf of MWBES concerning [certification
10 delays and instances of] violations of [law] the requirements of this
11 article by contractors and state agencies. [The statewide advocate shall
12 assist certified businesses and applicants in the certification process.
13 Other functions of the statewide advocate shall be directed by the
14 commissioner. The advocate may request and the director may appoint
15 staff and employees of the division of minority and women business
16 development to support the administration of the office of the statewide
17 advocate.]

18 3. The statewide advocate [shall establish a toll-free number at the
19 department of economic development to be used to answer questions
20 concerning the MWBE certification process] shall conduct periodic audits
21 of state agencies' compliance with the requirements of section three
22 hundred fifteen of this article, which audits shall include a review of
23 the books and records of state agencies concerning, among other things,
24 annual agency expenditures, annual participation of minority and women-
25 owned business enterprises as prime contractors and subcontractors in
26 state agencies' state contracts, and documentation of state agencies'
27 good faith efforts to maximize minority and women-owned business enter-
28 prise participation in such state agencies' contracting.

1 [4. The statewide advocate shall report to the director and commis-
2 sioner by November fifteenth on an annual basis on all activities
3 related to fulfilling the obligations of the office of the statewide
4 advocate. The commissioner shall include the unedited text of the state-
5 wide advocate's report within the reports submitted by the department of
6 economic development to the governor and the legislature.]

7 § 4. Section 312-a of the executive law, as amended by section 1 of
8 part Q of chapter 58 of the laws of 2015, is amended to read as follows:

9 § 312-a. Study of minority and women-owned business [enterprise
10 programs] enterprises. 1. The director of the division of minority and
11 [women-owned] women's business development [in the department of econom-
12 ic development] is authorized and directed to recommission a statewide
13 disparity study regarding the participation of minority and women-owned
14 business enterprises in state contracts since the amendment of this
15 article to be delivered to the governor and legislature [no later than
16 August fifteenth, two thousand sixteen]. The study shall be prepared by
17 an entity independent of the department and selected through a request
18 for proposal process. The purpose of such study is:

19 (a) to determine whether there is a disparity between the number of
20 qualified minority and women-owned businesses ready, willing and able to
21 perform state contracts for commodities, services and construction, and
22 the number of such contractors actually engaged to perform such
23 contracts, and to determine what changes, if any, should be made to
24 state policies affecting minority and women-owned business enterprises;
25 and (b) to determine whether there is a disparity between the number of
26 qualified minorities and women ready, willing and able, with respect to
27 labor markets, qualifications and other relevant factors, to participate
28 in contractor employment, management level bodies, including boards of

1 directors, and as senior executive officers within contracting entities
2 and the number of such group members actually employed or affiliated
3 with state contractors in the aforementioned capacities, and to deter-
4 mine what changes, if any, should be made to state policies affecting
5 minority and women group populations with regard to state contractors'
6 employment and appointment practices relative to diverse group members.
7 Such study shall include, but not be limited to, an analysis of the
8 history of minority and women-owned business enterprise programs and
9 their effectiveness as a means of securing and ensuring participation by
10 minorities and women, and a disparity analysis by market area and region
11 of the state. Such study shall distinguish between minority males,
12 minority females and non-minority females in the statistical analysis.

13 2. The director of the division of minority and [women-owned] women's
14 business development is directed to transmit the disparity study to the
15 governor and the legislature [not later than August fifteenth, two thou-
16 sand sixteen], and to post the study on the website of the department of
17 economic development.

18 § 5. Section 313 of the executive law, as amended by chapter 175 of
19 the laws of 2010, is amended to read as follows:

20 § 313. Opportunities for minority and women-owned business enter-
21 prises. 1. [Goals and requirements for agencies and contractors. Each
22 agency shall structure procurement procedures for contracts made direct-
23 ly or indirectly to minority and women-owned business enterprises, in
24 accordance with the findings of the two thousand ten disparity study,
25 consistent with the purposes of this article, to attempt to achieve the
26 following results with regard to total annual statewide procurement:

27 (a) construction industry for certified minority-owned business enter-
28 prises: fourteen and thirty-four hundredths percent;

1 (b) construction industry for certified women-owned business enter-
2 prises: eight and forty-one hundredths percent;

3 (c) construction related professional services industry for certified
4 minority-owned business enterprises: thirteen and twenty-one hundredths
5 percent;

6 (d) construction related professional services industry for certified
7 women-owned business enterprises: eleven and thirty-two hundredths
8 percent;

9 (e) non-construction related services industry for certified minori-
10 ty-owned business enterprises: nineteen and sixty hundredths percent;

11 (f) non-construction related services industry for certified women-
12 owned business enterprises: seventeen and forty-four hundredths percent;

13 (g) commodities industry for certified minority-owned business enter-
14 prises: sixteen and eleven hundredths percent;

15 (h) commodities industry for certified women-owned business enter-
16 prises: ten and ninety-three hundredths percent;

17 (i) overall agency total dollar value of procurement for certified
18 minority-owned business enterprises: sixteen and fifty-three hundredths
19 percent;

20 (j) overall agency total dollar value of procurement for certified
21 women-owned business enterprises: twelve and thirty-nine hundredths
22 percent; and

23 (k) overall agency total dollar value of procurement for certified
24 minority, women-owned business enterprises: twenty-eight and ninety-two
25 hundredths percent.

26 1-a. The director shall ensure that each state agency has been
27 provided with a copy of the two thousand ten disparity study.

1 1-b. Each agency shall develop and adopt agency-specific goals based
2 on the findings of the two thousand ten disparity study.

3 2.] The director shall promulgate rules and regulations [pursuant to
4 the goals established in subdivision one of this section] that provide
5 measures and procedures to ensure that certified minority and women-
6 owned businesses shall be given the opportunity for maximum feasible
7 participation in the performance of state contracts and to assist in the
8 agency's identification of those state contracts for which minority and
9 women-owned certified businesses may best bid to actively and affirma-
10 tively promote and assist their participation in the performance of
11 state contracts [so as to facilitate the agency's achievement of the
12 maximum feasible portion of the goals for state contracts to such busi-
13 nesses].

14 [2-a.] 2. The director shall promulgate rules and regulations that
15 will accomplish the following:

16 (a) provide for the certification and decertification of minority and
17 women-owned business enterprises for all agencies through a single proc-
18 ess that meets applicable requirements;

19 (b) require that each contract solicitation document accompanying each
20 solicitation set forth the expected degree of minority and women-owned
21 business enterprise participation based, in part, on:

22 (i) the potential subcontract opportunities available in the prime
23 procurement contract; [and]

24 (ii) the availability[, as contained within the study,] of certified
25 minority and women-owned business enterprises to respond competitively
26 to the potential subcontract opportunities, as reflected in the divi-
27 sion's directory of certified minority and women-owned business enter-
28 prises; and

1 (iii) the findings of the disparity study.

2 (c) [require that each agency provide a current list of certified
3 minority business enterprises to each prospective contractor;

4 (d)] allow a contractor that is a certified minority-owned or women-
5 owned business enterprise to use the work it performs to meet require-
6 ments for use of certified minority-owned or women-owned business enter-
7 prises as subcontractors;

8 (d) establish criteria for agencies to credit the participation of
9 minority and women-owned business enterprises towards the achievement of
10 the minority and women-owned business enterprise participation goals on
11 a state contract based on the commercially useful function provided by
12 each minority and women-owned business enterprise on the contract;

13 (e) provide for joint ventures, which a bidder may count toward meet-
14 ing its minority and women-owned business enterprise participation;

15 (f) consistent with subdivision six of this section, provide for
16 circumstances under which an agency or state-funded entity may waive
17 obligations of the contractor relating to minority and women-owned busi-
18 ness enterprise participation;

19 (g) require that an agency or state-funded entity verify that minority
20 and women-owned business enterprises listed in a successful bid are
21 actually participating to the extent listed in the project for which the
22 bid was submitted;

23 (h) provide for the collection of statistical data by each agency
24 concerning actual minority and women-owned business enterprise partic-
25 ipation; [and]

26 (i) require each agency to consult the most current disparity study
27 when calculating [agency-wide and contract specific] contract-specific
28 participation goals pursuant to this article; and

1 (j) provide for the periodic collection of reports from state-funded
2 entities in such form and at such time as the director shall require.

3 3. Solely for the purpose of providing the opportunity for meaningful
4 participation by certified businesses in the performance of state
5 contracts as provided in this section, state contracts shall include
6 leases of real property by a state agency to a lessee where: the terms
7 of such leases provide for the construction, demolition, replacement,
8 major repair or renovation of real property and improvements thereon by
9 such lessee; and the cost of such construction, demolition, replacement,
10 major repair or renovation of real property and improvements thereon
11 shall exceed the sum of [one] two hundred thousand dollars. Reports to
12 the director pursuant to section three hundred fifteen of this article
13 shall include activities with respect to all such state contracts.
14 Contracting agencies shall include or require to be included with
15 respect to state contracts for the acquisition, construction, demoli-
16 tion, replacement, major repair or renovation of real property and
17 improvements thereon, such provisions as may be necessary to effectuate
18 the provisions of this section in every bid specification and state
19 contract, including, but not limited to: (a) provisions requiring
20 contractors to make a good faith effort to solicit active participation
21 by enterprises identified in the directory of certified businesses
22 [provided to the contracting agency by the office]; (b) requiring the
23 parties to agree as a condition of entering into such contract, to be
24 bound by the provisions of section three hundred sixteen of this arti-
25 cle; and (c) requiring the contractor to include the provisions set
26 forth in paragraphs (a) and (b) of this subdivision in every subcontract
27 in a manner that the provisions will be binding upon each subcontractor
28 as to work in connection with such contract. Provided, however, that no

1 such provisions shall be binding upon contractors or subcontractors in
2 the performance of work or the provision of services that are unrelated,
3 separate or distinct from the state contract as expressed by its terms,
4 and nothing in this section shall authorize the director or any
5 contracting agency to impose any requirement on a contractor or subcon-
6 tractor except with respect to a state contract.

7 4. In the implementation of this section, the contracting agency shall
8 (a) consult the findings contained within the disparity study evidencing
9 relevant industry specific [availability of certified businesses]
10 disparities in the utilization of minority and women-owned businesses
11 relative to their availability;

12 (b) implement a program that will enable the agency to evaluate each
13 contract to determine the [appropriateness of the] appropriate goal
14 [pursuant to subdivision one of this section] for participation by
15 minority-owned business enterprises and women-owned business
16 enterprises;

17 (c) consider where practicable, the severability of construction
18 projects and other bundled contracts; and

19 (d) consider compliance with the requirements of any federal law
20 concerning opportunities for minority and women-owned business enter-
21 prises which effectuates the purpose of this section. The contracting
22 agency shall determine whether the imposition of the requirements of any
23 such law duplicate or conflict with the provisions hereof and if such
24 duplication or conflict exists, the contracting agency shall waive the
25 applicability of this section to the extent of such duplication or
26 conflict.

27 5. (a) Contracting agencies shall administer the rules and regulations
28 promulgated by the director in a good faith effort to [meet] achieve the

1 maximum feasible [portion of the agency's goals adopted] participation
2 of minority and women-owned business enterprises pursuant to this arti-
3 cle and the regulations of the director. Such rules and regulations:
4 shall require a contractor to submit a utilization plan after bids are
5 opened, when bids are required, but prior to the award of a state
6 contract; shall require the contracting agency to review the utilization
7 plan submitted by the contractor [and to post the utilization plan and
8 any waivers of compliance issued pursuant to subdivision six of this
9 section on the website of the contracting agency] within a reasonable
10 period of time as established by the director; shall require the
11 contracting agency to notify the contractor in writing within a period
12 of time specified by the director as to any deficiencies contained in
13 the contractor's utilization plan; shall require remedy thereof within a
14 period of time specified by the director; shall require the contractor
15 to submit periodic compliance reports relating to the operation and
16 implementation of any utilization plan; shall not allow any automatic
17 waivers but shall allow a contractor to apply for a partial or total
18 waiver of the minority and women-owned business enterprise participation
19 requirements pursuant to subdivisions six and seven of this section;
20 shall allow a contractor to file a complaint with the director pursuant
21 to subdivision eight of this section in the event a contracting agency
22 has failed or refused to issue a waiver of the minority and women-owned
23 business enterprise participation requirements or has denied such
24 request for a waiver; and shall allow a contracting agency to file a
25 complaint with the director pursuant to subdivision nine of this section
26 in the event a contractor is failing or has failed to comply with the
27 minority and women-owned business enterprise participation requirements
28 set forth in the state contract where no waiver has been granted.

1 (b) The rules and regulations promulgated pursuant to this subdivision
2 regarding a utilization plan shall provide that where enterprises have
3 been identified within a utilization plan, a contractor shall attempt,
4 in good faith, to utilize such enterprise at least to the extent indi-
5 cated. A contracting agency may require a contractor to indicate, within
6 a utilization plan, what measures and procedures he or she intends to
7 take to comply with the provisions of this article, but may not require,
8 as a condition of award of, or compliance with, a contract that a
9 contractor utilize a particular enterprise in performance of the
10 contract.

11 (c) Without limiting other grounds for the disqualification of bids or
12 proposals on the basis of non-responsibility, a contracting agency may
13 disqualify the bid or proposal of a contractor as being non-responsible
14 for failure to remedy notified deficiencies contained in the contrac-
15 tor's utilization plan within a period of time specified in regulations
16 promulgated by the director after receiving notification of such defi-
17 ciencies from the contracting agency. Where failure to remedy any noti-
18 fied deficiency in the utilization plan is a ground for disqualifica-
19 tion, that issue and all other grounds for disqualification shall be
20 stated in writing by the contracting agency. Where the contracting agen-
21 cy states that a failure to remedy any notified deficiency in the utili-
22 zation plan is a ground for disqualification the contractor shall be
23 entitled to an administrative hearing, on a record, involving all
24 grounds stated by the contracting agency. Such hearing shall be
25 conducted by the appropriate authority of the contracting agency to
26 review the determination of disqualification. A final administrative
27 determination made following such hearing shall be reviewable in a
28 proceeding commenced under article seventy-eight of the civil practice

1 law and rules, provided that such proceeding is commenced within thirty
2 days of the notice given by certified mail return receipt requested
3 rendering such final administrative determination. Such proceeding shall
4 be commenced in the supreme court, appellate division, third department
5 and such proceeding shall be preferred over all other civil causes
6 except election causes, and shall be heard and determined in preference
7 to all other civil business pending therein, except election matters,
8 irrespective of position on the calendar. Appeals taken to the court of
9 appeals of the state of New York shall be subject to the same prefer-
10 ence.

11 6. Where it appears that a contractor cannot, after a good faith
12 effort, comply with the minority and women-owned business enterprise
13 participation requirements set forth in a particular state contract, a
14 contractor may file a written application with the contracting agency
15 requesting a partial or total waiver of such requirements setting forth
16 the reasons for such contractor's inability to meet any or all of the
17 participation requirements together with an explanation of the efforts
18 undertaken by the contractor to obtain the required minority and women-
19 owned business enterprise participation. In implementing the provisions
20 of this section, the contracting agency shall consider the number and
21 types of minority and women-owned business enterprises [located] avail-
22 able to provide goods or services required under the contract in the
23 region in which the state contract is to be performed, the total dollar
24 value of the state contract, the scope of work to be performed and the
25 project size and term. If, based on such considerations, the contracting
26 agency determines there is not a reasonable availability of contractors
27 on the list of certified business to furnish services for the project,
28 it shall issue a waiver of compliance to the contractor. In making such

1 determination, the contracting agency shall first consider the avail-
2 ability of other business enterprises located in the region and shall
3 thereafter consider the financial ability of minority and women-owned
4 businesses located outside the region in which the contract is to be
5 performed to perform the state contract.

6 7. For purposes of determining a contractor's good faith effort to
7 comply with the requirements of this section or to be entitled to a
8 waiver therefrom the contracting agency shall consider:

9 (a) whether the contractor has [advertised in general circulation
10 media, trade association publications, and minority-focus and women-fo-
11 cus media and, in such event, (i) whether or not certified minority or
12 women-owned businesses which have been solicited by the contractor
13 exhibited interest in submitting proposals for a particular project by
14 attending] attended a pre-bid conference, if any, scheduled by the state
15 agency awarding the state contract with certified minority and women-
16 owned business enterprises; and

17 [(ii) whether certified businesses which have been solicited by the
18 contractor have responded in a timely fashion to the contractor's solici-
19 tations for timely competitive bid quotations prior to the contracting
20 agency's bid date; and]

21 (b) whether [there has been] the contractor provided timely written
22 notification of subcontracting opportunities on the state contract to
23 appropriate certified businesses that appear in the directory of certi-
24 fied businesses prepared pursuant to paragraph (f) of subdivision three
25 of section three hundred eleven of this article; and

26 (c) whether the contractor can reasonably structure the amount of work
27 to be performed under subcontracts in order to increase the likelihood
28 of participation by certified businesses.

1 8. In the event that a contracting agency fails or refuses to issue a
2 waiver to a contractor as requested within twenty days after having made
3 application therefor pursuant to subdivision six of this section or if
4 the contracting agency denies such application, in whole or in part, the
5 contractor may file a complaint with the director pursuant to section
6 three hundred sixteen of this article setting forth the facts and
7 circumstances giving rise to the contractor's complaint together with a
8 demand for relief. The contractor shall serve a copy of such complaint
9 upon the contracting agency by personal service or by certified mail,
10 return receipt requested. The contracting agency shall be afforded an
11 opportunity to respond to such complaint in writing.

12 9. If, after the review of a contractor's minority and women owned
13 business utilization plan or review of a periodic compliance report and
14 after such contractor has been afforded an opportunity to respond to a
15 notice of deficiency issued by the contracting agency in connection
16 therewith, it appears that a contractor is failing or refusing to comply
17 with the minority and women-owned business participation requirements as
18 set forth in the state contract and where no waiver from such require-
19 ments has been granted, the contracting agency may file a written
20 complaint with the director pursuant to section three hundred sixteen of
21 this article setting forth the facts and circumstances giving rise to
22 the contracting agency's complaint together with a demand for relief.
23 The contracting agency shall serve a copy of such complaint upon the
24 contractor by personal service or by certified mail, return receipt
25 requested. The contractor shall be afforded an opportunity to respond to
26 such complaint in writing.

27 § 6. Section 314 of the executive law, as added by chapter 261 of the
28 laws of 1988, subdivision 2-a as amended by chapter 175 of the laws of

1 2010, subdivision 4 as amended and subdivision 5 as added by chapter 399
2 of the laws of 2014, is amended to read as follows:

3 § 314. Statewide certification program. 1. The director shall promul-
4 gate rules and regulations providing for the establishment of a state-
5 wide certification program including rules and regulations governing the
6 approval, denial or revocation of any such certification. Such rules
7 shall set forth the maximum personal net worth of a minority group
8 member or woman who may be relied upon to certify a business as a minor-
9 ity-owned business enterprise or women-owned business enterprise, and
10 may establish different maximum levels of personal net worth for minori-
11 ty group members and women on an industry-by-industry basis for such
12 industries as the director shall determine. Such rules and regulations
13 shall include, but not be limited to, such matters as may be required to
14 ensure that the established procedures thereunder shall at least be in
15 compliance with the code of fair procedure set forth in section seven-
16 ty-three of the civil rights law.

17 2. For the purposes of this article, the office shall be responsible
18 for verifying businesses as being owned, operated, and controlled by
19 minority group members or women and for certifying such verified busi-
20 nesses. The director shall prepare a directory of certified businesses
21 for use by contracting agencies and contractors in carrying out the
22 provisions of this article. The director shall periodically update the
23 directory.

24 2-a. (a) The director shall establish a procedure enabling the office
25 to accept New York municipal corporation certification verification for
26 minority and women-owned business enterprise applicants in lieu of
27 requiring the applicant to complete the state certification process. The
28 director shall promulgate rules and regulations to set forth criteria

1 for the acceptance of municipal corporation certification. All eligible
2 municipal corporation certifications shall require business enterprises
3 seeking certification to meet the following standards:

4 (i) have at least fifty-one percent ownership by a minority or a
5 women-owned enterprise and be owned by United States citizens or perma-
6 nent resident aliens;

7 (ii) be an enterprise in which the minority and/or women-ownership
8 interest is real, substantial and continuing;

9 (iii) be an enterprise in which the minority and/or women-ownership
10 has and exercises the authority to control independently the day-to-day
11 business decisions of the enterprise;

12 (iv) be an enterprise authorized to do business in this state;

13 (v) be subject to a physical site inspection to verify the fifty-one
14 percent ownership requirement;

15 (vi) be owned by an individual or individuals, whose ownership,
16 control and operation are relied upon for certification, with a personal
17 net worth that does not exceed three million five hundred thousand
18 dollars, or such other amount as the director shall set forth in regu-
19 lations, as adjusted annually for inflation according to the consumer
20 price index; and

21 (vii) be an enterprise that is a small business pursuant to subdivi-
22 sion twenty of section three hundred ten of this article.

23 (b) The director shall work with all municipal corporations that have
24 a municipal minority and women-owned business enterprise program to
25 develop standards to accept state certification to meet the municipal
26 corporation minority and women-owned business enterprise certification
27 standards.

1 (c) The director shall establish a procedure enabling the division to
2 accept federal certification verification for minority and women-owned
3 business enterprise applicants, provided said standards comport with
4 those required by the state minority and women-owned business program,
5 in lieu of requiring the applicant to complete the state certification
6 process. The director shall promulgate rules and regulations to set
7 forth criteria for the acceptance of federal certification.

8 2-b. Each business applying for minority or women-owned business
9 enterprise certification pursuant to this section must agree to allow:
10 (i) the department of taxation and finance to share its tax information
11 with the division and (ii) the department of labor to share its tax and
12 employer information with the division.

13 3. Following application for certification pursuant to this section,
14 the director shall provide the applicant with written notice of the
15 status of the application, including notice of any outstanding deficien-
16 cies[, within thirty days]. Within [sixty] thirty days of submission of
17 a final completed application, the director shall provide the applicant
18 with written notice of a determination by the office approving or deny-
19 ing such certification and, in the event of a denial a statement setting
20 forth the reasons for such denial. Upon a determination denying or
21 revoking certification, the business enterprise for which certification
22 has been so denied or revoked shall, upon written request made within
23 thirty days from receipt of notice of such determination, be entitled to
24 a hearing before an independent hearing officer designated for such
25 purpose by the director. In the event that a request for a hearing is
26 not made within such thirty day period, such determination shall be
27 deemed to be final. The independent hearing officer shall conduct a
28 hearing and upon the conclusion of such hearing, issue a written recom-

1 mendation to the director to affirm, reverse or modify such determi-
2 nation of the director. Such written recommendation shall be issued to
3 the parties. The director, within thirty days, by order, must accept,
4 reject or modify such recommendation of the hearing officer and set
5 forth in writing the reasons therefor. The director shall serve a copy
6 of such order and reasons therefor upon the business enterprise by
7 personal service or by certified mail return receipt requested. The
8 order of the director shall be subject to review pursuant to article
9 seventy-eight of the civil practice law and rules.

10 4. The director may, after performing an availability analysis and
11 upon a finding that industry-specific factors coupled with personal net
12 worth or small business eligibility requirements pursuant to subdivi-
13 sions nineteen and twenty of section three hundred ten of this article,
14 respectively, have led to the significant exclusion of businesses owned
15 by minority group members or women in that industry, grant provisional
16 MWBE certification status to applicants from that designated industry,
17 provided, however, that all other eligibility requirements pursuant to
18 subdivision seven or fifteen of section three hundred ten of this arti-
19 cle, as applicable, are satisfied. Any industry-based determination made
20 under this section by the director shall be made widely available to the
21 public and posted on the division's website.

22 5. With the exception of provisional MWBE certification, as provided
23 for in subdivision twenty-three of section three hundred ten of this
24 article, all minority and women-owned business enterprise certifications
25 shall be valid for a period of three years.

26 § 7. Subdivisions 2, 3, 4, 5, 6 and 7 of section 315 of the executive
27 law, subdivision 2 as added by chapter 261 of the laws of 1988, and

1 subdivision 3 as amended and subdivisions 4, 5, 6 and 7 as added by
2 chapter 175 of the laws of 2010, are amended to read as follows:

3 2. [Each contracting agency shall provide to prospective bidders a
4 current copy of the directory of certified businesses, and a copy of the
5 regulations required pursuant to sections three hundred twelve and three
6 hundred thirteen of this article at the time bids or proposals are
7 solicited.

8 3.] Each contracting agency shall report to the director with respect
9 to activities undertaken to promote employment of minority group members
10 and women and promote and increase participation by certified businesses
11 with respect to state contracts and subcontracts. Such reports shall be
12 submitted periodically, but not less frequently than annually, as
13 required by the director, and shall include such information as is
14 necessary for the director to determine whether the contracting agency
15 and contractor have complied with the purposes of this article, includ-
16 ing, without limitation, a summary of all waivers of the requirements of
17 subdivisions six and seven of section three hundred thirteen of this
18 article allowed by the contracting agency during the period covered by
19 the report, [including a description of the basis of the waiver request
20 and the rationale for granting any such waiver] any instances in which
21 the state agency has deemed a contractor to have committed a violation
22 pursuant to section three hundred sixteen-a of this article, and such
23 other information as the director shall require. Each agency shall also
24 include in such annual report whether or not it has been required to
25 prepare a remedial plan, and, if so, the plan and the extent to which
26 the agency has complied with each element of the plan.

27 [4.] 3. The division of minority and women's business development
28 shall issue an annual report which: (a) summarizes the report submitted

1 by each contracting agency pursuant to subdivision [three] two of this
2 section; (b) contains such comparative or other information as the
3 director deems appropriate, including but not limited to goals compared
4 to actual participation of minority and women-owned business enterprises
5 in state contracting, to evaluate the effectiveness of the activities
6 undertaken by each such contracting agency to promote increased partic-
7 ipation by certified minority or women-owned businesses with respect to
8 state contracts and subcontracts; (c) contains a summary of all waivers
9 of the requirements of subdivisions six and seven of section three
10 hundred thirteen of this article allowed by each contracting agency
11 during the period covered by the report[, including a description of the
12 basis of the waiver request and the contracting agency's rationale for
13 granting any such waiver]; and (d) [describes any efforts to create a
14 database or other information storage and retrieval system containing
15 information relevant to contracting with minority and women-owned busi-
16 ness enterprises; and (e)] contains a summary of (i) all determinations
17 of violations of this article by a contractor or a contracting agency
18 made during the period covered by the annual report pursuant to section
19 three hundred sixteen-a of this article and
20 (ii) the penalties or sanctions, if any, assessed in connection with
21 such determinations and the rationale for such penalties or sanctions.
22 Copies of the annual report shall be provided to the commissioner, the
23 governor, the comptroller, the temporary president of the senate, the
24 speaker of the assembly, the minority leader of the senate, the minority
25 leader of the assembly and shall also be made widely available to the
26 public via, among other things, publication on a website maintained by
27 the division of minority and women's business development.

1 [5.] 4. Each agency shall include in its annual report to the governor
2 and legislature pursuant to section one hundred sixty-four of [the execu-
3 tive law] this chapter its annual goals for contracts with minority-
4 owned and women-owned business enterprises, the number of actual
5 contracts issued to minority-owned and women-owned business enterprises;
6 and a summary of all waivers of the requirements of subdivisions six and
7 seven of section three hundred thirteen of this article allowed by the
8 reporting agency during the preceding year, including a description of
9 the basis of the waiver request and the rationale for granting such
10 waiver. Each agency shall also include in such annual report whether or
11 not it has been required to prepare a remedial plan, and, if so, the
12 plan and the extent to which the agency has complied with each element
13 of the plan.

14 [6.] 5. Each contracting agency that substantially fails to [meet the
15 goals supported by the disparity study] make a good faith effort, as
16 defined by regulation of the director, to achieve the maximum feasible
17 participation of minority and women-owned business enterprises in such
18 agency's contracting shall be required to submit to the director a reme-
19 dial action plan to remedy such failure.

20 [7.] 6. If it is determined by the director that any agency has failed
21 to act in good faith to implement the remedial action plan, pursuant to
22 subdivision [six] five of this section within one year, the director
23 shall provide written notice of such a finding, which shall be publicly
24 available, and direct implementation of remedial actions to:

25 (a) assure that sufficient and effective solicitation efforts to women
26 and minority-owned business enterprises are being made by said agency;

1 (b) divide contract requirements, when economically feasible, into
2 quantities that will expand the participation of women and minority-
3 owned business enterprises;

4 (c) eliminate extended experience or capitalization requirements, when
5 programmatically and economically feasible, that will expand partic-
6 ipation by women and minority-owned business enterprises;

7 (d) identify specific proposed contracts as particularly attractive or
8 appropriate for participation by women and minority-owned business
9 enterprises with such identification to result from and be coupled with
10 the efforts of paragraphs (a), (b), and (c) of this subdivision; and

11 (e) upon a finding by the director that an agency has failed to take
12 affirmative measures to implement the remedial plan and to follow any of
13 the remedial actions set forth by the director, and in the absence of
14 any objective progress towards the agency's goals, require some or all
15 of the agency's procurement, for a specified period of time, be placed
16 under the direction and control of another agency or agencies.

17 § 8. Section 316-a of the executive law, as added by chapter 175 of
18 the laws of 2010, is amended to read as follows:

19 § 316-a. Prohibitions in contracts; violations. Every contracting
20 agency shall include a provision in its state contracts expressly
21 providing that any contractor who [willfully and intentionally] fails to
22 make a good faith effort to comply with the minority and women-owned
23 participation requirements of this article as set forth in such state
24 contract shall be liable to the contracting agency for liquidated or
25 other appropriate damages and shall provide for other appropriate reme-
26 dies on account of such breach. A contracting agency that elects to
27 proceed against a contractor for breach of contract as provided in this
28 section shall be precluded from seeking enforcement pursuant to section

1 three hundred sixteen of this article; provided however, that the
2 contracting agency shall include a summary of all enforcement actions
3 undertaken pursuant to this section in its annual report submitted
4 pursuant to [subdivision three of] section three hundred fifteen of this
5 article.

6 § 9. Subdivision 6 of section 163 of the state finance law, as amended
7 by chapter 569 of the laws of 2015, is amended to read as follows:

8 6. Discretionary buying thresholds. Pursuant to guidelines established
9 by the state procurement council: the commissioner may purchase services
10 and commodities in an amount not exceeding eighty-five thousand dollars
11 without a formal competitive process; state agencies may purchase
12 services and commodities in an amount not exceeding fifty thousand
13 dollars without a formal competitive process; and state agencies may
14 purchase commodities or services from small business concerns or those
15 certified pursuant to articles fifteen-A and seventeen-B of the execu-
16 tive law, or commodities or technology that are recycled or remanufac-
17 tured, or commodities that are food, including milk and milk products,
18 grown, produced or harvested in New York state in an amount not exceed-
19 ing [two] four hundred thousand dollars without a formal competitive
20 process.

21 § 10. Subparagraph (i) of paragraph (b) of subdivision 3 of section
22 2879 of the public authorities law, as amended by chapter 174 of the
23 laws of 2010, is amended to read as follows:

24 (i) for the selection of such contractors on a competitive basis, and
25 provisions relating to the circumstances under which the board may by
26 resolution waive competition, including, notwithstanding any other
27 provision of law requiring competition, the purchase of goods or
28 services from small business concerns or those certified as minority or

1 women-owned business enterprises, or goods or technology that are recy-
2 cled or remanufactured, in an amount not to exceed [two] four hundred
3 thousand dollars without a formal competitive process;

4 § 11. Paragraph a of subdivision 3 of section 139-j of the state
5 finance law is amended by adding two new subparagraphs 10 and 11 to read
6 as follows:

7 (10) Complaints by minority-owned business enterprises or women-owned
8 business enterprises, certified as such by the division of minority and
9 women's business development, to the minority and women-owned business
10 enterprise statewide advocate concerning the procuring governmental
11 entity's failure to comply with the requirements of section three
12 hundred fifteen of the executive law;

13 (11) Communications between the minority and women-owned business
14 enterprise statewide advocate and the procuring governmental entity in
15 furtherance of an investigation of the minority and women-owned business
16 enterprise statewide advocate pursuant to section three hundred twelve-a
17 of the executive law;

18 § 12. Subdivision 6 of section 8 of the public buildings law, as
19 amended by chapter 840 of the laws of 1980, is amended to read as
20 follows:

21 6. All contracts for amounts in excess of five thousand dollars for
22 the work of construction, reconstruction, alteration, repair or improve-
23 ment of any state building, whether constructed or to be constructed
24 must be offered for public bidding and may be awarded to the lowest
25 responsible and reliable bidder, as will best promote the public inter-
26 est, by the said department or other agency with the approval of the
27 comptroller for the whole or any part of the work to be performed, and,
28 in the discretion of the said department or other agency, such contracts

1 may be sublet; provided, however, that no such contract shall be awarded
2 to a bidder other than the lowest responsible and reliable bidder,
3 except for certain contracts awarded to minority or women-owned business
4 enterprises as provided herein, without the written approval of the
5 comptroller. When a proposal consists of unit prices of items specified
6 to be performed, the lowest bid shall be deemed to be that which specif-
7 ically states the lowest gross sum for which the entire work will be
8 performed, except for certain contracts awarded to minority or women-
9 owned business enterprises as provided herein, including all the items
10 specified in the proposal thereof. The lowest bid shall be determined by
11 the commissioner of general services on the basis of the gross sum for
12 which the entire work will be performed, arrived at by a correct compu-
13 tation of all the items specified in the proposal therefor at the unit
14 prices contained in the bid. Provided, however, that where a responsible
15 and reliable bidder certified as a minority-owned business enterprise or
16 women-owned business enterprise pursuant to article fifteen-A of the
17 executive law submits a bid of one million four hundred thousand dollars
18 or less, as adjusted annually for inflation beginning January first, two
19 thousand nineteen, the bid of the minority or women-owned business
20 enterprise shall be deemed the lowest bid unless it exceeds the bid of
21 any other bidder by more than ten percent.

22 § 13. The penal law is amended by adding a new article 181 to read as
23 follows:

24 ARTICLE 181

25 MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISE FRAUD

26 Section 181.00 Definitions.

1 181.10 Minority or women-owned business enterprise fraud in the
2 third degree.

3 181.20 Minority or women-owned business enterprise fraud in the
4 second degree.

5 181.30 Minority or women-owned business enterprise fraud in the
6 first degree.

7 § 181.00 Definitions.

8 1. "Minority-owned business enterprise" means a business enterprise
9 certified as such pursuant to article fifteen-A of the executive law.

10 2. "State contract" shall have the same meaning as in article
11 fifteen-A of the executive law.

12 3. "Women-owned business enterprise" means a business enterprise
13 certified as such pursuant to article fifteen-A of the executive law.

14 § 181.10 Minority or women-owned business enterprise fraud in the third
15 degree.

16 A person is guilty of minority or women-owned business enterprise
17 fraud in the third degree when he or she knowingly provides materially
18 false information or omits material information concerning the use or
19 identification of a minority or women-owned business enterprise for the
20 purpose of being awarded, or demonstrating compliance with the minority
21 and women-owned business participation requirements of, a state
22 contract.

23 Minority or women-owned business enterprise fraud in the third degree
24 is a class A misdemeanor.

25 § 181.20 Minority or women-owned business enterprise fraud in the second
26 degree.

27 A person is guilty of minority or women-owned business enterprise
28 fraud in the second degree when he or she knowingly provides materially

1 false information or omits material information concerning the use or
2 identification of a minority or women-owned business enterprise for the
3 purpose of being awarded, or demonstrating compliance with the minority
4 and women-owned business participation requirements of, a state
5 contract, and the state contract is valued in excess of fifty thousand
6 dollars.

7 Minority or women-owned business enterprise fraud in the second degree
8 is a class E felony.

9 § 181.30 Minority or women-owned business enterprise fraud in the first
10 degree.

11 A person is guilty of minority or women-owned business enterprise
12 fraud in the first degree when he or she knowingly provides materially
13 false information or omits material information concerning the use or
14 identification of a minority or women-owned business enterprise for the
15 purpose of being awarded, or demonstrating compliance with the minority
16 and women-owned business participation requirements of, a state
17 contract, and the state contract is valued in excess of one million
18 dollars.

19 Minority or women-owned business enterprise fraud in the first degree
20 is a class D felony.

21 § 14. The opening paragraph of subdivision (h) of section 121 of chap-
22 ter 261 of the laws of 1988, amending the state finance law and other
23 laws relating to the New York state infrastructure trust fund, as
24 amended by section 1 of part CCC of chapter 59 of laws of 2017, is
25 amended to read as follows:

26 The provisions of sections sixty-two through sixty-six of this act
27 shall expire [April fifteenth, two thousand eighteen, provided, however,
28 that if the statewide disparity study regarding the participation of

1 minority and women-owned business enterprises in state contracts
2 required pursuant to subdivision one of section three hundred twelve-a
3 of the executive law is completed and delivered to the governor and the
4 legislature on or before June thirtieth, two thousand seventeen, then
5 the provisions of sections sixty-two through sixty-six of this act shall
6 expire] and be deemed repealed on December thirty-first, two thousand
7 [eighteen] twenty-three, except that:

8 § 15. The executive law is amended by adding a new article 28 as
9 follows:

10 ARTICLE 28

11 WORKFORCE DIVERSITY PROGRAM

12 Section 821. Definitions.

13 822. Workforce participation goals.

14 823. Reporting.

15 824. Enforcement.

16 825. Powers and responsibilities of the division.

17 826. Severability.

18 § 821. Definitions. As used in this article, the following terms shall
19 have the following meanings:

20 1. "Contractor" shall mean an individual, a business enterprise,
21 including a sole proprietorship, a partnership, a corporation, a not-
22 for-profit corporation, or any other party to a state contract, or a
23 bidder in conjunction with the award of a state contract or a proposed
24 party to a state contract.

25 2. "Department" shall mean the department of labor.

1 3. "Director" shall mean the director of the division of minority and
2 women's business development.

3 4. "Disparity study" shall mean the most recent study of disparities
4 between the utilization of minority group members and women in the
5 performance of state contracts and the availability of minority group
6 members and women to perform such work by the director pursuant to arti-
7 cle fifteen-A of this chapter.

8 5. "Division" shall mean the department of economic development's
9 division of minority and women's business development.

10 6. "List of non-compliant contractors" shall mean a list of contrac-
11 tors and subcontractors, maintained by the division and published on the
12 website of the division, that are ineligible to participate as contrac-
13 tors or subcontractors in the performance of state contracts for a term
14 determined by the director.

15 7. "Minority group member" shall mean a United States citizen or
16 permanent resident alien who is and can demonstrate membership in one of
17 the following groups:

18 (a) Black persons having origins in any of the Black African racial
19 groups;

20 (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban,
21 Central or South American of either Indian or Hispanic origin, regard-
22 less of race;

23 (c) Native American or Alaskan native persons having origins in any of
24 the original peoples of North America;

25 (d) Asian and Pacific Islander persons having origins in any of the
26 Far East countries, South East Asia, the Indian subcontinent or the
27 Pacific Islands.

1 8. "Non-compliant contractor" shall mean a contractor or subcontractor
2 that has failed to make a good faith effort to meet the workforce
3 participation goal established by a state agency on a state contract,
4 and has been listed by the division on its list of non-compliant
5 contractors.

6 9. "State agency" shall mean (a) (i) any state department, or (ii) any
7 division, board, commission or bureau of any state department, or (iii)
8 the state university of New York and the city university of New York,
9 including all their constituent units except community colleges and the
10 independent institutions operating statutory or contract colleges on
11 behalf of the state, or (iv) a board, a majority of whose members are
12 appointed by the governor or who serve by virtue of being state officers
13 or employees as defined in subparagraph (i), (ii) or (iii) of paragraph
14 (i) of subdivision one of section seventy-three of the public officers
15 law.

16 (b) a "state authority," as defined in subdivision one of section two
17 of the public authorities law, and the following:

18 Albany County Airport Authority;

19 Albany Port District Commission;

20 Alfred, Almond, Hornellsville Sewer Authority;

21 Battery Park City Authority;

22 Cayuga County Water and Sewer Authority;

23 (Nelson A. Rockefeller) Empire State Plaza Performing Arts Center

24 Corporation;

25 Industrial Exhibit Authority;

26 Livingston County Water and Sewer Authority;

27 Long Island Power Authority;

28 Long Island Rail Road;

- 1 Long Island Market Authority;
- 2 Manhattan and Bronx Surface Transit Operating Authority;
- 3 Metro-North Commuter Railroad;
- 4 Metropolitan Suburban Bus Authority;
- 5 Metropolitan Transportation Authority;
- 6 Natural Heritage Trust;
- 7 New York City Transit Authority;
- 8 New York Convention Center Operating Corporation;
- 9 New York State Bridge Authority;
- 10 New York State Olympic Regional Development Authority;
- 11 New York State Thruway Authority;
- 12 Niagara Falls Public Water Authority;
- 13 Niagara Falls Water Board;
- 14 Port of Oswego Authority;
- 15 Power Authority of the State of New York;
- 16 Roosevelt Island Operating Corporation;
- 17 Schenectady Metroplex Development Authority;
- 18 State Insurance Fund;
- 19 Staten Island Rapid Transit Operating Authority;
- 20 State University Construction Fund;
- 21 Syracuse Regional Airport Authority;
- 22 Triborough Bridge and Tunnel Authority;
- 23 Upper Mohawk valley regional water board;
- 24 Upper Mohawk valley regional water finance authority;
- 25 Upper Mohawk valley memorial auditorium authority;
- 26 Urban Development Corporation and its subsidiary corporations.

1 (c) the following only to the extent of state contracts entered into for
2 its own account or for the benefit of a state agency as defined in para-
3 graph (a) or (b) of this subdivision:

4 Dormitory Authority of the State of New York;

5 Facilities Development Corporation;

6 New York State Energy Research and Development Authority;

7 New York State Science and Technology Foundation.

8 10. "State contract" shall mean: (a) a written agreement or purchase
9 order instrument, providing for a total expenditure in excess of fifty
10 thousand dollars, whereby a state agency is committed to expend or does
11 expend or grant funds in return for labor, services including but not
12 limited to legal, financial and other professional services, supplies,
13 equipment, materials or any combination of the foregoing, to be
14 performed on behalf of, for, or rendered or furnished to the state agen-
15 cy; (b) a written agreement in excess of two hundred thousand dollars
16 whereby a state agency is committed to expend or does expend or grant
17 funds for the acquisition, construction, demolition, replacement, major
18 repair or renovation of real property and improvements thereon; and (c)
19 a written agreement in excess of two hundred thousand dollars whereby
20 the owner of a state assisted housing project is committed to expend or
21 does expend funds for the acquisition, construction, demolition,
22 replacement, major repair or renovation of real property and improve-
23 ments thereon for such project.

24 11. "Subcontractor" shall mean any individual or business enterprise
25 that provides goods or services to any individual or business for use in
26 the performance of a state contract, whether or not such goods or
27 services are provided to a party to a state contract.

1 § 822. Workforce participation goals. 1. The director, in consulta-
2 tion with the department, shall develop aspirational goals for the
3 utilization of minority group members and women in construction trade,
4 profession, and occupation.

5 (a) Aspirational goals for the utilization of minority group members
6 and women must set forth the expected participation of minority group
7 members and women in each construction trade, profession, and occupa-
8 tion, and shall be expressed as a percentage of the total hours of work
9 to be performed by each trade, profession, and occupation based on the
10 availability of minority group members and women within each trade,
11 profession, and occupation.

12 (i) The aspirational goals shall set forth separate levels of expected
13 participation by men and women for each minority group, and for Cauca-
14 sian women, in each construction trade, profession, and occupation.

15 (ii) Aspirational goals for the expected participation of minority
16 group members and women shall be established for each county of the
17 state. The director may establish aspirational goals for the expected
18 participation of minority group members and women for municipalities
19 where the director deems feasible and appropriate.

20 (iii) The director shall, in establishing the aspirational goals,
21 consider the findings of the most recent disparity study and any rele-
22 vant data published by the United States Census Bureau.

23 (b) The director shall update the aspirational goals on a periodic
24 basis, no less than annually.

25 2. State agencies shall, for each invitation for bids, request for
26 proposals, or other solicitation that will result in the award of a
27 state contract, set forth the expected degree of workforce participation
28 by minority group members and women.

1 (a) Each workforce participation goal established by a state agency
2 shall set forth the expected level of participation by minority group
3 members and women in the performance of each trade, profession, and
4 occupation required in the performance of the contract.

5 (b) Goals for the participation of minority group members and women
6 shall set forth separate goals for each of the following groups in each
7 trade, profession, and occupation:

8 (i) Black men;

9 (ii) Black women;

10 (iii) Hispanic men;

11 (iv) Hispanic women;

12 (v) Native American men;

13 (vi) Native American women;

14 (vii) Asian men;

15 (viii) Asian women;

16 (ix) Caucasian women.

17 (c) In establishing workforce participation goals, state agencies
18 shall consider factors including, but not limited to:

19 (i) the findings of the disparity study;

20 (ii) any relevant data published by the United States Census Bureau;

21 and

22 (iii) if applicable, any aspirational goal established by the divi-
23 sion.

24 (d) In any case where a state agency establishes a workforce partic-
25 ipation goal on an invitation for bids, request for proposals, or other
26 solicitation that will result in the award of a state contract for
27 construction that deviates from the aspirational goal for construction
28 work in the county or municipality in which the work will be performed,

1 the state agency shall document numerical evidence demonstrating that
2 the application of the aspirational goal would not be practical, feasi-
3 ble, or appropriate.

4 3. Every contractor responding to an invitation for bids, request for
5 proposals, or other solicitation that will result in the award of a
6 state contract subject to workforce participation goals pursuant to this
7 section shall agree to make a good faith effort to achieve such work-
8 force participation goal or request a waiver of such goal.

9 (a) A contractor that certifies that it will make a good faith effort
10 to achieve a workforce participation goal shall provide with its
11 response to the applicable invitation for bids, request for proposals,
12 or other solicitation:

13 (i) A certification stating that the contractor will make a good faith
14 effort to achieve the applicable workforce participation goal and will
15 contractually require any subcontractors to the contractor to make a
16 good faith effort to achieve the applicable workforce participation goal
17 in any subcontracted work, which certification shall acknowledge that
18 failure by the contractor or any of its subcontractors to make a good
19 faith effort to achieve the applicable workforce participation goal may
20 result in a determination by the contracting state agency that the
21 contractor or its subcontractor is a non-compliant contractor;

22 (ii) The level of anticipated participation by minority group members
23 and women as employees to the contractor, or, if the state agency has
24 specifically indicated that such documentation is not required as part
25 of the response to the invitation for bids, request for proposals, or
26 other solicitation, a date certain for the submission of such documenta-
27 tion after the award of the state contract;

1 (iii) A list of all subcontractors anticipated to perform work on the
2 state contract and the level of anticipated participation by minority
3 group members and women as employees to each subcontractor, or, if the
4 state agency has specifically indicated that such documentation is not
5 required as part of the response to the invitation for bids, request for
6 proposals, or other solicitation, a date certain for the submission of
7 such documentation after the award of the state contract; and

8 (iv) Such other information as the contracting state agency shall
9 require.

10 (b) A contractor that requests a waiver of a workforce participation
11 goal shall provide with its response to the applicable invitation for
12 bids, request for proposals, or other solicitation:

13 (i) Numerical evidence setting forth why the achievement of the work-
14 force participation goal is not practical, feasible, or appropriate in
15 light of the trades, professions, and occupations required to perform
16 the work of the state contract;

17 (ii) Documentation of the contractor's efforts, and any efforts by
18 subcontractors to the contractor, to promote the inclusion of minority
19 group members and women in trades, professions, and occupations required
20 in the performance of the state contract;

21 (iii) The maximum feasible level of participation by minority group
22 members and women in each of the trades, professions, and occupations
23 required in the performance of the work of the state contract;

24 (iv) The level of anticipated participation by minority group members
25 and women as employees to the contractor;

26 (v) A list of all subcontractors anticipated to perform work on the
27 state contract and the level of anticipated participation by minority
28 group members and women as employees to each subcontractor; and

1 (vi) Any other relevant information evidencing that the contractor's
2 achievement of the workforce participation goal would not be practical,
3 feasible, or appropriate.

4 4. A state agency shall not award a state contract to a contractor
5 unless the contractor has (i) certified that it will make a good faith
6 effort to achieve the applicable workforce participation goal and
7 provided documentation of the workforce anticipated to perform the work
8 of the state contract or (ii) submitted a waiver request which the state
9 agency deems to reflect the maximum feasible participation of minority
10 group members and women in each of the trades, professions, and occupa-
11 tions required in performance of the work of the state contract.

12 (a) In the event that a contractor submits a certification or waiver
13 request that is accepted by the state agency, the state agency shall
14 establish in the state contract the expected level of participation by
15 minority group members and women in each of the trades, professions, and
16 occupations required in performance of the work of the state contract,
17 require that the contractor make good faith efforts to achieve such
18 workforce participation goals, require that the contractor require any
19 subcontractors to make a good faith effort to achieve the applicable
20 workforce participation goal in any subcontracted work, and indicate
21 that the failure of the contractor or any of its subcontractors to make
22 a good faith effort to achieve the workforce participation goal may
23 result in the contractor or subcontractor being deemed a non-compliant
24 contractor.

25 (b) In the event that a contractor fails to submit a certification,
26 waiver request, or any other information required by the state agency,
27 or the state agency determines that a contractor's waiver request does
28 not demonstrate that the applicable workforce participation goal is

1 impractical, unfeasible, or inappropriate, the state agency shall notify
2 the contractor of the deficiency in writing and provide the contractor
3 five business days to remedy the noticed deficiency. A state agency
4 shall reject any bid or proposal of a contractor that fails to timely
5 respond to a notice of deficiency or to provide documentation remedying
6 the deficiency to the satisfaction of the state agency.

7 (i) Where failure to remedy any notified deficiency in the workforce
8 utilization plan is a ground for disqualification, that issue and all
9 other grounds for disqualification shall be stated in writing by the
10 contracting state agency. The contractor shall be entitled to an admin-
11 istrative hearing, on a record, involving all grounds stated by the
12 contracting state agency in its notice of the contractor's disqualifica-
13 tion. Such hearing shall be conducted by the appropriate authority of
14 the contracting agency to review the determination of disqualification.
15 A final administrative determination made following such hearing shall
16 be reviewable in a proceeding commenced under article seventy-eight of
17 the civil practice law and rules, provided that such proceeding is
18 commenced within thirty days of the notice given by certified mail
19 return receipt requested rendering such final administrative determi-
20 nation. Such proceeding shall be commenced in the supreme court, appel-
21 late division, third department and such proceeding shall be preferred
22 over all other civil causes except election causes, and shall be heard
23 and determined in preference to all other civil business pending there-
24 in, except election matters, irrespective of position on the calendar.
25 Appeals taken to the court of appeals of the state of New York shall be
26 subject to the same preference.

27 § 823. Reporting. 1. State contracts shall require contractors to
28 submit, and to require any subcontractors to submit, to the contracting

1 state agency reports documenting the hours worked by employees of the
2 contractor and any subcontractors in the performance of the work of the
3 state contract. Such reports shall be submitted no less frequently than
4 monthly for state contracts for construction and quarterly for all other
5 state contracts. Such reports shall identify the race, ethnicity,
6 gender, and trade, profession, or occupation of each employee performing
7 work on a state contract.

8 2. State agencies shall submit periodic reports to the director, or
9 the designee of the director, concerning the participation of minority
10 group members and women in state contracts let by such agencies and such
11 state agencies' compliance with this article. Such reports shall be
12 submitted at such time, and include such information, as the director
13 shall require in regulations. State agencies shall make available their
14 facilities, books, and records for inspection, upon reasonable notice,
15 by the director or the director's designee.

16 3. The department shall provide such assistance as the director shall
17 require in carrying out the requirements of this section.

18 § 824. Enforcement. 1. Where it appears that a contractor cannot,
19 after a good faith effort, meet the workforce participation goals set
20 forth in a particular state contract, a contractor may file a written
21 application with the contracting state agency requesting a partial or
22 total waiver of such requirements. Such request shall set forth the
23 reasons for such contractor's inability to meet the workforce partic-
24 ipation goal, specifically describe the reasons for any deviations from
25 the anticipated workforce participation set forth in the contractor's
26 bid or proposal leading to the award of the state contract, and describe
27 the efforts by the contractor and any subcontractors to achieve the
28 maximum feasible participation of minority group members and women in

1 the performance of the work of the state contract. Where the contrac-
2 tor's inability to achieve the workforce participation goal on a state
3 contract is attributable to the failure of one or more subcontractors to
4 make good faith efforts to achieve the maximum feasible participation of
5 minority group members and women in the performance of the work of the
6 state contract, the contractor shall identify such subcontractor or
7 subcontractors to the contracting state agency.

8 2. A state agency shall grant a request for a waiver of workforce
9 participation goals on a state contract where:

10 (a) The contractor demonstrates that the contractor and its subcon-
11 tractors made good faith efforts to achieve the workforce participation
12 goal on the state contract, and that insufficient minority group members
13 or women were available in the trades, professions, and occupations
14 required to perform the work of the state contract; or,

15 (b) The contractor contractually required each of its subcontractors
16 to make a good faith effort to achieve the maximum feasible partic-
17 ipation of minority group members and women in the performance of the
18 subcontracted work, periodically monitored such subcontractors' deploy-
19 ment of minority group members and women in the performance of the
20 subcontracted work, provided notice to such subcontractors of any defi-
21 ciencies in their deployment of minority group members and women in the
22 performance of such subcontracted work, and could not achieve the work-
23 force participation goal for one or more trades, professions, or occupa-
24 tions without the good faith efforts of such subcontractors.

25 3. Where a state agency denies a contractor's request for a waiver of
26 workforce participation goals pursuant to this section, the state agency
27 shall recommend to the director and the department that the contractor
28 be deemed a non-compliant contractor.

1 4. Where a state agency grants a request for a waiver of workforce
2 participation goals pursuant to this section based on one or more
3 subcontractors' failure to make good faith efforts to achieve the maxi-
4 mum feasible participation of minority group members and women in the
5 performance of the subcontracted work, the state agency shall recommend
6 to the director and the department that the subcontractor be deemed a
7 non-compliant contractor.

8 5. Upon receipt of a recommendation from a state agency that a
9 contractor or subcontractor should be deemed a non-compliant contractor,
10 the director shall, with the assistance of the department, review the
11 facts and circumstances forming the basis of the recommendation and
12 issue a determination as to whether or not the contractor or subcontrac-
13 tor should be deemed a non-compliant contractor and, if so, the duration
14 of such status as a non-compliant contractor. In determining the dura-
15 tion of a contractor's or subcontractor's status as a non-compliant
16 contractor, the director shall consider:

17 (i) whether the contractor or subcontractor has previously been deemed
18 a non-compliant contractor;

19 (ii) the number of hours of expected participation by minority group
20 members and women lost as a result of the contractor's or subcontrac-
21 tor's failure to make good faith efforts to include minority group
22 members or women in the performance of one or more state contracts; and

23 (iii) whether the contractor or subcontractor has offered to provide
24 employment opportunities, training, or other remedial benefits to minor-
25 ity group members or women in relevant trades, professions, or occupa-
26 tions.

27 6. A contractor or subcontractor deemed a non-compliant contractor by
28 the director may request an administrative hearing before an independent

1 hearing officer to appeal the determination of the director. The deci-
2 sion of the hearing officer shall be final and may only be vacated or
3 modified as provided in article seventy-eight of the civil practice law
4 and rules upon an application made within the time provided by such
5 article.

6 7. Upon a final determination that a contractor or subcontractor is a
7 non-compliant contractor, the director shall list the contractor or
8 subcontractor as such on its website and indicate the term of such
9 contractor's or subcontractor's status as a non-compliant contractor. A
10 non-compliant contractor shall be ineligible to participate as a
11 contractor or subcontractor on any state contract.

12 § 825. Powers and responsibilities of the division. 1. The director
13 shall post to the website of the division on or before April first of
14 each year the aspirational goals for the utilization of minority group
15 members and women in construction required pursuant to section eight
16 hundred twenty-two of this article.

17 2. The director shall promulgate rules and regulations for the imple-
18 mentation of this article, including, but not limited to, procedures for
19 the submission of certifications and workforce utilization plans by
20 contractors, criteria for granting waivers of workforce participation
21 goals, and the contents of reports by state agencies concerning their
22 implementation of the requirements of this article.

23 3. The division shall, from time to time, review the facilities,
24 books, and records of state agencies to ascertain the accuracy of their
25 reports and their compliance with the requirements of this article. The
26 department shall provide such assistance as the director shall require
27 in carrying out the requirements of this section.

1 (i) "authorized state entity" shall mean the New York state thruway
2 authority, the department of transportation, the office of parks, recre-
3 ation and historic preservation, the department of environmental conser-
4 vation [and], the New York state bridge authority, the dormitory author-
5 ity, the New York state urban development corporation, the office of
6 general services, the department of health, and the New York state olym-
7 pic regional development authority.

8 § 2. Section 3 of part F of chapter 60 of the laws of 2015, constitut-
9 ing the infrastructure investment act, as amended by section 3 of part
10 RRR of chapter 59 of the laws of 2017, is amended to read as follows:

11 § 3. Notwithstanding the provisions of section 38 of the highway law,
12 section 136-a of the state finance law, [section] sections 359, 1678,
13 1680, 1680-a and 2879-a of the public authorities law, [section]
14 sections 407-a, 6281 and 7210 of the education law, sections 8 and 9 of
15 the public buildings law, section 11 of chapter 795 of the laws of 1967,
16 sections 8 and 9 of section 1 of chapter 359 of the laws of 1968 as
17 amended, section 11 of section 1 of chapter 174 of the laws of 1968, as
18 amended, section 29 of chapter 337 of the laws of 1972, section 21 of
19 chapter 464 of the laws of 1972, section 103 of the general municipal
20 law, and the provisions of any other law to the contrary, and in
21 conformity with the requirements of this act, an authorized state entity
22 may utilize the alternative delivery method referred to as design-build
23 contracts, in consultation with relevant local labor organizations and
24 construction industry, for capital projects located in the state and
25 related to [the state's] physical infrastructure, including, but not
26 limited to, [the state's] buildings and appurtenant structures, high-
27 ways, bridges, dams, flood control projects, canals, and parks, includ-
28 ing, but not limited to, to repair damage caused by natural disaster, to

1 correct health and safety defects, to comply with federal and state
2 laws, standards, and regulations, to extend the useful life of or
3 replace [the state's] buildings and appurtenant structures, highways,
4 bridges, dams, flood control projects, canals, and parks or to improve
5 or add to [the state's] buildings and appurtenant structures, highways,
6 bridges, dams, flood control projects, canals, and parks; provided that
7 for the contracts executed by the department of transportation, the
8 office of parks, recreation and historic preservation, or the department
9 of environmental conservation, the office of the general services or the
10 department of health, the total cost of each such project shall not be
11 less than ten million dollars (\$10,000,000).

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

23 § 4. Section 13 of part F of chapter 60 of the laws of 2015, consti-
24 tuting the infrastructure investment act, as amended by section 11 of
25 part RRR of chapter 59 of the laws of 2017, is amended to read as
26 follows:

1 § 13. Alternative construction awarding processes. (a) Notwithstand-
2 ing the provisions of any other law to the contrary, the authorized
3 state entity may award a construction contract:

4 1. To the contractor offering the best value[; or]:

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

10 [(i)] (a) describe the scope of the work and the cost of performing
11 such work;

12 [(ii)] (b) include a detailed line item cost breakdown;

13 [(iii)] (c) include a list of all drawings, specifications and other
14 information on which the guaranteed maximum price is based;

15 [(iv)] (d) include the dates for substantial and final completion on
16 which the guaranteed maximum price is based; and

17 [(v)] (e) include a schedule of unit prices; or

18 [3.] (ii) Utilizing a lump sum contract in which the contractor agrees
19 to accept a set dollar amount for a contract which comprises a single
20 bid without providing a cost breakdown for all costs such as for equip-
21 ment, labor, materials, as well as such contractor's profit for complet-
22 ing all items of work comprising the project which lump sum price may be
23 negotiated and established by the authorized state entity based on a
24 proposed guaranteed maximum price.

25 2. The design-build contract may include both lump sum elements and
26 cost-plus not to exceed guaranteed maximum price elements, and also may
27 provide for professional services on a fee-for-service basis.

1 (b) Capital projects undertaken by an authorized state entity may
2 include an incentive clause in the contract for various performance
3 objectives, but the incentive clause shall not include an incentive that
4 exceeds the quantifiable value of the benefit received by the authorized
5 state entity. [The] Notwithstanding the provisions of sections 136 and
6 137 of the state finance law, the authorized state entity shall estab-
7 lish such performance and payment bonds, bonds or other form of under-
8 taking, as it deems necessary.

9 § 5. Part F of chapter 60 of the laws of 2015, constituting the
10 infrastructure investment act, is amended by adding a new section 15-a
11 to read as follows:

12 § 15-a. Any contract awarded pursuant to this act shall be deemed to
13 be awarded pursuant to a competitive procurement for purposes of section
14 2879-a of the public authorities law.

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

19 PART S

20 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
21 executive law relating to permitting the secretary of state to provide
22 special handling for all documents filed or issued by the division of
23 corporations and to permit additional levels of such expedited service,
24 as amended by section 1 of part Q of chapter 58 of the laws of 2017, is
25 amended to read as follows:

1 § 2. This act shall take effect immediately, provided however, that
2 section one of this act shall be deemed to have been in full force and
3 effect on and after April 1, 2003 and shall expire March 31, [2018]
4 2019.

5 § 2. This act shall take effect immediately and shall be deemed to
6 have been in full force and effect on and after March 31, 2018.

7 PART T

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

10 (d) Any designated post office address maintained by the secretary of
11 state as agent of a domestic corporation or foreign corporation for the
12 purpose of mailing process shall be the post office address, within or
13 without the state, to which a person shall mail process against such
14 corporation as required by this article. Any designated [post-office]
15 post office address to which the secretary of state or a person shall
16 mail a copy of any process served upon [him] the secretary of state as
17 agent of a domestic corporation or a foreign corporation, shall continue
18 until the filing of a certificate under this chapter directing the mail-
19 ing to a different [post-office] post office address.

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

23 (a) In addition to such designation of the secretary of state, every
24 domestic corporation or authorized foreign corporation may designate a
25 registered agent in this state upon whom process against such corpo-
26 ration may be served. The agent shall be a natural person who is a resi-

1 dent of or has a business address in this state [or], a domestic corpo-
2 ration or foreign corporation of any type or kind formed, or authorized
3 to do business in this state[,] under this chapter or under any other
4 statute of this state, or a domestic limited liability company or
5 foreign limited liability company formed or authorized to do business in
6 this state.

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

10 (1) Service of process on the secretary of state as agent of a domes-
11 tic or authorized foreign corporation, or other business entity that has
12 designated the secretary of state as agent for service of process pursu-
13 ant to article nine of this chapter, shall be made by [personally deliv-
14 ering to and leaving with the secretary of state or a deputy, or with
15 any person authorized by the secretary of state to receive such service,
16 at the office of the department of state in the city of Albany, dupli-
17 cate copies of such process together with the statutory fee, which fee
18 shall be a taxable disbursement] mailing the process and notice of
19 service thereof by certified mail, return receipt requested, to such
20 corporation or other business entity, at the post office address on file
21 in the department of state specified for this purpose. If a domestic or
22 authorized foreign corporation has no such address on file in the
23 department of state, the process and notice of service thereof shall be
24 mailed, in the case of a domestic corporation, in care of any director
25 named in its certificate of incorporation at the director's address
26 stated therein or, in the case of an authorized foreign corporation, to
27 such corporation at the address of its office within this state on file
28 in the department. On the same day that such process is mailed, a dupli-

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

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

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

27 (3) That at least sixty days prior to the filing of the certificate of
28 resignation for receipt of process with the department of state the

1 party has sent a copy of the certificate of resignation for receipt of
2 process by registered or certified mail to the address of the registered
3 agent of the designating corporation, if other than the party filing the
4 certificate of resignation[,] for receipt of process, or if the [resign-
5 ing] designating corporation has no registered agent, then to the last
6 address of the designating corporation known to the party, specifying
7 the address to which the copy was sent. If there is no registered agent
8 and no known address of the designating corporation, the party shall
9 attach an affidavit to the certificate stating that a diligent but
10 unsuccessful search was made by the party to locate the corporation,
11 specifying what efforts were made.

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

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

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

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

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

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

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

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

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

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

1 served on the secretary of state or the registered agent, if such be the
2 case. A certificate signed[, verified] and delivered under this para-
3 graph shall not be deemed to effect a change of location of the office
4 of the corporation in whose behalf such certificate is filed.

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

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

17 § 11. Clause (G) of subparagraph 2 of paragraph (e) of section 907 of
18 the business corporation law, as amended by chapter 494 of the laws of
19 1997, is amended to read as follows:

20 (G) A designation of the secretary of state as its agent upon whom
21 process against it may be served in the manner set forth in paragraph
22 (b) of section 306 (Service of process), in any action or special
23 proceeding, and a post office address, within or without this state, to
24 which [the secretary of state] a person shall mail a copy of any process
25 against it served upon [him] the secretary of state. Such post office
26 address shall supersede any prior address designated as the address to
27 which process shall be mailed.

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

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

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

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

17 § 14. Subparagraph 2 of paragraph (a) and paragraph (c) of section
18 1309-A of the business corporation law, subparagraph 2 of paragraph (a)
19 as added by chapter 725 of the laws of 1964 and paragraph (c) as amended
20 by chapter 172 of the laws of 1999, are 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 it
23 served upon [him] the secretary of state.

24 (c) A certificate of change of application for authority which changes
25 only the post office address to which [the secretary of state] a person
26 shall mail a copy of any process against an authorized foreign corpo-
27 ration served upon [him or which] the secretary of state and/or changes
28 the address of its registered agent, provided such address is the

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

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

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

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

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

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

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

11 § 1311. Termination of existence.

12 When an authorized foreign corporation is dissolved or its authority
13 or existence is otherwise terminated or cancelled in the jurisdiction of
14 its incorporation or when such foreign corporation is merged into or
15 consolidated with another foreign corporation, a certificate of the
16 secretary of state, or official performing the equivalent function as to
17 corporate records, of the jurisdiction of incorporation of such foreign
18 corporation attesting to the occurrence of any such event or a certified
19 copy of an order or decree of a court of such jurisdiction directing the
20 dissolution of such foreign corporation, the termination of its exist-
21 ence or the cancellation of its authority shall be delivered to the
22 department of state. The filing of the certificate, order or decree
23 shall have the same effect as the filing of a certificate of surrender
24 of authority under section 1310 (Surrender of authority). The secretary
25 of state shall continue as agent of the foreign corporation upon whom
26 process against it may be served in the manner set forth in paragraph
27 (b) of section 306 (Service of process), in any action or special
28 proceeding based upon any liability or obligation incurred by the

1 foreign corporation within this state prior to the filing of such
2 certificate, order or decree and [he] the person serving such process
3 shall [promptly cause a copy of any such] send the process [to be
4 mailed] by [registered] certified mail, return receipt requested, to
5 such foreign corporation at the post office address on file in [his] the
6 office of the secretary of state specified for such purpose and shall
7 provide the secretary of state with proof of such mailing in the manner
8 set forth in paragraph (b) of section 306 (Service of process). The
9 post office address may be changed by signing and delivering to the
10 department of state a certificate of change setting forth the statements
11 required under section 1309-A (Certificate of change; contents) to
12 effect a change in the post office address under subparagraph seven of
13 paragraph (a) [(4)] of section 1308 (Amendments or changes).

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

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

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

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

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

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

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

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

16 Every association doing business within this state shall file in the
17 department of state a certificate in its associate name, signed [and
18 acknowledged] by its president, or a vice-president, or secretary, or
19 treasurer, or managing director, or trustee, designating the secretary
20 of state as an agent upon whom process in any action or proceeding
21 against the association may be served within this state, and setting
22 forth an address to which [the secretary of state] a person shall mail a
23 copy of any process against the association which may be served upon
24 [him] the secretary of state pursuant to law. Annexed to the certif-
25 icate of designation shall be a statement, executed in the same manner
26 as the certificate is required to be executed under this section, which
27 shall set forth:

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

6 5. Any designated post office address maintained by the secretary of
7 state as agent in any action or proceeding against the association for
8 the purpose of mailing process shall be the post office address, within
9 or without the state, to which a person shall mail process against such
10 association as required by this article. Such address shall continue
11 until the filing of a certificate under this chapter directing the mail-
12 ing to a different post office address.

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

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

21 § 19. Service of process. 1. Service of process against an associ-
22 ation upon the secretary of state shall be made by mailing the process
23 and notice of service thereof by certified mail, return receipt
24 requested, to such corporation or other business entity, at the post
25 office address on file in the department of state specified for this
26 purpose. On the same day that such process is mailed, a duplicate copy
27 of such process and proof of mailing shall be personally [delivering]
28 delivered to and [leaving] left with [him] the secretary of state or a

1 deputy [secretary of state or an associate attorney, senior attorney or
2 attorney in the corporation division of the department of state, dupli-
3 cate copies of such process at the office of the department of state in
4 the city of Albany] so designated. At the time of such service the
5 plaintiff shall pay a fee of forty dollars to the secretary of state,
6 which shall be a taxable disbursement. [If the cost of registered mail
7 for transmitting a copy of the process shall exceed two dollars, an
8 additional fee equal to such excess shall be paid at the time of the
9 service of such process. The secretary of state shall forthwith send by
10 registered mail one of such copies to the association at the address
11 fixed for that purpose, as herein provided.]

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

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

23 2. Service of such process upon the secretary of state shall be made
24 by personally delivering to and leaving with [him or] the secretary of
25 state, a deputy secretary of state, or with a person authorized by the
26 secretary of state to receive such service, a copy thereof at the office
27 of the department of state in the city of Albany, and such service shall
28 be sufficient service provided that notice of such service and a copy of

1 such process are forthwith sent by the attorney general to such person,
2 partnership, corporation, company, trust or association, by registered
3 or certified mail with return receipt requested, at [his or its] the
4 office as set forth in the "broker-dealer's statement", "salesman's
5 statement" or "investment advisor's statement" filed in the department
6 of law pursuant to section three hundred fifty-nine-e or section three
7 hundred fifty-nine-eee of this article, or in default of the filing of
8 such statement, at the last address known to the attorney general.
9 Service of such process shall be complete on receipt by the attorney
10 general of a return receipt purporting to be signed by the addressee or
11 a person qualified to receive [his or its] registered or certified mail,
12 in accordance with the rules and customs of the post office department,
13 or, if acceptance was refused by the addressee or [his or its] their
14 agent, on return to the attorney general of the original envelope bear-
15 ing a notation by the postal authorities that receipt thereof was
16 refused.

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

19 § 686. Designation of secretary of state as agent for service of proc-
20 ess; service of process. Any person who shall offer to sell or sell a
21 franchise in this state as a franchisor, subfranchisor or franchise
22 sales agent shall be deemed to have irrevocably appointed the secretary
23 of state as his or [its] her agent upon whom may be served any summons,
24 complaint, subpoena, subpoena duces tecum, notice, order or other proc-
25 ess directed to such person, or any partner, principal, officer, sales-
26 man or director thereof, or his or [its] her successor, administrator or
27 executor, in any action, investigation, or proceeding which arises under
28 this article or a rule hereunder, with the same force and validity as if

1 served personally on such person. Service of such process upon the
2 secretary of state shall be made by personally delivering to and leaving
3 with [him or] the secretary of state, a deputy secretary of state, or
4 with any person authorized by the secretary of state to receive such
5 service, a copy thereof at the office of the department of state, and
6 such service shall be sufficient provided that notice of such service
7 and a copy of such process are sent forthwith by the department to such
8 person, by registered or certified mail with return receipt requested,
9 at [his] the address [as] set forth in the application for registration
10 of his or her offering prospectus or in the registered offering prospec-
11 tus itself filed with the department of law pursuant to this article, or
12 in default of the filing of such application or prospectus, at the last
13 address known to the department. Service of such process shall be
14 complete upon receipt by the department of a return receipt purporting
15 to be signed by the addressee or a person qualified to receive [his or
16 its] registered or certified mail, in accordance with the rules and
17 customs of the post office department, or, if acceptance was refused or
18 unclaimed by the addressee or his or [its] her agent, or if the address-
19 ee moved without leaving a forwarding address, upon return to the
20 department of the original envelope bearing a notation by the postal
21 authorities that receipt thereof was refused or that such mail was
22 otherwise undeliverable.

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

26 (4) a designation of the secretary of state as agent of the limited
27 liability company upon whom process against it may be served and the
28 post office address, within or without this state, to which [the secre-

1 tary of state] a person shall mail a copy of any process against the
2 limited liability company served upon [him or her] the secretary of
3 state;

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

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

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

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

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

21 § 211-A. Certificate of change. (a) A limited liability company may
22 amend its articles of organization from time to time to (i) specify or
23 change the location of the limited liability company's office; (ii)
24 specify or change the post office address to which [the secretary of
25 state] a person shall mail a copy of any process against the limited
26 liability company served upon [him] the secretary of state; and (iii)
27 make, revoke or change the designation of a registered agent, or specify
28 or change the address of the registered agent. Any one or more such

1 changes may be accomplished by filing a certificate of change which
2 shall be entitled "Certificate of Change of (name of limited
3 liability company) under section 211-A of the Limited Liability Company
4 Law" and shall be signed and delivered to the department of state. It
5 shall set forth:

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

8 (2) the date the articles of organization were filed by the department
9 of state; and

10 (3) each change effected thereby.

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

1 delivered under this subdivision shall not be deemed to effect a change
2 of location of the office of the limited liability company in whose
3 behalf such certificate is filed.

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

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

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

12 (c) Any designated post office address maintained by the secretary of
13 state as agent of a domestic limited liability company or foreign limit-
14 ed liability company for the purpose of mailing process shall be the
15 post office address, within or without the state, to which a person
16 shall mail process against such limited liability company as required by
17 this article. Any designated post office address to which the secretary
18 of state or a person shall mail a copy of process served upon [him or
19 her] the secretary of state as agent of a domestic limited liability
20 company or a foreign limited liability company shall continue until the
21 filing of a certificate under this chapter directing the mailing to a
22 different post office address.

23 [(e)] (d) (1) Except as otherwise provided in this subdivision, every
24 limited liability company to which this chapter applies, shall biennial-
25 ly in the calendar month during which its articles of organization or
26 application for authority were filed, or effective date thereof if stat-
27 ed, file on forms prescribed by the secretary of state, a statement
28 setting forth the post office address within or without this state to

1 which [the secretary of state] a person shall mail a copy of any process
2 accepted against it served upon [him or her] the secretary of state.
3 Such address shall supersede any previous address on file with the
4 department of state for this purpose.

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

27 (3) If the agreement described in paragraph two of this subdivision is
28 made, the department of taxation and finance shall deliver to the

1 department of state the statement specified in paragraph one of this
2 subdivision contained on filing fee payment forms. The department of
3 taxation and finance must, to the extent feasible, also include the
4 current name of the limited liability company, department of state iden-
5 tification number for such limited liability company, the name, signa-
6 ture and capacity of the signer of the statement, name and street
7 address of the filer of the statement, and the email address, if any, of
8 the filer of the statement.

9 § 31. Paragraphs 2 and 3 of subdivision (a), subparagraph (ii) of
10 paragraph 2 and subparagraph (ii) of paragraph 3 of subdivision (e) of
11 section 301-A of the limited liability company law, as added by chapter
12 448 of the laws of 1998, are amended to read as follows:

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

18 (3) that at least sixty days prior to the filing of the certificate
19 of resignation for receipt of process with the department of state the
20 party has sent a copy of the certificate of resignation for receipt of
21 process by registered or certified mail to the address of the registered
22 agent of the designated limited liability company, if other than the
23 party filing the certificate of resignation[,] for receipt of process,
24 or if the [resigning] designating limited liability company has no
25 registered agent, then to the last address of the designated limited
26 liability company known to the party, specifying the address to which
27 the copy was sent. If there is no registered agent and no known address
28 of the designating limited liability company, the party shall attach an

1 affidavit to the certificate stating that a diligent but unsuccessful
2 search was made by the party to locate the limited liability company,
3 specifying what efforts were made.

4 (ii) sent by or on behalf of the plaintiff to such limited liability
5 company by registered or certified mail with return receipt requested to
6 the last address of such limited liability company known to the plain-
7 tiff.

8 (ii) Where service of a copy of process was effected by mailing in
9 accordance with this section, proof of service shall be by affidavit of
10 compliance with this section filed, together with the process, within
11 thirty days after receipt of the return receipt signed by the limited
12 liability company or other official proof of delivery or of the original
13 envelope mailed. If a copy of the process is mailed in accordance with
14 this section, there shall be filed with the affidavit of compliance
15 either the return receipt signed by such limited liability company or
16 other official proof of delivery, if acceptance was refused by it, the
17 original envelope with a notation by the postal authorities that accept-
18 ance was refused. If acceptance was refused a copy of the notice and
19 process together with notice of the mailing by registered or certified
20 mail and refusal to accept shall be promptly sent to such limited
21 liability company at the same address by ordinary mail and the affidavit
22 of compliance shall so state. Service of process shall be complete ten
23 days after such papers are filed with the clerk of the court. The
24 refusal to accept delivery of the registered or certified mail or to
25 sign the return receipt shall not affect the validity of the service and
26 such limited liability company refusing to accept such registered or
27 certified mail shall be charged with knowledge of the contents thereof.

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

4 (a) Service of process on the secretary of state as agent of a domes-
5 tic limited liability company [or], authorized foreign limited liability
6 company, or other business entity that has designated the secretary of
7 state as agent for service of process pursuant to article ten of this
8 chapter, shall be made by mailing the process and notice of service
9 thereof by certified mail, return receipt requested, to such limited
10 liability company or other business entity, at the post office address
11 on file in the department of state specified for this purpose. On the
12 same day as such process is mailed, a duplicate copy of such process and
13 proof of mailing shall be [made by] personally [delivering] delivered to
14 and [leaving] left with the secretary of state or his or her deputy, or
15 with any person authorized by the secretary of state to receive such
16 service, at the office of the department of state in the city of Albany,
17 [duplicate copies of such process] together with the statutory fee,
18 which fee shall be a taxable disbursement. Proof of mailing shall be by
19 affidavit of compliance with this section. Service of process on such
20 limited liability company or other business entity shall be complete
21 when the secretary of state is so served. [The secretary of state shall
22 promptly send one of such copies by certified mail, return receipt
23 requested, to such limited liability company at the post office address
24 on file in the department of state specified for that purpose.]

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

27 § 305. Records of process served on the secretary of state. The
28 [secretary of state] department of state shall keep a record of each

1 process served upon the secretary of state under this chapter, including
2 the date of such service [and the action of the secretary of state with
3 reference thereto]. It shall, upon request made within ten years of such
4 service, issue a certificate under its seal certifying as to the receipt
5 of the process by an authorized person, the date and place of such
6 service and the receipt of the statutory fee. Process served upon the
7 secretary of state under this chapter shall be destroyed by the depart-
8 ment of state after a period of ten years from such service.

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

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

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

19 § 804-A. Certificate of change. (a) A foreign limited liability compa-
20 ny may amend its application for authority from time to time to (i)
21 specify or change the location of the limited liability company's
22 office; (ii) specify or change the post office address to which [the
23 secretary of state] a person shall mail a copy of any process against
24 the limited liability company served upon [him] the secretary of state;
25 and (iii) to make, revoke or change the designation of a registered
26 agent, or to specify or change the address of a registered agent. Any
27 one or more such changes may be accomplished by filing a certificate of
28 change which shall be entitled "Certificate of Change of (name

1 of limited liability company) under section 804-A of the Limited Liabil-
2 ity Company Law" and shall be signed and delivered to the department of
3 state. It shall set forth:

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

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

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

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

1 not be deemed to effect a change of location of the office of the
2 foreign limited liability company in whose behalf such certificate is
3 filed.

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

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

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

12 (11) a designation of the secretary of state as its agent upon whom
13 process against it may be served in the manner set forth in article
14 three of this chapter in any action or special proceeding, and a post
15 office address, within or without this state, to which [the secretary of
16 state] a person shall mail a copy of any process served upon [him or
17 her] the secretary of state. Such post office address shall supersede
18 any prior address designated as the address to which process shall be
19 mailed;

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

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

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

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

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

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

19 (d) Any designated post office address maintained by the secretary of
20 state as agent of a domestic not-for-profit corporation or foreign not-
21 for-profit corporation for the purpose of mailing process shall be the
22 post office address, within or without the state, to which a person
23 shall mail process against such corporation as required by this article.
24 Any designated [post-office] post office address to which the secretary
25 of state or a person shall mail a copy of process served upon [him or
26 her] the secretary of state as agent of a domestic corporation formed
27 under article four of this chapter or foreign corporation, shall contin-

1 ue until the filing of a certificate under this chapter directing the
2 mailing to a different [post-office] post office address.

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

6 (a) Every domestic corporation or authorized foreign corporation may
7 designate a registered agent in this state upon whom process against
8 such corporation may be served. The agent shall be a natural person who
9 is a resident of or has a business address in this state or a domestic
10 corporation or foreign corporation of any kind formed[,] or authorized
11 to do business in this state[,] under this chapter or under any other
12 statute of this state, or a domestic limited liability company or a
13 foreign limited liability company authorized to do business in this
14 state.

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

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

1 copies of such process] together with the statutory fee, which fee shall
2 be a taxable disbursement. Proof of mailing shall be by affidavit of
3 compliance with this section. Service of process on such corporation or
4 other business entity shall be complete when the secretary of state is
5 so served. [The secretary of state shall promptly send one of such
6 copies by certified mail, return receipt requested, to such corporation,
7 at the post office address, on file in the department of state, speci-
8 fied for the purpose.] If a domestic corporation formed under article
9 four of this chapter or an authorized foreign corporation has no such
10 address on file in the department of state, the [secretary of state
11 shall so mail such] duplicate copy of the process shall be mailed to
12 such corporation at the address of its office within this state on file
13 in the department.

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

18 (6) 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 § 44. Subparagraph 7 of paragraph (b) of section 801 of the not-for-
24 profit corporation law, as amended by chapter 438 of the laws of 1984,
25 is amended to read as follows:

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

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

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

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

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

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

18 (b) A certificate of change which changes only the post office address
19 to which [the secretary of state] a person shall mail a copy of any
20 process against the corporation served upon [him or] the secretary of
21 state and/or the address of the registered agent, provided such address
22 being changed is the address of a person, partnership, limited liability
23 company or other corporation whose address, as agent, is the address to
24 be changed or who has been designated as registered agent for such
25 corporation, may be signed and delivered to the department of state by
26 such agent. The certificate of change shall set forth the statements
27 required under subparagraphs (1), (2) and (3) of paragraph (a) of this
28 section; that a notice of the proposed change was mailed to the corpo-

1 ration by the party signing the certificate not less than thirty days
2 prior to the date of delivery to the department and that such corpo-
3 ration has not objected thereto; and that the party signing the certif-
4 icate is the agent of such corporation to whose address [the secretary
5 of state] a person is required to mail copies of any process against the
6 corporation served upon [him] the secretary of state or the registered
7 agent, if such be the case. A certificate signed and delivered under
8 this paragraph shall not be deemed to effect a change of location of the
9 office of the corporation in whose behalf such certificate is filed.

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

13 (E) A designation of the secretary of state as its 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 this 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 the secretary of state.

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

22 (F) A designation of the secretary of state as [his] its agent upon
23 whom process against it may be served in the manner set forth in para-
24 graph (b) of section 306 (Service of process), in any action or special
25 proceeding described in [subparagraph] clause (D) of this subparagraph
26 and a post office address, within or without the state, to which [the
27 secretary of state] a person shall mail a copy of the process in such
28 action or special proceeding served upon by the secretary of state.

1 § 50. Subparagraph 6 of paragraph (a) of section 1304 of the not-for-
2 profit corporation law, as renumbered by chapter 590 of the laws of
3 1982, is amended to read as follows:

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

9 § 51. Subparagraph 7 of paragraph (a) of section 1308 of the not-for-
10 profit corporation law, as renumbered by chapter 186 of the laws of
11 1983, is amended to read as follows:

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

15 § 52. Subparagraph 2 of paragraph (a) and paragraph (c) of section
16 1310 of the not-for-profit corporation law, paragraph (c) as amended by
17 chapter 172 of the laws of 1999, are amended to read as follows:

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

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

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

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

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

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

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

26 § 1312. Termination of existence.

27 When an authorized foreign corporation is dissolved or its authority
28 or existence is otherwise terminated or cancelled in the jurisdiction of

1 its incorporation or when such foreign corporation is merged into or
2 consolidated with another foreign corporation, a certificate of the
3 secretary of state, or official performing the equivalent function as to
4 corporate records, of the jurisdiction of incorporation of such foreign
5 corporation attesting to the occurrence of any such event or a certified
6 copy of an order or decree of a court of such jurisdiction directing the
7 dissolution of such foreign corporation, the termination of its exist-
8 ence or the cancellation of its authority shall be delivered to the
9 department of state. The filing of the certificate, order or decree
10 shall have the same effect as the filing of a certificate of surrender
11 of authority under section 1311 (Surrender of authority). The secretary
12 of state shall continue as agent of the foreign corporation upon whom
13 process against it may be served in the manner set forth in paragraph
14 (b) of section 306 (Service of process), in any action or special
15 proceeding based upon any liability or obligation incurred by the
16 foreign corporation within this state prior to the filing of such
17 certificate, order or decree and [he] the person serving such process
18 shall promptly cause a copy of any such process to be mailed by [regis-
19 tered] certified mail, return receipt requested, to such foreign corpo-
20 ration at the post office address on file [in his office] with the
21 department specified for such purpose. The post office address may be
22 changed by signing and delivering to the department of state a certif-
23 icate of change setting forth the statements required under section 1310
24 (Certificate of change, contents) to effect a change in the post office
25 address under subparagraph [(a) (4)] (7) of paragraph (a) of section
26 1308 (Amendments or changes).

27 § 55. Subdivision (c) of section 121-104 of the partnership law, as
28 added by chapter 950 of the laws of 1990, is 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 partnership or foreign limited
3 partnership for the purpose of mailing process shall be the post office
4 address, within or without the state, to which a person shall mail proc-
5 ess against such limited partnership as required by this article. Any
6 designated post office address to which the secretary of state or a
7 person shall mail a copy of process served upon [him] the secretary of
8 state as agent of a domestic limited partnership or foreign limited
9 partnership shall continue until the filing of a certificate under this
10 article directing the mailing to a different post office address.

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

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

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

22 (3) that at least sixty days prior to the filing of the certificate of
23 resignation for receipt of process with the department of state the
24 party has sent a copy of the certificate of resignation for receipt of
25 process by registered or certified mail to the address of the registered
26 agent of the [designated] designating limited partnership, if other than
27 the party filing the certificate of resignation[,] for receipt of proc-
28 ess, or if the [resigning] designating limited partnership has no regis-

1 tered agent, then to the last address of the [designated] designating
2 limited partnership, known to the party, specifying the address to which
3 the copy was sent. If there is no registered agent and no known address
4 of the designating limited partnership the party shall attach an affida-
5 vit to the certificate stating that a diligent but unsuccessful search
6 was made by the party to locate the limited partnership, specifying what
7 efforts were made.

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

10 (a) In addition to the designation of the secretary of state, each
11 limited partnership or authorized foreign limited partnership may desig-
12 nate a registered agent upon whom process against the limited partner-
13 ship may be served. The agent must be (i) a natural person who is a
14 resident of this state or has a business address in this state, [or]
15 (ii) a domestic corporation or a foreign corporation authorized to do
16 business in this state, or (iii) a domestic limited liability company or
17 a foreign limited liability company authorized to do business in this
18 state.

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

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

26 (1) By] by mailing the process and notice of service of process pursu-
27 ant to this section by certified mail, return receipt requested, to such
28 domestic or authorized foreign limited partnership or other business

1 entity, at the post office address on file in the department of state
2 specified for this purpose. On the same day as the process is mailed, a
3 duplicate copy of such process and proof of mailing shall be personally
4 [delivering] delivered to and [leaving] left with [him or his] the
5 secretary of state or a deputy, or with any person authorized by the
6 secretary of state to receive such service, at the office of the depart-
7 ment of state in the city of Albany, [duplicate copies of such process]
8 together with the statutory fee, which fee shall be a taxable disburse-
9 ment. Proof of mailing shall be by affidavit of compliance with this
10 section. Service of process on such limited partnership or other busi-
11 ness entity shall be complete when the secretary of state is so served.

12 [(2) The service on the limited partnership is complete when the
13 secretary of state is so served.

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

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

27 § 59. Paragraph 3 of subdivision (a) and subparagraph 4 of paragraph
28 (i) of subdivision (c) of section 121-201 of the partnership law, para-

1 graph 3 of subdivision (a) as amended by chapter 264 of the laws of
2 1991, and subparagraph 4 of paragraph (i) of subdivision (c) as amended
3 by chapter 44 of the laws of 2006, are amended to read as follows:

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

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

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

17 (4) a change in the name of the limited partnership, or a change in
18 the post office address to which [the secretary of state] a person shall
19 mail a copy of any process against the limited partnership served on
20 [him] the secretary of state, or a change in the name or address of the
21 registered agent, if such change is made other than pursuant to section
22 121-104 or 121-105 of this article.

23 § 61. Section 121-202-A of the partnership law, as added by chapter
24 448 of the laws of 1998, paragraph 2 of subdivision (a) as amended by
25 chapter 172 of the laws of 1999, is amended to read as follows:

26 § 121-202-A. Certificate of change. (a) A certificate of limited part-
27 nership may be changed by filing with the department of state a certif-
28 icate of change entitled "Certificate of Change of (name of limit-

1 ed partnership) under Section 121-202-A of the Revised Limited
2 Partnership Act" and shall be signed and delivered to the department of
3 state. A certificate of change may (i) specify or change the location of
4 the limited partnership's office; (ii) specify or change the post office
5 address to which [the secretary of state] a person shall mail a copy of
6 process against the limited partnership served upon [him] the secretary
7 of state; and (iii) make, revoke or change the designation of a regis-
8 tered agent, or to specify or change the address of its registered
9 agent. It shall set forth:

10 (1) the name of the limited partnership, and if it has been changed,
11 the name under which it was formed;

12 (2) the date its certificate of limited partnership was filed by the
13 department of state; and

14 (3) each change effected thereby.

15 (b) A certificate of change which changes only the post office address
16 to which [the secretary of state] a person shall mail a copy of any
17 process against a limited partnership served upon [him or] the secretary
18 of state and/or the address of the registered agent, provided such
19 address being changed is the address of a person, partnership, limited
20 liability corporation or corporation whose address, as agent, is the
21 address to be changed or who has been designated as registered agent for
22 such limited partnership shall be signed and delivered to the department
23 of state by such agent. The certificate of change shall set forth the
24 statements required under subdivision (a) of this section; that a notice
25 of the proposed change was mailed to the domestic limited partnership by
26 the party signing the certificate not less than thirty days prior to the
27 date of delivery to the department of state and that such domestic
28 limited partnership has not objected thereto; and that the party signing

1 the certificate is the agent of such limited partnership to whose
2 address [the secretary of state] a person is required to mail copies of
3 process served on the secretary of state or the registered agent, if
4 such be the case. A certificate signed and delivered under this subdivi-
5 sion shall not be deemed to effect a change of location of the office of
6 the limited partnership in whose behalf such certificate is filed.

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

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

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

22 § 63. Section 121-903-A of the partnership law, as added by chapter
23 448 of the laws of 1998, is amended to read as follows:

24 § 121-903-A. Certificate of change. (a) A foreign limited partnership
25 may change its application for authority by filing with the department
26 of state a certificate of change entitled "Certificate of Change
27 of (name of limited partnership) under Section 121-903-A of the
28 Revised Limited Partnership Act" and shall be signed and delivered to

1 the department of state. A certificate of change may (i) change the
2 location of the limited partnership's office; (ii) change the post
3 office address to which [the secretary of state] a person shall mail a
4 copy of process against the limited partnership served upon [him] the
5 secretary of state; and (iii) make, revoke or change the designation of
6 a registered agent, or to specify or change the address of its regis-
7 tered agent. It shall set forth:

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

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

13 (3) each change effected thereby.

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

1 nership to whose address [the secretary of state] a person is required
2 to mail copies of process served on the secretary of state or the regis-
3 tered agent, if such be the case. A certificate signed and delivered
4 under this subdivision shall not be deemed to effect a change of
5 location of the office of the limited partnership in whose behalf such
6 certificate is filed.

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

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

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

16 (7) 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 section
18 121-109 of this article in any action or special proceeding, and a post
19 office address, within or without this state, to which [the secretary of
20 state] a person shall mail a copy of any process served upon [him] the
21 secretary of state. Such post office address shall supersede any prior
22 address designated as the address to which process shall be mailed.

23 § 66. Subparagraphs 2 and 4 of paragraph (I) and clause 4 of subpara-
24 graph (A) of paragraph (II) of subdivision (a) of section 121-1500 of
25 the partnership law, subparagraph 2 of paragraph (I) as added by chapter
26 576 of the laws of 1994, subparagraph 4 of paragraph (I) as amended by
27 chapter 643 of the laws of 1995 and such paragraph as redesignated by
28 chapter 767 of the laws of 2005 and clause 4 of subparagraph (A) of

1 paragraph (II) as amended by chapter 44 of the laws of 2006, are amended
2 to read as follows:

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

5 (4) a designation of the secretary of state as agent of the partner-
6 ship without limited partners upon whom process against it may be served
7 and the post office address, within or without this state, to which the
8 [secretary of state] a person shall mail a copy of any process against
9 it or served [upon it] on the secretary of state;

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

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

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

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

27 (j-1) A certificate of change which changes only the post office
28 address to which [the secretary of state] a person shall mail a copy of

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

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

1 (a) In order for a foreign limited liability partnership to carry on
2 or conduct or transact business or activities as a New York registered
3 foreign limited liability partnership in this state, such foreign limit-
4 ed liability partnership shall file with the department of state a
5 notice which shall set forth: (i) the name under which the foreign
6 limited liability partnership intends to carry on or conduct or transact
7 business or activities in this state; (ii) the date on which and the
8 jurisdiction in which it registered as a limited liability partnership;
9 (iii) the address, within this state, of the principal office of the
10 foreign limited liability partnership; (iv) the profession or
11 professions to be practiced by such foreign limited liability partner-
12 ship and a statement that it is a foreign limited liability partnership
13 eligible to file a notice under this chapter; (v) a designation of the
14 secretary of state as agent of the foreign limited liability partnership
15 upon whom process against it may be served and the post office address
16 within or without this state, to which [the secretary of state] a person
17 shall mail a copy of any process against it [or] served upon [it] the
18 secretary of state; (vi) if the foreign limited liability partnership is
19 to have a registered agent, its name and address in this state and a
20 statement that the registered agent is to be the agent of the foreign
21 limited liability partnership upon whom process against it may be
22 served; (vii) a statement that its registration as a limited liability
23 partnership is effective in the jurisdiction in which it registered as a
24 limited liability partnership at the time of the filing of such notice;
25 (viii) a statement that the foreign limited liability partnership is
26 filing a notice in order to obtain status as a New York registered
27 foreign limited liability partnership; (ix) if the registration of the
28 foreign limited liability partnership is to be effective on a date later

1 than the time of filing, the date, not to exceed sixty days from the
2 date of filing, of such proposed effectiveness; and (x) any other
3 matters the foreign limited liability partnership determines to include
4 in the notice. Such notice shall be accompanied by either (1) a copy of
5 the last registration or renewal registration (or similar filing), if
6 any, filed by the foreign limited liability partnership with the juris-
7 diction where it registered as a limited liability partnership or (2) a
8 certificate, issued by the jurisdiction where it registered as a limited
9 liability partnership, substantially to the effect that such foreign
10 limited liability partnership has filed a registration as a limited
11 liability partnership which is effective on the date of the certificate
12 (if such registration, renewal registration or certificate is in a
13 foreign language, a translation thereof under oath of the translator
14 shall be attached thereto). Such notice shall also be accompanied by a
15 fee of two hundred fifty dollars.

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

20 (ii) the address, within this state, of the principal office of the
21 New York registered foreign limited liability partnership, (iii) the
22 post office address, within or without this state, to which [the secre-
23 tary of state] a person shall mail a copy of any process accepted
24 against it served upon [him or her] the secretary of state, which
25 address shall supersede any previous address on file with the department
26 of state for this purpose, and

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

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

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

12 (i-1) A certificate of change which changes only the post office
13 address to which [the secretary of state] a person shall mail a copy of
14 any process against a New York registered foreign limited liability
15 partnership served upon [him] the secretary of state and/or the address
16 of the registered agent, provided such address being changed is the
17 address of a person, partnership, limited liability company or corpo-
18 ration whose address, as agent, is the address to be changed or who has
19 been designated as registered agent of such registered foreign limited
20 liability partnership shall be signed and delivered to the department of
21 state by such agent. The certificate of change shall set forth: (i) the
22 name of the New York registered foreign limited liability partnership;
23 (ii) the date of filing of its initial registration or notice statement;
24 (iii) each change effected thereby; (iv) that a notice of the proposed
25 change was mailed to the limited liability partnership by the party
26 signing the certificate not less than thirty days prior to the date of
27 delivery to the department of state and that such limited liability
28 partnership has not objected thereto; and (v) that the party signing the

1 certificate is the agent of such limited liability partnership to whose
2 address [the secretary of state] a person is required to mail copies of
3 process served on the secretary of state or the registered agent, if
4 such be the case. A certificate signed and delivered under this subdivi-
5 sion shall not be deemed to effect a change of location of the office of
6 the limited liability partnership in whose behalf such certificate is
7 filed. The certificate of change shall be accompanied by a fee of five
8 dollars.

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

12 (a) Service of process on the secretary of state as agent of a regis-
13 tered limited liability partnership or New York registered foreign
14 limited liability partnership under this article shall be made by mail-
15 ing the process and notice of service thereof by certified mail, return
16 receipt requested, to such registered limited liability partnership or
17 New York registered foreign limited liability partnership, at the post
18 office address on file in the department of state specified for such
19 purpose. On the same date that such process is mailed, a duplicate copy
20 of such process and proof of mailing together with the statutory fee,
21 which fee shall be a taxable disbursement, shall be personally [deliver-
22 ing] delivered to and [leaving] left with the secretary of state or a
23 deputy, or with any person authorized by the secretary of state to
24 receive such service, at the office of the department of state in the
25 city of Albany, [duplicate copies of such process] together with the
26 statutory fee, which fee shall be a taxable disbursement. Proof of mail-
27 ing shall be by affidavit of compliance with this section. Service of
28 process on such registered limited liability partnership or New York

1 registered foreign limited liability partnership shall be complete when
2 the secretary of state is so served. [The secretary of state shall
3 promptly send one of such copies by certified mail, return receipt
4 requested, to such registered limited liability partnership, at the post
5 office address on file in the department of state specified for such
6 purpose.]

7 (d) The department of state shall keep a record of each process served
8 upon the secretary of state under this chapter, including the date of
9 such service. It shall, upon request made within ten years of such
10 service, issue a certificate under its seal certifying as to the receipt
11 of the process by an authorized person, the date and place of such
12 service and the receipt of the statutory fee. Process served upon the
13 secretary of state under this chapter shall be destroyed by the depart-
14 ment of state after a period of ten years from such service.

15 (e) Any designated post office address maintained by the secretary of
16 state as agent of a registered limited liability partnership or New York
17 registered foreign limited liability partnership for the purpose of
18 mailing process shall be the post office address, within or without the
19 state, to which a person shall mail process against such limited liabil-
20 ity company as required by this article. Such address shall continue
21 until the filing of a certificate under this chapter directing the mail-
22 ing to a different post office address.

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

26 (b) The party (or the party's legal representative) whose post office
27 address has been supplied by a limited liability partnership as its
28 address for process may resign. A certificate entitled "Certificate of

1 Resignation for Receipt of Process under Section 121-1506(b) of the
2 Partnership Law" shall be signed by such party and delivered to the
3 department of state. It shall set forth:

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

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

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

26 (4) That the [designated] designating limited liability partnership is
27 required to deliver to the department of state a certificate of amend-
28 ment providing for the designation by the limited liability partnership

1 of a new address and that upon its failure to file such certificate, its
2 authority to do business in this state shall be suspended.

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

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

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

13 § 76-a. Subdivision 15 of section 20.03 of the arts and cultural
14 affairs law, as added by chapter 656 of the laws of 1991, is amended to
15 read as follows:

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

1 condominium to comply with the by-laws of such condominium and with the
2 rules, regulations, and decisions adopted pursuant thereto.

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

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

13 (b) Any board of managers may change the address to which a person
14 shall mail a copy of process served upon the secretary of state, by
15 filing a signed certificate of amendment with the department of state.
16 Such certificate shall be accompanied by a fee of sixty dollars.

17 (c) Service of process on the secretary of state as agent of a board
18 of managers shall be made by mailing the process and notice of service
19 of process pursuant to this section by certified mail, return receipt
20 requested, to such board of managers, at the post office address on file
21 in the department of state specified for this purpose. On the same day
22 that such process is mailed, a duplicate copy of such process and proof
23 of mailing shall be personally delivered to and left with the secretary
24 of state or a deputy, or with any person authorized by the secretary of
25 state to receive such service, at the office of the department of state
26 in the city of Albany, a duplicate copy of such process with proof of
27 mailing together with the statutory fee, which shall be a taxable
28 disbursement. Proof of mailing shall be by affidavit of compliance with

1 this section. Service of process on a board of managers shall be
2 complete when the secretary of state is so served.

3 (d) As used in this article, "process" shall mean judicial process and
4 all orders, demands, notices or other papers required or permitted by
5 law to be personally served on a board of managers, for the purpose of
6 acquiring jurisdiction of such board of managers in any action or
7 proceeding, civil or criminal, whether judicial, administrative, arbi-
8 trative or otherwise, in this state or in the federal courts sitting in
9 or for this state.

10 (e) Nothing in this section shall affect the right to serve process in
11 any other manner permitted by law.

12 (f) The department of state shall keep a record of each process served
13 under this section, including the date of service. It shall, upon
14 request, made within ten years of such service, issue a certificate
15 under its seal certifying as to the receipt of process by an authorized
16 person, the date and place of such service and the receipt of the statu-
17 tory fee. Process served on the secretary of state under this section
18 shall be destroyed by the department of state after a period of ten
19 years from such service.

20 (g) Any designated post office address maintained by the secretary of
21 state as agent of the board of managers for the purpose of mailing proc-
22 ess shall be the post office address, within or without the state, to
23 which a person shall mail process against such board as required by this
24 article. Such address shall continue until the filing of a certificate
25 under this chapter directing the mailing to a different post office
26 address.

1 § 78. Subdivisions 3 and 4 of section 442-g of the real property law,
2 as amended by chapter 482 of the laws of 1963, are amended to read as
3 follows:

4 3. Service of such process upon the secretary of state shall be made
5 by personally delivering to and leaving with [him or his] the secretary
6 of state or a deputy, or with any person authorized by the secretary of
7 state to receive such service, at the office of the department of state
8 in the city of Albany, [duplicate copies] a copy of such process and
9 proof of mailing together with a fee of five dollars if the action is
10 solely for the recovery of a sum of money not in excess of two hundred
11 dollars and the process is so endorsed, and a fee of ten dollars in any
12 other action or proceeding, which fee shall be a taxable disbursement.
13 If such process is served upon behalf of a county, city, town or
14 village, or other political subdivision of the state, the fee to be paid
15 to the secretary of state shall be five dollars, irrespective of the
16 amount involved or the nature of the action on account of which such
17 service of process is made. [If the cost of registered mail for trans-
18 mitting a copy of the process shall exceed two dollars, an additional
19 fee equal to such excess shall be paid at the time of the service of
20 such process.] Proof of mailing shall be by affidavit of compliance with
21 this section. Proof of service shall be by affidavit of compliance with
22 this subdivision filed by or on behalf of the plaintiff together with
23 the process, within ten days after such service, with the clerk of the
24 court in which the action or special proceeding is pending. Service
25 made as provided in this section shall be complete ten days after such
26 papers are filed with the clerk of the court and shall have the same
27 force and validity as if served on him personally within the state and

1 within the territorial jurisdiction of the court from which the process
2 issues.

3 4. The [secretary of state] person serving such process shall [prompt-
4 ly] send [one of] such [copies] process by [registered] certified mail,
5 return receipt requested, to the nonresident broker or nonresident
6 salesman at the post office address of his main office as set forth in
7 the last application filed by him.

8 § 79. Subdivision 2 of section 203 of the tax law, as amended by chap-
9 ter 100 of the laws of 1964, is amended to read as follows:

10 2. Every foreign corporation (other than a moneyed corporation)
11 subject to the provisions of this article, except a corporation having a
12 certificate of authority [under section two hundred twelve of the gener-
13 al corporation law] or having authority to do business by virtue of
14 section thirteen hundred five of the business corporation law, shall
15 file in the department of state a certificate of designation in its
16 corporate name, signed and acknowledged by its president or a vice-pre-
17 sident or its secretary or treasurer, under its corporate seal, desig-
18 nating the secretary of state as its agent upon whom process in any
19 action provided for by this article may be served within this state, and
20 setting forth an address to which [the secretary of state] a person
21 shall mail a copy of any such process against the corporation which may
22 be served upon [him] the secretary of state. In case any such corpo-
23 ration shall have failed to file such certificate of designation, it
24 shall be deemed to have designated the secretary of state as its agent
25 upon whom such process against it may be served; and until a certificate
26 of designation shall have been filed the corporation shall be deemed to
27 have directed [the secretary of state] a person serving process to mail
28 copies of process served upon [him] the secretary of state to the corpo-

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

1 assistant treasurer, or cashier of such corporation, or the officer
2 performing corresponding functions under another name, or a director or
3 managing agent of such corporation, personally without the state. Proof
4 of such personal service without the state shall be filed with the clerk
5 of the court in which the action is pending within thirty days after
6 such service, and such service shall be complete ten days after proof
7 thereof is filed.

8 § 80. Section 216 of the tax law, as added by chapter 415 of the laws
9 of 1944, the opening paragraph as amended by chapter 100 of the laws of
10 1964 and redesignated by chapter 613 of the laws of 1976, is amended to
11 read as follows:

12 § 216. Collection of taxes. Every foreign corporation (other than a
13 moneyed corporation) subject to the provisions of this article, except a
14 corporation having a certificate of authority [under section two hundred
15 twelve of the general corporation law] or having authority to do busi-
16 ness by virtue of section thirteen hundred five of the business corpo-
17 ration law, shall file in the department of state a certificate of
18 designation in its corporate name, signed and acknowledged by its presi-
19 dent or a vice-president or its secretary or treasurer, under its corpo-
20 rate seal, designating the secretary of state as its agent upon whom
21 process in any action provided for by this article may be served within
22 this state, and setting forth an address to which [the secretary of
23 state] a person shall mail a copy of any such process against the corpo-
24 ration which may be served upon [him] the secretary of state. In case
25 any such corporation shall have failed to file such certificate of
26 designation, it shall be deemed to have designated the secretary of
27 state as its agent upon whom such process against it may be served; and
28 until a certificate of designation shall have been filed the corporation

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

1 state in the city of Albany and by delivering a copy thereof to, and
2 leaving such copy with, the president, vice-president, secretary,
3 assistant secretary, treasurer, assistant treasurer, or cashier of such
4 corporation, or the officer performing corresponding functions under
5 another name, or a director or managing agent of such corporation,
6 personally without the state. Proof of such personal service without
7 the state shall be filed with the clerk of the court in which the action
8 is pending within thirty days after such service, and such service shall
9 be complete ten days after proof thereof is filed.

10 § 81. Subdivisions (a) and (b) of section 310 of the tax law, as added
11 by chapter 400 of the laws of 1983, are amended to read as follows:

12 (a) Designation for service of process.--Every petroleum business
13 which is a corporation, except such a petroleum business having a
14 certificate of authority [under section two hundred twelve of the gener-
15 al corporation law] or having authority to do business by virtue of
16 section thirteen hundred five of the business corporation law, shall
17 file in the department of state a certificate of designation in its
18 corporate name, signed and acknowledged by its president or vice-presi-
19 dent or its secretary or treasurer, under its corporate seal, designat-
20 ing the secretary of state as its agent upon whom process in any action
21 provided for by this article may be served within this state, and
22 setting forth an address to which [the secretary of state] a person
23 shall mail a copy of any such process against such petroleum business
24 which may be served upon [him] the secretary of state. In case any such
25 petroleum business shall have failed to file such certificate of desig-
26 nation, it shall be deemed to have designated the secretary of state as
27 its agent upon whom such process against it may be served; and until a
28 certificate of designation shall have been filed such a petroleum busi-

1 ness shall be deemed to have directed [the secretary of state] a person
2 to mail copies of process served upon [him] the secretary of state to
3 such petroleum business at its last known office address within or with-
4 out the state. When a certificate of designation has been filed by such
5 a petroleum business [the secretary of state] a person serving process
6 shall mail copies of process thereafter served upon [him] the secretary
7 of state to the address set forth in such certificate. Any such petrole-
8 um business, from time to time, may change the address to which [the
9 secretary of state] a person is directed to mail copies of process, by
10 filing a certificate to that effect executed, signed and acknowledged in
11 like manner as a certificate of designation as herein provided.

12 (b) Service of process.--Service of process upon any petroleum busi-
13 ness which is a corporation (including any such petroleum business
14 having a certificate of authority [under section two hundred twelve of
15 the general corporation law] or having authority to do business by
16 virtue of section thirteen hundred five of the business corporation
17 law), in any action commenced at any time pursuant to the provisions of
18 this article, may be made by either (1) personally delivering to and
19 leaving with the secretary of state, a deputy secretary of state or with
20 any person authorized by the secretary of state to receive such service
21 [duplicate copies] a copy thereof at the office of the department of
22 state in the city of Albany, in which event [the secretary of state] a
23 person serving process shall forthwith send by [registered] certified
24 mail, return receipt requested, [one of such copies] a duplicate copy to
25 such petroleum business at the address designated by it or at its last
26 known office address within or without the state, or (2) personally
27 delivering to and leaving with the secretary of state, a deputy secre-
28 tary of state or with any person authorized by the secretary of state to

1 receive such service, a copy thereof at the office of the department of
2 state in the city of Albany and by delivering a copy thereof to, and
3 leaving such copy with, the president, vice-president, secretary,
4 assistant secretary, treasurer, assistant treasurer, or cashier of such
5 petroleum business, or the officer performing corresponding functions
6 under another name, or a director or managing agent of such petroleum
7 business, personally without the state. Proof of such personal service
8 without the state shall be filed with the clerk of the court in which
9 the action is pending within thirty days after such service, and such
10 service shall be complete ten days after proof thereof is filed.

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

13 PART U

14 Section 1. Section 970-r of the general municipal law, as added by
15 section 1 of part F of chapter 1 of the laws of 2003, subdivision 1,
16 paragraph f of subdivision 3 and paragraph h of subdivision 6 as amended
17 by section 1 of part F of chapter 577 of the laws of 2004, paragraph a
18 of subdivision 1 as amended and paragraph h of subdivision 1 as added by
19 chapter 386 of the laws of 2007, paragraph i of subdivision 1 as added
20 and paragraph e of subdivision 1, paragraph a of subdivision 2, para-
21 graph d of subdivision 2, the opening paragraph of paragraph e of subdivi-
22 sion 2, subparagraph 6 of paragraph e of subdivision 2, paragraph f of
23 subdivision 2, paragraph g of subdivision 2, paragraph b of subdivision
24 3, the opening paragraph of paragraph f of subdivision 3, subparagraph 6
25 of paragraph f of subdivision 3, paragraph g of subdivision 3, paragraph
26 h of subdivision 3, paragraph i of subdivision 3, and subdivisions 7 and

1 9 as amended by chapter 390 of the laws of 2008, paragraph b of subdivi-
2 sion 2 as amended by section 26 and subparagraphs 2 and 5 of paragraph c
3 of subdivision 2 as amended by section 27, paragraph a of subdivision 3
4 as amended by section 28, subparagraphs 2 and 5 of paragraph e of subdivi-
5 sion 3 and subdivision 4 as amended by section 29, paragraph a and
6 subparagraphs 2 and 5 of paragraph e of subdivision 6 as amended by
7 section 30 and subdivision 10 as added by section 31 of part BB of chap-
8 ter 56 of the laws of 2015, is amended to read as follows:

9 § 970-r. State assistance for brownfield opportunity areas. 1. Defi-
10 nitions. a. "Applicant" shall mean the municipality, community board
11 and/or community based organization submitting an application in the
12 manner authorized by this section.

13 b. "Commissioner" shall mean the commissioner of the department of
14 environmental conservation.

15 c. "Community based organization" shall mean a not-for-profit corpo-
16 ration exempt from taxation under section 501(c)(3) of the internal
17 revenue code whose stated mission is promoting reuse of brownfield sites
18 or community revitalization within a specified geographic area in which
19 the community based organization is located; which has twenty-five
20 percent or more of its board of directors residing in the community in
21 such area; and represents a community with a demonstrated financial
22 need. "Community based organization" shall not include any not-for-pro-
23 fit corporation that has caused or contributed to the release or threat-
24 ened release of a contaminant from or onto the brownfield site, or any
25 not-for-profit corporation that generated, transported, or disposed of,
26 or that arranged for, or caused, the generation, transportation, or
27 disposal of contamination from or onto the brownfield site. This defi-
28 nition shall not apply if more than twenty-five percent of the members,

1 officers or directors of the not-for-profit corporation are or were
2 employed or receiving compensation from any person responsible for a
3 site under title thirteen or title fourteen of article twenty-seven of
4 the environmental conservation law, article twelve of the navigation law
5 or under applicable principles of statutory or common law liability.

6 d. "Brownfield site" shall have the same meaning as set forth in
7 section 27-1405 of the environmental conservation law.

8 e. "Department" shall mean the department of state.

9 f. "Contamination" or "contaminated" shall have the same meaning as
10 provided in section 27-1405 of the environmental conservation law.

11 g. "Municipality" shall have the same meaning as set forth in subdivi-
12 sion fifteen of section 56-0101 of the environmental conservation law.

13 h. "Community board" shall have the same meaning as set forth in
14 section twenty-eight hundred of the New York city charter.

15 i. "Secretary" shall mean the secretary of state.

16 j. "Nomination" shall mean a study, analysis, outline, and written
17 plan for redevelopment and revitalization of any area wherein one or
18 more known or suspected brownfield sites are located, that contains
19 those elements required by the secretary pursuant to this section,
20 whether or not such nomination was funded pursuant to this section, and
21 that is submitted to the secretary as a prerequisite for brownfield
22 opportunity area designation in accordance with the criteria established
23 by this section.

24 2. [State assistance for pre-nomination study for brownfield opportu-
25 nity areas. a. Within the limits of appropriations therefor, the secre-
26 tary is authorized to provide, on a competitive basis, financial assist-
27 ance to municipalities, to community based organizations, to community
28 boards, or to municipalities and community based organizations acting in

1 cooperation to prepare a pre-nomination study for a brownfield opportu-
2 nity area designation. Such financial assistance shall not exceed ninety
3 percent of the costs of such pre-nomination study for any such area.

4 b. Activities eligible to receive such assistance shall include, but
5 are not limited to, the assembly and development of basic information
6 about:

7 (1) the borders of the proposed brownfield opportunity area;

8 (2) the number and size of known or suspected brownfield sites;

9 (3) current and anticipated uses of the properties in the proposed
10 brownfield opportunity area;

11 (4) current and anticipated future conditions of groundwater in the
12 proposed brownfield opportunity area;

13 (5) known data about the environmental conditions of the properties in
14 the proposed brownfield opportunity area;

15 (6) ownership of the properties in the proposed brownfield opportunity
16 area and whether the owners are participating in the brownfield opportu-
17 nity area planning process; and

18 (7) preliminary descriptions of possible remediation strategies, reuse
19 opportunities, necessary infrastructure improvements and other public or
20 private measures needed to stimulate investment, promote revitalization,
21 and enhance community health and environmental conditions.

22 c. Funding preferences shall be given to applications for such assist-
23 ance that relate to areas having one or more of the following character-
24 istics:

25 (1) areas for which the application is a partnered application by a
26 municipality and a community based organization;

27 (2) areas with concentrations of known or suspected brownfield sites;

1 (3) areas for which the application demonstrates support from a muni-
2 cipality and a community based organization;

3 (4) areas showing indicators of economic distress including low resi-
4 dent incomes, high unemployment, high commercial vacancy rates,
5 depressed property values; and

6 (5) areas with known or suspected brownfield sites presenting strate-
7 gic opportunities to stimulate economic development, community revitali-
8 zation or the siting of public amenities.

9 d. The secretary, upon the receipt of an application for such assist-
10 ance from a community based organization not in cooperation with the
11 local government having jurisdiction over the proposed brownfield oppor-
12 tunity area, shall request the municipal government to review and state
13 the municipal government's support or lack of support. The municipal
14 government's statement shall be considered a part of the application.

15 e. Each application for assistance shall be submitted to the secretary
16 in a format, and containing such information, as prescribed by the
17 secretary but shall include, at a minimum, the following:

18 (1) a statement of the rationale or relationship between the proposed
19 assistance and the criteria set forth in this subdivision for the evalu-
20 ation and ranking of assistance applications;

21 (2) the processes by which local participation in the development of
22 the application has been sought;

23 (3) the process to be carried out with the state assistance including,
24 but not limited to, the goals of and budget for the effort, the work
25 plan and timeline for the attainment of these goals, and the intended
26 process for community participation in the process;

1 (4) the manner and extent to which public or governmental agencies
2 with jurisdiction over issues that will be addressed in the data gather-
3 ing process will be involved in this process;

4 (5) other planning and development initiatives proposed or in progress
5 in the proposed brownfield opportunity area; and

6 (6) for each community based organization which is an applicant or a
7 co-applicant, a copy of its determination of tax exempt status issued by
8 the federal internal revenue service pursuant to section 501 of the
9 internal revenue code, a description of the relationship between the
10 community based organization and the area that is the subject of the
11 application, its financial and institutional accountability, its experi-
12 ence in conducting and completing planning initiatives and in working
13 with the local government associated with the proposed brownfield oppor-
14 tunity area.

15 f. Prior to making an award for assistance, the secretary shall notify
16 the temporary president of the senate and speaker of the assembly.

17 g. Following notification to the applicant that assistance has been
18 awarded, and prior to disbursement of funds, a contract shall be
19 executed between the department and the applicant or co-applicants. The
20 secretary shall establish terms and conditions for such contracts as the
21 secretary deems appropriate, including provisions to define: applicant's
22 work scope, work schedule, and deliverables; fiscal reports on budgeted
23 and actual use of funds expended; and requirements for submission of a
24 final fiscal report. The contract shall also require the distribution of
25 work products to the department, and, for community based organizations,
26 to the applicant's municipality. Applicants shall be required to make
27 the results publicly available.

1 3.] State assistance for nominations to designate brownfield opportu-
2 nity areas. a. Within the limits of appropriations therefor, the secre-
3 tary is authorized to provide, on a competitive basis, financial assist-
4 ance to municipalities, to community based organizations, to community
5 boards, or to municipalities and community based organizations acting in
6 cooperation to prepare a nomination for designation of a brownfield
7 opportunity area. Such financial assistance shall not exceed ninety
8 percent of the costs of such nomination for any such area. A nomination
9 study must include sufficient information to designate the brownfield
10 opportunity area. [The contents of the nomination study shall be devel-
11 oped based on pre-nomination study information, which shall principally
12 consist of an area-wide study, documenting the historic brownfield uses
13 in the area proposed for designation.]

14 b. An application for such financial assistance shall include an indi-
15 cation of support from owners of brownfield sites in the proposed brown-
16 field opportunity area. All residents and property owners in the
17 proposed brownfield opportunity area shall receive notice in such form
18 and manner as the secretary shall prescribe.

19 c. No application for such financial assistance shall be considered
20 unless the applicant demonstrates that it has, to the maximum extent
21 practicable, solicited and considered the views of residents of the
22 proposed brownfield opportunity area, the views of state and local offi-
23 cials elected to represent such residents and the local organizations
24 representing such residents.

25 d. Activities eligible to receive such financial assistance shall
26 include the identification, preparation, creation, development and
27 assembly of information and elements to be included in a nomination for
28 designation of a brownfield opportunity area[,,].

1 e. A nomination for designation of a brownfield opportunity area shall
2 contain such elements as determined by the secretary of state, including
3 but not limited to:

4 (1) the borders of the proposed brownfield opportunity area;

5 (2) [the] an inventory of known or suspected brownfield sites, includ-
6 ing location and size of each known or suspected brownfield site in the
7 proposed brownfield opportunity area;

8 (3) the identification of strategic sites within the proposed brown-
9 field opportunity area;

10 (4) the type of potential developments anticipated for sites within
11 the proposed brownfield opportunity area proposed by either the current
12 or the prospective owners of such sites;

13 (5) local legislative or regulatory action which may be required to
14 implement a plan for the redevelopment of the proposed brownfield oppor-
15 tunity area;

16 (6) priorities for public and private investment in infrastructure,
17 open space, economic development, housing, or community facilities in
18 the proposed brownfield opportunity area;

19 (7) identification, discussion, and mapping of current and anticipated
20 uses of the properties and groundwater in the proposed brownfield oppor-
21 tunity area;

22 (8) existing detailed assessments of individual brownfield sites and,
23 where the consent of the site owner has been obtained, the need for
24 conducting on-site assessments;

25 (9) known data about the environmental conditions of properties in the
26 proposed brownfield opportunity area;

27 (10) ownership of the known or suspected brownfield properties in the
28 proposed brownfield opportunity area;

1 (11) descriptions of possible remediation strategies, reuse opportu-
2 nities, brownfield redevelopment, necessary infrastructure improvements
3 and other public or private measures needed to stimulate investment,
4 promote revitalization, and enhance community health and environmental
5 conditions;

6 (12) the goals and objectives, both short term and long term, for the
7 economic revitalization of the proposed brownfield opportunity area;
8 [and]

9 (13) the publicly controlled and other developable lands and buildings
10 within the proposed brownfield opportunity area which are or could be
11 made available for residential, industrial and commercial
12 development[.]; and

13 (14) a community participation strategy to solicit and consider the
14 views of residents, businesses and other stakeholders of the proposed
15 brownfield opportunity area.

16 [e.] f. Funding preferences shall be given to applications for such
17 assistance that relate to areas having one or more of the following
18 characteristics:

19 (1) areas for which the application is a partnered application by a
20 municipality and a community based organization;

21 (2) areas with concentrations of known or suspected brownfield sites;

22 (3) areas for which the application demonstrates support from a muni-
23 cipality and a community based organization;

24 (4) areas showing indicators of economic distress including low resi-
25 dent incomes, high unemployment, high commercial vacancy rates,
26 depressed property values; and

1 (5) areas with known or suspected brownfield sites presenting strate-
2 gic opportunities to stimulate economic development, community revitali-
3 zation or the siting of public amenities.

4 [f.] g. Each application for such assistance shall be submitted to the
5 secretary in a format, and containing such information, as prescribed by
6 the secretary but shall include, at a minimum, the following:

7 (1) a statement of the rationale or relationship between the proposed
8 assistance and the criteria set forth in this section for the evaluation
9 and ranking of assistance applications;

10 (2) the processes by which local participation in the development of
11 the application has been sought;

12 (3) the process to be carried out under the state assistance includ-
13 ing, but not limited to, the goals of and budget for the effort, the
14 work plan and timeline for the attainment of these goals, and the
15 intended process for public participation in the process;

16 (4) the manner and extent to which public or governmental agencies
17 with jurisdiction over issues that will be addressed in the data gather-
18 ing process will be involved in this process;

19 (5) other planning and development initiatives proposed or in progress
20 in the proposed brownfield opportunity area;

21 (6) for each community based organization which is an applicant or a
22 co-applicant, a copy of its determination of tax exempt status issued by
23 the federal internal revenue service pursuant to section 501 of the
24 internal revenue code, a description of the relationship between the
25 community based organization and the area that is the subject of the
26 application, its financial and institutional accountability, its experi-
27 ence in conducting and completing planning initiatives and in working

1 with the local government associated with the proposed brownfield oppor-
2 tunity area; and

3 (7) the financial commitments the applicant will make to the brown-
4 field opportunity area for activities including, but not limited to,
5 marketing of the area for business development, human resource services
6 for residents and businesses in the brownfield opportunity area, and
7 services for small and minority and women-owned businesses.

8 [g. The secretary, upon the receipt of an] h. An application for such
9 assistance from a community based organization not in cooperation with
10 the local government having jurisdiction over the proposed brownfield
11 opportunity area, shall [request the municipal government to review and
12 state the municipal government's support or lack of support] include a
13 statement of support from the city, town, or village with planning and
14 land use authority in which the brownfield opportunity area is proposed.
15 The [municipal government's] statement from such city, town, or village
16 shall be considered a part of the application.

17 [h.] i. Prior to making an award for assistance, the secretary shall
18 notify the temporary president of the senate and speaker of the assem-
19 bly.

20 [i.] j. Following notification to the applicant that assistance has
21 been awarded, and prior to disbursement of funds, a contract shall be
22 executed between the department and the applicant or co-applicants. The
23 secretary shall establish terms and conditions for such contracts as the
24 secretary deems appropriate, including provisions to define: applicant's
25 work scope, work schedule, and deliverables; fiscal reports on budgeted
26 and actual use of funds expended; and requirements for submission of a
27 final fiscal report. The contract shall also require the distribution of
28 work products to the department, and, for community based organizations,

1 to the applicant's municipality. Applicants shall be required to make
2 the results publicly available. Such contract shall further include a
3 provision providing that if any responsible party payments become avail-
4 able to the applicant, the amount of such payments attributable to
5 expenses paid by the award shall be paid to the department by the appli-
6 cant; provided that the applicant may first apply such responsible party
7 payments toward any actual project costs incurred by the applicant.

8 3. State assistance for activities to advance brownfield opportunity
9 area revitalization. Within amounts appropriated therefor, the secretary
10 is authorized to provide, on a competitive basis, financial assistance
11 to municipalities, to community based organizations, or to community
12 boards to conduct predevelopment and other activities within a desig-
13 nated or proposed brownfield opportunity area to advance the goals and
14 priorities set forth in a nomination as defined pursuant to this
15 section. Such financial assistance shall not exceed ninety percent of
16 the costs of such activities. Activities eligible to receive such
17 assistance shall include: development and implementation of marketing
18 strategies; development of plans and specifications; real estate
19 services; building condition studies; infrastructure analyses; zoning
20 and regulatory updates; environmental, housing and economic studies,
21 analyses and reports; public outreach; building of local capacity; and
22 other activities as determined by the secretary.

23 4. Designation of brownfield opportunity area. Upon completion of a
24 nomination for designation of a brownfield opportunity area, it shall be
25 forwarded by the applicant to the secretary, who shall determine whether
26 it is consistent with the provisions of this section. The secretary may
27 review and approve a nomination for designation of a brownfield opportu-
28 nity area at any time. If the secretary determines that the nomination

1 is consistent with the provisions of this section, the brownfield oppor-
2 tunity area shall be designated. If the secretary determines that the
3 nomination is not consistent with the provisions of this section, the
4 secretary shall make recommendations in writing to the applicant of the
5 manner and nature in which the nomination should be amended.

6 5. Priority and preference. The designation of a brownfield opportu-
7 nity area pursuant to this section is intended to serve as a planning
8 tool. It alone shall not impose any new obligations on any property or
9 property owner. To the extent authorized by law, projects in brownfield
10 opportunity areas designated pursuant to this section shall receive a
11 priority and preference when considered for financial assistance pursu-
12 ant to articles fifty-four and fifty-six of the environmental conserva-
13 tion law. To the extent authorized by law, projects in brownfield oppor-
14 tunity areas designated pursuant to this section may receive a priority
15 and preference when considered for financial assistance pursuant to any
16 other state, federal or local law.

17 6. State assistance for brownfield site assessments in brownfield
18 opportunity areas. a. Within the limits of appropriations therefor, the
19 secretary of state, is authorized to provide, on a competitive basis,
20 financial assistance to municipalities, to community based organiza-
21 tions, to community boards, or to municipalities and community based
22 organizations acting in cooperation to conduct brownfield site assess-
23 ments. Such financial assistance shall not exceed ninety percent of the
24 costs of such brownfield site assessment.

25 b. Brownfield sites eligible for such assistance must be owned by a
26 municipality, or volunteer as such term is defined in section 27-1405 of
27 the environmental conservation law.

1 c. Brownfield site assessment activities eligible for funding include,
2 but are not limited to, testing of properties to determine the nature
3 and extent of the contamination (including soil and groundwater), envi-
4 ronmental assessments, the development of a proposed remediation strate-
5 gy to address any identified contamination, and any other activities
6 deemed appropriate by the commissioner in consultation with the secre-
7 tary of state. Any environmental assessment shall be subject to the
8 review and approval of such commissioner.

9 d. Applications for such assistance shall be submitted to the commis-
10 sioner in a format, and containing such information, as prescribed by
11 the commissioner in consultation with the secretary of state.

12 e. Funding preferences shall be given to applications for such assist-
13 ance that relate to areas having one or more of the following character-
14 istics:

15 (1) areas for which the application is a partnered application by a
16 municipality and a community based organization;

17 (2) areas with concentrations of known or suspected brownfield sites;

18 (3) areas for which the application demonstrates support from a muni-
19 cipality and a community based organization;

20 (4) areas showing indicators of economic distress including low resi-
21 dent incomes, high unemployment, high commercial vacancy rates,
22 depressed property values; and

23 (5) areas with known or suspected brownfield sites presenting strate-
24 gic opportunities to stimulate economic development, community revitali-
25 zation or the siting of public amenities.

26 f. The commissioner, upon the receipt of an application for such
27 assistance from a community based organization not in cooperation with
28 the local government having jurisdiction over the proposed brownfield

1 opportunity area, shall request the municipal government to review and
2 state the municipal government's support or lack of support. The municipi-
3 pal government's statement shall be considered a part of the applica-
4 tion.

5 g. Prior to making an award for assistance, the commissioner shall
6 notify the temporary president of the senate and the speaker of the
7 assembly.

8 h. Following notification to the applicant that assistance has been
9 awarded, and prior to disbursement of funds, a contract shall be
10 executed between the department and the applicant or co-applicants. The
11 commissioner shall establish terms and conditions for such contracts as
12 the commissioner deems appropriate in consultation with the secretary of
13 state, including provisions to define: applicant's work scope, work
14 schedule, and deliverables; fiscal reports on budgeted and actual use of
15 funds expended; and requirements for submission of a final fiscal
16 report. The contract shall also require the distribution of work
17 products to the department, and, for community based organizations, to
18 the applicant's municipality. Applicants shall be required to make the
19 results publicly available. Such contract shall further include a
20 provision providing that if any responsible party payments become avail-
21 able to the applicant, the amount of such payments attributable to
22 expenses paid by the award shall be paid to the department by the appli-
23 cant; provided that the applicant may first apply such responsible party
24 payments towards actual project costs incurred by the applicant.

25 7. Amendments to designated area. Any proposed amendment to a brown-
26 field opportunity area designated pursuant to this section shall be
27 proposed, and reviewed by the secretary, in the same manner and using

1 the same criteria set forth in this section and applicable to an initial
2 nomination for the designation of a brownfield opportunity area.

3 8. Applications for brownfield opportunity area designation. [a.] All
4 applications for [pre-nomination study assistance or applications for]
5 designation of a brownfield opportunity area shall demonstrate that the
6 following community participation activities have been [or will be]
7 performed [by the applicant] in development of the nomination:

8 (1) identification of the interested public and preparation of a
9 contact list;

10 (2) identification of major issues of public concern;

11 (3) [provision to] public access to (i) the [draft and final applica-
12 tion for pre-nomination assistance and] nomination for designation of
13 the brownfield opportunity area [designation], and (ii) any supporting
14 documents in a manner [convenient to the public] as the secretary shall
15 prescribe;

16 (4) public notice and newspaper notice of (i) the intent of the muni-
17 cipality and/or community based organization to [undertake a pre-nomina-
18 tion process or prepare] nominate a brownfield opportunity area [plan]
19 for designation, and (ii) the availability of such application[.

20 b. Application for nomination of a brownfield opportunity area shall
21 provide the following minimum community participation activities:];

22 [(1)] (5) a comment period of at least thirty days on a draft applica-
23 tion; and

24 [(2)] (6) a public meeting on a brownfield opportunity area [draft]
25 application for designation.

26 9. Financial assistance; advance payment. Notwithstanding any other
27 law to the contrary, financial assistance pursuant to this section
28 provided by the commissioner and the secretary pursuant to an executed

1 contract may include an advance payment up to twenty-five percent of the
2 contract amount.

3 10. The secretary shall establish criteria for brownfield opportunity
4 area conformance determinations for purposes of the brownfield redevel-
5 opment tax credit component pursuant to clause (ii) of subparagraph (B)
6 of paragraph [(5)] five of subdivision (a) of section twenty-one of the
7 tax law. In establishing criteria, the secretary shall be guided by, but
8 not limited to, the following considerations: how the proposed use and
9 development advances the designated brownfield opportunity area plan's
10 vision statement, goals and objectives for revitalization; how the
11 density of development and associated buildings and structures advances
12 the plan's objectives, desired redevelopment and priorities for invest-
13 ment; and how the project complies with zoning and other local laws and
14 standards to guide and ensure appropriate use of the project site.

15 § 2. This act shall take effect immediately.

16 PART V

17 Section 1. Section 159-j of the executive law is REPEALED.

18 § 2. This act shall take effect October 1, 2018.

19 PART W

20 Section 1. This act enacts into law major components of legislation
21 relating to student loan servicers and student debt relief consultants.
22 Each component is wholly contained within a Subpart identified as
23 Subparts A through C. The effective date for each particular provision
24 contained within such Subpart is set forth in the last section of such

1 Subpart. Any provision in any section contained within a Subpart,
2 including the effective date of the Subpart, which makes a reference to
3 a section "of this act", when used in connection with that particular
4 component, shall be deemed to mean and refer to the corresponding
5 section of the Subpart in which it is found.

6 SUBPART A

7 Section 1. The banking law is amended by adding a new article 14-A to
8 read as follows:

9 ARTICLE XIV-A

10 STUDENT LOAN SERVICERS

11 Section 710. Definitions.

12 711. Licensing.

13 712. Application for a student loan servicer license; fees.

14 713. Application process to receive license to engage in the
15 business of student loan servicing.

16 714. Changes in officers and directors.

17 715. Changes in control.

18 716. Grounds for suspension or revocation of license.

19 717. Books and records; reports and electronic filing.

20 718. Rules and regulations.

21 719. Prohibited practices.

22 720. Servicing student loans without a license.

23 721. Responsibilities.

24 722. Examinations.

25 723. Penalties for violation of this article.

26 724. Severability of provisions.

1 725. Compliance with other laws.

2 § 710. Definitions. 1. "Applicant" shall mean any person applying for
3 a license to be a student loan servicer.

4 2. "Borrower" shall mean any resident of this state who has received a
5 student loan or agreed in writing to pay a student loan or any person
6 who shares a legal obligation with such resident for repaying a student
7 loan.

8 3. "Borrower benefit" shall mean an incentive offered to a borrower in
9 connection with the origination of a student loan, including but not
10 limited to an interest rate reduction, principal rebate, fee waiver or
11 rebate, loan cancellation, or cosigner release.

12 4. "Exempt organization" shall mean any banking organization, foreign
13 banking corporation, national bank, federal savings association, federal
14 credit union, or any bank, trust company, savings bank, savings and loan
15 association, or credit union organized under the laws of any other
16 state, or any person licensed or supervised by the department exempted
17 by the superintendent pursuant to regulations promulgated in accordance
18 with this article.

19 5. "Person" shall mean any individual, association, corporation,
20 limited liability company, partnership, trust, unincorporated organiza-
21 tion, government, and any other entity.

22 6. "Servicer" or "student loan servicer" shall mean a person licensed
23 pursuant to section seven hundred eleven of this article to engage in
24 the business of servicing any student loan of a borrower.

25 7. "Servicing" shall mean:

26 (a) receiving any payment from a borrower pursuant to the terms of any
27 student loan;

1 (b) applying any payment to a borrower's account pursuant to the terms
2 of a student loan or the contract governing the servicing of any such
3 loan;

4 (c) providing any notification of amounts owed on a student loan by or
5 on account of any borrower;

6 (d) during a period when a borrower is not required to make a payment
7 on a student loan, maintaining account records for the student loan and
8 communicating with the borrower regarding the student loan on behalf of
9 the owner of the student loan promissory note;

10 (e) interacting with a borrower with respect to or regarding any
11 attempt to avoid default on the borrower's student loan, or facilitating
12 the activities described in paragraph (a) or (b) of this subdivision; or

13 (f) performing other administrative services with respect to a borrow-
14 er's student loan.

15 8. "Student loan" shall mean any loan to a borrower to finance postse-
16 condary education or expenses related to postsecondary education.

17 § 711. Licensing. 1. No person shall engage in the business of servic-
18 ing student loans owed by one or more borrowers residing in this state
19 without first being licensed by the superintendent as a student loan
20 servicer in accordance with this article and such regulations as may be
21 prescribed by the superintendent.

22 2. The licensing provisions of this subdivision shall not apply to any
23 exempt organization; provided that such exempt organization notifies the
24 superintendent that it is acting as a student loan servicer in this
25 state and complies with sections seven hundred nineteen and seven
26 hundred twenty-one of this article and any regulation applicable to
27 student loan servicers promulgated by the superintendent.

1 § 712. Application for a student loan servicer license; fees. 1. The
2 application for a license to be a student loan servicer shall be in
3 writing, under oath, and in the form prescribed by the superintendent.
4 Notwithstanding article three of the state technology law or any other
5 law to the contrary, the superintendent may require that an application
6 for a license or any other submission or application for approval as may
7 be required by this article be made or executed by electronic means if
8 he or she deems it necessary to ensure the efficient and effective
9 administration of this article. The application shall include a
10 description of the activities of the applicant, in such detail and for
11 such periods as the superintendent may require, including:

12 (a) an affirmation of financial solvency noting such capitalization
13 requirements as may be required by the superintendent, and access to
14 such credit as may be required by the superintendent;

15 (b) a financial statement prepared by a certified public accountant,
16 the accuracy of which is sworn to under oath before a notary public by
17 an officer or other representative of the applicant who is authorized to
18 execute such documents;

19 (c) an affirmation that the applicant, or its members, officers, part-
20 ners, directors and principals as may be appropriate, are at least twen-
21 ty-one years of age;

22 (d) information as to the character, fitness, financial and business
23 responsibility, background and experiences of the applicant, or its
24 members, officers, partners, directors and principals as may be appro-
25 priate;

26 (e) any additional detail or information required by the superinten-
27 dent.

1 2. An application to become a student loan servicer or any application
2 with respect to a student loan servicer shall be accompanied by a fee as
3 prescribed pursuant to section eighteen-a of this chapter.

4 § 713. Application process to receive license to engage in the busi-
5 ness of student loan servicing. 1. Upon the filing of an application for
6 a license, if the superintendent shall find that the financial responsi-
7 bility, experience, character, and general fitness of the applicant and,
8 if applicable, the members, officers, partners, directors and principals
9 of the applicant are such as to command the confidence of the community
10 and to warrant belief that the business will be operated honestly, fair-
11 ly, and efficiently within the purpose of this article, the superinten-
12 dent shall thereupon issue a license in duplicate to engage in the busi-
13 ness of servicing student loans described in section seven hundred ten
14 of this article in accordance with the provisions of this article. If
15 the superintendent shall not so find, the superintendent shall not issue
16 a license, and the superintendent shall so notify the applicant. The
17 superintendent shall transmit one copy of a license to the applicant and
18 file another in the office of the department. Upon receipt of such
19 license, a student loan servicer shall be authorized to engage in the
20 business of servicing student loans in accordance with the provisions of
21 this article. Such license shall remain in full force and effect until
22 it is surrendered by the servicer or revoked or suspended as hereinafter
23 provided.

24 2. The superintendent may refuse to issue a license pursuant to this
25 article if he or she shall find that the applicant, or any person who is
26 a director, officer, partner, agent, employee, member, substantial
27 stockholder of the applicant:

1 (a) has been convicted of a crime involving an activity which is a
2 felony under this chapter or under article one hundred fifty-five, one
3 hundred seventy, one hundred seventy-five, one hundred seventy-six, one
4 hundred eighty, one hundred eighty-five, one hundred eighty-seven, one
5 hundred ninety, two hundred, two hundred ten or four hundred seventy of
6 the penal law or any comparable felony under the laws of any other state
7 or the United States, provided that such crime would be a felony if
8 committed and prosecuted under the laws of this state;

9 (b) has had a license or registration revoked by the superintendent or
10 any other regulator or jurisdiction;

11 (c) has been an officer, director, partner, member or substantial
12 stockholder of an entity which has had a license or registration revoked
13 by the superintendent or any other regulator or jurisdiction; or

14 (d) has been an agent, employee, officer, director, partner or member
15 of an entity which has had a license or registration revoked by the
16 superintendent where such person shall have been found by the super-
17 intendent to bear responsibility in connection with the revocation.

18 3. The term "substantial stockholder", as used in this subdivision,
19 shall be deemed to refer to a person owning or controlling directly or
20 indirectly ten per centum or more of the total outstanding stock of a
21 corporation.

22 § 714. Changes in officers and directors. Upon any change of any of
23 the executive officers, directors, partners or members of any student
24 loan servicer, the student loan servicer shall submit to the superinten-
25 dent the name, address, and occupation of each new officer, director,
26 partner or member, and provide such other information as the superinten-
27 dent may require.

1 § 715. Changes in control. 1. It shall be unlawful, except with the
2 prior approval of the superintendent, for any action to be taken which
3 results in a change of control of the business of a student loan servi-
4 cer. Prior to any change of control, the person desirous of acquiring
5 control of the business of a student loan servicer shall make written
6 application to the superintendent and pay an investigation fee as
7 prescribed pursuant to section eighteen-a of this chapter to the super-
8 intendent. The application shall contain such information as the super-
9 intendent, by rule or regulation, may prescribe as necessary or appro-
10 priate for the purpose of making the determination required by
11 subdivision two of this section. This information shall include, but not
12 be limited to, the information and other material required for a student
13 loan servicer by subdivision one of section seven hundred twelve of this
14 article.

15 2. The superintendent shall approve or disapprove the proposed change
16 of control of a student loan servicer in accordance with the provisions
17 of section seven hundred thirteen of this article.

18 3. For a period of six months from the date of qualification thereof
19 and for such additional period of time as the superintendent may
20 prescribe, in writing, the provisions of subdivisions one and two of
21 this section shall not apply to a transfer of control by operation of
22 law to the legal representative, as hereinafter defined, of one who has
23 control of a student loan servicer. Thereafter, such legal represen-
24 tative shall comply with the provisions of subdivisions one and two of
25 this section. The provisions of subdivisions one and two of this section
26 shall be applicable to an application made under this section by a legal
27 representative. The term "legal representative", for the purposes of
28 this subdivision, shall mean a person duly appointed by a court of

1 competent jurisdiction to act as executor, administrator, trustee,
2 committee, conservator or receiver, including one who succeeds a legal
3 representative and one acting in an ancillary capacity thereto in
4 accordance with the provisions of such court appointment.

5 4. As used in this section the term "control" means the possession,
6 directly or indirectly, of the power to direct or cause the direction of
7 the management and policies of a student loan servicer, whether through
8 the ownership of voting stock of such student loan servicer, the owner-
9 ship of voting stock of any person which possesses such power or other-
10 wise. Control shall be presumed to exist if any person, directly or
11 indirectly, owns, controls or holds with power to vote ten per centum or
12 more of the voting stock of any student loan servicer or of any person
13 which owns, controls or holds with power to vote ten per centum or more
14 of the voting stock of any student loan servicer, but no person shall be
15 deemed to control a student loan servicer solely by reason of being an
16 officer or director of such student loan servicer. The superintendent
17 may in his discretion, upon the application of a student loan servicer
18 or any person who, directly or indirectly, owns, controls or holds with
19 power to vote or seeks to own, control or hold with power to vote any
20 voting stock of such student loan servicer, determine whether or not the
21 ownership, control or holding of such voting stock constitutes or would
22 constitute control of such student loan servicer for purposes of this
23 section.

24 § 716. Grounds for suspension or revocation of license. 1. After
25 notice and a hearing, the superintendent may revoke any license to
26 engage in the business of a student loan servicer issued pursuant to
27 this article if he or she shall find that:

1 (a) a servicer has violated any provision of this article, any rule or
2 regulation promulgated by the superintendent under and within the
3 authority of this article, or any other applicable law;

4 (b) any fact or condition exists which, if it had existed at the time
5 of the original application for such license, would have warranted the
6 superintendent refusing originally to issue such license;

7 (c) a servicer does not cooperate with an examination or investigation
8 by the superintendent;

9 (d) a servicer engages in fraud, intentional misrepresentation, or
10 gross negligence in servicing a student loan;

11 (e) the competence, experience, character, or general fitness of the
12 servicer, an individual controlling, directly or indirectly, ten percent
13 or more of the outstanding interests, or any person responsible for
14 servicing a student loan for the servicer indicates that it is not in
15 the public interest to permit the servicer to continue servicing student
16 loans;

17 (f) the servicer engages in an unsafe or unsound practice;

18 (g) the servicer is insolvent, suspends payment of its obligations, or
19 makes a general assignment for the benefit of its creditors; or

20 (h) a servicer has violated the laws of this state, any other state or
21 any federal law involving fraudulent or dishonest dealing, or a final
22 judgment has been entered against a student loan servicer in a civil
23 action upon grounds of fraud, misrepresentation or deceit.

24 2. The superintendent may, on good cause shown, or where there is a
25 substantial risk of public harm, suspend any license for a period not
26 exceeding thirty days, pending investigation. "Good cause", as used in
27 this subdivision, shall exist when a student loan servicer has defaulted
28 or is likely to default in performing its financial engagements or

1 engages in dishonest or inequitable practices which may cause substan-
2 tial harm to the persons afforded the protection of this article.

3 3. Except as provided in subdivision two of this section, no license
4 shall be revoked or suspended except after notice and a hearing thereon.
5 Any order of suspension issued after notice and a hearing may include as
6 a condition of reinstatement that the student loan servicer make resti-
7 tution to consumers of fees or other charges which have been improperly
8 charged or collected, including but not limited to by allocating
9 payments contrary to a borrower's direction or in a manner that fails to
10 help a borrower avoid default, as determined by the superintendent. Any
11 hearing held pursuant to the provisions of this section shall be
12 noticed, conducted and administered in compliance with the state admin-
13 istrative procedure act.

14 4. Any student loan servicer may surrender any license by delivering
15 to the superintendent written notice that it thereby surrenders such
16 license, but such surrender shall not affect the servicer's civil or
17 criminal liability for acts committed prior to such surrender. If such
18 surrender is made after the issuance by the superintendent of a state-
19 ment of charges and notice of hearing, the superintendent may proceed
20 against the servicer as if the surrender had not taken place.

21 5. No revocation, suspension, or surrender of any license shall impair
22 or affect the obligation of any pre-existing lawful contract between the
23 student loan servicer and any person, including the department.

24 6. Every license issued pursuant to this article shall remain in force
25 and effect until the same shall have been surrendered, revoked or
26 suspended in accordance with any other provisions of this article.

27 7. Whenever the superintendent shall revoke or suspend a license
28 issued pursuant to this article, he or she shall forthwith execute in

1 duplicate a written order to that effect. The superintendent shall file
2 one copy of such order in the office of the department and shall forth-
3 with serve the other copy upon the student loan servicer. Any such order
4 may be reviewed in the manner provided by article seventy-eight of the
5 civil practice law and rules.

6 § 717. Books and records; reports and electronic filing. 1. Each
7 student loan servicer and exempt organization shall keep and use in its
8 business such books, accounts and records as will enable the superinten-
9 dent to determine whether the servicer or exempt organization is comply-
10 ing with the provisions of this article and with the rules and regu-
11 lations lawfully made by the superintendent. Every servicer and exempt
12 organization shall preserve such books, accounts, and records, for at
13 least three years.

14 2. (a) Each student loan servicer shall annually, on or before a date
15 to be determined by the superintendent, file a report with the super-
16 intendent giving such information as the superintendent may require
17 concerning the business and operations during the preceding calendar
18 year of such servicer under authority of this article. Such report shall
19 be subscribed and affirmed as true by the servicer under the penalties
20 of perjury and shall be in the form prescribed by the superintendent.

21 (b) In addition to annual reports, the superintendent may require such
22 additional regular or special reports as he or she may deem necessary to
23 the proper supervision of student loan servicers under this article.
24 Such additional reports shall be subscribed and affirmed as true by the
25 servicer under the penalties of perjury and shall be in the form
26 prescribed by the superintendent.

27 3. Notwithstanding article three of the state technology law or any
28 other law to the contrary, the superintendent may require that any

1 submission or approval as may be required by the superintendent be made
2 or executed by electronic means if he or she deems it necessary to
3 ensure the efficient administration of this article.

4 § 718. Rules and regulations. 1. In addition to such powers as may
5 otherwise be prescribed by this chapter, the superintendent is hereby
6 authorized and empowered to promulgate such rules and regulations as may
7 in the judgment of the superintendent be consistent with the purposes of
8 this article, or appropriate for the effective administration of this
9 article, including, but not limited to:

10 (a) Such rules and regulations in connection with the activities of
11 student loan servicers and exempt organizations as may be necessary and
12 appropriate for the protection of borrowers in this state.

13 (b) Such rules and regulations as may be necessary and appropriate to
14 define unfair, deceptive or abusive acts or practices in connection with
15 the activities of student loan servicers and exempt organizations in
16 servicing student loans.

17 (c) Such rules and regulations as may define the terms used in this
18 article and as may be necessary and appropriate to interpret and imple-
19 ment the provisions of this article.

20 (d) Such rules and regulations as may be necessary for the enforcement
21 of this article.

22 2. The superintendent is hereby authorized and empowered to make such
23 specific rulings, demands and findings as the superintendent may deem
24 necessary for the proper conduct of the student loan servicing industry.

25 § 719. Prohibited practices. No student loan servicer shall:

26 1. Employ any scheme, device or artifice to defraud or mislead a
27 borrower.

1 2. Engage in any unfair, deceptive or predatory act or practice toward
2 any person or misrepresent or omit any material information in
3 connection with the servicing of a student loan, including, but not
4 limited to, misrepresenting the amount, nature or terms of any fee or
5 payment due or claimed to be due on a student loan, the terms and condi-
6 tions of the loan agreement or the borrower's obligations under the
7 loan.

8 3. Misapply payments to the outstanding balance of any student loan or
9 to any related interest or fees.

10 4. Provide inaccurate information to a consumer reporting agency.

11 5. Refuse to communicate with an authorized representative of the
12 borrower who provides a written authorization signed by the borrower,
13 provided that the servicer may adopt procedures reasonably related to
14 verifying that the representative is in fact authorized to act on behalf
15 of the borrower.

16 6. Make any false statement or make any omission of a material fact in
17 connection with any information or reports filed with a governmental
18 agency or in connection with any investigation conducted by the super-
19 intendent or another governmental agency.

20 § 720. Servicing student loans without a license. 1. Whenever, in the
21 opinion of the superintendent, a person is engaged in the business of
22 servicing student loans, either actually or through subterfuge, without
23 a license from the superintendent, the superintendent may order that
24 person to desist and refrain from engaging in the business of servicing
25 student loans in the state. If, within thirty days after an order is
26 served, a request for a hearing is filed in writing and the hearing is
27 not held within sixty days of the filing, the order shall be rescinded.

28 2. This section shall not apply to exempt organizations.

1 § 721. Responsibilities. 1. If a student loan servicer regularly
2 reports information to a consumer reporting agency, the servicer shall
3 accurately report a borrower's payment performance to at least one
4 consumer reporting agency that compiles and maintains files on consumers
5 on a nationwide basis as defined in Section 603(p) of the federal Fair
6 Credit Reporting Act (15 U.S.C. Sec. 1681a(p)), upon acceptance as a
7 data furnisher by that consumer reporting agency.

8 2. (a) Except as provided in federal law or required by a student loan
9 agreement, a student loan servicer shall inquire of a borrower how to
10 apply a borrower's nonconforming payment. A borrower's direction on how
11 to apply a nonconforming payment shall remain in effect for any future
12 nonconforming payment during the term of a student loan until the
13 borrower provides different directions.

14 (b) For purposes of this subdivision, "nonconforming payment" shall
15 mean a payment that is either more or less than the borrower's required
16 student loan payment.

17 3. (a) If the sale, assignment, or other transfer of the servicing of
18 a student loan results in a change in the identity of the person to whom
19 the borrower is required to send subsequent payments or direct any
20 communications concerning the student loan, a student loan servicer
21 shall transfer all information regarding a borrower, a borrower's
22 account, and a borrower's student loan, including but not limited to the
23 borrower's repayment status and any borrower benefits associated with
24 the borrower's student loan, to the new student loan servicer servicing
25 the borrower's student loan within forty-five days.

26 (b) A student loan servicer shall adopt policies and procedures to
27 verify that it has received all information regarding a borrower, a
28 borrower's account, and a borrower's student loan, including but not

1 limited to the borrower's repayment status and any borrower benefits
2 associated with the borrower's student loan, when the servicer obtains
3 the right to service a student loan.

4 4. If a student loan servicer sells, assigns, or otherwise transfers
5 the servicing of a student loan to a new servicer, the sale, assignment
6 or other transfer shall be completed at least seven days before the
7 borrower's next payment is due.

8 5. (a) A student loan servicer that sells, assigns, or otherwise
9 transfers the servicing of a student loan shall require as a condition
10 of such sale, assignment or other transfer that the new student loan
11 servicer shall honor all borrower benefits originally represented as
12 being available to a borrower during the repayment of the student loan
13 and the possibility of such benefits, including any benefits that were
14 represented as being available but for which the borrower had not yet
15 qualified.

16 (b) A student loan servicer that obtains the right to service a
17 student loan shall honor all borrower benefits originally represented as
18 being available to a borrower during the repayment of the student loan
19 and the possibility of such benefits, including any benefits that were
20 represented as being available but for which the borrower had not yet
21 qualified.

22 6. A student loan servicer shall respond within thirty days after
23 receipt to a written inquiry from a borrower or a borrower's represen-
24 tative.

25 7. A student loan servicer shall preserve records of each student loan
26 and all communications with borrowers for not less than two years
27 following the final payment on a student loan or the sale, assignment or
28 other transfer of the servicing of a student loan, whichever occurs

1 first, or such longer period as may be required by any other provision
2 of law.

3 § 722. Examinations. 1. The superintendent may at any time, and as
4 often as he or she may determine, either personally or by a person duly
5 designated by the superintendent, investigate the business and examine
6 the books, accounts, records, and files used therein of every student
7 loan servicer. For that purpose the superintendent and his or her duly
8 designated representative shall have free access to the offices and
9 places of business, books, accounts, papers, records, files, safes and
10 vaults of all student loan servicers. The superintendent and any person
11 duly designated by him or her shall have the authority to require the
12 attendance of and to examine under oath all persons whose testimony he
13 or she may require relative to such business.

14 2. No person subject to investigation or examination under this
15 section may knowingly withhold, abstract, remove, mutilate, destroy or
16 secrete any books, records, computer records or other information.

17 3. The expenses incurred in making any examination pursuant to this
18 section shall be assessed against and paid by the student loan servicer
19 so examined, except that traveling and subsistence expenses so incurred
20 shall be charged against and paid by servicers in such proportions as
21 the superintendent shall deem just and reasonable, and such propor-
22 tionate charges shall be added to the assessment of the other expenses
23 incurred upon each examination. Upon written notice by the superinten-
24 dent of the total amount of such assessment, the servicer shall become
25 liable for and shall pay such assessment to the superintendent.

26 4. In any hearing in which a department employee acting under authori-
27 ty of this chapter is available for cross-examination, any official
28 written report, worksheet, other related papers, or duly certified copy

1 thereof, compiled, prepared, drafted, or otherwise made by such depart-
2 ment employee, after being duly authenticated by the employee, may be
3 admitted as competent evidence upon the oath of the employee that such
4 worksheet, investigative report, or other related documents were
5 prepared as a result of an examination of the books and records of a
6 servicer or other person, conducted pursuant to the authority of this
7 chapter.

8 5. Unless otherwise exempt pursuant to subdivision two of section
9 seven hundred eleven of this article, affiliates of a student loan
10 servicer are subject to examination by the superintendent on the same
11 terms as the servicer, but only when reports from, or examination of, a
12 servicer provides evidence of unlawful activity between a servicer and
13 affiliate benefitting, affecting, or arising from the activities regu-
14 lated by this article.

15 § 723. Penalties for violation of this article. 1. In addition to such
16 penalties as may otherwise be applicable by law, the superintendent may,
17 after notice and hearing, require any person found violating the
18 provisions of this article or the rules or regulations promulgated here-
19 under to pay to the people of this state a penalty for each violation of
20 the article or any regulation or policy promulgated hereunder a sum not
21 to exceed an amount as determined pursuant to section forty-four of this
22 chapter for each such violation.

23 2. Nothing in this article shall limit any statutory or common-law
24 right of any person to bring any action in any court for any act, or the
25 right of the state to punish any person for any violation of any law.

26 § 724. Severability of provisions. If any provision of this article,
27 or the application of such provision to any person or circumstance,
28 shall be held invalid, illegal or unenforceable, the remainder of the

1 article, and the application of such provision to persons or circum-
2 stances other than those as to which it is held invalid, illegal or
3 unenforceable, shall not be affected thereby.

4 § 725. Compliance with other laws. 1. Student loan servicers shall
5 engage in the business of servicing student loans in conformity with the
6 provisions of the financial services law, this chapter, such rules and
7 regulations as may be promulgated by the superintendent thereunder and
8 all applicable federal laws and the rules and regulations promulgated
9 thereunder.

10 2. Nothing in this section shall be construed to limit any otherwise
11 applicable state or federal law or regulations.

12 § 2. Subdivision 10 of section 36 of the banking law, as amended by
13 chapter 182 of the laws of 2011, is amended to read as follows:

14 10. All reports of examinations and investigations, correspondence and
15 memoranda concerning or arising out of such examination and investi-
16 gations, including any duly authenticated copy or copies thereof in the
17 possession of any banking organization, bank holding company or any
18 subsidiary thereof (as such terms "bank holding company" and "subsidi-
19 ary" are defined in article three-A of this chapter), any corporation
20 or any other entity affiliated with a banking organization within the
21 meaning of subdivision six of this section and any non-banking subsid-
22 iary of a corporation or any other entity which is an affiliate of a
23 banking organization within the meaning of subdivision six-a of this
24 section, foreign banking corporation, licensed lender, licensed cashier
25 of checks, licensed mortgage banker, registered mortgage broker,
26 licensed mortgage loan originator, licensed sales finance company,
27 registered mortgage loan servicer, licensed student loan servicer,
28 licensed insurance premium finance agency, licensed transmitter of

1 money, licensed budget planner, any other person or entity subject to
2 supervision under this chapter, or the department, shall be confidential
3 communications, shall not be subject to subpoena and shall not be made
4 public unless, in the judgment of the superintendent, the ends of
5 justice and the public advantage will be subserved by the publication
6 thereof, in which event the superintendent may publish or authorize the
7 publication of a copy of any such report or any part thereof in such
8 manner as may be deemed proper or unless such laws specifically author-
9 ize such disclosure. For the purposes of this subdivision, "reports of
10 examinations and investigations, and any correspondence and memoranda
11 concerning or arising out of such examinations and investigations",
12 includes any such materials of a bank, insurance or securities regulato-
13 ry agency or any unit of the federal government or that of this state
14 any other state or that of any foreign government which are considered
15 confidential by such agency or unit and which are in the possession of
16 the department or which are otherwise confidential materials that have
17 been shared by the department with any such agency or unit and are in
18 the possession of such agency or unit.

19 § 3. Subdivisions 1, 2, 3 and 5 of section 39 of the banking law,
20 subdivisions 1, 2 and 5 as amended by chapter 123 of the laws of 2009
21 and subdivision 3 as amended by chapter 155 of the laws of 2012, are
22 amended to read as follows:

23 1. To appear and explain an apparent violation. Whenever it shall
24 appear to the superintendent that any banking organization, bank holding
25 company, registered mortgage broker, licensed mortgage banker, licensed
26 student loan servicer, registered mortgage loan servicer, licensed mort-
27 gage loan originator, licensed lender, licensed casher of checks,
28 licensed sales finance company, licensed insurance premium finance agen-

1 cy, licensed transmitter of money, licensed budget planner, out-of-state
2 state bank that maintains a branch or branches or representative or
3 other offices in this state, or foreign banking corporation licensed by
4 the superintendent to do business or maintain a representative office in
5 this state has violated any law or regulation, he or she may, in his or
6 her discretion, issue an order describing such apparent violation and
7 requiring such banking organization, bank holding company, registered
8 mortgage broker, licensed mortgage banker, licensed student loan servi-
9 cer, licensed mortgage loan originator, licensed lender, licensed cashier
10 of checks, licensed sales finance company, licensed insurance premium
11 finance agency, licensed transmitter of money, licensed budget planner,
12 out-of-state state bank that maintains a branch or branches or represen-
13 tative or other offices in this state, or foreign banking corporation to
14 appear before him or her, at a time and place fixed in said order, to
15 present an explanation of such apparent violation.

16 2. To discontinue unauthorized or unsafe and unsound practices. When-
17 ever it shall appear to the superintendent that any banking organiza-
18 tion, bank holding company, registered mortgage broker, licensed mort-
19 gage banker, licensed student loan servicer, registered mortgage loan
20 servicer, licensed mortgage loan originator, licensed lender, licensed
21 cashier of checks, licensed sales finance company, licensed insurance
22 premium finance agency, licensed transmitter of money, licensed budget
23 planner, out-of-state state bank that maintains a branch or branches or
24 representative or other offices in this state, or foreign banking corpo-
25 ration licensed by the superintendent to do business in this state is
26 conducting business in an unauthorized or unsafe and unsound manner, he
27 or she may, in his or her discretion, issue an order directing the
28 discontinuance of such unauthorized or unsafe and unsound practices, and

1 fixing a time and place at which such banking organization, bank holding
2 company, registered mortgage broker, licensed mortgage banker, licensed
3 student loan servicer, registered mortgage loan servicer, licensed mort-
4 gage loan originator, licensed lender, licensed casher of checks,
5 licensed sales finance company, licensed insurance premium finance agen-
6 cy, licensed transmitter of money, licensed budget planner, out-of-state
7 state bank that maintains a branch or branches or representative or
8 other offices in this state, or foreign banking corporation may volun-
9 tarily appear before him or her to present any explanation in defense of
10 the practices directed in said order to be discontinued.

11 3. To make good impairment of capital or to ensure compliance with
12 financial requirements. Whenever it shall appear to the superintendent
13 that the capital or capital stock of any banking organization, bank
14 holding company or any subsidiary thereof which is organized, licensed
15 or registered pursuant to this chapter, is impaired, or the financial
16 requirements imposed by subdivision one of section two hundred two-b of
17 this chapter or any regulation of the superintendent on any branch or
18 agency of a foreign banking corporation or the financial requirements
19 imposed by this chapter or any regulation of the superintendent on any
20 licensed lender, registered mortgage broker, licensed mortgage banker,
21 licensed student loan servicer, licensed casher of checks, licensed
22 sales finance company, licensed insurance premium finance agency,
23 licensed transmitter of money, licensed budget planner or private banker
24 are not satisfied, the superintendent may, in the superintendent's
25 discretion, issue an order directing that such banking organization,
26 bank holding company, branch or agency of a foreign banking corporation,
27 registered mortgage broker, licensed mortgage banker, licensed student
28 loan servicer, licensed lender, licensed casher of checks, licensed

1 sales finance company, licensed insurance premium finance agency,
2 licensed transmitter of money, licensed budget planner, or private bank-
3 er make good such deficiency forthwith or within a time specified in
4 such order.

5 5. To keep books and accounts as prescribed. Whenever it shall appear
6 to the superintendent that any banking organization, bank holding compa-
7 ny, registered mortgage broker, licensed mortgage banker, licensed
8 student loan servicer, registered mortgage loan servicer, licensed mort-
9 gage loan originator, licensed lender, licensed cashier of checks,
10 licensed sales finance company, licensed insurance premium finance agen-
11 cy, licensed transmitter of money, licensed budget planner, agency or
12 branch of a foreign banking corporation licensed by the superintendent
13 to do business in this state, does not keep its books and accounts in
14 such manner as to enable him or her to readily ascertain its true condi-
15 tion, he or she may, in his or her discretion, issue an order requiring
16 such banking organization, bank holding company, registered mortgage
17 broker, licensed mortgage banker, licensed student loan servicer, regis-
18 tered mortgage loan servicer, licensed mortgage loan originator,
19 licensed lender, licensed cashier of checks, licensed sales finance
20 company, licensed insurance premium finance agency, licensed transmitter
21 of money, licensed budget planner, or foreign banking corporation, or
22 the officers or agents thereof, or any of them, to open and keep such
23 books or accounts as he or she may, in his or her discretion, determine
24 and prescribe for the purpose of keeping accurate and convenient records
25 of its transactions and accounts.

26 § 4. Paragraph (a) of subdivision 1 of section 44 of the banking law,
27 as amended by chapter 155 of the laws of 2012, is amended to read as
28 follows:

1 (a) Without limiting any power granted to the superintendent under any
2 other provision of this chapter, the superintendent may, in a proceeding
3 after notice and a hearing, require any safe deposit company, licensed
4 lender, licensed casher of checks, licensed sales finance company,
5 licensed insurance premium finance agency, licensed transmitter of
6 money, licensed mortgage banker, licensed student loan servicer, regis-
7 tered mortgage broker, licensed mortgage loan originator, registered
8 mortgage loan servicer or licensed budget planner to pay to the people
9 of this state a penalty for any violation of this chapter, any regu-
10 lation promulgated thereunder, any final or temporary order issued
11 pursuant to section thirty-nine of this article, any condition imposed
12 in writing by the superintendent in connection with the grant of any
13 application or request, or any written agreement entered into with the
14 superintendent.

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

17 SUBPART B

18 Section 1. The financial services law is amended by adding a new arti-
19 cle 7 to read as follows:

20 ARTICLE 7

21 STUDENT DEBT CONSULTANTS

22 Section 701. Definitions.

23 702. Prohibitions.

24 703. Disclosure requirements.

25 704. Student debt consulting contracts.

1 705. Penalties and other provisions.

2 706. Rules and regulations.

3 § 701. Definitions. (a) The term "advertisement" shall include, but
4 is not limited to, all forms of marketing, solicitation, or dissem-
5 ination of information related, directly or indirectly, to securing or
6 obtaining a student debt consulting contract or services. Further, it
7 shall include any and all commonly recognized forms of media marketing
8 via television, radio, print media, all forms of electronic communi-
9 cation via the internet, and all prepared sales presentations given in
10 person or over the internet to the general public.

11 (b) "Borrower" means any resident of this state who has received a
12 student loan or agreed in writing to pay a student loan or any person
13 who shares a legal obligation with such resident for repaying a student
14 loan.

15 (c) "FSA ID" means a username and password allocated to an individual
16 by the federal government to enable the individual to log in to certain
17 United States department of education websites, and may be used to sign
18 certain documents electronically.

19 (d) "Student loan" means any loan to a borrower to finance post-secon-
20 dary education or expenses related to post-secondary education.

21 (e) "Student debt consulting contract" or "contract" means an agree-
22 ment between a borrower and a consultant under which the consultant
23 agrees to provide student debt consulting services.

24 (f) "Student debt consultant" or "consultant" means an individual or a
25 corporation, partnership, limited liability company or other business
26 entity that, directly or indirectly, solicits or undertakes employment
27 to provide student debt consulting services. A consultant does not
28 include the following:

1 (1) a person or entity who holds or is owed an obligation on the
2 student loan while the person or entity performs services in connection
3 with the student loan;

4 (2) a bank, trust company, private banker, bank holding company,
5 savings bank, savings and loan association, thrift holding company,
6 credit union or insurance company organized under the laws of this
7 state, another state or the United States, or a subsidiary or affiliate
8 of such entity or a foreign banking corporation licensed by the super-
9 intendent of financial services or the comptroller of the currency;

10 (3) a bona fide not-for-profit organization that offers counseling or
11 advice to borrowers; or

12 (4) such other persons as the superintendent prescribes or interprets
13 by rule.

14 (g) "Student debt consulting services" means services that a student
15 debt consultant provides to a borrower that the consultant represents
16 will help to achieve any of the following:

17 (1) stop, enjoin, delay, void, set aside, annul, stay or postpone a
18 default, bankruptcy, tax offset, or garnishment proceeding;

19 (2) obtain a forbearance, deferment, or other relief that temporarily
20 halts repayment of a student loan;

21 (3) assist the borrower with preparing or filing documents related to
22 student loan repayment;

23 (4) advise the borrower which student loan repayment plan or forgive-
24 ness program to consider;

25 (5) enroll the borrower in any student loan repayment, forgiveness,
26 discharge, or consolidation program;

27 (6) assist the borrower in re-establishing eligibility for federal
28 student financial assistance;

1 (7) assist the borrower in removing a student loan from default; or

2 (8) educate the borrower about student loan repayment.

3 § 702. Prohibitions. A student debt consultant is prohibited from
4 doing the following:

5 (a) performing student debt consulting services without a written,
6 fully executed contract with a borrower;

7 (b) charging for or accepting any payment for student debt consulting
8 services before the full completion of all such services, including a
9 payment to be placed in escrow or any other account pending the
10 completion of such services;

11 (c) taking a power of attorney from a borrower;

12 (d) retaining any original loan document or other original document
13 related to a borrower's student loan;

14 (e) requesting that a borrower provide his or her FSA ID to the
15 consultant, or accepting a borrower's FSA ID;

16 (f) stating or implying that a borrower will not be able to obtain
17 relief on their own;

18 (g) misrepresenting, expressly or by implication, that:

19 (1) the consultant is a part of, affiliated with, or endorsed or spon-
20 sored by the government, government loan programs, the United States
21 department of education, or borrowers' student loan servicers; or

22 (2) some or all of a borrower's payments to the consultant will be
23 applied towards the borrower's student loans.

24 (h) inducing or attempting to induce a student debtor to enter a
25 contract that does not fully comply with the provisions of this article;
26 or

27 (i) engaging in any unfair, deceptive, or abusive act or practice.

1 § 703. Disclosure requirements. (a) A student debt consultant shall
2 clearly and conspicuously disclose in all advertisements:

3 (1) the actual services the consultant provides to borrowers;

4 (2) that borrowers can apply for and obtain consolidation loans from
5 the United States department of education at no cost, including provid-
6 ing a direct link in all written advertising to the application materi-
7 als for a Direct Consolidation Loan from the U.S. department of educa-
8 tion;

9 (3) that consolidation or other services offered by the consultant may
10 not be the best or only option for borrowers;

11 (4) that a borrower may obtain alternative federal student loan repay-
12 ment plans, including income-based programs, without consolidating
13 existing federal student loans; and

14 (5) that borrowers should consider consulting their student loan
15 servicer before signing any legal document concerning a student loan.

16 (b) The disclosures required by subsection (a) of this section, if
17 disseminated through print media or the internet, shall be clearly and
18 legibly printed or displayed in not less than twelve-point bold type,
19 or, if the advertisement is printed to be displayed in print that is
20 smaller than twelve point, in bold type print that is no smaller than
21 the print in which the text of the advertisement is printed or
22 displayed.

23 (c) The provisions of this section shall apply to all consultants who
24 disseminate advertisements in the state of New York or who intend to
25 directly or indirectly contact a borrower who has a student loan and is
26 in New York state. Consultants shall establish and at all times maintain
27 control over the content, form and method of dissemination of all adver-
28 tisements of their services. Further, all advertisements shall be

1 sufficiently complete and clear to avoid the possibility of deception or
2 the ability to mislead or deceive.

3 § 704. Student debt consulting contracts. (a) A student debt consult-
4 ing contract shall:

5 (1) contain the entire agreement of the parties;

6 (2) be provided in writing to the borrower for review before signing;

7 (3) be printed in at least twelve-point type and written in the same
8 language that is used by the borrower and was used in discussions
9 between the consultant and the borrower to describe the borrower's
10 services or to negotiate the contract;

11 (4) fully disclose the exact nature of the services to be provided by
12 the consultant or anyone working in association with the consultant;

13 (5) fully disclose the total amount and terms of compensation for such
14 services;

15 (6) contain the name, business address and telephone number of the
16 consultant and the street address, if different, and facsimile number or
17 email address of the consultant where communications from the debtor may
18 be delivered;

19 (7) be dated and personally signed by the borrower and the consultant
20 and be witnessed and acknowledged by a New York notary public; and

21 (8) contain the following notice, which shall be printed in at least
22 fourteen-point boldface type, completed with the name of the Provider,
23 and located in immediate proximity to the space reserved for the
24 debtor's signature:

25 "NOTICE REQUIRED BY NEW YORK LAW

26 You may cancel this contract, without any penalty or obligation, at any
27 time before midnight of

28 (fifth business day after execution).

1 (Name of consultant) (the "Consultant") or anyone working for
2 the Consultant may not take any money from you or ask you for money
3 until the consultant has completely finished doing everything this
4 Contract says the Consultant will do.

5 You should consider contacting your student loan servicer before signing
6 any legal document concerning your student loan. In addition, you may
7 want to visit the New York State Department of Financial Services'
8 student lending resource center at www.dfs.ny.gov/studentprotection. The
9 law requires that this contract contain the entire agreement between you
10 and the Provider. You should not rely upon any other written or oral
11 agreement or promise."

12 The Provider shall accurately enter the date on which the right to
13 cancel ends.

14 (b) (1) The borrower has the right to cancel, without any penalty or
15 obligation, any contract with a consultant until midnight of the fifth
16 business day following the day on which the consultant and the borrower
17 sign a consulting contract. Cancellation occurs when the borrower, or a
18 representative of the borrower, either delivers written notice of
19 cancellation in person to the address specified in the consulting
20 contract or sends a written communication by facsimile, by United States
21 mail or by an established commercial letter delivery service. A dated
22 proof of facsimile delivery or proof of mailing creates a presumption
23 that the notice of cancellation has been delivered on the date the
24 facsimile is sent or the notice is deposited in the mail or with the
25 delivery service. Cancellation of the contract shall release the borrow-
26 er from all obligations to pay fees or any other compensation to the
27 consultant.

1 (2) The contract shall be accompanied by two copies of a form,
2 captioned "notice of cancellation" in at least twelve-point bold type.
3 This form shall be attached to the contract, shall be easily detachable,
4 and shall contain the following statement written in the same language
5 as used in the contract, and the contractor shall insert accurate infor-
6 mation as to the date on which the right to cancel ends and the contrac-
7 tor's contact information:

8 "NOTICE OF CANCELLATION

9 Note: You may cancel this contract, without any penalty or obligation,
10 at any time before midnight of (Enter date)

11 To cancel this contract, sign and date both copies of this cancellation
12 notice and personally deliver one copy or send it by facsimile, United
13 States mail, or an established commercial letter delivery service, indi-
14 cating cancellation to the Consultant at one of the following:

15 Name of Consultant

16 Street Address

17 City, State, Zip

18 Facsimile:

19 I hereby cancel this transaction.

20 Name of Borrower:

21 Signature of Borrower:

22 Date: _____ "

23 (3) Within ten days following receipt of a notice of cancellation
24 given in accordance with this subsection, the consultant shall return
25 any original contract and any other documents signed by or provided by
26 the borrower. Cancellation shall release the borrower of all obligations
27 to pay any fees or compensation to the consultant.

1 § 705. Penalties and other provisions. (a) If the superintendent
2 finds, after notice and hearing, that a consultant has violated any
3 provision of this article, the superintendent may: (1) make null and
4 void any agreement between the borrower and the consultant; and (2)
5 impose a civil penalty of not more than ten thousand dollars for each
6 violation.

7 (b) If the consultant violates any provision of this article and the
8 borrower suffers damage because of the violation, the borrower may
9 recover actual and consequential damages and costs from the consultant
10 in an action based on this article. If the consultant intentionally or
11 recklessly violates any provision of this article, the court may award
12 the borrower treble damages, attorneys' fees and costs.

13 (c) Any provision of a student debt consulting contract that attempts
14 or purports to limit the liability of the consultant under this article
15 shall be null and void. Inclusion of such provision shall at the option
16 of the borrower render the contract void. Any provision in a contract
17 which attempts or purports to require arbitration of any dispute arising
18 under this article shall be void at the option of the borrower. Any
19 waiver of the provisions of this article shall be void and unenforceable
20 as contrary to public policy.

21 (d) The provisions of this article are not exclusive and are in addi-
22 tion to any other requirements, rights, remedies, and penalties provided
23 by law.

24 § 706. Rules and regulations. In addition to such powers as may
25 otherwise be prescribed by this chapter, the superintendent is hereby
26 authorized and empowered to promulgate such rules and regulations as may
27 in the judgment of the superintendent be consistent with the purposes of

1 this article, or appropriate for the effective administration of this
2 article.

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

5 SUBPART C

6 Section 1. The education law is amended by adding a new article 13-C
7 to read as follows:

8 ARTICLE 13-C

9 STUDENT LOAN DEBTORS

10 Section 633. No denial of licenses for student loan debtors.

11 § 633. No denial of licenses for student loan debtors. 1. Notwith-
12 standing any other provision of law, rule, or regulation to the contra-
13 ry, any agency, department, office, board, or any other instrumentality
14 of the state authorized to issue professional licenses in the state
15 shall be prohibited from taking any adverse action against any licensee,
16 including but not limited to fine, nonrenewal, suspension, or revocation
17 of a professional license, based upon the status of any student loan
18 obligation of such licensee.

19 2. Notwithstanding any other provision of law, rule, or regulation to
20 the contrary, any agency, department, office, board, or any other
21 instrumentality of the state authorized to issue professional licenses
22 in the state shall be prohibited from taking any adverse action related
23 to issuance of a professional license against any individual or appli-
24 cant for a professional license, including but not limited to denial of
25 a professional license or disapproval of an application for a profes-

1 sional license, based upon the status of any student loan obligation of
2 such individual or applicant for a professional license.

3 3. For purposes of this section "professional license" means authori-
4 zation, licensure, or certification to practice any professional activ-
5 ity in the state, whether temporary or permanent, issued by any agency,
6 department, office, board, or any other instrumentality of the state.

7 4. For purposes of this section "student loan" means any loan to a
8 borrower to finance postsecondary education or expenses related to post-
9 secondary education.

10 § 2. This act shall take effect immediately.

11 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
12 sion, section or subpart of this act shall be adjudged by any court of
13 competent jurisdiction to be invalid, such judgment shall not affect,
14 impair, or invalidate the remainder thereof, but shall be confined in
15 its operation to the clause, sentence, paragraph, subdivision, section
16 or subpart thereof directly involved in the controversy in which such
17 judgment shall have been rendered. It is hereby declared to be the
18 intent of the legislature that this act would have been enacted even if
19 such invalid provisions had not been included herein.

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

23 PART X

24 Section 1. Section 2 of chapter 584 of the laws of 2011, amending the
25 public authorities law relating to the powers and duties of the dormito-
26 ry authority of the state of New York relative to the establishment of

1 subsidiaries for certain purposes, as amended by section 1 of part P of
2 chapter 58 of the laws of 2016, is amended to read as follows:

3 § 2. This act shall take effect immediately and shall expire and be
4 deemed repealed on July 1, [2018] 2020; provided however, that the expi-
5 ration of this act shall not impair or otherwise affect any of the
6 powers, duties, responsibilities, functions, rights or liabilities of
7 any subsidiary duly created pursuant to subdivision twenty-five of
8 section 1678 of the public authorities law prior to such expiration.

9 § 2. This act shall take effect immediately.

10

PART Y

11 Section 1. Section 3 of part S of chapter 58 of the laws of 2016
12 amending the New York state urban development corporation act relating
13 to transferring the statutory authority for the promulgation of market-
14 ing orders from the department of agriculture and markets to the New
15 York state urban development corporation is amended to read as follows:

16 § 3. This act shall take effect on the ninetieth day after it shall
17 have become a law [and shall expire and be deemed repealed two years
18 after such date]; provided, however, that any assessment due and payable
19 under such marketing orders shall be remitted to the urban development
20 corporation starting 30 days after such effective date.

21 § 2. This act shall take effect immediately.

22

PART Z

23 Section 1. This act shall be known and may be cited as the "empire
24 forests for the future initiative".

1 § 2. Subdivision 9 of section 480 of the real property tax law, as
2 added by chapter 814 of the laws of 1974, is amended to read as follows:

3 9. No lands shall be classified pursuant to this section after Septem-
4 ber first, nineteen hundred seventy-four. As to lands classified pursu-
5 ant to this section prior to such date, the owner thereof may elect to
6 continue to have such lands so classified, subject to all the duties,
7 responsibilities and privileges under this section, or he or she may
8 elect to make application for certification pursuant to section four
9 hundred eighty-a hereof until March first, two thousand nineteen or
10 section four hundred eighty-b of this title.

11 § 3. Section 480-a of the real property tax law, as amended by chapter
12 428 of the laws of 1987, paragraph (a) of subdivision 1 as amended by
13 chapter 396 of the laws of 2008, subparagraph (ii) of paragraph (a) of
14 subdivision 3 as further amended by subdivision (b) of section 1 of part
15 W of chapter 56 of the laws of 2010, subdivision 4 as amended by chapter
16 316 of the laws of 1992 and paragraph (b) of subdivision 4 as further
17 amended by subdivision (b) of section 1 of part W of chapter 56 of the
18 laws of 2010, paragraphs (a) and (c) of subdivision 4 as amended by
19 chapter 440 of the laws of 1993 and paragraph (c) of subdivision 4 as
20 further amended by subdivision (b) of section 1 of part W of chapter 56
21 of the laws of 2010, paragraph (e) of subdivision 7 as amended by chap-
22 ter 590 of the laws of 1994 and paragraph (i) of subdivision 7 as added
23 by chapter 2 of the laws of 1997, is amended to read as follows:

24 § 480-a. Taxation of forest land under an approved management plan.

25 1. As used in this section:

26 (a) "Approved management plan" shall mean[: (i)] a plan approved by
27 the department for the management of an eligible tract which shall
28 contain requirements and standards to ensure the continuing production

1 of a merchantable forest crop selected by the owner. Every approved
2 management plan shall set forth requirements and standards relating to
3 stocking, cutting, forest management access, and any specified use of
4 the eligible tract other than for the production of a merchantable
5 forest crop which is desired by the owner and compatible with or
6 supportive of the continuing production of a merchantable forest crop.
7 Such plan shall include provisions accommodating endangered and threat-
8 ened animals and plants. Such plan must be prepared by or under the
9 direct supervision of a department approved forester who may be the
10 owner or an agent of the owner, including an industrial forester or a
11 cooperating consultant forester[; or

12 (ii) participation in a forest certification program (such as Forest
13 Stewardship Council certification, Sustainable Forestry Initiative;
14 American Tree Farm Program, etc.) recognized in the regulations of the
15 department].

16 (b) "Commitment" shall mean a declaration to the [department] assessor
17 and county clerk made on an annual basis by the owner of a certified
18 eligible tract committing such tract to continued forest crop production
19 for the next succeeding ten years under an approved management plan.
20 The document on which the commitment is made shall be known as the
21 "commitment form" and shall include the "verification of continued
22 eligibility" as defined by paragraph (i) of this subdivision. A commit-
23 ment form without a properly completed verification of continued eligi-
24 bility shall have no legal effect.

25 (c) "Cooperating consultant forester" shall mean a qualified forester
26 who, or a qualified forestry consultant firm which, has entered into an
27 agreement with the department under the New York state cooperating

1 consultant foresters program pursuant to section 9-0713 of the environ-
2 mental conservation law.

3 (d) "Department" shall mean the department of environmental conserva-
4 tion.

5 (e) "Eligible tract" shall mean a tract of privately owned forest land
6 of at least fifty contiguous acres, exclusive of any portion thereof not
7 devoted to the production of forest crops. Lands divided by federal,
8 state, county or town roads, easements or rights-of-way, or energy tran-
9 smission corridors or similar facilities will be considered contiguous
10 for purposes of this section, unless vehicular access for forest manage-
11 ment purposes is precluded. Lands from which a merchantable forest crop
12 has been cut or removed within three years prior to the time of applica-
13 tion for certification under this section will be ineligible unless such
14 cutting or removal was accomplished under a forest management program
15 designed to provide for the continuing production of merchantable forest
16 crops as determined by the state forester or his or her designee.

17 (f) "Forest land" shall mean land exclusively devoted to and suitable
18 for forest crop production through natural regeneration or through fore-
19 station and shall be stocked with a stand of forest trees sufficient to
20 produce a merchantable forest crop within thirty years of the time of
21 original certification.

22 (g) "Merchantable forest crop" shall mean timber or pulpwood, includ-
23 ing veneer bolts, sawlogs, poles, posts and fuelwood, that is produced
24 on forest land, has a value in the market and may be sold.

25 (h) ["Stumpage value" shall mean the current market worth of a
26 merchantable forest crop as it stands at the time of sale, cutting,
27 required cutting or removal] "Certificate of eligibility" shall mean a
28 certificate issued by the department to the landowner of an eligible

1 tract that confirms such eligible tract meets all requirements of the
2 approved management plan for the tract.

3 (i) "Verification of continued eligibility" shall mean a portion of
4 the commitment form, prescribed by the department, prepared and signed
5 by the landowner which certifies that such landowner continues to satis-
6 fy all conditions and requirements of his or her initial enrollment
7 under this section.

8 2. (a) An owner of an eligible tract may [make application] apply to
9 the department for [certification] a certificate of eligibility under
10 this section on forms prescribed by the department. If the department
11 finds that such tract is an eligible tract it shall forward a certifi-
12 cate of [approval] eligibility to the owner thereof[, together with the
13 approved management plan, and a copy of a commitment certified by the
14 department for the eligible tract].

15 (b) The department shall, after public hearings, adopt and promulgate
16 rules and regulations necessary for the implementation of the depart-
17 ment's responsibilities pursuant to this section. Such regulations
18 relating to approved management plans or amendments thereto may provide
19 for alternative or contingent requirements and standards based on the
20 size and nature of the tract and other criteria consistent with environ-
21 mentally and economically sound silvicultural practices.

22 (c) Any tract certified pursuant hereto shall be subject to the
23 provisions of this section. [The] When property is transferred or sold
24 to one or more family members of the landowner and the new owner or
25 owners choose to continue participating in the program as authorized by
26 paragraph (a) of subdivision twelve of this section, the obligations of
27 this section shall devolve upon and the benefits inure to [the] such new
28 owner[, his heirs, successors and assigns] or owners.

1 (d) No new or additional tract shall be eligible for certification
2 under an approved management plan after March first, two thousand nine-
3 teen.

4 3. (a) To qualify for a forest land exemption under this section the
5 owner of a certified eligible tract shall:

6 (i) file the certificate of [approval] eligibility in the office of
7 the clerk of the county or counties in which such tract is situated.
8 Such certificate shall specify that the tract described therein is
9 committed to continued forest crop production under an approved manage-
10 ment plan for an initial period of ten years. Upon receipt of such
11 certificate, the county clerk shall record the same in the books kept
12 for the recording of deeds and shall index the same in the deed index
13 against the name of the owner of the property. Until notice of revoca-
14 tion of the certificate of [approval] eligibility has been recorded and
15 indexed as provided in subdivision seven or eight of this section, a
16 certificate that has been recorded and indexed pursuant to this subdivi-
17 sion shall give notice that the certified tract is subject to the
18 provisions of this section; and

19 (ii) prior to the taxable status date for the first assessment roll
20 upon which such exemption is sought, file an initial application for
21 exemption with the appropriate assessor on forms prescribed by the
22 commissioner. Such application must be accompanied by a [certified
23 commitment] certificate of eligibility issued by the department [pursu-
24 ant to subdivision two of this section] and the commitment form; and

25 (iii) prior to the taxable status date for each subsequent assessment
26 roll upon which such exemption is sought, file with the appropriate
27 assessor a [certified] commitment [of] form for such tract to continued
28 forest crop production under an approved management plan for the next

1 succeeding ten years [under the approved management plan. Application
2 for such commitment shall be made by the owner of such tract to the
3 department, and the commitment shall be certified by the department].

4 (b) If [the assessor is satisfied that] the requirements of this
5 section are met, [he or she] the assessor shall approve the application
6 and such eligible tract shall be exempt from taxation pursuant to subdivi-
7 sion four of this section to be effective as of the first taxable
8 status date occurring subsequent to such approval, and shall continue to
9 be so exempt thereafter upon receipt by the assessor of a [certified]
10 commitment form filed in accordance with subparagraph (iii) of paragraph
11 (a) of this subdivision and so long as the certification of the eligible
12 tract [shall] has not [be] been revoked by the department.

13 (c) Failure on the part of the owner to file the [certified] commit-
14 ment form in any year following initial certification will result in the
15 termination of the forest land exemption under this section[, if any,]
16 applicable to the property for that and succeeding taxable years for
17 which no such commitments are filed. Failure to file a commitment form
18 will not constitute a conversion of the tract or breach of the approved
19 management plan, pursuant to subdivision seven hereof, and the commit-
20 ment of the property to forest crop production under the approved
21 management plan shall remain in force for the next succeeding nine years
22 following the last taxable year for which a [certified] commitment form
23 was filed.

24 (d) Following failure to file a [certified] commitment form in one or
25 more years, in order to obtain a forest land exemption under this
26 section, an owner of a certified tract may submit a [certified] commit-
27 ment form to the assessor before the taxable status date in any subse-
28 quent year, except that a new application under paragraph (a) of subdivi-

1 vision two of this section and subparagraph (i) of paragraph (a) of this
2 subdivision also shall be required if more than five years have elapsed
3 since the owner's last [certified] commitment form was filed. Such new
4 application also shall be required whenever, during the preceding year,
5 the approved management plan has been amended with respect to the acre-
6 age or location of forest land committed to forest crop production under
7 this section.

8 4. (a) Certified eligible tracts approved for exemption under this
9 section shall be exempt from taxation to the extent of eighty per centum
10 of the assessed valuation thereof, or to the extent that the assessed
11 valuation exceeds the amount resulting from multiplying the latest state
12 equalization rate or, where a special equalization rate has been estab-
13 lished pursuant to section twelve hundred twenty-four of this chapter
14 for the purposes of this section, the special equalization rate by forty
15 dollars per acre, whichever is the lesser.

16 (b) The assessed value of the exemption, if any, granted pursuant to
17 this section shall be entered by the assessor on the assessment roll in
18 such manner as shall be prescribed by the commissioner.

19 (c) Where a special equalization rate has been established by the
20 commissioner pursuant to section twelve hundred twenty-four of this
21 chapter, the assessor is directed and authorized to recompute the forest
22 land exemption on the assessment roll by applying such special equaliza-
23 tion rate instead of the latest state equalization rate in computing the
24 forest land exemption, and to make the appropriate corrections on the
25 assessment roll, subject to the provisions of title two of article
26 twelve of this chapter. Upon completion of the final assessment roll or,
27 where a special equalization rate has been established, upon recomputa-
28 tion of the forest land exemption, the assessor shall certify to the

1 department each exemption granted pursuant to this section in a manner
2 prescribed by the commissioner.

3 5. (a) Whenever any cutting of the merchantable forest crop on any
4 certified eligible tract is proposed during the period of commitment
5 pursuant to subdivision three of this section, the owner shall give not
6 less than thirty days' notice to the department in a manner and upon
7 such form as may be prescribed by the department. Such notice shall
8 include information as to the [stumpage value,] amount and location of
9 such cutting. [The department shall, within fifteen days after receipt
10 of such notice from the owner, certify the stumpage value, if any, to
11 the owner and to the county treasurer of the county or counties in which
12 the tract is situated. No later than thirty days after receipt of such
13 certification of value, the owner shall pay a six percentum tax on the
14 certified stumpage value of the merchantable forest crop to such county
15 treasurer.]

16 (b) [Notwithstanding the provisions of paragraph (a) of this subdivi-
17 sion, if the stumpage value of a merchantable forest crop will be deter-
18 mined with reference to a scale to be conducted after the commencement
19 of the proposed cutting, the owner may elect to be taxed in accordance
20 with this paragraph. Such election shall be made not less than thirty
21 days in advance of commencement of the cutting, in such manner and upon
22 such form as may be prescribed by the department. Such notice shall
23 include information as to the estimated volume, scaling method, and the
24 schedule and length of the cutting period, not to exceed one year. If a
25 proper election has been made in accordance with this paragraph, the
26 department shall so notify the owner before any cutting takes place on
27 the eligible tract, and it shall certify the scaled stumpage value to
28 the owner of the tract and to the county treasurer of the county or

1 counties when the cutting has concluded. No later than thirty days after
2 the receipt of such certification of value, the owner shall pay a six
3 per centum tax on the stumpage value of the merchantable forest crop to
4 such county treasurer.

5 (c) In the event that a tax required by this subdivision or by subdivi-
6 sion six of this section shall not be timely paid, it shall be levied
7 and collected, together with any penalty or penalties determined pursu-
8 ant to subdivision seven of this section, in the same manner and at the
9 same time as other taxes imposed and levied on the next completed tax
10 roll of such county or counties.

11 (d)] Notwithstanding the foregoing provisions of this subdivision and
12 the provisions of subdivision six of this section, the owner of any land
13 certified under this section may make all intermediate noncommercial
14 cuttings, as prescribed in the approved management plan, and may annual-
15 ly cut, in accordance with sound forestry practices, not more than ten
16 standard cords or the equivalent for such owner's own use, without
17 notice [and free of tax imposed by this section].

18 6. (a) The department may serve notice upon the owner of a certified
19 tract directing such owner to make a cutting as prescribed in the
20 approved management plan for such tract. Should such cutting involve the
21 sale or utilization of a merchantable forest crop, not less than thirty
22 days in advance of cutting the owner shall give notice to the department
23 of the [stumpage value,] amount and location of the cutting on a form
24 prescribed by the department. [The department shall within fifteen days
25 after receipt of such notice from the owner, certify the stumpage value,
26 if any, to the owner and to the county treasurer of the county or coun-
27 ties in which such tract is situated. No later than thirty days after

1 receipt of such certification of value, the owner shall pay a six per
2 centum tax on the certified stumpage value to such county treasurer.]

3 (b) Any cutting of a merchantable forest crop under this subdivision
4 must be conducted within two years from the date of service of the
5 notice upon the owner issued by the department. [Upon failure of the
6 owner within such period to conduct such cutting, the department shall
7 certify to the owner and the county treasurer of the county or counties
8 the stumpage value of such merchantable forest crop. No later than thir-
9 ty days after receipt of such certification of value, the owner shall
10 pay a six per centum tax on the certified stumpage value to such county
11 treasurer.]

12 (c) Any noncommercial cutting under this subdivision must be conducted
13 within one year from the date of service of the notice upon the owner
14 issued by the department.

15 (d) If such owner, within the period prescribed by this subdivision,
16 makes such cuttings as directed by the department, the tract shall
17 continue to be certified as long as the owner shall continue to comply
18 with the provisions of this section and manage the same in the manner
19 prescribed in the approved management plan for such tract.

20 7. (a) The department shall, after notice and hearing, issue a notice
21 of violation of this section for any certified tract whenever it finds
22 that:

23 (i) any tract or portion thereof is converted to a use which precludes
24 management of the land for forest crop production; or

25 (ii) the owner fails to give written notice of a proposed cutting on
26 such tract [or fails to timely pay the appropriate tax on the stumpage
27 value of the merchantable forest crop determined pursuant to subdivision
28 five or six of this section]; or

1 (iii) the owner fails to comply with the approved management plan for
2 such tract at any time during the commitment period; or

3 (iv) the owner fails to make a timely cutting in accordance with the
4 provisions of subdivision six of this section after service of notice by
5 the department to make such a cutting.

6 (b) Notwithstanding the finding of an occurrence described by subpara-
7 graph (ii), (iii) or (iv) of paragraph (a) of this subdivision, the
8 department, upon prior notice to the appropriate assessor, may determine
9 that a violation has not occurred if the failure to comply was due to
10 reasons beyond the control of the owner and such failure can be
11 corrected forthwith without significant effect on the overall purpose of
12 the management plan.

13 (c) The owner of [such] an eligible tract, following the issuance of
14 such notice by the department for one or more of the reasons set forth
15 in paragraph (a) of this subdivision, shall be subject to a penalty as
16 provided in paragraph (d) or (e) of this subdivision, whichever applies.
17 Penalties imposed by this section shall be subject to interest charges
18 at the rate established pursuant to section nine hundred twenty-four-a
19 of this chapter for each applicable year or, for years prior to nineteen
20 hundred eighty-four, at a rate of six per centum per annum compounded.
21 Such interest shall accrue in the year with reference to which a penal-
22 ty, or portion thereof, is attributed.

23 (d) Except as otherwise provided in paragraph (e) of this subdivi-
24 sion[,]:

25 (i) the penalty imposed under paragraph (c) of this subdivision for a
26 parcel that has been enrolled under this section for less than ten years
27 shall be computed by multiplying by two and one-half the amount of taxes
28 that would have been levied on the forest land exemption entered on the

1 assessment roll pursuant to subdivision four of this section for the
2 current year and any prior years in which such an exemption was granted,
3 utilizing the applicable tax rate for the current year and for such
4 prior years[, not to exceed a total of ten years].

5 (ii) the penalty imposed under paragraph (c) of this subdivision for a
6 parcel that has been enrolled under this section for a minimum of ten
7 years but less than twenty years shall be computed by multiplying by one
8 and one-half the amount of taxes that would have been levied on the
9 forest land exemption entered on the assessment roll pursuant to subdi-
10 vision four of this section for the current year and prior years in
11 which such an exemption was granted, utilizing the applicable tax rate
12 for the current year and for such prior years, not to exceed a total of
13 ten years.

14 (iii) the penalty imposed under paragraph (c) of this subdivision for
15 a parcel that has been enrolled under this section for a minimum of
16 twenty years shall be the amount of taxes that would have been levied on
17 the forest land exemption entered on the assessment roll pursuant to
18 subdivision four of this section for the current year and the prior
19 years in which such an exemption was granted, utilizing the applicable
20 tax rate for the current year and for such prior years, not to exceed a
21 total of ten years.

22 (e) The penalty imposed under paragraph (c) of this subdivision appli-
23 cable to converted land which constitutes only a portion of a certified
24 eligible tract shall be twice the amount determined under paragraph (d)
25 of this subdivision. In calculating such penalty, only that portion of
26 the tract that was actually converted to a use that precludes management
27 of the land for forest crop production shall be used as the basis for
28 determining the penalty.

1 (f) A notice of violation issued under this subdivision shall be given
2 by the department to the owner and to the county treasurer of the county
3 or counties in which such tract is located, and the penalty and interest
4 charges shall be computed for each of the municipal corporations in
5 which such tract is located by such county treasurer. Upon completion of
6 the computation of the penalty and interest, the county treasurer shall
7 give notice to the owner of the amount of the penalty and interest, and
8 the amount shall be entered on the next completed tax roll of such coun-
9 ty or counties. Such penalties and interest shall be levied and
10 collected in the same manner and at the same time as other taxes are
11 imposed and levied on such roll. Upon collection of such penalties and
12 interest, such county treasurer shall pay the amounts due to each of the
13 appropriate municipal corporations.

14 (g) Upon receipt of proof satisfactory to the department that all
15 penalties[, stumpage taxes] and interest imposed by this section have
16 been fully paid or satisfied, the department shall revoke the certif-
17 icate of [approval] eligibility issued pursuant to subdivision two of
18 this section, and notice of such revocation shall be given to the owner
19 and to the county clerk of the county or counties in which the tract is
20 located. Upon receipt of such notice of revocation, the county clerk
21 shall record the same in the books kept for the recording of deeds and
22 shall index the same in the deed index against the name of the owner of
23 the property. The county clerk shall also note on the face of the last
24 certificate of [approval or certified] eligibility and commitment form
25 previously recorded pursuant to this section the word "REVOKED" followed
26 by a reference to the liber and page where the notice of revocation is
27 recorded pursuant to this subdivision.

1 (h) The certificate of [approval] eligibility of a certified tract for
2 which no notice of violation has been issued shall be revoked without
3 penalty upon receipt of proof satisfactory to the department that nine
4 years have passed from the year of the last [certified] commitment form
5 filed with the assessor by the owner pursuant to subdivision three of
6 this section. Notice of such revocation shall be recorded and indexed
7 as provided in paragraph (g) of this subdivision.

8 (i) No fee, penalty or rollback of taxes otherwise due pursuant to
9 this section may be imposed upon the city of New York for failure to
10 comply with [a certified] an approved management plan for an eligible
11 tract that the city acquires for watershed purposes.

12 8. (a) The owner of a certified tract shall not be subject to any
13 penalty under this section that would otherwise apply because such tract
14 or any portion thereof is converted to a use other than forest crop
15 production by virtue of: (i) an involuntary taking by eminent domain or
16 other involuntary proceeding, except a tax sale, or (ii) a voluntary
17 proceeding, providing such proceeding involves the establishment of
18 rights-of-way for public highway or energy transmission purposes wherein
19 such corridors have been established subsequent to public hearing as
20 needed in the public interest and environmentally compatible, or (iii)
21 oil, gas or mineral exploration, development or extraction activity
22 undertaken by an independent grantee pursuant to a lease or other
23 conveyance of subsurface rights recorded more than ten years prior to
24 the date of the certificate of [approval] eligibility issued by the
25 department under subdivision two of this section, or (iv) where all or a
26 substantial portion of the certified tract is destroyed or irreparably
27 damaged by reason of an act of God or a natural disaster.

1 (b) In the event the land so converted to a use other than forest crop
2 production constitutes only a portion of such tract, the assessor shall
3 apportion the assessment, and enter that portion so converted as a sepa-
4 rately assessed parcel on the appropriate portion of the assessment
5 roll. The assessor shall then adjust the forest land exemption attribut-
6 able to the portion of the tract not so converted by subtracting the
7 proportionate part of the exemption of the converted parcel.

8 (c) If the portion so converted divides the tract into two or more
9 separate parcels, such remaining parcels not so converted will remain
10 [certified] eligible under this section, regardless of size, except that
11 should any remaining parcel be no longer accessible for continued forest
12 crop production, the department shall, after notice and hearing, revoke
13 the [certification] certificate of eligibility of the inaccessible
14 parcel or parcels, and notice of such revocation shall be recorded and
15 indexed as provided in subdivision seven of this section. Such revoca-
16 tion shall not subject the owner of the tract to penalty, but the
17 exemption under this section shall no longer apply to the tract or
18 portion thereof no longer accessible.

19 (d) The owner of a certified eligible tract shall not be subject to
20 penalty under this section that would otherwise apply because the forest
21 crop on the certified eligible tract or portion is, through no fault of
22 the owner, damaged or destroyed by fire, infestation, disease, storm,
23 flood, or other natural disaster, act of God, accident, trespass or war.
24 If a merchantable forest crop is to be cut or removed in connection with
25 necessary salvage operations resulting from any such event, the owner
26 shall give notice of cutting[, the department shall certify the stumpage
27 value, and stumpage tax shall be payable, collected and enforced as
28 provided in subdivisions five and seven of this section]. Nothing in

1 this paragraph shall be construed to subject any person to penalty under
2 subdivision seven of this section for immediate action taken in good
3 faith in the event of an emergency.

4 9. All [stumpage tax,] penalties and interest charges thereon
5 collected pursuant to subdivisions five, six and seven of this section
6 shall be apportioned to the applicable municipal corporations in which
7 such tract is situated.

8 10. (a) Management plans approved pursuant to this section shall not
9 be deemed to authorize or permit any practice or activity prohibited,
10 restricted or requiring further approval under the environmental conser-
11 vation law, or any other general or special law of the state, or any
12 lawful rule or regulation duly promulgated thereunder.

13 (b) No otherwise eligible tract, or portion thereof, shall be deemed
14 to be ineligible for certification or qualification under this section,
15 and no certificate of [approval] eligibility shall be revoked or penalty
16 imposed, solely on the ground that any such law, rule or regulation
17 partially restricts or requires further approval for forest crop
18 production practices or activities on such tract or portion.

19 11. The owner of an eligible tract certified under an approved manage-
20 ment plan under this section as of March first, two thousand nineteen
21 may withdraw such eligible tract from commitment, without penalty or
22 obligation to follow the approved management plan for the remaining
23 commitment term, until February twenty-eighth, two thousand twenty. The
24 owner of an eligible tract certified under an approved management plan
25 under this section may withdraw such eligible tract from commitment,
26 without penalty, upon commitment to sustainable forest management under
27 a forest certification program of such eligible tract or implementing an

1 approved forest management practice on a qualifying portion under
2 section four hundred eighty-b of this title at any time.

3 12. Notwithstanding any law to the contrary, in the event that lands
4 subject to an approved management plan and a certificate of eligibility
5 pursuant to this section of law are:

6 (a) transferred or sold to family members of the landowner, as defined
7 by regulations of the department, such lands may continue to be eligible
8 to participate in the program and all management obligations of such
9 lands may also be transferred if such new landowner desires to continue
10 participation in such program. If such landowner does not want to
11 continue to participate in the program authorized by this section, such
12 lands shall no longer be eligible for the program and such landowner
13 shall be responsible for the remaining nine years of the commitment
14 including all management obligations or such new landowner may apply for
15 a program pursuant to section four hundred eighty-b of this title at any
16 time.

17 (b) transferred or sold to non-family members of the landowner, such
18 lands shall no longer be eligible for participation in the program.
19 However, such new landowner shall be responsible for the remaining nine
20 years of the commitment including all management obligations or such new
21 landowner may apply, if desired, under section four hundred eighty-b of
22 this title.

23 (c) the subject of an application for eligibility under a forest
24 management practice plan pursuant to section four hundred eighty-b of
25 this title after the sale or transfer of land as listed in paragraphs
26 (a) and (b) of this subdivision, such landowners shall not be required
27 to conduct a qualifying management practice to be eligible for the

1 program authorized pursuant to section four hundred eighty-b of this
2 title.

3 13. (a) Any county, town or school district in which the total
4 assessed value exempted by this section and sections four hundred eighty
5 and four hundred eighty-b of this title represents one percent or more
6 of the total taxable assessed value on the final tax roll, as computed
7 and verified by the department of taxation and finance, shall be eligi-
8 ble to receive forestry exemption assistance.

9 (b)(i) The county treasurer of any eligible county shall annually
10 submit to the department of taxation and finance a list of any changes
11 to the assessed value, taxable status or acreage of all lands made
12 subsequent to the filing of those assessments rolls upon which county
13 taxes are extended, and the county tax rate and town tax rate extended
14 against any parcel receiving one of those exemptions. Such list shall
15 include a statement of the total taxable assessed value, both before and
16 after application of the exemption, of the county and of each listed
17 town and parcel.

18 (ii) The business manager of any eligible school district shall annu-
19 ally submit to the department of taxation and finance a list of any
20 changes to the assessed value, taxable status or acreage of all lands
21 made subsequent to the filing of those assessment rolls upon which
22 school taxes are extended, and the school tax rate extended against any
23 parcel receiving one of those exemptions. Such list shall include a
24 statement of the total taxable assessed value, both before and after
25 application of the exemption, of the school district and of each listed
26 parcel.

27 (iii) Lists prepared pursuant to this paragraph shall be filed with
28 the department of taxation and finance within thirty days of the levy of

1 taxes each year. In the event that a tax roll or final roll is revised,
2 corrected, or altered for any reason within thirty-six months of the
3 filing of such list, a county, town or school district shall so notify
4 the department of taxation and finance. The department of taxation and
5 finance shall thereupon increase or decrease the next payment of such
6 assistance to the affected county, town and/or school district to the
7 extent the prior payment was too low or too high in light of such
8 revision, correction, or alteration.

9 (c) The department of taxation and finance shall annually compute the
10 amount of forestry exemption assistance payable to or for the benefit of
11 a county, town or school district.

12 (d) (i) Subject to appropriation, the amount of forestry exemption
13 assistance paid to a county, town or school district pursuant to this
14 subdivision in any year shall equal the tax exempt value that exceeds
15 one percent of the reduced total taxable assessed value, as computed by
16 paragraph (a) of this subdivision, multiplied by the applicable tax
17 rate, as determined by the commissioner of taxation and finance, in such
18 town, county, or school district.

19 (ii) Any forestry exemption assistance provided to a county or school
20 district under this subdivision in any year shall be reduced by the
21 amount of small government assistance paid to such county or school
22 district in the current state fiscal year, and, in the case of a town,
23 shall be reduced by the amount of small government assistance paid to
24 such town in state fiscal year two thousand four-two thousand five
25 pursuant to chapter fifty of the laws of two thousand four, and shall be
26 further reduced by the amount that was added to the base level grant for
27 such town pursuant to subparagraph eight of paragraph b of subdivision
28 ten of section fifty-four of the state finance law as added by section

1 two of part M of chapter fifty-six of the laws of two thousand five, as
2 reported to the department of taxation and finance by the division of
3 the budget.

4 (e) The department of taxation and finance shall annually certify to
5 the state comptroller the amount of forestry exemption assistance paya-
6 ble pursuant to this subdivision, and shall mail a copy of such certif-
7 ication to the county treasurer of each county and business manager of
8 each school district containing eligible private forest tracts. Such
9 forestry exemption assistance shall be paid on audit and warrant of the
10 comptroller out of monies appropriated by the legislature, provided that
11 if an appropriation does not fully reimburse all impacted towns, coun-
12 ties and school districts, the amount shall be provided on a pro rata
13 basis to each eligible town, county and school district.

14 § 4. The real property tax law is amended by adding a new section
15 480-b to read as follows:

16 § 480-b. Taxation of forest land under a forest practice program or
17 forest certification program. 1. As used in this section:

18 (a) "Agricultural land" shall mean land that has received an agricul-
19 tural assessment pursuant to section three hundred five or section three
20 hundred six of the agriculture and markets law, provided that farm wood-
21 land that has received an agricultural assessment in each of the previ-
22 ous five years may qualify for the exemption provided by this section.
23 Farm woodland that qualifies for and receives this exemption shall not
24 also receive an agricultural assessment.

25 (b) "Commitment" shall mean a declaration to the assessor and county
26 clerk made on an annual basis by the owner of a certified eligible tract
27 either (i) committing such tract to sustainable forest management for
28 the next succeeding ten years under a forest certification program, or

1 (ii) committing such tract to sustainable forestry and open space pres-
2 ervation for the next succeeding ten years under a forest management
3 practice plan. The commitment made shall be on a commitment form
4 prescribed by the department, and shall include the verification of
5 continued eligibility. A commitment form without a properly completed
6 verification of continued eligibility shall be of no legal effect.

7 (c) "Certificate of eligibility" shall mean a certificate issued by
8 the department and sent to the landowner of an eligible tract that
9 demonstrates such tract meets all requirements of a forest certification
10 program or forest management practice plan in which it is enrolled.

11 (d) "Department" shall mean the department of environmental conserva-
12 tion.

13 (e) "Eligible tract" shall mean a tract of privately owned land of at
14 least twenty-five contiguous acres, exclusive of any portion thereof not
15 devoted to forest or other open space, as defined in regulations, of
16 which at least half of the acres must be forest land. Lands divided by
17 federal, state, county or town roads, easements or rights-of-way, or
18 energy transmission corridors or similar facilities will be considered
19 contiguous for purposes of this section, unless vehicular access for
20 forest management purposes is precluded. Lands from which a merchantable
21 forest crop, as defined in section four hundred eighty-a of this title,
22 has been cut or removed within three years prior to the time of applica-
23 tion for certification under this section will be ineligible unless such
24 cutting or removal was accomplished under a forest management practice
25 plan designed to provide for sustainable forestry as determined by the
26 state forester or his or her designee. Agricultural land is not eligi-
27 ble for enrollment under this program.

1 (f) "Forest land" shall mean land suitable for forest crop production
2 through natural regeneration or through forestation and shall be stocked
3 with a stand of forest trees sufficient to produce a merchantable forest
4 crop in the future.

5 (g) "Forest certification program" shall mean a forest certification
6 program, selected by the owner, and which is administered by a qualified
7 third party to ensure sustainable forest management is practiced on the
8 land, as specified in regulations promulgated by the department.

9 (h) "Qualifying forest management practice" shall mean any cutting of
10 trees related to commercial harvesting including regeneration harvest-
11 ing; timber stand improvement including weeding, thinning, or crop tree
12 release; site preparation for planting; invasive and/or competing vege-
13 tation control; riparian buffer establishment or enhancement; or other
14 activities as specified in regulations promulgated by the department.

15 (i) "Forest management practice plan" shall mean a plan approved by
16 the department for one or more qualifying forest management practice to
17 be conducted on a combined total of at least ten acres of forest land of
18 an eligible tract which shall set forth requirements and standards as
19 defined in regulations to ensure and enhance the future productivity and
20 sustainability of the forest treated, and ensure successful regeneration
21 of desirable species, when planned. Such plan must be prepared by or
22 under the direct supervision of a department approved forester as speci-
23 fied in regulations promulgated by the department.

24 (j) "Verification of continued eligibility" shall mean a portion of
25 the commitment form prepared and signed by the landowner which certifies
26 that such landowner continues to satisfy all conditions and requirements
27 of his or her initial enrollment under this section.

1 2. (a) An owner of an eligible tract may apply to the department for a
2 certificate of eligibility under a forest management practice plan or
3 forest certification program pursuant to this section on forms
4 prescribed by the department. If the department finds that such tract
5 is an eligible tract, it shall forward a certificate of eligibility to
6 the owner thereof.

7 (b) The department shall, after public hearings, adopt and promulgate
8 rules and regulations necessary for the implementation of this section,
9 including specifying forest management practices which would qualify a
10 tract for certification.

11 (c) Any tract certified pursuant to this subdivision shall be subject
12 to the provisions of this section. The obligations of this section shall
13 devolve upon and the benefits inure to the owner, his or her heirs,
14 successors and assigns.

15 3. (a) To qualify for a forest land exemption under this section the
16 owner of a certified eligible tract shall:

17 (i) file the certificate of eligibility in the office of the clerk of
18 the county or counties in which such tract is situated. Such certificate
19 shall specify that the tract described therein is committed to either
20 (A) sustainable forest management under a forest certification program
21 or (B) sustainable forestry and open space preservation under an
22 approved forest management practice plan, whichever is applicable, for
23 an initial period of ten years. Upon receipt of such certificate, the
24 county clerk shall record the same in the books kept for the recording
25 of deeds and shall index the same in the deed index against the name of
26 the owner of the property; and (ii) prior to the taxable status date for
27 the first assessment roll upon which such exemption is sought, file an
28 initial application for exemption with the appropriate assessor on forms

1 prescribed by the commissioner. Such application must be accompanied by
2 a certificate of eligibility issued by the department and the commitment
3 form; (iii) prior to the taxable status date for each subsequent assess-
4 ment roll upon which such exemption is sought, file with the appropriate
5 assessor the commitment form for such tract to either (A) sustainable
6 forest management under a forest certification program or (B) sustaina-
7 ble forestry and open space protection under an approved forest manage-
8 ment practice plan, whichever is applicable, for the next succeeding ten
9 years; and (iv) conduct an approved initial qualifying forest management
10 practice on a combined total of at least ten acres of forest land of an
11 eligible tract.

12 (b) If the requirements of this section are met, the assessor shall
13 approve the application and such eligible tract shall be exempt from
14 taxation pursuant to subdivision four of this section to be effective as
15 of the first taxable status date occurring subsequent to such approval,
16 and shall continue to be so exempt thereafter upon receipt by the asses-
17 sor of a commitment form filed in accordance with subparagraph (iii) of
18 paragraph (a) of this subdivision and so long as the certification of
19 the eligible tract has not been revoked by the department.

20 (c) Failure on the part of the owner to file the commitment form in
21 any year following initial certification will result in the termination
22 of the forest land exemption under this section applicable to the prop-
23 erty for that and each succeeding taxable years. Failure to file a
24 commitment form will not constitute a conversion of the tract or breach
25 of the commitment, pursuant to subdivision seven of this section, and
26 the commitment of the property to either (i) sustainable forest manage-
27 ment under a forest certification program or (ii) sustainable forestry
28 or open space preservation through the approved forest management prac-

1 tice plan option, whichever is applicable, shall remain in force for the
2 next succeeding nine years following the last taxable year for which a
3 commitment form was filed.

4 (d) Following failure to file a commitment form in one or more years,
5 in order to obtain a forest land exemption under this section, an owner
6 of a certified tract may submit a commitment form to the assessor before
7 the taxable status date in any subsequent year, except that a new appli-
8 cation under paragraph (a) of subdivision two of this section and
9 subparagraph (i) of paragraph (a) of this subdivision also shall be
10 required if more than five years have elapsed since the owner's last
11 commitment form and verification of continued eligibility was filed.
12 Such new application also shall be required whenever, during the preced-
13 ing year, the approved forest management practice plan has been amended
14 with respect to the acreage of land committed to sustainable forestry,
15 under a forest certification program or sustainable forestry and open
16 space preservation under this section.

17 4. (a) Certified eligible tracts approved for exemption under this
18 section shall be exempt from taxation to the extent of (i) seventy per
19 centum of the assessed valuation thereof in the case of an eligible
20 tract enrolled under a department recognized forest certification
21 program, or (ii) forty per centum of the assessed valuation thereof in
22 the case of an eligible tract enrolled through a forest management prac-
23 tice plan.

24 (b) The assessed value of the exemption granted pursuant to this
25 section shall be entered by the assessor on the assessment roll in such
26 manner as shall be prescribed by the commissioner.

27 5. (a) For lands eligible pursuant to a forest management practice
28 plan, whenever any forest management practice on any certified eligible

1 tract is proposed during the period of commitment pursuant to subdivi-
2 sion three of this section, the owner shall submit a forest management
3 practice plan to the department for approval no less than thirty days
4 prior to the anticipated commencement of such plan and in a manner and
5 upon such form as may be prescribed by the department.

6 (b) Notwithstanding the foregoing provisions of this subdivision and
7 the provisions of subdivision six of this section, the owner of any land
8 certified under this section may annually cut, in accordance with sound
9 forestry practices, not more than ten standard cords or the equivalent
10 for such owner's own use, without notice.

11 6. Any qualifying forest management practice under this subdivision
12 must be conducted within two years from the date of department approval
13 of the forest management practice plan.

14 7. (a) The department shall, after notice and hearing, issue a notice
15 of violation of this section for any certified tract whenever it finds
16 that:

17 (i) any tract or portion thereof is converted to a use which precludes
18 management of the land for sustainable forestry or open space; or

19 (ii) the owner fails to submit a forest management practice plan to
20 the department for approval prior to commencing such practice; or

21 (iii) the owner fails to maintain their participation in a department
22 recognized forest certification program during the commitment period; or

23 (iv) the owner fails to carry out a forest management practice in
24 accordance with the specifications of the qualifying forest management
25 practice plan.

26 (b) Notwithstanding the finding of an occurrence described by subpara-
27 graph (ii), (iii) or (iv) of paragraph (a) of this subdivision, the
28 department, upon prior notice to the appropriate assessor, may determine

1 that a violation has not occurred if the failure to comply was due to
2 reasons beyond the control of the owner and such failure can be
3 corrected forthwith without significant effect on the overall purpose of
4 the commitment.

5 (c) The owner of such tract, following the issuance of such notice by
6 the department for one or more of the reasons set forth in paragraph (a)
7 of this subdivision, shall be subject to a penalty as provided in para-
8 graph (d) or (e) of this subdivision, whichever applies. Penalties
9 imposed by this section shall be subject to interest charges at the rate
10 established pursuant to section nine hundred twenty-four-a of this chap-
11 ter for each applicable year. Such interest shall accrue in the year
12 with reference to which a penalty, or portion thereof, is attributed.

13 (d) Except as otherwise provided in paragraph (e) of this subdivision:

14 (i) the penalty imposed under paragraph (c) of this subdivision for a
15 parcel that has been enrolled under this section for less than ten years
16 shall be computed by multiplying by two and one-half the amount of taxes
17 that would have been levied on the forest land exemption entered on the
18 assessment roll pursuant to subdivision four of this section for the
19 current year and any prior years in which such an exemption was granted,
20 utilizing the applicable tax rate for the current year and for such
21 prior years.

22 (ii) the penalty imposed under paragraph (c) of this subdivision for a
23 parcel that has been enrolled under this section for a minimum of ten
24 years but less than twenty years shall be computed by multiplying by one
25 and one-half the amount of taxes that would have been levied on the
26 forest land exemption entered on the assessment roll pursuant to subdivi-
27 vision four of this section for the current year and prior years in
28 which such an exemption was granted, utilizing the applicable tax rate

1 for the current year and for such prior years, not to exceed a total of
2 ten years.

3 (iii) the penalty imposed under paragraph (c) of this subdivision for
4 a parcel that has been enrolled under this section for a minimum of
5 twenty years shall be the amount of taxes that would have been levied on
6 the forest land exemption entered on the assessment roll pursuant to
7 subdivision four of this section for the current year and prior years in
8 which such an exemption was granted, utilizing the applicable tax rate
9 for the current year and for such prior years, not to exceed a total of
10 ten years.

11 (e) The penalty imposed under paragraph (c) of this subdivision appli-
12 cable to converted land which constitutes only a portion of a certified
13 eligible tract shall be twice the amount determined under paragraph (d)
14 of this subdivision. In calculating such penalty, only that portion of
15 the tract that was actually converted to a use that precludes either (i)
16 sustainable forest management under a forest certification program or
17 (ii) management of the land for sustainable forest management and open
18 space, shall be used as the basis for determining the penalty, unless
19 the remaining portion no longer meets the minimum acreage requirements
20 of paragraph (e) of subdivision one of this section, in which case the
21 entire tract shall be deemed ineligible and subject to revocation and
22 penalties.

23 (f) A notice of violation issued under this subdivision shall be given
24 by the department to the owner and to the county treasurer of the county
25 or counties in which such tract is located, and the penalty and interest
26 charges shall be computed for each of the municipal corporations in
27 which such tract is located by such county treasurer. Upon completion of
28 the computation of the penalty and interest, the county treasurer shall

1 give notice to the owner of the amount of the penalty and interest, and
2 the amount shall be entered on the next completed tax roll of such coun-
3 ty or counties. Such penalties and interest shall be levied and
4 collected in the same manner and at the same time as other taxes are
5 imposed and levied on such roll. Upon collection of such penalties and
6 interest, such county treasurer shall pay the amounts due to each of the
7 appropriate municipal corporations.

8 (g) Upon a finding of a violation, the department shall revoke the
9 certificate of eligibility issued pursuant to subdivision two of this
10 section, and notice of such revocation shall be given to the owner and
11 to the county clerk of the county or counties in which the tract is
12 located. Upon receipt of such notice of revocation, the county clerk
13 shall record the same in the books kept for the recording of deeds and
14 shall index the same in the deed index against the name of the owner of
15 the property. The county clerk shall also note on the face of the last
16 certificate of eligibility and commitment form previously recorded
17 pursuant to this section the word "REVOKED" followed by a reference to
18 the liber and page where the notice of revocation is recorded pursuant
19 to this subdivision.

20 (h) The certificate of eligibility of a tract for which no notice of
21 violation has been issued shall be revoked without penalty upon receipt
22 of proof satisfactory to the department that nine years have passed from
23 the year of the last commitment form filed with the assessor by the
24 owner pursuant to subdivision three of this section. Notice of such
25 revocation shall be recorded and indexed as provided in paragraph (g) of
26 this subdivision.

27 (i) No fee, penalty or rollback of taxes otherwise due pursuant to
28 this section may be imposed upon the city of New York for failure to

1 comply with an approved forest management practice plan for an eligible
2 tract that the city acquires for watershed purposes.

3 8. (a) The owner of a certified eligible tract shall not be subject to
4 any penalty under this section that would otherwise apply because such
5 tract or any portion thereof is converted to a use other than (i)
6 sustainable forest management under a forest certification program or
7 (ii) sustainable forestry and open space preservation under an approved
8 forest management practice, whichever is applicable, by virtue of: (A)
9 an involuntary taking by eminent domain or other involuntary proceeding,
10 except a tax sale, or (B) a voluntary proceeding, provided such proceed-
11 ing involves the establishment of rights-of-way for public highway or
12 energy transmission purposes wherein such corridors have been estab-
13 lished subsequent to public hearing as needed in the public interest and
14 environmentally compatible, or (C) oil, gas or mineral exploration,
15 development or extraction activity undertaken by an independent grantee
16 pursuant to a lease or other conveyance of subsurface rights recorded
17 more than ten years prior to the date of the certificate of eligibility
18 issued by the department under subdivision two of this section, or (D)
19 where all or a substantial portion of the certified tract is destroyed
20 or irreparably damaged by reason of an act of God or a natural disaster.

21 (b) In the event the land so converted to a use other than (i)
22 sustainable forest management under a forest certification program or
23 (ii) sustainable forestry and open space preservation under an approved
24 forest management practice plan, whichever is applicable, constitutes
25 only a portion of such tract, the assessor shall apportion the assess-
26 ment, and enter that portion so converted as a separately assessed
27 parcel on the appropriate portion of the assessment roll. The assessor
28 shall then adjust the forest land exemption attributable to the portion

1 of the tract not so converted by subtracting the proportionate part of
2 the exemption of the converted parcel.

3 (c) If the portion so converted divides the tract into two or more
4 separate parcels, such remaining parcels not so converted will remain
5 eligible under this section, regardless of size.

6 (d) The owner of a certified tract shall not be subject to penalty
7 under this section that would otherwise apply because the forest or open
8 space on the certified tract or portion is, through no fault of the
9 owner, damaged or destroyed by fire, infestation, disease, storm, flood,
10 or other natural disaster, act of God, accident, trespass or war. If a
11 forest management practice is to occur in connection with necessary
12 salvage operations resulting from any such event, the owner shall submit
13 a forest management practice plan to the department for approval prior
14 to the commencement of such practice. Nothing in this paragraph shall be
15 construed to subject any person to penalty under subdivision seven of
16 this section for immediate action taken in good faith in the event of an
17 emergency.

18 9. All penalties and interest charges thereon collected pursuant to
19 subdivisions five, six and seven of this section shall be apportioned to
20 the applicable municipal corporations in which such tract is situated.

21 10. (a) Forest certification programs recognized and forest management
22 practice plans approved pursuant to this section shall not be deemed to
23 authorize or permit any practice or activity prohibited, restricted or
24 requiring further approval under the environmental conservation law, or
25 any other general or special law of the state, or any lawful rule or
26 regulation duly promulgated thereunder.

27 (b) No otherwise eligible tract, or portion thereof, shall be deemed
28 to be ineligible for certification or qualification under this section,

1 and no certificate of eligibility shall be revoked or penalty imposed,
2 solely on the ground that any such law, rule or regulation partially
3 restricts or requires further approval for forest management practices
4 or activities on such tract or portion.

5 § 5. Section 9-0815 of the environmental conservation law, as added
6 by chapter 602 of the laws of 2003, the section heading and subdivision
7 3 as amended by chapter 623 of the laws of 2003, is amended to read as
8 follows:

9 § 9-0815. [Request for comment on local laws or ordinances pertaining to
10 the practice of forestry] Forestry practice requirements.

11 [The commissioner upon his or her own initiative, or upon the written
12 request of a municipality or an owner of forest land within the munici-
13 pality, may elect to comment upon a proposed local law or ordinance
14 which may restrict the practice of forestry. The requesting municipality
15 or owner of forest land shall provide, at a minimum, the full text of
16 the proposed local law or ordinance to the commissioner with such
17 request.]

18 1. [Upon receipt of such written request or upon the commissioner's
19 determination to comment on a local law or ordinance, the commissioner
20 shall notify the municipal legislative body, in writing, of the receipt
21 date or the date of such determination] a. Any municipality proposing an
22 ordinance, regulation or permit requirement which may restrict the prac-
23 tice of forestry, including but not limited to, timber harvesting, other
24 forest management practices, and temporary storage or transport of logs
25 or other wood products from harvest sites, shall submit such proposals
26 to the department for review, comment and input, to ensure they do not
27 adversely impact the landowner's right to practice forestry.

1 [2. An owner of forest land shall provide notice to the municipal
2 legislative body proposing the local law or ordinance of a written
3 request to the commissioner in the time, manner, and form as may be
4 prescribed by the commissioner] b. The requiring municipality shall
5 provide, at a minimum, the full text of the proposed local law or ordi-
6 nance to the commissioner.

7 [3.] c. The commissioner, in preparing his or her comments for consid-
8 eration by the municipality, may consider factors including, but not
9 limited to, the impact of the proposed local law or ordinance upon the
10 long-term viability of forests in the municipality and any modifications
11 or alternatives which a municipality may undertake to minimize the
12 impacts to the practice of forestry in preparing his or her comments.

13 [4.] d. The commissioner shall have forty-five days after receipt of
14 an ordinance to provide his or her comments, if any, to the municipal
15 legislative body proposing the law or ordinance. Any municipal legisla-
16 tive body shall defer the adoption of such local law or ordinance pend-
17 ing receipt of comments, if any, from the commissioner or the passage of
18 forty-five days from the date of receipt of the proposed local law or
19 ordinance by the commissioner. The commissioner shall have the opportu-
20 nity to [respond] review and provide comments only to the original
21 proposal considered by the local governing body.

22 [5.] e. For purposes of this section, "forest land" shall mean land
23 that is suitable to forest crop production.

24 f. If the department recommends modification or disapproval of a
25 proposed action, the referring body shall not act contrary to such
26 recommendation except by a vote of a majority plus one of all the
27 members thereof.

1 2. The department shall promulgate rules and regulations requiring all
2 landowners, or their authorized agents, to provide notification to the
3 department prior to engaging in any commercial timber harvest of a
4 merchantable forest crop from ten or more acres of privately-owned
5 forest land in any given year.

6 a. Such notification shall be in the manner and format prescribed by
7 the department and, at minimum, shall include:

8 (i) name and address of the landowner;

9 (ii) name and address of any authorized agent of the landowner
10 conducting forestry related activities, such as a forester, land manager
11 or logger;

12 (iii) location and acreage of the area to be harvested and planned
13 point or points of access to public road or roads;

14 (iv) approximate start and end dates of the harvest;

15 (v) approximate volume to be harvested;

16 (vi) products and species to be harvested;

17 (vii) whether the harvest is being conducted pursuant to a written
18 forest management plan under section four hundred eighty-a or a program
19 under section four hundred eighty-b of the real property tax law and, if
20 applicable, the name and address of the individual or entity that
21 prepared the plan;

22 (viii) whether the harvest is being conducted pursuant to a harvesting
23 contract; and

24 (ix) other information as deemed necessary and beneficial.

25 b. The department shall share timber harvest notifications with any
26 municipality that requests such notifications, in writing, for harvests
27 in such municipality.

1 c. Any provision of any local law or ordinance, or any rule or regu-
2 lation promulgated thereto, governing timber harvest notification shall
3 upon the effective date of a chapter of the laws of two thousand eigh-
4 teen that amended this section be preempted.

5 § 6. Article 9 of the environmental conservation law is amended by
6 adding two new titles 23 and 25 to read as follows:

7 TITLE 23

8 COMMUNITY FOREST GRANT PROGRAM

9 Section 9-2301. Definitions.

10 9-2303. Criteria for community forest projects.

11 9-2305. State assistance application procedure.

12 9-2307. Regulations.

13 9-2309. Contracts for state assistance payments.

14 9-2311. Powers and duties of the commissioner.

15 § 9-2301. Definitions.

16 For the purpose of this title, the following terms shall have the
17 following meanings:

18 1. "Eligible land" shall mean private forest land in the state that is
19 at least twenty-five acres in size, suitable to sustain natural vege-
20 tation, which is at least seventy-five percent forested.

21 2. "Municipality" shall mean a county, city, town, village, or Indian
22 nation or tribe recognized by the United States with a reservation whol-
23 ly or partly within the boundaries of the state, a local public authori-
24 ty or public benefit corporation, or any combination thereof.

25 3. "Not-for-profit conservation organization" means a not-for-profit
26 corporation organized for the conservation or preservation of real prop-
27 erty and which has the power to acquire interests in real property. Such
28 organization must have qualified as exempt for federal tax purposes

1 pursuant to section 501 (c)(3) of the internal revenue code or any simi-
2 lar successor statutory provision.

3 § 9-2303. Criteria for community forest projects.

4 1. The department shall provide, on a competitive basis, within
5 amounts appropriated state assistance to municipalities and not-for-pro-
6 fit conservation organizations for the purchase of lands for the
7 purposes herein provided, to establish forest plantations or for the
8 care and management of forests. The program shall require a fifty
9 percent non-state match.

10 2. The purpose of the program is to establish community forests to
11 protect forest land from conversion to non-forest uses and provide
12 community benefits such as sustainable forest management, environmental
13 benefits including clean air, water, and wildlife habitat; benefits from
14 forest-based educational programs; benefits from serving as models of
15 effective forest stewardship; and recreational benefits secured with
16 public access.

17 § 9-2305. State assistance application procedure.

18 1. A municipality upon the approval of its governing body, or not-for-
19 profit conservation organization, may submit an application to the
20 commissioner, in such form and containing such information as the
21 commissioner may require, for state assistance payments toward the cost
22 of a project which is eligible for state assistance pursuant to this
23 title.

24 2. The commissioner shall review such project application and may
25 approve, disapprove or recommend modifications thereto consistent with
26 applicable law, criteria, standards or rules and regulations relative to
27 such projects.

28 § 9-2307. Regulations.

1 The department may promulgate any rules and regulations necessary to
2 implement and administer this title including but not limited to appli-
3 cation procedures, review processes, and project approval guidelines and
4 criteria.

5 § 9-2309. Contracts for state assistance payments.

6 The commissioner shall impose such contractual requirements and condi-
7 tions upon any municipality and any not-for-profit conservation organ-
8 ization which receive funds pursuant to this title as may be necessary
9 and appropriate to assure that a public benefit shall accrue from the
10 use of public funds by such municipality and not-for-profit conservation
11 organization.

12 § 9-2311. Powers and duties of the commissioner.

13 In administering the provisions of this title the commissioner:

14 1. shall make an itemized estimate of funds or appropriations
15 requested annually for inclusion in the executive budget;

16 2. may, in the name of the state, as further provided within this
17 title, contract to make, within the limitations of appropriation avail-
18 able therefor, state assistance payments toward the costs of an approved
19 project. Such contracts shall be subject to approval by the state comp-
20 troller and, as to form, by the attorney general;

21 3. shall approve vouchers for the payments pursuant to an approved
22 contract. All such payments shall be paid on the audit and warrant of
23 the state comptroller; and

24 4. may perform such other and further acts as may be necessary, proper
25 or desirable to carry out the provisions of this article.

26 TITLE 25

27 EMPIRE FOREST INCENTIVE PROGRAM

28 Section 9-2501. Definitions.

1 9-2503. Criteria for empire forest incentive projects.

2 9-2505. State assistance application procedure.

3 9-2507. Regulations.

4 9-2509. Contracts for state assistance payments.

5 9-2511. Powers and duties of the commissioner.

6 § 9-2501. Definitions.

7 For the purpose of this title, "eligible land" shall mean private
8 forest land in the state that is at least twenty-five acres in size,
9 suitable to sustain natural vegetation.

10 § 9-2503. Criteria for empire forest incentive projects.

11 1. The department shall provide through a competitive process, within
12 amounts appropriated, state assistance payments pursuant to the empire
13 forest incentive program to landowners for the costs associated with
14 sound, scientifically based forest management practices on eligible
15 land. The program shall require a non-state match. The department may
16 contract with an independent third party organization to administer such
17 state assistance program, provided that not more than ten percent of all
18 funds may be made available to carry out the program for each fiscal
19 year for program administration and technical assistance under such
20 contract.

21 2. The projects that qualify for state assistance payments under this
22 title shall include but are not limited to:

23 a. Forest stewardship planning projects, including upgrading an exist-
24 ing plan to state approved standards. Forest stewardship planning
25 projects must be completed and approved by the department before the
26 landowner is eligible for other projects.

1 b. Forest stand improvement projects to enhance growth and quality of
2 wood fiber for activities such as tree marking, thinning, cull removal,
3 or grapevine removal.

4 c. Invasive species control projects to limit the spread of invasive
5 species in forested environments through eradication or management prac-
6 tices that support the forest owner's management goals. This project
7 does not include orchard, ornamental, nursery or Christmas tree
8 purposes.

9 d. Afforestation or reforestation projects to encourage regeneration
10 of forest cover through site preparation, planting, seeding, fencing, or
11 tree shelters for the purposes of timber or fiber production or carbon
12 sequestration. Planting shall be limited to non-invasive native or natu-
13 ralized species and cannot be used for orchard, ornamental, nursery or
14 Christmas tree purposes.

15 e. Water quality improvement projects to improve or protect water
16 quality, riparian areas, forest wetlands and forest watersheds through
17 the establishment, maintenance, renovation, and/or restoration of
18 approved projects.

19 f. Fish and wildlife habitat improvement projects to create, protect,
20 or maintain fish and wildlife habitat through establishment, mainte-
21 nance, and restoration projects.

22 g. Forest health projects to improve, protect or restore forest health
23 relative to detection of or damage by insects, diseases, and animals
24 affecting established stands. The project does not include cost-sharing
25 for applications of chemical or biological agents for control of forest
26 pests.

27 h. Wildfire and catastrophic event rehabilitation projects to restore
28 and rehabilitate forests following catastrophic natural events such as

1 wildfire, wind, and ice storms. Such activities may include stabilizing
2 firebreak soils or burned areas, tree designation for stand improvement,
3 and thinning.

4 § 9-2505. State assistance application procedure.

5 1. A landowner may submit an application to the commissioner, in such
6 form and containing such information as the commissioner may require,
7 for state assistance payments toward the cost of a qualifying project on
8 eligible land.

9 2. The commissioner shall review such project application and may
10 approve, disapprove or recommend modifications thereto consistent with
11 applicable law, criteria, standards or rules and regulations relative to
12 such projects.

13 § 9-2507. Regulations.

14 The department shall promulgate any rules and regulations necessary to
15 implement and administer this title including but not limited to the
16 amount or percentage for funding matches, application procedures, review
17 processes, and project approval guidelines and criteria.

18 § 9-2509. Contracts for state assistance payments.

19 The commissioner shall impose such contractual requirements and condi-
20 tions upon any landowner and any independent third party organization
21 which receive funds pursuant to this title as may be necessary and
22 appropriate to assure that a public benefit shall accrue from the use of
23 public funds by such landowner and independent third party organization.

24 § 9-2511. Powers and duties of the commissioner.

25 In administering the provisions of this title the commissioner:

26 1. shall make an itemized estimate of funds or appropriations
27 requested annually for inclusion in the executive budget;

1 2. may, in the name of the state, as further provided within this
2 title, contract to make, within the limitations of appropriation avail-
3 able therefor, state assistance payments toward the costs of an approved
4 project on eligible land. Such contracts shall be subject to approval by
5 the state comptroller and, as to form, by the attorney general;

6 3. shall approve vouchers for the payments pursuant to an approved
7 contract. All such payments shall be paid on the audit and warrant of
8 the state comptroller; and

9 4. may perform such other and further acts as may be necessary, proper
10 or desirable to carry out the provisions of this article.

11 § 7. Subdivision 1 of section 163 of the state finance law is amended
12 by adding a new paragraph 1 to read as follows:

13 1. "Wood products" shall mean any items made of wood or wood fiber
14 from any species of tree.

15 § 8. Subdivision 6 of section 163 of the state finance law, as amended
16 by chapter 569 of the laws of 2015, is amended to read as follows:

17 6. Discretionary buying thresholds. Pursuant to guidelines established
18 by the state procurement council: the commissioner may purchase services
19 and commodities in an amount not exceeding eighty-five thousand dollars
20 without a formal competitive process; state agencies may purchase
21 services and commodities in an amount not exceeding fifty thousand
22 dollars without a formal competitive process; and state agencies may
23 purchase commodities or services from small business concerns or those
24 certified pursuant to articles fifteen-A and seventeen-B of the execu-
25 tive law, or commodities or technology that are recycled or remanufac-
26 tured, or commodities that are food, including milk and milk products,
27 grown, produced or harvested in New York state; or wood products made
28 from wood or wood fiber, grown and manufactured in New York state in an

1 amount not exceeding two hundred thousand dollars without a formal
2 competitive process.

3 § 9. Subdivision 6-c of section 163 of the state finance law, as added
4 by section 2 of part P of chapter 55 of the laws of 2013, is amended to
5 read as follows:

6 6-c. Pursuant to the authority provided in subdivision six of this
7 section, for the purchase of commodities that are food, including milk
8 and milk products, grown, produced or harvested in New York state, or
9 wood products made from wood or wood fiber, grown and manufactured in
10 New York state where such commodities exceed fifty thousand dollars in
11 value, state agencies must advertise the discretionary purchase on the
12 state agency website for a reasonable period of time and make the
13 discretionary purchase based on the lowest price that meets the state
14 agency's form, function and utility.

15 § 10. If any clause, sentence, paragraph, subdivision, section or part
16 of this act shall be adjudged by any court of competent jurisdiction to
17 be invalid, such judgment shall not affect, impair, or invalidate the
18 remainder thereof, but shall be confined in its operation to the clause,
19 sentence, paragraph, subdivision, section or part thereof directly
20 involved in the controversy in which such judgment shall have been
21 rendered. It is hereby declared to be the intent of the legislature that
22 this act would have been enacted even if such invalid provisions had not
23 been included herein.

24 § 11. This act shall take effect immediately, provided however the
25 amendments to sections 480-a and 480-b of the real property tax law made
26 by sections three and four of this act shall take effect on January 1,
27 2019, provided further that the amendments to section 163 of the state
28 finance law made by sections seven, eight and nine of this act shall not

1 affect the repeal of such section and shall be deemed repealed there-
2 with, provided further that, the forestry exemption assistance in subdi-
3 vision 13 of section 480-a of the real property tax law as added by
4 section three of this act shall apply beginning with final tax rolls
5 filed in 2019.

6

PART AA

7 Section 1. Subdivision 3 of section 92-s of the state finance law, as
8 amended by section 2-a of part JJ of chapter 58 of the laws of 2017, is
9 amended to read as follows:

10 3. Such fund shall consist of the amount of revenue collected within
11 the state from the amount of revenue, interest and penalties deposited
12 pursuant to section fourteen hundred twenty-one of the tax law, the
13 amount of fees and penalties received from easements or leases pursuant
14 to subdivision fourteen of section seventy-five of the public lands law
15 and the money received as annual service charges pursuant to section
16 four hundred four-n of the vehicle and traffic law, all moneys required
17 to be deposited therein from the contingency reserve fund pursuant to
18 section two hundred ninety-four of chapter fifty-seven of the laws of
19 nineteen hundred ninety-three, all moneys required to be deposited
20 pursuant to section thirteen of chapter six hundred ten of the laws of
21 nineteen hundred ninety-three, repayments of loans made pursuant to
22 section 54-0511 of the environmental conservation law, all moneys to be
23 deposited from the Northville settlement pursuant to section one hundred
24 twenty-four of chapter three hundred nine of the laws of nineteen
25 hundred ninety-six, provided however, that such moneys shall only be
26 used for the cost of the purchase of private lands in the core area of

1 the central Suffolk pine barrens pursuant to a consent order with the
2 Northville industries signed on October thirteenth, nineteen hundred
3 ninety-four and the related resource restoration and replacement plan,
4 the amount of penalties required to be deposited therein by section
5 71-2724 of the environmental conservation law, all moneys required to be
6 deposited pursuant to article thirty-three of the environmental conser-
7 vation law, all fees collected pursuant to subdivision eight of section
8 70-0117 of the environmental conservation law, all moneys collected
9 pursuant to title thirty-three of article fifteen of the environmental
10 conservation law, beginning with the fiscal year commencing on April
11 first, two thousand thirteen, nineteen million dollars, and all fiscal
12 years thereafter, twenty-three million dollars plus all funds received
13 by the state each fiscal year in excess of the greater of the amount
14 received from April first, two thousand twelve through March thirty-
15 first, two thousand thirteen or one hundred twenty-two million two
16 hundred thousand dollars, from the payments collected pursuant to subdi-
17 vision four of section 27-1012 of the environmental conservation law and
18 all funds collected pursuant to section 27-1015 of the environmental
19 conservation law, [provided such funds shall not be less than four
20 million dollars for the fiscal year commencing April first, two thousand
21 thirteen, and not less than eight million dollars for all fiscal years
22 thereafter] and all other moneys credited or transferred thereto from
23 any other fund or source pursuant to law. All such revenue shall be
24 initially deposited into the environmental protection fund, for applica-
25 tion as provided in subdivision five of this section.

26 § 2. Paragraph (i) of subdivision 2 and paragraphs (k) and (l) of
27 subdivision 3 of section 97-b of the state finance law are REPEALED.

1 § 3. Subdivision 1 of section 97-b of the state finance law, as
2 amended by section 5 of part T of chapter 57 of the laws of 2017, is
3 amended to read as follows:

4 1. There is hereby established in the custody of the state comptroller
5 a nonlapsing revolving fund to be known as the "hazardous waste remedial
6 fund", which shall consist of a "site investigation and construction
7 account", an "industry fee transfer account", an "environmental restora-
8 tion project account", "hazardous waste cleanup account", and a "hazard-
9 ous waste remediation oversight and assistance account"[, a "solid waste
10 mitigation account", and a "drinking water response account"].

11 § 4. Subdivisions 4 and 7 of section 27-1201 of the environmental
12 conservation law are REPEALED and subdivisions 5, 6, and 8 of section
13 27-1201 are renumbered subdivisions 4, 5, and 6.

14 § 5. Subdivision 6 of section 27-1203 of the environmental conserva-
15 tion law, as added by section 4 of part T of chapter 57 of the laws of
16 2017, is amended to read as follows:

17 6. Where the department has determined through a preliminary investi-
18 gation conducted pursuant to subdivision four of this section that a
19 solid waste site is causing or substantially contributing to contam-
20 ination of a public drinking water supply, the owner or operator of a
21 solid waste site shall, at the department's written request, cooperate
22 with any and all remedial measures deemed necessary and which shall be
23 undertaken by the department, in conjunction with the department of
24 health, for the mitigation and remediation of a solid waste site or area
25 which is necessary to ensure that drinking water meets applicable stand-
26 ards, including maximum contaminant levels, notification levels, maximum
27 residual disinfectant levels, or action levels established by the
28 department of health. The department may implement necessary measures to

1 mitigate and remediate the solid waste site within amounts appropriated
2 for such purposes from the solid waste mitigation [account] program.

3 § 6. Paragraph b of subdivision 6, subdivision 9, subdivision 11, and
4 paragraph e of subdivision 12 of section 27-1205 of the environmental
5 conservation law, as added by section 4 of part T of chapter 57 of the
6 laws of 2017, are amended to read as follows:

7 b. the threat makes it prejudicial to the public interest to delay
8 action until a hearing can be held pursuant to this title, the depart-
9 ment may, pursuant to paragraph a of subdivision three of this section
10 and within the funds available to the department from the drinking water
11 response [account] program, develop and implement, in conjunction with
12 the department of health, all reasonable and necessary mitigation and
13 remedial measures to address drinking water contamination for such site
14 to ensure that drinking water meets applicable standards, including
15 maximum contaminant levels, notification levels, maximum residual disin-
16 fectant levels or action levels established by the department of health.
17 Findings required pursuant to this subdivision shall be in writing and
18 may be made by the commissioner of health on an ex parte basis subject
19 to judicial review.

20 9. When a municipality develops and implements remediation to address
21 a drinking water contamination site, determined pursuant to subdivision
22 four of this section, and the plan is approved by the department, in
23 conjunction with the department of health, which is owned or has been
24 operated by such municipality or when the department, in conjunction
25 with the department of health, pursuant to an agreement with a munici-
26 pality, develops and implements such remediation, the commissioner
27 shall, in the name of the state, agree in such agreement to provide from
28 the drinking water response [account] program, within the limitations of

1 appropriations therefor, seventy-five percent of the eligible design and
2 construction costs of such program for which such municipality is liable
3 solely because of its ownership and/or operation of such site and which
4 are not recovered from or reimbursed or paid by a responsible party or
5 the federal government.

6 11. Moneys for actions taken or to be taken by the department, the
7 department of health or any other state agency pursuant to this title
8 shall be payable directly to such agencies from the drinking water
9 response [account] program pursuant to section ninety-seven-b of the
10 state finance law.

11 e. The expense of any such mitigation by the department or the depart-
12 ment of health shall be paid by the drinking water response [account]
13 program, but may be recovered from any responsible person in any action
14 or proceeding brought pursuant to the state finance law, this title,
15 other state or federal statute, or common law if the person so author-
16 ized in writing is an employee, agent, consultant, or contractor of a
17 responsible person acting at the direction of the department, then the
18 expense of any such sampling and analysis shall be paid by the responsi-
19 ble person.

20 § 7. The section heading and subdivisions 2 and 3 of section 27-1207
21 of the environmental conservation law, as added by section 4 of part T
22 of chapter 57 of the laws of 2017, are amended and a new subdivision 5
23 is added to read as follows:

24 Use and reporting of the solid waste mitigation [account] program and
25 the drinking water response [account] program.

26 2. The solid waste mitigation [account] program shall be made avail-
27 able to the department and the department of health, as applicable, for
28 the following purposes:

- 1 a. enumeration and assessment of solid waste sites;
- 2 b. investigation and environmental characterization of solid waste
- 3 sites, including environmental sampling;
- 4 c. mitigation and remediation of solid waste sites;
- 5 d. monitoring of solid waste sites; and
- 6 e. administration and enforcement of the requirements of section
- 7 27-1203 of this title.

8 3. The drinking water response [account] program shall be made avail-
9 able to the department and the department of health, as applicable, for
10 the following purposes:

- 11 a. mitigation of drinking water contamination;
- 12 b. investigation of drinking water contamination;
- 13 c. remediation of drinking water contamination; and
- 14 d. administration and enforcement of the requirements of this title
- 15 except the provisions of section 27-1203.

16 5. All moneys recovered pursuant to title twelve of article twenty-
17 seven of this chapter shall be deposited into the capital projects fund
18 (30000).

19 § 8. This act shall take effect immediately.

20 PART BB

21 Section 1. Approximately 40 percent of the food produced in the United
22 States today goes uneaten. Much of this organic waste is disposed of in
23 solid waste landfills, where its decomposition accounts for over 15
24 percent of our nation's emissions of methane, a potent greenhouse gas.
25 Meanwhile, an estimated 2.5 million New Yorkers are facing hunger and
26 food insecurity. Recognizing the importance of food scraps on our envi-

1 ronment, economy, and the health of New Yorkers, this act establishes a
2 food scraps hierarchy for the state of New York. The first tier of the
3 hierarchy is source reduction, reducing the volume of surplus food
4 generated. The second tier is recovery, feeding wholesome food to hungry
5 people. Third is repurposing, feeding animals. Fourth is recycling,
6 processing any leftover food such as by composting or anaerobic
7 digestion to create a nutrient-rich soil amendment. This legislation is
8 designed to address each tier of the hierarchy by: encouraging the
9 prevention of food scraps generation by commercial generators and resi-
10 dents; directing the recovery of excess wholesome food from high-volume
11 commercial food scraps generators; and ensuring that a significant
12 portion of inedible food scraps from high-volume food scraps generators
13 is managed in a sustainable manner, and does not end up being sent to
14 landfills or incinerators. In addition, the state is supporting the
15 recovery of wholesome food by providing grants from the environmental
16 protection fund to increase capacity of food banks, conduct food scraps
17 audits of high-volume generators of food scraps, support implementation
18 of pollution prevention projects identified by such audits, and expand
19 capacity of generators and municipalities to donate and recycle food.

20 § 2. Article 27 of the environmental conservation law is amended by
21 adding a new title 22 to read as follows:

22 TITLE 22

23 FOOD RECOVERY AND RECYCLING

24 Section 27-2201. Definitions.

25 27-2203. Designated food scraps generator responsibilities.

26 27-2205. Transporter responsibilities.

27 27-2207. Transfer facility or other intermediary responsibil-
28 ities.

1 27-2209. Food scraps disposal prohibition.

2 27-2211. Department responsibilities.

3 27-2213. Regulations.

4 27-2215. Exclusions.

5 27-2217. Preemption and severability.

6 § 27-2201. Definitions.

7 1. "Designated food scraps generator" means a person who generates at
8 a single location an annual average of two tons per week or more of
9 excess food and food scraps, based on a methodology established by the
10 department pursuant to regulations, including, but not limited to,
11 supermarkets, restaurants, higher educational institutions, hotels, food
12 processors, correctional facilities, sports or entertainment venues, and
13 hospitals or other health care facilities. For a location with multiple
14 independent food service businesses, such as a mall or college campus,
15 the entity responsible for contracting with a transporter for solid
16 waste transportation services is responsible for managing excess food
17 and food scraps from the independent businesses for the purposes of
18 determining if the generator is a designated food scraps generator.

19 2. "Excess food" means wholesome food that is not sold or used by its
20 generator.

21 3. "Food scraps" means inedible solid or liquid food, trimmings from
22 the preparation of food, food-soiled paper, and excess food that is not
23 donated. Food scraps shall not include used cooking oil, yellow grease
24 or food from residential sources or any food which is subject to a
25 recall or seizure due to the presence of pathogens, including but not
26 limited to: Listeria Monocytogenes, confirmed Clostridium Botulinum, E.
27 coli 0157:H7 and all salmonella in ready-to-eat foods.

1 4. "Incinerator" shall have the same meaning as such term is defined
2 in section 27-0707 of this article.

3 5. "Organics recycler" means a facility that recycles food scraps
4 through use as animal feed or a feed ingredient, rendering, land appli-
5 cation, composting, aerobic digestion, anaerobic digestion, or fermenta-
6 tion. Animal scraps, food soiled paper, and post-consumer food scraps
7 are prohibited for use as animal feed or as a feed ingredient. The
8 proportion of the product created from food scraps by a composting or
9 digestion facility, including a wastewater treatment plant that operates
10 a digestion facility, or other treatment system, must be used in a bene-
11 ficial manner as a soil amendment and shall not be disposed of or incin-
12 erated. The department may designate other techniques or technologies
13 by regulation, provided they do not include incineration or landfilling.
14 If wastewater treatment plants recycling food scraps can demonstrate to
15 the department's satisfaction that beneficial use of biosolids is not
16 available or not economically feasible, the biosolids may be disposed of
17 in a landfill or incinerated at a facility authorized to accept those
18 wastes.

19 6. "Person" means any individual, business entity, partnership, compa-
20 ny, corporation, not-for-profit corporation, association, governmental
21 entity, public benefit corporation, public authority, firm, organization
22 or any other group of individuals, or any officer or employee or agent
23 thereof.

24 7. "Single location" means contiguous property under common ownership,
25 which may include one or more buildings.

26 8. "Transfer facility" means a facility that receives solid waste for
27 the purpose of subsequent transfer to another facility for further proc-
28 essing, treatment, transfer, or disposal.

1 § 27-2203. Designated food scraps generator responsibilities.

2 1. Beginning January first, two thousand twenty-one:

3 (a) all designated food scraps generators shall separate their excess
4 food for donation for human consumption to the maximum extent practica-
5 ble, and in accordance with applicable laws, rules and regulations
6 related to food donation; and

7 (b) except as provided in paragraph (c) of this subdivision, each
8 designated food scraps generator that is within a forty-mile radius of
9 an organics recycler regulated by the department, to the extent that the
10 recycler has capacity to accept a substantial portion or all of the
11 generator's food scraps as determined by the department on a yearly
12 basis, shall:

13 (i) separate its remaining food scraps from other solid waste;

14 (ii) ensure proper storage for food scraps collection on site which
15 shall preclude such materials from becoming odorous or attracting
16 vectors such as a container that has a lid and a latch that keeps the
17 lid closed, is resistant to tampering by rodents or other wildlife and
18 has sufficient capacity;

19 (iii) have information available and provide training for employees
20 concerning the proper methods to separate and store food scraps; and

21 (iv) obtain a transporter that will deliver its food scraps to an
22 organics recycler, either directly or through an intermediary, self-haul
23 its food scraps to an organics recycler, either directly or through an
24 intermediary, or provide for organics recycling on-site.

25 (c) The provisions of paragraph (b) of this subdivision shall not
26 apply to any designated food scraps generator that has all of its solid
27 waste processed in a mixed solid waste composting or other mixed solid
28 waste organics recycling facility.

1 2. All designated food scraps generators shall submit an annual report
2 to the department on or before March first, two thousand twenty-two, and
3 annually thereafter, in an electronic format. The annual report must
4 summarize the amount of excess food and food scraps generated, the
5 amount of excess food donated, an outline of its efforts to establish a
6 relationship with a food recovery organization, the amount of food
7 scraps recycled, the organics recycler or recyclers and associated
8 transporters used, and any other information as required by the depart-
9 ment.

10 3. A designated food scraps generator may petition the department for
11 a temporary waiver from some or all of the requirements of this title.
12 The petition must include evidence of undue hardship based on: (a) the
13 organics recycler located within a forty-mile radius of the designated
14 food scraps generator not having sufficient capacity; or (b) the unique
15 circumstances of the generator.

16 The department shall issue a waiver from the recycling requirements of
17 this section pursuant to paragraph (b) of this subdivision if the desig-
18 nated food scrap generator demonstrates that the cost of recycling food
19 scraps is more than the cost of disposing of or incinerating solid waste
20 by providing estimates from two disposal facilities, three haulers, and
21 two recyclers that are representative of the costs that would be appli-
22 cable to the generator under normal circumstances. A waiver shall be no
23 longer than one year in duration; provided, however, the department may
24 renew such waiver.

25 § 27-2205. Transporter responsibilities.

26 1. Any transporter that collects source-separated food scraps for
27 recycling from a designated food scraps generator shall:

1 (a) deliver collected food scraps to a transfer facility or other
2 intermediary that will deliver such food scraps to an organics recycler;
3 or

4 (b) deliver collected food scraps directly to an organics recycler.

5 2. Any transporter that collects source-separated food scraps from a
6 designated food scraps generator shall not commingle the food scraps
7 with any other solid waste unless such waste can be processed by an
8 organics recycler.

9 § 27-2207. Transfer facility or other intermediary responsibilities.

10 Any transfer facility or other intermediary that receives source-sepa-
11 rated food scraps from a designated food scraps generator must ensure
12 that the food scraps are taken to an organics recycler. No transfer
13 facility or other intermediary may commingle the food scraps with any
14 other solid waste unless such waste can be processed by an organics
15 recycler.

16 § 27-2209. Food scraps disposal prohibition.

17 No incinerator or landfill shall knowingly accept or commingle with
18 solid waste source-separated food scraps from designated food scraps
19 generators required to send food scraps to an organics recycler as
20 outlined under section 27-2203 of this title, either directly or from an
21 intermediary, after January first, two thousand twenty-one, unless the
22 designated food scraps generator has received a temporary waiver under
23 subdivision three of section 27-2203 of this title.

24 § 27-2211. Department responsibilities.

25 1. The department shall publish on its website a list of all desig-
26 nated food scraps generators, organics recyclers, food recovery organ-
27 izations, and all transporters that manage source-separated food scraps.

1 2. No later than June first, two thousand twenty, the department shall
2 assess the capacity of organic recyclers and notify designated food
3 scraps generators if they are required to comply with the provisions of
4 paragraph (b) of subdivision one of section 27-2203 of this title.

5 3. The department shall develop and make available educational materi-
6 als to assist designated food scraps generators with compliance with
7 this title. The department shall also develop education materials on
8 food waste minimization and encourage municipalities to disseminate
9 these materials both on their municipal websites and in any relevant
10 future mailings to their residents as they may distribute.

11 § 27-2213. Regulations.

12 The department shall promulgate rules and regulations necessary to
13 implement the provisions of this title. At a minimum, the department
14 shall promulgate rules and regulations that set forth the methodology
15 the department will use to determine who is a designated food scraps
16 generator, after consulting with industry representatives, and what
17 process a designated generator must follow to dispute such determi-
18 nation, the waiver process, and how designated food scraps generators
19 shall comply with the provisions of paragraph (a) and subparagraph (i)
20 of paragraph (b) of subdivision one of section 27-2203 of this title.

21 § 27-2215. Exclusions.

22 1. This title shall not apply to any designated food scraps generators
23 located in a city with a population of one million or more which has a
24 local law, ordinance or regulation in place which requires the diversion
25 of excess food and food scraps from disposal.

26 2. This title does not apply to elementary and secondary schools.

27 § 27-2217. Preemption and severability.

1 1. Any provision of any local law or ordinance, or any regulation
2 promulgated thereto, governing the recycling of food scraps shall upon
3 the effective date of this title be preempted, except in a city with a
4 population of one million or more. However, local laws or ordinances,
5 or parts thereof, affecting the recycling of food scraps that include
6 generators not covered by this title shall not be preempted.

7 2. The provisions of this title shall be severable and if any portion
8 thereof or the applicability thereof to any person or circumstances is
9 held invalid, the remainder of this title and the application thereof
10 shall not be affected thereby.

11 § 3. This act shall take effect immediately.

12 PART CC

13 Section 1. Subdivisions 10 and 11 of section 57-0107 of the environ-
14 mental conservation law, as amended by chapter 267 of the laws of 2015,
15 are amended to read as follows:

16 10. "Central Pine Barrens area" shall mean the contiguous area as
17 described and bounded as follows:

18 Beginning at a point where the southerly side of Route 25A intersects
19 the easterly side of Miller Place Road; thence southward along the east-
20 erly boundary of Miller Place Road to Helme Avenue; thence southward
21 along the easterly boundary of Helme Avenue to Miller Place-Middle
22 Island Road; thence southward along the easterly boundary of Miller
23 Place-Middle Island Road to Whiskey Road; thence westward along the
24 southerly boundary of Whiskey Road to Mount Sinai-Coram Road; thence
25 southward along the easterly boundary of Mount Sinai-Coram Road to
26 Middle Country Road (Route 25); thence westward along the southerly

1 boundary of Route 25 to Patchogue-Mount Sinai Road (County Route 83);
2 thence southward along the easterly boundary of County Route 83 to Bicy-
3 cle Path Drive; thence southeastward along the easterly side of Bicycle
4 Path Drive to Mt. McKinley Avenue; thence southward along the easterly
5 boundary of Mt. McKinley Avenue to Granny Road; thence northeastward
6 along the northerly boundary of Granny Road to Port Jefferson-Patchogue
7 Road (Route 112); thence southward along the easterly boundary of Route
8 112 to Horse Block Road (County Route 16); thence eastward along the
9 northerly boundary of County Route 16 to Maine Avenue; thence northward
10 along the westerly boundary of Maine Avenue to Fire Avenue; thence east-
11 ward along the northerly boundary of Fire Avenue to John Roe Smith
12 Avenue; thence southward along the easterly boundary of John Roe Smith
13 Avenue to Jeff Street; thence eastward along the northerly boundary of
14 Jeff Street to Hagerman Avenue; thence southward along the easterly
15 boundary of Hagerman Avenue to the Long Island Expressway (Route 495);
16 thence eastward along the northerly boundary of Route 495 to the wester-
17 ly side of Yaphank Avenue (County Road 21); thence southward along the
18 westerly side of Yaphank Avenue to the south side of the Long Island
19 Expressway (Route 495); thence eastward along the southerly side of the
20 Long Island Expressway (Route 495) to the easterly side of Yaphank
21 Avenue; thence southward along the easterly side of Yaphank Avenue,
22 crossing Sunrise Highway (Route 27) to the south side of Montauk Highway
23 (County Road 80); thence southwestward along the south side of Montauk
24 Highway (County Road 80) to South Country Road; thence southward along
25 the easterly side of South Country Road to Fireplace Neck Road; thence
26 southward along the easterly side of Fireplace Neck Road to Beaver Dam
27 Road; thence eastward along the northerly side of Beaver Dam Road to the
28 westerly boundary of the Carmans River and the lands owned by the United

1 States known as Wertheim National Wildlife Refuge (the "Refuge"); thence
2 generally westerly and southerly to the waters of Bellport Bay; thence
3 generally easterly across the Bay and northerly along the easterly bound-
4 dary of the Refuge, including all lands currently part of the Refuge and
5 any lands which may become part of the Refuge in the future, to the east
6 side of the southern terminus of Smith Road; thence northward along the
7 easterly side of Smith Road to the southwesterly corner of the property
8 identified as District 200, Section 974.50, Block 1, Lot 11; thence
9 eastward, northward and westward in a counter-clockwise direction along
10 the southern, eastern and northern boundaries of that property to the
11 easterly side of Smith Road; thence northward along the east side of
12 Smith Road to Merrick Road; thence northeasterly along the northerly
13 side of Merrick Road to the easterly side of Surrey Circle and the
14 southwest corner of the property identified as District 200, Section
15 880, Block 3, Lot 58.1; running thence easterly along the southerly side
16 of said lot to the west side of William Floyd Parkway (County Road 46);
17 thence northerly along the westerly side of William Floyd Parkway (Coun-
18 ty Road 46), crossing Route 27, to the Long Island Railroad (LIRR);
19 thence eastward along the northerly boundary of the Long Island Rail
20 Road tracks 7,500 feet; thence southward 500 feet; thence eastward 525
21 feet to the intersection of North Street and Manor-Yaphank Road; thence
22 southward along the easterly boundary of Manor-Yaphank Road to Morich-
23 es-Middle Island Road; thence eastward along the northerly boundary of
24 Moriches-Middle Island Road to Sunrise Highway (Route 27); thence east-
25 ward along the northerly boundary of Route 27 to an old railroad grade
26 (unpaved); thence southeastward along the northerly boundary of the old
27 railroad grade (unpaved) to Old County Road (Route 71); thence eastward
28 along the northerly boundary of Route 71 to the Long Island Rail Road

1 tracks; thence eastward along the northerly boundary of the Long Island
2 Rail Road tracks to Montauk Highway; thence eastward along the northerly
3 boundary of Montauk Highway to Route 24; thence northward along the
4 westerly boundary of Route 24 to Sunrise Highway (Route 27); thence
5 eastward along the northerly boundary of Route 27 to Squiretown Road;
6 thence northward along the westerly boundary of Squiretown Road to Upper
7 Red Creek Road; thence westward along the southern boundary of Upper Red
8 Creek to Lower Red Creek Road; thence southward along the easterly bound-
9 dary of Lower Red Creek Road to Hubbard County Park; thence westward
10 along the northern boundary of Hubbard County Park to Riverhead-Hampton
11 Bays Road (Route 24); thence westward along the southerly boundary of
12 Route 24 to Peconic Avenue; thence northward along the westerly boundary
13 of Peconic Avenue to the Riverhead-Southampton border; thence westward
14 along the Riverhead-Southampton border and the Riverhead-Brookhaven
15 border to the Forge Road Bridge; thence northward along the westerly
16 boundary of the Forge Road Bridge to Forge Road; thence northwestward
17 along the westerly boundary of Forge Road to the railroad tracks; thence
18 northward along the westerly boundary of Forge Road (unpaved) to the
19 intersection of Route 25 and River Road; thence westward along the
20 southerly boundary of River Road to Edwards Avenue; thence northward
21 along the westerly boundary of Edwards Avenue 3,800 feet; thence west-
22 ward 4,400 feet to an unnamed, unpaved road; thence northward along the
23 westerly boundary of the unnamed, unpaved road 150 feet; thence westward
24 and northwestward along the eastern boundary of the United States
25 Navy/Grumman Aerospace Corporation property (as of 1982) up to its
26 intersection with Middle Country Road (Route 25); thence westward along
27 the southerly boundary of Route 25 to the intersection of Route 25 and
28 25A; thence northeastward, westward, and southwestward along the eastern

1 and northern boundary of the United States Navy/Grumman Aerospace Corpo-
2 ration (as of 1982) and located immediately east of Route 25A, to its
3 intersection with Route 25A; thence westward along the southerly bounda-
4 ry of Route 25A to a point due south of the southeast corner of the
5 parcel identified as District 200, Section 128, Block 1, lot 3.1; thence
6 northeastward, northward and westward along the southerly, easterly and
7 northerly sides of the parcel identified as District 200, section 128,
8 Block 1, lot 1 to the southeast corner of the parcel identified as
9 District 200, Section 82, Block 1, Lot 5.2; thence northward along the
10 east side of this parcel to North Country Road; thence northward cross-
11 ing North Country Road to its northerly side; thence eastward along the
12 northerly side of North Country Road to the Brookhaven Town-Riverhead
13 Town line; thence in a generally northwestward direction along said town
14 line to a point in Wading River Creek with the coordinates 40.96225
15 latitude and -72.863633 longitude; thence westward a distance of approx-
16 imately 90 feet to the easterly side of LILCO Road; thence southward
17 along LILCO Road to its intersection with the north side of North Coun-
18 try Road; thence westward along the north side of North Country Road to
19 the southeast corner of the parcel identified as District 200, Section
20 39, Block 1, Lot 2; thence in a northward and westward direction along
21 the easterly and northerly sides of said parcel to its northwest corner;
22 thence northward along the westerly boundary of the parcel identified as
23 District 200, Section 83, Block 1, Lot 1.4 to its northwest corner; and
24 thence continuing in a westward direction along the northerly side of
25 the parcel identified as District 200, Section 39, Block 1, Lot 1.2 and
26 the southerly extent of Long Island Sound to the northwest corner of the
27 property identified as District 200, Section 39, Block 1, Lot 1.2;
28 thence southward along the westerly boundary of said property to North

1 Country Road; thence west along the southerly boundary of North Country
2 Road to the northwestern corner of property identified as District 200,
3 Section 82, Block 1, Lot 1.1; thence south along the westerly boundary
4 of said property and the westerly boundary of the property identified as
5 District 200, Section 82, Block 1, Lot 1.2 to the northwest corner of
6 property identified as District 200, Section 82, Block 1, Lot 5.1;
7 thence southward along the westerly boundary of said property to the
8 northeast corner of the property identified as District 200, Section
9 105, Block 3, Lot 5, thence southward along the easterly boundary of
10 said property to the north side of Route 25A; thence southward crossing
11 Route 25A to its south side; thence westward along the southerly bounda-
12 ry of Route 25A to the point or place of beginning, and excluding [one]
13 two distinct [area] areas described as follows: The first area defined
14 as beginning at a point where the westerly side of William Floyd Parkway
15 (County Road 46) meets northerly side of the Long Island Railroad
16 (LIRR); thence westward along the northerly side of the LIRR to Morich-
17 es-Middle Island Road; thence generally northwestward along the norther-
18 ly side of Moriches-Middle Island Road to the southerly side of Long
19 Island Expressway (Route 495); thence eastward along the southerly side
20 of the Long Island Expressway (Route 495) to the westerly side of
21 William Floyd Parkway (County Road 46); thence southward along the
22 westerly side of William Floyd Parkway (County Road 46) and containing
23 the subdivision known as RB Industrial Park, to the point or place of
24 beginning and the second area defined as the property described as
25 District 200, Section 39, Block 1, Lot 1.1.

26 11. "Core preservation area" shall mean the core preservation area of
27 the Central Pine Barrens area which comprise the largest intact areas of
28 undeveloped pine barrens as described and bounded as follows:

1 Beginning at a point where the northwestern corner of the New York
2 State Rocky Point Natural Resource Management Area (the "NYS Rocky Point
3 Land") intersects the southerly side of NYS Route 25A; thence generally
4 southward and eastward along the generally westerly and southerly bound-
5 aries of the NYS Rocky Point Land (including the Currans Road Pond State
6 Wildlife Management Area, all adjacent or contiguous undeveloped Town of
7 Brookhaven parks, preserves, open space areas, or reserved areas, and
8 the crossings of the undeveloped Suffolk County property known as the
9 Port Jefferson - Westhampton road right of way, Whiskey Road, County
10 Route 21, and Currans Road), and including those properties identified
11 as District 200, Section 346, Block 1, Lots 3 and 4, to the point where
12 the NYS Rocky Point Land meets the northerly side of NYS Route 25
13 (Middle Country Road); thence eastward along the northerly boundary of
14 NYS Route 25 to the southeastern corner of that property west of Wood-
15 lots Road which is identified as District 200, Section 349, Block 2, Lot
16 1.3; thence northward along the easterly boundary of that property to
17 the Suffolk County Pine Trail Nature Preserve; thence eastward and
18 southeastward along the southerly boundary of the Suffolk County Pine
19 Trail Nature Preserve where the Preserve is adjacent to developed
20 parcels or parcels in agricultural or horticultural use, or along a line
21 parallel to, and 100 (one hundred) feet south of, the Preserve where the
22 Preserve is adjacent to parcels which are undeveloped as of June 1,
23 1993, to County Route 46; thence southward along the easterly boundary
24 of County Route 46 to NYS Route 25; thence eastward along the southerly
25 boundary of NYS Route 25 to the Suffolk County Pine Trail Nature
26 Preserve; thence southward along the westerly boundary of the Suffolk
27 County Pine Trail Nature Preserve where the Preserve is adjacent to
28 developed parcels, or along a line parallel to, and 100 (one hundred)

1 feet west of, the Preserve where the Preserve is adjacent to parcels
2 which are undeveloped as of June 1, 1993, to the northern boundary of
3 the United States land known as Brookhaven National Laboratory; thence
4 generally westward along the northerly boundary of Brookhaven National
5 Laboratory to County Route 46 (William Floyd Parkway); thence generally
6 northwestward on a straight line to the intersection of Sally Lane and
7 Pond Lane; thence westward along the southerly side of Pond Lane to Ruth
8 Lane; thence northward along the westerly side of Ruth Lane to NYS Route
9 25; thence westward along the northerly side of NYS Route 25 to the
10 southeast corner of the NYS Middle Island State Game Farm and Environ-
11 mental Education Center; thence northward, westward, and southward along
12 the easterly, northerly, and westerly boundaries of the NYS Middle
13 Island State Game Farm and Environmental Education Center to NYS Route
14 25; thence westward along the southerly side of NYS Route 25, excluding
15 all parcels abutting that road which are developed as of June 1, 1993,
16 to Giant Oak Road; thence southward along the easterly side of Giant Oak
17 Road to Medford Road; thence southwestward along the southeasterly side
18 of Medford Road crossing to the west side of Smith Road; thence souther-
19 ly along the westerly side of Smith Road to the southeast corner of
20 District 200, Section 406, Block 1, Lot 6; thence westward and northward
21 along the southerly and westerly sides of said parcel to the southerly
22 side of the developed lands known as Strathmore Ridge; thence westward,
23 northward and eastward along the southerly, westerly and northerly sides
24 of the developed lands known as Strathmore Ridge to the westerly side of
25 Smith Road; thence northerly along the westerly side of Smith Road to
26 the southerly side of NYS Route 25; thence westerly along the southerly
27 side of NYS Route 25, to the northwestern corner of that property which
28 is identified as District 200, Section 406, Block 1, Lot 4.3; thence

1 southerly along the westerly boundary of that property and continuing
2 southward along the westerly sides of the properties identified as
3 District 200, Section 406, Block 1, Lot 4.6; District 200, Section 406,
4 Block 1, Lot 4.4 and District 200, Section 504, Block 1, Lot 2 to the
5 southerly side of Longwood Road; thence eastward along the southerly
6 side of Longwood Road to the northwest corner of the property identified
7 as District 200, Section 504, Block 1, Lot 7.2; thence southward and
8 westward along the generally westerly boundary of that parcel to the
9 eastern end of Rugby Lane (also known as Rugby Avenue or Rugby Road), a
10 paper street shown on Suffolk County tax maps District 200, Sections
11 500, 502, and 503; thence westward along the northerly boundary of Rugby
12 Lane, across County Route 21, to the westerly boundary of County Route
13 21 (Yaphank - Middle Island Road); thence southward along the westerly
14 boundary of County Route 21 to the northeastern corner of the parcel
15 identified as District 200, Section 529, Block 1, Lot 28, and which is
16 coterminous with the southerly boundaries of the parcels located on the
17 south side of Rustic Lane; thence westward along the northerly boundary
18 of that parcel to the southwest corner of the parcel identified as
19 District 200, Section 528, Block 5, Lot 2; thence northward along a
20 portion of the easterly boundary of the Carmans River, which comprises
21 the easterly boundary of the parcel identified as District 200, Section
22 528, Block 5, Lot 1, to its intersection with the southern boundary of
23 the Suffolk County Nature Preserve parcel identified as District 200,
24 Section 500, Block 1, Lot 1.4; thence eastward along the southern bound-
25 ary of that parcel to the southeast corner of that parcel; thence north-
26 ward along the easterly boundary of that Suffolk County Nature Preserve
27 parcel to the southeast corner of the Suffolk County Nature Preserve
28 parcel identified as District 200, Section 500, Block 1, Lot 3.1, thence

1 generally northward along the easterly boundary of that parcel to the
2 north side of East Bartlett Road; thence easterly along the north side
3 of East Bartlett Road to the east side of County Road 21; thence south-
4 erly along the east side of County Road 21 to the southwest corner of
5 District 200, Section 501, Block 1, Lot 2.1; thence easterly and north-
6 erly along the southern and eastern sides of that property and northward
7 along the easterly side of District 0200, 50100, Block 0100, Lot 002002
8 and across to the north side of Longwood Road; thence westerly along the
9 north side of Longwood Road to the southeast corner of District 200,
10 Section 482, Block 1, Lot 3.1; thence northward and eastward along the
11 easterly and southerly boundaries of that parcel to the northwest corner
12 of the parcel identified as District 200, Section 483, Block 2, Lot 1.4;
13 thence eastward along the southerly property boundary of the parcel
14 identified as District 200, Section 482, Block 1, Lot 4 to the southeast
15 corner of that parcel; thence northward along the easterly boundary of
16 that parcel to the northeast corner of that parcel; thence eastward and
17 northward along the southerly and easterly boundaries of the parcel
18 identified as District 200, Section 456, Block 2, Lot 4 to the northeast
19 corner of that parcel; thence generally northerly and westerly along the
20 easterly and northerly boundary of Prosser Pines County Nature Preserve
21 to County Road 21; thence westward (directly across County Route 21)
22 along the southerly boundary of the property identified as District 200,
23 Section 434, Block 1, Lot 12.1, to the southwest corner of the property
24 identified as District 200, Section 434, Block 1, Lot 14.3, adjacent to
25 the eastern side of Cathedral Pines County Park; thence northward along
26 the eastern boundary of Cathedral Pines County Park to the southeast
27 corner of the property identified as District 200, Section 402, Block 1,
28 Lot 23.1, thence continuing northward along the easterly boundary of

1 that property to the southerly side of Lafayette Road; thence westward
2 along the southerly side of Lafayette Road to the eastern boundary of
3 the property identified as District 200, Section 402, Block 1, Lot 24.7;
4 thence generally in a counter-clockwise direction along the easterly,
5 northerly, westerly and northerly boundaries of that property to the
6 easterly boundary of the parcel identified as District 200, Section 402,
7 Block 1, Lot 19.2; thence northerly along the easterly side of said lot
8 to the southeast corner of the property identified as District 200,
9 Section 402, Block 1, Lot 20, thence westward and northward along the
10 southerly and westerly sides of that property to the southerly side of
11 NYS Route 25; thence westward along the southerly boundary of NYS Route
12 25 to the northwestern corner of the parcel identified as District 200,
13 Section 402, Block 1, Lot 16.4; thence generally southward along the
14 westerly boundary of that parcel to the northerly boundary of the parcel
15 identified as District 200, Section 454, Block 1, Lot 9.1; thence west-
16 ward along the northerly boundary of that parcel to East Bartlett Road;
17 thence southward along the easterly boundary of East Bartlett Road to
18 its intersection with Ashton Road; thence westward to the northeastern
19 corner of the old filed map shown on District 200, Section 499; thence
20 westward and southward along the northerly and westerly boundaries of
21 the old filed map shown on Suffolk County tax maps District 200,
22 Sections 498, 499, and 527 to Hillcrest Road; thence eastward along the
23 southerly boundary of Hillcrest Road to Ashton Road; thence southward
24 along the easterly side of Ashton Road to Granny Road; thence eastward
25 along the southerly side of Granny Road to the northwesterly corner of
26 District 200, Section 547, Block 1, Lot 18.1; thence generally south-
27 ward, westward, southward, eastward and northward in a counter-clockwise
28 direction along the western, northern, southern and eastern boundaries

1 of said parcel to the southeast corner of the parcel identified as
2 District 200, Section 548, Block 1, Lot 3; thence northward along the
3 easterly boundary of that parcel to its northeast corner; thence gener-
4 ally northward, northeastward and eastward along the westerly, northwes-
5 terly and northerly sides of German Boulevard to its intersection with
6 the northeasterly side of Lakeview Boulevard; thence southeastward along
7 the northeasterly side of Lakeview Boulevard to the westerly boundary of
8 the parcel identified as District 200, Section 611, Block 1, Lot 5;
9 thence northward along the westerly boundary of that parcel to its
10 northwest corner; thence southward along the westerly boundary of the
11 parcel identified as District 200, Section 579, Block 3, Lot 1, compris-
12 ing part of the western bank of the Carmans River also known as Upper
13 Lake, to the northerly side of Mill Road, also known as County Route
14 101; thence eastward along the northerly side of Mill Road to the north-
15 east corner of the parcel identified as District 200, Section 579, Block
16 3, Lot 19; thence westerly along the northerly boundary of that parcel
17 to the eastern boundary of the parcel identified as District 200,
18 Section 579, Block 3, Lot 1; thence northward along the easterly side of
19 that parcel, comprising part of the eastern bank of the Carmans River
20 also known as Upper Lake, to the southwest corner of the parcel identi-
21 fied as District 200, Section 548, Block 2, Lot 5.1; thence eastward
22 along the southern boundary of that parcel to its southeast corner;
23 thence eastward across County Route 21 to its easterly side; thence
24 northward along the easterly boundary of County Route 21 to the south-
25 west corner of the Suffolk County Nature Preserve parcel known as
26 Warbler Woods and identified as District 200, Section 551, Block 1, Lot
27 4; thence generally eastward along the southerly boundary of the Warbler
28 Woods parcel and then southward along the westerly boundary of an exten-

1 sion of that parcel's southerly boundary to the southeast corner of the
2 southern terminus of Harold Road; thence generally westward, southward
3 and westward in a counter-clockwise direction along the northerly,
4 westerly, northerly and westerly boundaries of the Suffolk County Nature
5 Preserve parcel known as Fox Lair, and identified as District 200,
6 Section 580, Block 3, Lot 24.2, to the northwest corner of the parcel
7 Suffolk County Water Authority parcel identified as District 200,
8 Section 580, Block 3, Lot 24.6; thence southward, eastward and southward
9 along the westerly boundary and southerly boundaries of that Suffolk
10 County Water Authority parcel to Main Street; thence eastward along the
11 north side of Main Street to the southeast corner of said Suffolk County
12 Water Authority parcel to its southeast corner; thence northward along
13 the easterly boundary of that parcel to the southwest property boundary
14 of the Suffolk County Nature Preserve parcel known as Fox Lair and iden-
15 tified as District 200, Section 580, Block 3, Lot 24.2, thence generally
16 eastward, southward, eastward, northward and eastward along the souther-
17 ly boundaries of said parcel and eastward along the southerly boundary
18 of the Suffolk County Nature Preserve parcel identified as District 200,
19 Section 583, Block 1, Lot 4.1, to the west side of the unimproved north-
20 south oriented road known variously as Smith Road, Longwood Road and
21 Private Road; thence southward along the westerly boundary of Smith Road
22 to the north side of the Long Island Expressway; thence westward along
23 the northerly boundary of the Long Island Expressway to the south side
24 of Main Street in Yaphank; thence westward along the southerly boundary
25 of Main Street in Yaphank to the westernmost extent along Main Street of
26 the Southaven County Park boundary; thence westward across County Road
27 21 to the western boundary of the County Road 21 right-of-way; thence
28 southward along the western boundary of the County Road 21 right-of-way

1 to the northerly side of the parcel identified as District 200, Section
2 611, Block 3, Lot 16, comprising the northerly bank of the Carmans River
3 known as Lower Lake; thence westward along the northerly side of that
4 property to the southwest corner of the parcel identified as District
5 200, Section 612, Block 4, Lot 1; thence northward along the westerly
6 boundary of that parcel to the southerly side of County Route 21 known
7 as Main Street; thence westward along the southerly side of County Route
8 21 known as Main Street to the northeast corner of the parcel identified
9 as District 200, Section 612, Block 2, Lot 12; thence southward along
10 the easterly boundary of that parcel to the southeast corner of the
11 parcel identified as District 200, Section 612, Block 2, Lot 11; thence
12 westward and northwestward along the northerly and northeasterly bounda-
13 ries of the Town of Brookhaven parcel identified as District 200,
14 Section 611, Block 3, Lot 9 to the south side of Mill Road, also known
15 as County Road 101; thence generally westward and southward along the
16 southerly side of Mill Road and continuing southward along the eastern
17 side of Patchogue-Yaphank Road, also known as County Road 101, to the
18 southerly side of Gerard Road; thence eastward along the southerly side
19 of Gerard Road to its westerly boundary known as the map of Grand
20 Heights, filed in the offices of the Suffolk County clerk; thence south-
21 ward along the westerly map line of the filed map known as Grand Heights
22 to the north side of the Long Island Expressway NYS Route 495; thence
23 easterly along the northerly side of the Long Island Expressway NYS
24 Route 495 to the westerly side of County Route 21 known as Yaphank
25 Avenue; thence southward along the westerly side of Yaphank Avenue to
26 the south side of the Long Island Expressway; thence eastward along the
27 south side of the Long Island Expressway to the westerly boundary of
28 Southaven County Park, thence generally southward along the westerly

1 boundary of Southaven County Park to the northeast corner of the lands
2 of Suffolk County identified as District 200, Section 665, Block 2, Lot
3 1; thence generally southward along the easterly boundary of said lot,
4 crossing the LIRR and Park Street and continuing southward along the
5 westerly boundary of Davenport Avenue as shown on the old filed map
6 known as Bellhaven Terrace; thence southward and eastward along the
7 westerly and southerly boundaries of the parcel identified as District
8 200, Section 744, Block 1, Lot 10 to the westerly boundary of the parcel
9 identified as District 200, Section 781, Block 1, Lot 3.1; thence
10 continuing southerly along the westerly boundary of that parcel to the
11 easterly boundary of Gerard Road; thence southward along the easterly
12 boundary of Gerard Road to Victory Avenue; thence eastward along the
13 northerly boundary of Victory Avenue to a point where the west bank of
14 the Carmans River passes under Victory Avenue and Route 27; thence south
15 under Route 27 to the southerly side of Montauk Highway also known as
16 County Road 80; thence westward along the southerly side of Montauk
17 Highway County Road 80, including lands owned by the United States known
18 as Wertheim National Wildlife Refuge (the "Refuge"), to the eastern side
19 of Old Stump Road; thence southward along the easterly side of Old Stump
20 Road to the northerly side of Beaver Dam Road; thence eastward along the
21 northerly side of Beaver Dam Road to the lands owned by the United
22 States known as Wertheim National Wildlife Refuge (the "Refuge"),
23 including the Carmans River; thence generally westerly and southerly to
24 the waters of Bellport Bay; thence generally easterly across the Bay and
25 northerly along the easterly boundary of the Refuge, including all lands
26 currently part of the Refuge and any lands which may become part of the
27 Refuge in the future to the east side of the southern terminus of Smith
28 Road; thence northward along the easterly side of Smith Road to the

1 southwesterly corner of the property identified as District 200, Section
2 974.50, Block 1, Lot 11; thence eastward, northward and westward in a
3 counter-clockwise direction along the southern, eastern and northern
4 boundaries of that property to the easterly side of Smith Road; thence
5 northward along the easterly side of Smith Road to the northerly side of
6 Montauk Highway County Road 80; thence northeasterly to the southwester-
7 ly corner of the property identified as District 200, Section 849, Block
8 2, Lot 2; thence eastward along the northerly boundary of Montauk High-
9 way to the southeasterly corner of the property identified as District
10 200, Section 850, Block 3, Lot 8; thence northward to the northeasterly
11 corner of that parcel, including all lands owned by the United States
12 known as Wertheim National Wildlife Refuge (the "Refuge") at any time
13 between June 1, 1993 and the present, and any lands which may become
14 part of the Refuge in the future; thence northwestward across Sunrise
15 Highway (NYS Route 27) to the southwesterly corner of the property iden-
16 tified as District 200, Section 850, Block 2, Lot 1; thence northward
17 along the westerly boundary of that parcel across to the northerly boun-
18 dary of Victory Avenue; thence westward along the northerly boundary of
19 Victory Avenue to the westerly boundary of River Road; thence northward
20 along the westerly boundary of River Road to the north side of the Long
21 Island Rail Road right-of-way; thence easterly along the northerly side
22 of the Long Island Rail Road right-of-way to the north side of Morich-
23 es-Middle Island Road; thence generally northward and westward along the
24 northerly side of Moriches-Middle Island Road to the northerly side of
25 the Long Island Expressway; thence westward along the northerly boundary
26 of the Long Island Expressway to the southeasterly corner of the Long-
27 wood Greenbelt property (the property identified as District 200,
28 Section 583, Block 2, Lot 1.1); thence northward along the easterly

1 boundary of the Longwood Greenbelt property to its northeast corner;
2 thence eastward to the southwesterly corner of the property known as
3 District 200, Section 552, Block 1, Lot 8; thence generally northeast-
4 ward along the easterly boundary of the property identified as District
5 200, Section 552, Block 1, Lot 1.7 to the northeasterly corner of that
6 parcel; thence eastward along the southerly boundaries of the parcels
7 identified as District 200, Section 504, Block 1, Lot 8, and District
8 200, Section 504, Block 1, Lot 11, to the westerly boundary of the
9 William Floyd Parkway (County Route 46); thence northward along the
10 westerly side of County Route 46 to a point 2000 (two thousand) feet
11 south of the southern bank of the Peconic River crossing of County Route
12 46; thence generally southeastward along a line parallel to, and 2000
13 (two thousand) feet generally south or southwest of, and parallel to,
14 the southernmost bank of the Peconic River to a point where the Peconic
15 River crosses the unpaved, unnamed, north-south firebreak and patrol
16 road on the eastern half of the Brookhaven National Laboratory property;
17 thence southward and southwestward along the easterly and southeasterly
18 boundaries of the unpaved, unnamed, north-south firebreak and patrol
19 road starting on the eastern half of the Brookhaven National Laboratory
20 property to the Brookhaven National Laboratory road known as Brookhaven
21 Avenue; thence due westward along a straight line to the Brookhaven
22 National Laboratory road known as Princeton Avenue; thence westward
23 along the southerly boundary of Princeton Avenue to the unnamed Labora-
24 tory road which diverts southwest in the vicinity of the Laboratory gate
25 house; thence southwestward along the southerly side of the unnamed
26 Laboratory road just described to County Route 46; thence southward
27 along the easterly side of County Route 46 to NYS Route 495; thence
28 eastward along the northerly boundary of NYS Route 495 to County Route

1 111; thence southeastward along the northerly boundary of County Route
2 111 to NYS Route 27 (Sunrise Highway); thence generally southward across
3 NYS Route 27 to the westernmost extent along NYS Route 27 of the unde-
4 veloped portion (as of June 1, 1993) of the parcel assemblage comprised
5 of those parcels identified as District 200, Section 594, Block 2, Lot 4
6 and District 900, Section 325, Block 1, Lot 41.2; thence southward along
7 the westerly boundary of the undeveloped portion (as of June 1, 1993) of
8 that parcel assemblage to County Route 71 (Old Country Road); thence
9 eastward along the northerly boundary of County Route 71 to the south-
10 eastern corner of the Suffolk County Nature Preserve lands which run
11 from NYS Route 27 south to County Route 111 and which adjoin the easter-
12 ly side of the preceding assemblage; thence northward along the easterly
13 boundary of that Suffolk County Nature Preserve assemblage (crossing the
14 County Route 111 right of way) to NYS Route 27; thence eastward along
15 the southerly boundary of NYS Route 27 to the westerly end of 19th
16 Street as shown in the old filed map contained within the tax map iden-
17 tified as District 900, Section 276, Block 2; thence southward along the
18 westerly boundary of that old filed map (shown in District 900, Sections
19 276, 302, 303, 327, and 328), and coterminous with the westerly side of
20 those parcels along the westerly side of Oishei Road, to County Route
21 71; thence eastward along the northerly boundary of County Route 71 to
22 the southeasterly corner of the parcel identified as District 900,
23 Section 328, Block 2, Lot 19; thence northward along the easterly bound-
24 ary of that old filed map surrounding Oishei Road, and coterminous with
25 the easterly side of those parcels along the easterly side of Oishei
26 Road, to a point along that line due west of the northwesterly corner of
27 the parcel containing the Suffolk County facilities identified as
28 District 900, Section 331, Block 1, Lot 1; thence due eastward along a

1 straight line to the northwesterly corner of that parcel; thence east-
2 ward along the northerly boundary of that parcel to its northeasterly
3 corner shown in District 900, Section 307; thence due eastward along a
4 straight line to Summit Boulevard; thence southward along the westerly
5 side of Summit Boulevard to County Route 71; thence eastward along the
6 northerly side of County Route 71, excluding all parcels abutting that
7 road which are developed as of June 1, 1993, to the Long Island Rail
8 Road tracks; thence eastward along the northerly boundary of the Long
9 Island Rail Road tracks to County Route 31 (Old Riverhead Road); thence
10 northward along the westerly boundary of County Route 31 to that point
11 opposite the point along the easterly side of County Route 31 (north of
12 the Stewart Avenue intersection) at which the undeveloped portion (as of
13 June 1, 1993) of the Suffolk County Airport (Gabreski Airport) occurs;
14 thence generally northward, eastward and southward around the westerly,
15 northerly and easterly boundaries of the undeveloped portion (as of June
16 1, 1993) of the airport property (excluding from the Core Preservation
17 Area those portions of the airport property which are occupied by the
18 runways, their associated maintenance areas, and those areas identified
19 for future use in the Suffolk County Airport Master Plan approved by the
20 County Legislature) to the Long Island Rail Road tracks (including in
21 the Core Preservation Area those portions of the airport property which
22 are adjacent to the Quogue Wildlife Refuge's westerly boundary and which
23 are in their natural state); thence eastward along the northerly bounda-
24 ry of the Long Island Rail Road tracks to the southeasterly corner of
25 the Town of Southampton parcel identified as District 902, Section 1,
26 Block 1, Lot 22.1; thence generally northward and eastward along the
27 easterly border of that parcel and the Town of Southampton parcels to
28 the immediate north identified as District 900, Section 313, Block 1,

1 Lot 42.1 and District 900, Section 287, Block 1, Lot 1.55 to County
2 Route 104; thence northward along the westerly boundary of County Route
3 104 to a point 1000 (one thousand) feet southward of NYS Route 27;
4 thence eastward along a line parallel to, and 1000 (one thousand) feet
5 south of, NYS Route 27, to the westerly boundary of the parcel identi-
6 fied as District 900, Section 252, Block 1, Lot 1; thence southward
7 along the westerly boundary of that parcel to the Long Island Rail Road
8 tracks; thence eastward along the northerly boundary of the Long Island
9 Rail Road tracks to Montauk Highway; thence eastward along the northerly
10 boundary of Montauk Highway to that point where the boundary of Sears-
11 Bellows County Park heads northward along the eastern side of the Munns
12 Pond portion; thence northward along the easterly boundary of Sears-Bel-
13 lows County Park, to NYS Route 27; thence eastward along the northerly
14 boundary of NYS Route 27 to NYS Route 24 (Riverhead - Hampton Bays
15 Road); thence generally northwestward and westward along the southwes-
16 terly boundary of NYS Route 24 to the easternmost extent along NYS Route
17 24 of the Suffolk County Parkland known as Flanders or Hubbard County
18 Park; thence generally northward, westward, and southward along the
19 easterly, northerly, and westerly boundaries of Flanders or Hubbard
20 County Park, including all adjacent or contiguous undeveloped Town of
21 Southampton parks, preserves, open space areas, or reserved areas, to
22 NYS Route 24; thence westward along the southerly boundary of NYS Route
23 24 to Pleasure Drive; thence southward along the easterly boundary of
24 Pleasure Drive a distance of 2000 (two thousand) feet, excluding all
25 parcels abutting that road which are developed as of June 1, 1993;
26 thence generally westward along a straight line to the southernmost
27 extent of the NYS David Sarnoff Preserve along the westerly boundaries
28 of the parcels on the westerly side of Brookhaven Avenue; thence gener-

1 ally northward and westward along the easterly and northerly boundary of
2 the NYS David Sarnoff Pine Barrens Preserve, crossing County Routes 105
3 and 104, to County Route 63 (Riverhead-Moriches Road); thence generally
4 westward and northward along the northerly boundary of the Suffolk Coun-
5 ty Cranberry Bog County Nature Preserve to County Route 51; thence
6 southwesterly along the westerly side of County Route 51 to the boundary
7 of the Cranberry Bog County Nature Preserve; thence westward and north-
8 ward along the northeasterly boundary of Cranberry Bog County Nature
9 Preserve to County Route 94 (also known as NYS Route 24, or Nugent
10 Drive); thence eastward along the northerly side of County Route 94 to
11 the County Route 94A bridge; thence northward along the westerly side of
12 the County Route 94A bridge to the Riverhead-Southampton border; thence
13 westward along the Riverhead-Southampton border, and the Riverhead-Bro-
14 okhaven Border, to the Forge Road Bridge; thence northward along the
15 westerly boundary of the Forge Road Bridge to Forge Road; thence
16 northwestward along the westerly boundary of Forge Road to the Long
17 Island Rail Road tracks; thence northward along the westerly boundary of
18 Forge Road (unpaved) to the intersection of NYS Route 25 and River Road;
19 thence westward along the southerly boundary of River Road to Edwards
20 Avenue; thence westward along the southerly boundary of River Road
21 (Grumman Boulevard or Swan Pond Road) to the southeast corner of that
22 parcel containing Conoe (or Canoe) Lake and identified as District 600,
23 Section 137, Block 1, Lot 1; thence northward, westward, and southward
24 along the borders of that parcel containing Conoe (or Canoe) Lake to
25 River Road (Grumman Boulevard); thence westward along the northerly
26 boundary of Grumman Boulevard to the southeasternmost corner of the
27 undeveloped portion (as of June 1, 1993) of the United States
28 Navy/Grumman Corporation property located on the north side of Grumman

1 Boulevard and adjacent to the Grumman entrance known as the South Gate;
2 thence due north along the easternmost edge of that undeveloped portion
3 (as of June 1, 1993) of the United States Navy/Grumman Corporation prop-
4 erty to NYS Route 25; thence along a straight line to the northerly side
5 of NYS Route 25 to a point occupied by the southeasternmost corner of
6 the parcel assemblage comprised of District 600, Section 75, Block 3,
7 Lot 10.1, and District 600, Section 96, Block 1, Lot 14, and otherwise
8 known as Camp Wauwepex; thence northward, westward, and generally south-
9 ward along the easterly, northerly, and generally westerly boundaries of
10 the Camp Wauwepex assemblage to NYS Route 25; thence westward along the
11 northerly side of NYS Route 25 to Montauk Trail; thence northeastward
12 along the northwesterly side of Montauk Trail to Panamoka Trail; thence
13 northward along the westerly side of Panamoka Trail, excluding all
14 parcels abutting that road which are developed as of June 1, 1993, to
15 Matinecock Trail; thence westward along the southerly side of Matinecock
16 Trail to the easterly boundary of Brookhaven State Park; thence general-
17 ly northward along the easterly boundary of Brookhaven State Park,
18 including all adjacent or contiguous undeveloped Town of Brookhaven
19 parks, preserves, open space areas, or reserved areas, to its inter-
20 section with NYS Route 25A; [thence westward along the southerly side of
21 NYS Route 25A to the northeast corner of the Shoreham-Wading River
22 school district property;] thence eastward along the southerly boundary
23 of Route 25A to a point due south of the southeast corner of the parcel
24 identified as District 200, Section 128, Block 1, Lot 3.1; thence
25 northeastward, northward and westward along the southerly, easterly and
26 northerly sides of the parcel identified as District 200, Section 128,
27 Block 1, Lot 1 to the southeast corner of the parcel identified as
28 District 200, Section 82, Block 1, Lot 5.2; thence northward along the

1 east side of this parcel to its intersection with the south side of
2 North Country Road; thence northward crossing North Country road to its
3 northerly side; thence eastward along the northerly side of North Coun-
4 try Road to the Brookhaven Town-Riverhead Town line; thence in a gener-
5 ally northwestward direction along said town line to a point in Wading
6 River Creek With the coordinates 40.96225 latitude and -72.863633 longi-
7 tude; thence westward a distance of approximately 90 feet to the easter-
8 ly side of LILCO Road; thence southward along LILCO Road to its inter-
9 section with the north side of North Country Road; thence westward along
10 the north side of North Country Road to the southeast corner of the
11 parcel identified as District 200, Section 39, Block 1, Lot 2; thence in
12 a northward and westward direction along the easterly and northerly
13 sides of said parcel to its northwest corner; thence northward along the
14 westerly boundary of the parcel identified as District 200, Section 83,
15 Block 1, Lot 1.4 to its northwest corner and the shoreline of Long
16 Island Sound; thence westward /along the northerly side of the parcel
17 identified as District 200, Section 83, Block 1, Lot 1.4 and continuing
18 in a westward direction along the northerly side of the parcel identi-
19 fied as district 200, section 39, Block 1, lot 1.2 and the southerly
20 extent of the Long Island Sound to the northwest corner of the property
21 identified as District 200, Section 39, Block 1, Lot 1.2; thence south-
22 ward along the westerly boundary of said property to North Country Road;
23 thence west along the southerly boundary of North Country Road to the
24 northwestern corner of the property identified as District 200, Section
25 82, Block 1, Lot 1.1; thence south along the westerly boundary of said
26 property and the westerly boundary of the property identified as
27 District 200, Section 39, Block 1, Lot 1.2 to the northwest corner of
28 property identified as District 200, Section 82, Block 1, Lot 5.1;

1 thence southward along the westerly boundary of said property in a line
2 to the northeast corner of property identified as District 200, Section
3 105, Block 3, Lot 5; thence southward along the easterly boundary of
4 said property to the north side of Route 25A; thence eastward along the
5 north side of Route 25A to a point directly north of the northeast
6 corner of the Shoreham-Wading River school district property; thence
7 southward, crossing Route 25A to its southerly boundary and the north-
8 east corner of the Shoreham-Wading river school district property;
9 thence southward, westward, and northward along the easterly, southerly,
10 and westerly boundaries of the Shoreham-Wading River school district
11 property to NYS Route 25A; thence westward along the southerly side of
12 NYS Route 25A to County Route 46; thence southward along the easterly
13 side of County Route 46 to its intersection with the Suffolk County Pine
14 Trail Nature Preserve; thence westward along the northerly boundary of
15 the Suffolk County Pine Trail Nature Preserve where the Preserve is
16 adjacent to developed parcels or parcels in agricultural or horticultur-
17 al use, or along a line parallel to, and 100 (one hundred) feet north
18 of, the Preserve where the Preserve is adjacent to parcels which are
19 undeveloped as of June 1, 1993, to the southeastern corner of the parcel
20 west of Woodlots Road and identified as District 200, Section 291, Block
21 1, Lot 14.1; thence northward and westward along the easterly and north-
22 erly boundaries of that parcel to Whiskey Road; thence westward along
23 the southerly side of Whiskey Road to Wading River Hollow Road; thence
24 northward along the westerly side of Wading River Hollow Road to the
25 boundary of the NYS Rocky Point Land; thence generally northward along
26 the easterly boundary of the NYS Rocky Point Land, including all adja-
27 cent or contiguous undeveloped Town of Brookhaven parks, preserves, open
28 space areas, or reserved areas, to NYS Route 25A; thence westward along

1 the southerly side of NYS Route 25A, excluding those parcels abutting
2 that road which are developed as of June 1, 1993, and those lands iden-
3 tified for the reroute of Route 25A by the NYS Department of Transporta-
4 tion, to the northeastern corner of the parcel identified as District
5 200, Section 102, Block 3, Lot 1.4; thence southward along the westerly
6 boundary of that parcel to the parcel identified as District 200,
7 Section 102, Block 3, Lot 1.6; thence generally westward and southward
8 along the westerly boundaries of that parcel and the adjoining southerly
9 parcel identified as District 200, Section 102, Block 3, Lot 1.5 to the
10 boundary of the NYS Rocky Point Land; thence westward along the norther-
11 ly boundary of the NYS Rocky Point Land to County Route 21; thence
12 generally westward along a straight line across County Route 21 to the
13 northernmost extent along County Route 21 of the NYS Rocky Point Land;
14 thence generally westward along the generally northerly boundary of the
15 NYS Rocky Point Land to the point or place of beginning, and excluding
16 the area defined as beginning at a point where the southerly boundary of
17 NYS Route 25 meets the easterly side of the Suffolk County Pine Trail
18 Nature Preserve; thence southeastward along the easterly side of the
19 Suffolk County Pine Trail Nature Preserve where the Preserve is adjacent
20 to developed parcels, or along a line parallel to, and 100 (one hundred)
21 feet east of, the Preserve where the Preserve is adjacent to parcels
22 which are undeveloped as of June 1, 1993, to the Long Island Lighting
23 Company high voltage transmission lines; thence northward along the
24 westerly side of the Long Island Lighting Company high voltage trans-
25 mission lines to NYS Route 25; thence westward along the southerly side
26 of NYS Route 25 to the point or place of beginning;
27 and excluding two distinct areas described as follows: Area One is the
28 area defined as beginning at a point where the southerly boundary of NYS

1 Route 25 meets the easterly side of the Suffolk County Pine Trail Nature
2 Preserve; thence southeastward along the easterly side of the Suffolk
3 County Pine Trail Nature Preserve where the Preserve is adjacent to
4 developed parcels, or along a line parallel to, and 100 (one hundred)
5 feet east of, the Preserve where the Preserve is adjacent to parcels
6 which are undeveloped as of June 1, 1993, to the Long Island Lighting
7 Company high voltage transmission lines; thence northward along the
8 westerly side of the Long Island Lighting Company high voltage trans-
9 mission lines to NYS Route 25; thence westward along the southerly side
10 of NYS Route 25 to the point or place of beginning; Area Two is the area
11 defined as beginning at the northwest corner of the parcel identified as
12 District 200, Section 552, Block 1, Lot 3; thence eastward, southwest-
13 ward and generally northward along the northerly, southeasterly and
14 westerly boundaries of that parcel, containing the sewage treatment
15 facility known as the Dorade facility, to the point of beginning; Area
16 three is defined as the parcel identified as district 200, section 82,
17 block 1, lot 3.

18 § 2. The town of Brookhaven, the county of Suffolk, and the Central
19 Pine Barrens joint planning and policy commission shall compile a report
20 providing an assessment of properties that would be suitable for solar
21 projects including an inventory of specific parcels within the town of
22 Brookhaven that minimize the need to utilize undisturbed open space.
23 Such report shall be submitted to the governor no later than January 1,
24 2020.

25 § 3. The definitions of "central pine barrens" and "core preservation
26 area" of section 57-0107 of the environmental conservation law shall be
27 amended to include the property described as thence eastward along the
28 northerly boundary of Moriches-Middle Island Road to a point due north

1 of the easterly boundary of Cranford Boulevard; thence southward across
2 Moriches-Middle Island Road and along the easterly boundary of Cranford
3 Boulevard to the south-western corner of the property identified as
4 District 200, Section 645, Block 3, Lot 29.1; thence southeastward along
5 the southerly boundary of said property to its intersection with proper-
6 ty identified as District 200, Section 712, Block 9, Lot 1; thence
7 generally southward along the westerly boundary of said property to its
8 intersection with the northerly side of the eastward extension of Grove
9 Drive; thence southward crossing Grove Drive to its south side; thence
10 westward along the southerly boundary of the Grove Drive road extension
11 to the northwestern corner of the property identified as District 200,
12 Section 749, Block 3, Lot 41.1; and comprised of parcels owned by the
13 county of Suffolk and the town of Brookhaven; thence southward to the
14 southwestern corner of property identified as District 200, Section 749,
15 Block 3, Lot 43; thence eastward along the southerly boundary of said
16 property to the west side of Lambert Avenue; thence crossing Lambert
17 Avenue to its easterly side; thence southward along the easterly bounda-
18 ry of Lambert Avenue to the northerly boundary of the Sunrise Highway
19 Service Road; thence northeastward along the northerly boundary of the
20 Sunrise Highway Service Road to Barnes Road; thence northward along the
21 westerly boundary of Barnes Road to the northeastern corner of property
22 identified as District 200, Section 750, Block 3, Lot 40.2; thence west-
23 ward along the northerly boundary of said property to the property iden-
24 tified as District 200, Section 713, Block 1, Lot 2; thence westward
25 along the northerly boundary of property identified as District 200,
26 Section 713, Block 1, Lot 1; thence northward along the westerly side of
27 Weeks Avenue to the northeastern corner of property identified as
28 District 200, Section 713, Block 3, Lot 1; thence westward along the

1 northerly boundary of said property to Michigan Avenue; thence northward
2 along the easterly boundary of Michigan Ave to Moriches-Middle Island
3 Road, comprising of all lands owned by the Town of Brookhaven and
4 Suffolk county therein and excluding all privately owned real property.

5 § 4. This act shall take effect January 1, 2019; provided that if the
6 provisions of this act establishing a new description and boundaries of
7 the Central Pine Barrens Area or the core preservation area removes or
8 excludes any of the lands of the Central Pine Barrens Area or the core
9 preservation area as such lands are described and bounded in chapter 267
10 of the laws of 2015, and/or protections established and/or provided by
11 such act, this act shall be deemed repealed and of no force and effect
12 and chapter 267 of the laws of 2015 shall remain in full force and
13 effect. The state legislature shall notify the legislative bill draft-
14 ing commission of any such decrease and resulting repeal in order that
15 the commission may maintain an accurate and timely effective data base
16 of the official text of the laws of the state of New York in furtherance
17 of effectuating the provisions of section 44 of the legislative law and
18 section 70-b of the public officers law.

19 PART DD

20 Section 1. Expenditures of moneys appropriated in a chapter of the
21 laws of 2018 to the department of agriculture and markets from the
22 special revenue funds-other/state operations, miscellaneous special
23 revenue fund-339, public service account shall be subject to the
24 provisions of this section. Notwithstanding any other provision of law
25 to the contrary, direct and indirect expenses relating to the department
26 of agriculture and markets' participation in general ratemaking

1 proceedings pursuant to section 65 of the public service law or certif-
2 ication proceedings pursuant to article 7 or 10 of the public service
3 law, shall be deemed expenses of the department of public service within
4 the meaning of section 18-a of the public service law. No later than
5 August 15, 2019, the commissioner of the department of agriculture and
6 markets shall submit an accounting of such expenses, including, but not
7 limited to, expenses in the 2018 -- 2019 fiscal year for personal and
8 non-personal services and fringe benefits, to the chair of the public
9 service commission for the chair's review pursuant to the provisions of
10 section 18-a of the public service law.

11 § 2. Expenditures of moneys appropriated in a chapter of the laws of
12 2018 to the department of state from the special revenue funds-
13 other/state operations, miscellaneous special revenue fund-339, public
14 service account shall be subject to the provisions of this section.
15 Notwithstanding any other provision of law to the contrary, direct and
16 indirect expenses relating to the activities of the department of
17 state's utility intervention unit pursuant to subdivision 4 of section
18 94-a of the executive law, including, but not limited to participation
19 in general ratemaking proceedings pursuant to section 65 of the public
20 service law or certification proceedings pursuant to article 7 or 10 of
21 the public service law, shall be deemed expenses of the department of
22 public service within the meaning of section 18-a of the public service
23 law. No later than August 15, 2019, the secretary of state shall submit
24 an accounting of such expenses, including, but not limited to, expenses
25 in the 2018 -- 2019 fiscal year for personal and non-personal services
26 and fringe benefits, to the chair of the public service commission for
27 the chair's review pursuant to the provisions of section 18-a of the
28 public service law.

1 § 3. Expenditures of moneys appropriated in a chapter of the laws of
2 2018 to the office of parks, recreation and historic preservation from
3 the special revenue funds-other/state operations, miscellaneous special
4 revenue fund-339, public service account shall be subject to the
5 provisions of this section. Notwithstanding any other provision of law
6 to the contrary, direct and indirect expenses relating to the office of
7 parks, recreation and historic preservation's participation in general
8 ratemaking proceedings pursuant to section 65 of the public service law
9 or certification proceedings pursuant to article 7 or 10 of the public
10 service law, shall be deemed expenses of the department of public
11 service within the meaning of section 18-a of the public service law. No
12 later than August 15, 2019, the commissioner of the office of parks,
13 recreation and historic preservation shall submit an accounting of such
14 expenses, including, but not limited to, expenses in the 2018 -- 2019
15 fiscal year for personal and non-personal services and fringe benefits,
16 to the chair of the public service commission for the chair's review
17 pursuant to the provisions of section 18-a of the public service law.

18 § 4. Expenditures of moneys appropriated in a chapter of the laws of
19 2018 to the department of environmental conservation from the special
20 revenue funds-other/state operations, environmental conservation special
21 revenue fund-301, utility environmental regulation account shall be
22 subject to the provisions of this section. Notwithstanding any other
23 provision of law to the contrary, direct and indirect expenses relating
24 to the department of environmental conservation's participation in state
25 energy policy proceedings, or certification proceedings pursuant to
26 article 7 or 10 of the public service law, shall be deemed expenses of
27 the department of public service within the meaning of section 18-a of
28 the public service law. No later than August 15, 2019, the commissioner

1 of the department of environmental conservation shall submit an account-
2 ing of such expenses, including, but not limited to, expenses in the
3 2018 -- 2019 fiscal year for personal and non-personal services and
4 fringe benefits, to the chair of the public service commission for the
5 chair's review pursuant to the provisions of section 18-a of the public
6 service law.

7 § 5. Notwithstanding any other law, rule or regulation to the contra-
8 ry, expenses of the department of health public service education
9 program incurred pursuant to appropriations from the cable television
10 account of the state miscellaneous special revenue funds shall be deemed
11 expenses of the department of public service. No later than August 15,
12 2019, the commissioner of the department of health shall submit an
13 accounting of expenses in the 2018 -- 2019 fiscal year to the chair of
14 the public service commission for the chair's review pursuant to the
15 provisions of section 217 of the public service law.

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

20 § 7. This act shall take effect immediately and shall be deemed to
21 have been in full force and effect on and after April 1, 2018 and shall
22 be deemed repealed April 1, 2019.

23

PART EE

24 Section 1. Expenditures of moneys by the New York state energy
25 research and development authority for services and expenses of the
26 energy research, development and demonstration program, including

1 grants, the energy policy and planning program, the zero emissions vehi-
2 cle and electric vehicle rebate program, and the Fuel NY program shall
3 be subject to the provisions of this section. Notwithstanding the
4 provisions of subdivision 4-a of section 18-a of the public service law,
5 all moneys committed or expended in an amount not to exceed \$19,700,000
6 shall be reimbursed by assessment against gas corporations, as defined
7 in subdivision 11 of section 2 of the public service law and electric
8 corporations as defined in subdivision 13 of section 2 of the public
9 service law, where such gas corporations and electric corporations have
10 gross revenues from intrastate utility operations in excess of \$500,000
11 in the preceding calendar year, and the total amount which may be
12 charged to any gas corporation and any electric corporation shall not
13 exceed one cent per one thousand cubic feet of gas sold and .010 cent
14 per kilowatt-hour of electricity sold by such corporations in their
15 intrastate utility operations in calendar year 2016. Such amounts shall
16 be excluded from the general assessment provisions of subdivision 2 of
17 section 18-a of the public service law. The chair of the public service
18 commission shall bill such gas and/or electric corporations for such
19 amounts on or before August 10, 2018 and such amounts shall be paid to
20 the New York state energy research and development authority on or
21 before September 10, 2018. Upon receipt, the New York state energy
22 research and development authority shall deposit such funds in the ener-
23 gy research and development operating fund established pursuant to
24 section 1859 of the public authorities law. The New York state energy
25 research and development authority is authorized and directed to: (1)
26 transfer \$1 million to the state general fund for services and expenses
27 of the department of environmental conservation, \$150,000 to the state
28 general fund for services and expenses of the department of agriculture

1 and markets, and \$825,000 to the University of Rochester laboratory for
2 laser energetics from the funds received; and (2) commencing in 2016,
3 provide to the chair of the public service commission and the director
4 of the budget and the chairs and secretaries of the legislative fiscal
5 committees, on or before August first of each year, an itemized record,
6 certified by the president and chief executive officer of the authority,
7 or his or her designee, detailing any and all expenditures and commit-
8 ments ascribable to moneys received as a result of this assessment by
9 the chair of the department of public service pursuant to section 18-a
10 of the public service law. This itemized record shall include an item-
11 ized breakdown of the programs being funded by this section and the
12 amount committed to each program. The authority shall not commit for
13 any expenditure, any moneys derived from the assessment provided for in
14 this section, until the chair of such authority shall have submitted,
15 and the director of the budget shall have approved, a comprehensive
16 financial plan encompassing all moneys available to and all anticipated
17 commitments and expenditures by such authority from any source for the
18 operations of such authority. Copies of the approved comprehensive
19 financial plan shall be immediately submitted by the chair to the chairs
20 and secretaries of the legislative fiscal committees. Any such amount
21 not committed by such authority to contracts or contracts to be awarded
22 or otherwise expended by the authority during the fiscal year shall be
23 refunded by such authority on a pro-rata basis to such gas and/or elec-
24 tric corporations, in a manner to be determined by the department of
25 public service, and any refund amounts must be explicitly lined out in
26 the itemized record described above.

27 § 2. This act shall take effect immediately and shall be deemed to
28 have been in full force and effect on and after April 1, 2018.

1

PART FF

2 Section 1. Paragraph (a) of subdivision 17 of section 1005 of the
3 public authorities law, as amended by chapter 494 of the laws of 2011,
4 is amended to read as follows:

5 (a) As deemed feasible and advisable by the trustees, to finance
6 [and], design, develop, construct, implement, provide and administer
7 energy-related projects, programs and services for any public entity,
8 any independent not-for-profit institution of higher education within
9 the state, [and] any recipient of [the] economic development power,
10 expansion power, replacement power, preservation power, high load factor
11 power, municipal distribution agency power, [power for jobs, and] or
12 recharge New York power [programs administered] allocated by the author-
13 ity, and any party located within the state under contract with the
14 authority to purchase power from the authority pursuant to this title or
15 any other law. In establishing and providing high performance and
16 sustainable building programs and services authorized by this subdivi-
17 sion, the authority is authorized to consult standards, guidelines,
18 rating systems, and/or criteria established or adopted by other organ-
19 izations, including but not limited to the United States green building
20 council under its leadership in energy and environmental design (LEED)
21 programs, the green building initiative's green globes rating system,
22 and the American National Standards Institute. The source of any financ-
23 ing and/or loans provided by the authority for the purposes of this
24 subdivision may be the proceeds of notes issued pursuant to section one
25 thousand nine-a of this title, the proceeds of bonds issued pursuant to
26 section one thousand ten of this title, or any other available authority
27 funds.

1 § 2. Subparagraph 2 of paragraph (b) of subdivision 17 of section 1005
2 of the public authorities law, as added by chapter 477 of the laws of
3 2009 and such subdivision as renumbered by section 16 of part CC of
4 chapter 60 of the laws of 2011, is amended to read as follows:

5 (2) "Energy-related projects, programs and services" means energy
6 management, distribution, or control projects and services, energy
7 supply security, resiliency or reliability projects and services, energy
8 procurement programs and services for public entities, energy efficiency
9 projects and services, clean energy technology projects and services,
10 and high performance and sustainable building programs and services, and
11 the construction, installation and/or operation of facilities or equip-
12 ment done in connection with any such energy-related projects, programs
13 or services.

14 § 3. Subparagraph 5 of paragraph (b) of subdivision 17 of section 1005
15 of the public authorities law, as added by chapter 477 of the laws of
16 2009 and such subdivision as renumbered by section 16 of part CC of
17 chapter 60 of the laws of 2011, is amended to read as follows:

18 (5) "Public entity" means an agency, public authority, public benefit
19 corporation, public corporation, municipal corporation, school district,
20 board of cooperative educational services, public university, fire
21 district, district corporation, or special improvement district governed
22 by a separate board of commissioners, including an entity formed by or
23 under contract with one or more public entities for the purpose of
24 facilitating the delivery, implementation or management of energy-relat-
25 ed projects, programs and services.

26 § 4. This act shall take effect immediately.

1 Section 1. Section 1005 of the public authorities law is amended by
2 adding a new subdivision 26 to read as follows:

3 26. (a) Notwithstanding any inconsistent provision of this title, as
4 deemed feasible and advisable by the trustees, the authority is author-
5 ized to finance, plan, design, engineer, acquire, construct, operate or
6 manage (collectively, "develop") throughout its area of service such
7 renewable power and energy generating projects, and procure such renewa-
8 ble power, energy, or related attributes, which the authority deems
9 necessary or desirable to assist the state in meeting any state clean
10 energy standard or goals, and/or supply the needs of any public entity
11 or authority customer within the state. The authority is further author-
12 ized to allocate and sell renewable power, energy, or related attributes
13 that is produced by renewable power and energy generating projects it
14 develops, or that it procures, to any public entity or authority custom-
15 er. The authority shall be entitled to fully recover its costs, includ-
16 ing its acquisition, finance, planning, contracting, capital, operating
17 and maintenance costs, from the entities that purchase renewable power,
18 energy and related attributes from the authority.

19 (b) The source of any financing and/or loans provided by the authority
20 for the purposes of this subdivision may be the proceeds of notes issued
21 pursuant to section one thousand nine-a of this title, the proceeds of
22 bonds issued pursuant to section one thousand ten of this title, or any
23 other available authority funds.

24 (c) For purposes of this subdivision, the following terms shall have
25 the meanings indicated in this paragraph unless the context indicates
26 another meaning or intent:

1 (1) "Authority customer" means an entity located in the state that
2 purchases or is under contract to purchase power or energy from the
3 authority.

4 (2) "Public entity" has the meaning ascribed to that term by subpara-
5 graph five of paragraph (b) of subdivision seventeen of this section.

6 (3) "Renewable energy resources" means solar power, wind power, hydro-
7 electric, and any other generation resource authorized by any renewable
8 energy standard adopted by the state for the purpose of implementing any
9 state clean energy standard.

10 (4) "Renewable power and energy generating projects" means projects
11 that generate power and energy by means of renewable energy resources,
12 or that store and supply power and energy generated by means of renewa-
13 ble energy resources, and include the construction, installation and/or
14 operation of ancillary facilities or equipment done in connection with
15 any such renewable power and energy generating projects, provided,
16 however, that such term shall not include the authority's Saint Lawrence
17 and Niagara hydroelectric.

18 (5) "State" means the state of New York.

19 (d) Nothing in this subdivision is intended to limit, impair or affect
20 the authority's legal authority under any other provision of this title.

21 § 2. This act shall take effect immediately.

22 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
23 sion, section or part of this act shall be adjudged by any court of
24 competent jurisdiction to be invalid, such judgment shall not affect,
25 impair, or invalidate the remainder thereof, but shall be confined in
26 its operation to the clause, sentence, paragraph, subdivision, section
27 or part thereof directly involved in the controversy in which such judg-
28 ment shall have been rendered. It is hereby declared to be the intent of

1 the legislature that this act would have been enacted even if such
2 invalid provisions had not been included herein.

3 § 3. This act shall take effect immediately provided, however, that
4 the applicable effective date of Parts A through GG of this act shall be
5 as specifically set forth in the last section of such Parts.