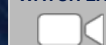




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A10741 Summary:

BILL NO A10741

SAME AS SAME AS [S08159](#)

SPONSOR Farrell

COSPNSR Weinstein, Robinson, Glick, Pretlow

MLTSPNSR

Amd §§606 & 42, Tax L; amd §§425, 520 & 1306-a; RPT L; amd §207, RWB L; amd §1, Chap 53 of 2016; amd §3614-c, Pub Health L; amd §11, Chap 710 of 1988; amd §1678-a, Pub Auth L; amd §3, Chap 549 of 1994; amd §1, Chap 55 of 2016; amd §34, Chap 91 of 2002; amd §17, Chap 345 of 2009; add §2590-r-1, amd §§355 & 2851, Ed L; add §§1308, 1309 & 1310, amd §§1303, 1304, 1351 & 1353, RPAP L; amd R3408, CPLR

Relates to a school tax reduction credit for residents of a city with a population over one million; relates to the school tax relief exemption (Part A); relates to the farm workforce retention credit (Part B); relates to the board of directors of NYRA (Part C); amends the aid to localities budget, relating to nonpublic school aid payable in the 2014-2015 state fiscal year (Part D); relates to home care worker wage parity (Part E); relates to effectiveness of certain managed care programs (Part F); relates to enforcement of building codes of the City of New York (Part G); intentionally omitted (Part H); relates to the New York state design and construction corporation act (Part I); extends provisions relating to the membership composition of the metropolitan transportation authority board (Part J); amends the aid to localities budget, relating to the office for aging community services program and the Wadsworth center for laboratories and research program (Part K); amends the aid to localities budget, relating to making technical corrections thereto (Part L); amends the capital projects budget, relating to general maintenance and improvements for the city university of New York and state university of New York (Part M); intentionally omitted (Part N); relates to extending the provisions relating to the reorganization of the NYC school construction authority, board of education and community boards; extends such provisions until 2017; relates to school based budgeting and expenditure reporting (Part O); and relates to the duties and powers of charter entities (Part P).

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A10741 Text:

STATE OF NEW YORK

10741

IN ASSEMBLY

June 17, 2016

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Farrell) --
(at request of the Governor) -- read once and referred to the Committee
on Ways and Means

AN ACT to amend the tax law, in relation to a school tax reduction credit for residents of a city with a population over one million; to amend the real property tax law and the tax law, in relation to the school tax relief exemption (Part A); to amend the tax law, in relation to the farm workforce retention credit (Part B); to amend the racing, pari-mutuel wagering and breeding law, in relation to the board of directors of the New York racing association (Part C); to amend chapter 53 of the laws of 2016 enacting the Aid to Localities Budget, in relation to the office of prekindergarten through grade twelve education program (Part D); to amend the public health law, in relation to home care worker wage parity (Part E); to amend chapter 710 of the laws of 1988, amending the social services law and the education law relating to medical assistance eligibility of certain persons and providing for managed medical care demonstration programs, in relation to the effectiveness thereof (Part F); relating to the enforcement of building codes of the city of New York (Part G); intentionally omitted (Part H); to amend the public authorities law, in relation to the New York state design and construction corporation act (Part I); to amend chapter 549 of the laws of 1994, amending the public authorities law relating to the membership composition of the metropolitan transportation authority board, in relation to extending the effectiveness of such provisions (Part J); to amend chapter 53 of the laws of 2016 enacting the Aid to Localities Budget, in relation to the office of aging community services program and the Wadsworth center for laboratories and research program (Part K); to amend chapter 53 of the laws of 2016, enacting the Aid to Localities Budget, in relation to making technical corrections thereto (Part L); to amend chapter 55 of the laws of 2016 enacting the Capital Projects Budget, in relation to general maintenance and improvements for the city university of New York and state university of New York (Part M); intentionally omitted (Part N); to amend chapter 91 of the laws of 2002, amending the education law and other laws relating to reorganization of the New York city school construction authority, board of education and community boards, in relation to the effectiveness ther-

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

LBD12095-01-6

eof; and to amend chapter 345 of the laws of 2009, amending the education law and other laws relating to the New York city board of education, chancellor, community councils and community superintendents, in relation to the effectiveness thereof; and to amend the education law, in relation to community school district based budgeting and expenditure reporting (Part O); to amend the education law, in relation to the duties and powers of charter entities (Part P); and to amend the real property actions and proceedings law and the civil practice law and rules, in relation to foreclosure proceedings and pre-foreclosure notices (Part Q)

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 2016-2017
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through Q. 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, including
7 the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12

PART A

13 Section 1. Subsection (eee) of section 606 of the tax law, as added by
14 section 1 of part E of chapter 60 of the laws of 2016 is relettered
15 subsection (ggg).

16 § 2. Subdivision 16 of section 425 of the real property tax law, as
17 added by section 1 of part F of chapter 60 of the laws of 2016, is
18 renumbered subdivision 15-a and amended to read as follows:

19 ~~[(16)]~~ 15-a. Direct payments. Notwithstanding any provision of law to
20 the contrary, when the commissioner finds that a property owner was
21 eligible for the STAR exemption authorized by this section on an assessment
22 roll, but the exemption was not taken into account in the calculation
23 of the property owner's school tax bill due to an administrative
24 error, and the property owner or his or her agent paid an excessive
25 amount of school taxes on the property as a result, the commissioner ~~[of~~
26 ~~taxation and finance]~~ is authorized to remit directly to the property
27 owner the tax savings that the STAR exemption would have yielded if the
28 STAR exemption had been taken into account in the calculation of that
29 taxpayer's school tax bill. The amounts payable under this section shall
30 be paid from the account established for the payment of STAR benefits to
31 late registrants pursuant to subparagraph (iii) of paragraph (a) of
32 subdivision fourteen of this section. Where such a payment has been
33 made, neither the property owner nor his or her agent shall be entitled
34 to a refund of the excessive amount of school taxes paid on account of
35 the administrative error.

36 § 3. Paragraph (c) of subdivision 11 of section 425 of the real property
37 tax law, as added by section 1 of part B of chapter 389 of the laws
38 of 1997, is amended to read as follows:

1 (c) Transfers of title. When the assessor has received a report pursu-
2 ant to section five hundred seventy-four of this [~~article~~] ~~chapter~~ of a
3 transfer of title to real property which is exempt pursuant to this
4 section, the assessor shall [~~send the new owner or owners as shown ther-~~
5 ~~eon an application for the exemption authorized by this section~~] ~~discon-~~
6 ~~tinue the exemption as required by subdivision sixteen of this section.~~
7 The assessor shall not implement the provisions of section five hundred
8 twenty of this chapter upon such a transfer, except to the extent that
9 the property may also be receiving one or more other exemptions.

10 § 4. Paragraph (c) of subdivision 6 of section 425 of the real proper-
11 ty tax law, as amended by chapter 570 of the laws of 1998, is amended to
12 read as follows:

13 (c) Senior citizens exemption. When property is eligible for the
14 senior citizens exemption authorized by section four hundred sixty-seven
15 of this article, it shall also be deemed to be eligible for the enhanced
16 exemption authorized by this section for certain senior citizens,
17 provided, where applicable, that the age requirement established by a
18 municipal corporation pursuant to subdivision five of section four
19 hundred sixty-seven of this article is satisfied, and no separate appli-
20 cation need be filed therefor. Provided, however, that the provisions of
21 this paragraph shall only apply where at least one of the applicants
22 held title to the property on the taxable status date of the assessment
23 roll that was used to levy school district taxes for the two thousand
24 fifteen--two thousand sixteen school year and the property was granted
25 an exemption pursuant to this section on such assessment roll.

26 § 5. Subdivision 16 of section 425 of the real property tax law, as
27 added by section 2 of part A of chapter 60 of the laws of 2016, is
28 amended to read as follows:

29 16. Transition to personal income tax credit. (a) Beginning with
30 assessment rolls used to levy school district taxes for the two thousand
31 sixteen--two thousand seventeen school year, no application for an
32 exemption under this section may be [~~filed or~~] approved unless at least
33 one of the applicants held title to the property on the taxable status
34 date of the assessment roll that was used to levy school district taxes
35 for the two thousand fifteen--two thousand sixteen school year and the
36 property was granted an exemption pursuant to this section on that
37 assessment roll. In the event that an application is submitted to the
38 assessor that cannot be approved due to this restriction, the assessor
39 shall notify the applicant that he or she is required by law to deny the
40 application, but that, in lieu of a STAR exemption, the applicant may
41 claim the personal income tax credit authorized by subsection (eee) of
42 section six hundred six of the tax law if eligible, and that the appli-
43 cant may contact the department of taxation and finance for further
44 information. The commissioner shall provide a form for assessors to use,
45 at their option, when making this notification. No STAR exemption may be
46 granted on the basis of an application that is not approvable due to
47 this restriction.

48 (b) Where property received an exemption pursuant to this section on
49 an assessment roll used to levy school district taxes for the two thou-
50 sand fifteen--two thousand sixteen school year, and at least one of its
51 owners held title to the property on the taxable status date of such
52 assessment roll, the exemption shall continue to be granted on subse-
53 quent assessment rolls without regard to the provisions of this subdivi-
54 sion as long as all applicable requirements of this section are satis-
55 fied. In addition, such exemption shall be subject to modification as
56 follows:

1 (i) A basic STAR exemption shall be changed to an enhanced STAR
2 exemption if the owners and spouses primarily residing on the property
3 file a timely application showing that their ages and incomes meet the
4 requirements of subdivision four of this section.

5 (ii) An enhanced STAR exemption shall be changed to a basic STAR
6 exemption if the combined income of the owners and spouses primarily
7 residing on the property increases above the limit set by subdivision
8 four of this section, subject to the provisions of subparagraph (iii) of
9 this paragraph, provided that if their combined income falls below the
10 limit set by subdivision four of this section in the future, their
11 enhanced STAR exemption may be resumed upon timely application.

12 (iii) A STAR exemption shall be discontinued if the combined income of
13 the owners and spouses primarily residing on the property increases
14 above the limit set by subdivision three of this section, provided that
15 if their income falls below such limit in the future, their STAR
16 exemption may be resumed upon timely application.

17 (iv) A STAR exemption shall be permanently discontinued if the owners
18 fail to satisfy the applicable residency or ownership requirement, or
19 both.

20 (c) If the owners of a parcel that is receiving the STAR exemption
21 authorized by this section want to claim the personal income tax credit
22 authorized by subsection (eee) of section six hundred six of the tax law
23 in lieu of such exemption, they all must renounce that exemption in the
24 manner provided by section four hundred ninety-six of this chapter, and
25 must pay any required taxes, interest and penalties, on or before Decem-
26 ber thirty-first of the taxable year for which they want to claim the
27 credit. Any such renunciation shall be irrevocable.

28 (d) Notwithstanding the foregoing provisions of this subdivision,
29 where a property served as the primary residence of a married couple on
30 the taxable status date of the assessment roll that was used to levy
31 school district taxes for the two thousand fifteen--two thousand sixteen
32 school year, but only one of the spouses held title to the property on
33 that taxable status date, and that spouse has since died and his or her
34 interest in the property has been inherited by his or her surviving
35 spouse, the surviving spouse shall be entitled to apply for and receive
36 an exemption under this section to the same extent as if he or she had
37 held title to the property on that taxable status date.

38 ~~(c)~~ (e) The provisions of this subdivision shall apply to all appli-
39 cations for STAR exemptions beginning with assessment rolls used to levy
40 school district taxes for the two thousand sixteen--two thousand seven-
41 teen school year, including those submitted prior to the effective date
42 of this subdivision. If any application was approved prior to the effec-
43 tive date of this subdivision that is not approvable hereunder, such
44 approval shall be deemed void, and the assessor shall provide the appli-
45 cant with the notice required by paragraph (a) of this subdivision,
46 provided that if a STAR exemption is granted on a tentative or final
47 assessment roll or tax roll on the basis of an application that is not
48 approvable hereunder, the assessor, or other local official or officials
49 having custody and control of such roll, is hereby authorized and
50 directed to remove such exemption from such roll without regard to the
51 provisions of title three of article five of this chapter or any compa-
52 erable laws governing the correction of administrative errors on assess-
53 ment rolls and tax rolls, notwithstanding any provision of law to the
54 contrary. If an application was submitted prior to the effective date of
55 this subdivision but is not approvable hereunder, the applicant may
56 apply for advance payment of the personal income tax credit authorized

1 by subsection (eee) of section six hundred six of the tax law for the
2 two thousand sixteen taxable year, if eligible, in the manner provided
3 by paragraph ten of such subsection, ~~[notwithstanding the time limita-~~
4 ~~tions contained in that paragraph] even if the property was acquired~~
5 ~~prior to January first of the taxable year.~~

6 § 6. Subdivision 3 of section 520 of the real property tax law, as
7 amended by section 4 of part A of chapter 60 of the laws of 2016, is
8 amended to read as follows:

9 3. For purposes of any fiscal year or years during which title to such
10 property is transferred, such property shall be deemed to have been
11 omitted and the assessed value thereof shall be entered on the assess-
12 ment roll to be used for the next tax levy by or for each municipal
13 corporation in which such property is located in the same manner as
14 provided by title three of article five of this chapter with respect to
15 a parcel omitted from the assessment roll of the previous year. A pro
16 rata tax shall be extended against the property for the unexpired
17 portion of each fiscal year. Such real property shall be taxed at the
18 tax rate or tax rates for the fiscal year during which the transfer
19 occurred. The amount of tax or taxes levied pursuant to this subdivision
20 shall be deducted from the aggregate amount of taxes to be levied for
21 the fiscal year immediately succeeding the fiscal year during which the
22 transfer occurred; ~~provided, however, that where the property is~~
23 ~~receiving a school tax relief (STAR) exemption authorized by section~~
24 ~~four hundred twenty-five of this chapter, the portion of the tax or~~
25 ~~taxes levied that equals the recovered STAR tax savings shall be applied~~
26 ~~to reduce the amount of aid payable to the school district under subdivi-~~
27 ~~vision three of section thirteen hundred six-a of this chapter].~~

28 § 7. Subdivision 6 of section 1306-a of the real property tax law, as
29 added by section 5 of part A of chapter 60 of the laws of 2016, is
30 amended to read as follows:

31 6. When the commissioner determines, at least thirty days prior to the
32 levy of school district taxes, that an advance credit of the personal
33 income tax credit authorized by subsection (eee) of section six hundred
34 six of the tax law will be provided to the owners of a parcel in that
35 school district, he or she shall so notify the assessor, the county
36 director of real property tax services, and the authorities of the
37 school district, who shall cause a statement to be placed on the tax
38 bill for the parcel in substantially the following form: "A STAR
39 ~~[reimbursement]~~ check of \$ _____ will be mailed to you upon issuance by
40 the NYS Tax Department[-]". The commissioner shall ~~[advise the school~~
41 ~~district authorities] advise such officials~~ of the amount to be entered
42 therein. Notwithstanding any provision of law to the contrary, in the
43 event that the parcel in question had been granted a STAR exemption on
44 the assessment roll upon which school district taxes are to be levied,
45 such exemption shall be deemed null and void, shall be removed from the
46 assessment roll, and shall be disregarded when the parcel's tax liabil-
47 ity is determined. The assessor or other local official or officials
48 having custody and control of the data file used to generate school
49 district tax rolls and tax bills shall be authorized and directed to
50 change such file as necessary to enable the school district authorities
51 to discharge the duties imposed upon them by this subdivision.

52 § 8. Subsection (eee) of section 606 of the tax law, as added by
53 section 6 of part A of chapter 60 of the laws of 2016, is amended to
54 read as follows:

55 (eee) School tax relief (STAR) credit. (1) Definitions. For purposes
56 of this subsection:

1 (A) "Qualified taxpayer" means a resident individual of the state, who
2 maintained his or her primary residence in this state on December thirty-
3 ty-first of the taxable year, and who was an owner of that property on
4 that date, ~~[who cannot receive the STAR exemption on that property~~
5 ~~either because (i) he or she is precluded from filing an application for~~
6 ~~the STAR exemption on that property pursuant to paragraph (a) of subdivi-~~
7 ~~sion sixteen of section four hundred twenty-five of the real property~~
8 ~~tax law, or because (ii) he or she has irrevocably renounced his or her~~
9 ~~claim to such exemption in conjunction with all other owners pursuant to~~
10 ~~paragraph (b) of such subdivision, and who is required or chooses to~~
11 ~~file a return under this article.]~~ provided however: (i) A taxpayer
12 whose primary residence received a STAR exemption for the associated
13 fiscal year ~~[that commenced after the acquisition of such residence]~~
14 shall not be considered a qualified taxpayer for purposes of this
15 subsection.

16 (ii) An individual may be considered a qualified taxpayer with respect
17 to no more than one primary residence during any given taxable year.

18 (iii) If a resident individual was an owner of the property during the
19 taxable year but did not own it on December thirty-first of the taxable
20 year, he or she shall be considered a qualified taxpayer if the property
21 was his or her primary residence during the taxable year and he or she
22 paid qualifying taxes on that property while he or she was still an
23 owner of that property.

24 (iv) If a resident individual has acquired ownership of property
25 during a taxable year, such resident individual shall not be considered
26 a qualified taxpayer for that taxable year to the extent that an advance
27 payment of the credit for that taxable year has been issued to the prior
28 owner with respect to the same property, unless such resident individual
29 can demonstrate that he or she paid qualifying taxes on such property
30 during the taxable year, and that the prior owner did not.

31 (B) "Affiliated income" shall mean for purposes of the basic STAR
32 credit, the combined income of all of the owners of the parcel who
33 resided primarily thereon as of December thirty-first of the taxable
34 year, and of any owners' spouses residing primarily thereon as of such
35 date, and for purposes of the enhanced STAR credit, the combined income
36 of all of the owners of the parcel as of December thirty-first of the
37 taxable year, and of any owners' spouses residing primarily thereon as
38 of such date; provided that for both purposes the income to be so
39 combined shall be the "adjusted gross income" for the taxable year as
40 reported for federal income tax purposes, or that would be reported as
41 adjusted gross income if a federal income tax return were required to be
42 filed, reduced by distributions, to the extent included in federal
43 adjusted gross income, received from an individual retirement account
44 and an individual retirement annuity. Provided further, that if the
45 qualified taxpayer was an owner of the property during the taxable year
46 but did not own it on December thirty-first of the taxable year, then
47 the determination as to whether the income of an individual should be
48 included in "affiliated income" shall be based upon the ownership and/or
49 residency status of that individual as of the first day of the month
50 during which the qualified taxpayer ceased to be an owner of the proper-
51 ty, rather than as of December thirty-first of the taxable year.

52 (C) "Associated fiscal year" means the school district fiscal year
53 that began on July first of the taxable year or, in the case of a city
54 school district that is subject to article fifty-two of the education
55 law, the city fiscal year that began on July first of the taxable year.

56 (D) "Owner" means:

1 (i) a person who owns a parcel in fee simple absolute or as a tenant
2 in common, a joint tenant or a tenant by the entirety,
3 (ii) an owner of a present interest in a parcel under a life estate,
4 (iii) a vendee in possession under an installment contract of sale,
5 (iv) a beneficial owner under a trust,
6 (v) a tenant-stockholder of a cooperative apartment corporation who
7 resides in a portion of real property owned by such cooperative apart-
8 ment corporation, to the extent represented by his or her share or
9 shares of stock in such corporation as determined by its or their
10 proportional relationship to the total outstanding stock of the corpo-
11 ration, including that owned by the corporation,
12 (vi) a resident of a farm dwelling that is owned either by a corpo-
13 ration of which the resident is a shareholder, a partnership of which
14 the resident is a partner, or by a limited liability company of which
15 the resident is an owner, or
16 (vii) a resident of a dwelling, other than a farm dwelling, that is
17 owned by a limited partnership of which the resident is a partner,
18 provided that the limited partnership that holds title to the property
19 does not engage in any commercial activity, that the limited partnership
20 was lawfully created to hold title solely for estate planning and asset
21 protection purposes, and that the partner or partners who primarily
22 reside thereon personally pay all of the real property taxes and other
23 costs associated with the property's ownership.
24 (E) "Qualifying taxes" means the school district taxes that were
25 levied upon the taxpayer's primary residence for the associated fiscal
26 year that were actually paid by the taxpayer during the taxable year;
27 or, in the case of a city school district that is subject to article
28 fifty-two of the education law, the combined city and school district
29 taxes that were levied upon the taxpayer's primary residence for the
30 associated fiscal year that were actually paid by the taxpayer during
31 the taxable year. In no case shall the term "qualifying taxes" be
32 construed to include penalties or interest.
33 (F) "STAR exemption" means the school tax relief (STAR) exemption
34 authorized by section four hundred twenty-five of the real property tax
35 law.
36 (G) "STAR tax savings" means the tax savings attributable to the STAR
37 exemption within a portion of a school district, as determined by the
38 commissioner pursuant to subdivision two of section thirteen hundred
39 six-a of the real property tax law.
40 (2) Allowance of credit. A qualified taxpayer shall be allowed a cred-
41 it as provided in paragraph three or four of this subsection, whichever
42 is applicable, against the taxes imposed by this article reduced by the
43 credits permitted by this article, provided that the requirements set
44 forth in the applicable subsection are satisfied. If the credit exceeds
45 the tax as so reduced for such year under this article, the excess shall
46 be treated as an overpayment, to be credited or refunded, without inter-
47 est. If a qualified taxpayer is not required to file a return pursuant
48 to section six hundred fifty-one of this article, a qualified taxpayer
49 may nevertheless receive the full amount of the credit to be credited or
50 repaid as an overpayment, without interest.
51 (3) Determination of basic STAR credit. (A) Beginning with taxable
52 years after two thousand fifteen, a basic STAR credit shall be available
53 to a qualified taxpayer if the affiliated income of the parcel that
54 serves as the taxpayer's primary residence is less than or equal to five
55 hundred thousand dollars.

1 (B) Subject to the provisions of subparagraph (C) of this paragraph,
2 such basic STAR credit shall be the lesser of:
3 (i) the basic STAR tax savings [~~applicable to the~~ for the school
4 district portion in which the taxpayer's primary residence is located,
5 or
6 (ii) the taxpayer's qualifying taxes.
7 (C) If the qualifying taxes paid by the taxpayer constituted only a
8 portion of the total school district taxes that were levied upon the
9 taxpayer's primary residence for the associated fiscal year or, in the
10 case of a city school district that is subject to article fifty-two of
11 the education law, if the qualifying taxes paid by the taxpayer consti-
12 tuted only a portion of the total combined city and school district
13 taxes that were levied upon the taxpayer's primary residence for the
14 associated fiscal year, the credit allowable to such taxpayer shall be
15 equal to the amount determined pursuant to subparagraph (B) of this
16 paragraph multiplied by the percentage that such portion represents.
17 (4) Determination of enhanced STAR credit. (A) Beginning with taxable
18 years after two thousand fifteen, an enhanced STAR credit shall be
19 available to a qualified taxpayer where both of the following conditions
20 are satisfied:
21 (i) All of the owners of the parcel that serves as the taxpayer's
22 primary residence are at least sixty-five years of age as of December
23 thirty-first of the taxable year or, in the case of property owned by a
24 married couple or by siblings, at least one of the owners is at least
25 sixty-five years of age as of that date. The terms "siblings" as used
26 herein shall have the same meaning as set forth in section four hundred
27 sixty-seven of the real property tax law. In the case of property owned
28 by a married couple, one of whom is sixty-five years of age or over, the
29 credit, once allowed, shall not be disallowed because of the death of
30 the older spouse so long as the surviving spouse is at least sixty-two
31 years of age as of December thirty-first of the taxable year.
32 (ii) The affiliated income of the parcel that serves as the taxpayer's
33 primary residence is less than or equal to the income standard for the
34 taxable year established by the commissioner for the corresponding
35 "income tax year" pursuant to clause (C) of subparagraph (i) of para-
36 graph (b) of subdivision four of section four hundred twenty-five of the
37 real property tax law for purposes of the enhanced STAR exemption.
38 (B) Subject to the provisions of subparagraph (C) of this paragraph,
39 such credit shall be the lesser of:
40 (i) the enhanced STAR tax savings for the school district portion in
41 which the taxpayer's primary residence is located, or
42 (ii) the taxpayer's qualifying taxes.
43 (C) If the qualifying taxes paid by the taxpayer constituted only a
44 portion of the total school district taxes that were levied upon the
45 taxpayer's primary residence for the associated fiscal year or, in the
46 case of a city school district that is subject to article fifty-two of
47 the education law, if the qualifying taxes paid by the taxpayer consti-
48 tuted only a portion of the total combined city and school district
49 taxes that were levied upon the taxpayer's primary residence for the
50 associated fiscal year, the credit allowable to such taxpayer shall be
51 equal to the amount determined pursuant to subparagraph (B) of this
52 paragraph multiplied by the percentage that such portion represents.
53 (5) Disqualification. A taxpayer shall not qualify for the credit
54 authorized by this subsection if the parcel that serves as the taxpay-
55 er's primary residence received the STAR exemption on the assessment
56 roll upon which school district taxes for the associated fiscal year

1 where levied. Provided, however, that the taxpayer may remove this
2 disqualification by renouncing the exemption and making any required
3 payments by December thirty-first of the taxable year, as provided by
4 subdivision sixteen of section four hundred twenty-five of the real
5 property tax law.

6 (6) Special cases. (A) In the case of property consisting of a cooper-
7 ative apartment corporation that is described by paragraph (k) of subdivi-
8 sion two of section four hundred twenty-five of the real property tax
9 law, the amount of the credit allowable with respect to a cooperative
10 apartment shall be equal to ~~[sixty percent of]~~ the basic STAR tax
11 savings for the school district portion, or ~~[sixty percent of]~~ the
12 enhanced STAR tax savings for the school district portion, whichever is
13 applicable. Provided, however, that in the case of a cooperative apart-
14 ment corporation that is described by subparagraph (iv) of paragraph (k)
15 of subdivision two of section four hundred twenty-five of the real prop-
16 erty tax law, the credit allowable with respect to a cooperative apart-
17 ment shall be equal to ~~[twenty percent]~~ one-third of such amount.

18 (B) In the case of property consisting of a mobile home that is
19 described in paragraph (1) of subdivision two of section four hundred
20 twenty-five of the real property tax law, the amount of the credit
21 allowable with respect to such mobile home shall be equal to ~~[twenty-~~
22 ~~five percent of]~~ the basic STAR tax savings for the school district
23 portion, or ~~[twenty-five percent of]~~ the enhanced STAR tax savings for
24 the school district portion, whichever is applicable, that would be
25 applied to a separately assessed parcel in the school district portion
26 with a taxable assessed value equal to twenty thousand dollars multi-
27 plied by the latest state equalization rate or special equalization rate
28 for the assessing unit in which the mobile home is located. Provided,
29 however, that if the commissioner is in possession of information,
30 including but not limited to assessment records, that demonstrates to
31 the commissioner's satisfaction that the taxpayer's mobile home is worth
32 more than twenty thousand dollars, or if the taxpayer provides the
33 commissioner with such information, the taxpayer's credit shall be
34 increased accordingly, but in no case shall the credit exceed the basic
35 STAR tax savings or enhanced STAR tax savings, whichever is applicable,
36 for the school district portion.

37 (C) In the case of a primary residence that is located in two or more
38 school districts, the applicable basic or enhanced STAR tax savings for
39 the school district portion shall be determined as follows:

40 (i) determine the sum of the total school district taxes that were
41 levied upon the taxpayer's primary residence for the associated fiscal
42 year by each of the school districts in which the residence is located;

43 (ii) for each such school district, divide the total school district
44 taxes that were levied upon the taxpayer's primary residence by that
45 school district for the associated fiscal year by the sum determined in
46 clause (i) of this subparagraph. Express the result as a percentage with
47 two decimal places;

48 (iii) for each such school district, multiply the percentage deter-
49 mined in clause (ii) of this subparagraph by the basic or enhanced STAR
50 tax savings for the school district portion, whichever is applicable;
51 and

52 (iv) add the products determined in clause (iii) of this subparagraph.

53 (7) Disclosure of incomes. Where the commissioner has denied a taxpay-
54 er's claim for the credit authorized by this subsection in whole or in
55 part on the grounds that the affiliated income of the parcel in question
56 exceeds the applicable limit, the commissioner shall have the authority

1 to reveal to that taxpayer the names and incomes of the other taxpayers
2 whose incomes were included in the computation of such affiliated
3 income.

4 (8) Proof of claim. The commissioner may require a qualified taxpayer
5 to furnish the following information in support of his or her claim for
6 credit under this subsection: affiliated income, the total school
7 district taxes levied on the property for the associated fiscal year or,
8 in the case of a city school district that is subject to article fifty-
9 two of the education law, the total combined city and school district
10 taxes levied on the property for the associated fiscal year, the quali-
11 fying taxes paid by the taxpayer, the names and taxpayer identification
12 numbers of all owners of the property and spouses who primarily reside
13 on the property, the parcel identification number and all other informa-
14 tion that may be required by the commissioner to determine the credit.

15 (9) Returns. ~~[If a qualified taxpayer is not required to file a return~~
16 ~~pursuant to section six hundred fifty-one of this article, a claim for a~~
17 ~~credit may be taken on a return filed with the commissioner within three~~
18 ~~years from the time it would have been required that a return be filed~~
19 ~~pursuant to such section had the qualified taxpayer had a taxable year~~
20 ~~ending on December thirty-first. Returns under this paragraph shall be~~
21 ~~in such form as shall be prescribed by the commissioner, who shall make~~
22 ~~available such forms and instructions for filing such returns] Whether~~
23 or not the taxpayer is required to file a return pursuant to section six
24 hundred fifty-one of this article, the process for requesting advance
25 payment of such credit shall be as provided by paragraph ten of this
26 subsection.

27 (10) Advance payments. (A) The commissioner shall establish a mech-
28 anism by which a qualified taxpayer ~~[who has acquired a new primary~~
29 ~~residence between January first and July first of the taxable year,~~
30 ~~inclusive,]~~ may apply for an advance payment of the credit authorized by
31 this section, provided that:

32 (i) ~~[Any]~~ If the taxpayer acquired a new primary residence between
33 January first and July first of the taxable year, inclusive, any such
34 application must be submitted to the commissioner by the first day of
35 July of the taxable year, or such later date as may be prescribed by the
36 commissioner in order for the taxpayer's payment to be subject to the
37 processing schedule provided by subparagraph (B) of this paragraph, and

38 (ii) A qualified taxpayer who fails to apply for an advance payment of
39 such credit ~~[in a timely manner]~~ by such date may ~~[request]~~ apply for
40 and receive such credit in the manner ~~[otherwise provided by this~~
41 ~~section]~~ prescribed by the commissioner, provided that such application
42 shall be made within three years from the time that a return for the
43 taxable year would have had to be filed pursuant to section six hundred
44 fifty-one of this article. If approved, such payment shall be issued as
45 soon as is practicable after the submission of the application but shall
46 not be subject to the processing schedule prescribed by subparagraph (B)
47 of this paragraph, and

48 (iii) A qualified taxpayer who has applied for an advance payment of
49 such credit in a taxable year may continue to receive such advance
50 payments in future taxable years without reapplying as long as he or she
51 remains eligible therefor.

52 (B) On or before September fifteenth of each year, or as soon there-
53 after as practicable, the commissioner shall determine the eligibility
54 of taxpayers for this credit utilizing the information available to him
55 or her as obtained from the applications submitted on or before July
56 first of that year, or such later date as may have been prescribed by

1 the commissioner for that purpose, and from such other sources as the
2 commissioner deems reliable and appropriate. For those taxpayers whom
3 the commissioner has determined eligible for this credit, the commis-
4 sioner shall advance a payment in the amount specified in paragraph
5 three, four or six of this subsection, whichever is applicable. Such
6 payment shall be issued by September thirtieth of the year the credit is
7 allowed, or as soon thereafter as is practicable. Nothing contained
8 herein shall be deemed to preclude the commissioner from issuing
9 payments after September thirtieth to qualified taxpayers whose applica-
10 tions were made after July first of that year, or such later date as may
11 have been prescribed by the commissioner for such purpose.

12 (C) A taxpayer who has failed to receive an advance payment that he or
13 she believes was due to him or her, or who has received an advance
14 payment that he or she believes is less than the amount that was due to
15 him or her, may request payment of the claimed deficiency in a manner
16 prescribed by the commissioner.

17 ~~(C)~~ (D) An advance payment of credit provided pursuant to this
18 subsection that exceeds the taxpayer's qualifying taxes for that taxable
19 year shall be added back as tax on the income tax return for that taxa-
20 ble year.

21 ~~(D)~~ (E) If the commissioner determines after issuing an advance
22 payment that it was issued in an excessive amount or to an ineligible or
23 incorrect party, the commissioner shall be empowered to utilize any of
24 the procedures for collection, levy and lien of personal income tax set
25 forth in this article, any other relevant procedures referenced within
26 the provisions of this article, and any other law as may be applicable,
27 to recoup the improperly issued amount.

28 (11) Administration. The provisions of this article, including the
29 provisions of sections six hundred fifty-three, six hundred fifty-eight,
30 and six hundred fifty-nine of this article and the provisions of part
31 six of this article relating to procedure and administration, including
32 the judicial review of the decisions of the commissioner, except so much
33 of section six hundred eighty-seven of this article that permits a claim
34 for credit or refund to be filed after the period provided for in para-
35 graph nine of this subsection and except sections six hundred fifty-sev-
36 en, six hundred eighty-eight and six hundred ninety-six of this article,
37 shall apply to the provisions of this subsection in the same manner and
38 with the same force and effect as if the language of those provisions
39 had been incorporated in full into this subsection and had expressly
40 referred to the credit allowed or returns filed under this subsection,
41 except to the extent that any such provision is either inconsistent with
42 a provision of this subsection or is not relevant to this subsection. As
43 used in such sections and such part, the term "taxpayer" shall include a
44 qualified taxpayer under this subsection and, notwithstanding the
45 provisions of subsection (e) of section six hundred ninety-seven of this
46 article, where a qualified taxpayer has protested the denial of a claim
47 for credit under this subsection and the time to file a petition for
48 redetermination of a deficiency or for refund has not expired, he or she
49 shall, subject to such conditions as may be set by the commissioner,
50 receive such information (A) that is contained in any return filed under
51 this article by a member of his or her household for the taxable year
52 for which the credit is claimed, and (B) that the commissioner finds is
53 relevant and material to the issue of whether such claim was properly
54 denied.

55 (12) ~~In the case of a taxpayer who has itemized deductions from~~
56 ~~federal adjusted gross income, and whose federal itemized deductions~~

1 ~~include an amount for real estate taxes paid, the New York itemized~~
2 ~~deduction otherwise allowable under section six hundred fifteen of this~~
3 ~~chapter shall be reduced by the amount of the credit claimed under this~~
4 ~~subsection.] When the calculation of any other personal income tax cred-~~
5 ~~it is based in whole or in part upon the real property taxes paid by the~~
6 ~~taxpayer, the amount of real property taxes so paid shall be reduced by~~
7 ~~the credit authorized by this subsection, if applicable, in the course~~
8 ~~of performing such calculation. When the calculation of any other~~
9 ~~personal income tax credit is based in whole or in part upon an individ-~~
10 ~~ual's state tax liability, the credit authorized by this subsection~~
11 ~~shall not be taken into account in the calculation of such state tax~~
12 ~~liability. When the calculation of a city tax surcharge is based in~~
13 ~~whole or in part upon the net state tax of an individual, the credit~~
14 ~~authorized by this subsection shall not be taken into account in the~~
15 ~~calculation of such net state tax.~~

16 § 9. This act shall take effect immediately; provided, however, that
17 sections one and two of this act shall be deemed to have been in full
18 force and effect on the same date and in the same manner as parts E and
19 F of chapter 60 of the laws of 2016, respectively; and provided,
20 further, that sections five, six, seven and eight of this act shall be
21 deemed to have been in full force and effect on the same date and in the
22 same manner as part A of chapter 60 of the laws of 2016, took effect.

23 PART B

24 Section 1. Paragraph 2 of subsection (g) of section 42 of the tax law,
25 as added by section 1 of part RR of chapter 60 of the laws of 2016, is
26 amended to read as follows:

27 (2) Article 22: Section 606, subsection [~~eee~~] (fff).

28 § 2. Clause (xli) of subparagraph (B) of paragraph 1 of subsection (i)
29 of section 606 of the tax law, as added by section 3 of part RR of chap-
30 ter 60 of the laws of 2016, is amended to read as follows:

31 (xli) Farm workforce retention Amount of credit under
32 credit under subsection [~~eee~~] subdivision fifty-one of
33 (fff) section two hundred ten-B

34 § 3. Subsection (eee) of section 606 of the tax law, as added by
35 section 4 of part RR of chapter 60 of the laws of 2016, is relettered
36 subsection (fff).

37 § 4. This act shall take effect immediately and shall be deemed to be
38 in effect on the same date and with the same effect as part RR of chap-
39 ter 60 of the laws of 2016, took effect.

40 PART C

41 Section 1. Paragraph d of subdivision 1 of section 207 of the racing,
42 pari-mutuel wagering and breeding law, as amended by section 1 of part
43 PP of chapter 59 of the laws of 2015, is amended to read as follows:

44 d. The board, which shall become effective upon appointment of a
45 majority of public members, shall terminate [~~four~~] five years from its
46 date of creation. [~~The board shall propose, no less than one hundred~~
47 ~~eighty days prior to its termination, recommendations to the governor~~
48 ~~and the state legislature representing a statutory plan for the prospec-~~
49 ~~ative not-for-profit governing structure of The New York Racing Associ-~~
50 ~~ation, Inc.]~~

51 § 2. This act shall take effect immediately.

A. 10741

13

1

PART D

2 Section 1. Section 1 of chapter 53 of the laws of 2016 enacting the
3 Aid to Localities Budget, is amended by repealing the items hereinbelow
4 set forth in brackets and by adding to such section the other items
5 underscored in this section.

6 EDUCATION DEPARTMENT
7 AID TO LOCALITIES - REAPPROPRIATIONS 2016-17

8 OFFICE OF PREKINDERGARTEN THROUGH GRADE TWELVE EDUCATION PROGRAM

9 General Fund
10 Local Assistance Account - 10000

11 For nonpublic school aid payable in the 2014-15 state fiscal year.
12 Notwithstanding any provision of law, rule or regulation to the
13 contrary, the amount appropriated herein represents the maximum
14 amount payable during the 2014-15 state fiscal year.....
15 97,589,000 (re. \$7,000)
16 For aid payable for the 2012-13 school year for additional nonpublic
17 school aid. Notwithstanding any inconsistent provision of law, funds
18 appropriated herein shall be available for payment of aid heretofore
19 accrued and hereafter to accrue ... 45,204,000 (re. \$3,672,000)
20 For academic intervention for nonpublic schools based on a plan to be
21 developed by the commissioner of education and approved by the
22 director of the budget ... 922,000..... (re. \$922,000)
23 For services and expenses of Safety Equipment for Nonpublic Schools
24 ... 4,500,000..... (re. \$4,500,000)

25 § 2. This act shall take effect immediately and shall be deemed to
26 have been in full force and effect on and after April 1, 2016.

27

PART E

28 Section 1. Subparagraph (iv) of paragraph (a) of subdivision 3 of
29 section 3614-c of the public health law, as amended by chapter 56 of the
30 laws of 2016, is amended to read as follows:

31 (iv) for all periods on or after April first, two thousand sixteen,
32 the cash portion of the minimum rate of home care aide total compen-
33 sation shall be ten dollars or the minimum wage as laid out in paragraph
34 ~~(c)~~ (a) of subdivision one of section six hundred fifty-two of the
35 labor law, whichever is higher. The benefit portion of the minimum rate
36 of home care aide total compensation shall be four dollars and nine
37 cents.

38 § 2. Subparagraph (iv) of paragraph (b) of subdivision 3 of section
39 3614-c of the public health law, as amended by chapter 56 of the laws of
40 2016, is amended to read as follows:

41 (iv) for all periods on or after March first, two thousand sixteen,
42 the cash portion of the minimum rate of home care aide total compen-
43 sation shall be ten dollars or the minimum wage as laid out in paragraph
44 ~~(c)~~ (b) of subdivision one of section six hundred fifty-two of the
45 labor law, whichever is higher. The benefit portion of the minimum rate
46 of home care aide total compensation shall be three dollars and twenty-
47 two cents.

48 § 3. This act shall take effect immediately and shall be deemed to
49 have been in full force and effect on the same date and same manner as
50 chapter 56 of the laws of 2016 took effect.

1

PART F

2 Section 1. Section 11 of chapter 710 of the laws of 1988, amending the
3 social services law and the education law relating to medical assistance
4 eligibility of certain persons and providing for managed medical care
5 demonstration programs, as amended by section 25 of part D of chapter 59
6 of the laws of 2011, is amended to read as follows:

7 § 11. This act shall take effect immediately; except that the
8 provisions of sections one, two, three, four, eight and ten of this act
9 shall take effect on the ninetieth day after it shall have become a law;
10 and except that the provisions of sections five, six and seven of this
11 act shall take effect January 1, 1989; and except that effective imme-
12 diately, the addition, amendment and/or repeal of any rule or regulation
13 necessary for the implementation of this act on its effective date are
14 authorized and directed to be made and completed on or before such
15 effective date; provided, however, that the provisions of section 364-j
16 of the social services law, as added by section one of this act shall
17 expire and be deemed repealed on and after March 31, [~~2016~~] 2019, the
18 provisions of section 364-k of the social services law, as added by
19 section two of this act, except subdivision 10 of such section, shall
20 expire and be deemed repealed on and after January 1, 1994, and the
21 provisions of subdivision 10 of section 364-k of the social services
22 law, as added by section two of this act, shall expire and be deemed
23 repealed on January 1, 1995.

24 § 2. Notwithstanding the provisions of article 5 of the general
25 construction law, the provisions of section 364-j of the social services
26 law are hereby revived and shall continue in full force and effect as
27 they existed on March 30, 2016.

28 § 3. This act shall take effect immediately and shall be deemed to
29 have been in full force and effect on and after March 30, 2016.

30

PART G

31 Section 1. 1. For the purposes of this act, "responsible entity" and
32 "project" shall mean the New York Convention Center Operating Corpo-
33 ration with respect to the Jacob K. Javits Convention Center project.
34 "Authorized entity" shall mean the New York Convention Center Develop-
35 ment Corporation with respect to the Jacob K. Javits Convention Center.

36 2. In connection with the design, erection, construction, enlargement,
37 alteration, improvement, relocation, removal, or demolition of any
38 building or structure constituting all or any part of a project, the
39 authorized entity may request that, for purposes of such project, the
40 dormitory authority act as the construction-permitting agency pursuant
41 to article 18 of the executive law and the regulations promulgated ther-
42 eunder, as now existing or hereafter amended. Notwithstanding any other
43 provision of any other state or local law, rule or regulation to the
44 contrary:

45 (a) when the dormitory authority acts as the construction-permitting
46 agency for a project or any portion thereof, at the request of the
47 authorized entity, the dormitory authority may elect, if deemed feasible
48 and appropriate, to subject all or any part of such project and all
49 buildings and structures constituting all or any part of the project to
50 the requirements of the New York City Construction Codes of 2014,
51 including but not limited to the Building, Mechanical, Plumbing, Fuel
52 Gas, and Energy Conservation Codes; the New York City Construction and
53 Maintenance Code of 1968; the New York City Fire Code of 2014; the New

1 York City Electrical Code; the New York City Energy Code; Titles 1
2 (Department of Buildings), 2 (Board of Standards and Appeals) and 3
3 (Fire Department) (collectively, the "New York City Codes"), as now
4 existing or hereafter amended, instead of the requirements of the New
5 York state uniform fire prevention and building code (the Uniform Code)
6 and the New York state energy conservation construction code (the NYS
7 Energy Code), as now existing or hereafter amended, for such project;
8 and
9 (b) in the event the dormitory authority makes the election authorized
10 pursuant to this subdivision to apply New York City Codes with respect
11 to all or any portion of a particular project, then notwithstanding the
12 fact that such project and all buildings and structures constituting all
13 or any part of such project shall be subject to the requirements of the
14 New York City Codes instead of the requirements of the Uniform Code and
15 NYS Energy Code:
16 (i) the dormitory authority shall be authorized to:
17 (A) render such services for all or any portion of any such project
18 without approval of any other state department, agency, officer or
19 office but only as directly related to the authority granted by this
20 act; and
21 (B) take all reasonably required actions to execute its duties as the
22 construction-permitting agency, including without limitation, those
23 required to review, permit and inspect the project and enforce the New
24 York City Codes; and
25 (C) issue a code compliance certificate, certificate of occupancy, or
26 a temporary approval for occupancy allowing use and occupancy of the
27 project or parts thereof after determining such project or parts thereof
28 complies with the requirements of the New York City Codes; and
29 (D) employ such experts and consultants as shall reasonably be
30 required to fulfill its responsibilities as the construction-permitting
31 agency; and
32 (ii) the dormitory authority shall continue to act as the construc-
33 tion-permitting agency for such project and for all buildings and struc-
34 tures constituting all or any part of such project, and shall determine
35 that the design of any such building and structure (or, if applicable,
36 the design of any phase or portion of any such building or structure)
37 complies with the requirements of the New York City Codes before issuing
38 a construction permit for such building or structure (or phase or
39 portion thereof) and shall determine that such building or structure
40 (or, if applicable, any phase or portion thereof) complies with the
41 requirements of the New York City Codes before issuing a code compliance
42 certificate or temporary approval for occupancy for such building or
43 structure (or phase or portion thereof); and
44 (iii) upon written request of the authorized entity or any other
45 interested party for a variance or modification of any provision or
46 requirement of any one or more of the New York City Codes, the depart-
47 ment of state shall be authorized to consider the evidence offered and
48 such other reports, studies and other information the department of
49 state may deem appropriate, arrange for the review of the request by
50 other state agencies or internal or external experts and consultants,
51 make findings of fact and conclusions of law, and render a decision in
52 writing on such request, granting or denying, in whole or in part, the
53 requested variance or modification, provided, however, that:
54 (A) no such variance or modification shall be granted unless the
55 applicant establishes to the satisfaction of the department of state

1 that granting such variance or modification shall not materially affect
2 adversely provisions for health, safety and security; and
3 (B) any decision to grant a variance or modification, in whole or in
4 part, shall also be noted on the applicable plans and specifications
5 signed and sealed by a professional engineer or architect; and
6 (iv) such project and all buildings and structures constituting all or
7 any part of such project shall continue to be subject to the provisions
8 of part 1204 of title 19 of the New York Codes, Rules and Regulations,
9 as now existing and as hereafter amended (hereinafter referred to as
10 "Part 1204"); provided, however, that for the purposes of applying part
11 1204, all references in part 1204 to the Uniform Code shall be deemed to
12 be references to the New York City Codes; and
13 (v) no municipal corporation or subdivision thereof shall have the
14 power to modify or change the plans or specifications for such project,
15 or the construction, plumbing, heating, lighting or other mechanical
16 branch work necessary to complete the work in question, nor to require
17 that any person, firm or corporation employed on any such work shall
18 perform any such work in any other different manner than that required
19 by such plans and specifications, nor to conduct construction-related
20 inspections, including but not limited to fire safety inspections or
21 other inspections of such project or of any building or structure
22 constituting all or any part of such project, nor to issue notices of
23 violation, orders to remedy, summonses, or other enforcement-related
24 instruments of any kind relating to any alleged violation of the New
25 York City Codes by such project or any building or structure constitut-
26 ing all or any part of such project, and no condition or requirement
27 whatever may be imposed by any such municipal corporation or subdivision
28 thereof in relation to work being done on such project, as such work
29 shall be under the sole control of the authorized entity in accordance
30 with the plans, specification and contracts in relation thereto,
31 provided that emergency personnel shall have access to the project site
32 for purposes of emergency operations, coordination, and preparedness;
33 and
34 (c) the authorized entity shall be responsible for reimbursement to
35 the dormitory authority for the costs incurred as the construction-per-
36 mitting agency for a project and reimbursement to the department of
37 state for costs incurred in considering a request for a variance or
38 modification as contemplated by subparagraph (iii) of paragraph (b) of
39 this subdivision for a project, and such costs shall be a cost of the
40 project.
41 3. Nothing in this act shall prohibit the responsible entity for a
42 project from negotiating an agreement with the applicable municipal
43 corporation whereby, upon completion of the project, the municipal
44 corporation or subdivision thereof assumes administration and enforce-
45 ment of any applicable codes with respect to a project.
46 4. Nothing in this section shall prohibit the authorized entity or
47 responsible entity, as the case may be, from utilizing the Uniform Code
48 and the NYS Energy Code, as now existing or hereafter amended for any
49 additional work that requires a construction permit.
50 § 2. This act shall take effect immediately.

51 PART H

52 Intentionally omitted.

53 PART I

1 Section 1. Section 1678-a of the public authorities law, as added by
2 section 1 of part RR of chapter 54 of the laws of 2016, is amended to
3 read as follows:
4 § 1678-a. New York state design and construction corporation act. 1.
5 Purposes of act. The purposes of the New York state design and
6 construction corporation act are to establish the New York state design
7 and construction corporation to provide (a) additional project manage-
8 ment expertise, monitoring and oversight on individual public works
9 projects each having a total or aggregate construction value in excess
10 of fifty million dollars undertaken by state agencies, state departments
11 subject to the provisions of this section, and state authorities includ-
12 ing one created by chapter one hundred fifty-four of the laws of nine-
13 teen hundred twenty-one and one created by chapter eight hundred twen-
14 ty-four of the laws of nineteen hundred thirty-three herein after
15 referred to as "state entity"; and (b) a means to implement and recom-
16 mend improvements and other project changes on such proposed individual
17 public works projects in excess of fifty million dollars in total or
18 aggregate value, in a more timely fashion, to ensure that such projects
19 can be accomplished, to the extent practicable, on time, within budget
20 and at an acceptable overall quality and cost to the state of New York.
21 2. New York state design and construction corporation. (a) There is
22 hereby established the New York state design and construction corpo-
23 ration as a subsidiary corporation of the dormitory authority.
24 (b) The dormitory authority may provide or lease to such subsidiary
25 corporation any real, personal or mixed property as shall be required in
26 order to carry out the purposes of this act. The authority may assign
27 any such employees to work for the corporation as shall be required in
28 order to carry out the purposes of this section and all such employees
29 shall retain their respective civil service classifications, seniority,
30 status, and rights pursuant to their collective bargaining units and/or
31 collective bargaining agreements, as applicable. Any employee assigned
32 pursuant to this section shall remain in his or her collective bargain-
33 ing unit, and no employee shall receive a reduction in salary or bene-
34 fits due to such assignment. Notwithstanding any provision of law to the
35 contrary, the term "employee" as set forth in this section shall mean a
36 dormitory authority employee assigned, in whole, or in part, to work for
37 the corporation.
38 (c) Such corporation shall be a body corporate and politic constitut-
39 ing a public benefit corporation, and shall have all of the privileges,
40 immunities, tax exemptions and other exemptions of the dormitory author-
41 ity to the extent the same are not inconsistent with this section.
42 (d) The board of the corporation shall consist of three members as
43 designated by the governor, and the governor shall designate the chair
44 from among the members of the corporation's board. The members of the
45 corporation's board shall serve until such time as his or her successor
46 is appointed by the governor.
47 (e) A quorum shall consist of a majority of the members of the board.
48 A quorum shall be required for the board to conduct business, and
49 approval of any matter properly before the board shall require the
50 affirmative vote of the majority of the board. Meetings of the corpo-
51 ration shall be called by the chair, or by a majority of the members
52 appointed. Meetings shall be held at least bi-annually.
53 (f) Nothing in this subdivision shall be construed to impose any
54 liabilities, obligations or responsibilities of such corporation upon
55 the dormitory authority, and the authority shall have no liability or

1 responsibility therefor unless the authority expressly agrees by resol-
2 ution of the authority board to assume the same.

3 (g) The provisions of section sixteen hundred ninety-one of this title
4 shall in all respects apply to members of the corporation and any offi-
5 cer, employee or agent of the dormitory authority [~~transferred or~~]
6 assigned to the corporation, while acting within the scope of his, her
7 or its authority.

8 (h) All of the provisions of sections seventeen and nineteen of the
9 public officers law shall apply to the members, directors, officers and
10 employees of the corporation.

11 (i) The corporation created pursuant to this section shall be subject
12 to any other provisions of this chapter pertaining to subsidiaries of
13 public authorities to the extent that such provisions are not inconsis-
14 tent with the provisions of this section.

15 3. Corporation review and oversight of certain public works contracts.
16 For individual public works projects having a total or aggregate
17 construction value in excess of fifty million dollars, hereinafter
18 referred to as "covered projects", and for any and all contracts relat-
19 ing to such covered projects which are advertised for bid or proposal or
20 otherwise procured and/or entered into on or after January first, two
21 thousand sixteen:

22 (a) Any state entity proposing a covered project shall provide written
23 notice to the corporation of such proposal, to include without limita-
24 tion, the estimated value of the covered project and a summary of the
25 scope and duration of such covered project. Projects shall not be
26 divided or segmented for the purposes of avoiding compliance with the
27 provisions of this act. For purposes of this section, "covered project"
28 shall not include capital projects of the office of state comptroller,
29 office of the attorney general or education department of the state of
30 New York.

31 (b) The corporation shall have the authority to, and may, in its sole
32 discretion, review, monitor, and oversee, in whole or in part, such
33 covered project, and make recommendations regarding necessary corrective
34 or other action to any state entity in connection with such covered
35 project provided that the corporation, in its sole discretion, deems
36 such covered project to be at risk of being delayed, not being completed
37 within budget, or not completed at an acceptable level of quality.

38 (c) For the purposes of this section, the term "project" shall mean
39 any work associated with the planning, acquisition, design, engineering,
40 environmental analysis, construction, reconstruction, restoration, reha-
41 bilitation, establishment, improvement, renovation, extension, repair,
42 revitalization, management and development of a capital asset as defined
43 in section two of the state finance law.

44 (d) The state entity undertaking such covered project shall cooperate
45 in good faith with the corporation, and provide reasonable access to all
46 personnel, books, records, plans, specifications, data and other infor-
47 mation as may be necessary for the corporation to perform its duties.
48 The corporation shall limit its request for access to such information
49 that is reasonably necessary, as determined by the corporation to
50 perform its duties.

51 (e) In the event the corporation determines that corrective or other
52 action is necessary for such covered project, then the corporation shall
53 provide the state entity with written notice of what corrective or other
54 actions the corporation recommends as necessary to accomplish the
55 project, to the extent practicable, on time, within budget and at an

1 acceptable overall cost to the state of New York. Such corrective or
2 other action may include, but not be limited to:
3 (i) Modification of such plans, schedules, specifications, designs and
4 estimates of costs for the construction of the project and equipment of
5 facilities;
6 (ii) Detailed analysis of the project schedule so as to cure delays
7 that may have occurred or prevent future delay;
8 (iii) Detailed analysis of project budget;
9 (iv) Detailed analysis of change orders and/or payments to prime
10 contractors, subcontractors and other parties;
11 (v) Detailed analysis of records of construction observations,
12 inspections and deficiencies;
13 (vi) Exercise of applicable rights and/or remedies with respect to
14 contracts, contractors, subcontractors or other consultants;
15 (vii) Procurement of independent auditors, project managers, legal
16 counsel, or other professionals for the benefit of the project;
17 (viii) Regular reporting of project status and milestones to the
18 corporation;
19 (ix) Active project management review and oversight utilizing addi-
20 tional resources provided by the corporation; and
21 (x) Periodic project review and audit by the corporation on a suitable
22 time interval determined by the corporation.
23 The state entity undertaking the project shall have a period of thirty
24 days, or shorter if the corporation determines that a shorter period is
25 required by the circumstances or longer if the corporation consents,
26 from receipt of written notice of recommended corrective action from the
27 corporation, to notify the corporation in writing of its acceptance or
28 rejection of the corrective or other action. In the event that the state
29 entity rejects any corrective or other action, in whole or in part, it
30 shall provide simultaneous written notice to the corporation accompanied
31 by a reasoned explanation in support of its rejection. Such rejection
32 shall be reported to the secretary to the governor and the director of
33 the division of budget within fifteen days of its receipt by the corpo-
34 ration.
35 (f) Any state entity proposing a covered project shall include a
36 summary of the provisions of this section in all such proposal and/or
37 bid documents for such projects.
38 4. General powers and duties of the corporation. (a) The corporation
39 shall have the power to:
40 (i) Sue and be sued;
41 (ii) Have a seal and alter the same at pleasure;
42 (iii) Make and alter by-laws for its organization and internal manage-
43 ment and make rules and regulations governing same;
44 (iv) ~~Appoint~~ Assign such officers and employees from the officers
45 and employees of the authority, as it may require for the performance of
46 its duties and, for those officers and employees who are not represented
47 by a recognized employee organization, fix and determine their quali-
48 fications, duties, and compensation~~, and retain~~;
49 (v) Retain or employ counsel, auditors, private financial consultants,
50 professional engineers or other technical consultants and other services
51 on a contract basis or otherwise, for the rendering of professional,
52 business or technical services and advice;
53 ~~(v)~~ (vi) Make and execute contracts and all other instruments neces-
54 sary or convenient for the exercise of its powers and functions under
55 this section;

1 [~~(vi)~~] (vii) Engage the services of private consultants on a contract
 2 basis for rendering professional and technical assistance advice relat-
 3 ing to covered projects;
 4 [~~(vii)~~] (viii) Procure insurance against any loss in connection with
 5 its activities, properties and other assets, in such amount and from
 6 such insurance as it deems desirable; and
 7 [~~(viii)~~] (ix) Invest any funds of the corporation, or any other monies
 8 under its custody and control not required for immediate use or
 9 disbursement, at the discretion of the corporation, in obligations of
 10 the state or the United States government or obligations the principal
 11 and interest of which are obligations in which the comptroller of the
 12 state is authorized to invest pursuant to section ninety-eight of the
 13 state finance law.
 14 (b) The corporation may do any and all things necessary [~~or conven-~~
 15 ~~ient~~] to carry out and exercise the powers given and granted by this
 16 section.
 17 (c) Notwithstanding any other provision of law, to the contrary, all
 18 state entities and their officers shall cooperate with the corporation
 19 in good faith and may implement the recommendations of the corporation.
 20 § 2. This act shall take effect immediately, provided, however, that
 21 the amendments to section 1678-a of the public authorities law made by
 22 section one of this act shall not affect the repeal of such section and
 23 shall be deemed repealed therewith.

24 PART J

25 Section 1. Section 3 of chapter 549 of the laws of 1994, amending the
 26 public authorities law relating to the membership composition of the
 27 metropolitan transportation authority board, as amended by chapter 576
 28 of the laws of 2011, is amended to read as follows:
 29 § 3. This act shall take effect January 1, 1995 and shall expire and
 30 be deemed repealed on June 30, [~~2016~~] 2020 and upon such date the
 31 provisions of law amended by this act shall revert to and be read as if
 32 the provisions of this act had not been enacted.
 33 § 2. This act shall take effect immediately.

34 PART K

35 Section 1. Section 1 of chapter 53 of the laws of 2016, enacting the
 36 Aid to Localities Budget, is amended by repealing the items hereinbelow
 37 set forth in brackets and by adding to such section the other items
 38 underscored in this section.

39 AID TO LOCALITIES 2016-17

40 OFFICE FOR THE AGING

41	COMMUNITY SERVICES PROGRAM	248,848,000
42		-----
43	General Fund	
44	Local Assistance Account - 10000	
45	For services and expenses of [Jewish Commu-	
46	nity Center of Hillcrest, Inc] <u>Hillcrest</u>	
47	<u>Jewish Center, Inc.</u>	100,000

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21

1

DEPARTMENT OF HEALTH

2

WADSWORTH CENTER FOR LABORATORIES AND RESEARCH PROGRAM 14,304,400

3

4

General Fund

5

Local Assistance Account - 10000

6

For services and expenses [~~for a statewide~~

7

~~campaign to promote awareness of donating~~

8

~~umbilical cord blood to a public cord~~

9

~~blood bank. A portion or all of this~~

10

~~appropriation may be transferred to state~~

11

~~operations] of Upstate University Hospital~~

12

~~- Upstate Cord Blood Bank 300,000~~

13

14

§ 2. This act shall take effect immediately and shall be deemed to

15

have been in full force and effect on and after April 1, 2016.

16

PART L

17

Section 1. That part of section 1 of chapter 53 of the laws of 2016,

18

enacting the Aid to Localities Budget, is amended by repealing the date

19

hereinbelow set forth in brackets and by adding the date underscored

20

below.

21

AID TO LOCALITIES 2016-17

22

EDUCATION DEPARTMENT

23

OFFICE OF PREKINDERGARTEN THROUGH GRADE TWELVE EDUCATION

24

PROGRAM 30,363,782,000

25

26

General Fund

27

Local Assistance Account - 10000

28

Notwithstanding any inconsistent provision

29

of law, no school district shall be eligi-

30

ble for an apportionment of general

31

support for public schools from the funds

32

appropriated for the 2016-17 school year

33

in excess of the amount apportioned to

34

such school district in the base year, as

35

defined in subdivision 1 of section 3602

36

of the education law, unless such school

37

district has submitted documentation that

38

has been approved by the commissioner of

39

education by [~~September 1~~ December 31 of

40

the current year demonstrating that it has

41

fully implemented the standards and proce-

42

dures for conducting annual teacher and

43

principal evaluations of teachers and

44

principals in accordance with the require-

45

ments of section 3012-d of the education

46

law and the regulations issued by the

A. 10741 22

1 commissioner. Provided further that any
2 apportionment withheld pursuant to this
3 appropriation shall not occur prior to
4 April 1 of the current year and shall not
5 have any effect on the base year calcu-
6 lation for use in the subsequent school
7 year.

8 § 2. This act shall take effect immediately and shall be deemed to
9 have been in full force and effect on and after April 1, 2016.

10 PART M

11 Section 1. Section 1 of chapter 55 of the laws of 2016 enacting the
12 Capital Projects Budget, as amended by section 3 of chapter 53 of the
13 laws of 2016, is amended by adding to such section the items underscored
14 in this section.

15 CITY UNIVERSITY OF NEW YORK
16 (APPROPRIATED TO THE CITY UNIVERSITY CONSTRUCTION FUND)
17 SENIOR COLLEGES

18 CAPITAL PROJECTS 2016-17

19 GENERAL MAINTENANCE AND IMPROVEMENTS (CCP)

20 Capital Projects Funds - Other
21 Capital Projects Fund
22 Administration Purpose

23 For additional services and expenses related
24 to alterations and improvements to various
25 facilities for capital projects, including
26 but not limited to capital design,
27 construction, acquisition, reconstruction,
28 rehabilitation, and equipment; for health
29 and safety, preservation of facilities,
30 program improvement or program change,
31 environmental protection, energy conserva-
32 tion, accreditation, facilities for the
33 physically disabled, preventative mainte-
34 nance and related projects, including
35 costs incurred prior to April 1, 2016 and
36 subject to a plan developed and submitted
37 by the city university of New York board
38 of trustees and approved by the director
39 of the budget (30051650)..... 20,000,000

40 STATE UNIVERSITY OF NEW YORK
41 (APPROPRIATED TO THE STATE UNIVERSITY CONSTRUCTION FUND)

42 CAPITAL PROJECTS 2016-17

43 GENERAL MAINTENANCE AND IMPROVEMENTS (CCP)

44 Capital Projects Funds - Other
45 Capital Projects Fund

1 Preservation of Facilities Purposes

2 For additional services and expenses related
 3 to alterations and improvements to various
 4 facilities for capital projects, including
 5 but not limited to services and expenses,
 6 service agreements or service contracts
 7 and memoranda of understanding; for capi-
 8 tal design including the cost of services
 9 provided by private firms, including prep-
 10 aration of designs, plans, specifications
 11 and estimates; for property acquisition,
 12 facility construction, reconstruction,
 13 rehabilitation, equipment; for health and
 14 safety improvements and upgrades to
 15 preserve or enhance facility functioning;
 16 for program improvements or program
 17 change; to support improvements in tech-
 18 nology, research, environmental
 19 protection, energy and resource conserva-
 20 tion, and accreditation; to finance costs
 21 attributable to executive order 88, ADA
 22 and code compliance needs, claims, emer-
 23 gencies and remediation of environmental
 24 hazards; to ensure the functionality of
 25 major building systems such as fire alarms
 26 and sprinklers, electrical, mechanical,
 27 plumbing, heating/cooling systems and
 28 supporting infrastructure, including
 29 underground utilities; and to provide for
 30 facilities for the disabled and related
 31 projects including costs incurred prior to
 32 April 1, 2016 subject to a plan developed
 33 by the state university of New York and
 34 approved by the director of the budget
 35 (28F31603) 30,000,000

36 Project Schedule

<u>PROJECT</u>	<u>AMOUNT</u>
<u>-----</u>	
<u>(thousands of dollars)</u>	
<u>Albany</u>	
<u>Campus-wide projects</u>	<u>1,400</u>
<u>Alfred Ceramics</u>	
<u>Campus-wide projects</u>	<u>100</u>
<u>Alfred State</u>	
<u>Campus-wide projects</u>	<u>350</u>
<u>Binghamton</u>	
<u>Campus-wide projects</u>	<u>1,550</u>
<u>Brockport</u>	
<u>Campus-wide projects</u>	<u>850</u>
<u>Brooklyn Health Science Center (HSC)</u>	
<u>Campus-wide projects</u>	<u>550</u>
<u>Buffalo College</u>	
<u>Campus-wide projects</u>	<u>1,000</u>
<u>Buffalo University</u>	

1	<u>Campus-wide projects</u>	<u>2,550</u>
2	<u>Canton</u>	
3	<u>Campus-wide projects</u>	<u>250</u>
4	<u>Cobleskill</u>	
5	<u>Campus-wide projects</u>	<u>300</u>
6	<u>Cornell</u>	
7	<u>Campus-wide projects</u>	<u>1,400</u>
8	<u>Cortland</u>	
9	<u>Campus-wide projects</u>	<u>700</u>
10	<u>Delhi</u>	
11	<u>Campus-wide projects</u>	<u>300</u>
12	<u>Empire State</u>	
13	<u>Campus-wide projects</u>	<u>50</u>
14	<u>Environmental Science and Forestry</u>	
15	<u>Campus-wide projects</u>	<u>350</u>
16	<u>Farmingdale</u>	
17	<u>Campus-wide projects</u>	<u>700</u>
18	<u>Fredonia</u>	
19	<u>Campus-wide projects</u>	<u>550</u>
20	<u>Geneseo</u>	
21	<u>Campus-wide projects</u>	<u>550</u>
22	<u>Maritime</u>	
23	<u>Campus-wide projects</u>	<u>250</u>
24	<u>Morrisville</u>	
25	<u>Campus-wide projects</u>	<u>350</u>
26	<u>New Paltz</u>	
27	<u>Campus-wide projects</u>	<u>700</u>
28	<u>Old Westbury</u>	
29	<u>Campus-wide projects</u>	<u>350</u>
30	<u>Oneonta</u>	
31	<u>Campus-wide projects</u>	<u>600</u>
32	<u>Optometry</u>	
33	<u>Campus-wide projects</u>	<u>150</u>
34	<u>Oswego</u>	
35	<u>Campus-wide projects</u>	<u>900</u>
36	<u>Plattsburgh</u>	
37	<u>Campus-wide projects</u>	<u>600</u>
38	<u>Potsdam</u>	
39	<u>Campus-wide projects</u>	<u>600</u>
40	<u>Purchase</u>	
41	<u>Campus-wide projects</u>	<u>650</u>
42	<u>State Univ Plaza</u>	
43	<u>Campus-wide projects</u>	<u>250</u>
44	<u>Stony Brook, incl Health Science Center</u>	
45	<u>(HSC) and Long Island State Veterans Home:</u>	
46	<u>Campus-wide projects</u>	<u>3,100</u>
47	<u>Syracuse Health Science Center (HSC)</u>	
48	<u>Campus-wide projects</u>	<u>500</u>
49	<u>SUNY Polytechnic</u>	
50	<u>Campus-wide projects</u>	<u>150</u>
51	<u>University-wide Alterations and Improvements</u>	
52	<u>Maintenance undistributed</u>	
53	<u>For university-wide capital project costs,</u>	
54	<u>including costs attributable to executive</u>	
55	<u>order 88; ADA and code compliance claims;</u>	
56	<u>environmental hazards; emergencies health</u>	

1	<u>and safety, and energy conservation needs,</u>	
2	<u>asbestos and PCB remediation; fire alarms</u>	
3	<u>and sprinklers; electrical, mechanical,</u>	
4	<u>plumbing and heating and cooling system</u>	
5	<u>requirements and other university-wide</u>	
6	<u>needs</u>	2,850
7	<u>University-wide Alterations and Improvements</u>	
8	<u>Maintenance undistributed</u>	
9	<u>For priority capital projects</u>	4,500
10		-----
11	<u>Total</u>	30,000
12		=====

13 § 2. This act shall take effect immediately and shall be deemed to
14 have been in full force and effect on the same date and in the same
15 manner as chapter 55 of the laws of 2016 took effect.

16 PART N

17 Intentionally omitted.

18 PART O

19 Section 1. Section 34 of chapter 91 of the laws of 2002, amending the
20 education law and other laws relating to reorganization of the New York
21 city school construction authority, board of education and community
22 boards, as amended by section 1 of subpart D of part B of chapter 20 of
23 the laws of 2015, is amended to read as follows:

24 § 34. This act shall take effect July 1, 2002; provided, that sections
25 one through twenty, twenty-four, and twenty-six through thirty of this
26 act shall expire and be deemed repealed June 30, [~~2016~~] 2017 provided,
27 further, that notwithstanding any provision of article 5 of the general
28 construction law, on June 30, [~~2016~~] 2017 the provisions of subdivisions
29 3, 5, and 8, paragraph b of subdivision 13, subdivision 14, paragraphs
30 b, d, and e of subdivision 15, and subdivisions 17 and 21 of section
31 2554 of the education law as repealed by section three of this act,
32 subdivision 1 of section 2590-b of the education law as repealed by
33 section six of this act, paragraph (a) of subdivision 2 of section
34 2590-b of the education law as repealed by section seven of this act,
35 section 2590-c of the education law as repealed by section eight of this
36 act, paragraph c of subdivision 2 of section 2590-d of the education law
37 as repealed by section twenty-six of this act, subdivision 1 of section
38 2590-e of the education law as repealed by section twenty-seven of this
39 act, subdivision 28 of section 2590-h of the education law as repealed
40 by section twenty-eight of this act, subdivision 30 of section 2590-h of
41 the education law as repealed by section twenty-nine of this act, subdivi-
42 sion 30-a of section 2590-h of the education law as repealed by
43 section thirty of this act shall be revived and be read as such
44 provisions existed in law on the date immediately preceding the effec-
45 tive date of this act; provided, however, that sections seven and eight
46 of this act shall take effect on November 30, 2003; provided further
47 that the amendments to subdivision 25 of section 2554 of the education
48 law made by section two of this act shall be subject to the expiration
49 and reversion of such subdivision pursuant to section 12 of chapter 147
50 of the laws of 2001, as amended, when upon such date the provisions of
51 section four of this act shall take effect.

1 § 2. Subdivision 12 of section 17 of chapter 345 of the laws of 2009,
2 amending the education law and other laws relating to the New York city
3 board of education, chancellor, community councils, and community super-
4 intendents, as amended by section 2 of subpart D of part B of chapter 20
5 of the laws of 2015, is amended to read as follows:

6 12. any provision in sections one, two, three, four, five, six, seven,
7 eight, nine, ten and eleven of this act not otherwise set to expire
8 pursuant to section 34 of chapter 91 of the laws of 2002, as amended, or
9 section 17 of chapter 123 of the laws of 2003, as amended, shall expire
10 and be deemed repealed June 30, [~~2016~~] 2017.

11 § 3. The education law is amended by adding a new section 2590-r-1 to
12 read as follows:

13 § 2590-r-1. Community school district based budgeting and expenditure
14 reporting. Notwithstanding any provision of law to the contrary,
15 commencing with the two thousand seventeen--two thousand eighteen school
16 year and thereafter, no fewer than fifteen days after the release of the
17 executive budget of the city of New York by the mayor of the city of New
18 York, the chancellor shall provide to the city council and shall make
19 publicly available and on the district website a detailed statement of
20 the total funding allocation for each community school district for the
21 school budget year. After the close of the preceding fiscal year, and
22 prior to presentation of the following year's school budget, the chan-
23 cancellor shall provide to the city council and shall make publicly avail-
24 able and on the district website a detailed statement of the total fund-
25 ing allocation for each community school district for the preceding
26 school budget year. Such statements shall be in a form developed by the
27 director of the budget.

28 § 4. This act shall take effect immediately.

29

PART P

30 Section 1. Section 355 of the education law is amended by adding a
31 new subdivision 2-a to read as follows:

32 2-a. Notwithstanding any other provision of law, rule, or regulation
33 to the contrary, the state university trustees charter school committee,
34 as a charter entity, are further authorized and empowered, to promulgate
35 regulations with respect to governance, structure and operations of
36 charter schools for which they are the charter entity pursuant to
37 section twenty-eight hundred fifty-one of this chapter.

38 § 2. Section 2851 of the education law is amended by adding a new
39 subdivision 5 to read as follows:

40 5. Notwithstanding any provision of law, rule or regulation to the
41 contrary for a period of one year from the effective date of this subdivi-
42 vision, a charter school approved by a charter entity listed in subdivi-
43 sion three of this section may apply at any time during this period to
44 another charter entity, defined in paragraph (a), (b) or (c) of subdivi-
45 sion three of this section to request such other charter entity to over-
46 see and supervise such charter school. All standards and requirements
47 established in the original charter agreement shall remain in effect
48 until the scheduled expiration of such charter agreement and provided
49 however that all obligations of the previous charter entity to oversee
50 and supervise a charter school shall terminate upon the transfer of
51 authorization of such charter school to a new charter entity, as defined
52 in subdivision five of section twenty-eight hundred fifty-two of this
53 article, and the previous charter entity shall provide in a timely fash-
54 ion information relevant to the charter as requested by such other char-

1 ter entity. A charter school that seeks to change its charter entity
2 must have met all other requirements of this article and cannot be in
3 violation of any legal requirement, in probationary status, or slated
4 for closure.

5 § 3. This act shall take effect immediately.

6

PART Q

7 Section 1. The real property actions and proceedings law is amended by
8 adding a new section 1308 to read as follows:

9 § 1308. Inspecting, securing and maintaining vacant and abandoned
10 residential real property. Notwithstanding any other provision of law to
11 the contrary, the following subdivisions of this section shall only
12 apply to vacant and abandoned one to four family residential real prop-
13 erty, and any duties and responsibilities so prescribed by this section
14 shall only apply to the first lien mortgage holder. Vacant and abandoned
15 residential real property shall be defined pursuant to section thirteen
16 hundred nine of this article. For each calendar year this section shall
17 not apply to state or federally chartered banks, savings banks, savings
18 and loan associations, or credit unions which: (1) originate, own,
19 service and maintain their mortgages or a portion thereof; and (2) have
20 less than three-tenths of one percent of the total loans in the state
21 which they either originate, own, service, or maintain for the calendar
22 year ending December thirty-first of the calendar year ending two years
23 prior to the current calendar year. For any state or federally chartered
24 banks, savings banks, savings and loan associations, or credit unions
25 which originate, own, service and maintain between three-tenths of one
26 percent and five-tenths of one percent of the total loans in the state
27 which they either originate, own, service, or maintain for the calendar
28 year ending December thirty-first of the calendar year ending two years
29 prior to the current calendar year, the application of this section
30 shall be prospective only.

31 1. Subject to bankruptcy filings, cease and desist orders, threats of
32 violence, or active loss mitigation efforts, within ninety days of a
33 borrower's delinquency, the servicer authorized to accept payment of the
34 loan shall complete an exterior inspection of the subject property to
35 determine occupancy. Thereafter, throughout the delinquency of the loan,
36 the servicer shall conduct an exterior inspection of the property every
37 twenty-five to thirty-five days, at different times of the day.

38 2. If a borrower is delinquent and subject to property inspections
39 pursuant to subdivision one of this section, the servicer shall secure
40 and maintain the residential real property pursuant to subdivisions
41 three, four, five, six, and seven of this section where the servicer has
42 a reasonable basis to believe that the residential real property is
43 vacant and abandoned, as defined in section thirteen hundred nine of
44 this chapter, and is not otherwise restricted from accessing the proper-
45 ty.

46 3. Within seven business days of determining that the property is
47 vacant and abandoned based on the criteria set forth in subdivision two
48 of this section, the servicer shall post a notice on an easily accessi-
49 ble part of the property that would be reasonably visible to the borrow-
50 er, property owner or occupant, and monitor the property for any change
51 in occupancy or contact with the borrower, property owner or occupant,
52 and monitor to ensure that the notice remains posted so long as the duty
53 to maintain applies. The posted notice shall provide the servicer's toll
54 free number or similar contact information.

1 4. If the posted notice is not responded to or persists for seven
2 consecutive calendar days without contact with the borrower, property
3 owner or occupant indicating that the property is not vacant or aban-
4 doned, or if an emergent property condition that could reasonably
5 damage, destroy or harm the property arises, the servicer shall:

6 (a) in cases where the property contains two or more points of ingress
7 or egress, replace no more than one door lock to provide subsequent
8 access to the property;

9 (b) secure, replace or board up broken doors and windows;

10 (c) secure any part of the property that may be deemed an attractive
11 nuisance including, but not limited to, a water feature that could
12 create a drowning risk, refrigerator or freezer units, outbuildings,
13 wells or septic tanks;

14 (d) take reasonable measures to ensure that pipes, ducts, conductors,
15 fans and blowers do not discharge harmful gases, steam, vapor, hot air,
16 grease, smoke, odors or other gaseous or particulate waste directly upon
17 abutting or adjacent public or private property or that of another
18 tenant;

19 (e) where appropriate, winterize the applicable plumbing and heating
20 systems;

21 (f) provide basic utilities including, but not limited to, water,
22 electricity, natural gas, propane and sewer service, as appropriate and
23 when allowed by the local utility provider, that are needed for the
24 operation of a sump pump or dehumidifier, or when there are jointly
25 owned or shared utilities with adjoining properties or units, except for
26 turning off water service to prevent flooding or water leaks in the
27 property, or when other utility service could reasonably create a hazard
28 to the property or an unauthorized occupant or person entering the prop-
29 erty;

30 (g) remove and remediate any significant health and safety issues,
31 including outstanding code violations;

32 (h) take reasonable measures to prevent the growth of harmful mold;

33 (i) respond to government inquiries regarding property condition,
34 subject to restrictions regarding financial privacy; and

35 (j) ensure that the notice required to be posted in subdivision three
36 of this section remains posted on an easily accessible part of the prop-
37 erty that would be reasonably visible to the borrower, property owner or
38 occupant so long as the duty to maintain applies.

39 5. At no time shall a servicer remove personal property from the prop-
40 erty unless:

41 (a) the personal property poses a significant health and safety issue;
42 or

43 (b) there is an uncontested order to do so by a governmental entity.

44 6. A servicer who has determined a property to be vacant and abandoned
45 and who has secured the same shall take reasonable and necessary actions
46 to maintain the property until the earlier of the following events:

47 (a) an occupant of the property has asserted his or her right to occu-
48 py the property, or the servicer or its agents have received threats of
49 violence;

50 (b) the borrower has filed for bankruptcy;

51 (c) a court has ordered the servicer to stop any maintenance of the
52 property;

53 (d) a homeowners' association or cooperative has prevented the servi-
54 cer from gaining access to or maintaining the property;

55 (e) the property has been sold or transferred to a new owner;

1 (f) the servicer or investor subject to the provisions of this section
2 has released the lien on the property; or

3 (g) the mortgage note has been assigned, transferred or sold to another servicer.

4
5 7. Reasonable and necessary actions to maintain the property include,
6 but are not limited to:

7 (a) ensuring that the property remains secure pursuant to subdivisions
8 four, five and six of this section; and

9 (b) maintaining property in a manner consistent with the standards set
10 forth in sections 301, 302 (excluding 302.2, 302.6 and 302.8), 304.1,
11 304.3, 304.7, 304.10, 304.12, 304.13, 304.15, 304.16, 307.1, and 308.1
12 of the New York property maintenance code, to the extent that the mort-
13 gage servicer or its agents are able to obtain necessary or required
14 permits or approvals.

15 8. (a) Violations of this section may be heard before a hearing offi-
16 cer or a court of competent jurisdiction. If it shall appear to the
17 satisfaction of the hearing officer or the court, based on the prepon-
18 derance of the evidence, that the mortgagee or agent of a mortgagee has
19 violated this section, a civil penalty may be issued by the hearing
20 officer or the court in the amount of up to five hundred dollars per day
21 per property for each day the violation persisted.

22 (b) The superintendent of financial services may, as appropriate and
23 in his or her sole discretion, pursue any suspected violation of this
24 section. Before taking such action, the superintendent shall give the
25 lender, assignee or mortgage loan servicer at least seven days' notice
26 of the violation.

27 (c) In addition to the authority granted to the department of finan-
28 cial services, the municipality in which such residential real property
29 is located, shall have the right to enforce the obligations described in
30 this section in any court of competent jurisdiction after at least seven
31 days' notice to the lender, assignee or mortgage loan servicer, unless
32 the property requires emergency repairs to address a threat to public
33 health, safety or welfare, in which case the municipality may enter and
34 maintain the property to cure the emergency, provided however, notice
35 shall be provided to the lender, assignee or mortgage loan servicer as
36 soon as practicable. Any municipality acting pursuant to this subdivi-
37 sion shall have a cause of action in any court of competent jurisdiction
38 against the lender, assignee or mortgage loan servicer to recover costs
39 incurred as a result of maintaining the property. Such entity shall
40 provide the department of financial services with written notice at
41 least ten days prior to bringing an action pursuant to this subdivision;
42 provided, however, that failure to comply with this notice requirement
43 shall not be a defense to the entity proceeding pursuant to this subdivi-
44 sion. The authority provided by this subdivision shall be in addition
45 to, and shall not be deemed to diminish or reduce, any rights of the
46 parties described in this section under existing law against the mortga-
47 gor of such property for failure to maintain such property. Any civil
48 penalty imposed pursuant to paragraph (a) of this subdivision in an
49 action brought by a municipality pursuant to this paragraph shall be
50 retained by such municipality.

51 (d) The department of financial services is authorized and empowered
52 to adopt such rules and regulations as may, in the judgment of the
53 superintendent of financial services, be necessary for the effective
54 implementation, administration, operation and enforcement of this
55 section.

1 9. A servicer who peacefully enters a vacant and abandoned property in
2 order to maintain pursuant to this section shall be immune from liability
3 when such servicer is making reasonable efforts to comply with the
4 statute.

5 10. The provisions of this section are subject to federal laws, court
6 orders and investor and insurer guidelines.

7 11. For all state or federally chartered banks, savings banks,
8 savings and loan associations, credit unions, or servicers for which the
9 provisions of this section do not apply, pursuant to the opening para-
10 graph of this section, any agreement between such state or federally
11 chartered banks, savings banks, savings and loan associations, credit
12 unions, or servicers and the department of financial services that is
13 associated with the maintenance and repair of vacant and abandoned prop-
14 erty shall remain in full force and effect between the aforementioned
15 parties for so long as the terms and conditions of such agreement remain
16 in effect.

17 12. The department of financial services shall issue such rules and
18 regulations necessary to implement the terms of this section, including
19 but not limited to rules and regulations pertaining to the reporting of
20 financial information that state or federally chartered banks, savings
21 banks, savings and loan associations, or credit unions must provide to
22 implement this section.

23 13. No local law, ordinance, or resolution shall impose a duty to
24 maintain vacant and abandoned property as defined in section thirteen
25 hundred nine of this article in a manner inconsistent with the
26 provisions of this section that are related to maintenance as provided
27 under subdivisions three, four, five, six and seven of this section, or
28 establish related penalties nor other monetary obligations, with respect
29 to a state or federally chartered bank, savings bank, savings and loan
30 association or credit union that originates, owns, services or maintains
31 a mortgage related to such property.

32 No local law, ordinance, or resolution shall impose a duty to maintain
33 vacant and abandoned property upon any state or federally chartered
34 bank, savings bank, savings and loan association or credit union that
35 originates, owns, services or maintains a mortgage related to such prop-
36 erty for which the provisions of this section, pursuant to the opening
37 paragraph of this section, do not apply.

38 § 2. Rule 3408 of the civil practice law and rules, as added by chap-
39 ter 472 of the laws of 2008, subdivision (a) as amended by chapter 306
40 of the laws of 2013, subdivisions (d), (e), (f), (g) and (h) as added by
41 chapter 507 of the laws of 2009, is amended to read as follows:

42 Rule 3408. Mandatory settlement conference in residential foreclosure
43 actions. (a) In any residential foreclosure action involving a home
44 loan as such term is defined in section thirteen hundred four of the
45 real property actions and proceedings law, in which the defendant is a
46 resident of the property subject to foreclosure, plaintiff shall file
47 proof of service within twenty days of such service, however service is
48 made, and the court shall hold a mandatory conference within sixty days
49 after the date when proof of service upon such defendant is filed with
50 the county clerk, or on such adjourned date as has been agreed to by the
51 parties, for the purpose of holding settlement discussions pertaining to
52 the relative rights and obligations of the parties under the mortgage
53 loan documents, including, but not limited to: 1. determining whether
54 the parties can reach a mutually agreeable resolution to help the
55 defendant avoid losing his or her home, and evaluating the potential for
56 a resolution in which payment schedules or amounts may be modified or

1 other workout options may be agreed to, [~~and for~~] including, but not
2 limited to, a loan modification, short sale, deed in lieu of foreclo-
3 sure, or any other loss mitigation option; or 2. whatever other purposes
4 the court deems appropriate.

5 (b) At the initial conference held pursuant to this section, any
6 defendant currently appearing pro se, shall be deemed to have made a
7 motion to proceed as a poor person under section eleven hundred one of
8 this chapter. The court shall determine whether such permission shall be
9 granted pursuant to standards set forth in section eleven hundred one of
10 this chapter. If the court appoints defendant counsel pursuant to subdivi-
11 sion (a) of section eleven hundred two of this chapter, it shall
12 adjourn the conference to a date certain for appearance of counsel and
13 settlement discussions pursuant to subdivision (a) of this section, and
14 otherwise shall proceed with the conference.

15 (c) At any conference held pursuant to this section, the plaintiff and
16 the defendant shall appear in person or by counsel, and [~~if appearing by~~
17 ~~counsel, such counsel~~] each party's representative at the conference
18 shall be fully authorized to dispose of the case. [~~The defendant shall~~
19 ~~appear in person or by counsel.~~] If the defendant is appearing pro se,
20 the court shall advise the defendant of the nature of the action and his
21 or her rights and responsibilities as a defendant. Where appropriate,
22 the court may permit a representative of the plaintiff or the defendant
23 to attend the settlement conference telephonically or by video-confer-
24 ence.

25 (d) Upon the filing of a request for judicial intervention in any
26 action pursuant to this section, the court shall send either a copy of
27 such request or the defendant's name, address and telephone number (if
28 available) to a housing counseling agency or agencies on a list desig-
29 nated by the division of housing and community renewal for the judicial
30 district in which the defendant resides. Such information shall be used
31 by the designated housing counseling agency or agencies exclusively for
32 the purpose of making the homeowner aware of housing counseling and
33 foreclosure prevention services and options available to them.

34 (e) The court shall promptly send a notice to parties advising them of
35 the time and place of the settlement conference, the purpose of the
36 conference and the requirements of this section. The notice shall be in
37 a form prescribed by the office of court administration, or, at the
38 discretion of the office of court administration, the administrative
39 judge of the judicial district in which the action is pending, and shall
40 advise the parties of the documents that they [~~should~~] shall bring to
41 the conference.

42 1. For the plaintiff, such documents [~~should~~] shall include, but are
43 not limited to, (i) the payment history[~~7~~]; (ii) an itemization of the
44 amounts needed to cure and pay off the loan[~~7~~ and]; (iii) the mortgage
45 and note or copies of the same; (iv) standard application forms and a
46 description of loss mitigation options, if any, which may be available
47 to the defendant; and (v) any other documentation required by the
48 presiding judge. If the plaintiff is not the owner of the mortgage and
49 note, the plaintiff shall provide the name, address and telephone number
50 of the legal owner of the mortgage and note. For cases in which the
51 lender or its servicing agent has evaluated or is evaluating eligibility
52 for home loan modification programs or other loss mitigation options, in
53 addition to the documents listed above, the plaintiff shall bring a
54 summary of the status of the lender's or servicing agent's evaluation
55 for such modifications or other loss mitigation options, including,
56 where applicable, a list of outstanding items required for the borrower

1 to complete any modification application, an expected date of completion
2 of the lender's or servicer agent's evaluation, and, if the
3 modification(s) was denied, a denial letter or any other document
4 explaining the reason(s) for denial and the data input fields and values
5 used in the net present value evaluation. If the modification was denied
6 on the basis of an investor restriction, the plaintiff shall bring the
7 documentary evidence which provides the basis for the denial, such as a
8 pooling and servicing agreement.

9 2. For the defendant, such documents [~~should~~] shall include, but are
10 not limited to, [~~proof of current income such as the two most recent pay~~
11 ~~stubs, most recent tax return and most recent property tax statements~~]
12 if applicable, information on current income tax returns, expenses,
13 property taxes and previously submitted applications for loss miti-
14 gation; benefits information; rental agreements or proof of rental
15 income; and any other documentation relevant to the proceeding required
16 by the presiding judge.

17 (f) Both the plaintiff and defendant shall negotiate in good faith to
18 reach a mutually agreeable resolution, including but not limited to a
19 loan modification, short sale, deed in lieu of foreclosure, or any other
20 loss mitigation, if possible. Compliance with the obligation to negoti-
21 ate in good faith pursuant to this section shall be measured by the
22 totality of the circumstances, including but not limited to the follow-
23 ing factors:

24 1. Compliance with the requirements of this rule and applicable court
25 rules, court orders, and directives by the court or its designee
26 pertaining to the settlement conference process;

27 2. Compliance with applicable mortgage servicing laws, rules, regu-
28 lations, investor directives, and loss mitigation standards or options
29 concerning loan modifications, short sales, and deeds in lieu of fore-
30 closure; and

31 3. Conduct consistent with efforts to reach a mutually agreeable
32 resolution, including but not limited to, avoiding unreasonable delay,
33 appearing at the settlement conference with authority to fully dispose
34 of the case, avoiding prosecution of foreclosure proceedings while loss
35 mitigation applications are pending, and providing accurate information
36 to the court and parties.

37 Neither of the parties' failure to make the offer or accept the offer
38 made by the other party is sufficient to establish a failure to negoti-
39 ate in good faith.

40 (g) The plaintiff must file a notice of discontinuance and vacatur of
41 the lis pendens within [~~one hundred fifty days~~] ninety days after any
42 settlement agreement or loan modification is fully executed.

43 (h) A party to a foreclosure action may not charge, impose, or other-
44 wise require payment from the other party for any cost, including but
45 not limited to attorneys' fees, for appearance at or participation in
46 the settlement conference.

47 (i) The court may determine whether either party fails to comply with
48 the duty to negotiate in good faith pursuant to subdivision (f) of this
49 section, and order remedies pursuant to subdivisions (j) and (k) of this
50 section, either on motion of any party or sua sponte on notice to the
51 parties, in accordance with such procedures as may be established by the
52 court or the office of court administration. A referee, judicial hearing
53 officer, or other staff designated by the court to oversee the settle-
54 ment conference process may hear and report findings of fact and conclu-
55 sions of law, and may make reports and recommendations for relief to the

1 court concerning any party's failure to negotiate in good faith pursuant
2 to subdivision (f) of this section.

3 (j) Upon a finding by the court that the plaintiff failed to negotiate
4 in good faith pursuant to subdivision (f) of this section, and order
5 remedies pursuant to this subdivision and subdivision (k) of this
6 section the court shall, at a minimum, toll the accumulation and
7 collection of interest, costs, and fees during any undue delay caused by
8 the plaintiff, and where appropriate, the court may also impose one or
9 more of the following:

10 1. Compel production of any documents requested by the court pursuant
11 to subdivision (e) of this section or the court's designee during the
12 settlement conference;

13 2. Impose a civil penalty payable to the state that is sufficient to
14 deter repetition of the conduct and in an amount not to exceed twenty-
15 five thousand dollars;

16 3. The court may award actual damages, fees, including attorney fees
17 and expenses to the defendant as a result of plaintiff's failure to
18 negotiate in good faith; or

19 4. Award any other relief that the court deems just and proper.

20 (k) Upon a finding by the court that the defendant failed to negotiate
21 in good faith pursuant to subdivision (f) of this section, the court
22 shall, at a minimum, remove the case from the conference calendar. In
23 considering such a finding, the court shall take into account equitable
24 factors including, but not limited to, whether the defendant was repres-
25 ented by counsel.

26 (l) At the first settlement conference held pursuant to this section,
27 if the defendant has not filed an answer or made a pre-answer motion to
28 dismiss, the court shall:

29 1. advise the defendant of the requirement to answer the complaint;

30 2. explain what is required to answer a complaint in court;

31 3. advise that if an answer is not interposed the ability to contest
32 the foreclosure action and assert defenses may be lost; and

33 4. provide information about available resources for foreclosure
34 prevention assistance.

35 At the first conference held pursuant to this section, the court shall
36 also provide the defendant with a copy of the Consumer Bill of Rights
37 provided for in section thirteen hundred three of the real property
38 actions and proceedings law.

39 (m) A defendant who appears at the settlement conference but who
40 failed to file a timely answer, pursuant to rule 320 of the civil prac-
41 tice law and rules, shall be presumed to have a reasonable excuse for
42 the default and shall be permitted to serve and file an answer, without
43 any substantive defenses deemed to have been waived within thirty days
44 of initial appearance at the settlement conference. The default shall
45 be deemed vacated upon service and filing of an answer.

46 (n) Any motions submitted by the plaintiff or defendant shall be held
47 in abeyance while the settlement conference process is ongoing, except
48 for motions concerning compliance with this rule and its implementing
49 rules.

50 § 3. Subdivision (a) of rule 3408 of the civil practice law and rules,
51 as added by chapter 472 of the laws of 2008, is amended to read as
52 follows:

53 (a) In any residential foreclosure action involving a high-cost home
54 loan consummated between January first, two thousand three and September
55 first, two thousand eight, or a subprime or nontraditional home loan, as
56 those terms are defined under section thirteen hundred four of the real

1 property actions and proceedings law, in which the defendant is a resi-
2 dent of the property subject to foreclosure, the court shall hold a
3 mandatory conference within sixty days after the date when proof of
4 service is filed with the county clerk, or on such adjourned date as has
5 been agreed to by the parties, for the purpose of holding settlement
6 discussions pertaining to the relative rights and obligations of the
7 parties under the mortgage loan documents, including, but not limited
8 to: 1. determining whether the parties can reach a mutually agreeable
9 resolution to help the defendant avoid losing his or her home, and eval-
10 uating the potential for a resolution in which payment schedules or
11 amounts may be modified or other workout options may be agreed to, ~~and~~
12 ~~for~~ including, but not limited to, a loan modification, short sale,
13 deed in lieu of foreclosure, or any other loss mitigation option; or 2.
14 whatever other purposes the court deems appropriate.
15 § 4. The real property actions and proceedings law is amended by
16 adding two new sections 1309 and 1310 to read as follows:
17 § 1309. Expedited application for judgment of foreclosure and sale for
18 vacant and abandoned property. 1. The plaintiff in any foreclosure
19 proceeding may make an application by notice of motion or order to show
20 cause for a judgment of foreclosure and sale on the grounds that the
21 subject property is vacant and abandoned. The motion or order to show
22 cause shall include the last known address of the borrower and the prop-
23 erty address. Notwithstanding subdivision (m) of rule thirty-four
24 hundred eight of the civil practice law and rules no such application
25 may be made until the defendant's time to answer the complaint in the
26 foreclosure proceeding shall have expired. Such application shall be
27 served on defendant, regardless of whether a defendant has filed an
28 answer or appeared in the case. Such application shall: (a) state in
29 bold letters, on the first page of the notice of motion or order to show
30 cause: (i) "The plaintiff in this lawsuit has applied for an expedited
31 judgment of foreclosure and sale of your property on the ground that it
32 is vacant and abandoned"; (ii) "Your property may be foreclosed upon and
33 sold without any further proceedings if you do not respond to this
34 motion by or on the return date, which is "; (iii) "You have the
35 right to stay in your property until a court orders you to leave"; and
36 (iv) "You may respond to this motion by either submitting a written
37 document or by appearing in court on the return date."; (b) be supported
38 by affidavit and other proof, including but not limited to: (i) proof of
39 ownership of the mortgage and the note, (ii) photographs evidencing that
40 the subject property is vacant and abandoned as provided for under
41 subdivision two of this section, and (iii) if available, utility company
42 records or other documentation evidencing the vacant and abandoned
43 status of the premises; (c) set forth, supported by documentary
44 evidence, the sums alleged to be due and owing upon the subject mortgage
45 and note, including the current principal balance and a detailed and
46 itemized account of each fee, each cost, and a calculation of interest
47 accrued; and (d) request that the court confirm the sums due and owing
48 upon the subject mortgage and note without appointment of a referee. The
49 court shall promptly send a notice to the defendant of the plaintiff's
50 notice of motion or order to show cause for a judgement of foreclosure
51 and sale on the grounds that the subject property is vacant and aban-
52 doned. The notice shall advise the defendant that the lender is asking
53 the court to expedite a judgement of foreclosure and sale of his or her
54 property on the ground that it is vacant and abandoned and about the
55 time and place of the court date. The notice shall be in a form
56 prescribed by the courts, or, at the discretion of the courts.

1 2. (a) As used in this section, "vacant and abandoned residential
2 property" means residential real property, as defined in section thir-
3 teen hundred five of this article, with respect to which the plaintiff
4 has proven, by preponderance of the evidence, that it has conducted at
5 least three consecutive inspections of such property, with each
6 inspection conducted twenty-five to thirty-five days apart and at
7 different times of the day, and at each inspection (i) no occupant was
8 present and there was no evidence of occupancy on the property to indi-
9 cate that any persons are residing there; and (ii) the residential real
10 property was not being maintained in a manner consistent with the stand-
11 ards set forth in New York property maintenance code chapter 3 sections
12 301, 302 (excluding 302.2, 302.6, 302.8), 304.1, 304.3, 304.7, 304.10,
13 304.12, 304.13, 304.15, 304.16, 307.1 and 308.1.

14 (b) Residential real property will also be deemed vacant and abandoned
15 if:

16 (i) A court or other appropriate state or local governmental entity
17 has formally determined, following due notice to the borrower at the
18 property address and any other known addresses, that such residential
19 real property is vacant and abandoned; or

20 (ii) Each borrower and owner has separately issued a sworn written
21 statement, expressing his or her intent to vacate and abandon the prop-
22 erty and an inspection of the property shows no evidence of occupancy to
23 indicate that any persons are residing there.

24 (c) Evidence of lack of occupancy shall include but not be limited to
25 the following conditions: (i) overgrown or dead vegetation; (ii) accumu-
26 lation of newspapers, circulars, flyer or mail; (iii) past due utility
27 notices, disconnected utilities, or utilities not in use; (iv) accumu-
28 lation of trash, refuse or other debris; (v) absence of window coverings
29 such as curtains, blinds, or shutters; (vi) one or more boarded, missing
30 or broken windows; (vii) the property is open to casual entry or tres-
31 pass; or (viii) the property has a building or structure that is or
32 appears structurally unsound or has any other condition that presents a
33 potential hazard or danger to the safety of persons.

34 (d) Residential real property will not be deemed vacant and abandoned
35 if, on the property:

36 (i) There is an unoccupied building that is undergoing construction,
37 renovation, or rehabilitation that is proceeding diligently to
38 completion;

39 (ii) There is a building occupied on a seasonal basis, but otherwise
40 secure;

41 (iii) There is a building that is secure, but is the subject of a
42 probate action, action to quiet title, or other ownership dispute of
43 which the servicer has actual notice;

44 (iv) There is a building damaged by a natural disaster and one or more
45 owner intends to repair and reoccupy the property; or

46 (v) There is a building occupied by the mortgagor, a relative of the
47 mortgagor or a tenant lawfully in possession.

48 3. In connection with an application for a judgment of foreclosure and
49 sale on the ground that the subject property is vacant and abandoned,
50 the court may require the plaintiff or an agent to appear to provide
51 testimony in support of the application.

52 4. The court shall make a written finding as soon as practicable as to
53 whether the plaintiff has proved that the property to be foreclosed upon
54 pursuant to this section is vacant and abandoned pursuant to subdivision
55 two of this section and, if the court determines that the property is
56 vacant and abandoned, it shall set forth: (a) the evidence relied upon

1 by the court in finding that the property is vacant and abandoned; (b)
2 the evidence showing that the plaintiff is the owner and holder of the
3 subject mortgage and note, or has been delegated the authority to insti-
4 tute a mortgage foreclosure action by the owner of same; and (c) the
5 sums due and owing upon the subject mortgage and note after a review of
6 the detailed and itemized account of each fee, each cost, and a calcu-
7 lation of interest accrued.

8 5. With respect to foreclosure actions brought pursuant to this
9 section:

10 (a) A judgment of foreclosure and sale shall not be entered pursuant
11 to this section if the mortgagor or any other defendant has filed an
12 answer, appearance, other written objection that is not withdrawn, or
13 has otherwise demonstrated an intention to contest the foreclosure
14 action.

15 (b) A denial of a judgment of foreclosure and sale pursuant to this
16 section where the court does not find that the mortgaged property is
17 vacant and abandoned shall not be deemed to be on the merits for
18 purposes of any other proceeding with respect to such real property.

19 6. It shall be unlawful for a lender, assignee, mortgage loan servi-
20 cer, or a third party agent or other person acting on behalf of a lend-
21 er, assignee or mortgage loan servicer to enter residential real proper-
22 ty that is not vacant and abandoned for the purpose of forcing,
23 intimidating, harassing or coercing a lawful occupant of such residen-
24 tial property to vacate that property in order to render the property
25 vacant and abandoned, or to otherwise force, intimidate, harass, or
26 coerce a lawful occupant of residential real property to vacate that
27 property so that it may be deemed vacant and abandoned, provided howev-
28 er, a lender, assignee, mortgage loan servicer, or a third party agent
29 or other person acting on behalf of a lender, assignee or mortgage loan
30 servicer who peacefully enters a vacant and abandoned property in order
31 to render the property vacant and abandoned shall be immune from liabil-
32 ity when such lender, assignee, mortgage loan servicer, third party
33 agent or other person acting on behalf of a lender, assignee or mortgage
34 loan servicer is making reasonable efforts to comply with this section.

35 7. The chief administrative judge of the courts shall adopt such rules
36 as he or she deems necessary to expeditiously implement the provisions
37 of this section.

38 § 1310. Vacant and abandoned property; statewide vacant and abandoned
39 property electronic registry. 1. The department of financial services
40 shall maintain a statewide vacant and abandoned property registry in the
41 form of an electronic database. The department of financial services
42 may, in accordance with the applicable provisions of the state finance
43 law, retain a private contractor to administer such database for the
44 purposes of satisfying this requirement. The information provided to
45 the department of financial services pursuant to this section shall be
46 deemed and treated confidential, provided however, the superintendent of
47 financial services, in her or his sole discretion, may release the
48 information if it is in the best interest of the public. Any such
49 released information shall continue to be treated confidentially by the
50 parties. The department of financial services shall, upon written
51 request, provide public officials of any state district, county, city,
52 town or village with access to information specific to such public offi-
53 cial's district, county, city, town or village maintained on such data-
54 base to further the purposes of this section, section thirteen hundred
55 seven of this article or article nineteen-A of this chapter, or any
56 other related law, code, rule, regulation or ordinance.

1 2. A lender, assignee or mortgage loan servicer shall submit or cause
2 to be submitted to the department of financial services information
3 required by the superintendent of financial services about any vacant
4 and abandoned residential real property, as that term is defined in
5 subdivision two of section thirteen hundred nine of this article, or as
6 the superintendent of financial services may otherwise define that term,
7 within twenty-one business days of when the lender, assignee or mortgage
8 loan servicer learns, or should have learned, that such property is
9 vacant and abandoned. Such information shall, at a minimum, include:
10 (a) the current name, address and contact information for the lender,
11 assignee or mortgage loan servicer responsible for maintaining the
12 vacant property; (b) whether a foreclosure action has been filed for the
13 property in question, and, if so, the date on which the foreclosure
14 action was commenced; and (c) the last known address and contact infor-
15 mation for the mortgagor(s) of record.

16 3. Where any of the information contained in a lender's, assignee's or
17 mortgage loan servicer's initial submission to the registry has mate-
18 rially changed since such submission, such lender, assignee or mortgage
19 loan servicer shall make an amended submission to the registry not later
20 than thirty days after the lender, assignee or mortgage loan servicer
21 learns, or reasonably should have learned, of the new or changed infor-
22 mation.

23 4. The department of financial services is authorized and empowered to
24 adopt such rules and regulations as may in the judgment of the super-
25 intendent of financial services necessary for the effective adminis-
26 tration and operation of such registry, including but not limited to
27 rules and regulations governing access to the registry and specifying
28 the manner and frequency of registration and the information that must
29 be provided. The superintendent of financial services may amend such
30 regulations from time to time as necessary to effectuate the purpose of
31 this section and section thirteen hundred seven of this article.

32 5. The department of financial services shall establish and maintain a
33 toll-free hotline that neighbors of real property that is, or appears to
34 be, vacant and abandoned residential real property, as such term is
35 defined in subdivision two of section thirteen hundred nine of this
36 article, and other community residents can use to report to the super-
37 intendent of financial services any hazards, blight or other concerns
38 related to such property. The department of financial services shall
39 include on its official public website information about such toll-free
40 hotline.

41 No local law, ordinance, or resolution shall impose a duty to register
42 vacant and abandoned property as defined in section thirteen hundred
43 nine of the article in a manner inconsistent with the provisions of this
44 section that are related to registration as provided under section thir-
45 teen hundred ten of this article or establish related penalties or other
46 monetary obligation, with respect to a state or federally chartered
47 bank, savings bank, savings and loan association or credit union that
48 originates, owns, services or maintains a mortgage related to such prop-
49 erty.

50 No local law, ordinance, or resolution shall impose a duty to maintain
51 vacant and abandoned property upon any state or federally chartered
52 bank, savings bank, savings and loan association or credit union that
53 originates, owns, services or maintains a mortgage related to such prop-
54 erty for which the provisions of this section, pursuant to the opening
55 paragraph of section thirteen hundred eight of this article, do not
56 apply.

1 § 5. Subdivision 3 of section 1303 of the real property actions and
2 proceedings law, as amended by chapter 507 of the laws of 2009 and as
3 further amended by section 104 of part A of chapter 62 of the laws of
4 2011, is amended and a new subdivision 3-a is added to read as follows:

5 3. The notice to any mortgagor required by paragraph (a) of subdivi-
6 sion one of this section shall appear as follows:

7 Help for Homeowners in Foreclosure
8 New York State Law requires that we send you this notice about the
9 foreclosure process. Please read it carefully.
10 Summons and Complaint

11 You are in danger of losing your home. If you fail to respond to the
12 summons and complaint in this foreclosure action, you may lose your
13 home. Please read the summons and complaint carefully. You should imme-
14 diately contact an attorney or your local legal aid office to obtain
15 advice on how to protect yourself.

16 Sources of Information and Assistance

17 The State encourages you to become informed about your options in
18 foreclosure. In addition to seeking assistance from an attorney or legal
19 aid office, there are government agencies and non-profit organizations
20 that you may contact for information about possible options, including
21 trying to work with your lender during this process.

22 To locate an entity near you, you may call the toll-free helpline
23 maintained by the New York State Department of Financial Services at
24 (enter number) or visit the Department's website at (enter web address).

25 Rights and Obligations

26 YOU ARE NOT REQUIRED TO LEAVE YOUR HOME AT THIS TIME. You have the right
27 to stay in your home during the foreclosure process. You are not
28 required to leave your home unless and until your property is sold at
29 auction pursuant to a judgment of foreclosure and sale.

30 Regardless of whether you choose to remain in your home, YOU ARE
31 REQUIRED TO TAKE CARE OF YOUR PROPERTY and property taxes in accord-
32 ance with state and local law.

33 Foreclosure rescue scams

34 Be careful of people who approach you with offers to "save" your home.
35 There are individuals who watch for notices of foreclosure actions in
36 order to unfairly profit from a homeowner's distress. You should be
37 extremely careful about any such promises and any suggestions that you
38 pay them a fee or sign over your deed. State law requires anyone offer-
39 ing such services for profit to enter into a contract which fully
40 describes the services they will perform and fees they will charge, and
41 which prohibits them from taking any money from you until they have
42 completed all such promised services.

43 3-a. No later than sixty days after the effective date of this subdivi-
44 vision, the department of financial services shall publish a Consumer
45 Bill Of Rights, in consultation with all stakeholders, which shall
46 detail the rights and responsibilities of the plaintiff and defendant in
47 a foreclosure proceeding. Such Bill of Rights shall be updated on an
48 annual basis and as appropriate.

49 § 6. Section 1304 of the real property actions and proceedings law, as
50 added by chapter 472 of the laws of 2008, subdivision 1 as amended and
51 subdivision 6 as added by chapter 155 of the laws of 2012, and subdivi-
52 sions 2 and 5 as amended by chapter 507 of the laws of 2009, and subdivi-
53 sion 2 as further amended by section 104 of part A of chapter 62 of
54 the laws of 2011, is amended to read as follows:

55 § 1304. Required prior notices. 1. Notwithstanding any other
56 provision of law, with regard to a home loan, at least ninety days

1 before a lender, an assignee or a mortgage loan servicer commences legal
2 action against the borrower, or borrowers at the property address and
3 any other address of record, including mortgage foreclosure, such lender,
4 assignee or mortgage loan servicer shall give notice to the borrower
5 in at least fourteen-point type which shall include the following:

6 "YOU [~~COULD LOSE YOUR HOME~~] MAY BE AT RISK OF
7 FORECLOSURE. PLEASE READ THE FOLLOWING NOTICE CAREFULLY"
8 "As of ____, your home loan is ____ days and ____ dollars in default.
9 Under New York State Law, we are required to send you this notice to
10 inform you that you are at risk of losing your home. [~~You can cure this~~
11 ~~default by making the payment of~~ ____ dollars by ____.]

12 [~~If you are experiencing financial difficulty, you should know that~~
13 ~~there are several options available to you that may help you keep your~~
14 ~~home.~~] Attached to this notice is a list of government approved housing
15 counseling agencies in your area which provide free [~~or very low cost~~]
16 counseling. [~~You should consider contacting one of these agencies immediately.~~
17 ~~These agencies specialize in helping homeowners who are facing~~
18 ~~financial difficulty. Housing counselors can help you assess your financial~~
19 ~~condition and work with us to explore the possibility of modifying~~
20 ~~your loan, establishing an easier payment plan for you, or even working~~
21 ~~out a period of loan forbearance.~~] You can also call the NYS Office of
22 the Attorney General's Homeowner Protection Program (HOPP) toll-free
23 consumer hotline to be connected to free housing counseling services in
24 your area at 1-855-HOME-456 (1-855-466-3456), or visit their website at
25 <http://www.agohehelp.com/>. A statewide listing by county is also avail-
26 able at http://www.dfs.ny.gov/consumer/mortg_nys_np_counseling_agencies.htm. Qualified free help is available; watch out for companies or
27 people who charge a fee for these services.

28
29 Housing counselors from New York-based agencies listed on the website
30 above are trained to help homeowners who are having problems making
31 their mortgage payments and can help you find the best option for your
32 situation. If you wish, you may also contact us directly at _____
33 and ask to discuss possible options.

34 While we cannot assure that a mutually agreeable resolution is possible,
35 we encourage you to take immediate steps to try to achieve a resolution.
36 The longer you wait, the fewer options you may have.

37 If [~~this matter is not resolved~~] you have not taken any actions to
38 resolve this matter within 90 days from the date this notice was mailed,
39 we may commence legal action against you (or sooner if you cease to live
40 in the dwelling as your primary residence.)

41 If you need further information, please call the New York State
42 Department of Financial Services' toll-free helpline at (show number) or
43 visit the Department's website at (show web address)[*].

44 IMPORTANT: You have the right to remain in your home until you receive
45 a court order telling you to leave the property. If a foreclosure action
46 is filed against you in court, you still have the right to remain in the
47 home until a court orders you to leave. You legally remain the owner of
48 and are responsible for the property until the property is sold by you
49 or by order of the court at the conclusion of any foreclosure
50 proceedings. This notice is not an eviction notice, and a foreclosure
51 action has not yet been commenced against you.

52 2. Such notice shall be sent by such lender, assignee (including
53 purchasing investor) or mortgage loan servicer to the borrower, by
54 registered or certified mail and also by first-class mail to the last
55 known address of the borrower, and [~~if different,~~] to the residence that
56 is the subject of the mortgage. Such notice shall be sent by the lender,

1 assignee or mortgage loan servicer in a separate envelope from any other
2 mailing or notice. Notice is considered given as of the date it is
3 mailed. The notice shall contain a current list of at least five housing
4 counseling agencies [~~as designated by the division of housing and commu-~~
5 ~~nity renewal, that serve the region where the borrower resides~~] servicing
6 the county where the property is located from the most recent listing
7 available from department of financial services. The list shall include
8 the counseling agencies' last known addresses and telephone numbers. The
9 department of financial services [~~and the division of housing and commu-~~
10 ~~nity renewal~~] shall make available on [~~their respective~~] its websites a
11 listing, by [~~region~~] county, of such agencies. The lender, assignee or
12 mortgage loan servicer shall use [~~either of these~~] such lists to meet
13 the requirements of this section.

14 3. The ninety day period specified in the notice contained in subdivi-
15 sion one of this section shall not apply, or shall cease to apply, if
16 the borrower has filed [~~an application for the adjustment of debts of~~
17 ~~the borrower or an order for relief from the payment of debts,~~] for
18 bankruptcy protection under federal law, or if the borrower no longer
19 occupies the residence as the borrower's principal dwelling. Nothing
20 herein shall relieve the lender, assignee or mortgage loan servicer of
21 the obligation to send such notice, which notice shall be a condition
22 precedent to commencing a foreclosure proceeding.

23 4. The notice and the ninety day period required by subdivision one of
24 this section need only be provided once in a twelve month period to the
25 same borrower in connection with the same loan and same delinquency.
26 Should a borrower cure a delinquency but re-default in the same twelve
27 month period, the lender shall provide a new notice pursuant to this
28 section.

29 5. For any borrower known to have limited English proficiency, the
30 notice required by subdivision one of this section shall be in the
31 borrower's native language (or a language in which the borrower is
32 proficient), provided that the language is one of the six most common
33 non-English languages spoken by individuals with limited English profi-
34 ciency in the state of New York, based on United States census data. The
35 department of financial services shall post the notice required by
36 subdivision one of this section on its website in the six most common
37 non-English languages spoken by individuals with limited English profi-
38 ciency in the state of New York, based on the United States census data.

39 6. (a) "Home loan" means a loan, including an open-end credit plan,
40 other than a reverse mortgage transaction, in which:

- 41 (i) The borrower is a natural person;
 - 42 (ii) The debt is incurred by the borrower primarily for personal,
43 family, or household purposes;
 - 44 (iii) The loan is secured by a mortgage or deed of trust on real
45 estate improved by a one to four family dwelling, or a condominium unit,
46 in either case, used or occupied, or intended to be used or occupied
47 wholly or partly, as the home or residence of one or more persons and
48 which is or will be occupied by the borrower as the borrower's principal
49 dwelling; and
 - 50 (iv) The property is located in this state.
- 51 (b) "Lender" means a mortgage banker as defined in paragraph (f) of
52 subdivision one of section five hundred ninety of the banking law or an
53 exempt organization as defined in paragraph (e) of subdivision one of
54 section five hundred ninety of the banking law.

55 [~~6-~~] 7. The department of financial services shall prescribe the tele-
56 phone number and web address to be included in the notice.

1 § 7. Subdivisions 1, 2, 5 and 6 of section 1304 of the real property
2 actions and proceedings law, subdivision 1 as amended and subdivision 6
3 as added by chapter 155 of the laws of 2012, and subdivisions 2 and 5 as
4 added by chapter 472 of the laws of 2008, subdivision 2 and paragraph
5 (f) of subdivision 5 as further amended by section 104 of part A of
6 chapter 62 of the laws of 2011, are amended to read as follows:

7 1. Notwithstanding any other provision of law, with regard to a high-
8 cost home loan, as such term is defined in section six-1 of the banking
9 law, a subprime home loan or a non-traditional home loan, at least nine-
10 ty days before a lender or a mortgage loan servicer commences legal
11 action against the borrower, including mortgage foreclosure, the lender
12 or mortgage loan servicer shall give notice to the borrower(s) at the
13 property address and any other address of record in at least fourteen-
14 point type which shall include the following:

15 "YOU [~~COULD LOSE YOUR HOME~~] MAY BE AT RISK OF
16 FORECLOSURE. PLEASE READ THE FOLLOWING NOTICE CAREFULLY"

17 "As of ____, your home loan is ____ days and _____dollars in default.
18 Under New York State Law, we are required to send you this notice to
19 inform you that you are at risk of losing your home. [~~You can cure this~~
20 ~~default by making the payment of _____dollars by ____.~~] There may be
21 options available to you to keep your home. This may include applying
22 for a loan modification of your mortgage, or reinstating your loan by
23 making the payment.

24 [~~If you are experiencing financial difficulty, you should know that~~
25 ~~there are several options available to you that may help you keep your~~
26 ~~home.~~] Attached to this notice is a list of government approved housing
27 counseling agencies in your area which provide free or very low-cost
28 counseling. [~~You should consider contacting one of these agencies imme-~~
29 ~~diately. These agencies specialize in helping homeowners who are facing~~
30 ~~financial difficulty. Housing counselors can help you assess your finan-~~
31 ~~cial condition and work with us to explore the possibility of modifying~~
32 ~~your loan, establishing an easier payment plan for you, or even working~~
33 ~~out a period of loan forbearance.] You can also call the NYS Office of
34 the Attorney General's Homeowner Protection Program (HOPP) toll-free
35 consumer hotline to be connected to free housing counseling services in
36 your area at 1-855-HOME-456 (1-855-466-3456), or visit their website at
37 <http://www.ahomehelp.com/>. A statewide listing by county is also avail-
38 able at http://www.dfs.ny.gov/consumer/mortg_nys_np_counseling_agencies.htm. Qualified free help is available; watch out for companies or
39 people who charge a fee for these services.~~

40 Housing counselors from New York-based agencies listed on the website
41 above are trained to help homeowners who are having problems making
42 their mortgage payments and can help you find the best option for your
43 situation. If you wish, you may also contact us directly at _____
44 and ask to discuss possible options.

45 While we cannot assure that a mutually agreeable resolution is possi-
46 ble, we encourage you to take immediate steps to try to achieve a resol-
47 ution. The longer you wait, the fewer options you may have.

48 If [~~this matter is not resolved~~] you have not taken any actions to
49 resolve this matter within 90 days from the date this notice was mailed,
50 we may commence legal action against you (or sooner if you cease to live
51 in the dwelling as your primary residence.)

52 If you need further information, please call the New York State
53 Department of Financial Services' toll-free helpline at (show number) or
54 visit the Department's website at (show web address)".
55

1 IMPORTANT: You have the right to remain in your home until you receive
2 a court order telling you to leave the property. If a foreclosure action
3 is filed against you in court, you still have the right to remain in the
4 home until a court orders you to leave. You legally remain the owner of
5 and are responsible for the property until the property is sold by you
6 or by order of the court at the conclusion of any foreclosure
7 proceedings. This notice is not an eviction notice, and a foreclosure
8 action has not yet been commenced against you.

9 2. Such notice shall be sent by the lender or mortgage loan servicer
10 to the borrower, by registered or certified mail and also by first-class
11 mail to the last known address of the borrower, and [~~if different,~~] to
12 the residence which is the subject of the mortgage. Notice is considered
13 given as of the date it is mailed. The notice shall contain a current
14 list of [~~at least five~~] United States department of housing and urban
15 development approved housing counseling agencies, or other housing coun-
16 seling agencies [~~as designated by the division of housing and community~~
17 ~~renewal, that serve the region where the borrower resides.~~] erving the
18 county where the property is located from the most recent listing avail-
19 able from the department of financial services. The list shall include
20 the counseling agencies' last known addresses and telephone numbers. The
21 department of financial services [~~and/or the division of housing and~~
22 ~~community renewal~~] shall make available a listing, by [~~region~~] county,
23 of such agencies which the lender or mortgage loan servicer may use to
24 meet the requirements of this section.

25 [~~5-~~] 6. (a) "Annual percentage rate" means the annual percentage rate
26 for the loan calculated according to the provisions of the Federal
27 Truth-in-Lending Act (15 U.S.C. § 1601, et seq.), and the regulations
28 promulgated thereunder by the federal reserve board (as said act and
29 regulations are amended from time to time).

30 (b) "Home loan" means a home loan, including an open-end credit plan,
31 other than a reverse mortgage transaction, in which:

32 (i) The principal amount of the loan at origination did not exceed the
33 conforming loan size that was in existence at the time of origination
34 for a comparable dwelling as established by the federal national mort-
35 gage association;

36 (ii) The borrower is a natural person;

37 (iii) The debt is incurred by the borrower primarily for personal,
38 family, or household purposes;

39 (iv) The loan is secured by a mortgage or deed of trust on real estate
40 upon which there is located or there is to be located a structure or
41 structures intended principally for occupancy of from one to four fami-
42 lies which is or will be occupied by the borrower as the borrower's
43 principal dwelling; and

44 (v) The property is located in this state.

45 (c) "Subprime home loan" for the purposes of this section, means a
46 home loan consummated between January first, two thousand three and
47 September first, two thousand eight in which the terms of the loan
48 exceed the threshold as defined in paragraph (d) of this subdivision. A
49 subprime home loan excludes a transaction to finance the initial
50 construction of a dwelling, a temporary or "bridge" loan with a term of
51 twelve months or less, such as a loan to purchase a new dwelling where
52 the borrower plans to sell a current dwelling within twelve months, or a
53 home equity line of credit.

54 (d) "Threshold" means, for a first lien mortgage loan, the annual
55 percentage rate of the home loan at consummation of the transaction
56 exceeds three percentage points over the yield on treasury securities

1 having comparable periods of maturity to the loan maturity measured as
2 of the fifteenth day of the month in which the loan was consummated; or
3 for a subordinate mortgage lien, the annual percentage rate of the home
4 loan at consummation of the transaction equals or exceeds five percent-
5 age points over the yield on treasury securities having comparable peri-
6 ods of maturity on the fifteenth day of the month in which the loan was
7 consummated; as determined by the following rules: if the terms of the
8 home loan offer any initial or introductory period, and the annual
9 percentage rate is less than that which will apply after the end of such
10 initial or introductory period, then the annual percentage rate that
11 shall be taken into account for purposes of this section shall be the
12 rate which applies after the initial or introductory period.

13 (e) "Non-traditional home loan" shall mean a payment option adjustable
14 rate mortgage or an interest only loan consummated between January
15 first, two thousand three and September first, two thousand eight.

16 (f) For purposes of determining the threshold, the department of
17 financial services shall publish on its website a listing of constant
18 maturity yields for U.S. Treasury securities for each month between
19 January first, two thousand three and September first, two thousand
20 eight, as published in the Federal Reserve Statistical Release on
21 selected interest rates, commonly referred to as the H.15 release, in
22 the following maturities, to the extent available in such release: six
23 month, one year, two year, three year, five year, seven year, ten year,
24 thirty year.

25 (g) "Lender" means a mortgage banker as defined in paragraph (f) of
26 subdivision one of section five hundred ninety of the banking law or an
27 exempt organization as defined in paragraph (e) of subdivision one of
28 section five hundred ninety of the banking law.

29 ~~[6.]~~ 7. The department of financial services shall prescribe the tele-
30 phone number and web address to be included in the notice.

31 § 8. Subdivision 1 of section 1351 of the real property actions and
32 proceedings law, as added by chapter 312 of the laws of 1962, is amended
33 to read as follows:

34 1. The judgment shall direct that the mortgaged premises, or so much
35 thereof as may be sufficient to discharge the mortgage debt, the
36 expenses of the sale and the costs of the action, and which may be sold
37 separately without material injury to the parties interested, be sold by
38 or under the direction of the sheriff of the county, or a referee within
39 ninety days of the date of the judgment.

40 § 9. Subdivision 1 of section 1353 of the real property actions and
41 proceedings law, as added by chapter 312 of the laws of 1962, is amended
42 to read as follows:

43 1. After the property has been sold, the officer conducting the sale
44 shall execute a deed to the purchaser. The plaintiff, or any other
45 party, may become a purchaser. If the plaintiff (or its affiliate, as
46 defined in paragraph (a) of subdivision one of section six-1 of the
47 banking law) is the purchaser, such party shall place the property back
48 on the market for sale or other occupancy: (a) within one hundred eighty
49 days of the execution of the deed of sale, or (b) within ninety days of
50 completion of construction, renovation, or rehabilitation of the proper-
51 ty, provided that such construction, renovation, or rehabilitation
52 proceeded diligently to completion, whichever comes first, provided
53 however, a court of competent jurisdiction may grant an extension for
54 good cause.

55 § 10. No local law, ordinance, or resolution shall impose a duty to
56 maintain or register vacant and abandoned property as defined in section

1 1309 of the real property actions and proceedings law in a manner incon-
2 sistent with the provisions of this act that are related to maintenance
3 as provided under subdivision 3, 4, 5, 6 and 7 of section 1308 of the
4 real property actions and proceedings law, or registration as provided
5 under section 1310 of the real property actions and proceedings law, or
6 establish related penalties or other monetary obligation, with respect
7 to a state or federally chartered bank, savings bank, savings and loan
8 association or credit union that originates, owns, services or maintains
9 mortgages related to such property.
10 No local law, ordinance, or resolution shall impose a duty to maintain
11 vacant and abandoned property upon any state or federally chartered
12 bank, savings bank, savings and loan association or credit union that
13 originates, owns, services or maintains mortgages related to such prop-
14 erty for which the provisions of this act, pursuant to the opening para-
15 graph of section 1308 of the real property actions and proceedings law
16 as added by section one of this act, do not apply.
17 § 11. This act shall take effect on the one hundred eightieth day
18 after it shall have become a law; provided, however, that:
19 (a) The amendments to subdivision (a) of rule 3408 of the civil prac-
20 tice law and rules made by section two of this act shall be subject to
21 the expiration and reversion of such subdivision pursuant to chapter 507
22 of the laws of 2009, as amended, when upon such date the provisions of
23 section three of this act shall take effect; and
24 (b) The amendments to subdivisions 1, 2, 5 and 6 of section 1304 of
25 the real property actions and proceedings law made by section six of
26 this act shall be subject to the expiration and reversion of such subdivi-
27 sions pursuant to chapter 507 of the laws of 2009, as amended, when
28 upon such date the provisions of section seven of this act shall take
29 effect.
30 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
31 sion, section or part of this act shall be adjudged by any court of
32 competent jurisdiction to be invalid, such judgment shall not affect,
33 impair, or invalidate the remainder thereof, but shall be confined in
34 its operation to the clause, sentence, paragraph, subdivision, section
35 or part thereof directly involved in the controversy in which such judg-
36 ment shall have been rendered. It is hereby declared to be the intent of
37 the legislature that this act would have been enacted even if such
38 invalid provisions had not been included herein.
39 § 3. This act shall take effect immediately provided, however, that
40 the applicable effective date of Parts A through Q of this act shall be
41 as specifically set forth in the last section of such Parts.

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