

# PROGRAM BILL # 38

Legislative Bill Drafting Commission  
12095-01-6

S. \_\_\_\_\_  
Senate  
\_\_\_\_\_

IN SENATE--Introduced by Sen

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

----- A.  
Assembly  
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IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

\*TAXLA\*  
(Makes amendments to certain  
provisions of the 2016--2017 state  
budget)

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Tax. budget cleanup

## AN ACT

to amend the tax law, in relation to  
a school tax reduction credit for  
residents of a city with a popu-  
lation 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

## IN SENATE

Senate introducer's signature

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

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

## IN ASSEMBLY

Assembly introducer's signature

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

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

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

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

(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 thereof; 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, includ-  
7 ing the effective date of the Part, which makes a reference to a section  
8 "of this act", when used in connection with that particular component,  
9 shall be deemed to mean and refer to the corresponding section of the  
10 Part in which it is found. Section three of this act sets forth the  
11 general effective date of this act.

12

## PART A

13 Section 1. 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 assess-  
22 ment roll, but the exemption was not taken into account in the calcu-  
23 lation 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

1 owner the tax savings that the STAR exemption would have yielded if the  
2 STAR exemption had been taken into account in the calculation of that  
3 taxpayer's school tax bill. The amounts payable under this section shall  
4 be paid from the account established for the payment of STAR benefits to  
5 late registrants pursuant to subparagraph (iii) of paragraph (a) of  
6 subdivision fourteen of this section. Where such a payment has been  
7 made, neither the property owner nor his or her agent shall be entitled  
8 to a refund of the excessive amount of school taxes paid on account of  
9 the administrative error.

10 § 3. Paragraph (c) of subdivision 11 of section 425 of the real prop-  
11 erty tax law, as added by section 1 of part B of chapter 389 of the laws  
12 of 1997, is amended to read as follows:

13 (c) Transfers of title. When the assessor has received a report pursu-  
14 ant to section five hundred seventy-four of this [article] chapter of a  
15 transfer of title to real property which is exempt pursuant to this  
16 section, the assessor shall [send the new owner or owners as shown ther-  
17 eon an application for the exemption authorized by this section] discon-  
18 tinue the exemption as required by subdivision sixteen of this section.

19 The assessor shall not implement the provisions of section five hundred  
20 twenty of this chapter upon such a transfer, except to the extent that  
21 the property may also be receiving one or more other exemptions.

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

25 (c) Senior citizens exemption. When property is eligible for the  
26 senior citizens exemption authorized by section four hundred sixty-seven  
27 of this article, it shall also be deemed to be eligible for the enhanced  
28 exemption authorized by this section for certain senior citizens,

1 provided, where applicable, that the age requirement established by a  
2 municipal corporation pursuant to subdivision five of section four  
3 hundred sixty-seven of this article is satisfied, and no separate appli-  
4 cation need be filed therefor. Provided, however, that the provisions of  
5 this paragraph shall only apply where at least one of the applicants  
6 held title to the property on the taxable status date of the assessment  
7 roll that was used to levy school district taxes for the two thousand  
8 fifteen--two thousand sixteen school year and the property was granted  
9 an exemption pursuant to this section on such assessment roll.

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

13 16. Transition to personal income tax credit. (a) Beginning with  
14 assessment rolls used to levy school district taxes for the two thousand  
15 sixteen--two thousand seventeen school year, no application for an  
16 exemption under this section may be [filed or] approved unless at least  
17 one of the applicants held title to the property on the taxable status  
18 date of the assessment roll that was used to levy school district taxes  
19 for the two thousand fifteen--two thousand sixteen school year and the  
20 property was granted an exemption pursuant to this section on that  
21 assessment roll. In the event that an application is submitted to the  
22 assessor that cannot be approved due to this restriction, the assessor  
23 shall notify the applicant that he or she is required by law to deny the  
24 application, but that, in lieu of a STAR exemption, the applicant may  
25 claim the personal income tax credit authorized by subsection (eee) of  
26 section six hundred six of the tax law if eligible, and that the appli-  
27 cant may contact the department of taxation and finance for further  
28 information. The commissioner shall provide a form for assessors to use,

1 at their option, when making this notification. No STAR exemption may be  
2 granted on the basis of an application that is not approvable due to  
3 this restriction.

4 (b) Where property received an exemption pursuant to this section on  
5 an assessment roll used to levy school district taxes for the two thou-  
6 sand fifteen--two thousand sixteen school year, and at least one of its  
7 owners held title to the property on the taxable status date of such  
8 assessment roll, the exemption shall continue to be granted on subse-  
9 quent assessment rolls without regard to the provisions of this subdivi-  
10 sion as long as all applicable requirements of this section are satis-  
11 fied. In addition, such exemption shall be subject to modification as  
12 follows:

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

17 (ii) An enhanced STAR exemption shall be changed to a basic STAR  
18 exemption if the combined income of the owners and spouses primarily  
19 residing on the property increases above the limit set by subdivision  
20 four of this section, subject to the provisions of subparagraph (iii) of  
21 this paragraph, provided that if their combined income falls below the  
22 limit set by subdivision four of this section in the future, their  
23 enhanced STAR exemption may be resumed upon timely application.

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

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

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

12 (d) Notwithstanding the foregoing provisions of this subdivision,  
13 where a property served as the primary residence of a married couple on  
14 the taxable status date of the assessment roll that was used to levy  
15 school district taxes for the two thousand fifteen--two thousand sixteen  
16 school year, but only one of the spouses held title to the property on  
17 that taxable status date, and that spouse has since died and his or her  
18 interest in the property has been inherited by his or her surviving  
19 spouse, the surviving spouse shall be entitled to apply for and receive  
20 an exemption under this section to the same extent as if he or she had  
21 held title to the property on that taxable status date.

22 ~~[(c)]~~ (e) The provisions of this subdivision shall apply to all appli-  
23 cations for STAR exemptions beginning with assessment rolls used to levy  
24 school district taxes for the two thousand sixteen--two thousand seven-  
25 teen school year, including those submitted prior to the effective date  
26 of this subdivision. If any application was approved prior to the effec-  
27 tive date of this subdivision that is not approvable hereunder, such  
28 approval shall be deemed void, and the assessor shall provide the appli-

1 cant with the notice required by paragraph (a) of this subdivision,  
2 provided that if a STAR exemption is granted on a tentative or final  
3 assessment roll or tax roll on the basis of an application that is not  
4 approvable hereunder, the assessor, or other local official or officials  
5 having custody and control of such roll, is hereby authorized and  
6 directed to remove such exemption from such roll without regard to the  
7 provisions of title three of article five of this chapter or any compa-  
8 rable laws governing the correction of administrative errors on assess-  
9 ment rolls and tax rolls, notwithstanding any provision of law to the  
10 contrary. If an application was submitted prior to the effective date of  
11 this subdivision but is not approvable hereunder, the applicant may  
12 apply for advance payment of the personal income tax credit authorized  
13 by subsection (eee) of section six hundred six of the tax law for the  
14 two thousand sixteen taxable year, if eligible, in the manner provided  
15 by paragraph ten of such subsection, [notwithstanding the time limita-  
16 tions contained in that paragraph] even if the property was acquired  
17 prior to January first of the taxable year.

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

21 3. For purposes of any fiscal year or years during which title to such  
22 property is transferred, such property shall be deemed to have been  
23 omitted and the assessed value thereof shall be entered on the assess-  
24 ment roll to be used for the next tax levy by or for each municipal  
25 corporation in which such property is located in the same manner as  
26 provided by title three of article five of this chapter with respect to  
27 a parcel omitted from the assessment roll of the previous year. A pro  
28 rata tax shall be extended against the property for the unexpired

1 portion of each fiscal year. Such real property shall be taxed at the  
2 tax rate or tax rates for the fiscal year during which the transfer  
3 occurred. The amount of tax or taxes levied pursuant to this subdivision  
4 shall be deducted from the aggregate amount of taxes to be levied for  
5 the fiscal year immediately succeeding the fiscal year during which the  
6 transfer occurred[; provided, however, that where the property is  
7 receiving a school tax relief (STAR) exemption authorized by section  
8 four hundred twenty-five of this chapter, the portion of the tax or  
9 taxes levied that equals the recovered STAR tax savings shall be applied  
10 to reduce the amount of aid payable to the school district under subdi-  
11 vision three of section thirteen hundred six-a of this chapter].

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

15 6. When the commissioner determines, at least thirty days prior to the  
16 levy of school district taxes, that an advance credit of the personal  
17 income tax credit authorized by subsection (eee) of section six hundred  
18 six of the tax law will be provided to the owners of a parcel in that  
19 school district, he or she shall so notify the assessor, the county  
20 director of real property tax services, and the authorities of the  
21 school district, who shall cause a statement to be placed on the tax  
22 bill for the parcel in substantially the following form: "A STAR  
23 [reimbursement] check of \$        will be mailed to you upon issuance by  
24 the NYS Tax Department[.]". The commissioner shall [advice the school  
25 district authorities] advise such officials of the amount to be entered  
26 therein. Notwithstanding any provision of law to the contrary, in the  
27 event that the parcel in question had been granted a STAR exemption on  
28 the assessment roll upon which school district taxes are to be levied,

1 such exemption shall be deemed null and void, shall be removed from the  
2 assessment roll, and shall be disregarded when the parcel's tax liabil-  
3 ity is determined. The assessor or other local official or officials  
4 having custody and control of the data file used to generate school  
5 district tax rolls and tax bills shall be authorized and directed to  
6 change such file as necessary to enable the school district authorities  
7 to discharge the duties imposed upon them by this subdivision.

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

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

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

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

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

9 (iv) If a resident individual has acquired ownership of property  
10 during a taxable year, such resident individual shall not be considered  
11 a qualified taxpayer for that taxable year to the extent that an advance  
12 payment of the credit for that taxable year has been issued to the prior  
13 owner with respect to the same property, unless such resident individual  
14 can demonstrate that he or she paid qualifying taxes on such property  
15 during the taxable year, and that the prior owner did not.

16 (B) "Affiliated income" shall mean for purposes of the basic STAR  
17 credit, the combined income of all of the owners of the parcel who  
18 resided primarily thereon as of December thirty-first of the taxable  
19 year, and of any owners' spouses residing primarily thereon as of such  
20 date, and for purposes of the enhanced STAR credit, the combined income  
21 of all of the owners of the parcel as of December thirty-first of the  
22 taxable year, and of any owners' spouses residing primarily thereon as  
23 of such date; provided that for both purposes the income to be so  
24 combined shall be the "adjusted gross income" for the taxable year as  
25 reported for federal income tax purposes, or that would be reported as  
26 adjusted gross income if a federal income tax return were required to be  
27 filed, reduced by distributions, to the extent included in federal  
28 adjusted gross income, received from an individual retirement account

1 and an individual retirement annuity. Provided further, that if the  
2 qualified taxpayer was an owner of the property during the taxable year  
3 but did not own it on December thirty-first of the taxable year, then  
4 the determination as to whether the income of an individual should be  
5 included in "affiliated income" shall be based upon the ownership and/or  
6 residency status of that individual as of the first day of the month  
7 during which the qualified taxpayer ceased to be an owner of the proper-  
8 ty, rather than as of December thirty-first of the taxable year.

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

13 (D) "Owner" means:

14 (i) a person who owns a parcel in fee simple absolute or as a tenant  
15 in common, a joint tenant or a tenant by the entirety,

16 (ii) an owner of a present interest in a parcel under a life estate,

17 (iii) a vendee in possession under an installment contract of sale,

18 (iv) a beneficial owner under a trust,

19 (v) a tenant-stockholder of a cooperative apartment corporation who  
20 resides in a portion of real property owned by such cooperative apart-  
21 ment corporation, to the extent represented by his or her share or  
22 shares of stock in such corporation as determined by its or their  
23 proportional relationship to the total outstanding stock of the corpo-  
24 ration, including that owned by the corporation,

25 (vi) a resident of a farm dwelling that is owned either by a corpo-  
26 ration of which the resident is a shareholder, a partnership of which  
27 the resident is a partner, or by a limited liability company of which  
28 the resident is an owner, or

1 (vii) a resident of a dwelling, other than a farm dwelling, that is  
2 owned by a limited partnership of which the resident is a partner,  
3 provided that the limited partnership that holds title to the property  
4 does not engage in any commercial activity, that the limited partnership  
5 was lawfully created to hold title solely for estate planning and asset  
6 protection purposes, and that the partner or partners who primarily  
7 reside thereon personally pay all of the real property taxes and other  
8 costs associated with the property's ownership.

9 (E) "Qualifying taxes" means the school district taxes that were  
10 levied upon the taxpayer's primary residence for the associated fiscal  
11 year that were actually paid by the taxpayer during the taxable year;  
12 or, in the case of a city school district that is subject to article  
13 fifty-two of the education law, the combined city and school district  
14 taxes that were levied upon the taxpayer's primary residence for the  
15 associated fiscal year that were actually paid by the taxpayer during  
16 the taxable year. In no case shall the term "qualifying taxes" be  
17 construed to include penalties or interest.

18 (F) "STAR exemption" means the school tax relief (STAR) exemption  
19 authorized by section four hundred twenty-five of the real property tax  
20 law.

21 (G) "STAR tax savings" means the tax savings attributable to the STAR  
22 exemption within a portion of a school district, as determined by the  
23 commissioner pursuant to subdivision two of section thirteen hundred  
24 six-a of the real property tax law.

25 (2) Allowance of credit. A qualified taxpayer shall be allowed a cred-  
26 it as provided in paragraph three or four of this subsection, whichever  
27 is applicable, against the taxes imposed by this article reduced by the  
28 credits permitted by this article, provided that the requirements set

1 forth in the applicable subsection are satisfied. If the credit exceeds  
2 the tax as so reduced for such year under this article, the excess shall  
3 be treated as an overpayment, to be credited or refunded, without inter-  
4 est. If a qualified taxpayer is not required to file a return pursuant  
5 to section six hundred fifty-one of this article, a qualified taxpayer  
6 may nevertheless receive the full amount of the credit to be credited or  
7 repaid as an overpayment, without interest.

8 (3) Determination of basic STAR credit. (A) Beginning with taxable  
9 years after two thousand fifteen, a basic STAR credit shall be available  
10 to a qualified taxpayer if the affiliated income of the parcel that  
11 serves as the taxpayer's primary residence is less than or equal to five  
12 hundred thousand dollars.

13 (B) Subject to the provisions of subparagraph (C) of this paragraph,  
14 such basic STAR credit shall be the lesser of:

15 (i) the basic STAR tax savings [applicable to the] for the school  
16 district portion in which the taxpayer's primary residence is located,  
17 or

18 (ii) the taxpayer's qualifying taxes.

19 (C) If the qualifying taxes paid by the taxpayer constituted only a  
20 portion of the total school district taxes that were levied upon the  
21 taxpayer's primary residence for the associated fiscal year or, in the  
22 case of a city school district that is subject to article fifty-two of  
23 the education law, if the qualifying taxes paid by the taxpayer consti-  
24 tuted only a portion of the total combined city and school district  
25 taxes that were levied upon the taxpayer's primary residence for the  
26 associated fiscal year, the credit allowable to such taxpayer shall be  
27 equal to the amount determined pursuant to subparagraph (B) of this  
28 paragraph multiplied by the percentage that such portion represents.

1 (4) Determination of enhanced STAR credit. (A) Beginning with taxable  
2 years after two thousand fifteen, an enhanced STAR credit shall be  
3 available to a qualified taxpayer where both of the following conditions  
4 are satisfied:

5 (i) All of the owners of the parcel that serves as the taxpayer's  
6 primary residence are at least sixty-five years of age as of December  
7 thirty-first of the taxable year or, in the case of property owned by a  
8 married couple or by siblings, at least one of the owners is at least  
9 sixty-five years of age as of that date. The terms "siblings" as used  
10 herein shall have the same meaning as set forth in section four hundred  
11 sixty-seven of the real property tax law. In the case of property owned  
12 by a married couple, one of whom is sixty-five years of age or over, the  
13 credit, once allowed, shall not be disallowed because of the death of  
14 the older spouse so long as the surviving spouse is at least sixty-two  
15 years of age as of December thirty-first of the taxable year.

16 (ii) The affiliated income of the parcel that serves as the taxpayer's  
17 primary residence is less than or equal to the income standard for the  
18 taxable year established by the commissioner for the corresponding  
19 "income tax year" pursuant to clause (C) of subparagraph (i) of para-  
20 graph (b) of subdivision four of section four hundred twenty-five of the  
21 real property tax law for purposes of the enhanced STAR exemption.

22 (B) Subject to the provisions of subparagraph (C) of this paragraph,  
23 such credit shall be the lesser of:

24 (i) the enhanced STAR tax savings for the school district portion in  
25 which the taxpayer's primary residence is located, or

26 (ii) the taxpayer's qualifying taxes.

27 (C) If the qualifying taxes paid by the taxpayer constituted only a  
28 portion of the total school district taxes that were levied upon the

1 taxpayer's primary residence for the associated fiscal year or, in the  
2 case of a city school district that is subject to article fifty-two of  
3 the education law, if the qualifying taxes paid by the taxpayer consti-  
4 tuted only a portion of the total combined city and school district  
5 taxes that were levied upon the taxpayer's primary residence for the  
6 associated fiscal year, the credit allowable to such taxpayer shall be  
7 equal to the amount determined pursuant to subparagraph (B) of this  
8 paragraph multiplied by the percentage that such portion represents.

9 (5) Disqualification. A taxpayer shall not qualify for the credit  
10 authorized by this subsection if the parcel that serves as the taxpay-  
11 er's primary residence received the STAR exemption on the assessment  
12 roll upon which school district taxes for the associated fiscal year  
13 where levied. Provided, however, that the taxpayer may remove this  
14 disqualification by renouncing the exemption and making any required  
15 payments by December thirty-first of the taxable year, as provided by  
16 subdivision sixteen of section four hundred twenty-five of the real  
17 property tax law.

18 (6) Special cases. (A) In the case of property consisting of a cooper-  
19 ative apartment corporation that is described by paragraph (k) of subdivi-  
20 sion two of section four hundred twenty-five of the real property tax  
21 law, the amount of the credit allowable with respect to a cooperative  
22 apartment shall be equal to [sixty percent of] the basic STAR tax  
23 savings for the school district portion, or [sixty percent of] the  
24 enhanced STAR tax savings for the school district portion, whichever is  
25 applicable. Provided, however, that in the case of a cooperative apart-  
26 ment corporation that is described by subparagraph (iv) of paragraph (k)  
27 of subdivision two of section four hundred twenty-five of the real prop-

1 erty tax law, the credit allowable with respect to a cooperative apart-  
2 ment shall be equal to [twenty percent] one-third of such amount.

3 (B) In the case of property consisting of a mobile home that is  
4 described in paragraph (1) of subdivision two of section four hundred  
5 twenty-five of the real property tax law, the amount of the credit  
6 allowable with respect to such mobile home shall be equal to [twenty-  
7 five percent of] the basic STAR tax savings for the school district  
8 portion, or [twenty-five percent of] the enhanced STAR tax savings for  
9 the school district portion, whichever is applicable, that would be  
10 applied to a separately assessed parcel in the school district portion  
11 with a taxable assessed value equal to twenty thousand dollars multi-  
12 plied by the latest state equalization rate or special equalization rate  
13 for the assessing unit in which the mobile home is located. Provided,  
14 however, that if the commissioner is in possession of information,  
15 including but not limited to assessment records, that demonstrates to  
16 the commissioner's satisfaction that the taxpayer's mobile home is worth  
17 more than twenty thousand dollars, or if the taxpayer provides the  
18 commissioner with such information, the taxpayer's credit shall be  
19 increased accordingly, but in no case shall the credit exceed the basic  
20 STAR tax savings or enhanced STAR tax savings, whichever is applicable,  
21 for the school district portion.

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

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

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

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

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

11 (7) Disclosure of incomes. Where the commissioner has denied a taxpay-  
12 er's claim for the credit authorized by this subsection in whole or in  
13 part on the grounds that the affiliated income of the parcel in question  
14 exceeds the applicable limit, the commissioner shall have the authority  
15 to reveal to that taxpayer the names and incomes of the other taxpayers  
16 whose incomes were included in the computation of such affiliated  
17 income.

18 (8) Proof of claim. The commissioner may require a qualified taxpayer  
19 to furnish the following information in support of his or her claim for  
20 credit under this subsection: affiliated income, the total school  
21 district taxes levied on the property for the associated fiscal year or,  
22 in the case of a city school district that is subject to article fifty-  
23 two of the education law, the total combined city and school district  
24 taxes levied on the property for the associated fiscal year, the quali-  
25 fying taxes paid by the taxpayer, the names and taxpayer identification  
26 numbers of all owners of the property and spouses who primarily reside  
27 on the property, the parcel identification number and all other informa-  
28 tion that may be required by the commissioner to determine the credit.

1 (9) Returns. [If a qualified taxpayer is not required to file a return  
2 pursuant to section six hundred fifty-one of this article, a claim for a  
3 credit may be taken on a return filed with the commissioner within three  
4 years from the time it would have been required that a return be filed  
5 pursuant to such section had the qualified taxpayer had a taxable year  
6 ending on December thirty-first. Returns under this paragraph shall be  
7 in such form as shall be prescribed by the commissioner, who shall make  
8 available such forms and instructions for filing such returns] Whether  
9 or not the taxpayer is required to file a return pursuant to section six  
10 hundred fifty-one of this article, the process for requesting advance  
11 payment of such credit shall be as provided by paragraph ten of this  
12 subsection.

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

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

24 (ii) A qualified taxpayer who fails to apply for an advance payment of  
25 such credit [in a timely manner] by such date may [request] apply for  
26 and receive such credit in the manner [otherwise provided by this  
27 section] prescribed by the commissioner, provided that such application  
28 shall be made within three years from the time that a return for the

1 taxable year would have had to be filed pursuant to section six hundred  
2 fifty-one of this article. If approved, such payment shall be issued as  
3 soon as is practicable after the submission of the application but shall  
4 not be subject to the processing schedule prescribed by subparagraph (B)  
5 of this paragraph, and

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

10 (B) On or before September fifteenth of each year, or as soon there-  
11 after as practicable, the commissioner shall determine the eligibility  
12 of taxpayers for this credit utilizing the information available to him  
13 or her as obtained from the applications submitted on or before July  
14 first of that year, or such later date as may have been prescribed by  
15 the commissioner for that purpose, and from such other sources as the  
16 commissioner deems reliable and appropriate. For those taxpayers whom  
17 the commissioner has determined eligible for this credit, the commis-  
18 sioner shall advance a payment in the amount specified in paragraph  
19 three, four or six of this subsection, whichever is applicable. Such  
20 payment shall be issued by September thirtieth of the year the credit is  
21 allowed, or as soon thereafter as is practicable. Nothing contained  
22 herein shall be deemed to preclude the commissioner from issuing  
23 payments after September thirtieth to qualified taxpayers whose applica-  
24 tions were made after July first of that year, or such later date as may  
25 have been prescribed by the commissioner for such purpose.

26 (C) A taxpayer who has failed to receive an advance payment that he or  
27 she believes was due to him or her, or who has received an advance  
28 payment that he or she believes is less than the amount that was due to

1 him or her, may request payment of the claimed deficiency in a manner  
2 prescribed by the commissioner.

3 [(C)] (D) An advance payment of credit provided pursuant to this  
4 subsection that exceeds the taxpayer's qualifying taxes for that taxable  
5 year shall be added back as tax on the income tax return for that taxa-  
6 ble year.

7 [(D)] (E) If the commissioner determines after issuing an advance  
8 payment that it was issued in an excessive amount or to an ineligible or  
9 incorrect party, the commissioner shall be empowered to utilize any of  
10 the procedures for collection, levy and lien of personal income tax set  
11 forth in this article, any other relevant procedures referenced within  
12 the provisions of this article, and any other law as may be applicable,  
13 to recoup the improperly issued amount.

14 (11) Administration. The provisions of this article, including the  
15 provisions of sections six hundred fifty-three, six hundred fifty-eight,  
16 and six hundred fifty-nine of this article and the provisions of part  
17 six of this article relating to procedure and administration, including  
18 the judicial review of the decisions of the commissioner, except so much  
19 of section six hundred eighty-seven of this article that permits a claim  
20 for credit or refund to be filed after the period provided for in para-  
21 graph nine of this subsection and except sections six hundred fifty-sev-  
22 en, six hundred eighty-eight and six hundred ninety-six of this article,  
23 shall apply to the provisions of this subsection in the same manner and  
24 with the same force and effect as if the language of those provisions  
25 had been incorporated in full into this subsection and had expressly  
26 referred to the credit allowed or returns filed under this subsection,  
27 except to the extent that any such provision is either inconsistent with  
28 a provision of this subsection or is not relevant to this subsection. As

1 used in such sections and such part, the term "taxpayer" shall include a  
2 qualified taxpayer under this subsection and, notwithstanding the  
3 provisions of subsection (e) of section six hundred ninety-seven of this  
4 article, where a qualified taxpayer has protested the denial of a claim  
5 for credit under this subsection and the time to file a petition for  
6 redetermination of a deficiency or for refund has not expired, he or she  
7 shall, subject to such conditions as may be set by the commissioner,  
8 receive such information (A) that is contained in any return filed under  
9 this article by a member of his or her household for the taxable year  
10 for which the credit is claimed, and (B) that the commissioner finds is  
11 relevant and material to the issue of whether such claim was properly  
12 denied.

13 (12) [In the case of a taxpayer who has itemized deductions from  
14 federal adjusted gross income, and whose federal itemized deductions  
15 include an amount for real estate taxes paid, the New York itemized  
16 deduction otherwise allowable under section six hundred fifteen of this  
17 chapter shall be reduced by the amount of the credit claimed under this  
18 subsection.] When the calculation of any other personal income tax cred-  
19 it is based in whole or in part upon the real property taxes paid by the  
20 taxpayer, the amount of real property taxes so paid shall be reduced by  
21 the credit authorized by this subsection, if applicable, in the course  
22 of performing such calculation. When the calculation of any other  
23 personal income tax credit is based in whole or in part upon an individ-  
24 ual's state tax liability, the credit authorized by this subsection  
25 shall not be taken into account in the calculation of such state tax  
26 liability. When the calculation of a city tax surcharge is based in  
27 whole or in part upon the net state tax of an individual, the credit

1 authorized by this subsection shall not be taken into account in the  
2 calculation of such net state tax.

3 § 9. This act shall take effect immediately; provided, however, that  
4 sections one and two of this act shall be deemed to have been in full  
5 force and effect on the same date and in the same manner as parts E and  
6 F of chapter 60 of the laws of 2016, respectively; and provided,  
7 further, that sections five, six, seven and eight of this act shall be  
8 deemed to have been in full force and effect on the same date and in the  
9 same manner as part A of chapter 60 of the laws of 2016, took effect.

10

## PART B

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

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

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

18 (xli) Farm workforce retention	Amount of credit under
19 credit under subsection [(eee)]	subdivision fifty-one of
20 <u>(fff)</u>	section two hundred ten-B

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

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

1

## PART C

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

5 d. The board, which shall become effective upon appointment of a  
6 majority of public members, shall terminate [four] five years from its  
7 date of creation. [The board shall propose, no less than one hundred  
8 eighty days prior to its termination, recommendations to the governor  
9 and the state legislature representing a statutory plan for the prospec-  
10 tive not-for-profit governing structure of The New York Racing Associ-  
11 ation, Inc.]

12 § 2. This act shall take effect immediately.

13

## PART D

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

18

## EDUCATION DEPARTMENT

19

## AID TO LOCALITIES - REAPPROPRIATIONS 2016-17

20 OFFICE OF PREKINDERGARTEN THROUGH GRADE TWELVE EDUCATION PROGRAM

21 General Fund

22 Local Assistance Account - 10000

1 For nonpublic school aid payable in the 2014-15 state fiscal year.  
2 Notwithstanding any provision of law, rule or regulation to the  
3 contrary, the amount appropriated herein represents the maximum  
4 amount payable during the 2014-15 state fiscal year .....  
5 97,589,000 ..... (re. \$7,000)  
6 For aid payable for the 2012-13 school year for additional nonpublic  
7 school aid. Notwithstanding any inconsistent provision of law, funds  
8 appropriated herein shall be available for payment of aid heretofore  
9 accrued and hereafter to accrue ... 45,204,000 .... (re. \$3,672,000)  
10 For academic intervention for nonpublic schools based on a plan to be  
11 developed by the commissioner of education and approved by the  
12 director of the budget ... 922,000 ..... (re. \$922,000)  
13 For services and expenses of Safety Equipment for Nonpublic Schools  
14 ... 4,500,000 ..... (re. \$4,500,000)

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

17 PART E

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

21 (iv) for all periods on or after April first, two thousand sixteen,  
22 the cash portion of the minimum rate of home care aide total compen-  
23 sation shall be ten dollars or the minimum wage as laid out in paragraph  
24 [(c)] (a) of subdivision one of section six hundred fifty-two of the  
25 labor law, whichever is higher. The benefit portion of the minimum rate

1 of home care aide total compensation shall be four dollars and nine  
2 cents.

3 § 2. Subparagraph (iv) of paragraph (b) of subdivision 3 of section  
4 3614-c of the public health law, as amended by chapter 56 of the laws of  
5 2016, is amended to read as follows:

6 (iv) for all periods on or after March first, two thousand sixteen,  
7 the cash portion of the minimum rate of home care aide total compen-  
8 sation shall be ten dollars or the minimum wage as laid out in paragraph  
9 [(c)] (b) of subdivision one of section six hundred fifty-two of the  
10 labor law, whichever is higher. The benefit portion of the minimum rate  
11 of home care aide total compensation shall be three dollars and twenty-  
12 two cents.

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

16

#### PART F

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

22 § 11. This act shall take effect immediately; except that the  
23 provisions of sections one, two, three, four, eight and ten of this act  
24 shall take effect on the ninetieth day after it shall have become a law;  
25 and except that the provisions of sections five, six and seven of this  
26 act shall take effect January 1, 1989; and except that effective imme-

1 diately, the addition, amendment and/or repeal of any rule or regulation  
2 necessary for the implementation of this act on its effective date are  
3 authorized and directed to be made and completed on or before such  
4 effective date; provided, however, that the provisions of section 364-j  
5 of the social services law, as added by section one of this act shall  
6 expire and be deemed repealed on and after March 31, [2016] 2019, the  
7 provisions of section 364-k of the social services law, as added by  
8 section two of this act, except subdivision 10 of such section, shall  
9 expire and be deemed repealed on and after January 1, 1994, and the  
10 provisions of subdivision 10 of section 364-k of the social services  
11 law, as added by section two of this act, shall expire and be deemed  
12 repealed on January 1, 1995.

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

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

19

## PART G

20 Section 1. 1. For the purposes of this act, "responsible entity" and  
21 "project" shall mean the New York Convention Center Operating Corpo-  
22 ration with respect to the Jacob K. Javits Convention Center project.  
23 "Authorized entity" shall mean the New York Convention Center Develop-  
24 ment Corporation with respect to the Jacob K. Javits Convention Center.

25 2. In connection with the design, erection, construction, enlargement,  
26 alteration, improvement, relocation, removal, or demolition of any

1 building or structure constituting all or any part of a project, the  
2 authorized entity may request that, for purposes of such project, the  
3 dormitory authority act as the construction-permitting agency pursuant  
4 to article 18 of the executive law and the regulations promulgated there-  
5 under, as now existing or hereafter amended. Notwithstanding any other  
6 provision of any other state or local law, rule or regulation to the  
7 contrary:

8 (a) when the dormitory authority acts as the construction-permitting  
9 agency for a project or any portion thereof, at the request of the  
10 authorized entity, the dormitory authority may elect, if deemed feasible  
11 and appropriate, to subject all or any part of such project and all  
12 buildings and structures constituting all or any part of the project to  
13 the requirements of the New York City Construction Codes of 2014,  
14 including but not limited to the Building, Mechanical, Plumbing, Fuel  
15 Gas, and Energy Conservation Codes; the New York City Construction and  
16 Maintenance Code of 1968; the New York City Fire Code of 2014; the New  
17 York City Electrical Code; the New York City Energy Code; Titles 1  
18 (Department of Buildings), 2 (Board of Standards and Appeals) and 3  
19 (Fire Department) (collectively, the "New York City Codes"), as now  
20 existing or hereafter amended, instead of the requirements of the New  
21 York state uniform fire prevention and building code (the Uniform Code)  
22 and the New York state energy conservation construction code (the NYS  
23 Energy Code), as now existing or hereafter amended, for such project;  
24 and

25 (b) in the event the dormitory authority makes the election authorized  
26 pursuant to this subdivision to apply New York City Codes with respect  
27 to all or any portion of a particular project, then notwithstanding the  
28 fact that such project and all buildings and structures constituting all

1 or any part of such project shall be subject to the requirements of the  
2 New York City Codes instead of the requirements of the Uniform Code and  
3 NYS Energy Code:

4 (i) the dormitory authority shall be authorized to:

5 (A) render such services for all or any portion of any such project  
6 without approval of any other state department, agency, officer or  
7 office but only as directly related to the authority granted by this  
8 act; and

9 (B) take all reasonably required actions to execute its duties as the  
10 construction-permitting agency, including without limitation, those  
11 required to review, permit and inspect the project and enforce the New  
12 York City Codes; and

13 (C) issue a code compliance certificate, certificate of occupancy, or  
14 a temporary approval for occupancy allowing use and occupancy of the  
15 project or parts thereof after determining such project or parts thereof  
16 complies with the requirements of the New York City Codes; and

17 (D) employ such experts and consultants as shall reasonably be  
18 required to fulfill its responsibilities as the construction-permitting  
19 agency; and

20 (ii) the dormitory authority shall continue to act as the construc-  
21 tion-permitting agency for such project and for all buildings and struc-  
22 tures constituting all or any part of such project, and shall determine  
23 that the design of any such building and structure (or, if applicable,  
24 the design of any phase or portion of any such building or structure)  
25 complies with the requirements of the New York City Codes before issuing  
26 a construction permit for such building or structure (or phase or  
27 portion thereof) and shall determine that such building or structure  
28 (or, if applicable, any phase or portion thereof) complies with the

1 requirements of the New York City Codes before issuing a code compliance  
2 certificate or temporary approval for occupancy for such building or  
3 structure (or phase or portion thereof); and

4 (iii) upon written request of the authorized entity or any other  
5 interested party for a variance or modification of any provision or  
6 requirement of any one or more of the New York City Codes, the depart-  
7 ment of state shall be authorized to consider the evidence offered and  
8 such other reports, studies and other information the department of  
9 state may deem appropriate, arrange for the review of the request by  
10 other state agencies or internal or external experts and consultants,  
11 make findings of fact and conclusions of law, and render a decision in  
12 writing on such request, granting or denying, in whole or in part, the  
13 requested variance or modification, provided, however, that:

14 (A) no such variance or modification shall be granted unless the  
15 applicant establishes to the satisfaction of the department of state  
16 that granting such variance or modification shall not materially affect  
17 adversely provisions for health, safety and security; and

18 (B) any decision to grant a variance or modification, in whole or in  
19 part, shall also be noted on the applicable plans and specifications  
20 signed and sealed by a professional engineer or architect; and

21 (iv) such project and all buildings and structures constituting all or  
22 any part of such project shall continue to be subject to the provisions  
23 of part 1204 of title 19 of the New York Codes, Rules and Regulations,  
24 as now existing and as hereafter amended (hereinafter referred to as  
25 "Part 1204"); provided, however, that for the purposes of applying part  
26 1204, all references in part 1204 to the Uniform Code shall be deemed to  
27 be references to the New York City Codes; and

1 (v) no municipal corporation or subdivision thereof shall have the  
2 power to modify or change the plans or specifications for such project,  
3 or the construction, plumbing, heating, lighting or other mechanical  
4 branch work necessary to complete the work in question, nor to require  
5 that any person, firm or corporation employed on any such work shall  
6 perform any such work in any other different manner than that required  
7 by such plans and specifications, nor to conduct construction-related  
8 inspections, including but not limited to fire safety inspections or  
9 other inspections of such project or of any building or structure  
10 constituting all or any part of such project, nor to issue notices of  
11 violation, orders to remedy, summonses, or other enforcement-related  
12 instruments of any kind relating to any alleged violation of the New  
13 York City Codes by such project or any building or structure constitut-  
14 ing all or any part of such project, and no condition or requirement  
15 whatever may be imposed by any such municipal corporation or subdivision  
16 thereof in relation to work being done on such project, as such work  
17 shall be under the sole control of the authorized entity in accordance  
18 with the plans, specification and contracts in relation thereto,  
19 provided that emergency personnel shall have access to the project site  
20 for purposes of emergency operations, coordination, and preparedness;  
21 and

22 (c) the authorized entity shall be responsible for reimbursement to  
23 the dormitory authority for the costs incurred as the construction-per-  
24 mitting agency for a project and reimbursement to the department of  
25 state for costs incurred in considering a request for a variance or  
26 modification as contemplated by subparagraph (iii) of paragraph (b) of  
27 this subdivision for a project, and such costs shall be a cost of the  
28 project.

1 3. Nothing in this act shall prohibit the responsible entity for a  
2 project from negotiating an agreement with the applicable municipal  
3 corporation whereby, upon completion of the project, the municipal  
4 corporation or subdivision thereof assumes administration and enforce-  
5 ment of any applicable codes with respect to a project.

6 4. Nothing in this section shall prohibit the authorized entity or  
7 responsible entity, as the case may be, from utilizing the Uniform Code  
8 and the NYS Energy Code, as now existing or hereafter amended for any  
9 additional work that requires a construction permit.

10 § 2. This act shall take effect immediately.

11 PART H . . .

12 Intentionally omitted.

13 PART I

14 Section 1. Section 1678-a of the public authorities law, as added by  
15 section 1 of part RR of chapter 54 of the laws of 2016, is amended to  
16 read as follows:

17 § 1678-a. New York state design and construction corporation act. 1.  
18 Purposes of act. The purposes of the New York state design and  
19 construction corporation act are to establish the New York state design  
20 and construction corporation to provide (a) additional project manage-  
21 ment expertise, monitoring and oversight on individual public works  
22 projects each having a total or aggregate construction value in excess  
23 of fifty million dollars undertaken by state agencies, state departments  
24 subject to the provisions of this section, and state authorities includ-

1 ing one created by chapter one hundred fifty-four of the laws of nine-  
2 teen hundred twenty-one and one created by chapter eight hundred twen-  
3 ty-four of the laws of nineteen hundred thirty-three herein after  
4 referred to as "state entity"; and (b) a means to implement and recom-  
5 mend improvements and other project changes on such proposed individual  
6 public works projects in excess of fifty million dollars in total or  
7 aggregate value, in a more timely fashion, to ensure that such projects  
8 can be accomplished, to the extent practicable, on time, within budget  
9 and at an acceptable overall quality and cost to the state of New York.

10 2. New York state design and construction corporation. (a) There is  
11 hereby established the New York state design and construction corpo-  
12 ration as a subsidiary corporation of the dormitory authority.

13 (b) The dormitory authority may provide or lease to such subsidiary  
14 corporation any real, personal or mixed property as shall be required in  
15 order to carry out the purposes of this act. The authority may assign  
16 any such employees to work for the corporation as shall be required in  
17 order to carry out the purposes of this section and all such employees  
18 shall retain their respective civil service classifications, seniority,  
19 status, and rights pursuant to their collective bargaining units and/or  
20 collective bargaining agreements, as applicable. Any employee assigned  
21 pursuant to this section shall remain in his or her collective bargain-  
22 ing unit, and no employee shall receive a reduction in salary or bene-  
23 fits due to such assignment. Notwithstanding any provision of law to the  
24 contrary, the term "employee" as set forth in this section shall mean a  
25 dormitory authority employee assigned, in whole, or in part, to work for  
26 the corporation.

27 (c) Such corporation shall be a body corporate and politic constitut-  
28 ing a public benefit corporation, and shall have all of the privileges,

1 immunities, tax exemptions and other exemptions of the dormitory author-  
2 ity to the extent the same are not inconsistent with this section.

3 (d) The board of the corporation shall consist of three members as  
4 designated by the governor, and the governor shall designate the chair  
5 from among the members of the corporation's board. The members of the  
6 corporation's board shall serve until such time as his or her successor  
7 is appointed by the governor.

8 (e) A quorum shall consist of a majority of the members of the board.  
9 A quorum shall be required for the board to conduct business, and  
10 approval of any matter properly before the board shall require the  
11 affirmative vote of the majority of the board. Meetings of the corpo-  
12 ration shall be called by the chair, or by a majority of the members  
13 appointed. Meetings shall be held at least bi-annually.

14 (f) Nothing in this subdivision shall be construed to impose any  
15 liabilities, obligations or responsibilities of such corporation upon  
16 the dormitory authority, and the authority shall have no liability or  
17 responsibility therefor unless the authority expressly agrees by resol-  
18 ution of the authority board to assume the same.

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

24 (h) All of the provisions of sections seventeen and nineteen of the  
25 public officers law shall apply to the members, directors, officers and  
26 employees of the corporation.

27 (i) The corporation created pursuant to this section shall be subject  
28 to any other provisions of this chapter pertaining to subsidiaries of

1 public authorities to the extent that such provisions are not inconsist-  
2 ent with the provisions of this section.

3 3. Corporation review and oversight of certain public works contracts.

4 For individual public works projects having a total or aggregate  
5 construction value in excess of fifty million dollars, hereinafter  
6 referred to as "covered projects", and for any and all contracts relat-  
7 ing to such covered projects which are advertised for bid or proposal or  
8 otherwise procured and/or entered into on or after January first, two  
9 thousand sixteen:

10 (a) Any state entity proposing a covered project shall provide written  
11 notice to the corporation of such proposal, to include without limita-  
12 tion, the estimated value of the covered project and a summary of the  
13 scope and duration of such covered project. Projects shall not be  
14 divided or segmented for the purposes of avoiding compliance with the  
15 provisions of this act. For purposes of this section, "covered project"  
16 shall not include capital projects of the office of state comptroller,  
17 office of the attorney general or education department of the state of  
18 New York.

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

26 (c) For the purposes of this section, the term "project" shall mean  
27 any work associated with the planning, acquisition, design, engineering,  
28 environmental analysis, construction, reconstruction, restoration, reha-

1 bilitation, establishment, improvement, renovation, extension, repair,  
2 revitalization, management and development of a capital asset as defined  
3 in section two of the state finance law.

4 (d) The state entity undertaking such covered project shall cooperate  
5 in good faith with the corporation, and provide reasonable access to all  
6 personnel, books, records, plans, specifications, data and other infor-  
7 mation as may be necessary for the corporation to perform its duties.  
8 The corporation shall limit its request for access to such information  
9 that is reasonably necessary, as determined by the corporation to  
10 perform its duties.

11 (e) In the event the corporation determines that corrective or other  
12 action is necessary for such covered project, then the corporation shall  
13 provide the state entity with written notice of what corrective or other  
14 actions the corporation recommends as necessary to accomplish the  
15 project, to the extent practicable, on time, within budget and at an  
16 acceptable overall cost to the state of New York. Such corrective or  
17 other action may include, but not be limited to:

18 (i) Modification of such plans, schedules, specifications, designs and  
19 estimates of costs for the construction of the project and equipment of  
20 facilities;

21 (ii) Detailed analysis of the project schedule so as to cure delays  
22 that may have occurred or prevent future delay;

23 (iii) Detailed analysis of project budget;

24 (iv) Detailed analysis of change orders and/or payments to prime  
25 contractors, subcontractors and other parties;

26 (v) Detailed analysis of records of construction observations,  
27 inspections and deficiencies;

1 (vi) Exercise of applicable rights and/or remedies with respect to  
2 contracts, contractors, subcontractors or other consultants;

3 (vii) Procurement of independent auditors, project managers, legal  
4 counsel, or other professionals for the benefit of the project;

5 (viii) Regular reporting of project status and milestones to the  
6 corporation;

7 (ix) Active project management review and oversight utilizing addi-  
8 tional resources provided by the corporation; and

9 (x) Periodic project review and audit by the corporation on a suitable  
10 time interval determined by the corporation.

11 The state entity undertaking the project shall have a period of thirty  
12 days, or shorter if the corporation determines that a shorter period is  
13 required by the circumstances or longer if the corporation consents,  
14 from receipt of written notice of recommended corrective action from the  
15 corporation, to notify the corporation in writing of its acceptance or  
16 rejection of the corrective or other action. In the event that the state  
17 entity rejects any corrective or other action, in whole or in part, it  
18 shall provide simultaneous written notice to the corporation accompanied  
19 by a reasoned explanation in support of its rejection. Such rejection  
20 shall be reported to the secretary to the governor and the director of  
21 the division of budget within fifteen days of its receipt by the corpo-  
22 ration.

23 (f) Any state entity proposing a covered project shall include a  
24 summary of the provisions of this section in all such proposal and/or  
25 bid documents for such projects.

26 4. General powers and duties of the corporation. (a) The corporation  
27 shall have the power to:

28 (i) Sue and be sued;

1 (ii) Have a seal and alter the same at pleasure;

2 (iii) Make and alter by-laws for its organization and internal manage-  
3 ment and make rules and regulations governing same;

4 (iv) [~~Appoint~~] Assign such officers and employees from the officers  
5 and employees of the authority, as it may require for the performance of  
6 its duties and, for those officers and employees who are not represented  
7 by a recognized employee organization, fix and determine their quali-  
8 fications, duties, and compensation[, and retain];

9 (v) Retain or employ counsel, auditors, private financial consultants,  
10 professional engineers or other technical consultants and other services  
11 on a contract basis or otherwise, for the rendering of professional,  
12 business or technical services and advice;

13 [~~(v)~~] (vi) Make and execute contracts and all other instruments neces-  
14 sary or convenient for the exercise of its powers and functions under  
15 this section;

16 [~~(vi)~~] (vii) Engage the services of private consultants on a contract  
17 basis for rendering professional and technical assistance advice relat-  
18 ing to covered projects;

19 [~~(vii)~~] (viii) Procure insurance against any loss in connection with  
20 its activities, properties and other assets, in such amount and from  
21 such insurance as it deems desirable; and

22 [~~(viii)~~] (ix) Invest any funds of the corporation, or any other monies  
23 under its custody and control not required for immediate use or  
24 disbursement, at the discretion of the corporation, in obligations of  
25 the state or the United States government or obligations the principal  
26 and interest of which are obligations in which the comptroller of the  
27 state is authorized to invest pursuant to section ninety-eight of the  
28 state finance law.

1 (b) The corporation may do any and all things necessary [or conven-  
2 ient] to carry out and exercise the powers given and granted by this  
3 section.

4 (c) Notwithstanding any other provision of law, to the contrary, all  
5 state entities and their officers shall cooperate with the corporation  
6 in good faith and may implement the recommendations of the corporation.

7 § 2. This act shall take effect immediately, provided, however, that  
8 the amendments to section 1678-a of the public authorities law made by  
9 section one of this act shall not affect the repeal of such section and  
10 shall be deemed repealed therewith.

11

## PART J

12 Section 1. Section 3 of chapter 549 of the laws of 1994, amending the  
13 public authorities law relating to the membership composition of the  
14 metropolitan transportation authority board, as amended by chapter 576  
15 of the laws of 2011, is amended to read as follows:

16 § 3. This act shall take effect January 1, 1995 and shall expire and  
17 be deemed repealed on June 30, [2016] 2020 and upon such date the  
18 provisions of law amended by this act shall revert to and be read as if  
19 the provisions of this act had not been enacted.

20 § 2. This act shall take effect immediately.

21

## PART K

22 Section 1. Section 1 of chapter 53 of the laws of 2016, enacting the  
23 Aid to Localities Budget, is amended by repealing the items hereinbelow

1 set forth in brackets and by adding to such section the other items  
2 underscored in this section.

3 AID TO LOCALITIES 2016-17

4 OFFICE FOR THE AGING

5 COMMUNITY SERVICES PROGRAM ..... 248,848,000

6 -----

7 General Fund

8 Local Assistance Account - 10000

9 For services and expenses of [Jewish Commu-  
10 nity Center of Hillcrest, Inc] Hillcrest

11 Jewish Center, Inc. ..... 100,000

12 DEPARTMENT OF HEALTH

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

14 -----

15 General Fund

16 Local Assistance Account - 10000

17 For services and expenses [for a statewide  
18 campaign to promote awareness of donating  
19 umbilical cord blood to a public cord

1 blood bank. A portion or all of this  
 2 appropriation may be transferred to state  
 3 operations] of Upstate University Hospital  
 4 - Upstate Cord Blood Bank ..... 300,000  
 5 -----

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

8 PART L

9 Section 1. That part of section 1 of chapter 53 of the laws of 2016,  
 10 enacting the Aid to Localities Budget, is amended by repealing the date  
 11 hereinbelow set forth in brackets and by adding the date underscored  
 12 below.

13 AID TO LOCALITIES 2016-17

14 EDUCATION DEPARTMENT

15 OFFICE OF PREKINDERGARTEN THROUGH GRADE TWELVE EDUCATION

16 PROGRAM ..... 30,363,782,000  
 17 -----

18 General Fund

19 Local Assistance Account - 10000

20 Notwithstanding any inconsistent provision  
 21 of law, no school district shall be eligi-

1 ble for an apportionment of general  
2 support for public schools from the funds  
3 appropriated for the 2016-17 school year  
4 in excess of the amount apportioned to  
5 such school district in the base year, as  
6 defined in subdivision 1 of section 3602  
7 of the education law, unless such school  
8 district has submitted documentation that  
9 has been approved by the commissioner of  
10 education by [September 1] December 31 of  
11 the current year demonstrating that it has  
12 fully implemented the standards and proce-  
13 dures for conducting annual teacher and  
14 principal evaluations of teachers and  
15 principals in accordance with the require-  
16 ments of section 3012-d of the education  
17 law and the regulations issued by the  
18 commissioner. Provided further that any  
19 apportionment withheld pursuant to this  
20 appropriation shall not occur prior to  
21 April 1 of the current year and shall not  
22 have any effect on the base year calcu-  
23 lation for use in the subsequent school  
24 year.

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.

1

## PART M

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

6

## CITY UNIVERSITY OF NEW YORK

7

(APPROPRIATED TO THE CITY UNIVERSITY CONSTRUCTION FUND)

8

## SENIOR COLLEGES

9

## CAPITAL PROJECTS 2016-17

10 GENERAL MAINTENANCE AND IMPROVEMENTS (CCP)

11 Capital Projects Funds - Other

12 Capital Projects Fund

13 Administration Purpose

14 For additional services and expenses related  
15 to alterations and improvements to various  
16 facilities for capital projects, including  
17 but not limited to capital design,  
18 construction, acquisition, reconstruction,  
19 rehabilitation, and equipment; for health  
20 and safety, preservation of facilities,  
21 program improvement or program change,  
22 environmental protection, energy conserva-  
23 tion, accreditation, facilities for the

1 physically disabled, preventative mainte-  
 2 nance and related projects, including  
 3 costs incurred prior to April 1, 2016 and  
 4 subject to a plan developed and submitted  
 5 by the city university of New York board  
 6 of trustees and approved by the director  
 7 of the budget (30051650) ..... 20,000,000

STATE UNIVERSITY OF NEW YORK

(APPROPRIATED TO THE STATE UNIVERSITY CONSTRUCTION FUND)

CAPITAL PROJECTS 2016-17

GENERAL MAINTENANCE AND IMPROVEMENTS (CCP)

Capital Projects Funds - Other

Capital Projects Fund

Preservation of Facilities Purposes

For additional services and expenses related  
to alterations and improvements to various  
facilities for capital projects, including  
but not limited to services and expenses,  
service agreements or service contracts  
and memoranda of understanding; for capi-  
tal design including the cost of services  
provided by private firms, including prep-  
aration of designs, plans, specifications

1 and estimates; for property acquisition,  
2 facility construction, reconstruction,  
3 rehabilitation, equipment; for health and  
4 safety improvements and upgrades to  
5 preserve or enhance facility functioning;  
6 for program improvements or program  
7 change; to support improvements in tech-  
8 nology, research, environmental  
9 protection, energy and resource conserva-  
10 tion, and accreditation; to finance costs  
11 attributable to executive order 88, ADA  
12 and code compliance needs, claims, emer-  
13 gencies and remediation of environmental  
14 hazards; to ensure the functionality of  
15 major building systems such as fire alarms  
16 and sprinklers, electrical, mechanical,  
17 plumbing, heating/cooling systems and  
18 supporting infrastructure, including  
19 underground utilities; and to provide for  
20 facilities for the disabled and related  
21 projects including costs incurred prior to  
22 April 1, 2016 subject to a plan developed  
23 by the state university of New York and  
24 approved by the director of the budget  
25 (28F31603) ..... 30,000,000

<u>Project Schedule</u>	
<u>PROJECT</u>	<u>AMOUNT</u>
-----	
	<u>(thousands of dollars)</u>
5 <u>Albany</u>	
6 <u>Campus-wide projects</u> .....	<u>1,400</u>
7 <u>Alfred Ceramics</u>	
8 <u>Campus-wide projects</u> .....	<u>100</u>
9 <u>Alfred State</u>	
10 <u>Campus-wide projects</u> .....	<u>350</u>
11 <u>Binghamton</u>	
12 <u>Campus-wide projects</u> .....	<u>1,550</u>
13 <u>Brockport</u>	
14 <u>Campus-wide projects</u> .....	<u>850</u>
15 <u>Brooklyn Health Science Center (HSC)</u>	
16 <u>Campus-wide projects</u> .....	<u>550</u>
17 <u>Buffalo College</u>	
18 <u>Campus-wide projects</u> .....	<u>1,000</u>
19 <u>Buffalo University</u>	
20 <u>Campus-wide projects</u> .....	<u>2,550</u>
21 <u>Canton</u>	
22 <u>Campus-wide projects</u> .....	<u>250</u>
23 <u>Cobleskill</u>	
24 <u>Campus-wide projects</u> .....	<u>300</u>
25 <u>Cornell</u>	
26 <u>Campus-wide projects</u> .....	<u>1,400</u>
27 <u>Cortland</u>	

1	<u>Campus-wide projects</u> .....	<u>700</u>
2	<u>Delhi</u>	
3	<u>Campus-wide projects</u> .....	<u>300</u>
4	<u>Empire State</u>	
5	<u>Campus-wide projects</u> .....	<u>50</u>
6	<u>Environmental Science and Forestry</u>	
7	<u>Campus-wide projects</u> .....	<u>350</u>
8	<u>Farmingdale</u>	
9	<u>Campus-wide projects</u> .....	<u>700</u>
10	<u>Fredonia</u>	
11	<u>Campus-wide projects</u> .....	<u>550</u>
12	<u>Geneseo</u>	
13	<u>Campus-wide projects</u> .....	<u>550</u>
14	<u>Maritime</u>	
15	<u>Campus-wide projects</u> .....	<u>250</u>
16	<u>Morrisville</u>	
17	<u>Campus-wide projects</u> .....	<u>350</u>
18	<u>New Paltz</u>	
19	<u>Campus-wide projects</u> .....	<u>700</u>
20	<u>Old Westbury</u>	
21	<u>Campus-wide projects</u> .....	<u>350</u>
22	<u>Oneonta</u>	
23	<u>Campus-wide projects</u> .....	<u>600</u>
24	<u>Optometry</u>	
25	<u>Campus-wide projects</u> .....	<u>150</u>
26	<u>Oswego</u>	
27	<u>Campus-wide projects</u> .....	<u>900</u>
28	<u>Plattsburgh</u>	

1	<u>Campus-wide projects</u> .....	<u>600</u>
2	<u>Potsdam</u>	
3	<u>Campus-wide projects</u> .....	<u>600</u>
4	<u>Purchase</u>	
5	<u>Campus-wide projects</u> .....	<u>650</u>
6	<u>State Univ Plaza</u>	
7	<u>Campus-wide projects</u> .....	<u>250</u>
8	<u>Stony Brook, incl Health Science Center</u>	
9	<u>(HSC) and Long Island State Veterans Home:</u>	
10	<u>Campus-wide projects</u> .....	<u>3,100</u>
11	<u>Syracuse Health Science Center (HSC)</u>	
12	<u>Campus-wide projects</u> .....	<u>500</u>
13	<u>SUNY Polytechnic</u>	
14	<u>Campus-wide projects</u> .....	<u>150</u>
15	<u>University-wide Alterations and Improvements</u>	
16	<u>Maintenance undistributed</u>	
17	<u>For university-wide capital project costs,</u>	
18	<u>including costs attributable to executive</u>	
19	<u>order 88; ADA and code compliance claims;</u>	
20	<u>environmental hazards; emergencies health</u>	
21	<u>and safety, and energy conservation needs,</u>	
22	<u>asbestos and PCB remediation; fire alarms</u>	
23	<u>and sprinklers; electrical, mechanical,</u>	
24	<u>plumbing and heating and cooling system</u>	
25	<u>requirements and other university-wide</u>	
26	<u>needs</u> .....	<u>2,850</u>
27	<u>University-wide Alterations and Improvements</u>	
28	<u>Maintenance undistributed</u>	

1	<u>For priority capital projects</u> .....	<u>4,500</u>
2		=====
3	<u>Total</u> .....	<u>30,000</u>
4		=====

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

8 PART N

9 Intentionally omitted.

10 PART O

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

16 § 34. This act shall take effect July 1, 2002; provided, that sections  
17 one through twenty, twenty-four, and twenty-six through thirty of this  
18 act shall expire and be deemed repealed June 30, [2016] 2017 provided,  
19 further, that notwithstanding any provision of article 5 of the general  
20 construction law, on June 30, [2016] 2017 the provisions of subdivisions  
21 3, 5, and 8, paragraph b of subdivision 13, subdivision 14, paragraphs  
22 b, d, and e of subdivision 15, and subdivisions 17 and 21 of section  
23 2554 of the education law as repealed by section three of this act,

1 subdivision 1 of section 2590-b of the education law as repealed by  
2 section six of this act, paragraph (a) of subdivision 2 of section  
3 2590-b of the education law as repealed by section seven of this act,  
4 section 2590-c of the education law as repealed by section eight of this  
5 act, paragraph c of subdivision 2 of section 2590-d of the education law  
6 as repealed by section twenty-six of this act, subdivision 1 of section  
7 2590-e of the education law as repealed by section twenty-seven of this  
8 act, subdivision 28 of section 2590-h of the education law as repealed  
9 by section twenty-eight of this act, subdivision 30 of section 2590-h of  
10 the education law as repealed by section twenty-nine of this act, subdi-  
11 vision 30-a of section 2590-h of the education law as repealed by  
12 section thirty of this act shall be revived and be read as such  
13 provisions existed in law on the date immediately preceding the effec-  
14 tive date of this act; provided, however, that sections seven and eight  
15 of this act shall take effect on November 30, 2003; provided further  
16 that the amendments to subdivision 25 of section 2554 of the education  
17 law made by section two of this act shall be subject to the expiration  
18 and reversion of such subdivision pursuant to section 12 of chapter 147  
19 of the laws of 2001, as amended, when upon such date the provisions of  
20 section four of this act shall take effect.

21 § 2. Subdivision 12 of section 17 of chapter 345 of the laws of 2009,  
22 amending the education law and other laws relating to the New York city  
23 board of education, chancellor, community councils, and community super-  
24 intendants, as amended by section 2 of subpart D of part B of chapter 20  
25 of the laws of 2015, is amended to read as follows:

26 12. any provision in sections one, two, three, four, five, six, seven,  
27 eight, nine, ten and eleven of this act not otherwise set to expire  
28 pursuant to section 34 of chapter 91 of the laws of 2002, as amended, or

1 section 17 of chapter 123 of the laws of 2003, as amended, shall expire  
2 and be deemed repealed June 30, [2016] 2017.

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

5 § 2590-r-1. Community school district based budgeting and expenditure  
6 reporting. Notwithstanding any provision of law to the contrary,  
7 commencing with the two thousand seventeen--two thousand eighteen school  
8 year and thereafter, no fewer than fifteen days after the release of the  
9 executive budget of the city of New York by the mayor of the city of New  
10 York, the chancellor shall provide to the city council and shall make  
11 publicly available and on the district website a detailed statement of  
12 the total funding allocation for each community school district for the  
13 school budget year. After the close of the preceding fiscal year, and  
14 prior to presentation of the following year's school budget, the chan-  
15 cellor shall provide to the city council and shall make publicly avail-  
16 able and on the district website a detailed statement of the total fund-  
17 ing allocation for each community school district for the preceding  
18 school budget year. Such statements shall be in a form developed by the  
19 director of the budget.

20 § 4. This act shall take effect immediately.

21 PART P

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

24 2-a. Notwithstanding any other provision of law, rule, or regulation  
25 to the contrary, the state university trustees charter school committee,  
26 as a charter entity, are further authorized and empowered, to promulgate

1 regulations with respect to governance, structure and operations of  
2 charter schools for which they are the charter entity pursuant to  
3 section twenty-eight hundred fifty-one of this chapter.

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

6 5. Notwithstanding any provision of law, rule or regulation to the  
7 contrary for a period of one year from the effective date of this subdivi-  
8 vision, a charter school approved by a charter entity listed in subdivi-  
9 sion three of this section may apply at any time during this period to  
10 another charter entity, defined in paragraph (a), (b) or (c) of subdivi-  
11 sion three of this section to request such other charter entity to over-  
12 see and supervise such charter school. All standards and requirements  
13 established in the original charter agreement shall remain in effect  
14 until the scheduled expiration of such charter agreement and provided  
15 however that all obligations of the previous charter entity to oversee  
16 and supervise a charter school shall terminate upon the transfer of  
17 authorization of such charter school to a new charter entity, as defined  
18 in subdivision five of section twenty-eight hundred fifty-two of this  
19 article, and the previous charter entity shall provide in a timely fash-  
20 ion information relevant to the charter as requested by such other char-  
21 ter entity. A charter school that seeks to change its charter entity  
22 must have met all other requirements of this article and cannot be in  
23 violation of any legal requirement, in probationary status, or slated  
24 for closure.

25 § 3. This act shall take effect immediately.

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

3 § 1308. Inspecting, securing and maintaining vacant and abandoned  
4 residential real property. Notwithstanding any other provision of law to  
5 the contrary, the following subdivisions of this section shall only  
6 apply to vacant and abandoned one to four family residential real prop-  
7 erty, and any duties and responsibilities so prescribed by this section  
8 shall only apply to the first lien mortgage holder. Vacant and abandoned  
9 residential real property shall be defined pursuant to section thirteen  
10 hundred nine of this article. For each calendar year this section shall  
11 not apply to state or federally chartered banks, savings banks, savings  
12 and loan associations, or credit unions which: (1) originate, own,  
13 service and maintain their mortgages or a portion thereof; and (2) have  
14 less than three-tenths of one percent of the total loans in the state  
15 which they either originate, own, service, or maintain for the calendar  
16 year ending December thirty-first of the calendar year ending two years  
17 prior to the current calendar year. For any state or federally chartered  
18 banks, savings banks, savings and loan associations, or credit unions  
19 which originate, own, service and maintain between three-tenths of one  
20 percent and five-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, the application of this section  
24 shall be prospective only.

25 1. Subject to bankruptcy filings, cease and desist orders, threats of  
26 violence, or active loss mitigation efforts, within ninety days of a  
27 borrower's delinquency, the servicer authorized to accept payment of the  
28 loan shall complete an exterior inspection of the subject property to

1 determine occupancy. Thereafter, throughout the delinquency of the loan,  
2 the servicer shall conduct an exterior inspection of the property every  
3 twenty-five to thirty-five days, at different times of the day.

4 2. If a borrower is delinquent and subject to property inspections  
5 pursuant to subdivision one of this section, the servicer shall secure  
6 and maintain the residential real property pursuant to subdivisions  
7 three, four, five, six, and seven of this section where the servicer has  
8 a reasonable basis to believe that the residential real property is  
9 vacant and abandoned, as defined in section thirteen hundred nine of  
10 this chapter, and is not otherwise restricted from accessing the proper-  
11 ty.

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

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

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

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

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

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

11 (e) where appropriate, winterize the applicable plumbing and heating  
12 systems;

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

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

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

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

27 (j) ensure that the notice required to be posted in subdivision three  
28 of this section remains posted on an easily accessible part of the prop-

1 erty that would be reasonably visible to the borrower, property owner or  
2 occupant so long as the duty to maintain applies.

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

5 (a) the personal property poses a significant health and safety issue;  
6 or

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

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

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

14 (b) the borrower has filed for bankruptcy;

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

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

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

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

22 (g) the mortgage note has been assigned, transferred or sold to anoth-  
23 er servicer.

24 7. Reasonable and necessary actions to maintain the property include,  
25 but are not limited to:

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

1 (b) maintaining property in a manner consistent with the standards set  
2 forth in sections 301, 302 (excluding 302.2, 302.6 and 302.8), 304.1,  
3 304.3, 304.7, 304.10, 304.12, 304.13, 304.15, 304.16, 307.1, and 308.1  
4 of the New York property maintenance code, to the extent that the mort-  
5 gage servicer or its agents are able to obtain necessary or required  
6 permits or approvals.

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

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

19 (c) In addition to the authority granted to the department of finan-  
20 cial services, the municipality in which such residential real property  
21 is located, shall have the right to enforce the obligations described in  
22 this section in any court of competent jurisdiction after at least seven  
23 days' notice to the lender, assignee or mortgage loan servicer, unless  
24 the property requires emergency repairs to address a threat to public  
25 health, safety or welfare, in which case the municipality may enter and  
26 maintain the property to cure the emergency, provided however, notice  
27 shall be provided to the lender, assignee or mortgage loan servicer as  
28 soon as practicable. Any municipality acting pursuant to this subdivi-

1 sion shall have a cause of action in any court of competent jurisdiction  
2 against the lender, assignee or mortgage loan servicer to recover costs  
3 incurred as a result of maintaining the property. Such entity shall  
4 provide the department of financial services with written notice at  
5 least ten days prior to bringing an action pursuant to this subdivision;  
6 provided, however, that failure to comply with this notice requirement  
7 shall not be a defense to the entity proceeding pursuant to this subdivi-  
8 vision. The authority provided by this subdivision shall be in addition  
9 to, and shall not be deemed to diminish or reduce, any rights of the  
10 parties described in this section under existing law against the mortgag-  
11 or of such property for failure to maintain such property. Any civil  
12 penalty imposed pursuant to paragraph (a) of this subdivision in an  
13 action brought by a municipality pursuant to this paragraph shall be  
14 retained by such municipality.

15 (d) The department of financial services is authorized and empowered  
16 to adopt such rules and regulations as may, in the judgment of the  
17 superintendent of financial services, be necessary for the effective  
18 implementation, administration, operation and enforcement of this  
19 section.

20 9. A servicer who peacefully enters a vacant and abandoned property in  
21 order to maintain pursuant to this section shall be immune from liabil-  
22 ity when such servicer is making reasonable efforts to comply with the  
23 statute.

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

26 11. For all state or federally chartered banks, savings banks,  
27 savings and loan associations, credit unions, or servicers for which the  
28 provisions of this section do not apply, pursuant to the opening para-

1 graph of this section, any agreement between such state or federally  
2 chartered banks, savings banks, savings and loan associations, credit  
3 unions, or servicers and the department of financial services that is  
4 associated with the maintenance and repair of vacant and abandoned prop-  
5 erty shall remain in full force and effect between the aforementioned  
6 parties for so long as the terms and conditions of such agreement remain  
7 in effect.

8 12. The department of financial services shall issue such rules and  
9 regulations necessary to implement the terms of this section, including  
10 but not limited to rules and regulations pertaining to the reporting of  
11 financial information that state or federally chartered banks, savings  
12 banks, savings and loan associations, or credit unions must provide to  
13 implement this section.

14 13. No local law, ordinance, or resolution shall impose a duty to  
15 maintain vacant and abandoned property as defined in section thirteen  
16 hundred nine of this article in a manner inconsistent with the  
17 provisions of this section that are related to maintenance as provided  
18 under subdivisions three, four, five, six and seven of this section, or  
19 establish related penalties nor other monetary obligations, with respect  
20 to a state or federally chartered bank, savings bank, savings and loan  
21 association or credit union that originates, owns, services or maintains  
22 a mortgage related to such property.

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

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

5 Rule 3408. Mandatory settlement conference in residential foreclosure  
6 actions. (a) In any residential foreclosure action involving a home  
7 loan as such term is defined in section thirteen hundred four of the  
8 real property actions and proceedings law, in which the defendant is a  
9 resident of the property subject to foreclosure, plaintiff shall file  
10 proof of service within twenty days of such service, however service is  
11 made, and the court shall hold a mandatory conference within sixty days  
12 after the date when proof of service upon such defendant is filed with  
13 the county clerk, or on such adjourned date as has been agreed to by the  
14 parties, for the purpose of holding settlement discussions pertaining to  
15 the relative rights and obligations of the parties under the mortgage  
16 loan documents, including, but not limited to: 1. determining whether  
17 the parties can reach a mutually agreeable resolution to help the  
18 defendant avoid losing his or her home, and evaluating the potential for  
19 a resolution in which payment schedules or amounts may be modified or  
20 other workout options may be agreed to, [and for] including, but not  
21 limited to, a loan modification, short sale, deed in lieu of foreclo-  
22 sure, or any other loss mitigation option; or 2. whatever other purposes  
23 the court deems appropriate.

24 (b) At the initial conference held pursuant to this section, any  
25 defendant currently appearing pro se, shall be deemed to have made a  
26 motion to proceed as a poor person under section eleven hundred one of  
27 this chapter. The court shall determine whether such permission shall be  
28 granted pursuant to standards set forth in section eleven hundred one of

1 this chapter. If the court appoints defendant counsel pursuant to subdi-  
2 vision (a) of section eleven hundred two of this chapter, it shall  
3 adjourn the conference to a date certain for appearance of counsel and  
4 settlement discussions pursuant to subdivision (a) of this section, and  
5 otherwise shall proceed with the conference.

6 (c) At any conference held pursuant to this section, the plaintiff and  
7 the defendant shall appear in person or by counsel, and [if appearing by  
8 counsel, such counsel] each party's representative at the conference  
9 shall be fully authorized to dispose of the case. [The defendant shall  
10 appear in person or by counsel.] If the defendant is appearing pro se,  
11 the court shall advise the defendant of the nature of the action and his  
12 or her rights and responsibilities as a defendant. Where appropriate,  
13 the court may permit a representative of the plaintiff or the defendant  
14 to attend the settlement conference telephonically or by video-confer-  
15 ence.

16 (d) Upon the filing of a request for judicial intervention in any  
17 action pursuant to this section, the court shall send either a copy of  
18 such request or the defendant's name, address and telephone number (if  
19 available) to a housing counseling agency or agencies on a list desig-  
20 nated by the division of housing and community renewal for the judicial  
21 district in which the defendant resides. Such information shall be used  
22 by the designated housing counseling agency or agencies exclusively for  
23 the purpose of making the homeowner aware of housing counseling and  
24 foreclosure prevention services and options available to them.

25 (e) The court shall promptly send a notice to parties advising them of  
26 the time and place of the settlement conference, the purpose of the  
27 conference and the requirements of this section. The notice shall be in  
28 a form prescribed by the office of court administration, or, at the

1 discretion of the office of court administration, the administrative  
2 judge of the judicial district in which the action is pending, and shall  
3 advise the parties of the documents that they [should] shall bring to  
4 the conference.

5 1. For the plaintiff, such documents [should] shall include, but are  
6 not limited to, (i) the payment history[,]; (ii) an itemization of the  
7 amounts needed to cure and pay off the loan[, and]; (iii) the mortgage  
8 and note or copies of the same; (iv) standard application forms and a  
9 description of loss mitigation options, if any, which may be available  
10 to the defendant; and (v) any other documentation required by the  
11 presiding judge. If the plaintiff is not the owner of the mortgage and  
12 note, the plaintiff shall provide the name, address and telephone number  
13 of the legal owner of the mortgage and note. For cases in which the  
14 lender or its servicing agent has evaluated or is evaluating eligibility  
15 for home loan modification programs or other loss mitigation options, in  
16 addition to the documents listed above, the plaintiff shall bring a  
17 summary of the status of the lender's or servicing agent's evaluation  
18 for such modifications or other loss mitigation options, including,  
19 where applicable, a list of outstanding items required for the borrower  
20 to complete any modification application, an expected date of completion  
21 of the lender's or servicer agent's evaluation, and, if the  
22 modification(s) was denied, a denial letter or any other document  
23 explaining the reason(s) for denial and the data input fields and values  
24 used in the net present value evaluation. If the modification was denied  
25 on the basis of an investor restriction, the plaintiff shall bring the  
26 documentary evidence which provides the basis for the denial, such as a  
27 pooling and servicing agreement.

1     2. For the defendant, such documents [should] shall include, but are  
2 not limited to, [proof of current income such as the two most recent pay  
3 stubs, most recent tax return and most recent property tax statements]  
4 if applicable, information on current income tax returns, expenses,  
5 property taxes and previously submitted applications for loss miti-  
6 gation; benefits information; rental agreements or proof of rental  
7 income; and any other documentation relevant to the proceeding required  
8 by the presiding judge.

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

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

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

23     3. Conduct consistent with efforts to reach a mutually agreeable  
24 resolution, including but not limited to, avoiding unreasonable delay,  
25 appearing at the settlement conference with authority to fully dispose  
26 of the case, avoiding prosecution of foreclosure proceedings while loss  
27 mitigation applications are pending, and providing accurate information  
28 to the court and parties.

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

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

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

11 (i) The court may determine whether either party fails to comply with  
12 the duty to negotiate in good faith pursuant to subdivision (f) of this  
13 section, and order remedies pursuant to subdivisions (j) and (k) of this  
14 section, either on motion of any party or sua sponte on notice to the  
15 parties, in accordance with such procedures as may be established by the  
16 court or the office of court administration. A referee, judicial hearing  
17 officer, or other staff designated by the court to oversee the settle-  
18 ment conference process may hear and report findings of fact and conclu-  
19 sions of law, and may make reports and recommendations for relief to the  
20 court concerning any party's failure to negotiate in good faith pursuant  
21 to subdivision (f) of this section.

22 (j) Upon a finding by the court that the plaintiff failed to negotiate  
23 in good faith pursuant to subdivision (f) of this section, and order  
24 remedies pursuant to this subdivision and subdivision (k) of this  
25 section the court shall, at a minimum, toll the accumulation and  
26 collection of interest, costs, and fees during any undue delay caused by  
27 the plaintiff, and where appropriate, the court may also impose one or  
28 more of the following:

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

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

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

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

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

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

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

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

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

24 4. provide information about available resources for foreclosure  
25 prevention assistance.

26 At the first conference held pursuant to this section, the court shall  
27 also provide the defendant with a copy of the Consumer Bill of Rights

1 provided for in section thirteen hundred three of the real property  
2 actions and proceedings law.

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

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

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

17 (a) In any residential foreclosure action involving a high-cost home  
18 loan consummated between January first, two thousand three and September  
19 first, two thousand eight, or a subprime or nontraditional home loan, as  
20 those terms are defined under section thirteen hundred four of the real  
21 property actions and proceedings law, in which the defendant is a resi-  
22 dent of the property subject to foreclosure, the court shall hold a  
23 mandatory conference within sixty days after the date when proof of  
24 service is filed with the county clerk, or on such adjourned date as has  
25 been agreed to by the parties, for the purpose of holding settlement  
26 discussions pertaining to the relative rights and obligations of the  
27 parties under the mortgage loan documents, including, but not limited  
28 to: 1. determining whether the parties can reach a mutually agreeable

1 resolution to help the defendant avoid losing his or her home, and eval-  
2 uating the potential for a resolution in which payment schedules or  
3 amounts may be modified or other workout options may be agreed to[, and  
4 for] including, but not limited to, a loan modification, short sale,  
5 deed in lieu of foreclosure, or any other loss mitigation option; or 2.  
6 whatever other purposes the court deems appropriate.

7 § 4. The real property actions and proceedings law is amended by  
8 adding two new sections 1309 and 1310 to read as follows:

9 § 1309. Expedited application for judgment of foreclosure and sale for  
10 vacant and abandoned property. 1. The plaintiff in any foreclosure  
11 proceeding may make an application by notice of motion or order to show  
12 cause for a judgment of foreclosure and sale on the grounds that the  
13 subject property is vacant and abandoned. The motion or order to show  
14 cause shall include the last known address of the borrower and the prop-  
15 erty address. Notwithstanding subdivision (m) of rule thirty-four  
16 hundred eight of the civil practice law and rules no such application  
17 may be made until the defendant's time to answer the complaint in the  
18 foreclosure proceeding shall have expired. Such application shall be  
19 served on defendant, regardless of whether a defendant has filed an  
20 answer or appeared in the case. Such application shall: (a) state in  
21 bold letters, on the first page of the notice of motion or order to show  
22 cause: (i) "The plaintiff in this lawsuit has applied for an expedited  
23 judgment of foreclosure and sale of your property on the ground that it  
24 is vacant and abandoned"; (ii) "Your property may be foreclosed upon and  
25 sold without any further proceedings if you do not respond to this  
26 motion by or on the return date, which is . . ."; (iii) "You have the  
27 right to stay in your property until a court orders you to leave"; and  
28 (iv) "You may respond to this motion by either submitting a written

1 document or by appearing in court on the return date."; (b) be supported  
2 by affidavit and other proof, including but not limited to: (i) proof of  
3 ownership of the mortgage and the note, (ii) photographs evidencing that  
4 the subject property is vacant and abandoned as provided for under  
5 subdivision two of this section, and (iii) if available, utility company  
6 records or other documentation evidencing the vacant and abandoned  
7 status of the premises; (c) set forth, supported by documentary  
8 evidence, the sums alleged to be due and owing upon the subject mortgage  
9 and note, including the current principal balance and a detailed and  
10 itemized account of each fee, each cost, and a calculation of interest  
11 accrued; and (d) request that the court confirm the sums due and owing  
12 upon the subject mortgage and note without appointment of a referee. The  
13 court shall promptly send a notice to the defendant of the plaintiff's  
14 notice of motion or order to show cause for a judgement of foreclosure  
15 and sale on the grounds that the subject property is vacant and aban-  
16 doned. The notice shall advise the defendant that the lender is asking  
17 the court to expedite a judgement of foreclosure and sale of his or her  
18 property on the ground that it is vacant and abandoned and about the  
19 time and place of the court date. The notice shall be in a form  
20 prescribed by the courts, or, at the discretion of the courts.

21 2. (a) As used in this section, "vacant and abandoned residential  
22 property" means residential real property, as defined in section thir-  
23 teen hundred five of this article, with respect to which the plaintiff  
24 has proven, by preponderance of the evidence, that it has conducted at  
25 least three consecutive inspections of such property, with each  
26 inspection conducted twenty-five to thirty-five days apart and at  
27 different times of the day, and at each inspection (i) no occupant was  
28 present and there was no evidence of occupancy on the property to indi-

1 cate that any persons are residing there; and (ii) the residential real  
2 property was not being maintained in a manner consistent with the stand-  
3 ards set forth in New York property maintenance code chapter 3 sections  
4 301, 302 (excluding 302.2, 302.6, 302.8), 304.1, 304.3, 304.7, 304.10,  
5 304.12, 304.13, 304.15, 304.16, 307.1 and 308.1.

6 (b) Residential real property will also be deemed vacant and abandoned  
7 if:

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

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

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

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

1 (i) There is an unoccupied building that is undergoing construction,  
2 renovation, or rehabilitation that is proceeding diligently to  
3 completion;

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

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

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

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

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

17 4. The court shall make a written finding as soon as practicable as to  
18 whether the plaintiff has proved that the property to be foreclosed upon  
19 pursuant to this section is vacant and abandoned pursuant to subdivision  
20 two of this section and, if the court determines that the property is  
21 vacant and abandoned, it shall set forth: (a) the evidence relied upon  
22 by the court in finding that the property is vacant and abandoned; (b)  
23 the evidence showing that the plaintiff is the owner and holder of the  
24 subject mortgage and note, or has been delegated the authority to insti-  
25 tute a mortgage foreclosure action by the owner of same; and (c) the  
26 sums due and owing upon the subject mortgage and note after a review of  
27 the detailed and itemized account of each fee, each cost, and a calcu-  
28 lation of interest accrued.

1 5. With respect to foreclosure actions brought pursuant to this  
2 section:

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

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

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

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

4 § 1310. Vacant and abandoned property; statewide vacant and abandoned  
5 property electronic registry. 1. The department of financial services  
6 shall maintain a statewide vacant and abandoned property registry in the  
7 form of an electronic database. The department of financial services  
8 may, in accordance with the applicable provisions of the state finance  
9 law, retain a private contractor to administer such database for the  
10 purposes of satisfying this requirement. The information provided to  
11 the department of financial services pursuant to this section shall be  
12 deemed and treated confidential, provided however, the superintendent of  
13 financial services, in her or his sole discretion, may release the  
14 information if it is in the best interest of the public. Any such  
15 released information shall continue to be treated confidentially by the  
16 parties. The department of financial services shall, upon written  
17 request, provide public officials of any state district, county, city,  
18 town or village with access to information specific to such public offi-  
19 cial's district, county, city, town or village maintained on such data-  
20 base to further the purposes of this section, section thirteen hundred  
21 seven of this article or article nineteen-A of this chapter, or any  
22 other related law, code, rule, regulation or ordinance.

23 2. A lender, assignee or mortgage loan servicer shall submit or cause  
24 to be submitted to the department of financial services information  
25 required by the superintendent of financial services about any vacant  
26 and abandoned residential real property, as that term is defined in  
27 subdivision two of section thirteen hundred nine of this article, or as  
28 the superintendent of financial services may otherwise define that term,

1 within twenty-one business days of when the lender, assignee or mortgage  
2 loan servicer learns, or should have learned, that such property is  
3 vacant and abandoned. Such information shall, at a minimum, include:  
4 (a) the current name, address and contact information for the lender,  
5 assignee or mortgage loan servicer responsible for maintaining the  
6 vacant property; (b) whether a foreclosure action has been filed for the  
7 property in question, and, if so, the date on which the foreclosure  
8 action was commenced; and (c) the last known address and contact infor-  
9 mation for the mortgagor(s) of record.

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

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

26 5. The department of financial services shall establish and maintain a  
27 toll-free hotline that neighbors of real property that is, or appears to  
28 be, vacant and abandoned residential real property, as such term is

1 defined in subdivision two of section thirteen hundred nine of this  
2 article, and other community residents can use to report to the super-  
3 intendent of financial services any hazards, blight or other concerns  
4 related to such property. The department of financial services shall  
5 include on its official public website information about such toll-free  
6 hotline.

7 No local law, ordinance, or resolution shall impose a duty to register  
8 vacant and abandoned property as defined in section thirteen hundred  
9 nine of the article in a manner inconsistent with the provisions of this  
10 section that are related to registration as provided under section thir-  
11 teen hundred ten of this article or establish related penalties or other  
12 monetary obligation, with respect to a state or federally chartered  
13 bank, savings bank, savings and loan association or credit union that  
14 originates, owns, services or maintains a mortgage related to such prop-  
15 erty.

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

23 § 5. Subdivision 3 of section 1303 of the real property actions and  
24 proceedings law, as amended by chapter 507 of the laws of 2009 and as  
25 further amended by section 104 of part A of chapter 62 of the laws of  
26 2011, is amended and a new subdivision 3-a is added to read as follows:

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

1 Help for Homeowners in Foreclosure

2 New York State Law requires that we send you this notice about the  
3 foreclosure process. Please read it carefully.

4 Summons and Complaint

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

10 Sources of Information and Assistance

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

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

19 Rights and Obligations

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

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

27 Foreclosure rescue scams

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

10 3-a. No later than sixty days after the effective date of this subdi-  
11 vision, the department of financial services shall publish a Consumer  
12 Bill Of Rights, in consultation with all stakeholders, which shall  
13 detail the rights and responsibilities of the plaintiff and defendant in  
14 a foreclosure proceeding. Such Bill of Rights shall be updated on an  
15 annual basis and as appropriate.

16 § 6. Section 1304 of the real property actions and proceedings law, as  
17 added by chapter 472 of the laws of 2008, subdivision 1 as amended and  
18 subdivision 6 as added by chapter 155 of the laws of 2012, and subdivi-  
19 sions 2 and 5 as amended by chapter 507 of the laws of 2009, and subdivi-  
20 sion 2 as further amended by section 104 of part A of chapter 62 of  
21 the laws of 2011, is amended to read as follows:

22 § 1304. Required prior notices. 1. Notwithstanding any other  
23 provision of law, with regard to a home loan, at least ninety days  
24 before a lender, an assignee or a mortgage loan servicer commences legal  
25 action against the borrower, or borrowers at the property address and  
26 any other address of record, including mortgage foreclosure, such lend-  
27 er, assignee or mortgage loan servicer shall give notice to the borrower  
28 in at least fourteen-point type which shall include the following:

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

3 "As of \_\_\_\_, your home loan is \_\_\_\_ days and \_\_\_\_\_ dollars in default.  
4 Under New York State Law, we are required to send you this notice to  
5 inform you that you are at risk of losing your home. [You can cure this  
6 default by making the payment of \_\_\_\_\_ dollars by \_\_\_\_.]

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

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

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

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

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

11 IMPORTANT: You have the right to remain in your home until you receive  
12 a court order telling you to leave the property. If a foreclosure action  
13 is filed against you in court, you still have the right to remain in the  
14 home until a court orders you to leave. You legally remain the owner of  
15 and are responsible for the property until the property is sold by you  
16 or by order of the court at the conclusion of any foreclosure  
17 proceedings. This notice is not an eviction notice, and a foreclosure  
18 action has not yet been commenced against you.

19 2. Such notice shall be sent by such lender, assignee (including  
20 purchasing investor) or mortgage loan servicer to the borrower, by  
21 registered or certified mail and also by first-class mail to the last  
22 known address of the borrower, and [if different,] to the residence that  
23 is the subject of the mortgage. Such notice shall be sent by the lender,  
24 assignee or mortgage loan servicer in a separate envelope from any other  
25 mailing or notice. Notice is considered given as of the date it is  
26 mailed. The notice shall contain a current list of at least five housing  
27 counseling agencies [as designated by the division of housing and commu-  
28 nity renewal, that serve the region where the borrower resides] serving

1 the county where the property is located from the most recent listing  
2 available from department of financial services. The list shall include  
3 the counseling agencies' last known addresses and telephone numbers. The  
4 department of financial services [and the division of housing and commu-  
5 nity renewal] shall make available on [their respective] its websites a  
6 listing, by [region] county, of such agencies. The lender, assignee or  
7 mortgage loan servicer shall use [either of these] such lists to meet  
8 the requirements of this section.

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

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

24 5. For any borrower known to have limited English proficiency, the  
25 notice required by subdivision one of this section shall be in the  
26 borrower's native language (or a language in which the borrower is  
27 proficient), provided that the language is one of the six most common  
28 non-English languages spoken by individuals with limited English profi-

1 ciency in the state of New York, based on United States census data. The  
2 department of financial services shall post the notice required by  
3 subdivision one of this section on its website in the six most common  
4 non-English languages spoken by individuals with limited English profi-  
5 ciency in the state of New York, based on the United States census data.

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

8 (i) The borrower is a natural person;

9 (ii) The debt is incurred by the borrower primarily for personal,  
10 family, or household purposes;

11 (iii) The loan is secured by a mortgage or deed of trust on real  
12 estate improved by a one to four family dwelling, or a condominium unit,  
13 in either case, used or occupied, or intended to be used or occupied  
14 wholly or partly, as the home or residence of one or more persons and  
15 which is or will be occupied by the borrower as the borrower's principal  
16 dwelling; and

17 (iv) The property is located in this state.

18 (b) "Lender" means a mortgage banker as defined in paragraph (f) of  
19 subdivision one of section five hundred ninety of the banking law or an  
20 exempt organization as defined in paragraph (e) of subdivision one of  
21 section five hundred ninety of the banking law.

22 [6.] 7. The department of financial services shall prescribe the tele-  
23 phone number and web address to be included in the notice.

24 § 7. Subdivisions 1, 2, 5 and 6 of section 1304 of the real property  
25 actions and proceedings law, subdivision 1 as amended and subdivision 6  
26 as added by chapter 155 of the laws of 2012, and subdivisions 2 and 5 as  
27 added by chapter 472 of the laws of 2008, subdivision 2 and paragraph

1 (f) of subdivision 5 as further amended by section 104 of part A of  
2 chapter 62 of the laws of 2011, are amended to read as follows:

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

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

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

20 [If you are experiencing financial difficulty, you should know that  
21 there are several options available to you that may help you keep your  
22 home.] Attached to this notice is a list of government approved housing  
23 counseling agencies in your area which provide free or very low-cost  
24 counseling. [You should consider contacting one of these agencies imme-  
25 diately. These agencies specialize in helping homeowners who are facing  
26 financial difficulty. Housing counselors can help you assess your finan-  
27 cial condition and work with us to explore the possibility of modifying  
28 your loan, establishing an easier payment plan for you, or even working

1 out a period of loan forbearance.] You can also call the NYS Office of  
2 the Attorney General's Homeowner Protection Program (HOPP) toll-free  
3 consumer hotline to be connected to free housing counseling services in  
4 your area at 1-855-HOME-456 (1-855-466-3456), or visit their website at  
5 http://www.aghomehelp.com/. A statewide listing by county is also avail-  
6 able at http://www.dfs.ny.gov/consumer/mortg\_nys\_np\_counseling agen-  
7 cies.htm. Qualified free help is available; watch out for companies or  
8 people who charge a fee for these services.

9 Housing counselors from New York-based agencies listed on the website  
10 above are trained to help homeowners who are having problems making  
11 their mortgage payments and can help you find the best option for your  
12 situation. If you wish, you may also contact us directly at \_\_\_\_\_  
13 and ask to discuss possible options.

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

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

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

24 IMPORTANT: You have the right to remain in your home until you receive  
25 a court order telling you to leave the property. If a foreclosure action  
26 is filed against you in court, you still have the right to remain in the  
27 home until a court orders you to leave. You legally remain the owner of  
28 and are responsible for the property until the property is sold by you

1 or by order of the court at the conclusion of any foreclosure  
2 proceedings. This notice is not an eviction notice, and a foreclosure  
3 action has not yet been commenced against you.

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

20 [5.] 6. (a) "Annual percentage rate" means the annual percentage rate  
21 for the loan calculated according to the provisions of the Federal  
22 Truth-in-Lending Act (15 U.S.C. § 1601, et seq.), and the regulations  
23 promulgated thereunder by the federal reserve board (as said act and  
24 regulations are amended from time to time).

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

27 (i) The principal amount of the loan at origination did not exceed the  
28 conforming loan size that was in existence at the time of origination

1 for a comparable dwelling as established by the federal national mort-  
2 gage association;

3 (ii) The borrower is a natural person;

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

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

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

12 (c) "Subprime home loan" for the purposes of this section, means a  
13 home loan consummated between January first, two thousand three and  
14 September first, two thousand eight in which the terms of the loan  
15 exceed the threshold as defined in paragraph (d) of this subdivision. A  
16 subprime home loan excludes a transaction to finance the initial  
17 construction of a dwelling, a temporary or "bridge" loan with a term of  
18 twelve months or less, such as a loan to purchase a new dwelling where  
19 the borrower plans to sell a current dwelling within twelve months, or a  
20 home equity line of credit.

21 (d) "Threshold" means, for a first lien mortgage loan, the annual  
22 percentage rate of the home loan at consummation of the transaction  
23 exceeds three percentage points over the yield on treasury securities  
24 having comparable periods of maturity to the loan maturity measured as  
25 of the fifteenth day of the month in which the loan was consummated; or  
26 for a subordinate mortgage lien, the annual percentage rate of the home  
27 loan at consummation of the transaction equals or exceeds five percent-  
28 age points over the yield on treasury securities having comparable peri-

1 ods of maturity on the fifteenth day of the month in which the loan was  
2 consummated; as determined by the following rules: if the terms of the  
3 home loan offer any initial or introductory period, and the annual  
4 percentage rate is less than that which will apply after the end of such  
5 initial or introductory period, then the annual percentage rate that  
6 shall be taken into account for purposes of this section shall be the  
7 rate which applies after the initial or introductory period.

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

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

20 (g) "Lender" means a mortgage banker as defined in paragraph (f) of  
21 subdivision one of section five hundred ninety of the banking law or an  
22 exempt organization as defined in paragraph (e) of subdivision one of  
23 section five hundred ninety of the banking law.

24 [6.] 7. The department of financial services shall prescribe the tele-  
25 phone number and web address to be included in the notice.

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

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

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

10 1. After the property has been sold, the officer conducting the sale  
11 shall execute a deed to the purchaser. The plaintiff, or any other  
12 party, may become a purchaser. If the plaintiff (or its affiliate, as  
13 defined in paragraph (a) of subdivision one of section six-1 of the  
14 banking law) is the purchaser, such party shall place the property back  
15 on the market for sale or other occupancy: (a) within one hundred eighty  
16 days of the execution of the deed of sale, or (b) within ninety days of  
17 completion of construction, renovation, or rehabilitation of the proper-  
18 ty, provided that such construction, renovation, or rehabilitation  
19 proceeded diligently to completion, whichever comes first, provided  
20 however, a court of competent jurisdiction may grant an extension for  
21 good cause.

22 § 10. No local law, ordinance, or resolution shall impose a duty to  
23 maintain or register vacant and abandoned property as defined in section  
24 1309 of the real property actions and proceedings law in a manner incon-  
25 sistent with the provisions of this act that are related to maintenance  
26 as provided under subdivision 3, 4, 5, 6 and 7 of section 1308 of the  
27 real property actions and proceedings law, or registration as provided  
28 under section 1310 of the real property actions and proceedings law, or

1 establish related penalties or other monetary obligation, with respect  
2 to a state or federally chartered bank, savings bank, savings and loan  
3 association or credit union that originates, owns, services or maintains  
4 mortgages related to such property.

5 No local law, ordinance, or resolution shall impose a duty to maintain  
6 vacant and abandoned property upon any state or federally chartered  
7 bank, savings bank, savings and loan association or credit union that  
8 originates, owns, services or maintains mortgages related to such prop-  
9 erty for which the provisions of this act, pursuant to the opening para-  
10 graph of section 1308 of the real property actions and proceedings law  
11 as added by section one of this act, do not apply.

12 § 11. This act shall take effect on the one hundred eightieth day  
13 after it shall have become a law; provided, however, that:

14 (a) The amendments to subdivision (a) of rule 3408 of the civil prac-  
15 tice law and rules made by section two of this act shall be subject to  
16 the expiration and reversion of such subdivision pursuant to chapter 507  
17 of the laws of 2009, as amended, when upon such date the provisions of  
18 section three of this act shall take effect; and

19 (b) The amendments to subdivisions 1, 2, 5 and 6 of section 1304 of  
20 the real property actions and proceedings law made by section six of  
21 this act shall be subject to the expiration and reversion of such subdivi-  
22 sions pursuant to chapter 507 of the laws of 2009, as amended, when  
23 upon such date the provisions of section seven of this act shall take  
24 effect.

25 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
26 sion, section or part of this act shall be adjudged by any court of  
27 competent jurisdiction to be invalid, such judgment shall not affect,  
28 impair, or invalidate the remainder thereof, but shall be confined in

1 its operation to the clause, sentence, paragraph, subdivision, section  
2 or part thereof directly involved in the controversy in which such judg-  
3 ment shall have been rendered. It is hereby declared to be the intent of  
4 the legislature that this act would have been enacted even if such  
5 invalid provisions had not been included herein.

6 § 3. This act shall take effect immediately provided, however, that  
7 the applicable effective date of Parts A through Q of this act shall be  
8 as specifically set forth in the last section of such Parts.

