

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

POLY-PAK INDUSTRIES, INC., GREEN  
EARTH FOOD CORP., d/b/a Green Earth  
Grocery Store, FRANCISCO MARTE,  
MIKE HASSEN, and THE BODEGA AND  
SMALL BUSINESS ASSOCIATION,

Plaintiffs-Petitioners,

for a judgment pursuant to Articles 30 and 78  
of the Civil Practice Law and Rules,

-against-

THE STATE OF NEW YORK, HON. ANDREW  
CUOMO, as Governor of the State of New  
York, the NEW YORK STATE DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION, and  
BASIL SEGGOS in his official capacity of  
Commissioner of the New York State  
Department of Environmental Conservation,

Defendants-Respondents.

Index No. 02673-20

**AMENDED VERIFIED ARTICLE 78 AND  
DECLARATORY JUDGMENT PETITION**

Plaintiffs-Petitioners, by and through undersigned counsel, respectfully allege as follows:

**PRELIMINARY STATEMENT**

1. This case is not about the merits or demerits of single-use plastic shopping bags or the Legislature's desire to ban the use of such bags in New York. Rather, this case is about whether the Legislature, in an effort to eliminate such bags and to promote instead the use of reusable bags, may enact statutes (a) that conflict with other state laws, thus placing retailers in the untenable position of choosing which state law they must violate, (b) that—whether by design or inadvertence—are so vague as to deprive retailers of any clear guidance regarding what is permissible and what is punishable, and (c) that bestow a windfall on the makers of some, but not all, reusable shopping bags. This case is also about whether the Department of Environmental

Conservation (the “DEC”), in an effort to effectuate such statutes, may promulgate regulations that exceed (or even conflict with) those statutes’ requirements and which impose entirely new requirements devised by the agency that are devoid of any factual support, are unrelated to the Legislature’s intended goal, and lack any sound or rational basis.

2. In 2019, the Legislature enacted and the Governor signed a budget bill that, among other things, prohibits the use and distribution of certain plastic bags, permits the use and distribution of other plastic bags, and, confusingly, seems both to encourage and simultaneously to forbid the use and distribution of reusable plastic bags, while allowing the use and distribution of reusable fabric bags. *See* S. 1508-C (attached hereto as **Exhibit A**) at Part H (hereinafter “the Bag Act”).<sup>1</sup> The Bag Act’s prohibitions become effective on March 1, 2020.

3. Further, although the Bag Act does not itself authorize the DEC to promulgate regulations for its implementation, the DEC proceeded to do so. The regulations it promulgated—6 NYCRR Part 351 (“the Bag Regulation”) (attached hereto as **Exhibit B**)<sup>2</sup>—exceed and contradict the terms of the Bag Act by expanding the list of exceptions to the ban (*i.e.*, expanding the list of permitted plastic bags) and by authorizing the use and distribution of reusable plastic bags that are at least 10 mils thick—a standard that (a) is more than 400% greater than California’s analogous requirement, (b) upon information and belief was not supported by any testimony or agency fact finding, and (c) imposes a requirement that cannot currently be provided by a single American manufacturer of reusable bags.

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<sup>1</sup> Also available at <https://legislation.nysenate.gov/pdf/bills/2019/S1508C> (last visited February 26, 2020).

<sup>2</sup> Also available at [https://www.dec.ny.gov/docs/materials\\_minerals\\_pdf/part351rvsdexptrmsfinal.pdf](https://www.dec.ny.gov/docs/materials_minerals_pdf/part351rvsdexptrmsfinal.pdf) (last visited February 26, 2020).

4. For these reasons, and as explained more fully below, the Bag Act and the Bag Regulation should be declared inconsistent with existing law, void for vagueness, unconstitutional, *ultra vires*, and/or arbitrary and capricious, and their implementation and enforcement should be preliminarily and, later, permanently, enjoined.

#### PARTIES

5. Plaintiff-Petitioner Poly-Pak Industries, Inc. (“Poly-Pak”) is a family-owned, New York corporation with a manufacturing facility in Melville, New York that employs 210 New Yorkers in the production of plastic envelopes, heavy duty reusable plastic bags, and plastic film for agricultural applications. *See* Affidavit of Ken Trottere at ¶ 2 (attached hereto as **Exhibit C**). Poly-Pak is dedicated to being an environmentally friendly company and, in keeping with that goal, manufactures products that both contain recycled material and are themselves recyclable. *Id.* at ¶ 4. Poly-Pak manufactures reusable plastic bags that meet and surpass the strength and durability requirements adopted by the Bag Act and the Bag regulation; satisfy every ordinance currently on the books in the state of New York; and can comply with the vast majority of plastic bag laws and regulations across the country and around the world. *Id.* at ¶ 6. The bags are not, however, 10 mils thick and thus are prohibited under DEC’s arbitrary and capricious Bag Regulation. *Id.*

6. Plaintiff-Petitioner Green Earth Food Corporation (“Green Earth”) is a New York corporation operating a corner market—the Green Earth Grocery Store—at the intersection of Grand Concourse and East 171st Street in the Bronx. *See* Affidavit of Francisco Marte at ¶ 1 (attached hereto as **Exhibit D**). Green Earth currently distributes carryout plastic shopping bags to its customers at the point of sale. *Id.* at ¶ 5. As a “person required to collect tax,” Green Earth will

be subject to the duties and prohibitions purportedly imposed by the Bag Act and the Bag Regulation. *Id.* at ¶ 6.

7. Plaintiff-Petitioner Francisco “Frank” Marte is a resident of The Bronx, Bronx County, New York, and is a citizen and taxpayer of the State of New York *Id.* at ¶ 1. He is the owner and operator of Green Earth and an officer of The Bodega and Small Business Association. *Id.*

8. Plaintiff-Petitioner the Bodega and Small Business Association, f/k/a The Bodega Association USA, Inc. (the “Bodega Association”), is a New York corporation and trade association of local retailers and bodegas—small corner stores or markets that typically sell groceries, wine, and sundries; are often owned and operated by individuals who speak English as a second language, if at all; and are often located in non-English-speaking neighborhoods of large cities. *Id.* at ¶¶ 2–3. The Bodega Association represents 5,000 stores in New York alone, which collectively employ 25,000 people and serve approximately 2.5 million New Yorkers every week. *Id.* at ¶ 4. These bodegas are popular spots for New Yorkers to purchase a variety of grocery staples, dry goods, and household items. *Id.* In many New York City neighborhoods, these businesses are the only convenient outlet for local residents to purchase their groceries and other daily necessities. *Id.* As “person[s] required to collect tax,” the bodegas that form the Bodega Association’s membership will be subject to the duties and prohibitions purportedly imposed by the Bag Act and the Bag Regulation. *Id.* at ¶ 6.

9. Plaintiff-Petitioner Mike Hassen is the owner and operator of multiple supermarkets in the Northeastern United States, including six in the State of New York—five in the boroughs of New York City and one in Yonkers, New York. *See* Affidavit of Mike Hassen at ¶ 1 (attached hereto as **Exhibit E**). The supermarkets Mr. Hassen owns and operates currently

distribute carryout plastic shopping bags to its customers at the point of sale. *Id.* at ¶ 2. As “person[s] required to collect tax,” Mr. Hassen’s stores will be subject to the duties and prohibitions purportedly imposed by the Bag Act and the Bag Regulation. *Id.* at ¶ 3. Further, because his supermarkets have more than 10,000 square feet of retail space and/or are part of a commonly-owned and -operated business operating five or more units of over 5,000 square feet each in the State of New York, they are subject to New York’s statutory scheme governing Plastic Bag Reduction, Reuse and Recycling (codified at Envir. Conser. Law §§ 27-2701 to -2713) (hereinafter collectively referred to as “Title 27”).

10. Defendant-Respondent the State of New York is a sovereign governmental entity constitutionally authorized to enact and enforce, through its legislature, executive, and government agencies, laws and regulations subject to the restrictions and limitations of the New York and United States Constitutions and other applicable law.

11. Defendant-Respondent Andrew Cuomo is the duly elected and serving Governor of the State of New York, with his principal offices located in the City and County of Albany.

12. Defendant-Respondent the New York State Department of Environmental Conservation (“DEC”) is an agency of the State of New York established by statute in 1970 and continuing in operation by the authority of New York Environmental Conservation Law § 3-0101. Pursuant to New York Environmental Conservation Law § 3-0301, the DEC is statutorily authorized, by and through its commissioner, to “carry out the environmental policy of the state,” to “[e]ncourage recycling and reuse of products to conserve resources and reduce waste products,” to “[a]dopt, amend or repeal environmental standards, criteria and those rules and regulations having the force and effect of standards and criteria to carry out the purposes and provisions of

this act,” and to “[a]dopt such rules, regulations and procedures as may be necessary, convenient or desirable to effectuate the purposes of this chapter.”

13. Defendant-Respondent Basil Seggos is the Commissioner of the New York State Department of Environmental Conservation. Commissioner Seggos is a gubernatorial appointee who holds office at the pleasure of the Governor. *See* N.Y. Envir. Conser. Law § 3-0103. As noted in the preceding paragraph, Commissioner Seggos is statutorily authorized to carry out the State’s environmental policy by, among other things, adopting or amending regulations to carry out the purposes and provisions of the State’s environmental laws. *See id.* § 3-0301.

#### **HARMS TO PLAINTIFFS-PETITIONERS**

14. If required to comply with the Bag Act and Bag Regulation, Plaintiff-Petitioner Mr. Hassen, his supermarkets, and other retailers and owners like him will be irreparably harmed by being subject to conflicting laws—namely, the Bag Act, which prohibits them from making reusable plastic bags available to customers, and Title 27 (the Plastic Bag Reduction, Reuse and Recycling Act), which requires them to make such reusable bags available to customers. *See* Exhibit E ¶¶ 7–9. In the absence of injunctive and declaratory relief, Plaintiffs-Petitioners, like hundreds of retailers across New York, will be placed in the untenable position of being simultaneously required and forbidden to make such bags available. *Id.*

15. If required to comply with the Bag Act and Bag Regulation, Plaintiffs-Petitioners such as Mr. Hassen, Mr. Marte, Green Earth, and other members of the Bodega Association will be irreparably harmed by the loss of sales and customer goodwill as a result of the retailers’ inability to provide compliant bags to their customers. *Id.* ¶ 8; Exhibit D ¶ 7. Further, because the Bag Act and Bag Regulation forbid distribution of carryout plastic shopping bags and effectively forbid the distribution of reusable plastic shopping bags, and because available inventories of paper

or reusable cloth bags are insufficient to meet the demand, Mr. Hassen's supermarkets, Mr. Marte, Green Earth, and the bodegas represented by the Bodega Association will be unable to provide customers with any method of carrying their purchases to their cars, trains, or homes. *See* Exhibit D at ¶¶ 8–9 and Exhibit E ¶¶ 7–8.

16. Further, due to the Bag Act's vagueness, Plaintiffs-Petitioners Mr. Hassen, Green Earth, its proprietor, Mr. Marte, and other members of the Bodega Association will be irreparably harmed by being forced to speculate what types of reusable bags they may distribute, risking inadvertently violating the Bag Act or the Bag Regulation and being punished with a civil penalty of \$250 to \$500 per violation. *See* Exhibit D at ¶ 10 and Exhibit E ¶ 9.

17. If the Bag Act and Bag Regulation are enforced, Plaintiff-Petitioner Poly-Pak will be irreparably harmed by its inability to provide one of its core product offerings to an important market, namely reusable plastic bags, made of recycled and recyclable material, to New York retailers. *See* Exhibit C at ¶ 7. Despite the fact that Poly-Pak's reusable bags meet the durability, strength, size, and format requirements of the Bag Act and Regulation, despite the fact that Poly-Pak's reusable bags satisfy the requirements of every bag ordinance already on the books in New York, and despite the fact that Poly-Pak's reusable bags are permissible in the vast majority of other jurisdictions in the nation with similar plastic bag regulations, Poly-Pak will be forced to halt its production lines, retool and reformat its equipment, and develop and distribute new 10-mil-thick bags, losing productivity and income all the while, and all to produce a product with a *greater* carbon footprint and no greater functional utility than the reusable plastic bags it already makes. *Id.* ¶ 10.

#### **JURISDICTION AND VENUE**

18. This Court has subject matter jurisdiction to decide this Petition pursuant to New York Civil Practice Law and Rules ("CPLR") § 7803 because the rule adopted by Defendant-

Respondent DEC is a final determination made in violation of lawful procedure, affected by an error of law, and is arbitrary and capricious. This Court also has jurisdiction to render a declaratory judgment pursuant to CPLR § 3001.

19. This Court has personal jurisdiction over the Defendants-Respondents pursuant to CPLR §§ 301 and 307 and service of process accomplished in accordance therewith.

20. Venue lies in Albany County pursuant to CPLR §§ 506(b) and 7804(b). The seat of government of Defendant-Respondent the State of New York is located in Albany County, as are the offices of the DEC, Governor Cuomo, and Commissioner Seggos.

#### BACKGROUND

**I. The Legislature enacted, and the Governor signed, a vague and internally-inconsistent Bill prohibiting the use and distribution of certain plastic bags.**

21. On March 31, 2019, the New York Senate and New York Assembly passed a budget bill that, among other things, prohibits the use and distribution of certain plastic bags. *See Exhibit A (S. 1508-C) at 8–13.* Specifically, Part H of the Bill amends Article 27 of the Environmental Conservation Law by enacting a new Title 28—the “New York state bag waste reduction act”—that consists of sections 27-2801 to 27-2809. *Id.* The Bill was signed by Governor Cuomo on April 12, 2019.

22. The operative portion of the Bag Act states: “No person required to collect tax shall distribute any plastic carryout bags to its customers unless such bags are exempt bags as defined in subdivision one of section 27-2801 of this title.” *Id.* at 9 (Bag Act § 27-2803(1)).

23. “Plastic carryout bag” is defined as “*any plastic bag, other than an exempt bag, that is provided to a customer by a person required to collect tax to be used by the customer to carry tangible personal property, regardless of whether such person required to collect tax sells any tangible personal property or service to the customer, and regardless of whether any tangible*



personal property or service sold is exempt from tax under article twenty-eight of the tax law.” *Id.* at 8 (Bag Act § 27-2801(2) (emphasis added)).

24. “Exempt bag” is defined by listing 11 enumerated categories of plastic bags that are exempt from the Bag Act’s ban:

“Exempt bag” means a bag: (a) used solely to contain or wrap uncooked meat, fish, or poultry; (b) bags used by a customer solely to package bulk items such as fruits, vegetables, grains, or candy; (c) bags used solely to contain food sliced or prepared to order; (d) bags used solely to contain a newspaper for delivery to a subscriber; (e) bags sold in bulk to a consumer at the point of sale; (f) trash bags; (g) food storage bags; (h) garment bags; (i) bags prepackaged for sale to a customer; (j) plastic carryout bags provided by a restaurant, tavern or similar food service establishment, as defined in the state sanitary code, to carryout or deliver food; or (k) bags provided by a pharmacy to carry prescription drugs.

*Id.* at 8 (Bag Act § 27-2801(1)).

25. The Bag Act’s definition of “reusable bag” includes durable, reusable plastic bags with handles, but the Act does not include reusable bags among the types of bags that are exempted from the Act’s prohibition. *See id.* at 9 (Bag Act § 27-2801(4) (defining “reusable bag” as a bag “made of cloth or other machine washable fabric that has handles” or “a durable bag with handles that is specifically designed and manufactured for multiple reuse”); *id.* at 8 (Bag Act § 27-2801(1)) (listing the types of bags exempt from the prohibition, but not including “reusable bags” in the list).

26. Accordingly, under the plain and express terms of the Bag Act, retailers are forbidden from providing reusable plastic bags to their customers, and are permitted only to distribute fabric or cloth reusable bags. *See id.* at 8–9 (Code §§ 27-2801(1), -2801(2), and -2803(1) (collectively prohibiting the distribution of “any plastic bag” other than an “exempt bag,” and not including reusable plastic bags among the bags exempted from the prohibition) (emphasis added)).

27. Confusingly, however, other portions of the Bag Act authorize and require the distribution of such bags. *See id.* at 11 (Bag Act § 27-2805(7)) (requiring a portion of the money generated by \$0.05-per-paper-bag “fees” imposed by some local ordinances be spent “purchasing and distributing reusable bags”). The Act is, at minimum, vague.

28. Accordingly, the Bag Act’s express terms seem simultaneously to forbid and require the distribution of durable, reusable, handled plastic bags. *Compare id.* at 9 (Bag Act § 27-2803) *with id.* at 8–9 (Bag Act § 27-2801(1) and (4)) and *id.* at 11 (Bag Act § 27-2805(7)).

29. “Violations” of the Bag Act’s requirements—whatever they may be—are punishable by a civil penalty of \$250, which increases to \$500 per violation for subsequent violations. *Id.* at 11 (Bag Act § 27-2807(1)).

30. Compounding the confusion inherent in the Bag Act (which, as explained below, is exacerbated by the inconsistent regulation subsequently promulgated by the DEC) and the chaos that will result from its implementation, neither the State nor its agencies or officers have made any effort to reach out in multilingual fashion to explain the Bag Act’s requirements, prohibitions, and penalties to the Spanish, Arabic, and Korean-speaking retailers that comprise a sizeable percentage of the 13,000 small grocery stores in New York City alone. *See Exhibit D ¶¶ 7.*

31. The hasty and ill-conceived nature of the burden placed on retailers by the Bag Act is further illustrated by the fact that the types of bags it purports to require retailers to provide are not available in anything close to the volume required by New York’s retailers, meaning tens of thousands of stores across the State will, as a result, be unable to provide their customers with any way to transport their groceries or other purchases to their car, train, or home. *See id.* ¶¶ 8–9; Exhibit E ¶¶ 7–8. The paper bag industry is currently unable to supply a sufficient volume of paper bags to satisfy the demand and will likely be unable to satisfy that demand for several *years*. *See*

Exhibit D ¶ 8; Exhibit E ¶ 7; *see also* Lisa Fickenscher, *New Yorkers should prepare for paper bag shortage when plastic bag ban hits*, NEW YORK POST (Jan. 29, 2020) (noting that a “paper bag shortage is expected to hit the Empire State hard when Albany’s plastic bag ban goes into effect March 1, . . . a problem manufacturers say could last up to five years because there simply aren’t enough factories to meet the booming demand.”). Similarly, other types of reusable bags permitted under the Bag Act are difficult (if not impossible) to obtain now and in the foreseeable future because they are primarily made overseas and the already-inadequate pipeline of them has been reduced even further by coronavirus issues, trade related slowdowns, and other delays and stoppages. *See* Exhibit D ¶ 8; Exhibit E ¶ 7.

**II. The DEC promulgated Regulations inconsistent with the Bag Act and which impose requirements unsupported by factual findings and unrelated to the goals of the Bag Act.**

32. Although the Bag Act does not itself authorize the DEC to promulgate regulations implementing the Act, the DEC proceeded to do so. *See* Exhibit B (6 NYCRR Part 351).

33. Notably, the Bag Regulation enlarges upon the Bag Act’s list of “exempt bags” by adding a new category of permissible bags that is not present in the Bag Act’s enumerated list, namely reusable bags. *Compare* Exhibit A at 8 (Bag Act § 27-2801(1)) *with* Exhibit B at 4 (NYCCR § 351-1.2(f) (“‘Exempt bag’ means a bag that is . . . a reusable bag as that term is defined in this Part.”)). The Bag Regulation thus purports to permit what the Bag Act forbids.

34. Further, the Bag Regulation contorts the Bag Act’s definition of “reusable bag” to the point of being unrecognizable. While the Bag Act defines a reusable bag as one “made of cloth or other machine washable fabric that has handles; *or* . . . a durable bag with handles that is specifically designed and manufactured for multiple reuse,” *see* Exhibit A at 9 (Bag Act § 27-2801(4)) (emphasis added), the Bag Regulation defines a reusable bag much more restrictively:

(n) ‘Reusable bag’ means a bag that:

- (1) is either made of:
  - (i) cloth or other machine washable fabric; or
  - (ii) *other non-film plastic washable material*; and
- (2) has at least one strap or handle that does not stretch and is fastened to the bag in such a manner that it allows the bag to meet the strength and durability standards in paragraphs 351-1.2(n)(3) and (4);
- (3) has a minimum lifespan of 125 uses, with a use equal to the ability to carry a minimum of 22 pounds over a distance of at least 175 feet; and
- (4) has a minimum fabric weight of 80 grams per square meter (GSM) or equivalent for bags made of any non-film plastic of natural, synthetic, petroleum based, or non-petroleum-based origin, including woven or nonwoven polypropylene (PP), polyethylene-terephthalate (PET), cotton, jute, or canvas.

Ex. B at 6 (NYCCR § 351-1.2(n)) (emphasis added). “Film plastic” and “film plastic bag” are elsewhere defined as a bag made from “a flexible sheet of . . . plastic resin or other material . . . less than 10 mils in thickness.” *Id.* at 4 (NYCCR § 351-1.2(g) and (h)).

35. Taken together, the Bag Regulation’s definitions of “film plastic,” “film plastic bag,” and “reusable bag” permit the use and distribution of reusable bags made of cloth, fabric, polypropylene, polyethylene-terephthalate, cotton, jute, or canvas, but not from the most commonly used material for such bags—polyethylene—unless the polyethylene bag is more than 10 mils thick.<sup>3</sup>

36. Upon information and belief, the DEC had no factual basis, evidence, or public commentary to support its decision to impose a 10+ mil requirement on all polyethylene bags. To the contrary, the administrative record reveals the DEC was aware that this arbitrary and

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<sup>3</sup> A mil is a measurement equal to one-thousandth of an inch. For purposes of reference, a common single-use plastic shopping bag is 0.5 mils thick and a typical blue tarp found in most hardware stores is about 6 mils thick. For further purposes of comparison, a reusable plastic bag permitted under California’s bag law must be 2.25 mils thick. *See* Cal. Public Resource Code § 42281.

capriciously chosen requirement was grossly excessive, unnecessary to implement the Legislature's enactment, and economically and environmentally counterproductive.

37. Specifically, the DEC's published summary of its assessment and response to the public comments on Part 351 acknowledges the public raised these issues, but, rather than respond to them or articulate any reasonable basis for its requirement, the DEC simply ignores the comment or provides a non-responsive or non sequitur response:

Commenters also raised concerns regarding the requirement for low density polyethylene (LDPE) or high density polyethylene (HDPE) reusable bags to have a minimum thickness of 10 mils. Many comments indicated that this requirement would contribute to the plastic waste stream and plastic should be banned from all bag manufacturing. Other comments raised the concern that bags of this thickness would not be able to be manufactured, or that the cost of their production would burden stores and consumers. After evaluation, the Department firmly believes that the use of the industry-based definition for when a material is no longer a film plastic is an important element, among others, in defining reusable bags. . . .

Commenters raised several issues including that an 80 GSM requirement was too stringent, that a 2.25 mil bag is a durable bag, and that the Department should only approve a bag of equivalent material strength and durability following a public comment period. The Department's research has indicated that the 80 GSM standard is the typical requirement for reusable bags in similar laws across the country. Accordingly, the Department retained that requirement as originally proposed.

See DEC's Summary of Assessment of Public Comment, *available at* [https://www.dec.ny.gov/docs/materials\\_minerals\\_pdf/p351sumassmentpubcomfnl.pdf](https://www.dec.ny.gov/docs/materials_minerals_pdf/p351sumassmentpubcomfnl.pdf) (last visited February 25, 2020). Conspicuously absent from DEC's reasoning and response? Any factual basis or even an articulable reason why the 10+ mil requirement was necessary or even helpful to effectuate the Bag Act or to accomplish the broader aim of the State's Environmental Conservation Laws.

38. Further illustrating the arbitrary and capricious nature of DEC's decision to effectively ban reusable polyethylene bags is the fact that the type of bags DEC prefers and

permits—namely, fabric or other woven reusable bags—are known to harbor bacteria, contagions, and viruses, and to enhance and increase the transmission of infectious diseases such as the coronavirus and norovirus. *See generally* Affidavit of Ryan Sinclair, PhD, MPH at ¶ 5 (attached hereto as **Exhibit F**); *see also* Robert M. Kimmel, *Life Cycle Assessment of Grocery Bags in Common Use in the United States*, Clemson University Digital Press, 118, 183 (2014) (noting that few reusable bags are ever washed and that most harbor large numbers of bacteria); Chaya Gurkov, *Concerns Mount That Plastic Bag Ban Could Help Spread Coronavirus*, KINGS COUNTY POLITICS (Feb. 25, 2020).

39. Indeed, studies have shown that reusable grocery bags are highly likely to be contaminated with bacteria and viruses and are highly likely to transfer these pathogens to store employees, family members, and members of the public by contact with supermarket cashiers, supermarket check-out conveyors, grocery carts, the shoppers hands, and kitchen counters, all of which present a very real public health risk, especially in the midst of a viral pandemic. *See* Exhibit F at ¶¶ 5, 7; *see also* Sinclair *et al.*, *The Spread of a Norovirus Surrogate via Reusable Grocery Bags in a Grocery Supermarket*, JOURNAL OF ENVIRONMENTAL HEALTH (June 2018).

40. Further, because reusable polyethylene or “film plastic” bags can be wiped down and sanitized with disinfecting wipes, the smooth surface of the bag is less susceptible to harboring bacteria or other types of pathogens. *Id.* ¶ 8. In contrast, the style of bags to which DEC has given preferential treatment—woven and fabric bags—cannot be so easily sanitized. *Id.* The porous and textured surface of such bags are adept at harboring contaminants and harder to clean, and studies have shown that only three percent of shoppers report ever washing such bags. *Id.* ¶¶ 6, 8.

**III. The Bag Act and Bag Regulations conflict with prior New York law and place retailers in an untenable position.**

41. The confusion and inconsistencies created by the enactment and promulgation of the Bag Act and Bag Regulation are exacerbated and further illustrated by the fact that they conflict with prior New York law, namely Title 27 governing Plastic Bag Reduction, Reuse and Recycling. *See* Envir. Conser. Law §§ 27-2701 to -2713.

42. Specifically, Title 27 requires certain retailers to establish in-store programs capable of supplying customers with “reusable bags,” which include “*durable plastic bag[s]* with handles that [are] specifically designed and manufactured for multiple reuse.” *Id.* §§ 27-2701(5), -2703(1), and -2705(5).

43. Accordingly, retailers subject both to Title 27 and the Bag Act are caught between inconsistent and conflicting laws. The former requires them to make reusable plastic bags available to customers; the latter forbids it.

44. Further illustrating the disconnect between existing law and the DEC’s new Bag Regulation, Title 27 expressly requires the DEC to *encourage* the reuse of plastic carryout bags and film plastic. *See id.* § 27-2709(1) (“The department shall develop educational materials to encourage the . . . reuse . . . of plastic carryout bags and film plastic . . .”). The newly-promulgated Bag Regulation, in contrast, effectively forbids the use of reusable plastic bags.<sup>4</sup>

**FOR A FIRST CAUSE OF ACTION**  
**Request for Relief under Article 30 of the**  
**CPLR—the Bag Act conflicts with existing law**

45. Plaintiffs-Petitioners repeat, incorporate and reallege the foregoing allegations as if more fully set forth at length herein.

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<sup>4</sup> Unlike the Bag Act, Title 27 expressly authorizes the DEC to promulgate regulations to implement its provisions. *See id.* § 27-2711.

46. By forbidding what is required by N.Y. Envir. Conser. Law §§ 27-2701, -2703, and -2705, the Bag Act frustrates the purposes of those statutes, stands as an obstacle to the accomplishment of their purposes, and places retailers in the untenable position of being caught between conflicting laws, unsure which they must follow and which they must violate.

47. Such inconsistent and conflicting statutes violate fundamental requirements of fairness, notice, due process, and other constitutional and procedural safeguards, and impose an irreparable harm on retailers caught between them.

48. Because the Bag Act is inconsistent with and in conflict with existing law, this Court should declare its implementation and enforcement to be impermissible, unlawful, and/or unconstitutional, and should enjoin its implementation and enforcement pursuant to CPLR 3001, 6311, and/or 6313, respectively.

**FOR A SECOND CAUSE OF ACTION**  
**Request for Declaratory Relief under Article 30**  
**of the CPLR—the Bag Act is void for vagueness**

49. Plaintiffs-Petitioners repeat, incorporate and reallege the foregoing allegations as if more fully set forth at length herein.

50. As explained above, the Bag Act's express terms appear simultaneously to forbid and to permit the distribution of durable, reusable, handled plastic bags.

51. Such internal inconsistencies and ambiguities render an ordinary and reasonable person unable to discern what the law does and does not allow or to determine whether his or her contemplated conduct is forbidden by the statute.

52. Further, these internal inconsistencies and ambiguities deprive the officials and agencies tasked with enforcing the Bag Act of any clear standards for its enforcement, a situation that lends itself to potentially subjective, inconsistent, or conflicting enforcement.



53. Because the Bag Act is so vague as to deprive retailers and citizens of notice and due process protections and to deprive State agencies and officials of clear standards for its enforcement, it is unlawfully and/or unconstitutionally void for vagueness, and this Court should declare its implementation and enforcement to be impermissible, unlawful, and/or unconstitutional, and should enjoin its implementation and enforcement pursuant to CPLR 3001, 6311, and/or 6313, respectively.

**FOR A THIRD CAUSE OF ACTION**

**Request for Declaratory Relief under Article 30 of the CPLR—the Bag Act  
violates the Constitution of the State of New York, art. VII § 8 and art. VIII § 1**

54. Plaintiffs-Petitioners repeat, incorporate and reallege the foregoing allegations as if more fully set forth at length herein.

55. The New York Constitution prohibits the State from bestowing a special benefit or business advantage on private corporations. *See* N.Y. Const., art. VII § 8.

56. The Bag Act violates this stricture by granting a boon to manufacturers of cloth, fabric, and paper bags, while denying similar treatment to makers of reusable plastic bags. *See generally Fox v. The Mohawk and Hudson River Humane Society*, 165 N.Y. 517 (1901); *People v. Ohrenstein*, 139 Misc.2d 909, 930-31 (Sup. Ct. N.Y. County 1988).

57. The Bag Act further violates this stricture by permitting local governments to impose a \$0.05 per bag tax on the sale paper bags, which moneys are remitted to the state, which, in turn, returns a portion of them to municipalities to be spent on the purchase reusable bags from sources of the municipalities' choosing. *See* Ex. A at 9–11 (Bag Act § 27-2805).

58. Because the Bag Act is an unconstitutional legislative exaction of money from private citizens by compelling them to purchase items from only certain, favored manufacturers, and because it bestows state and local government money on the purchase of particular favored

reusable bags, this Court should declare its implementation and enforcement to be impermissible, unlawful, and/or unconstitutional, and should enjoin its implementation and enforcement pursuant to CPLR 3001, 6311, and/or 6313, respectively.

**FOR A FOURTH CAUSE OF ACTION**  
**Request for Relief under Article 78 of the**  
**CPLR—the Bag Regulation is *ultra vires***

59. Plaintiffs-Petitioners repeat, incorporate and reallege the foregoing allegations as if more fully set forth at length herein.

60. As explained above, the Bag Regulation is inconsistent with and goes beyond the Bag Act's requirements, purporting to permit what the Bag Act forbids (namely the use and distribution of reusable plastic bags) and purporting to impose requirements on certain plastic bags that are grossly excessive and unrelated to the statutory requirements actually articulated by the Legislature.

61. In promulgating this regulation that is inconsistent with and in excess of the Bag Act, the DEC engaged in an essentially legislative function, weighing competing policy and economic factors and making value judgments entailing difficult and complex choices between broad policy goals.

62. No statute, regulation, or other authority permits the DEC to go beyond its administrative role and engage in the unprecedented act of policy-making at issue here, nor is there any support that an administrative agency can bypass the legislature and create policy based on what it thinks the Legislature *really* meant to say.

63. Generalized enabling language authorizing an agency to make reasonable rules and regulations is insufficient to support sweeping policy-based rule-making such as that found in the Bag Regulation. *Thrift Wash, Inc. v. O'Connell*, 11 Misc.2d 318, 322 (Sup. Ct. N.Y. County 1958);

*see also Boreali v. Axelrod*, 71 N.Y.2d 1, 9 (1987) (stating an administrative agency in cannot rely upon its own mandate “as a basis for engaging in inherently legislative activities” or promulgating rules “embodying its own assessment of what public policy ought to be”).

64. Because the DEC has engaged in legislative policy-making without a proper statutory basis, its promulgation of the Bag Regulation constitutes an ultra vires, invalid action in excess of its jurisdiction and authority.

65. Because the DEC does not have the authority to promulgate and enforce the Bag Regulation, this Court should declare its implementation and enforcement to be impermissible, unlawful, and/or unconstitutional, and should enjoin its implementation and enforcement pursuant to CPLR 7803, 7805, and 7806.

**FOR A FIFTH CAUSE OF ACTION**

**Request for Relief under Article 78 of the CPLR—the  
Bag Regulation is arbitrary and capricious**

66. Plaintiffs-Petitioners repeat, incorporate and reallege the foregoing allegations as if more fully set forth at length herein.

67. As explained above, the Bag Regulation purports to impose requirements on certain plastic bags that are grossly excessive, unrelated to the statutory requirements articulated by the Legislature, apparently unsupported by any findings of fact, evidence, or testimony, and, perversely, have an economically and environmentally detrimental effect.

68. An administrative regulation will be upheld only if it has a rational basis and is not unreasonable, arbitrary or capricious. The arbitrary or capricious standard inquires to whether a particular action is a foundation in fact. Agency action is arbitrary when it is without sound basis in reason or taken without regard to the facts.

69. The DEC's requirement that reusable plastic bags made of polyethylene be at least 10 mils thick lacks any foundation in fact, is without sound basis, was imposed despite and without substantively responding to public comments pointing out the excessive and baseless nature of the requirement.

70. Because the Bag Regulations requirements pertaining to polyethylene bags are arbitrary and capricious, this Court should declare its implementation and enforcement to be impermissible, unlawful, and/or unconstitutional, and should enjoin its implementation and enforcement pursuant to CPLR 7803, 7805, and 7806.

**PRIOR APPLICATION**

71. No prior application has been made for the relief requested herein.

**RELIEF REQUESTED**

WHEREFORE, Plaintiffs-Petitioners request that this Court enter an Order:

(a) Declaring the Bag Act to be inconsistent with, in conflict with, standing as an obstacle to, and/or frustrating the purpose of existing New York law, and thus temporarily restraining, preliminarily enjoining, and permanently restraining Defendants-Respondents and any of their agents, officers, and employees from implementing or enforcing it;

(b) Declaring the Bag Act void for vagueness and thus temporarily restraining, preliminarily enjoining, and permanently restraining Defendants-Respondents and any of their agents, officers, and employees from implementing or enforcing it;

(c) Declaring the Bag Act to be violative of Article VII, section 8 of the Constitution of the State of New York and thus temporarily restraining, preliminarily enjoining, and permanently restraining Defendants-Respondents and any of their agents, officers, and employees from implementing or enforcing it;

(d) Declaring the Bag Regulation to be unlawfully *ultra vires* and thus temporarily restraining, preliminarily enjoining, and permanently restraining Defendants-Respondents and any of their agents, officers, and employees from implementing or enforcing it;

(e) Declaring the requirements purportedly imposed on reusable plastic bags by the Bag Regulation to be arbitrary and capricious and thus temporarily restraining, preliminarily enjoining, and permanently restraining Defendants-Respondents and any of their agents, officers, and employees from implementing or enforcing those requirements or the Bag Regulation itself;

(f) Awarding Plaintiffs-Petitioners costs and disbursements against Defendants-Respondents pursuant to CPLR § 8101; and

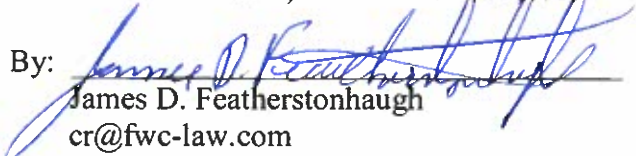
(g) Granting such other and further relief as the Court deems just and proper.

Respectfully submitted,

[SIGNATURE PAGE ATTACHED]

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VERIFICATION

STATE OF NEW YORK        )  
  )  
COUNTY OF ALBANY    )

James D. Featherstonhaugh, being duly sworn, deposes and says:

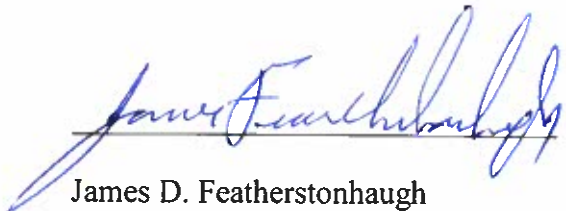
I am an attorney with the law firm of Featherstonhaugh, Wiley & Clyne, LLP located at Albany, New York, counsel for Plaintiffs-Petitioners Poly-Pak Industries, Inc., Green Earth Food Corp., d/b/a Green Earth Grocery Store, Francisco Marte, Saleh "Mike" Hassen, The Bodega and Small Business Association USA, Inc.

I have read the foregoing Amended Verified Article 78 and Declaratory Judgment Petition dated March 12, 2020, and know the contents thereof; and, upon information belief, believe the facts stated therein to be true.

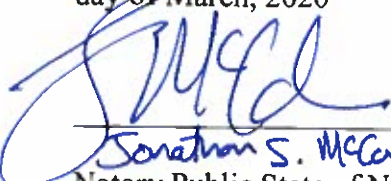
The reason this verification is made by me and not by Plaintiffs-Petitioners is because none of Plaintiffs-Petitioners maintain an office in the County where my office is located.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: March 12, 2020

  
James D. Featherstonhaugh

Sworn to before me this 12th  
day of March, 2020

  
Jonathan S. McCordik, Esq.  
Notary Public State of New York  
Qualified in Albany County  
Registration Number: 02MC6339220  
My Commission Expires March 28, 2020

*Poly-Pak Industries, Inc. et al. v. State of New York et al.*

Index No. 02673-20

# Exhibit A

to the Amended Verified Article 78 and  
Declaratory Judgment Petition

S. 1508-C (Jan. 18, 2019)



# STATE OF NEW YORK

S. 1508--C

A. 2008--C

## SENATE - ASSEMBLY

January 18, 2019

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

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

AN ACT to amend the public authorities law, in relation to clarifying the dormitory authority's authorization to finance certain health care facilities (Part A); to amend chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to extending the effectiveness of such authorization (Part B); to amend the public authorities law, in relation to the transfer and conveyance of certain real property (Part C); intentionally omitted (Part D); to amend the environmental conservation law, in relation to waste tire management and recycling fees (Part E); intentionally omitted (Part F); to amend the environmental conservation law, in relation to establishing authority to solicit funds or gifts and enter into public-private partnerships (Part G); to amend the environmental conservation law, the alcoholic beverage control law and the state finance law, in relation to establishing guidelines for bag waste reduction (Part H); intentionally omitted (Part I); intentionally omitted (Part J); intentionally omitted (Part K); to amend the banking law, in relation to student loan servicers (Part L); to amend part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, in relation to

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

LBD12573-06-9

the submission of reports and in relation to extending the effectiveness thereof (Part M); intentionally omitted (Part N); intentionally omitted (Part O); intentionally omitted (Part P); intentionally omitted (Part Q); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending the effectiveness thereof (Part R); intentionally omitted (Part S); intentionally omitted (Part T); authorizing utility and cable television assessments to provide funds to the department of health from cable television assessment revenues and to the departments of agriculture and markets, environmental conservation, office of parks, recreation and historic preservation, and state from utility assessment revenues; and providing for the repeal of such provisions upon expiration thereof (Part U); intentionally omitted (Part V); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY programs, as well as the department of environmental conservation's climate change program and the department of agriculture and markets' Fuel NY program, from an assessment on gas and electric corporations (Part W); intentionally omitted (Part X); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part Y); to amend the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part Z); intentionally omitted (Part AA); intentionally omitted (Part BB); intentionally omitted (Part CC); intentionally omitted (Part DD); intentionally omitted (Part EE); to amend the vehicle and traffic law, the public authorities law, the tax law and the state finance law, in relation to providing certain metropolitan transportation commuter district supplemental taxes, surcharges and fees to the metropolitan transportation authority without appropriation (Part FF); intentionally omitted (Part GG); to amend chapter 929 of the laws of 1986 amending the tax law and other laws relating to the metropolitan transportation authority, in relation to extending certain provisions thereof applicable to the resolution of labor disputes (Part HH); intentionally omitted (Part II); intentionally omitted (Part JJ); to amend the public authorities law, in relation to authorizing the New York power authority to develop electric vehicle charging stations (Part KK); to amend the public authorities law, in relation to the provision of renewable power and energy by the Power Authority of the State of New York; and providing for the repeal of certain provisions of such law relating thereto (Part LL); to amend the state finance law, in relation to establishing the parks retail stores fund, and the golf fund, as enterprise funds (Part MM); to amend the public authorities law, in relation to allowing the New York state olympic regional development authority to enter into contracts or agreements containing indemnity provisions in order to host the 2023 World University Games to be held in Lake Placid, New York (Part NN); intentionally omitted (Part OO); intentionally omitted (Part PP); intentionally omitted (Part QQ); intentionally omitted (Part RR); to amend the environmental conservation law, in relation to the donation of excess food and recycling of food scraps (Part SS); to amend chapter 123 of the laws of

2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of operator to comply with traffic-control indications, in relation to extending the provisions thereof; to amend chapter 101 of the laws of 2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of operator to comply with traffic-control indications in the city of Mt. Vernon, in relation to extending the effectiveness thereof; to amend chapter 19 of the laws of 2009, amending the vehicle and traffic law and other laws relating to adjudications and owner liability for a violation of traffic-control signal indications, in relation to extending the provisions of such chapter; to amend chapter 99 of the laws of 2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of operator to comply with traffic-control indications in the city of New Rochelle, in relation to extending the effectiveness thereof; to amend chapter 746 of the laws of 1988, amending the vehicle and traffic law, the general municipal law and the public officers law relating to the civil liability of vehicle owners for traffic control signal violations, in relation to extending the effectiveness thereof; to amend local law number 46 of the city of New York for the year 1989, amending the administrative code of the city of New York relating to civil liability of vehicle owners for traffic control signal violations, in relation to extending the effectiveness thereof; to amend chapter 23 of the laws of 2009, amending the vehicle and traffic law and the public officers law relating to adjudications and owner liability for a violation of traffic-control signal indications, in relation to extending the provisions of such chapter; to amend chapter 222 of the laws of 2015, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of an operator to comply with traffic-control indications in the city of White Plains, in relation to extending the provisions of such chapter; and to amend chapter 20 of the laws of 2009, amending the vehicle and traffic law, the general municipal law, and the public officers law, relating to owner liability for failure of operator to comply with traffic control indications, in relation to extending the provisions thereof; and to amend the vehicle and traffic law, in relation to reporting requirements for traffic-control photo violation monitoring systems (Part TT); and to amend the public service law, in relation to a Westchester county renewable energy and energy efficiency resources program (Part UU)

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 2019-2020
- 3 state fiscal year. Each component is wholly contained within a Part
- 4 identified as Parts A through UU. 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

1 Part in which it is found. Section three of this act sets forth the  
2 general effective date of this act.

## PART A

3  
4 Section 1. Paragraph (b) of subdivision 6 of section 1699-f of the  
5 public authorities law, as added by chapter 83 of the laws of 1995, is  
6 amended to read as follows:

7 (b) The financing of any project initiated on or after the effective  
8 date of this section, the entirety of which the agency would be author-  
9 ized to undertake by the provisions of the medical care facilities  
10 finance agency act prior to such effective date, shall be governed by  
11 such act.

12 § 2. This act shall take effect immediately.

## PART B

13  
14 Section 1. Section 2 of part BB of chapter 58 of the laws of 2012  
15 amending the public authorities law relating to authorizing the dormito-  
16 ry authority to enter into certain design and construction management  
17 agreements, as amended by section 1 of part W of chapter 58 of the laws  
18 of 2017, is amended to read as follows:

19 § 2. This act shall take effect immediately and shall expire and be  
20 deemed repealed April 1, ~~2019~~ 2021.

21 § 2. The dormitory authority of the state of New York shall provide a  
22 report providing information regarding any project undertaken pursuant  
23 to a design and construction management agreement, as authorized by part  
24 BB of chapter 58 of the laws of 2012, between the dormitory authority of  
25 the state of New York and the department of environmental conservation  
26 and/or the office of parks, recreation and historic preservation to the  
27 governor, the temporary president of the senate and speaker of the  
28 assembly. Such report shall include but not be limited to a description  
29 of each such project, the project identification number of each such  
30 project, if applicable, the projected date of completion, the status of  
31 the project, the total cost or projected cost of each such project, and  
32 the location, including the names of any county, town, village or city,  
33 where each such project is located or proposed. In addition, such a  
34 report shall be provided to the aforementioned parties by the first day  
35 of March of each year that the authority to enter into such agreements  
36 pursuant to part BB to chapter 58 of the laws of 2012 is in effect.

37 § 3. This act shall take effect immediately and shall be deemed to  
38 have been in full force and effect on and after April 1, 2019.

## PART C

39  
40 Section 1. Subdivision 25 of section 1678 of the public authorities  
41 law is amended by adding two new paragraphs (e) and (f) to read as  
42 follows:

43 (e) Notwithstanding any other provision of law to the contrary,  
44 including but not limited to title five-A of article nine of this chap-  
45 ter, the Atlantic Avenue Healthcare Property Holding Corporation is  
46 hereby authorized and empowered to sell, exchange, lease, transfer and  
47 convey certain real property located at 483-503 Herkimer Street,  
48 1028-1038 Broadway, 528 Prospect Place and/or 1366 East New York Avenue,  
49 all in Brooklyn, New York as directed by the commissioner of New York

1 state division of homes and community renewal, upon such terms and  
2 conditions as such commissioner may fix and determine.

3 Such sale, exchange, lease, transfer and conveyance shall be consist-  
4 ent with and made pursuant to a plan to increase access and quality of  
5 health care services and preventative care and create affordable housing  
6 approved by the commissioner of New York state division of homes and  
7 community renewal, the commissioner of health and the director of the  
8 division of the budget to transform the Central Brooklyn region. Such  
9 plan shall include any combination of initiatives intended to: increase  
10 access to open spaces, transform health care by increasing access and  
11 quality of health care services and preventative care, create affordable  
12 housing, improve youth development, prevent community violence, address  
13 social determinants of health, and provide any ancillary services there-  
14 to.

15 Notwithstanding the foregoing, no such sale, exchange, transfer, lease  
16 or conveyance shall be permitted pursuant to this section, unless in the  
17 opinion of bond counsel to the authority, such sale, exchange, transfer,  
18 lease or conveyance does not impair the tax-exempt status of any  
19 outstanding bonds or other obligations, if any, issued by the authority  
20 to finance or refinance the subject property. For the purposes of such  
21 opinion, the valuation of such property being sold, exchanged, trans-  
22 ferred, leased or conveyed may reflect the terms and conditions set  
23 forth in the plan.

24 (f) The description in paragraph (e) of this subdivision of the lands  
25 to be transferred and conveyed is not intended to be a legal  
26 description, but is intended only to identify the premises to be  
27 conveyed. As a condition of transfer and conveyance, the Atlantic Avenue  
28 Healthcare Property Holding Corporation shall receive an accurate survey  
29 and description of the lands generally described in paragraph (e) of  
30 this subdivision, which may be used in the conveyance thereof.

31 § 2. This act shall take effect immediately; provided, however, that  
32 the amendments to subdivision 25 of section 1678 of the public authori-  
33 ties law made by section one of this act shall survive the expiration  
34 and reversion of such subdivision as provided by section 2 of chapter  
35 584 of the laws of 2011, as amended.

36 PART D

37 Intentionally Omitted

38 PART E

39 Section 1. Subdivision 1 and the opening paragraph of subdivision 2 of  
40 section 27-1905 of the environmental conservation law, as amended by  
41 section 1 of part T of chapter 58 of the laws of 2016, are amended to  
42 read as follows:

43 1. Until December thirty-first, two thousand ~~[nineteen]~~ twenty-two,  
44 accept from a customer, waste tires of approximately the same size and  
45 in a quantity equal to the number of new tires purchased or installed by  
46 the customer; and

47 Until December thirty-first, two thousand ~~[nineteen]~~ twenty-two, post  
48 written notice in a prominent location, which must be at least eight and  
49 one-half inches by fourteen inches in size and contain the following  
50 language:

51 § 2. Subdivisions 1, 2, 3, and paragraph (a) of subdivision 6 of  
52 section 27-1913 of the environmental conservation law, as amended by

1 section 2 of part T of chapter 58 of the laws of 2016, are amended to  
2 read as follows:

3 1. Until December thirty-first, two thousand [~~nineteen~~] twenty-two, a  
4 waste tire management and recycling fee of two dollars and fifty cents  
5 shall be charged on each new tire sold. The fee shall be paid by the  
6 purchaser to the tire service at the time the new tire or new motor  
7 vehicle is purchased.

8 The waste tire management and recycling fee does not apply to:

9 (a) recapped or resold tires;  
10 (b) mail-order sales; or  
11 (c) the sale of new motor vehicle tires to a person solely for the  
12 purpose of resale provided the subsequent retail sale in this state is  
13 subject to such fee.

14 2. Until December thirty-first, two thousand [~~nineteen~~] twenty-two,  
15 the tire service shall collect the waste tire management and recycling  
16 fee from the purchaser at the time of the sale and shall remit such fee  
17 to the department of taxation and finance with the quarterly report  
18 filed pursuant to subdivision three of this section.

19 (a) The fee imposed shall be stated as an invoice item separate and  
20 distinct from the selling price of the tire.

21 (b) The tire service shall be entitled to retain an allowance of twenty-  
22 ty-five cents per tire from fees collected.

23 3. Until March thirty-first, two thousand [~~twenty~~] twenty-three, each  
24 tire service maintaining a place of business in this state shall make a  
25 return to the department of taxation and finance on a quarterly basis,  
26 with the return for December, January, and February being due on or  
27 before the immediately following March thirty-first; the return for  
28 March, April, and May being due on or before the immediately following  
29 June thirtieth; the return for June, July, and August being due on or  
30 before the immediately following September thirtieth; and the return for  
31 September, October, and November being due on or before the immediately  
32 following December thirty-first.

33 (a) Each return shall include:

34 (i) the name of the tire service;  
35 (ii) the address of the tire service's principal place of business and  
36 the address of the principal place of business (if that is a different  
37 address) from which the tire service engages in the business of making  
38 retail sales of tires;

39 (iii) the name and signature of the person preparing the return;

40 (iv) the total number of new tires sold at retail for the preceding  
41 quarter and the total number of new tires placed on motor vehicles prior  
42 to original retail sale;

43 (v) the amount of waste tire management and recycling fees due; and

44 (vi) such other reasonable information as the department of taxation  
45 and finance may require.

46 (b) Copies of each report shall be retained by the tire service for  
47 three years.

48 If a tire service ceases business, it shall file a final return and  
49 remit all fees due under this title with the department of taxation and  
50 finance not more than one month after discontinuing that business.

51 (a) Until December thirty-first, two thousand [~~nineteen~~] twenty-two,  
52 any additional waste tire management and recycling costs of the tire  
53 service in excess of the amount authorized to be retained pursuant to  
54 paragraph (b) of subdivision two of this section may be included in the  
55 published selling price of the new tire, or charged as a separate per-  
56 tire charge on each new tire sold. When such costs are charged as a

1 separate per-tire charge: (i) such charge shall be stated as an invoice  
2 item separate and distinct from the selling price of the tire; (ii) the  
3 invoice shall state that the charge is imposed at the sole discretion of  
4 the tire service; and (iii) the amount of such charge shall reflect the  
5 actual cost to the tire service for the management and recycling of  
6 waste tires accepted by the tire service pursuant to section 27-1905 of  
7 this title, provided however, that in no event shall such charge exceed  
8 two dollars and fifty cents on each new tire sold.

9 § 3. Paragraph (b) and (c) of subdivision 1 of section 27-1915 of the  
10 environmental conservation law, as amended by section 5 of part DD of  
11 chapter 59 of the laws of 2010, are amended and a new paragraph (d) is  
12 added to read as follows:

13 (b) abatement of noncompliant waste tire stockpiles; ~~and~~  
14 (c) administration and enforcement of the requirements of this arti-  
15 cle, exclusive of titles thirteen and fourteen~~(-)~~, and  
16 (d) conducting an updated market analysis of outlets for waste tire  
17 utilization including recycling and energy recovery opportunities, which  
18 shall not include the incineration of waste tires.

19 § 4. This act shall take effect immediately.

20 PART F

21 Intentionally Omitted

22 PART G

23 Section 1. The environmental conservation law is amended by adding a  
24 new section 3-0321 to read as follows:

25 § 3-0321. Gifts, donations, capital improvements.

26 1. Notwithstanding the provisions of the state finance law, or any  
27 other state law to the contrary, and subject to approval of the director  
28 of the budget, the commissioner is authorized to accept an unconditional  
29 grant, gift, devise or bequest, either absolutely or in trust, from  
30 persons and entities for the maintenance of any educational or recre-  
31 ational facilities or for programs that promote the use or stewardship  
32 of state owned lands under the department's jurisdiction or management;  
33 establish a special fund or funds consisting of monies so acquired and  
34 administer such fund or funds; and expend such monies.

35 2. Notwithstanding the provisions of the state finance law, or any  
36 other state law to the contrary, the commissioner is authorized to:

37 (a) receive, hold and administer personal property and any income  
38 thereof, acquired by grant, unconditional gift, devise or bequest,  
39 either absolutely or in trust, for the maintenance of any educational or  
40 recreational facilities or for programs that promote the use or steward-  
41 ship of state owned lands under the department's jurisdiction or manage-  
42 ment; establish a special fund or funds consisting of monies so acquired  
43 and administer such fund or funds; and expend such monies; and

44 (b) seek investment from private philanthropic interest or not-for-  
45 profit corporations for capital improvements at state owned facilities  
46 under the department's jurisdiction or management.

47 3. For purposes of this section, educational or recreational facili-  
48 ties or programs that promote the use or stewardship of state-owned  
49 lands under the department's jurisdiction or management shall include,  
50 but not be limited to, campgrounds, fish hatcheries, historic areas and  
51 facilities, kiosks, signage, programs for maintenance and development of

1 roads and trails, and programs to improve access for persons with disa-  
2 bilities.  
3 4. The commissioner shall not accept any grant, gift, devise or  
4 request from or enter into any contract or agreement authorized pursuant  
5 to subdivisions one, two, and, three of this section with persons or  
6 entities:  
7 (a) named in a pending lawsuit by or against the department;  
8 (b) under investigation by the department;  
9 (c) with a permit or license application pending before the department  
10 or currently holding a department-issued permit or license, except for  
11 permits or licenses that are ministerial in nature, such as sporting  
12 licenses, use of state land permits, or general permits;  
13 (d) engaged in settlement negotiations with the department regarding  
14 any civil, criminal or administrative matter; or  
15 (e) subject to a consent order issued by the department.  
16 § 2. This act shall take effect immediately.

17

## PART H

18 Section 1. This act shall be known and may be cited as the "New York  
19 state bag waste reduction act".

20 § 2. Article 27 of the environmental conservation law is amended by  
21 adding a new title 28 to read as follows:

22

## TITLE 28

23

## BAG WASTE REDUCTION

24

Section 27-2801. Definitions.

25

27-2803. Plastic carryout bag ban.

26

27-2805. Paper carryout bag reduction fee.

27

27-2807. Violations.

28

27-2809. Preemption of local law.

29

§ 27-2801. Definitions.

30

As used in this title:

31

32 1. "Exempt bag" means a bag: (a) used solely to contain or wrap  
33 uncooked meat, fish, or poultry; (b) bags used by a customer solely to  
34 package bulk items such as fruits, vegetables, grains, or candy; (c)  
35 bags used solely to contain food sliced or prepared to order; (d) bags  
36 used solely to contain a newspaper for delivery to a subscriber; (e)  
37 bags sold in bulk to a consumer at the point of sale; (f) trash bags;  
38 (g) food storage bags; (h) garment bags; (i) bags prepackaged for sale  
39 to a customer; (j) plastic carryout bags provided by a restaurant,  
40 tavern or similar food service establishment, as defined in the state  
41 sanitary code, to carryout or deliver food; or (k) bags provided by a  
42 pharmacy to carry prescription drugs.

43

44 2. "Plastic carryout bag" means any plastic bag, other than an exempt  
45 bag, that is provided to a customer by a person required to collect tax  
46 to be used by the customer to carry tangible personal property, regard-  
47 less of whether such person required to collect tax sells any tangible  
48 personal property or service to the customer, and regardless of whether  
49 any tangible personal property or service sold is exempt from tax under  
50 article twenty-eight of the tax law.

51

52 3. "Paper carryout bag" means a paper bag, other than an exempt bag,  
53 that is provided to a customer by a person required to collect tax to be  
54 used by the customer to carry tangible personal property, regardless of  
55 whether such person required to collect tax sells any tangible personal  
56 property or service to the customer, and regardless of whether any



1 tangible personal property or service sold is exempt from tax under  
2 article twenty-eight of the tax law.

3 4. "Reusable bag" means a bag: (a) made of cloth or other machine  
4 washable fabric that has handles; or (b) a durable bag with handles that  
5 is specifically designed and manufactured for multiple reuse.

6 5. "Person required to collect tax" means any vendor of tangible  
7 personal property subject to the tax imposed by subdivision (a) of  
8 section eleven hundred five of the tax law.

9 § 27-2803. Plastic carryout bag ban.

10 1. No person required to collect tax shall distribute any plastic  
11 carryout bags to its customers unless such bags are exempt bags as  
12 defined in subdivision one of section 27-2801 of this title.

13 2. No person required to collect tax shall prevent a person from using  
14 a bag of any kind that they have brought for purposes of carrying goods.

15 3. Nothing in this section shall be deemed to exempt the provisions  
16 set forth in title 27 of this article relating to at store recycling.

17 § 27-2805. Paper carryout bag reduction fee.

18 1. (a) Notwithstanding any other provision of law to the contrary, any  
19 city and any county, other than a county wholly within such a city,  
20 acting through its local legislative body, is hereby authorized and  
21 empowered to adopt and amend local laws, ordinances or resolutions  
22 imposing a paper carryout bag reduction fee within the territorial  
23 limits of such city or county, to take effect on or after March first,  
24 two thousand twenty. Notwithstanding the foregoing, if a county and a  
25 city wholly within such county both impose such fee, the fee imposed by  
26 such county shall not apply within the territorial limits of such city.

27 (b) Such paper carryout bag reduction fee, whether or not any tangible  
28 personal property is sold therewith, shall be imposed at a rate of five  
29 cents on each paper carryout bag provided by a person required to  
30 collect tax to a customer in this state; provided, however, that such  
31 paper carryout bag reduction fee shall not be imposed on paper carryout  
32 bags that are subject to a fee on the provision of such paper carryout  
33 bag pursuant to a local law or ordinance that was adopted prior to the  
34 effective date of this section. The paper carryout bag reduction fee  
35 must be reflected and made payable on the sales slip, invoice, receipt,  
36 or other statement of the price rendered to the customer.

37 (c) Such paper carryout bag reduction fee shall not constitute a  
38 receipt for the sale of tangible personal property subject to tax pursu-  
39 ant to article twenty-eight and pursuant to the authority of article  
40 twenty-nine of the tax law, and transfer of a bag to a customer by a  
41 person required to collect tax shall not constitute a retail sale.

42 (d) It shall be unlawful for a municipal corporation to adopt or amend  
43 a local law, ordinance or resolution requiring the imposition of any fee  
44 on the provision of a paper carryout bag except as expressly authorized  
45 by this section. Where a municipal corporation that adopted such a local  
46 law, ordinance or resolution prior to the effective date of this section  
47 is, or is located in, a county that has imposed a paper carryout bag  
48 reduction fee pursuant to this section, such municipal corporation shall  
49 be prohibited from requiring the imposition of a fee on any provision of  
50 paper carryout bags that occurs more than one year after such county  
51 paper carryout bag reduction fee takes effect.

52 2. Any such local law, ordinance or resolution adopted pursuant to  
53 this section shall state the amount of the paper carryout bag reduction  
54 fee and the date on which a person required to collect tax shall begin  
55 to add such paper carryout bag reduction fee to the sales slip, invoice,  
56 receipt, or other statement of the price rendered to its customers. No

1 such local law, ordinance or resolution shall be effective unless a  
2 certified copy of such law, ordinance or resolution is mailed by regis-  
3 tered or certified mail to the commissioner of taxation and finance in  
4 accordance with the provisions of subdivisions (d) and (e) of section  
5 twelve hundred ten of the tax law.

6 3. The paper carryout bag reduction fee imposed by this section shall  
7 not apply to any customer using the supplemental nutritional assistance  
8 program, special supplemental nutrition program for women, infants and  
9 children, or any successor programs used as full or partial payment for  
10 the items purchased.

11 4. The paper carryout bag reduction fee must be reported and paid to  
12 the commissioner of taxation and finance on a quarterly basis on or  
13 before the twentieth day of the month following each quarterly period  
14 ending on the last day of February, May, August and November, respec-  
15 tively. The payments must be accompanied by a return in the form and  
16 containing the information the commissioner of taxation and finance may  
17 prescribe.

18 5. Any sales slip, invoice, receipt, or other statement of price  
19 furnished by a person required to collect tax to a customer shall sepa-  
20 rately state the paper carryout bag reduction fee and shall state the  
21 number of bags provided to the customer.

22 6. (a) Except as otherwise provided in this section, any paper carry-  
23 out bag reduction fee imposed under the authority of this section shall  
24 be administered and collected by the commissioner of taxation and  
25 finance in a like manner as the taxes imposed by articles twenty-eight  
26 and twenty-nine of the tax law. All the provisions of articles twenty-  
27 eight and twenty-nine of the tax law, including the provisions relating  
28 to definitions, exemptions, returns, personal liability for the tax,  
29 collection of tax from the customer, payment of tax and the adminis-  
30 tration of the taxes imposed by such article, shall apply to the paper  
31 carryout bag reduction fee imposed under the authority of this section,  
32 with such modifications as may be necessary in order to adapt the  
33 language of those provisions to the paper carryout bag reduction fee  
34 imposed under the authority of this section. Those provisions shall  
35 apply with the same force and effect as if the language of those  
36 provisions had been set forth in full in this section, except to the  
37 extent that any of those provisions is either inconsistent with a  
38 provision of this section or is not relevant to the paper carryout bag  
39 reduction fee imposed under the authority of this section. For purposes  
40 of this section, any reference in this chapter to a tax or the taxes  
41 imposed by articles twenty-eight and twenty-nine of the tax law shall be  
42 deemed also to refer to the paper carryout bag reduction fee imposed  
43 under the authority of this section unless a different meaning is clear-  
44 ly required.

45 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-  
46 sion:

47 (1) the exemptions provided for in section eleven hundred sixteen of  
48 the tax law, other than the exemptions in paragraphs one, two and three  
49 of subdivision (a) of such section, shall not apply to the paper carry-  
50 out bag reduction fees imposed under the authority of this section;

51 (2) the credit provided in subdivision (f) of section eleven hundred  
52 thirty-seven of the tax law shall not apply to this section.

53 (c) Notwithstanding the provisions of paragraph (a) of this subdivi-  
54 sion or subdivision (a) of section eleven hundred forty-six of the tax  
55 law, the commissioner of taxation and finance may, in his or her  
56 discretion, permit the commissioner or his or her authorized represen-

1 tative to inspect any return related to the paper carryout bag reduction  
2 fee filed under this section, or may furnish to the commissioner or his  
3 or her authorized representative any such return or supply him or her  
4 with information concerning an item contained in any such return, or  
5 disclosed by any investigation of a liability under this section.

6 7. All paper carryout bag reduction fee monies and any related penal-  
7 ties and interest remitted to the commissioner of taxation and finance  
8 under this section, except as hereinafter provided, shall be deposited  
9 daily with such responsible banks, banking houses, or trust companies as  
10 may be designated by the state comptroller. Of the revenues deposited,  
11 the comptroller shall retain in the comptroller's hands such amount as  
12 the commissioner of taxation and finance may determine to be necessary  
13 for refunds or reimbursements of the fees collected or received pursuant  
14 to this section, out of which the comptroller shall pay any refunds or  
15 reimbursements of such fees to which persons shall be entitled under the  
16 provisions of this section. The comptroller, after reserving such refund  
17 and reimbursement fund shall, on or before the twelfth day of each  
18 month, pay to the appropriate fiscal officers of the counties or cities  
19 imposing tax under subdivision one of this section an amount equal to  
20 forty percent of the paper carryout bag reduction fee monies and any  
21 related penalties and interest collected by the commissioner of taxation  
22 and finance in respect of each such county or city in the preceding  
23 calendar month to be used for the purpose of purchasing and distributing  
24 reusable bags, with priority given to low- and fixed-income communities.  
25 Provided further that at the end of each fiscal year, any funds which  
26 have not been used for the purpose defined in this section shall be  
27 returned to the comptroller and be deposited into the general fund to be  
28 used for the purpose of purchasing and distributing reusable bags with  
29 priority given to low- and fixed-income communities. Any remaining  
30 amount of paper carryout bag reduction fee monies and any related penal-  
31 ties and interest shall be deposited monthly into the environmental  
32 protection fund established pursuant to section ninety-two-s of the  
33 state finance law.

34 § 27-2807. Violations.

35 1. Any person required to collect tax who violates any provision of  
36 section 27-2803 of this title shall receive a warning notice for the  
37 first such violation. A person required to collect tax shall be liable  
38 to the state of New York for a civil penalty of two hundred fifty  
39 dollars for the first violation after receiving a warning and five  
40 hundred dollars for any subsequent violation in the same calendar year.  
41 For purposes of this section, each commercial transaction shall consti-  
42 tute no more than one violation. A hearing or opportunity to be heard  
43 shall be provided prior to the assessment of any civil penalty.

44 2. The department, the department of agriculture and markets, and the  
45 attorney general are hereby authorized to enforce the provisions of this  
46 title, and all monies collected shall be deposited to the credit of the  
47 environmental protection fund established pursuant to section ninety-  
48 two-s of the state finance law.

49 § 27-2809. Preemption of local law.

50 Jurisdiction in all matters pertaining to plastic carryout bags is  
51 vested exclusively in the state.

52 § 3. Subdivision 4 of section 63 of the alcoholic beverage control  
53 law, as amended by chapter 360 of the laws of 2017, is amended to read  
54 as follows:

55 4. No licensee under this section shall be engaged in any other busi-  
56 ness on the licensed premises. The sale of lottery tickets, when duly

1 authorized and lawfully conducted, the sale of reusable bags as defined  
2 in section 27-2801 of the environmental conservation law, the sale of  
3 corkscrews or the sale of ice or the sale of publications, including  
4 prerecorded video and/or audio cassette tapes, or educational seminars,  
5 designed to help educate consumers in their knowledge and appreciation  
6 of alcoholic beverages, as defined in section three of this chapter and  
7 allowed pursuant to their license, or the sale of non-carbonated, non-  
8 flavored mineral waters, spring waters and drinking waters or the sale  
9 of glasses designed for the consumption of wine, racks designed for the  
10 storage of wine, and devices designed to minimize oxidation in bottles  
11 of wine which have been uncorked, or the sale of gift bags, gift boxes,  
12 or wrapping, for alcoholic beverages purchased at the licensed premises  
13 shall not constitute engaging in another business within the meaning of  
14 this subdivision. Any fee obtained from the sale of an educational semi-  
15 nar shall not be considered as a fee for any tasting that may be offered  
16 during an educational seminar, provided that such tastings are available  
17 to persons who have not paid to attend the seminar and all tastings are  
18 conducted in accordance with section sixty-three-a of this article.

19 § 4. Subdivision 3 of section 92-s of the state finance law, as  
20 amended by section 1 of part AA of chapter 58 of the laws of 2018, is  
21 amended to read as follows:

22 3. Such fund shall consist of the amount of revenue collected within  
23 the state from the amount of revenue, interest and penalties deposited  
24 pursuant to section fourteen hundred twenty-one of the tax law, the  
25 amount of fees and penalties received from easements or leases pursuant  
26 to subdivision fourteen of section seventy-five of the public lands law  
27 and the money received as annual service charges pursuant to section  
28 four hundred four-n of the vehicle and traffic law, all moneys required  
29 to be deposited therein from the contingency reserve fund pursuant to  
30 section two hundred ninety-four of chapter fifty-seven of the laws of  
31 nineteen hundred ninety-three, all moneys required to be deposited  
32 pursuant to section thirteen of chapter six hundred ten of the laws of  
33 nineteen hundred ninety-three, repayments of loans made pursuant to  
34 section 54-0511 of the environmental conservation law, all moneys to be  
35 deposited from the Northville settlement pursuant to section one hundred  
36 twenty-four of chapter three hundred nine of the laws of nineteen  
37 hundred ninety-six, provided however, that such moneys shall only be  
38 used for the cost of the purchase of private lands in the core area of  
39 the central Suffolk pine barrens pursuant to a consent order with the  
40 Northville industries signed on October thirteenth, nineteen hundred  
41 ninety-four and the related resource restoration and replacement plan,  
42 the amount of penalties required to be deposited therein by section  
43 71-2724 of the environmental conservation law, all moneys required to be  
44 deposited pursuant to article thirty-three of the environmental conser-  
45 vation law, all fees collected pursuant to subdivision eight of section  
46 70-0117 of the environmental conservation law, all moneys collected  
47 pursuant to title thirty-three of article fifteen of the environmental  
48 conservation law, beginning with the fiscal year commencing on April  
49 first, two thousand thirteen, nineteen million dollars, and all fiscal  
50 years thereafter, twenty-three million dollars plus all funds received  
51 by the state each fiscal year in excess of the greater of the amount  
52 received from April first, two thousand twelve through March thirty-  
53 first, two thousand thirteen or one hundred twenty-two million two  
54 hundred thousand dollars, from the payments collected pursuant to subdi-  
55 vision four of section 27-1012 of the environmental conservation law and  
56 all funds collected pursuant to section 27-1015 of the environmental

1 conservation law, all moneys required to be deposited pursuant to  
 2 sections 27-2805 and 27-2807 of the environmental conservation law, and  
 3 all other moneys credited or transferred thereto from any other fund or  
 4 source pursuant to law. All such revenue shall be initially deposited  
 5 into the environmental protection fund, for application as provided in  
 6 subdivision five of this section.  
 7 § 5. This act shall take effect March 1, 2020.

## PART I

Intentionally Omitted

## PART J

Intentionally Omitted

## PART K

Intentionally Omitted

## PART L

15 Section 1. The banking law is amended by adding a new article 14-A to  
 16 read as follows:

17 ARTICLE 14-A  
 18 STUDENT LOAN SERVICERS

19 Section 710. Definitions.20 711. Licensing.21 712. Application for a student loan servicer license; fees.22 713. Application process to receive license to engage in the  
 23 business of student loan servicing.24 714. Changes in officers and directors.25 715. Changes in control.26 716. Grounds for suspension or revocation of license.27 717. Books and records; reports and electronic filing.28 718. Rules and regulations.29 719. Prohibited practices.30 720. Servicing student loans without a license.31 721. Responsibilities.32 722. Examinations.33 723. Penalties for violations of this article.34 724. Severability of provisions.35 725. Compliance with other laws.36 § 710. Definitions. 1. "Applicant" shall mean any person applying for  
 37 a license under this article.38 2. "Borrower" shall mean any resident of this state who has received a  
 39 student loan or agreed in writing to pay a student loan or any person  
 40 who shares a legal obligation with such resident for repaying a student  
 41 loan.42 3. "Borrower benefit" shall mean an incentive offered to a borrower in  
 43 connection with the origination of a student loan, including but not  
 44 limited to an interest rate reduction, principal rebate, fee waiver or  
 45 rebate, loan cancellation, or cosigner release.46 4. "Exempt organization" shall mean any banking organization, foreign  
 47 banking corporation, national bank, federal savings association, federal  
 48 credit union, or any bank, trust company, savings bank, savings and loan

1 association, or credit union organized under the laws of any other  
2 state, any public postsecondary educational institution or private  
3 nonprofit postsecondary educational institution or any person licensed  
4 or supervised by the department and exempted by the superintendent  
5 pursuant to regulations promulgated in accordance with this article.

6 5. "Person" shall mean any individual, association, corporation,  
7 limited liability company, partnership, trust, unincorporated organiza-  
8 tion, government, and any other entity.

9 6. "Servicer" or "student loan servicer" shall mean a person engaged  
10 in the business of servicing student loans owed by one or more borrowers  
11 residing in this state.

12 7. "Servicing" shall mean:

13 (a) receiving any payment from a borrower pursuant to the terms of any  
14 student loan;

15 (b) applying any payment to the borrower's account pursuant to the  
16 terms of a student loan or the contract governing the servicing of any  
17 such loans;

18 (c) providing any notification of amounts owed on a student loan by or  
19 on account of any borrower in conjunction with performing such activ-  
20 ities as described in paragraphs (a), (b), or (d) of this subdivision;

21 (d) during a period where a borrower is not required to make a payment  
22 on a student loan, maintaining account records for the student loan and  
23 communicating with the borrower regarding the student loan on behalf of  
24 the owner of the student loan promissory note;

25 (e) interacting with a borrower with respect to or regarding any  
26 attempt to avoid default on the borrower's student loan, or facilitating  
27 the activities described in paragraph (a) or (b) of this subdivision in  
28 conjunction with performing such activities as described in paragraphs  
29 (a), (b), or (d) of this subdivision; or

30 (f) performing other administrative services with respect to a borrow-  
31 er's student loan in conjunction with performing such activities as  
32 described in paragraphs (a), (b), or (d) of this subdivision.

33 8. "Student loan" shall mean any loan to a borrower to finance postse-  
34 condary education or expenses related to postsecondary education.

35 9. "Federal student loan" means (a) any student loan issued pursuant  
36 to the William D. Ford Federal Direct Loan Program; (b) any student loan  
37 issued pursuant to the Federal Family Education Loan Program, which was  
38 purchased by the government of the United States pursuant to the federal  
39 Ensuring Continued Access to Student Loans Act and is presently owned by  
40 the government of the United States; and (c) any other student loan  
41 issued pursuant to a federal program that is identified by the super-  
42 intendent as a "federal student loan" in a regulation.

43 § 711. Licensing. 1. Except as provided in subdivisions two, three,  
44 and four of this section, no person shall engage in the business of  
45 servicing student loans owed by one or more borrowers residing in this  
46 state without first being licensed by the superintendent as a student  
47 loan servicer in accordance with this article and such regulations as  
48 may be prescribed by the superintendent.

49 2. The licensing provisions of this article shall not apply to any  
50 exempt organization that is a student loan servicer; provided that  
51 unless preempted by federal law such exempt organization notifies the  
52 superintendent that it is servicing student loans in this state and  
53 complies with sections seven hundred seventeen, seven hundred nineteen,  
54 seven hundred twenty-one, seven hundred twenty-three and seven hundred  
55 twenty-five of this article and any regulation applicable to student  
56 loan servicers promulgated by the superintendent.

1 3. Any person that services federal student loans owed by one or more  
2 borrowers residing in this state shall be automatically deemed by opera-  
3 tion of law to have been issued a license to service federal student  
4 loans by the superintendent as of April first, two thousand nineteen.  
5 Such person shall notify the superintendent that it is servicing federal  
6 student loans in this state and comply with sections seven hundred  
7 seventeen, seven hundred nineteen, seven hundred twenty-one, seven  
8 hundred twenty-two, seven hundred twenty-three and seven hundred twen-  
9 ty-five of this article and any regulation applicable to student loan  
10 servicers promulgated by the superintendent. The provisions of sections  
11 thirty-three, thirty-nine, and forty-four of this chapter shall also  
12 apply to such person. The license automatically issued pursuant to this  
13 section shall only authorize the servicing of federal student loans. A  
14 person that services both federal student loans and non-federal student  
15 loans shall be required to be licensed pursuant to subdivision one of  
16 this section and sections seven hundred twelve and seven hundred thir-  
17 teen of this article in order to be authorized to service non-federal  
18 student loans unless such person is also an exempt organization.

19 4. A person, other than an exempt organization, that services federal  
20 student loans owed by one or more borrowers residing in this state and  
21 that is not otherwise required to be licensed under this section shall  
22 notify the superintendent that it is servicing federal student loans in  
23 this state and shall comply with sections seven hundred seventeen, seven  
24 hundred nineteen, seven hundred twenty-one, seven hundred twenty-two,  
25 seven hundred twenty-three, and seven hundred twenty-five of this arti-  
26 cle and any regulations applicable to student loan servicers promulgated  
27 by the superintendent.

28 § 712. Application for a student loan servicer license; fees. 1. The  
29 application for a license to engage in the business of servicing student  
30 loans shall be in writing, under oath, and in the form prescribed by the  
31 superintendent. Notwithstanding article three of the state technology  
32 law or any other law to the contrary, the superintendent may require  
33 that an application for a license or any other submission or application  
34 for approval as may be required by this article be made or executed by  
35 electronic means if he or she deems it necessary to ensure the efficient  
36 and effective administration of this article. The application shall  
37 include a description of the activities of the applicant, in such detail  
38 and for such periods as the superintendent may require; including:

39 (a) an affirmation of financial solvency noting such capitalization  
40 requirements as may be required by the superintendent, and access to  
41 such credit as may be required by the superintendent;

42 (b) a financial statement prepared by a certified public accountant,  
43 the accuracy of which is sworn to under oath before a notary public by  
44 an officer or other representative of the applicant who is authorized to  
45 execute such documents;

46 (c) an affirmation that the applicant, or its members, officers, part-  
47 ners, directors and principals as may be appropriate, are at least twen-  
48 ty-one years of age;

49 (d) information as to the character, fitness, financial and business  
50 responsibility, background and experiences of the applicant, or its  
51 members, officers, partners, directors and principals as may be appro-  
52 priate;

53 (e) any additional detail or information required by the superinten-  
54 dent.

55 2. An application to become a licensed student loan servicer or any  
56 application with respect to a student loan servicer shall be accom-

1 plished by a fee as prescribed pursuant to section eighteen-a of this  
2 chapter.

3 § 713. Application process to receive license to engage in the busi-  
4 ness of student loan servicing. 1. Upon the filing of an application for  
5 a license, if the superintendent shall find that the financial responsi-  
6 bility, experience, character, and general fitness of the applicant and,  
7 if applicable, the members, officers, partners, directors and principals  
8 of the applicant are such as to command the confidence of the community  
9 and to warrant belief that the business will be operated honestly, fair-  
10 ly, and efficiently within the purpose of this article, the superinten-  
11 dent shall thereupon issue a license in duplicate to engage in the busi-  
12 ness of servicing student loans described in section seven hundred ten  
13 of this article in accordance with the provisions of this article. If  
14 the superintendent shall not so find, the superintendent shall not issue  
15 a license, and the superintendent shall so notify the applicant. The  
16 superintendent shall transmit one copy of a license to the applicant and  
17 file another in the office of the department of financial services. Upon  
18 receipt of such license, a student loan servicer shall be authorized to  
19 engage in the business of servicing student loans in accordance with the  
20 provisions of this article. Such license shall remain in full force and  
21 effect until it is surrendered by the servicer or revoked or suspended  
22 as hereinafter provided.

23 2. The superintendent may refuse to issue a license pursuant to this  
24 article if he or she shall find that the applicant, or any person who is  
25 a director, officer, partner, agent, employee, member, or substantial  
26 stockholder of the applicant:

27 (a) within the last ten years prior to the date of application, has  
28 committed any act involving dishonesty, fraud, deceit, or has been  
29 convicted of, or pleaded nolo contendere to, a crime directly related to  
30 the qualifications, functions, or duties related to servicing student  
31 loans, provided that any criminal conviction be evaluated consistent  
32 with article twenty-three-A of the correction law;

33 (b) has had a license or registration revoked by the superintendent or  
34 any other regulator or jurisdiction;

35 (c) has been an officer, director, partner, member or substantial  
36 stockholder of an entity which has had a license or registration revoked  
37 by the superintendent or any other regulator or jurisdiction; or

38 (d) has been an agent, employee, officer, director, partner or member  
39 of an entity which has had a license or registration revoked by the  
40 superintendent where such person shall have been found by the super-  
41 intendent to bear responsibility in connection with the revocation.

42 3. The term "substantial stockholder", as used in this section, shall  
43 be deemed to refer to a person owning or controlling directly or indi-  
44 rectly ten per centum or more of the total outstanding stock of a corpo-  
45 ration.

46 § 714. Changes in officers and directors. Upon any change of any of  
47 the executive officers, directors, partners or members of any student  
48 loan servicer required to be licensed under section seven hundred eleven  
49 of this article, the student loan servicer shall submit to the super-  
50 intendent the name, address, and occupation of each new officer, direc-  
51 tor, partner or member, and provide such other information as the super-  
52 intendent may require.

53 § 715. Changes in control. 1. It shall be unlawful except with the  
54 prior approval of the superintendent for any action to be taken which  
55 results in a change of control of the business of a student loan servi-  
56 cer required to be licensed under section seven hundred eleven of this



1 article. Prior to any change of control, the person desirous of acquir-  
2 ing control of the business of a student loan servicer shall make writ-  
3 ten application to the superintendent and pay an investigation fee as  
4 prescribed pursuant to section eighteen-a of this chapter to the super-  
5 intendent. The application shall contain such information as the super-  
6 intendent, by rule or regulation, may prescribe as necessary or appro-  
7 priate for the purpose of making the determination required by  
8 subdivision two of this section. This information shall include but not  
9 be limited to the information and other material required for a student  
10 loan servicer by subdivision one of section seven hundred twelve of this  
11 article.

12 2. The superintendent shall approve or disapprove the proposed change  
13 of control of a student loan servicer required to be licensed under  
14 section seven hundred eleven of this article in accordance with the  
15 provisions of section seven hundred thirteen of this article.

16 3. For a period of six months from the date of qualification thereof  
17 and for such additional period of time as the superintendent may  
18 prescribe, in writing, the provisions of subdivisions one and two of  
19 this section shall not apply to a transfer of control by operation of  
20 law to the legal representative, as hereinafter defined, of one who has  
21 control of a student loan servicer. Thereafter, such legal represen-  
22 tative shall comply with the provisions of subdivisions one and two of  
23 this section. The provisions of subdivisions one and two of this section  
24 shall be applicable to an application made under such section by a legal  
25 representative. The term "legal representative", for the purposes of  
26 this subdivision, shall mean one duly appointed by a court of competent  
27 jurisdiction to act as executor, administrator, trustee, committee,  
28 conservator or receiver, including one who succeeds a legal represen-  
29 tative and one acting in an ancillary capacity thereto in accordance  
30 with the provisions of such court appointment.

31 4. As used in this section the term "control" means the possession,  
32 directly or indirectly, of the power to direct or cause the direction of  
33 the management and policies of a student loan servicer, whether through  
34 the ownership of voting stock of such student loan servicer, the owner-  
35 ship of voting stock of any person which possesses such power or other-  
36 wise. Control shall be presumed to exist if any person, directly or  
37 indirectly, owns, controls or holds with power to vote ten per centum or  
38 more of the voting stock of any student loan servicer or of any person  
39 which owns, controls or holds with power to vote ten per centum or more  
40 of the voting stock of any student loan servicer, but no person shall be  
41 deemed to control a student loan servicer solely by reason of being an  
42 officer or director of such student loan servicer. The superintendent  
43 may in his or her discretion, upon the application of a student loan  
44 servicer or any person who, directly or indirectly, owns, controls or  
45 holds with power to vote or seeks to own, control or hold with power to  
46 vote any voting stock of such student loan servicer, determine whether  
47 or not the ownership, control or holding of such voting stock consti-  
48 tutes or would constitute control of such student loan servicer for  
49 purposes of this section.

50 § 716. Grounds for suspension or revocation of license. 1. After  
51 notice and hearing, the superintendent may revoke or suspend any license  
52 to engage in the business of a student loan servicer issued pursuant to  
53 this article if he or she shall find that:

54 (a) a servicer has violated any provision of this article, any rule or  
55 regulation promulgated by the superintendent under and within the  
56 authority of this article, or any other applicable law;

1 (b) any fact or condition exists which, if it had existed at the time  
2 of the original application for such license, would have warranted the  
3 superintendent refusing originally to issue such license;

4 (c) a servicer does not cooperate with an examination or investigation  
5 by the superintendent;

6 (d) a servicer engages in fraud, intentional misrepresentation, or  
7 gross negligence in servicing a student loan;

8 (e) the competence, experience, character, or general fitness of the  
9 servicer, an individual controlling, directly or indirectly, ten percent  
10 or more of the outstanding interests, or any person responsible for  
11 servicing a student loan for the servicer indicates that it is not in  
12 the public interest to permit the servicer to continue servicing student  
13 loans;

14 (f) the servicer engages in an unsafe or unsound practice;

15 (g) the servicer is insolvent, suspends payment of its obligations, or  
16 makes a general assignment for the benefit of its creditors; or

17 (h) a servicer has violated the laws of this state, any other state or  
18 any federal law involving fraudulent or dishonest dealing, or a final  
19 judgement has been entered against a student loan servicer in a civil  
20 action upon grounds of fraud, misrepresentation or deceit.

21 2. The superintendent may, on good cause shown, or where there is a  
22 substantial risk of public harm, suspend any license for a period not  
23 exceeding thirty days, pending investigation. "Good cause", as used in  
24 this subdivision, shall exist when a student loan servicer has defaulted  
25 or is likely to default in performing its financial engagements or  
26 engages in dishonest or inequitable practices which may cause substan-  
27 tial harm to the persons afforded the protection of this article.

28 3. Except as provided in subdivision two of this section, no license  
29 shall be revoked or suspended except after notice and hearing thereon.  
30 Any order of suspension issued after notice and a hearing may include as  
31 a condition of reinstatement that the student loan servicer make resti-  
32 tution to consumers of fees or other charges which have been improperly  
33 charged or collected, including but not limited to by allocating  
34 payments contrary to a borrower's direction or in a manner that fails to  
35 help a borrower avoid default, as determined by the superintendent. Any  
36 hearing held pursuant to the provisions of this section shall be  
37 noticed, conducted and administered in compliance with the state admin-  
38 istrative procedure act.

39 4. Any student loan servicer may surrender any license by delivering  
40 to the superintendent written notice that it thereby surrenders such  
41 license, but such surrender shall not affect such servicer's civil or  
42 criminal liability for acts committed prior to such surrender. If such  
43 surrender is made after the issuance by the superintendent of a state-  
44 ment of charges and notice of hearing, the superintendent may proceed  
45 against the servicer as if such surrender had not taken place.

46 5. No revocation, suspension, or surrender of any license shall impair  
47 or affect the obligation of any pre-existing lawful contract between the  
48 student loan servicer and any person, including the department of finan-  
49 cial services.

50 6. Every license issued pursuant to this article shall remain in force  
51 and effect until the same shall have been surrendered, revoked or  
52 suspended in accordance with any other provisions of this article.

53 7. Whenever the superintendent shall revoke or suspend a license  
54 issued pursuant to this article, he or she shall forthwith execute in  
55 duplicate a written order to that effect. The superintendent shall file  
56 one copy of such order in the office of the department and shall forth-

1 with serve the other copy upon the student loan servicer. Any such order  
2 may be reviewed in the manner provided by article seventy-eight of the  
3 civil practice law and rules.

4 § 717. Books and records; reports and electronic filing. 1. Each  
5 student loan servicer shall keep and use in its business such books,  
6 accounts and records as will enable the superintendent to determine  
7 whether such servicer or exempt organization is complying with the  
8 provisions of this article and with the rules and regulations lawfully  
9 made by the superintendent. Every servicer shall preserve such books,  
10 accounts, and records, for at least three years.

11 2. (a) Each student loan servicer, other than an exempt organization,  
12 shall annually, on or before a date to be determined by the superinten-  
13 dent, file a report with the superintendent giving such information as  
14 the superintendent may require concerning the business and operations  
15 during the preceding calendar year of such servicer under authority of  
16 this article. Such report shall be subscribed and affirmed as true by  
17 the servicer under the penalties of perjury and shall be in the form  
18 prescribed by the superintendent.

19 (b) In addition to annual reports, the superintendent may require such  
20 additional regular or special reports as he or she may deem necessary to  
21 the proper supervision of student loan servicers under this article.  
22 Such additional reports shall be subscribed and affirmed as true by the  
23 servicer under the penalties of perjury and shall be in the form  
24 prescribed by the superintendent.

25 3. Notwithstanding article three of the state technology law or any  
26 other law to the contrary, the superintendent may require that any  
27 submission or approval as may be required by the superintendent be made  
28 or executed by electronic means if he or she deems it necessary to  
29 ensure the efficient administration of this article.

30 § 718. Rules and Regulations. 1. In addition to such powers as may  
31 otherwise be prescribed by law, the superintendent is hereby authorized  
32 and empowered to promulgate such rules and regulations as may in the  
33 judgement of the superintendent be consistent with the purposes of this  
34 article, or appropriate for the effective administration of this arti-  
35 cle, including, but not limited to:

36 (a) Such rules and regulations in connection with the activities of  
37 student loan servicers as may be necessary and appropriate for the  
38 protection of borrowers in this state.

39 (b) Such rules and regulations as may be necessary and appropriate to  
40 define unfair, deceptive or abusive acts or practices in connection with  
41 the activities of student loan servicers.

42 (c) Such rules and regulations as may define the terms used in this  
43 article and as may be necessary and appropriate to interpret and imple-  
44 ment the provisions of this article.

45 (d) Such rules and regulations as may be necessary for the enforcement  
46 of this article.

47 2. The superintendent is hereby authorized and empowered to make such  
48 specific rulings, demands and findings as the superintendent may deem  
49 necessary for the proper conduct of the student loan servicing industry.

50 § 719. Prohibited practices. No student loan servicer shall:

51 1. Employ any scheme, device or artifice to defraud or mislead a  
52 borrower;

53 2. Engage in any unfair, deceptive or predatory act or practice toward  
54 any person or misrepresent or omit any material information in  
55 connection with the servicing of a student loan, including, but not  
56 limited to, misrepresenting the amount, nature or terms of any fee or

1 payment due or claimed to be due on a student loan, the terms and condi-  
2 tions of the loan agreement or the borrower's obligations under the  
3 loan;

4 3. Misapply payments to the outstanding balance of any student loan or  
5 to any related interest or fees;

6 4. Provide inaccurate information to a consumer reporting agency;

7 5. Refuse to communicate with an authorized representative of the  
8 borrower who provides a written authorization signed by the borrower,  
9 provided that the servicer may adopt procedures reasonably related to  
10 verifying that the representative is in fact authorized to act on behalf  
11 of the borrower;

12 6. Make any false statement or make any omission of a material fact in  
13 connection with any information or reports filed with a governmental  
14 agency or in connection with any investigation conducted by the super-  
15 intendent or another governmental agency;

16 7. Fail to respond within fifteen calendar days to communications from  
17 the department, or within such shorter, reasonable time as the depart-  
18 ment may request in his or her communication; or

19 8. Fail to provide a response within fifteen calendar days to a  
20 consumer complaint submitted to the servicer by the department. If  
21 necessary, a student loan servicer may request additional time up to a  
22 maximum of forty-five calendar days, provided that such request is  
23 accompanied by an explanation why such additional time is reasonable and  
24 necessary.

25 § 720. Servicing student loans without a license. 1. Whenever, in the  
26 opinion of the superintendent, a person is engaged in the business of  
27 servicing student loans, either actually or through subterfuge, without  
28 a license from the superintendent, the superintendent may order that  
29 person to desist and refrain from engaging in the business of servicing  
30 student loans in the state. If, within thirty days after an order is  
31 served, a request for a hearing is filed in writing and the hearing is  
32 not held within sixty days of the filing, the order shall be rescinded.

33 2. This section does not apply to exempt organizations.

34 § 721. Responsibilities. 1. If a student loan servicer regularly  
35 reports information to a consumer reporting agency, the servicer shall  
36 accurately report a borrower's payment performance to at least one  
37 consumer reporting agency that compiles and maintains files on consumers  
38 on a nationwide basis as defined in Section 603(p) of the federal Fair  
39 Credit Reporting Act (15 U.S.C. Sec. 1681a(p)), upon acceptance as a  
40 data furnisher by that consumer reporting agency.

41 2. (a) Except as provided in federal law or required by a student loan  
42 agreement, a student loan servicer shall inquire of a borrower how to  
43 apply a borrower's nonconforming payment. A borrower's direction on how  
44 to apply a nonconforming payment shall remain in effect for any future  
45 nonconforming payment during the term of a student loan until the  
46 borrower provides different directions.

47 (b) For purposes of this subdivision, "nonconforming payment" shall  
48 mean a payment that is either more or less than the borrower's required  
49 student loan payment.

50 3. (a) If the sale, assignment, or other transfer of the servicing of  
51 a student loan results in a change in the identity of the person to whom  
52 the borrower is required to send subsequent payments or direct any  
53 communications concerning the student loan, a student loan servicer  
54 shall transfer all information regarding a borrower, a borrower's  
55 account, and a borrower's student loan, including but not limited to the  
56 borrower's repayment status and any borrower benefits associated with

1 the borrower's student loan, to the new student loan servicer servicing  
2 the borrower's student loan within forty-five days.

3 (b) A student loan servicer shall adopt policies and procedures to  
4 verify that it has received all information regarding a borrower, a  
5 borrower's account, and a borrower's student loan, including but not  
6 limited to the borrower's repayment status and any borrower benefits  
7 associated with the borrower's student loan, when the servicer obtains  
8 the right to service a student loan.

9 4. If a student loan servicer sells, assigns, or otherwise transfers  
10 the servicing of a student loan to a new servicer, the sale, assignment  
11 or other transfer shall be completed at least seven days before the  
12 borrower's next payment is due.

13 5. (a) A student loan servicer that sells, assigns, or otherwise  
14 transfers the servicing of a student loan shall require as a condition  
15 of such sale, assignment or other transfer that the new student loan  
16 servicer shall honor all borrower benefits originally represented as  
17 being available to a borrower during the repayment of the student loan  
18 and the possibility of such benefits, including any benefits that were  
19 represented as being available but for which the borrower had not yet  
20 qualified.

21 (b) A student loan servicer that obtains the right to service a  
22 student loan shall honor all borrower benefits originally represented as  
23 being available to a borrower during the repayment of the student loan  
24 and the possibility of such benefits, including any benefits that were  
25 represented as being available but for which the borrower had not yet  
26 qualified.

27 6. A student loan servicer shall respond within thirty days after  
28 receipt to a written inquiry from a borrower or a borrower's represen-  
29 tative.

30 7. A student loan servicer shall preserve records of each student loan  
31 and all communications with borrowers for not less than two years  
32 following the final payment on such student loan or the sale, assignment  
33 or other transfer of the servicing of such student loan, whichever  
34 occurs first, or such longer period as may be required by any other  
35 provision of law.

36 § 722. Examinations. 1. The superintendent may at any time, and as  
37 often as he or she may determine, either personally or by a person duly  
38 designated by the superintendent, investigate the business and examine  
39 the books, accounts, records, and files used therein of every student  
40 loan servicer. For that purpose the superintendent and his or her duly  
41 designated representative shall have free access to the offices and  
42 places of business, books, accounts, papers, records, files, safes and  
43 vaults of all such servicers. The superintendent and any person duly  
44 designated by him or her shall have authority to require the attendance  
45 of and to examine under oath all persons whose testimony he or she may  
46 require relative to such business.

47 2. No person subject to investigation or examination under this  
48 section may knowingly withhold, abstract, remove, mutilate, destroy or  
49 secrete any books, records, computer records or other information.

50 3. The expenses incurred in making any examination pursuant to this  
51 section shall be assessed against and paid by the student loan servicer  
52 so examined, except that travelling and subsistence expenses so incurred  
53 shall be charged against and paid by servicers in such proportions as  
54 the superintendent shall deem just and reasonable, and such propor-  
55 tionate charges shall be added to the assessment of the other expenses  
56 incurred upon each examination. Upon written notice by the superinten-

1 dent of the total amount of such assessment, the servicer shall become  
2 liable for and shall pay such assessment to the superintendent.

3 4. In any hearing in which a department employee acting under authori-  
4 ty of this chapter is available for cross-examination, any official  
5 written report, worksheet, other related papers, or duly certified copy  
6 thereof, compiled, prepared, drafted, or otherwise made by said depart-  
7 ment employee, after being duly authenticated by said employee, may be  
8 admitted as competent evidence upon the oath of said employee that said  
9 worksheet, investigative report, or other related documents were  
10 prepared as a result of an examination of the books and records of a  
11 servicer or other person, conducted pursuant to the authority of this  
12 chapter.

13 5. Unless it is an exempt organization, affiliates of a student loan  
14 servicer are subject to examination by the superintendent on the same  
15 terms as the servicer, but only when reports from, or examination of, a  
16 servicer provides evidence of unlawful activity between a servicer and  
17 affiliate benefitting, affecting, or arising from the activities regu-  
18 lated by this article.

19 6. This section shall not apply to exempt organizations. To the extent  
20 the superintendent is authorized by any other law to make an examination  
21 into the affairs of any exempt organization, this subdivision shall not  
22 be construed to limit in any way the superintendent's authority, regard-  
23 ing the subjects of such an examination, or otherwise.

24 § 723. Penalties for violation of this article. 1. In addition to such  
25 penalties as may otherwise be applicable by law, including but not  
26 limited to the penalties available under section forty-four of this  
27 chapter, the superintendent may, after notice and hearing, require any  
28 person found violating the provisions of this article or the rules or  
29 regulations promulgated hereunder to pay to the people of this state a  
30 penalty for each violation of the article or any regulation or policy  
31 promulgated hereunder a sum not to exceed the greater of (i) two thou-  
32 sand dollars or where such violation is willful ten thousand dollars for  
33 each offense; (ii) a multiple of two times the aggregate damages attrib-  
34 utable to the violation; or (iii) a multiple of two times the aggregate  
35 economic gain attributable to the violation.

36 2. Nothing in this article shall limit any statutory or common-law  
37 right of any person to bring any action in any court for any act, or the  
38 right of the state to punish any person for any violation of any law.

39 § 724. Severability of provisions. If any provision of this article,  
40 or the application of such provision to any person or circumstance,  
41 shall be held invalid, illegal or unenforceable, the remainder of the  
42 article, and the application of such provision to persons or circum-  
43 stances other than those as to which it is held invalid, illegal or  
44 unenforceable, shall not be affected thereby.

45 § 725. Compliance with other laws. 1. Student loan servicers shall  
46 engage in the business of servicing student loans in conformity with the  
47 provisions of the financial services law, this chapter, such rules and  
48 regulations as may be promulgated by the superintendent thereunder and  
49 all applicable federal laws and the rules and regulations promulgated  
50 thereunder.

51 2. Nothing in this section shall be construed to limit any otherwise  
52 applicable state or federal law or regulations.

53 § 2. Subdivision 10 of section 36 of the banking law, as amended by  
54 chapter 182 of the laws of 2011, is amended to read as follows:

55 10. All reports of examinations and investigations, correspondence and  
56 memoranda concerning or arising out of such examination and investi-

1 gations, including any duly authenticated copy or copies thereof in the  
2 possession of any banking organization, bank holding company or any  
3 subsidiary thereof (as such terms "bank holding company" and "subsidi-  
4 ary" are defined in article three-A of this chapter), any corporation  
5 or any other entity affiliated with a banking organization within the  
6 meaning of subdivision six of this section and any non-banking subsid-  
7 iary of a corporation or any other entity which is an affiliate of a  
8 banking organization within the meaning of subdivision six-a of this  
9 section, foreign banking corporation, licensed lender, licensed cashier  
10 of checks, licensed mortgage banker, registered mortgage broker,  
11 licensed mortgage loan originator, licensed sales finance company,  
12 registered mortgage loan servicer, licensed student loan servicer,  
13 licensed insurance premium finance agency, licensed transmitter of  
14 money, licensed budget planner, any other person or entity subject to  
15 supervision under this chapter, or the department, shall be confidential  
16 communications, shall not be subject to subpoena and shall not be made  
17 public unless, in the judgment of the superintendent, the ends of  
18 justice and the public advantage will be subserved by the publication  
19 thereof, in which event the superintendent may publish or authorize the  
20 publication of a copy of any such report or any part thereof in such  
21 manner as may be deemed proper or unless such laws specifically author-  
22 ize such disclosure. For the purposes of this subdivision, "reports of  
23 examinations and investigations, and any correspondence and memoranda  
24 concerning or arising out of such examinations and investigations",  
25 includes any such materials of a bank, insurance or securities regulato-  
26 ry agency or any unit of the federal government or that of this state  
27 any other state or that of any foreign government which are considered  
28 confidential by such agency or unit and which are in the possession of  
29 the department or which are otherwise confidential materials that have  
30 been shared by the department with any such agency or unit and are in  
31 the possession of such agency or unit.

32 § 3. Section 39 of the banking law, as amended by section 1 of part FF  
33 of chapter 59 of the laws of 2004, subdivisions 1, 2 and 5 as amended by  
34 chapter 123 of the laws of 2009, subdivision 3 as amended by chapter 155  
35 of the laws of 2012 and subdivision 6 as amended by chapter 217 of the  
36 laws of 2010, is amended to read as follows:

37 § 39. Orders of superintendent. 1. To appear and explain an apparent  
38 violation. Whenever it shall appear to the superintendent that any bank-  
39 ing organization, bank holding company, registered mortgage broker,  
40 licensed mortgage banker, licensed student loan servicer, registered  
41 mortgage loan servicer, licensed mortgage loan originator, licensed  
42 lender, licensed cashier of checks, licensed sales finance company,  
43 licensed insurance premium finance agency, licensed transmitter of  
44 money, licensed budget planner, out-of-state state bank that maintains a  
45 branch or branches or representative or other offices in this state, or  
46 foreign banking corporation licensed by the superintendent to do busi-  
47 ness or maintain a representative office in this state has violated any  
48 law or regulation, he or she may, in his or her discretion, issue an  
49 order describing such apparent violation and requiring such banking  
50 organization, bank holding company, registered mortgage broker, licensed  
51 mortgage banker, licensed student loan servicer, licensed mortgage loan  
52 originator, licensed lender, licensed cashier of checks, licensed sales  
53 finance company, licensed insurance premium finance agency, licensed  
54 transmitter of money, licensed budget planner, out-of-state state bank  
55 that maintains a branch or branches or representative or other offices  
56 in this state, or foreign banking corporation to appear before him or

1 her, at a time and place fixed in said order, to present an explanation  
2 of such apparent violation.

3 2. To discontinue unauthorized or unsafe and unsound practices. When-  
4 ever it shall appear to the superintendent that any banking organiza-  
5 tion, bank holding company, registered mortgage broker, licensed mort-  
6 gage banker, licensed student loan servicer, registered mortgage loan  
7 servicer, licensed mortgage loan originator, licensed lender, licensed  
8 cashier of checks, licensed sales finance company, licensed insurance  
9 premium finance agency, licensed transmitter of money, licensed budget  
10 planner, out-of-state state bank that maintains a branch or branches or  
11 representative or other offices in this state, or foreign banking corpo-  
12 ration licensed by the superintendent to do business in this state is  
13 conducting business in an unauthorized or unsafe and unsound manner, he  
14 or she may, in his or her discretion, issue an order directing the  
15 discontinuance of such unauthorized or unsafe and unsound practices, and  
16 fixing a time and place at which such banking organization, bank holding  
17 company, registered mortgage broker, licensed mortgage banker, licensed  
18 student loan servicer, registered mortgage loan servicer, licensed mort-  
19 gage loan originator, licensed lender, licensed cashier of checks,  
20 licensed sales finance company, licensed insurance premium finance agen-  
21 cy, licensed transmitter of money, licensed budget planner, out-of-state  
22 state bank that maintains a branch or branches or representative or  
23 other offices in this state, or foreign banking corporation may volun-  
24 tarily appear before him or her to present any explanation in defense of  
25 the practices directed in said order to be discontinued.

26 3. To make good impairment of capital or to ensure compliance with  
27 financial requirements. Whenever it shall appear to the superintendent  
28 that the capital or capital stock of any banking organization, bank  
29 holding company or any subsidiary thereof which is organized, licensed  
30 or registered pursuant to this chapter, is impaired, or the financial  
31 requirements imposed by subdivision one of section two hundred two-b of  
32 this chapter or any regulation of the superintendent on any branch or  
33 agency of a foreign banking corporation or the financial requirements  
34 imposed by this chapter or any regulation of the superintendent on any  
35 licensed lender, registered mortgage broker, licensed mortgage banker,  
36 licensed student loan servicer, licensed cashier of checks, licensed  
37 sales finance company, licensed insurance premium finance agency,  
38 licensed transmitter of money, licensed budget planner or private banker  
39 are not satisfied, the superintendent may, in the superintendent's  
40 discretion, issue an order directing that such banking organization,  
41 bank holding company, branch or agency of a foreign banking corporation,  
42 registered mortgage broker, licensed mortgage banker, licensed student  
43 loan servicer, licensed lender, licensed cashier of checks, licensed  
44 sales finance company, licensed insurance premium finance agency,  
45 licensed transmitter of money, licensed budget planner, or private bank-  
46 er make good such deficiency forthwith or within a time specified in  
47 such order.

48 4. To make good encroachments on reserves. Whenever it shall appear to  
49 the superintendent that either the total reserves or reserves on hand of  
50 any banking organization, branch or agency of a foreign banking corpo-  
51 ration are below the amount required by or pursuant to this chapter or  
52 any other applicable provision of law or regulation to be maintained, or  
53 that such banking organization, branch or agency of a foreign banking  
54 corporation is not keeping its reserves on hand as required by this  
55 chapter or any other applicable provision of law or regulation, he or  
56 she may, in his or her discretion, issue an order directing that such



1 banking organization, branch or agency of a foreign banking corporation  
2 make good such reserves forthwith or within a time specified in such  
3 order, or that it keep its reserves on hand as required by this chapter.  
4 5. To keep books and accounts as prescribed. Whenever it shall appear  
5 to the superintendent that any banking organization, bank holding compa-  
6 ny, registered mortgage broker, licensed mortgage banker, licensed  
7 student loan servicer, registered mortgage loan servicer, licensed mort-  
8 gage loan originator, licensed lender, licensed cashier of checks,  
9 licensed sales finance company, licensed insurance premium finance agen-  
10 cy, licensed transmitter of money, licensed budget planner, agency or  
11 branch of a foreign banking corporation licensed by the superintendent  
12 to do business in this state, does not keep its books and accounts in  
13 such manner as to enable him or her to readily ascertain its true condi-  
14 tion, he or she may, in his or her discretion, issue an order requiring  
15 such banking organization, bank holding company, registered mortgage  
16 broker, licensed mortgage banker, licensed student loan servicer, regis-  
17 tered mortgage loan servicer, licensed mortgage loan originator,  
18 licensed lender, licensed cashier of checks, licensed sales finance  
19 company, licensed insurance premium finance agency, licensed transmitter  
20 of money, licensed budget planner, or foreign banking corporation, or  
21 the officers or agents thereof, or any of them, to open and keep such  
22 books or accounts as he or she may, in his or her discretion, determine  
23 and prescribe for the purpose of keeping accurate and convenient records  
24 of its transactions and accounts.

25 6. As used in this section, "bank holding company" shall have the same  
26 meaning as that term is defined in section one hundred forty-one of this  
27 chapter.

28 § 4. Paragraph (a) of subdivision 1 of section 44 of the banking law,  
29 as amended by chapter 155 of the laws of 2012, is amended to read as  
30 follows:

31 (a) Without limiting any power granted to the superintendent under any  
32 other provision of this chapter, the superintendent may, in a proceeding  
33 after notice and a hearing, require any safe deposit company, licensed  
34 lender, licensed cashier of checks, licensed sales finance company,  
35 licensed insurance premium finance agency, licensed transmitter of  
36 money, licensed mortgage banker, licensed student loan servicer, regis-  
37 tered mortgage broker, licensed mortgage loan originator, registered  
38 mortgage loan servicer or licensed budget planner to pay to the people  
39 of this state a penalty for any violation of this chapter, any regu-  
40 lation promulgated thereunder, any final or temporary order issued  
41 pursuant to section thirty-nine of this article, any condition imposed  
42 in writing by the superintendent in connection with the grant of any  
43 application or request, or any written agreement entered into with the  
44 superintendent.

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

47

## PART M

48 Section 1. Section 2 of part FF of chapter 55 of the laws of 2017  
49 relating to motor vehicles equipped with autonomous vehicle technology,  
50 as amended by section 2 of part H of chapter 58 of the laws of 2018, is  
51 amended to read as follows:

52 § 2. The commissioner of motor vehicles shall, in consultation with  
53 the superintendent of state police, submit a report to the governor, the  
54 temporary president of the senate, the speaker of the assembly, and the

1 chairs of the senate and assembly transportation committees on the  
 2 demonstrations and tests authorized by section one of this act. Such  
 3 report shall include, but not be limited to, a description of the param-  
 4 eters and purpose of such demonstrations and tests, the location or  
 5 locations where demonstrations and tests were conducted, the demon-  
 6 strations' and tests' impacts on safety, traffic control, traffic  
 7 enforcement, emergency services, and such other areas as may be identi-  
 8 fied by such commissioner. Such commissioner shall submit such report on  
 9 or before June 1, 2018 ~~[and]~~, June 1, 2019, and June first of each year  
 10 this section remains in effect.

11 § 2. Section 3 of part FF of chapter 55 of the laws of 2017 relating  
 12 to motor vehicles equipped with autonomous vehicle technology, as  
 13 amended by section 3 of part H of chapter 58 of the laws of 2018, is  
 14 amended to read as follows:

15 § 3. This act shall take effect April 1, 2017; provided, however, that  
 16 section one of this act shall expire and be deemed repealed April 1,  
 17 ~~[2019]~~ 2021.

18 § 3. This act shall take effect immediately.

PART N

Intentionally Omitted

PART O

Intentionally Omitted

PART P

Intentionally Omitted

PART Q

Intentionally Omitted

PART R

28 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the  
 29 executive law relating to permitting the secretary of state to provide  
 30 special handling for all documents filed or issued by the division of  
 31 corporations and to permit additional levels of such expedited service,  
 32 as amended by section 1 of part S of chapter 58 of the laws of 2018, is  
 33 amended to read as follows:

34 § 2. This act shall take effect immediately, provided however, that  
 35 section one of this act shall be deemed to have been in full force and  
 36 effect on and after April 1, 2003 and shall expire March 31, ~~[2019]~~  
 37 2020.

38 § 2. This act shall take effect immediately and shall be deemed to  
 39 have been in full force and effect on and after March 31, 2019.

PART S

Intentionally Omitted

PART T

1

Intentionally Omitted

2

## PART U

3 Section 1. Expenditures of moneys appropriated in a chapter of the  
4 laws of 2019 to the department of agriculture and markets from the  
5 special revenue funds-other/state operations, miscellaneous special  
6 revenue fund-339, public service account shall be subject to the  
7 provisions of this section. Notwithstanding any other provision of law  
8 to the contrary, direct and indirect expenses relating to the department  
9 of agriculture and markets' participation in general ratemaking  
10 proceedings pursuant to section 65 of the public service law or certifi-  
11 cation proceedings pursuant to article 7 or 10 of the public service  
12 law, shall be deemed expenses of the department of public service within  
13 the meaning of section 18-a of the public service law. No later than  
14 August 15, 2020, the commissioner of the department of agriculture and  
15 markets shall submit an accounting of such expenses, including, but not  
16 limited to, expenses in the 2019--2020 state fiscal year for personal  
17 and non-personal services and fringe benefits, to the chair of the  
18 public service commission for the chair's review pursuant to the  
19 provisions of section 18-a of the public service law.

20 § 2. Expenditures of moneys appropriated in a chapter of the laws of  
21 2019 to the department of state from the special revenue funds-  
22 other/state operations, miscellaneous special revenue fund-339, public  
23 service account shall be subject to the provisions of this section.  
24 Notwithstanding any other provision of law to the contrary, direct and  
25 indirect expenses relating to the activities of the department of  
26 state's utility intervention unit pursuant to subdivision 4 of section  
27 94-a of the executive law, including, but not limited to, participation  
28 in general ratemaking proceedings pursuant to section 65 of the public  
29 service law or certification proceedings pursuant to article 7 or 10 of  
30 the public service law, shall be deemed expenses of the department of  
31 public service within the meaning of section 18-a of the public service  
32 law. No later than August 15, 2020, the secretary of state shall submit  
33 an accounting of such expenses, including, but not limited to, expenses  
34 in the 2019--2020 state fiscal year for personal and non-personal  
35 services and fringe benefits, to the chair of the public service commis-  
36 sion for the chair's review pursuant to the provisions of section 18-a  
37 of the public service law.

38 § 3. Expenditures of moneys appropriated in a chapter of the laws of  
39 2019 to the office of parks, recreation and historic preservation from  
40 the special revenue funds-other/state operations, miscellaneous special  
41 revenue fund-339, public service account shall be subject to the  
42 provisions of this section. Notwithstanding any other provision of law  
43 to the contrary, direct and indirect expenses relating to the office of  
44 parks, recreation and historic preservation's participation in general  
45 ratemaking proceedings pursuant to section 65 of the public service law  
46 or certification proceedings pursuant to article 7 or 10 of the public  
47 service law, shall be deemed expenses of the department of public  
48 service within the meaning of section 18-a of the public service law. No  
49 later than August 15, 2020, the commissioner of the office of parks,  
50 recreation and historic preservation shall submit an accounting of such  
51 expenses, including, but not limited to, expenses in the 2019--2020  
52 state fiscal year for personal and non-personal services and fringe  
53 benefits, to the chair of the public service commission for the chair's

1 review pursuant to the provisions of section 18-a of the public service  
2 law.

3 § 4. Expenditures of moneys appropriated in a chapter of the laws of  
4 2019 to the department of environmental conservation from the special  
5 revenue funds-other/state operations, environmental conservation special  
6 revenue fund-301, utility environmental regulation account shall be  
7 subject to the provisions of this section. Notwithstanding any other  
8 provision of law to the contrary, direct and indirect expenses relating  
9 to the department of environmental conservation's participation in state  
10 energy policy proceedings, or certification proceedings pursuant to  
11 article 7 or 10 of the public service law, shall be deemed expenses of  
12 the department of public service within the meaning of section 18-a of  
13 the public service law. No later than August 15, 2020, the commissioner  
14 of the department of environmental conservation shall submit an account-  
15 ing of such expenses, including, but not limited to, expenses in the  
16 2019--2020 state fiscal year for personal and non-personal services and  
17 fringe benefits, to the chair of the public service commission for the  
18 chair's review pursuant to the provisions of section 18-a of the public  
19 service law.

20 § 5. Notwithstanding any other law, rule or regulation to the contra-  
21 ry, expenses of the department of health public service education  
22 program incurred pursuant to appropriations from the cable television  
23 account of the state miscellaneous special revenue funds shall be deemed  
24 expenses of the department of public service. No later than August 15,  
25 2020, the commissioner of the department of health shall submit an  
26 accounting of expenses in the 2019--2020 state fiscal year to the chair  
27 of the public service commission for the chair's review pursuant to the  
28 provisions of section 217 of the public service law.

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

33 § 7. This act shall take effect immediately and shall be deemed to  
34 have been in full force and effect on and after April 1, 2019 and shall  
35 be deemed repealed April 1, 2020.

36

## PART V

37

Intentionally Omitted

38

## PART W

39 Section 1. Expenditures of moneys by the New York state energy  
40 research and development authority for services and expenses of the  
41 energy research, development and demonstration program, including  
42 grants, the energy policy and planning program, the zero emissions vehi-  
43 cle and electric vehicle rebate program, and the Fuel NY program shall  
44 be subject to the provisions of this section. Notwithstanding the  
45 provisions of subdivision 4-a of section 18-a of the public service law,  
46 all moneys committed or expended in an amount not to exceed \$19,700,000  
47 shall be reimbursed by assessment against gas corporations, as defined  
48 in subdivision 11 of section 2 of the public service law and electric  
49 corporations as defined in subdivision 13 of section 2 of the public  
50 service law, where such gas corporations and electric corporations have  
51 gross revenues from intrastate utility operations in excess of \$500,000  
52 in the preceding calendar year, and the total amount which may be

1 charged to any gas corporation and any electric corporation shall not  
2 exceed one cent per one thousand cubic feet of gas sold and .010 cent  
3 per kilowatt-hour of electricity sold by such corporations in their  
4 intrastate utility operations in calendar year 2017. Such amounts shall  
5 be excluded from the general assessment provisions of subdivision 2 of  
6 section 18-a of the public service law. The chair of the public service  
7 commission shall bill such gas and/or electric corporations for such  
8 amounts on or before August 10, 2019 and such amounts shall be paid to  
9 the New York state energy research and development authority on or  
10 before September 10, 2019. Upon receipt, the New York state energy  
11 research and development authority shall deposit such funds in the ener-  
12 gy research and development operating fund established pursuant to  
13 section 1859 of the public authorities law. The New York state energy  
14 research and development authority is authorized and directed to: (1)  
15 transfer \$1 million to the state general fund for services and expenses  
16 of the department of environmental conservation, \$150,000 to the state  
17 general fund for services and expenses of the department of agriculture  
18 and markets, and \$825,000 to the University of Rochester laboratory for  
19 laser energetics from the funds received; and (2) commencing in 2016,  
20 provide to the chair of the public service commission and the director  
21 of the budget and the chairs and secretaries of the legislative fiscal  
22 committees, on or before August first of each year, an itemized record,  
23 certified by the president and chief executive officer of the authority,  
24 or his or her designee, detailing any and all expenditures and commit-  
25 ments ascribable to moneys received as a result of this assessment by  
26 the chair of the department of public service pursuant to section 18-a  
27 of the public service law. This itemized record shall include an item-  
28 ized breakdown of the programs being funded by this section and the  
29 amount committed to each program. The authority shall not commit for  
30 any expenditure, any moneys derived from the assessment provided for in  
31 this section, until the chair of such authority shall have submitted,  
32 and the director of the budget shall have approved, a comprehensive  
33 financial plan encompassing all moneys available to and all anticipated  
34 commitments and expenditures by such authority from any source for the  
35 operations of such authority. Copies of the approved comprehensive  
36 financial plan shall be immediately submitted by the chair to the chairs  
37 and secretaries of the legislative fiscal committees. Any such amount  
38 not committed by such authority to contracts or contracts to be awarded  
39 or otherwise expended by the authority during the fiscal year shall be  
40 refunded by such authority on a pro-rata basis to such gas and/or elec-  
41 tric corporations, in a manner to be determined by the department of  
42 public service, and any refund amounts must be explicitly lined out in  
43 the itemized record described above.

44 § 2. This act shall take effect immediately and shall be deemed to  
45 have been in full force and effect on and after April 1, 2019.

46

## PART X

47

Intentionally Omitted

48

## PART Y

49 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the  
50 New York state urban development corporation act, relating to the powers  
51 of the New York state urban development corporation to make loans, as

1 amended by section 1 of part P of chapter 58 of the laws of 2018, is  
2 amended to read as follows:

3 § 2. This act shall take effect immediately provided, however, that  
4 section one of this act shall expire on July 1, [~~2019~~] 2020, at which  
5 time the provisions of subdivision 26 of section 5 of the New York state  
6 urban development corporation act shall be deemed repealed; provided,  
7 however, that neither the expiration nor the repeal of such subdivision  
8 as provided for herein shall be deemed to affect or impair in any manner  
9 any loan made pursuant to the authority of such subdivision prior to  
10 such expiration and repeal.

11 § 2. This act shall take effect immediately and shall be deemed to  
12 have been in full force and effect on and after April 1, 2019.

13

## PART Z

14 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174  
15 of the laws of 1968 constituting the New York state urban development  
16 corporation act, as amended by section 1 of part O of chapter 58 of the  
17 laws of 2018, is amended to read as follows:

18 3. The provisions of this section shall expire, notwithstanding any  
19 inconsistent provision of subdivision 4 of section 469 of chapter 309 of  
20 the laws of 1996 or of any other law, on July 1, [~~2019~~] 2020.

21 § 2. This act shall take effect immediately and shall be deemed to  
22 have been in full force and effect on and after July 1, 2019.

23

## PART AA

24

Intentionally Omitted

25

## PART BB

26

Intentionally Omitted

27

## PART CC

28

Intentionally Omitted

29

## PART DD

30

Intentionally Omitted

31

## PART EE

32

Intentionally Omitted

33

## PART FF

34 Section 1. Paragraphs (b-1) and (c-3) of subdivision 2 of section 503  
35 of the vehicle and traffic law, paragraph (b-1) as added by section 1  
36 and paragraph (c-3) as added by section 2 of part A of chapter 25 of the  
37 laws of 2009, are amended to read as follows:

38 (b-1) Supplemental learner permit/license fee in the metropolitan  
39 commuter transportation district. (i) Upon passage of the knowledge test  
40 required to obtain a learner's permit, an applicant for a driver's  
41 license who resides in the metropolitan commuter transportation district  
42 established by section one thousand two hundred sixty-two of the public

1 authorities law shall be required to pay a supplemental fee of One  
2 dollar for each six months or portion thereof of the period of validity  
3 of a learner's permit or license which is or may be issued pursuant to  
4 the provisions of subparagraph (i) or (ii) of paragraph (b) of this  
5 subdivision.

6 (ii) The commissioner shall deposit daily all funds collected pursuant  
7 to subparagraph (i) of this paragraph with such responsible banks, bank-  
8 ing houses or trust companies as may be designated by the state comp-  
9 troller, ~~[to the credit of the comptroller]~~ in trust for the credit of  
10 the metropolitan transportation authority. An account may be established  
11 in one or more of such depositories. Such deposits shall be kept sepa-  
12 rate and apart from all other money in the possession of the  
13 comptroller. On or before the twelfth day of each month, the commission-  
14 er shall certify to the comptroller the amount of all revenues received  
15 pursuant to subparagraph (i) of this paragraph during the prior month as  
16 a result of the supplemental fee imposed, including any interest and  
17 penalties thereon. The revenues so certified over the prior three months  
18 in total shall be ~~[deposited by the state comptroller in the metropol-~~  
19 ~~itan transportation authority aid trust account of the metropolitan~~  
20 ~~transportation authority financial assistance fund established pursuant~~  
21 ~~to section ninety two ff of the state finance law for deposit, subject~~  
22 ~~to] paid over by the fifteenth day of the last month of each calendar~~  
23 ~~quarter from such account, without~~ appropriation, ~~[in]~~ into the corpo-  
24 rate transportation account of the metropolitan transportation authority  
25 special assistance fund established by section twelve hundred seventy-a  
26 of the public authorities law, to be applied as provided in paragraph  
27 (e) of subdivision four of such section. Any money collected pursuant to  
28 this section that is deposited by the comptroller in the ~~[metropolitan~~  
29 ~~transportation authority aid trust account]~~ corporate transportation  
30 account of the metropolitan transportation authority ~~[financial]~~ special  
31 assistance fund shall be held in such fund free and clear of any claim  
32 by any person or entity paying an additional fee pursuant to this  
33 section, including, without limiting the generality of the foregoing,  
34 any right or claim against the metropolitan transportation authority,  
35 any of its bondholders, or any subsidiary or affiliate of the metropol-  
36 itan transportation authority.

37 (c-3) (i) Supplemental renewal fee in the metropolitan commuter trans-  
38 portation district. In addition to the fees required to be paid pursuant  
39 to paragraph (c) of this subdivision, a supplemental fee of one dollar  
40 for each six months or portion thereof of the validity of the license  
41 shall be paid for renewal of a license of a person who resides in the  
42 metropolitan commuter transportation district established by section one  
43 thousand two hundred sixty-two of the public authorities law issued by  
44 the commissioner.

45 (ii) The commissioner shall deposit daily all funds collected pursuant  
46 to this paragraph with such responsible banks, banking houses or trust  
47 companies as may be designated by the state comptroller, ~~[to the credit~~  
48 ~~of the comptroller]~~ in trust for the credit of the metropolitan trans-  
49 portation authority. An account may be established in one or more of  
50 such depositories. Such deposits shall be kept separate and apart from  
51 all other money in the possession of the comptroller. On or before the  
52 twelfth day of each month, the commissioner shall certify to the comp-  
53 troller the amount of all revenues received pursuant to this paragraph  
54 during the prior month as a result of the supplemental fees imposed,  
55 including any interest and penalties thereon. The revenues so certified  
56 over the prior three months in total shall be ~~[deposited by the state~~

1 ~~comptroller in the metropolitan transportation authority aid trust~~  
2 ~~account of the metropolitan transportation authority financial assist-~~  
3 ~~ance fund established pursuant to section ninety two ff of the state~~  
4 ~~finance law for deposit, subject to] paid over by the fifteenth day of~~  
5 ~~the last month of each calendar quarter from such account, without~~  
6 appropriation, [~~in~~] into the corporate transportation account of the  
7 metropolitan transportation authority special assistance fund estab-  
8 lished by section twelve hundred seventy-a of the public authorities  
9 law, to be applied as provided in paragraph (e) of subdivision four of  
10 such section. Any money collected pursuant to this section that is  
11 deposited by the comptroller in the [~~metropolitan transportation author-~~  
12 ~~ity aid trust account] corporate transportation account of the metropol-~~  
13 ~~itan transportation authority [~~financial~~] special assistance fund shall~~  
14 be held in such fund free and clear of any claim by any person or entity  
15 paying an additional fee pursuant to this section, including, without  
16 limiting the generality of the foregoing, any right or claim against the  
17 metropolitan transportation authority, any of its bondholders, or any  
18 subsidiary or affiliate of the metropolitan transportation authority.  
19 § 2. Section 499-d of the vehicle and traffic law, as added by  
20 section 1 of part B of chapter 25 of the laws of 2009, is amended to  
21 read as follows:

22 § 499-d. Deposit and disposition of revenue from supplemental fee. The  
23 commissioner shall deposit daily all funds derived from the collection  
24 of the supplemental fee established pursuant to this article with such  
25 responsible banks, banking houses or trust companies as may be desig-  
26 nated by the state comptroller, [~~to the credit of the comptroller] in~~  
27 ~~trust for the credit of the metropolitan transportation authority. An~~  
28 ~~account may be established in one or more of such depositories. Such~~  
29 ~~deposits shall be kept separate and apart from all other money in the~~  
30 ~~possession of the comptroller. On or before the twelfth day of each~~  
31 month, the commissioner shall certify to the comptroller the amount of  
32 all revenues received pursuant to this article during the prior month as  
33 a result of the supplemental fee imposed, including any interest and  
34 penalties thereon. The revenues so certified over the prior three months  
35 in total shall be [~~deposited by the state comptroller in the metropol-~~  
36 ~~itan transportation authority aid trust account of the metropolitan~~  
37 ~~transportation authority financial assistance fund established pursuant~~  
38 ~~to section ninety two ff of the state finance law for deposit, subject~~  
39 ~~to] paid over by the fifteenth day of the last month of each calendar  
40 quarter from such account, without appropriation, [~~in~~] into the corpo-  
41 rate transportation account of the metropolitan transportation authority  
42 special assistance fund established by section twelve hundred seventy-a  
43 of the public authorities law, to be applied as provided in paragraph  
44 (e) of subdivision four of such section. Any money collected pursuant to  
45 this section that is deposited by the comptroller in the [~~metropolitan~~  
46 ~~transportation authority aid trust account] corporate transportation~~  
47 ~~account of the metropolitan transportation authority [~~financial~~] special~~  
48 ~~assistance fund shall be held in such fund free and clear of any claim~~  
49 ~~by any person or entity paying an additional fee pursuant to this~~  
50 ~~section, including, without limiting the generality of the foregoing,~~  
51 ~~any right or claim against the metropolitan transportation authority,~~  
52 ~~any of its bondholders, or any subsidiary or affiliate of the metropol-~~  
53 ~~itan transportation authority.~~  
54 § 3. Section 1288 of the tax law, as added by section 1 of part E of  
55 chapter 25 of the laws of 2009, is amended to read as follows:~~



1 § 1288. Deposit and disposition of revenue. Notwithstanding any  
2 provision of law to the contrary: (a) All taxes, interest and penalties  
3 collected or received by the commissioner pursuant to this article shall  
4 be deposited daily with such responsible banks, banking houses or trust  
5 companies, as may be designated by the comptroller, ~~(to the credit of~~  
6 ~~the comptroller)~~ in trust for the credit of the metropolitan transporta-  
7 tion authority. ~~[Such an]~~ An account may be established in one or more  
8 of such depositories. Such deposits shall be kept separate and apart  
9 from all other money in the possession of the comptroller. The comp-  
10 troller shall require adequate security from all such depositories. Of  
11 the total revenue collected or received under this section, the comp-  
12 troller shall retain in the comptroller's hands such amount as the  
13 commissioner may determine to be necessary for refunds under this arti-  
14 cle. The commissioner is authorized and directed to deduct from such  
15 amounts collected or received under this article, before deposit into  
16 the accounts specified by the comptroller, a reasonable amount necessary  
17 to effectuate refunds of appropriations of the department to reimburse  
18 the department for the costs to administer, collect and distribute the  
19 taxes imposed by this article.

20 (b) On or before the twelfth day following the end of each month,  
21 after reserving such amount for such refunds and such costs, the commis-  
22 sioner shall certify to the comptroller the amount of all revenues so  
23 received pursuant to this article during the prior month as a result of  
24 the taxes, interest and penalties so imposed.

25 (c) ~~[The]~~ By the fifteenth day of the last month of each calendar  
26 quarter the comptroller shall pay over the amount of revenues from the  
27 prior three months in total so certified by the commissioner ~~(to the~~  
28 ~~metropolitan transportation authority aid trust account of the metropol-~~  
29 ~~itan transportation authority financial assistance fund established by~~  
30 ~~section ninety two ff of the state finance law for deposit, subject to),~~  
31 without appropriation, [is] into the corporate transportation account of  
32 the metropolitan transportation authority special assistance fund estab-  
33 lished by section twelve hundred seventy-a of the public authorities law  
34 to be applied as provided in paragraph (e) of subdivision four of such  
35 section twelve hundred seventy-a. Any money collected pursuant to this  
36 article that is deposited by the comptroller in the [metropolitan trans-  
37 portation authority aid trust account] corporate transportation account  
38 of the metropolitan transportation authority [financial] special assist-  
39 ance fund shall be held in such fund free and clear of any claim by any  
40 person or entity paying the tax pursuant to this article, including,  
41 without limiting the generality of the foregoing, any right or claim  
42 against the metropolitan transportation authority, any of its bondhold-  
43 ers, or any subsidiary or affiliate of the metropolitan transportation  
44 authority.

45 § 4. Section 1167 of the tax law, as amended by section 3 of part F of  
46 chapter 25 of the laws of 2009, is amended to read as follows:

47 § 1167. Deposit and disposition of revenue. 1. All taxes, interest and  
48 penalties collected or received by the commissioner under this article  
49 shall be deposited and disposed of pursuant to the provisions of section  
50 one hundred seventy-one-a of this chapter, except that after reserving  
51 amounts in accordance with such section one hundred seventy-one-a of  
52 this chapter, the remainder shall be paid by the comptroller to the  
53 credit of the highway and bridge trust fund established by section  
54 eighty-nine-b of the state finance law, provided, however, taxes, inter-  
55 est and penalties collected or received pursuant to section eleven  
56 hundred sixty-six-a of this article shall be ~~[paid to the credit of the~~

1 ~~metropolitan transportation authority aid trust account of the metropol-~~  
2 ~~itan transportation authority financial assistance fund established by~~  
3 ~~section ninety-two-ff of the state finance law] deposited and disposed~~  
4 ~~of pursuant to subdivision two of this section.~~

5 2. All taxes, interest, and penalties collected or received by the  
6 commissioner pursuant to section eleven hundred sixty-six-a of this  
7 article shall be deposited daily with such responsible banks, banking  
8 houses or trust companies, as may be designated by the comptroller, in  
9 trust for the credit of the metropolitan transportation authority. An  
10 account may be established in one or more of such depositories. Such  
11 deposits will be kept separate and apart from all other money in the  
12 possession of the comptroller. Of the total revenue collected or  
13 received under this article, the comptroller shall retain such amount as  
14 the commissioner may determine to be necessary for refunds under this  
15 article. On or before the twelfth day of each month, after reserving  
16 such amount for such refunds and deducting such amounts for such costs,  
17 the commissioner shall certify to the comptroller the amount of all  
18 revenues received pursuant to this article during the prior month as a  
19 result of the tax imposed, including any interest and penalties thereon.  
20 The amount of revenues so certified over the prior three months in total  
21 shall be paid over by the fifteenth day of the last month of each calen-  
22 dar quarter from such account, without appropriation, into the corporate  
23 transportation account of the metropolitan transportation authority  
24 special assistance fund established by section twelve hundred seventy-a  
25 of the public authorities law, to be applied as provided in paragraph  
26 (e) of subdivision four of such section.

27 § 5. Subdivision 3 and paragraph (a) of subdivision 6 of section  
28 92-ff of the state finance law, subdivision 3 as amended by section 14  
29 of part UU of chapter 59 of the laws of 2018 and paragraph (a) of subdivi-  
30 sion 6 as added by section 1 of part G of chapter 25 of the laws of  
31 2009, are amended to read as follows:

32 3. Such fund shall consist of all moneys collected therefor or credit-  
33 ed or transferred thereto from any other fund, account or source [  
34 ~~including, without limitation, the revenues derived from the special~~  
35 ~~supplemental tax on passenger car rentals imposed by section eleven~~  
36 ~~hundred sixty six a of the tax law; revenues derived from the transpor-~~  
37 ~~tation surcharge imposed by article twenty nine A of the tax law; the~~  
38 ~~supplemental registration fees imposed by article seventeen C of the~~  
39 ~~vehicle and traffic law; and the supplemental metropolitan commuter~~  
40 ~~transportation district license fees imposed by section five hundred~~  
41 ~~three of the vehicle and traffic law]. Any interest received by the~~  
42 ~~comptroller on moneys on deposit in the metropolitan transportation~~  
43 ~~authority financial assistance fund shall be retained in and become a~~  
44 ~~part of such fund.~~

45 (a) The "metropolitan transportation authority aid trust account"  
46 shall consist of [~~revenues required to be deposited therein pursuant to~~  
47 ~~the provisions of section eleven hundred sixty six a of the tax law,~~  
48 ~~article twenty nine A of the tax law, article seventeen C of the vehicle~~  
49 ~~and traffic law, and section five hundred three of the vehicle and traf-~~  
50 ~~fic law, and all other] moneys credited or transferred thereto from any  
51 other [~~fund or~~] source pursuant to law.~~

52 § 6. Section 4 of the state finance law is amended by adding a new  
53 subdivision 13 to read as follows:

54 13. Notwithstanding subdivision one of this section and any other law  
55 to the contrary, the revenue (including fees, taxes, interest and penal-  
56 ties) from the metropolitan commuter transportation district supple-

1 mental fees and taxes imposed pursuant to paragraph (b-1) of subdivision  
2 two of section five hundred three of the vehicle and traffic law, para-  
3 graph (c-3) of subdivision two of section five hundred three of the  
4 vehicle and traffic law, article seventeen-C of the vehicle and traffic  
5 law, article twenty-nine-A of the tax law and section eleven hundred  
6 sixty-six-a of the tax law which are paid in accordance with subpara-  
7 graph (ii) of paragraph (b-1) of subdivision two of section five hundred  
8 three of the vehicle and traffic law, subparagraph (ii) of paragraph  
9 (c-3) of subdivision two of section five hundred three of the vehicle  
10 and traffic law, section twelve hundred eighty-eight of the tax law and  
11 section eleven hundred sixty-seven of the tax law into the corporate  
12 transportation account of the metropolitan transportation authority  
13 special assistance fund established by section twelve hundred seventy-a  
14 of the public authorities law shall be made pursuant to statute but  
15 without an appropriation.

16 § 7. Subdivision 1 and paragraph (e) of subdivision 4 of section  
17 1270-a of the public authorities law, subdivision 1 as amended by  
18 section 14 and paragraph (e) of subdivision 4 as added by section 15 of  
19 part H of chapter 25 of the laws of 2009, are amended to read as  
20 follows:

21 1. The authority shall create and establish a fund to be known as the  
22 "metropolitan transportation authority special assistance fund" which  
23 shall be kept separate from and shall not be commingled with any other  
24 moneys of the authority. The special assistance fund shall consist of  
25 three separate accounts: (i) the "transit account", (ii) the "commuter  
26 railroad account" and (iii) the "corporate transportation account".

27 The authority shall make deposits in the transit account and the  
28 commuter railroad account of the moneys received by it pursuant to the  
29 provisions of subdivision one of section two hundred sixty-one of the  
30 tax law in accordance with the provisions thereof, and shall make depos-  
31 its in the corporate transportation account of the moneys received by it  
32 pursuant to the provisions of subdivision two of section two hundred  
33 sixty-one of the tax law and section ninety-two-ff of the state finance  
34 law. The comptroller shall deposit, without appropriation, into the  
35 corporate transportation account the revenue fees, taxes, interest and  
36 penalties collected in accordance with paragraph (b-1) of subdivision  
37 two of section five hundred three of the vehicle and traffic law, para-  
38 graph (c-3) of subdivision two of section five hundred three of the  
39 vehicle and traffic law, article seventeen-C of the vehicle and traffic  
40 law, article twenty-nine-A of the tax law and section eleven hundred  
41 sixty-six-a of the tax law.

42 (e) Notwithstanding the foregoing provisions of this subdivision, any  
43 moneys in the corporate transportation account that are received by the  
44 authority: (i) without appropriation pursuant to subdivision one of this  
45 section, or (ii) pursuant to the provisions of section ninety-two-ff of  
46 the state finance law may be pledged by the authority, or pledged to the  
47 Triborough bridge and tunnel authority, to secure bonds, notes or other  
48 obligations of the authority or the Triborough bridge and tunnel author-  
49 ity, as the case may be, and, if so pledged to the Triborough bridge and  
50 tunnel authority, shall be paid to the Triborough bridge and tunnel  
51 authority in such amounts and at such times as necessary to pay or to  
52 reimburse that authority for its payment of debt service and reserve  
53 requirements, if any, on that portion of special Triborough bridge and  
54 tunnel authority bonds and notes issued by that authority pursuant to  
55 section five hundred fifty-three-d of this chapter. Subject to the  
56 provisions of any such pledge, or in the event there is no such pledge,

1 any moneys in the corporate transportation account received by the  
2 authority; (i) without appropriation pursuant to subdivision one of this  
3 section, or (ii) pursuant to the provisions of section ninety-two-ff of  
4 the state finance law may be used by the authority for payment of oper-  
5 ating costs of, and capital costs, including debt service and reserve  
6 requirements, if any, of or for the authority, the New York city transit  
7 authority and their subsidiaries as the authority shall determine. No  
8 moneys in the corporate transportation account that are reserved by the  
9 authority; (i) without appropriation pursuant to subdivision one of this  
10 section, or (ii) pursuant to the provisions of section ninety-two-ff of  
11 the state finance law may be used for making any payment to the Dutch-  
12 ess, Orange and Rockland fund created by section twelve hundred seven-  
13 ty-b of this title or considered in calculating the amounts required to  
14 be paid into such fund.

15 § 8. This act shall take effect immediately.

16

## PART GG

17

Intentionally Omitted

18

## PART HH

19 Section 1. Section 45 of chapter 929 of the laws of 1986 amending the  
20 tax law and other laws relating to the metropolitan transportation  
21 authority, as amended by chapter 63 of the laws of 2017, is amended to  
22 read as follows:

23 § 45. This act shall take effect immediately; except that: (a) para-  
24 graph (d) of subdivision 3 of section 1263 of the public authorities  
25 law, as added by section twenty-six of this act, shall be deemed to have  
26 been in full force and effect on and after August 5, 1986; (b) sections  
27 thirty-three and thirty-four of this act shall not apply to a certified  
28 or recognized public employee organization which represents any public  
29 employees described in subdivision 16 of section 1204 of the public  
30 authorities law and such sections shall expire on July 1, ~~2019~~ 2021  
31 and nothing contained within these sections shall be construed to divest  
32 the public employment relations board or any court of competent juris-  
33 diction of the full power or authority to enforce any order made by the  
34 board or such court prior to the effective date of this act; (c) the  
35 provisions of section thirty-five of this act shall expire on March 31,  
36 1987; and (d) provided, however, the commissioner of taxation and  
37 finance shall have the power to enforce the provisions of sections two  
38 through nine of this act beyond December 31, 1990 to enable such commis-  
39 sioner to collect any liabilities incurred prior to January 1, 1991.

40 § 2. This act shall take effect immediately.

41

## PART II

42

Intentionally Omitted

43

## PART JJ

44

Intentionally Omitted

45

## PART KK

1 Section 1. Section 1005 of the public authorities law is amended by  
2 adding a new subdivision 9-a to read as follows:

3 9-a. As deemed feasible and advisable by the trustees, to design,  
4 finance, develop, construct, install, lease, operate and maintain elec-  
5 tric vehicle charging stations throughout the state for use by the  
6 public. The authority shall annually post on their website a report on  
7 those activities undertaken pursuant to this subdivision, including but  
8 not limited to: the total number of electric vehicle charging stations  
9 in operation pursuant to such authorization, the locations of such  
10 charging stations, and the total costs to the authority associated with  
11 such activities.

12 § 2. Nothing in this act is intended to limit, impair, or affect the  
13 legal authority of the Power Authority of the State of New York under  
14 any other provision of title 1 of article 5 of the public authorities  
15 law.

16 § 3. This act shall take effect immediately.

17 PART LL

18 Section 1. Section 1005 of the public authorities law is amended by  
19 adding a new subdivision 26 to read as follows:

20 26. (a) As deemed feasible and advisable by the trustees, to plan,  
21 finance, construct, acquire, operate, improve and maintain, either alone  
22 or jointly with one or more other entities, transmission facilities for  
23 the purpose of transmitting power and energy generated by renewable wind  
24 energy generation projects that are located in state territorial waters,  
25 and/or in waters under the jurisdiction or regulation of the United  
26 States, which supplies electric power and energy to the state of New  
27 York that the authority deems necessary and desirable in order to: (i)  
28 provide, support and maintain an adequate and reliable supply of elec-  
29 tric power and energy in the state of New York, and/or (ii) assist the  
30 state in meeting state energy-related goals and standards.

31 (b) The source of any financing and/or loans provided by the authority  
32 for any of the actions authorized in paragraph (a) of this subdivision  
33 may be the proceeds of notes issued pursuant to section one thousand  
34 nine-a of this title, the proceeds of bonds issued pursuant to section  
35 one thousand ten of this title, or any other available authority funds.

36 (c) The authority shall complete and submit a report, on or before  
37 January thirty-first, two thousand twenty, and annually thereafter, on  
38 those activities undertaken pursuant to this subdivision to the gover-  
39 nor, the speaker of the assembly, the temporary president of the senate,  
40 the minority leader of the senate, the minority leader of the assembly,  
41 the chair of the senate finance committee, the chair of the assembly  
42 ways and means committee, the chair of the assembly energy committee,  
43 and the chair of the senate energy and telecommunications committee.  
44 Such report shall be posted on the authority's website and accessible  
45 for public review.

46 § 2. Section 1005 of the public authorities law is amended by adding a  
47 new subdivision 27 to read as follows:

48 27. (a) Notwithstanding any other provision of this title, as deemed  
49 feasible and advisable by the trustees, the authority is authorized to  
50 undertake the following actions when it deems it necessary or desirable  
51 to address the energy-related needs of any (i) authority customer, (ii)  
52 public entity, or (iii) CCA community:

53 (1) (A) supply power and energy procured from competitive market  
54 sources to any (i) authority customer, (ii) public entity, or (iii) CCA

1 community through the supply of such products through an energy services  
2 company or other entity that is authorized by the public service commis-  
3 sion to procure and sell energy products to participants of a CCA  
4 program, provided, however, that the authority shall not supply at any  
5 point more than a total of four hundred megawatts of power and energy to  
6 authority customers and public entities pursuant to the authority of  
7 this clause:

8 (B) supply renewable power, energy, or related credits or attributes  
9 procured through a competitive process, from competitive market sources,  
10 or through negotiation when a competitive procurement is not reasonably  
11 feasible and such products can be procured on reasonably competitive  
12 terms to (i) any authority customer, (ii) any public entity, or (iii)  
13 any CCA community through the supply of such products through an energy  
14 services company or other entity that is authorized by the public  
15 service commission to procure and sell energy products to participants  
16 of a CCA program; and

17 (2) (A) alone or jointly with one or more other entities, finance the  
18 development of renewable energy generating projects that are located in  
19 the state, including its territorial waters, and/or on property or in  
20 waters under the jurisdiction or regulatory authority of the United  
21 States, (B) purchase power, energy or related credits or attributes  
22 produced from such renewable energy generating projects, and (C) allo-  
23 cate and sell any such products to (i) any authority customer, (ii) any  
24 public entity, and (iii) any CCA community through an energy services  
25 company or other entity that is authorized by the public service commis-  
26 sion to procure and sell energy products to participants of a CCA  
27 program, provided that the authority shall not, pursuant to the authori-  
28 ty in this subparagraph, finance more than six renewable energy gener-  
29 ation projects and have a per-project electric generating capacity in  
30 excess of twenty-five megawatts.

31 (b) Nothing in this subdivision authorizes the authority to act as an  
32 energy supply company or administrator for CCA programs.

33 (c) Power and energy sold pursuant to the authority provided in para-  
34 graph (a) of this subdivision shall only be sold for use at facilities  
35 located in the state.

36 (d) Any public entity is hereby authorized to contract with the  
37 authority for the purchase of power, energy, or related credits or  
38 attributes which the authority is authorized to supply under paragraph  
39 (a) of this subdivision.

40 (e) The source of any financing and/or loans provided by the authority  
41 for any of the actions authorized in paragraph (a) of this subdivision  
42 may be the proceeds of notes issued pursuant to section one thousand  
43 nine-a of this title, the proceeds of bonds issued pursuant to section  
44 one thousand ten of this title, or any other available authority funds.

45 (f) The authority shall complete and submit a report, on or before  
46 January thirty-first, two thousand twenty, and annually thereafter on  
47 those actions undertaken pursuant to this subdivision to the governor,  
48 the speaker of the assembly, the temporary president of the senate, the  
49 chair of the assembly ways and means committee, the chair of the senate  
50 finance committee, the chair of the assembly energy committee and the  
51 chair of the senate energy and telecommunications committee. Such  
52 report, at a minimum, shall include: (i) an accounting of the total  
53 amount of power, energy, and related credits and attributes procured  
54 from competitive market sources and supplied to authority customers,  
55 public entities, and CCA communities; (ii) an accounting of the total  
56 amount of renewable power, energy, and related credits and attributes

1 procured through negotiation and supplied to authority customers, public  
2 entities, and CCA communities; (iii) a description of all renewable  
3 energy generating projects financed by the authority, including the  
4 aggregate amount of financing; (iv) an accounting of all power, energy,  
5 and related credits and attributes purchased by the authority from such  
6 projects; and (v) an identification of all public entities, authority  
7 customers, and CCA communities to which the authority supplied, allo-  
8 cated or sold any power, energy or related credits or attributes.

9 (g) For purposes of this subdivision, the following terms shall have  
10 the meanings indicated in this paragraph unless the context indicates  
11 another meaning or intent:

12 (i) "Authority customer" means an entity located in the state to which  
13 the authority sells or is under contract to sell power or energy under  
14 the authority in this title or any other law.

15 (ii) "CCA community" means one or more municipal corporations located  
16 within the state that have provided for the purchase of power, energy,  
17 or related credits or other attributes under a CCA program.

18 (iii) "CCA program" means a community choice aggregation program  
19 approved by the public service commission.

20 (iv) "Public entity" has the meaning ascribed to that term by subpara-  
21 graph five of paragraph (b) of subdivision seventeen of this section.

22 (v) "Renewable energy resources" means solar power, wind power, hydro-  
23 electric, and any other generation resource authorized by any renewable  
24 energy standard adopted by the state for the purpose of implementing any  
25 state clean energy standard.

26 (vi) "Renewable energy generating project" means a project that gener-  
27 ates power and energy by means of renewable energy resources, or that  
28 stores and supplies power and energy generated by means of renewable  
29 energy resources, and includes the construction, installation and/or  
30 operation of ancillary facilities or equipment done in connection with  
31 any such renewable energy generating projects, provided, however, that  
32 such term shall not include the authority's Saint Lawrence hydroelectric  
33 project or Niagara hydroelectric project.

34 (vii) "State" means the state of New York.

35 § 3. Nothing in this act is intended to limit, impair, or affect the  
36 legal authority of the Power Authority of the State of New York under  
37 any other provision of law.

38 § 4. This act shall take effect immediately; provided, however, that  
39 the provisions of sections two and three of this act shall expire on  
40 June 30, 2024 when upon such date the provisions of such sections shall  
41 be deemed repealed, provided that such repeal shall not affect or impair  
42 any act done, any right, permit or authorization accrued or acquired, or  
43 any liability incurred, prior to the time such repeal takes effect, and  
44 provided further that any project or contract that was awarded by the  
45 power authority of the state of New York prior to such repeal shall be  
46 permitted to continue under this act notwithstanding such repeal.

47 PART MM

48 Section 1. The state finance law is amended by adding a new section  
49 99-ff to read as follows:

50 § 99-ff. Parks retail stores fund. 1. Notwithstanding sections eight,  
51 eight-a and seventy of this chapter and any other provision of law,  
52 rule, regulation or practice to the contrary, there is hereby estab-  
53 lished in the joint custody of the state comptroller and the commission-  
54 er of tax and finance a parks retail stores fund, which shall be classi-

1 fied by the state comptroller as an enterprise fund, and which shall  
2 consist of all moneys received from private entities and individuals  
3 from retail operations at state parks, recreational facilities and  
4 historic sites operated by the office of parks, recreation and historic  
5 preservation.

6 2. Moneys within the parks retail stores fund shall be made available  
7 to the commissioner of parks, recreation and historic preservation for  
8 services and expenses relating to the operation of retail stores and in  
9 support of the sale of retail goods at state parks, recreational facili-  
10 ties and historic sites.

11 § 2. The state finance law is amended by adding a new section 99-gg to  
12 read as follows:

13 § 99-gg, Golf fund. 1. Notwithstanding sections eight, eight-a and  
14 seventy of this chapter and any other provision of law, rule, regulation  
15 or practice to the contrary, there is hereby established in the joint  
16 custody of the state comptroller and the commissioner of tax and finance  
17 a golf fund, which shall be classified by the state comptroller as an  
18 enterprise fund, and which shall consist of all moneys collected from  
19 private entities and individuals for the use of state-owned golf cours-  
20 es, any other miscellaneous fees associated with the use of such golf  
21 courses, and sale of retail goods and services at state owned golf  
22 courses.

23 2. Moneys within the golf fund shall be made available to the commis-  
24 sioner of parks, recreation and historic preservation for services and  
25 expenses of the office of parks, recreation and historic preservation  
26 relating to the direct maintenance and operation of state owned golf  
27 courses, and in support of the sale of retail goods and services at  
28 state owned golf courses.

29 § 3. This act shall take effect immediately and shall be deemed to  
30 have been in full force and effect on and after April 1, 2019.

31 PART NN

32 Section 1. Subdivision 7 of section 2611 of the public authorities  
33 law, as amended by section 3 of part C of chapter 60 of the laws of  
34 2012, is amended to read as follows:

35 7. To enter into contracts, leases and subleases and to execute all  
36 instruments necessary or convenient for the conduct of authority busi-  
37 ness, including agreements with the park district and any state agency  
38 which administers, owns or supervises any olympic facility or Belleayre  
39 Mountain ski center, as provided in sections twenty-six hundred twelve  
40 and twenty-six hundred fourteen of this title, and including contracts  
41 or other agreements to plan, prepare for and host the two thousand twen-  
42 ty-three World University Games to be held in Lake Placid, New York  
43 where such contracts or agreements would obligate the authority to  
44 defend, indemnify and/or insure third parties in connection with, aris-  
45 ing out of, or relating to such games, such authority to be limited by  
46 the amount of any lawful appropriation or other funding such as a  
47 performance bond surety, or other collateral instrument for that  
48 purpose. With respect to the two thousand twenty-three World University  
49 Games, the amount of such appropriation shall be no more than sixteen  
50 million dollars;

51 § 2. This act shall take effect immediately.

52 PART OO



1 Intentionally Omitted

2 PART PP

3 Intentionally Omitted

4 PART QQ

5 Intentionally Omitted

6 PART RR

7 Intentionally Omitted

8 PART SS

9 Section 1. Approximately 40 percent of the food produced in the United  
10 States today goes uneaten. Much of this organic waste is disposed of in  
11 solid waste landfills, where its decomposition accounts for over 15  
12 percent of our nation's emissions of methane, a potent greenhouse gas.  
13 Meanwhile, an estimated 2.8 million New Yorkers are facing hunger and  
14 food insecurity. Recognizing the importance of food scraps to our envi-  
15 ronment, economy, and the health of New Yorkers, this act establishes a  
16 food scraps hierarchy for the state of New York. The first tier of the  
17 hierarchy is source reduction, reducing the volume of surplus food  
18 generated. The second tier is recovery, feeding wholesome food to hungry  
19 people. Third is repurposing, feeding animals. Fourth is recycling,  
20 processing any leftover food such as by composting or anaerobic  
21 digestion to create a nutrient-rich soil amendment. This legislation is  
22 designed to address each tier of the hierarchy by: encouraging the  
23 prevention of food waste generation by commercial generators and resi-  
24 dents; directing the recovery of excess edible food from high-volume  
25 commercial food waste generators; and ensuring that a significant  
26 portion of inedible food waste from large volume food waste generators  
27 is managed in a sustainable manner, and does not end up being sent to  
28 landfills or incinerators. In addition, the state has supported the  
29 recovery of wholesome food by providing grants from the environmental  
30 protection fund to increase capacity of food banks, conduct food scraps  
31 audits of high-volume generators of food scraps, support implementation  
32 of pollution prevention projects identified by such audits, and expand  
33 capacity of generators and municipalities to donate and recycle food.

34 § 2. Article 27 of the environmental conservation law is amended by  
35 adding a new title 22 to read as follows:

36 TITLE 22

37 FOOD DONATION AND FOOD SCRAPS RECYCLING

38 Section 27-2201. Definitions.

39 27-2203. Designated food scraps generator responsibilities.

40 27-2205. Waste transporter responsibilities.

41 27-2207. Transfer facility.

42 27-2209. Food scraps disposal prohibition.

43 27-2211. Department responsibilities.

44 27-2213. Regulations.

45 27-2215. Exclusions.

46 27-2217. Annual Report.

47 27-2219. Severability.

48 s 27-2201. Definitions.

1 1. "Designated food scraps generator" means a person who generates at  
2 a single location an annual average of two tons per week or more of food  
3 scraps based on a methodology established by the department pursuant to  
4 regulations, including, supermarkets, large food service businesses,  
5 higher educational institutions, hotels, food processors, correctional  
6 facilities, and sports or entertainment venues. For a location with  
7 multiple independent food service businesses, such as a mall or college  
8 campus, the entity responsible for contracting for solid waste hauling  
9 services is responsible for managing food scraps from the independent  
10 businesses.

11 2. "Food scraps" means inedible food, trimmings from the preparation  
12 of food, food-soiled paper, and edible food that is not donated. Food  
13 scraps shall not include used cooking oil, yellow grease or food from  
14 residential sources, or any food identified in regulations promulgated  
15 by the department in consultation with the department of agriculture and  
16 markets or any food which is subject to a recall or seizure due to the  
17 presence of pathogens, including but not limited to: Listeria Monocyto-  
18 genes, confirmed Clostridium Botulinum, E. coli O157:H7 and all salmo-  
19 nella in ready-to-eat foods.

20 3. "Organics recycler" means a facility, permitted by the department,  
21 that recycles food scraps through use as animal feed or a feed ingredi-  
22 ent, rendering, land application, composting, aerobic digestion, anaero-  
23 bic digestion, fermentation, or ethanol production. Animal scraps, food  
24 soiled paper, and post-consumer food scraps are prohibited for use as  
25 animal feed or as a feed ingredient. The proportion of the product  
26 created from food scraps by a composting or digestion facility, includ-  
27 ing a wastewater treatment plant that operates a digestion facility, or  
28 other treatment system, must be used in a beneficial manner as a soil  
29 amendment and shall not be disposed of or incinerated.

30 4. "Person" means any business entity, partnership, company, corpo-  
31 ration, not-for-profit corporation, association, governmental entity,  
32 public benefit corporation, public authority, firm, or organization.

33 5. "Single location" means contiguous property under common ownership,  
34 which may include one or more buildings.

35 6. "Incinerator" shall have the same meaning as provided in section  
36 72-0401 of this chapter.

37 7. "Landfill" shall have the same meaning as provided in section  
38 72-0401 of this chapter.

39 8. "Transfer facility" means a solid waste management facility, wheth-  
40 er owned or operated by a private or public entity, other than a recycl-  
41 ables handling and recovery facility, used oil facility, or a  
42 construction and demolition debris processing facility, where solid  
43 waste is received for the purpose of subsequent transfer to another  
44 solid waste management facility for processing, treating, disposal,  
45 recovery, or further transfer.

46 § 27-2203. Designated food scraps generator responsibilities.

47 1. Effective January first, two thousand twenty-two:

48 (a) all designated food scraps generators shall separate their excess  
49 edible food for donation for human consumption to the maximum extent  
50 practicable, and in accordance with applicable laws, rules and regu-  
51 lations related to food donation; and

52 (b) except as provided in paragraph (c) of this subdivision, each  
53 designated food scraps generator that is within twenty-five miles of an  
54 organics recycler, to the extent that the recycler has capacity to  
55 accept all of such generator's food scraps based on the department's

1 yearly estimate of an organic recyclers' capacity pursuant to section  
2 27-2211 of this title, shall:

3 (i) separate its remaining food scraps from other solid waste;  
4 (ii) ensure proper storage for food scraps on site which shall  
5 preclude such materials from becoming odorous or attracting vectors,  
6 such as a container that has a lid and a latch that keeps the lid closed  
7 and is resistant to tampering by rodents or other wildlife and has  
8 sufficient capacity;

9 (iii) have information available and provide training for employees  
10 concerning the proper methods to separate and store food scraps; and  
11 (iv) obtain a transporter that will deliver food scraps to an organics  
12 recycler, self-haul its food scraps to an organics recycler, or provide  
13 for organics recycling on-site via in vessel composting, aerobic or  
14 anaerobic digestion or any other method of processing organic waste that  
15 the department approves by regulation, for some or all of the food waste  
16 it generates on its premises, provided that the remainder is delivered  
17 to an organics recycler.

18 (c) The provisions of paragraph (b) of this subdivision shall not  
19 apply to any designated food scraps generator that has all of its food  
20 scraps processed in a mixed solid waste composting or mixed solid waste  
21 anaerobic digestion facility.

22 2. All designated food scraps generators shall submit an annual report  
23 to the department on or before March first, two thousand twenty-three,  
24 and annually thereafter, in an electronic format. The annual report must  
25 summarize the amount of edible food donated, the amount of food scraps  
26 recycled, the organics recycler or recyclers and associated transporters  
27 used, and any other information as required by the department.

28 3. A designated food scraps generator may petition the department for  
29 a temporary waiver from some or all of the requirements of this title.  
30 The petition must include evidence of undue hardship based on:

31 (a) the designated food scraps generator does not meet the two tons  
32 per week threshold;

33 (b) the cost of processing organic waste is not reasonably competitive  
34 with the cost of disposing of waste by landfill;

35 (c) the organics recycler does not have sufficient capacity, despite  
36 the department's calculation; or

37 (d) the unique circumstances of the generator.

38 A waiver shall be no longer than one year in duration provided, howev-  
39 er, the department may renew such waiver.

40 § 27-2205. Waste transporter responsibilities.

41 1. Any waste transporter that collects food scraps for recycling from  
42 a designated food scraps generator shall:

43 (a) deliver food scraps to a transfer facility that will deliver such  
44 food scraps to an organics recycler unless such generator has received a  
45 temporary waiver under subdivision three of section 27-2203 of this  
46 title; or

47 (b) deliver such food scraps directly to an organics recycler.

48 2. Any waste transporter that collects food scraps from a designated  
49 food scraps generator shall take all reasonable precautions to not  
50 deliver those food scraps to an incinerator or a landfill nor commingle  
51 the material with any other solid waste unless such commingled waste can  
52 be processed by an organics recycler or unless such generator has  
53 received a temporary waiver under subdivision three of section 27-2203  
54 of this title.

55 § 27-2207. Transfer facility.

1 Any transfer facility that receives food scraps from a designated food  
2 scraps generator must ensure that the food scraps are taken to an organ-  
3 ics recycler unless such generator has received a temporary waiver under  
4 subdivision three of section 27-2203 of this title. A transfer facility  
5 shall take all reasonable precautions to not commingle the material with  
6 any other solid waste unless such commingled waste can be processed by  
7 an organics recycler.

8 § 27-2209. Food scraps disposal prohibition.

9 Incinerators and landfills shall take all reasonable precautions to  
10 not accept food scraps from designated food scraps generators required  
11 to send their food scraps to an organics recycler as outlined under  
12 section 27-2203 of this title, after January first, two thousand twen-  
13 ty-two, unless the designated food scraps generator has received a  
14 temporary waiver under subdivision three of section 27-2203 of this  
15 title.

16 § 27-2211. Department responsibilities.

17 1. The department shall publish on its website: (a) the methodology  
18 the department will use to determine who is a designated food scrap  
19 generator; (b) the waiver process; (c) procedures to minimize odors and  
20 vectors; and (d) a list of all designated food scraps generators, organ-  
21 ics recyclers, and all waste transporters that manage source-separated  
22 organics.

23 2. No later than June first, two thousand twenty-one and annually  
24 thereafter, the department shall assess the capacity of each organic  
25 recycler and notify designated food scraps generators if they are  
26 required to comply with the provisions of paragraph (b) of subdivision  
27 one of section 27-2203 of this title.

28 3. The department shall develop and make available educational materi-  
29 als to assist designated food scraps generators with compliance with  
30 this title. The department shall also develop education materials on  
31 food waste minimization and encourage municipalities to disseminate  
32 these materials both on their municipal websites and in any such future  
33 mailings to their residents as they may distribute.

34 4. The department shall regulate organics recyclers to ensure that  
35 their activities do not impair water quality or otherwise harm human  
36 health and the environment.

37 § 27-2213. Regulations.

38 The department shall, after one or more public hearings, promulgate  
39 rules and regulations necessary to implement the provisions of this  
40 title including: (a) the methodology the department will use to deter-  
41 mine who is a designated food scraps generator; (b) the waiver process;  
42 (c) procedures to minimize odors and vectors; (d) a list of all desig-  
43 nated food scraps generators, organics recyclers, and all waste trans-  
44 porters that manage source-separated organics; and (e) how designated  
45 food scraps generators shall comply with the provisions of paragraph (a)  
46 and subparagraph (i) of paragraph (b) of subdivision one of section  
47 27-2203 of this title.

48 § 27-2215. Exclusions.

49 1. This title shall not apply to any designated food scraps generators  
50 located in a city with a population of one million or more which has a  
51 local law, ordinance or regulation in place which requires the diversion  
52 of edible food and food scraps from disposal.

53 2. This title does not apply to hospitals, nursing homes, adult care  
54 facilities, and elementary and secondary schools.

55 § 27-2217. Annual report.

1 No later than January first, two thousand twenty-three, and on an  
2 annual basis thereafter, the department shall submit an annual report to  
3 the governor and legislature describing the operation of the food  
4 donation and food scraps recycling program including amount of edible  
5 food donated, amount of food scraps recycled, sample educational materi-  
6 als, and number of waivers provided.

7 § 27-2219. Severability.

8 The provisions of this title shall be severable and if any portion  
9 thereof or the applicability thereof to any person or circumstance is  
10 held invalid, the remainder of this title and the application thereof  
11 shall not be affected thereby.

12 § 3. This act shall take effect immediately.

13

PART TT

14 Section 1. The opening paragraph of section 15 of chapter 123 of the  
15 laws of 2014, amending the vehicle and traffic law, the general municipi-  
16 pal law, and the public officers law relating to owner liability for  
17 failure of an operator to comply with traffic-control indications, is  
18 amended to read as follows:

19 This act shall take effect on the thirtieth day after it shall have  
20 become a law and shall expire [~~5 years after such effective date when~~  
21 ~~upon such date the provisions of this act shall~~] and be deemed repealed  
22 December 1, 2024; and provided further that any rules necessary for the  
23 implementation of this act on its effective date shall be promulgated on  
24 or before such effective date, provided that:

25 § 2. The opening paragraph of section 15 of chapter 101 of the laws of  
26 2014, amending the vehicle and traffic law, the general municipal law,  
27 and the public officers law relating to owner liability for failure of  
28 an operator to comply with traffic-control indications in the city of  
29 Mt. Vernon, is amended to read as follows:

30 This act shall take effect on the thirtieth day after it shall have  
31 become a law and shall expire [~~5 years after such effective date when~~  
32 ~~upon such date the provisions of this act shall~~] and be deemed repealed  
33 December 1, 2024; and provided further that any rules necessary for the  
34 implementation of this act on its effective date shall be promulgated on  
35 or before such effective date, provided that:

36 § 3. Section 10 of chapter 19 of the laws of 2009, amending the vehi-  
37 cle and traffic law and other laws relating to adjudications and owner  
38 liability for a violation of traffic-control signal indications, as  
39 amended by chapter 133 of the laws of 2014, is amended to read as  
40 follows:

41 § 10. This act shall take effect on the thirtieth day after it shall  
42 have become a law and shall expire December 1, [~~2019~~] 2024 when upon  
43 such date the provisions of this act shall be deemed repealed; provided  
44 that the amendments to paragraph a of subdivision 5-a of section 401 of  
45 the vehicle and traffic law made by section one of this act shall be  
46 subject to the expiration and reversion of such paragraph pursuant to  
47 section 17 of chapter 746 of the laws of 1988, as amended, when upon  
48 such date the provisions of section two of this act shall take effect;  
49 provided that the amendments to the opening paragraph and paragraph (c)  
50 of subdivision 1 of section 1809 of the vehicle and traffic law made by  
51 section four of this act shall be subject to the expiration and rever-  
52 sion of such subdivision pursuant to chapter 166 of the laws of 1991, as  
53 amended, when upon such date the provisions of section five of this act  
54 shall take effect; provided, however, that the amendments to the opening

1 paragraph of subdivision 1 of section 1809 of the vehicle and traffic  
2 law made by section five of this act shall not affect the expiration of  
3 such subdivision and shall expire therewith; provided, however, that the  
4 amendments to subdivision 2 of section 371 of the general municipal law  
5 made by section seven of this act shall not affect the expiration of  
6 such section and shall be deemed to expire therewith; and provided,  
7 further, that any such local laws as may be enacted pursuant to this act  
8 shall remain in full force and effect only until December 1, ~~[2019]~~  
9 2024.

10 § 4. The opening paragraph of section 15 of chapter 99 of the laws of  
11 2014, amending the vehicle and traffic law, the general municipal law,  
12 and the public officers law relating to owner liability for failure of  
13 an operator to comply with traffic-control indications in the city of  
14 New Rochelle, is amended to read as follows:

15 This act shall take effect on the thirtieth day after it shall have  
16 become a law and shall expire ~~[5 years after such effective date when~~  
17 ~~upon such date the provisions of this act shall]~~ and be deemed repealed  
18 December 1, 2024; and provided further that any rules necessary for the  
19 implementation of this act on its effective date shall be promulgated on  
20 or before such effective date, provided that:

21 § 5. Section 17 of chapter 746 of the laws of 1988, amending the vehi-  
22 cle and traffic law, the general municipal law, and the public officers  
23 law relating to the civil liability of vehicle owners for traffic  
24 control signal violations, as amended by chapter 134 of the laws of  
25 2014, is amended to read as follows:

26 § 17. This act shall take effect on the thirtieth day after it shall  
27 have become a law and shall remain in full force and effect until Decem-  
28 ber 1, ~~[2019]~~ 2024 when upon such date the amendments and provisions  
29 made by this act shall be deemed repealed; provided, however, any such  
30 local laws as may be enacted pursuant to this act shall remain in full  
31 force and effect only until the expiration on December 1, ~~[2019]~~ 2024.

32 § 6. Section 2 of local law number 46 of the city of New York for the  
33 year 1989 amending the administrative code of the city of New York  
34 relating to civil liability of vehicle owners for traffic control signal  
35 violations, as amended by chapter 134 of the laws of 2014, is amended to  
36 read as follows:

37 § 2. This local law shall take effect immediately and shall expire on  
38 December 1, ~~[2019]~~ 2024.

39 § 7. Section 9 of chapter 23 of the laws of 2009, amending the vehicle  
40 and traffic law and other laws relating to adjudications and owner  
41 liability for a violation of traffic-control signal indications, as  
42 amended by chapter 127 of the laws of 2014, is amended to read as  
43 follows:

44 § 9. This act shall take effect on the thirtieth day after it shall  
45 have become a law and shall expire December 1, ~~[2019]~~ 2024 when upon  
46 such date the provisions of this act shall be deemed repealed; provided  
47 that the amendments to paragraph a of subdivision 5-a of section 401 of  
48 the vehicle and traffic law made by section one of this act shall be  
49 subject to the expiration and reversion of such paragraph pursuant to  
50 section 17 of chapter 746 of the laws of 1988, as amended, when upon  
51 such date the provisions of section two of this act shall take effect;  
52 provided that the amendments to the opening paragraph and paragraph (c)  
53 of subdivision 1 of section 1809 of the vehicle and traffic law made by  
54 section four of this act shall be subject to the expiration and rever-  
55 sion of such subdivision pursuant to chapter 166 of the laws of 1991, as  
56 amended, when upon such date the provisions of section five of this act

1 shall take effect; provided, however, that the amendments to the opening  
2 paragraph of subdivision 1 of section 1809 of the vehicle and traffic  
3 law made by section five of this act shall not affect the expiration of  
4 such subdivision and shall expire therewith; and provided, further, that  
5 any such local laws as may be enacted pursuant to this act shall remain  
6 in full force and effect only until December 1, ~~[2019]~~ 2024.

7 § 8. The opening paragraph of section 15 of chapter 222 of the laws of  
8 2015, amending the vehicle and traffic law, the general municipal law,  
9 and the public officers law relating to owner liability for failure of  
10 an operator to comply with traffic-control indications in the city of  
11 White Plains, is amended to read as follows:

12 This act shall take effect on the thirtieth day after it shall have  
13 become a law and shall expire ~~[5 years after such effective date when~~  
14 ~~upon such date the provisions of this act shall]~~ and be deemed repealed  
15 December 1, 2024; and provided further that any rules necessary for the  
16 implementation of this act on its effective date shall be promulgated on  
17 or before such effective date, provided that:

18 § 9. The opening paragraph and paragraph (k) of section 24 of chapter  
19 20 of the laws of 2009, amending the vehicle and traffic law, the gener-  
20 al municipal law, and the public officers law relating to owner liabil-  
21 ity for failure of operator to comply with traffic control indications,  
22 as amended by chapter 128 of the laws of 2014, are amended to read as  
23 follows:

24 This act shall take effect on the thirtieth day after it shall have  
25 become a law and shall expire December 1, ~~[2019]~~ 2024 when upon such  
26 date the provisions of this act shall be deemed repealed; provided that:

27 (k) any such local laws as may be enacted pursuant to this act shall  
28 remain in full force and effect only until December 1, ~~[2019]~~ 2024.

29 § 10. Subdivision (m) of section 1111-a of the vehicle and traffic  
30 law, as amended by chapter 658 of the laws of 2006, is amended to read  
31 as follows:

32 (m) ~~[in any]~~ Any city ~~[which]~~ that adopts a demonstration program  
33 pursuant to subdivision (a) of this section ~~[such city]~~ shall submit an  
34 annual report ~~[on]~~ detailing the results of the use of ~~[a]~~ such traff-  
35 ic-control signal photo violation-monitoring system to the governor, the  
36 temporary president of the senate and the speaker of the assembly on or  
37 before June first, two thousand seven and on the same date in each  
38 succeeding year in which the demonstration program is operable. Such  
39 report shall include, but not be limited to:

40 1. a description of the locations where traffic-control signal photo  
41 violation-monitoring systems were used;

42 2. within each borough of such city, the aggregate number, type and  
43 severity of accidents reported at intersections where a traffic-control  
44 signal photo violation-monitoring system is used for the ~~[year]~~ three  
45 years preceding the installation of such system, to the extent the  
46 information is maintained by the department of motor vehicles of this  
47 state;

48 3. within each borough of such city, the aggregate number, type and  
49 severity of accidents reported at intersections where a traffic-control  
50 signal photo violation-monitoring system is used for the reporting year,  
51 as well as for the preceding three years that the traffic-control signal  
52 photo violation-monitoring system has been operational, to the extent  
53 the information is maintained by the department of motor vehicles of  
54 this state;

55 4. the number of events and number of violations recorded at each  
56 intersection where a traffic-control signal photo violation-monitoring

1 system is used and in the aggregate on a daily, weekly and monthly  
2 basis;

3 5. the ~~[total]~~ number of notices of liability issued for violations  
4 recorded by such ~~[systems]~~ system at each intersection where a traffic-  
5 control signal photo violation-monitoring system is used;

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

9 7. the number and percentage of violations adjudicated and results of  
10 such adjudications including breakdowns of dispositions made for  
11 violations recorded by such systems;

12 8. the total amount of revenue realized by such city from such adjudi-  
13 cations including a breakdown of revenue realized by such city for each  
14 year since deployment of its traffic-control signal photo violation-mon-  
15 itoring system since 2014;

16 9. expenses incurred by such city in connection with the program; and

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

18 § 11. Subdivision (n) of section 1111-b of the vehicle and traffic  
19 law, as added by chapter 19 of the laws of 2009, is amended to read as  
20 follows:

21 (n) ~~[In any such]~~ Any county ~~[which]~~ that adopts a demonstration  
22 program pursuant to subdivision (a) of this section~~[-, such county]~~ shall  
23 submit an annual report ~~[on]~~ detailing the results of the use of ~~[a]~~  
24 such traffic-control signal photo violation-monitoring system to the  
25 governor, the temporary president of the senate and the speaker of the  
26 assembly on or before June first, two thousand ten and on the same date  
27 in each succeeding year in which the demonstration program is operable.  
28 Such report shall include, but not be limited to:

29 1. a description of the locations where traffic-control signal photo  
30 violation-monitoring systems were used;

31 2. the aggregate number, type and severity of accidents reported at  
32 intersections where a traffic-control signal photo violation-monitoring  
33 system is used for the ~~[year]~~ three years preceding the installation of  
34 such system, to the extent the information is maintained by the depart-  
35 ment of motor vehicles of this state;

36 3. the aggregate number, type and severity of accidents reported at  
37 intersections where a traffic-control signal photo violation-monitoring  
38 system is used for the reporting year, as well as for each year that the  
39 traffic-control signal photo violation-monitoring system has been opera-  
40 tional, to the extent the information is maintained by the department of  
41 motor vehicles of this state;

42 4. the number of events and number of violations recorded at each  
43 intersection where a traffic-control signal photo violation-monitoring  
44 system is used and in the aggregate on a daily, weekly and monthly  
45 basis;

46 5. the ~~[total]~~ number of notices of liability issued for violations  
47 recorded by such ~~[systems]~~ system at each intersection where a traffic-  
48 control signal photo violation-monitoring system is used;

49 6. the number of fines imposed and total amount of fines paid after  
50 first notice of liability;

51 7. the number and percentage of violations adjudicated and results of  
52 such adjudications including breakdowns of disposition made for  
53 violations recorded by such systems;

54 8. the total amount of revenue realized by such county from such adju-  
55 dications including a breakdown of revenue realized by such county for



1 each year since deployment of its traffic-control signal photo viola-  
2 tion-monitoring system;

3 9. expenses incurred by such county in connection with the program;  
4 and

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

6 § 12. Subdivision (m) of section 1111-b of the vehicle and traffic  
7 law, as added by chapter 20 of the laws of 2009, is amended to read as  
8 follows:

9 (m) ~~(in any such)~~ Any city ~~(which) that~~ adopts a demonstration program  
10 pursuant to subdivision (a) of this section~~(, such city)~~ shall submit an  
11 annual report ~~(on)~~ detailing the results of the use of ~~(a)~~ such traff-  
12 ic-control signal photo violation-monitoring system to the governor, the  
13 temporary president of the senate and the speaker of the assembly on or  
14 before June first, two thousand ten and on the same date in each  
15 succeeding year in which the demonstration program is operable. Such  
16 report shall include, but not be limited to:

17 1. a description of the locations where traffic-control signal photo  
18 violation-monitoring systems were used;

19 2. the aggregate number, type and severity of accidents reported at  
20 intersections where a traffic-control signal photo violation-monitoring  
21 system is used for the ~~(year)~~ three years preceding the installation of  
22 such system, to the extent the information is maintained by the depart-  
23 ment of motor vehicles of this state;

24 3. the aggregate number, type and severity of accidents reported at  
25 intersections where a traffic-control signal photo violation-monitoring  
26 system is used for the reporting year, as well as for each year that the  
27 traffic-control signal photo violation-monitoring system has been opera-  
28 tional, to the extent the information is maintained by the department of  
29 motor vehicles of this state;

30 4. the number of events and number of violations recorded at each  
31 intersection where a traffic-control signal photo violation-monitoring  
32 system is used and in the aggregate on a daily, weekly and monthly  
33 basis;

34 5. the ~~(total)~~ number of notices of liability issued for violations  
35 recorded by such ~~(systems)~~ system at each intersection where a traffic-  
36 control signal photo violation-monitoring system is used;

37 6. the number of fines imposed and total amount of fines paid after  
38 first notice of liability issued for violations recorded by such  
39 systems;

40 7. the number and percentage of violations adjudicated and results of  
41 such adjudications including breakdowns of dispositions made for  
42 violations recorded by such systems;

43 8. the total amount of revenue realized by such city from such adjudi-  
44 cations including a breakdown of revenue realized by such city for each  
45 year since deployment of its traffic-control signal photo violation-mon-  
46 itoring system;

47 9. expenses incurred by such city in connection with the program; and

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

49 § 13. Subdivision (n) of section 1111-b of the vehicle and traffic  
50 law, as added by chapter 23 of the laws of 2009, is amended to read as  
51 follows:

52 (n) ~~(in any such)~~ Any county ~~(which) that~~ adopts a demonstration  
53 program pursuant to subdivision (a) of this section~~(, such county)~~ shall  
54 submit an annual report ~~(on)~~ detailing the results of the use of ~~(a)~~  
55 such traffic-control signal photo violation-monitoring system to the  
56 governor, the temporary president of the senate and the speaker of the

1 assembly on or before June first, two thousand ten and on the same date  
2 in each succeeding year in which the demonstration program is operable.  
3 Such report shall include, but not be limited to:

4 1. a description of the locations where traffic-control signal photo  
5 violation-monitoring systems were used;

6 2. the aggregate number, type and severity of accidents reported at  
7 intersections where a traffic-control signal photo violation-monitoring  
8 system is used for the [~~year~~] three years preceding the installation of  
9 such system, to the extent the information is maintained by the depart-  
10 ment of motor vehicles of this state;

11 3. the aggregate number, type and severity of accidents reported at  
12 intersections where a traffic-control signal photo violation-monitoring  
13 system is used for the reporting year, as well as for each year that the  
14 traffic-control signal photo violation-monitoring system has been opera-  
15 tional, to the extent the information is maintained by the department of  
16 motor vehicles of this state;

17 4. the number of events and number of violations recorded at each  
18 intersection where a traffic-control signal photo violation-monitoring  
19 system is used and in the aggregate on a daily, weekly and monthly  
20 basis;

21 5. the [~~total~~] number of notices of liability issued for violations  
22 recorded by such [~~systems~~] system at each intersection where a traffic-  
23 control signal photo violation-monitoring system is used;

24 6. the number of fines imposed and total amount of fines paid after  
25 first notice of liability;

26 7. the number and percentage of violations adjudicated and results of  
27 such adjudications including breakdowns of disposition made for  
28 violations recorded by such systems;

29 8. the total amount of revenue realized by such county from such adju-  
30 dications including a breakdown of revenue realized by such county for  
31 each year since deployment of its traffic-control signal photo viola-  
32 tion-monitoring system;

33 9. expenses incurred by such county in connection with the program;  
34 and

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

36 § 14. Subdivision (m) of section 1111-d of the vehicle and traffic  
37 law, as added by chapter 99 of the laws of 2014, is amended to read as  
38 follows:

39 (m) [~~In any such~~] Any city [~~which~~] that adopts a demonstration program  
40 pursuant to subdivision (a) of this section [~~, such city~~] shall submit an  
41 annual report [~~on~~] detailing the results of the use of [~~a~~] such traff-  
42 ic-control signal photo violation-monitoring system to the governor, the  
43 temporary president of the senate and the speaker of the assembly on or  
44 before June first, two thousand fifteen and on the same date in each  
45 succeeding year in which the demonstration program is operable. Such  
46 report shall include, but not be limited to:

47 1. a description of the locations where traffic-control signal photo  
48 violation-monitoring systems were used;

49 2. the aggregate number, type and severity of accidents reported at  
50 intersections where a traffic-control signal photo violation-monitoring  
51 system is used for the [~~year~~] three years preceding the installation of  
52 such system, to the extent the information is maintained by the depart-  
53 ment of motor vehicles of this state;

54 3. the aggregate number, type and severity of accidents reported at  
55 intersections where a traffic-control signal photo violation-monitoring  
56 system is used for the reporting year, as well as for each year that the

- 1 traffic-control signal photo violation-monitoring system has been opera-  
2 tional, to the extent the information is maintained by the department of  
3 motor vehicles of this state;
- 4 4. the number of events and number of violations recorded at each  
5 intersection where a traffic-control signal photo violation-monitoring  
6 system is used and in the aggregate on a daily, weekly and monthly  
7 basis;
- 8 5. the ~~[total]~~ number of notices of liability issued for violations  
9 recorded by such ~~[systems]~~ system at each intersection where a traffic-  
10 control signal photo violation-monitoring system is used;
- 11 6. the number of fines imposed and total amount of fines paid after  
12 first notice of liability issued for violations recorded by such  
13 systems;
- 14 7. the number and percentage of violations adjudicated and results of  
15 such adjudications including breakdowns of dispositions made for  
16 violations recorded by such systems;
- 17 8. the total amount of revenue realized by such city from such adjudi-  
18 cations including a breakdown of revenue realized by such city for each  
19 year since deployment of its traffic-control signal photo violation-mon-  
20 itoring system;
- 21 9. expenses incurred by such city in connection with the program; and  
22 10. quality of the adjudication process and its results.
- 23 § 15. Subdivision (m) of section 1111-d of the vehicle and traffic  
24 law, as added by chapter 101 of the laws of 2014, is amended to read as  
25 follows:
- 26 (m) ~~[In any such]~~ Any city [which] that adopts a demonstration program  
27 pursuant to subdivision (a) of this section ~~(, such city)~~ shall submit an  
28 annual report ~~[on]~~ detailing the results of the use of ~~[a]~~ such traff-  
29 ic-control signal photo violation-monitoring system to the governor, the  
30 temporary president of the senate and the speaker of the assembly on or  
31 before June first, two thousand fifteen and on the same date in each  
32 succeeding year in which the demonstration program is operable. Such  
33 report shall include, but not be limited to:
- 34 1. a description of the locations where traffic-control signal photo  
35 violation-monitoring systems were used;
- 36 2. the aggregate number, type and severity of accidents reported at  
37 intersections where a traffic-control signal photo violation-monitoring  
38 system is used for the ~~[year]~~ three years preceding the installation of  
39 such system, to the extent the information is maintained by the depart-  
40 ment of motor vehicles of this state;
- 41 3. the aggregate number, type and severity of accidents reported at  
42 intersections where a traffic-control signal photo violation-monitoring  
43 system is used for the reporting year, as well as for each year that the  
44 traffic-control signal photo violation-monitoring system has been opera-  
45 tional, to the extent the information is maintained by the department of  
46 motor vehicles of this state;
- 47 4. the number of events and number of violations recorded at each  
48 intersection where a traffic-control signal photo violation-monitoring  
49 system is used and in the aggregate on a daily, weekly and monthly  
50 basis;
- 51 5. the ~~[total]~~ number of notices of liability issued for violations  
52 recorded by such ~~[systems]~~ system at each intersection where a traffic-  
53 control signal photo violation-monitoring system is used;
- 54 6. the number of fines imposed and total amount of fines paid after  
55 first notice of liability issued for violations recorded by such  
56 systems;

1 7. the number and percentage of violations adjudicated and results of  
2 such adjudications including breakdowns of dispositions made for  
3 violations recorded by such systems;

4 8. the total amount of revenue realized by such city from such adjudica-  
5 tions including a breakdown of revenue realized by such city for each  
6 year since deployment of its traffic-control signal photo violation-mon-  
7 itoring system;

8 9. expenses incurred by such city in connection with the program; and  
9 10. quality of the adjudication process and its results.

10 § 16. Subdivision (m) of section 1111-d of the vehicle and traffic  
11 law, as added by chapter 123 of the laws of 2014, is amended to read as  
12 follows:

13 (m) [~~In any such~~] Any city [~~which~~] that adopts a demonstration program  
14 pursuant to subdivision (a) of this section [~~such city~~] shall submit an  
15 annual report [~~on~~] detailing the results of the use of (a) such traff-  
16 ic-control signal photo violation-monitoring system to the governor, the  
17 temporary president of the senate and the speaker of the assembly on or  
18 before June first, two thousand fifteen and on the same date in each  
19 succeeding year in which the demonstration program is operable. Such  
20 report shall include, but not be limited to:

21 1. a description of the locations where traffic-control signal photo  
22 violation-monitoring systems were used;

23 2. the aggregate number, type and severity of accidents reported at  
24 intersections where a traffic-control signal photo violation-monitoring  
25 system is used for the [~~year~~] three years preceding the installation of  
26 such system, to the extent the information is maintained by the depart-  
27 ment of motor vehicles of this state;

28 3. the aggregate number, type and severity of accidents reported at  
29 intersections where a traffic-control signal photo violation-monitoring  
30 system is used for the reporting year, as well as for each year that the  
31 traffic-control signal photo violation-monitoring system has been opera-  
32 tional, to the extent the information is maintained by the department of  
33 motor vehicles of this state;

34 4. the number of events and number of violations recorded at each  
35 intersection where a traffic-control signal photo violation-monitoring  
36 system is used and in the aggregate on a daily, weekly and monthly  
37 basis;

38 5. the [~~total~~] number of notices of liability issued for violations  
39 recorded by such [~~systems~~] system at each intersection where a traffic-  
40 control signal photo violation-monitoring system is used;

41 6. the number of fines imposed and total amount of fines paid after  
42 first notice of liability issued for violations recorded by such  
43 systems;

44 7. the number and percentage of violations adjudicated and results of  
45 such adjudications including breakdowns of dispositions made for  
46 violations recorded by such systems;

47 8. the total amount of revenue realized by such city from such adjudica-  
48 tions including a breakdown of revenue realized by such city for each  
49 year since deployment of its traffic-control signal photo violation-mon-  
50 itoring system;

51 9. expenses incurred by such city in connection with the program; and  
52 10. quality of the adjudication process and its results.

53 § 17. Subdivision (m) of section 1111-e of the vehicle and traffic  
54 law, as added by chapter 222 of the laws of 2015, is amended to read as  
55 follows:

1 (m) ~~(In any such)~~ Any city ~~(which)~~ that adopts a demonstration program  
2 pursuant to subdivision (a) of this section ~~(, such city)~~ shall submit an  
3 annual report ~~(on)~~ detailing the results of the use of ~~(a)~~ such traff  
4 ic-control signal photo violation-monitoring system to the governor, the  
5 temporary president of the senate and the speaker of the assembly on or  
6 before the first day of June next succeeding the effective date of this  
7 section and on the same date in each succeeding year in which the demon-  
8 stration program is operable. Such report shall include, but not be  
9 limited to:

- 10 1. a description of the locations where traffic-control signal photo  
11 violation-monitoring systems were used;
- 12 2. the aggregate number, type and severity of accidents reported at  
13 intersections where a traffic-control signal photo violation-monitoring  
14 system is used for the ~~(year)~~ three years preceding the installation of  
15 such system, to the extent the information is maintained by the depart-  
16 ment of motor vehicles of this state;
- 17 3. the aggregate number, type and severity of accidents reported at  
18 intersections where a traffic-control signal photo violation-monitoring  
19 system is used for the reporting year, as well as for each year that the  
20 traffic-control signal photo violation-monitoring system has been opera-  
21 tional, to the extent the information is maintained by the department of  
22 motor vehicles of this state;
- 23 4. the number of events and number of violations recorded at each  
24 intersection where a traffic-control signal photo violation-monitoring  
25 system is used and in the aggregate on a daily, weekly and monthly  
26 basis;
- 27 5. the ~~(total)~~ number of notices of liability issued for violations  
28 recorded by such ~~(systems)~~ system at each intersection where a traffic-  
29 control signal photo violation-monitoring system is used;
- 30 6. the number of fines imposed and total amount of fines paid after  
31 first notice of liability issued for violations recorded by such  
32 systems;
- 33 7. the number and percentage of violations adjudicated and results of  
34 such adjudications including breakdowns of dispositions made for  
35 violations recorded by such systems;
- 36 8. the total amount of revenue realized by such city from such adjudi-  
37 cations including a breakdown of revenue realized by such city for each  
38 year since deployment of its traffic-control signal photo violation-mon-  
39 itoring system;
- 40 9. expenses incurred by such city in connection with the program; and  
41 10. quality of the adjudication process and its results.

42 § 18. This act shall take effect immediately; provided, however, that  
43 the amendments to section 1111-a of the vehicle and traffic law made by  
44 section ten of this act shall not affect the repeal of such section and  
45 shall be deemed repealed therewith; provided, however, that the amend-  
46 ments to section 1111-b of the vehicle and traffic law made by section  
47 eleven of this act shall not affect the repeal of such section and shall  
48 be deemed repealed therewith; provided, however, that the amendments to  
49 section 1111-b of the vehicle and traffic law made by section twelve of  
50 this act shall not affect the repeal of such section and shall be deemed  
51 repealed therewith; provided, however, that the amendments to section  
52 1111-b of the vehicle and traffic law made by section thirteen of this  
53 act shall not affect the repeal of such section and shall be deemed  
54 repealed therewith; provided, however, that the amendments to section  
55 1111-d of the vehicle and traffic law made by section fourteen of this  
56 act shall not affect the repeal of such section and shall be deemed

1 repealed therewith; provided, however, that the amendments to section  
2 1111-d of the vehicle and traffic law made by section fifteen of this  
3 act shall not affect the repeal of such section and shall be deemed  
4 repealed therewith; provided, however, that the amendments to section  
5 1111-d of the vehicle and traffic law made by section sixteen of this  
6 act shall not affect the repeal of such section and shall be deemed  
7 repealed therewith; provided, however, that the amendments to section  
8 1111-e of the vehicle and traffic law made by section seventeen of this  
9 act shall not affect the repeal of such section and shall be deemed  
10 repealed therewith.

11

## PART UU

12 Section 1. The public service law is amended by adding a new section  
13 74-a to read as follows:

14 § 74-a. Westchester county renewable energy and energy efficiency  
15 resources program. 1. Within ninety days of the effective date of this  
16 section, the commission shall, in consultation with the New York state  
17 energy research and development authority, after a hearing held on  
18 notice, establish by order, rules, and regulations, a program to encour-  
19 age the installation of renewable energy resources and energy efficien-  
20 cies in the county of Westchester.

21 2. For the purposes of this section, renewable energy resources and  
22 energy efficiency shall have the same meaning as defined by the commis-  
23 sion and consistent with the most recent state energy plan pursuant to  
24 article six of the energy law.

25 § 2. This act shall take effect immediately.

26 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
27 sion, section or part of this act shall be adjudged by any court of  
28 competent jurisdiction to be invalid, such judgment shall not affect,  
29 impair, or invalidate the remainder thereof, but shall be confined in  
30 its operation to the clause, sentence, paragraph, subdivision, section  
31 or part thereof directly involved in the controversy in which such judg-  
32 ment shall have been rendered. It is hereby declared to be the intent of  
33 the legislature that this act would have been enacted even if such  
34 invalid provisions had not been included herein.

35 § 3. This act shall take effect immediately provided, however, that  
36 the applicable effective date of Parts A through UU of this act shall be  
37 as specifically set forth in the last section of such Parts.

*Poly-Pak Industries, Inc. et al. v. State of New York et al.*

Index No. 02673-20

# Exhibit B

to the Amended Verified Article 78 and  
Declaratory Judgment Petition

6 NYCRR Part 351

A new Part 351 is being added as follows:

## PLASTIC BAG REDUCTION, REUSE AND RECYCLING

Statutory authority: Environmental Conservation Law, §§ 1-0101, 3-0301, article 27, titles 27 and 28.

### Subpart 351-1 General Provisions

#### 351-1.1 Purpose and applicability.

(a) Purpose. This purpose of this Part is to implement Titles 27 and 28 of Article 27 of the Environmental Conservation Law. This Part sets forth the requirements for:

- (1) a prohibition on plastic carryout bags;
- (2) allowable reusable bags; and
- (3) the recycling of plastic carryout bags and film plastic by stores.



(b) **Applicability.** This Part applies to any person required to collect tax, store operators, manufacturers, as well as operators of enclosed shopping malls in New York State.

### 351-1.2 Definitions.

As used in this Part and in Titles 27 and 28 of Article 27 of the Environmental Conservation Law, the following terms have the following meanings. Unless otherwise noted, all words and terms in this Part are defined by their plain meaning.

(a) 'Compostable plastic bag' means a plastic bag made of compostable plastic.

(b) 'Compostable plastic' means plastic that meets the American Society for Testing and Materials (ASTM) standard D6400-19, as incorporated by reference in section 351-1.3 of this Part, or other standard acceptable to the department.

(c) 'Department' means the New York State Department of Environmental Conservation.

(d) 'Distribute' means to give out, provide, supply, or otherwise make available for use in New York State.

(e) 'Environmental Conservation Law' or "ECL" means chapter 43-B of the Consolidated Laws of New York State.

(f) 'Exempt bag' means a bag that is:

(1) used solely to contain or wrap uncooked meat, fish, seafood, poultry, other unwrapped or non-prepackaged food, flower, plant, or other item for the purpose of separating it from other items to avoid contamination, prevent damage from moisture, or for sanitary, public health, or environmental protection purposes;

(2) used solely to package items from bulk containers, including fruits, vegetables, grains, candy, small hardware items (such as nuts, bolts, and screws), live insects, fish, crustaceans, mollusks, or other aquatic items requiring a waterproof bag;

(3) used solely to contain food sliced or prepared to order;

(4) used solely to contain a newspaper for delivery to a subscriber;

(5) sold in bulk quantities to a consumer at the point of sale that were specifically prepackaged in a manner to allow for bulk sale (for example, quantities of bags prepackaged in individual pre-sealed boxes) or prepackaged in individual boxes or containers for sale to a customer;

(6) sold as a trash bag;

(7) sold as a food storage bag, such as those in snack, sandwich, quart, and gallon sizes;

(8) used as a garment bag, such as over-the-hanger bags or those used by a dry cleaner or laundry service;

(9) made of plastic provided by a restaurant, tavern or similar food service establishment, as defined in the New York state sanitary code, to carry out or deliver prepared food;

(10) provided by a pharmacy to carry prescription drugs; or

(11) a reusable bag, as that term is defined in this Part.

(g) 'Film plastic' means a flexible sheet or sheets of petroleum or non-petroleum based plastic resin or other material (not including a paper carryout bag), less than 10 mils in thickness, commonly used in and as packaging products, which include, but are not limited to, plastic carryout bags, newspaper bags, garment bags, shrink-wrap, and other plastic overwrap.

(h) 'Film plastic bag' means any bag made of film plastic.

(i) 'Manufacturer' means:

(1) the producer of a film plastic sold to a store; or

(2) the manufacturer's agent or broker who sold the film plastic to a store.

(j) 'Operator' means a person in control of, or having daily responsibility for, the daily operation of a store, and which may include the owner of the store.

(k) 'Paper carryout bag' means a paper bag, other than an exempt bag, that is provided to a customer by a person required to collect tax, to be used by the customer to carry tangible personal property, regardless of whether such person required to collect tax sells any tangible personal property or service to the customer, and regardless of whether any tangible personal property or service sold is exempt from tax under Article 28 of the New York State Tax Law.

(l) 'Person required to collect tax' means any vendor of tangible personal property required to collect New York State sales tax pursuant to subdivision (a) of Section 1105 of the New York State Tax Law, "Imposition of sales tax."

(m) 'Plastic carryout bag' means any plastic bag, other than an exempt bag, that is provided to a customer by a person required to collect tax to be used by the customer to carry tangible personal property, regardless of whether such person required to collect tax sells any tangible personal property or service to the customer, and regardless of whether any tangible personal property or service sold is exempt from tax under Article 28 of the New York State Tax Law.

(n) 'Reusable bag' means a bag that:

(1) is either made of:

(i) cloth or other machine washable fabric; or

(ii) other non-film plastic washable material; and

(2) has at least one strap or handle that does not stretch and is fastened to the bag in such a manner that it allows the bag to meet the strength and durability standards in paragraphs 351-1.2

(n)(3) and (4);

(3) has a minimum lifespan of 125 uses, with a use equal to the ability to carry a minimum of 22 pounds over a distance of at least 175 feet; and

(4) has a minimum fabric weight of 80 grams per square meter (GSM) or equivalent for bags made of any non-film plastic of natural, synthetic, petroleum based, or non-petroleum-based origin, including woven or nonwoven polypropylene (PP), polyethylene-terephthalate (PET), cotton, jute, or canvas.

(o) 'Store' means a retail establishment that provided plastic carryout bags to its customers as a result of the sale of a product any time prior to March 1, 2020, and meets one or more of the following criteria:

(1) has over 10,000 square feet of retail space; or

(2) the retail establishment is part of a chain engaged in the same general field of business which operates five or more units of over 5,000 square feet of retail space in New York State under common ownership and management.

(p) 'Washable' means able to be cleaned or disinfected using typical homeowner means.

### 351-1.3 References.

The following document is incorporated by reference and is on file with the New York State Department of State. The document is available for inspection at the department's office located at 625 Broadway, Albany, New York 12233, or can be directly obtained from the source listed for the given reference.

American Society for Testing and Materials

ASTM D6400-19, Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities,

ASTM International, West Conshohocken, PA, 2019, [www.astm.org](http://www.astm.org).

#### 351-1.4 Local laws.

The provisions of this Part supersede any local law or ordinance pertaining to plastic carryout bags or pertaining to plastic bag and film plastic recycling that are in effect on the effective date of this Part. No such local laws or ordinances may be enacted, implemented or enforced after the effective date of this Part.

#### 351-1.5 Violations and enforcement.

Any person who violates any provision of or who fails to perform any duty imposed by this Part, or any final determination or order of the commissioner issued pursuant to this Part, or Titles 27 or 28 of Article 27 of the ECL, shall be liable for all applicable penalties or sanctions set forth in Article 71, including section 71-2728, and Titles 27 and 28 of Article 27 of the ECL, including section 27-2807 and, as appropriate, any other New York State law. Such penalties shall be assessed by the commissioner after the opportunity to be heard pursuant to the provisions of Part 622 of this Title, ECL sections 71-1709 and 71-2727. In addition, such person may by similar process be enjoined from continuing such violation and any permit or registration issued to such person may be revoked or suspended or a pending renewal application denied. Each day that a violation continues or exists is considered a separate violation.

351-1.6 Severability.

If any provision of this Part, or its application to any person or circumstance is held to be invalid, the remainder of this Part, and the application of that provision to other persons or circumstances, will not be affected.

Subpart 351-2 Requirements for Persons Required to Collect Tax, Store Operators, Owners of Enclosed Shopping Malls, and Manufacturers

351-2.1 Prohibitions.

A person required to collect tax shall not:

- (a) distribute any plastic carryout bag to its customers unless the bag is an exempt bag;
- (b) prevent a person from using a bag of any kind that they have brought for purposes of carrying goods;
- (c) distribute an exempt bag for any purpose other than for the intended use of the exempt bag;
- (d) distribute an exempt bag for use as a replacement for a plastic carryout bag; or



(e) distribute additional exempt bags to customers beyond the quantity of exempt bags required for a purchase.

#### 351-2.2 Sale of reusable bags by stores.

(a) The operator of a store must:

(1) make reusable bags available to customers within the store for purchase or at no charge; and

(2) permit a reusable bag to be used by a customer in lieu of a paper carryout bag.

(b) Reusable bags available for purchase shall be sold at a price determined by the operator of the store.

#### 351-2.3 Film plastic collection and recycling responsibilities of stores.

(a) The operator of a store shall establish and maintain an at-store recycling program for plastic carryout bags and other film plastic that provides an opportunity for a customer of the store to return clean and dry plastic carryout bags and other film plastic to the store. The at-store

recycling program for plastic carryout bags and other film plastic must include the following components:

(1) A collection bin that is visible, easily accessible to the consumer, and clearly marked that the collection bin is available for the purpose of collecting and recycling plastic carryout bags and other film plastic. This requirement applies to all stores, except those within an enclosed shopping mall that are less than 50,000 square feet in size.

(2) In the case of an enclosed shopping mall, the owner of the enclosed shopping mall must place bins at reasonable intervals throughout the enclosed shopping mall area.

(3) A collection bin must have text printed directly on the bin, or a sign affixed to the side of the bin, to the top of the bin, or to a nearby wall not more than two feet away from the bin, that:

(i) is no less than eight and a half inches by eleven inches in size; and

(ii) states in easily visible and readable text that the bin is for plastic carryout bags and other film plastic collection only.

(b) Plastic carryout bags and other film plastic collected by the store or the owner of an enclosed shopping mall must be transported and recycled along with any other in-store film plastic, except for film plastic that is not sufficiently free of foreign materials that would adversely affect the recycling stream.

(c) Plastic carryout bags and other film plastic collected by a store or the owner of an enclosed shopping mall, which are free of foreign material, must not be disposed of in any solid waste disposal facility.

(d) A store or its agent, and the owner of an enclosed shopping mall or its agent, must maintain, for a minimum of three years, records describing the collection, transport and recycling of plastic carryout bag and other film plastic collected, by weight. A store or its agent, or the owner of an enclosed shopping mall or its agent, may weigh the film plastic bags received and any other in-store film plastic at a recyclables handling and recovery facility or other similar facility capable of accurately weighing or otherwise measuring the amount of film plastic collected. These records must be made available to the department upon request in a form prescribed by or acceptable to the department to demonstrate compliance with this section.

#### 351-2.4 Manufacturer responsibilities.

(a) Records.

(1) When a manufacturer accepts plastic carryout bags or other film plastic for return, the manufacturer or its agent must maintain, for a minimum of three years, records describing the collection, transport and recycling of plastic carryout bags and other film plastic collected by weight. The manufacturer or its agents must weigh the plastic carryout bags or other film plastic

received at a recyclables handling and recovery facility, or other facility capable of accurately weighing or otherwise measuring the amount of film plastic collected.

(2) These records must be made available to the department upon request in a form prescribed by or acceptable to the department to demonstrate compliance with this section.

(b) Plastic carryout bags and other film plastic collected by the manufacturer, which are free of foreign material, must not be disposed of in any solid waste disposal facility.

(c) Warnings on bags. Manufacturers of compostable plastic bags or other non-petroleum-based bags, except paper carryout bags, sold to stores in New York State must have a warning printed on the bag, in a manner clearly visible to the customer in type no less than one-half of an inch in height, with the words "COMPOSTABLE BAG" - DO NOT PLACE IN A RECYCLING BIN".

*Poly-Pak Industries, Inc. et al. v. State of New York et al.*

Index No. 02673-20

# Exhibit C

to the Amended Verified Article 78 and  
Declaratory Judgment Petition

Affidavit of Ken Trottere

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

POLY-PAK INDUSTRIES, INC., GREEN  
EARTH FOOD CORP., d/b/a Green Earth  
Grocery Store, FRANCISCO MARTE,  
SALEH "MIKE" HASSEN, and THE  
BODEGA AND SMALL BUSINESS  
ASSOCIATION,

Plaintiffs-Petitioners.

for a judgment pursuant to Articles 30 and 78  
of the Civil Practice Law and Rules.

-against-

THE STATE OF NEW YORK, HON. ANDREW  
CUOMO, as Governor of the State of New  
York, the NEW YORK STATE DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION, and  
BASIL SEGGOS in his official capacity of  
Commissioner of the New York State  
Department of Environmental Conservation.

Defendants-Respondents.

Index No. 02673-20

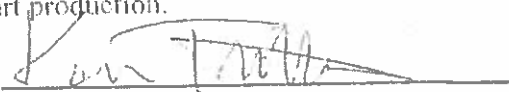
**AFFIDAVIT OF KEN TROTTERE IN  
SUPPORT OF THE AMENDED  
VERIFIED PETITION**

STATE OF NEW YORK            )  
  )  
COUNTY OF SUFFOLK        )

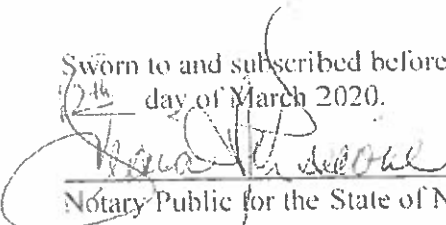
Ken Trottere, being duly sworn, deposes and states as follows:

1. I am the Vice President of Sales and Marketing at Poly-Pak Industries ("Poly-Pak"). I have been employed by Poly-Pak for more than 43 years, and I have personal knowledge of the facts described in this affidavit.
2. Poly-Pak is a family-owned, New York corporation with a manufacturing facility in Melville, New York that employs 210 New Yorkers in the production of plastic envelopes, heavy duty reusable plastic bags, and plastic film for agricultural applications.
3. By any measure, Poly-Pak is an exemplary employer and corporate citizen. Poly-Pak has been in business for 62 years and pays approximately \$300,000 per year in property taxes to Suffolk County, New York. Its Melville factory is a union facility and most of its employees enjoy a lengthy tenure at the company. Poly-Pak has long history of serving its employees in numerous ways, including the provision of healthcare for everyone long before it was mandated.

4. Poly-Pak is dedicated to being an environmentally friendly company and manufactures products that both contain recycled material and are themselves recyclable. In addition, Poly-Pak is "closed-loop" manufacturer, meaning the excess plastic film, ink, solvent, and other material left over from the manufacturing process is recycled and put back into Poly-Pak's products. Further, Poly-Pak's emissions are recaptured and incinerated according to the Department of Environmental Conservation's ("DEC") standards and guidelines.
5. In addition to recycling its own excess materials, Poly-Pak has for the past 18 years made a practice of accepting used plastic bags collected by retailers and recycling those bags into Poly-Pak's products.
6. Poly-Pak manufactures reusable plastic bags that meet and surpass the strength and durability requirements adopted by the DEC's regulation, satisfy every ordinance currently on the books in the state of New York, and can comply with the majority of plastic bag laws and regulations across the country and around the world. Poly-Pak's reusable bags are not, however, 10 mils thick and thus are prohibited under DEC's arbitrarily chosen requirement.
7. Poly-Pak sells its products to customers, including retailers, in New York. The impact the proposed New York bag ban and its implementing regulation will have on Poly-Pak and its employees would be severe, potentially to the point of imperiling Poly-Pak's continued viability and endangering the employment of Poly-Pak's many employees.
8. Further, it is impossible or, at best, extraordinarily costly for Poly-Pak to attempt to produce a product that satisfies the arbitrarily-selected requirements of DEC's regulation. To the best of my knowledge, it is not possible to produce a 10-mil reusable plastic bag on Poly-Pak's equipment or on any manufacturers equipment that currently exists. Accordingly, an attempt to produce a compliant reusable plastic bag—assuming it is possible at all—would require Poly-Pak to halt its operations; retool, reformat, or attempt to invent or acquire equipment that may not currently exist; reformulate or adjust the product components; and then attempt to restart production.

  
 Ken Trottere

Sworn to and subscribed before me this  
 2<sup>th</sup> day of March 2020.

  
 Notary Public for the State of New York

DIANA A. PISACONE  
 Notary Public, State of New York  
 No. 01PI6231239  
 Qualified in Suffolk County  
 Commission Expires November 22, 2022

My commission expires:

11/22/22

*Poly-Pak Industries, Inc. et al. v. State of New York et al.*

Index No. 02673-20

# Exhibit D

to the Amended Verified Article 78 and  
Declaratory Judgment Petition

Affidavit of Francisco Marte



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

POLY-PAK INDUSTRIES, INC., GREEN  
EARTH FOOD CORP., d/b/a Green Earth  
Grocery Store, FRANCISCO MARTE, and  
THE BODEGA AND SMALL BUSINESS  
ASSOCIATION,

Plaintiffs-Petitioners,

Index No. 02673-20

for a judgment pursuant to Articles 30 and 78  
of the Civil Practice Law and Rules,

**AFFIDAVIT OF FRANCISCO MARTE IN  
SUPPORT OF THE VERIFIED PETITION**

-against-

THE STATE OF NEW YORK, HON. ANDREW  
CUOMO, as Governor of the State of New  
York, the NEW YORK STATE DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION, and  
BASIL SEGGOS in his official capacity of  
Commissioner of the New York State  
Department of Environmental Conservation,


Defendants-Respondents.

STATE OF NEW YORK        )  
  )  
COUNTY OF Bronx        )

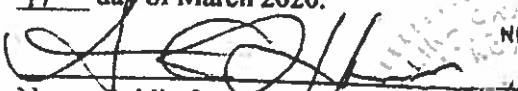
Francisco Marte, being duly sworn, deposes and states as follows:

1. I am a resident of the Bronx, New York, where I am the owner and operator of Green Earth Food Corp. d/b/a Green Earth Grocery Store, a corner market at the intersection of Grand Concourse and East 171st Street in the Bronx, New York. In this capacity, I have personal knowledge of the facts described in this affidavit.
2. I also currently hold the position of Secretary General of The Bodega and Small Business Association (the "Bodega Association"), a trade association of local retailers and bodegas. In this capacity, I have personal knowledge of the facts described in this affidavit.
3. Bodegas are small corner stores or markets that typically sell groceries, wine, and sundries. Bodegas, including many of the Bodega Association's members, are often owned and operated by individuals who speak English as a second language, if at all, and they are often located in non-English-speaking neighborhoods of large cities.
4. The Bodega Association represents 5,000 stores in New York, including the Green Earth Grocery Store, that collectively employ 25,000 people and serve approximately 2.5 million New Yorkers every week. These bodegas are popular spots for New Yorkers to purchase a variety of grocery staples, dry goods, and household items. In many New York City neighborhoods, these businesses are the only convenient outlet for local residents to purchase their groceries and other daily necessities.
5. Green Earth Grocery Store and most of the Bodega Association's other members currently distribute carryout plastic shopping bags to their customers at the point of sale.

6. Green Earth Grocery Store and the Bodega Association's other members are "person[s] required to collect tax," and thus will be subject to the duties and prohibitions purportedly imposed by S. 1508-C Part II (the "Bag Act") (to be codified at N.Y. Envir. Conser. Law §§ 27-2801 to -2809) and 6 NYCRR Part 351 (the "Bag Regulation").
7. Implementation and enforcement of the Bag Act and the Bag Regulation as currently drafted will cause widespread confusion on the part of consumers, small businesses, and bodegas as Green Earth Grocery Store and the Bodega Association's other members in light of inconsistencies between the Bag Act and the Bag Regulation and conflicts between the Bag Act and existing New York law. Compounding this confusion and the chaos that will result from it, neither the State nor its agencies or officers have made any effort to reach out in multilingual fashion to educate or to explain the Bag Act's requirements, prohibitions, and penalties to the Spanish, Arabic, and Korean-speaking retailers that comprise a sizeable percentage of the 13,000 small grocery stores in New York City alone.
8. Available supplies of bags permitted under the Bag Act and Bag Regulation are in woefully short supply and it is proving to be impossible for retailers and small businesses to obtain them in sufficient numbers or sometimes to obtain them at all. Some retailers have recently been unable to place orders for paper bags because suppliers are not accepting orders through 2020 due to the high demand in New York State. Producers of paper bags have advised it will be many months and maybe years before the supply of paper bags can satisfy the demand created by the Bag Act and Bag Regulation. In the meantime, retailers, bodegas, and small businesses will be hard pressed—and sometimes simply unable—to provide their customers with any bags at all. Further, other types of reusable bags permitted under the Bag Act and Bag Regulation are similarly hard to obtain (if they're available at all) because they are made overseas and the already-slow and -insufficient supply of them is even slower and less efficient in light of coronavirus and trade related slowdowns and stoppages.
9. If required to comply with the Bag Act and Bag Regulation, Green Earth Grocery Store and other members of the Bodega Association will be irreparably harmed by the loss of sales and customer goodwill as a result of the retailers' inability to provide compliant bags to their customers. Because the Bag Act and Bag Regulation forbid distribution of carryout plastic shopping bags and effectively forbid the distribution of reusable plastic shopping bags, and because available inventories of paper or reusable cloth bags are insufficient to meet the demand, Green Earth and the bodegas represented by the Bodega Association will be unable to provide customers with any method of carrying their purchases home.
10. If required to comply with the Bag Act and Bag Regulation, Green Earth Grocery Store and other members of the Bodega Association will be irreparably harmed by being forced to speculate what types of reusable bags they may distribute, risking inadvertently violating the Bag Act or the Bag Regulation and being punished with a civil penalty of \$250 to \$500 per violation.

  
 \_\_\_\_\_  
 Francisco Marte

Sworn to and subscribed before me this  
11<sup>th</sup> day of March 2020.

  
 \_\_\_\_\_  
 Notary Public for the State of New York

ALINA GRIFFIN-DOWE  
 NOTARY PUBLIC-STATE OF NEW YORK  
 ME 01GR0138791  
 Qualified in Bronx County  
 My Commission Expires 01-17-2022

My commission expires: 1/17/2022

*Poly-Pak Industries, Inc. et al. v. State of New York et al.*

Index No. 02673-20

# Exhibit E

to the Amended Verified Article 78 and  
Declaratory Judgment Petition

Affidavit of Mike Hassen

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

POLY-PAK INDUSTRIES, INC., GREEN EARTH  
FOOD CORP., d/b/a Green Earth Grocery  
Store, FRANCISCO MARTE, SALEH "MIKE"  
HASSEN, and THE BODEGA AND SMALL  
BUSINESS ASSOCIATION,

Plaintiffs-Petitioners,

for a judgment pursuant to Articles 30 and 78  
of the Civil Practice Law and Rules,

-against-

THE STATE OF NEW YORK, HON. ANDREW CUOMO,  
as Governor of the State of New York, the NEW  
YORK STATE DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION, and BASIL  
SEGGOS in his official capacity of  
Commissioner of the New York State  
Department of Environmental Conservation,

Defendants-Respondents.

Index No. 02673-20

AFFIDAVIT OF SALEH "MIKE" HASSEN IN  
SUPPORT OF THE AMENDED  
VERIFIED PETITION

STATE OF NEW YORK )

COUNTY OF )

Saleh "Mike" Hassen, being duly sworn, deposes and states as follows:

1. I am the owner and operator of multiple supermarkets in the Northeastern United States, including six in the State of New York—five in the boroughs of New York City and one in Yonkers, New York—that are independently-owned cooperatives of Key Food Stores Co-op, Inc. In this capacity, I have personal knowledge of the facts described in this affidavit.
2. My supermarkets currently distribute carryout plastic shopping bags to their customers at the point of sale.
3. My supermarkets are "person[s] required to collect tax," and thus will be subject to the duties and prohibitions purportedly imposed by S. 1508-C Part H (the "Bag Act") (to be codified at N.Y. Envir. Conser. Law §§ 27-2801 to -2809) and 6 NYCRR Part 351 (the "Bag Regulation").

4. My supermarkets have more than 10,000 square feet of retail space and are part of a commonly-owned and -operated business operating five or more units of over 5,000 square feet each in the State of New York. Accordingly, they are subject to New York's statutory scheme governing Plastic Bag Reduction, Reuse and Recycling (codified at Envir. Conser. Law §§ 27-2701 to -2713) (hereinafter collectively referred to as "Title 27").
5. Under Title 27, my supermarkets are required to supply customers with reusable bags, including durable, reusable plastic bags. Under the Bag Act and Bag Regulation, however, my supermarkets are forbidden from supplying such bags to customers.
6. As currently drafted, the Bag Act and the Bag Regulation are unclear, confusing, inconsistent, and impose arbitrarily and capriciously chosen requirements, all of which leave retailers and owners like myself subject to confusion, uncertainty, and legal risk.
7. Further, the types of bags permitted under the Bag Act and Bag Regulation are difficult or impossible for my stores to obtain, much less to obtain in sufficient quantity to adequately serve our customers. The industry's supply of paper bags, for example, is far outstripped by the demand for them, putting retailers such as myself at risk of being unable to comply with the Bag Act and Bag Regulation and potential local ordinances regarding paper bags. It may be years before the supply of paper bags can "catch up" to the sudden increase in demand that will be created by the Bag Act and Bag Regulation. Other types of reusable bags that are permissible under the Bag Act and Bag Regulation are in similarly short supply because they are made overseas and the already-inadequate pipeline of them has been reduced even further by coronavirus and trade related slowdowns and other delays and stoppages.
8. If required to comply with the Bag Act and Bag Regulation, my supermarkets and I will be irreparably harmed by the loss of sales and customer goodwill as a result of our inability to provide compliant bags to our customers. Because the Bag Act and Bag Regulation forbid distribution of carryout plastic shopping bags and effectively forbid the distribution of reusable plastic shopping bags, and because available inventories of paper or reusable cloth bags are insufficient to meet the demand, my supermarkets may, in fact, be unable to provide customers with *any* method of carrying their purchases to their train, car, or home.
9. If required to comply with the Bag Act and Bag Regulation, my supermarkets and I will be irreparably harmed by being forced to speculate what types of reusable bags we may distribute, risking inadvertently violating Title 27 or the Bag Act or the Bag Regulation and being punished with a civil penalty of \$250 to \$500 per violation.

*Mike Hassen*

"Mike" Hassen

Sworn to and subscribed before me this  
12<sup>th</sup> day of March 2020.

*Simeon Soterakis*  
Notary Public for the State of New York

My commission expires:

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SIMEON SOTERAKIS  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02SO6063223  
Qualified In New York County  
My Commission Expires August 27, 2021

*Poly-Pak Industries, Inc. et al. v. State of New York et al.*

Index No. 02673-20

# Exhibit F

to the Amended Verified Article 78 and  
Declaratory Judgment Petition

Affidavit of Ryan Sinclair, PhD, MPH

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

POLY-PAK INDUSTRIES, INC., GREEN  
EARTH FOOD CORP., d/b/a Green Earth  
Grocery Store, FRANCISCO MARTE,  
MIKE HASSEN, and THE BODEGA AND  
SMALL BUSINESS ASSOCIATION,

Plaintiffs-Petitioners,

for a judgment pursuant to Articles 30 and 78  
of the Civil Practice Law and Rules,

-against-

THE STATE OF NEW YORK, HON. ANDREW  
CUOMO, as Governor of the State of New  
York, the NEW YORK STATE DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION, and  
BASIL SEGGOS in his official capacity of  
Commissioner of the New York State  
Department of Environmental Conservation,

Defendants-Respondents.

Index No. 02673-20

**AFFIDAVIT OF DR. RYAN SINCLAIR,  
PHD, MPH, IN SUPPORT OF THE  
VERIFIED PETITION**

STATE OF CALIFORNIA )  
COUNTY OF San Bernardino

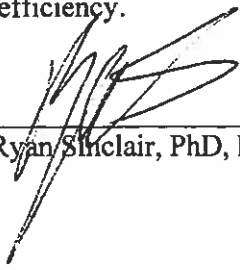
Dr. Ryan Sinclair, being duly sworn, deposes and states as follows:

1. I am a resident of Loma Linda, California, where I am an Associate Professor at the Loma Linda University School of Public Health and an Assistant Professor at the Loma Linda University School of Medicine. In this capacity, I have personal knowledge of the facts described in this affidavit.
2. I have a bachelors degree in zoology from Brigham Young University; a Masters of Public Health from Loma Linda University, a PhD in water quality from Tulane University; have conducted post-doctoral work at the National Research Council. I subsequently served as an Assistant Research Scientist at the University of Arizona before beginning my current professorship at the Loma Linda University in 2009. A fully copy of my Curriculum Vitae is attached hereto as Appendix A.

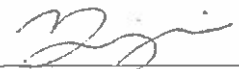


3. My areas of research, writing, and expertise include home and community hygiene, including the risks of the spread of infectious diseases by reusable shopping bags. A complete list of my publications is included in Appendix A, among which are the following:
  - a. Sinclair, R, A. Feliz, J.Patel, L. Fahnestock and C. Perry, *The Spread of a Norovirus Surrogate Via Reusable Grocery Bags in a Grocery Supermarket*, JOURNAL OF ENVIRONMENTAL HEALTH 80, no. 10 (June 1, 2018): 8;
  - b. Sinclair R.G., C.P. Gerba, L.Y. Sifuentes, M.Tsai and S. Abd-Elmaksoud, *Efficacy of Treatment of Reusable Grocery Bags with Antimicrobial Silver to Reduce Enteric Bacteria*, FOOD PROTECTION TRENDS 36 (6): 458-464 (2016);
  - c. Williams, D.L., C.P. Gerba, S. Maxwell, and R.G. Sinclair, *Assessment of the Potential for Cross-Contamination of Food Products by Reusable Shopping Bags*, FOOD PROTECTION TRENDS 31 (8): 508-13 (2011);
4. In addition, I am currently qualified as an expert witness and have served as a consulting expert on several topics including supermarket sanitation, supermarket disinfectant practices and habitability of homes with mold and moisture problems.
5. Reusable bags made of fabric and other woven material are known to harbor bacteria, contagions, and viruses. My research and the research of others has found bacteria in 99% of the reusable bags tested: 51% carried coliform bacteria and 8% carried E. coli, an indicator of fecal contamination. Reusable bags have the potential to carry viruses such as the norovirus or the coronavirus.
6. My research has found that only 3% of shoppers with multi-use bags regularly wash them.
7. My research and that of others has also shown that reusable grocery bags, which are highly likely to be contaminated, are highly likely to transfer these pathogens to store employees, family members, and members of the public by contact with supermarket check-out conveyors, grocery carts, the hands of shoppers and supermarket cashiers, and contact with kitchen counters. These contagion transfers can present a significant public health risk.
8. The best and preferred method for sanitizing and disinfecting reusable grocery bags is to launder them in hot water with soap and disinfectant, and to ensure they are thoroughly dried before folding, storing, and reusing them. This is the sole reliable method for cleaning fabric or other woven bags, whose porous and textured surfaces are especially adept at harboring bacteria, viruses, and other pathogens. Alternatively, non-porous, slick, reusable plastic bags can be sanitized by thoroughly wiping them down with disinfecting wipes that contain bleach, paying special care to corners and crevices, and then allowing them to dry fully before folding, storing, and reusing them. If using wipes to clean non-porous reusable bags, use hospital grade

disinfectant wipes containing Sodium Hypochlorite (bleach) or another disinfectant with equal or greater microbial disinfection efficiency.

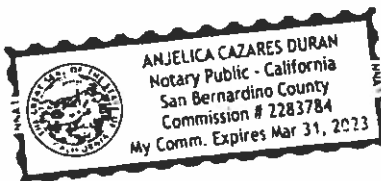
  
\_\_\_\_\_  
Dr. Ryan Sinclair, PhD, MPH

Sworn to and subscribed before me this  
12<sup>th</sup> day of March 2020.

  
\_\_\_\_\_  
Notary Public for the State of California

My commission expires:

March 31, 2023



# Appendix A

to the Affidavit of Dr. Ryan Sinclair, PhD, MPH

Curriculum Vitae

**CURRICULUM VITAE**  
**RYAN G. SINCLAIR PhD, MPH**

*Contact Details:*

LOMA LINDA UNIVERSITY | School of Public Health  
Environmental Microbiology Research Laboratory  
Office: 24951 N. Circle Drive, Suite 2104, Nichol Hall, Loma Linda, CA 92350  
Laboratory: 24785 Stewart St., Suite B2E Evans Hall, Loma Linda, CA 92350  
Receiving: 24941 Stewart St., Loma Linda, CA 92350  
(909) 558-4000 x47128 x85633 Email: rsinclair@llu.edu

**EDUCATION**

Postdoc      National Research Council: Environmental Microbiology, 04/2008  
PhD            Tulane University Environmental Health Sciences: Water Quality, 12/2006  
MPH           Loma Linda University Public Health: International Health, 05/1999  
BS/BA        Brigham Young University Zoology and Anthropology, 04/1997

**BRIEF PERSONAL BIOGRAPHY**

Dr. Ryan G. Sinclair is an Associate Professor of Environmental Microbiology in the Loma Linda University School of Public Health. He is an environmental scientist with a specialty for assessing the risk of infectious disease from exposure to environmental pathogens that are encountered in water, air or on surfaces. He has worked with community organizations locally in Southern California and globally in Cambodia and Peru.

Dr. Sinclair worked as a post-doc in the National Research Council Associateship program, then research scientist at the University of Arizona department of Soil, Water and Environmental Sciences. He has a PhD in water quality from Tulane University, a Masters of Public Health from Loma Linda University, and a Bachelor's degree in Zoology from Brigham Young University.

**SELECTED PROFESSIONAL EXPERIENCE**

*09/2009 – present*      Loma Linda University School of Public Health; Associate Professor  
A full time position in the School of Public Health at Loma Linda University. Committees:  
Faculty for Graduate Studies (2015-present), University Faculty Council (2018-present),  
Admissions (2010-15), Faculty workforce and development (2015) and Center for Health  
Research (2014-2015).

*05/2008 – 09/ 2009*      University of Arizona (UA); Assistant Research Scientist.  
Designed and directed a laboratory for research on real-time water security sensor networks.  
Topics included environmental microbiology investigations of pathogen survival on fomites.  
Conducted a microbial risk assessment of land-applied biosolids. Continued previous research  
with the Center for the Advancement of Microbial Risk Assessment (CAMRA).

*03/2007 – 04/2008*      National Research Council Research Associate Program (NRC-RAP).  
Department of Homeland Security (DHS) and the UA; Research Associate. Initiated projects  
with the USEPA/DHS funded CAMRA project. Topics included: drinking water disinfection,  
microbial surrogate evaluation, environmental survival of category A agents, health risk  
assessment, bio-security, water distribution system vulnerability assessments, the transport and  
fate of microbes in water distribution systems, and biosensor optimization. Lectured in  
environmental science classes.

**PEER REVIEWED PUBLICATIONS**

- Canales, R.A., A. Wilson, **R.G. Sinclair**, M.Soto-Beltran, J. Pearce-Walker, M. Molina, and K. Reynolds. "Microbial Study of Household Hygiene Conditions and Associated Listeria Monocytogenes Infection Risks for Peruvian Women." *Tropical Medicine & International Health*. <https://doi.org/10.1111/tmi.13246>.
- Spencer-Hwang, R.M., M. Pasco-Rubio, S. Soret, M. Ghamsary, **R. Sinclair**, N. Alhusseini, and S. Montgomery. "Association of Major California Freight Railyards with Asthma-Related Pediatric Emergency Department Hospital Visits." *Preventive Medicine Reports* 13 (March 1, 2019): 73–79. <https://doi.org/10.1016/j.pmedr.2018.11.001>.
- Reis, H., C. Reis, A. Sharip, W. Reis, Y. Zhao, **R. Sinclair** and L. Beeson. "Diesel Exhaust Exposure, Its Multi-System Effects, and the Effect of New Technology Diesel Exhaust." *Environment International* 114 (May 2018): 252–65. <https://doi.org/10.1016/j.envint.2018.02.042>.
- Sinclair, R.**, A. Feliz, J. Patel, L. Fahnstock and C. Perry. "The Spread of a Norovirus Surrogate Via Reusable Grocery Bags in a Grocery Supermarket." *Journal of Environmental Health* 80, no. 10 (June 1, 2018): 8.
- Sinclair R.G.**, C.P. Gerba, L.Y. Sifuentes, M. Tsai and S. Abd-Elmaksoud. 2016. "Efficacy of Treatment of Reusable Grocery Bags with Antimicrobial Silver to Reduce Enteric Bacteria" *Food Protection Trends* 36 (6): 458-464.
- Hilton, T., S. Montgomery, P. Herring, T. Gamboa-Maldonado, **R. Sinclair** and B. McLaughlin. 2015. "Perceived Attitudes and Staff Roles of Disaster Management at CBOCs." *Federal Practitioner* 32(8).
- Martin, R., S.D. Safaee, K. Somsamouth, B. Mounivong, **R. Sinclair**, S. Bansal, and P.N. Singh. 2013. "Mixed Methods Pilot Study of Sharing Behaviors among Waterpipe Smokers of Rural Lao PDR: Implications for Infectious Disease Transmission." *International Journal of Environmental Research and Public Health* 10 (6): 2120–32.
- Gamboa-Maldonado, T., H. Hopp Marshak, **R. Sinclair**, D. Dyjack, and S. Montgomery. 2012. "Building Capacity for Community Disaster Preparedness: A Call for Collaboration Between Public Environmental Health and Emergency Preparedness and Response Programs." *Journal of Environmental Health* 75 (2).
- Sinclair, R.G.**, J.B. Rose, S.A. Hashsham, C.P. Gerba, and C.N. Haas. 2012. "A Criteria for Selection of Surrogates Used to Study the Fate and Control of Pathogens in the Environment." *Applied and Environmental Microbiology*, January.
- Lopez, J.R., K. Somsamouth, B. Mounivong, **R. Sinclair**, and P. Singh. 2012. "Carbon Monoxide Levels in Water Pipe Smokers in Rural Laos PDR." *Tobacco Control* 21 (5): 517–18.

**PEER REVIEWED PUBLICATIONS (continued)**

- Sinclair, R.G.**, and C.P. Gerba. 2011. "Microbial Contamination in Kitchens and Bathrooms of Rural Cambodian Village Households." *Letters in Applied Microbiology* 52: 144–49.
- Miles, S.L., **R. Sinclair**, M.R. Riley, and I.L. Pepper. 2011. "Evaluation of Select Sensors for Real-Time Monitoring of Escherichia Coli in Water Distribution Systems." *Applied and Environmental Microbiology* 77 (8): 2813–16.
- Williams, D.L., C.P. Gerba, S. Maxwell, and **R.G. Sinclair**. 2011. "Assessment of the Potential for Cross-Contamination of Food Products by Reusable Shopping Bags." *Food Protection Trends* 31 (8): 508–13.
- Pepper, I.L., J.P. Brooks, **R. Sinclair**, P.L. Gurian, and C.P. Gerba. 2010. "Pathogens and Indicators in United States Class B Biosolids: National and Historic Distributions." *Journal of Environment Quality* 39 (6): 2185.
- Sinclair, R.G.** 2010. "Wastewater Irrigation and Health: Assessing and Mitigating Risk in Low-Income Countries." *International Journal of Water Resources Development* 26 (4): 704–9.
- Riley, M.R., S.L. Miles, **R. Sinclair**, and I.L. Pepper. 2010. "Real Time Monitoring for Pathogens in Water." In *Proceedings of the Water Distribution Systems Analysis 2010*, 303–8. Tucson: American Society of Civil Engineers.
- Sinclair, R.G.**, P. Romero-Gomez, C.Y. Choi, and C.P. Gerba. 2009. "Assessment of MS-2 Phage and Salt Tracers to Characterize Axial Dispersion in Water Distribution Systems." *Journal of Environmental Science and Health, Part A* 44 (10): 963–71.
- Yoon, J.Y., J.H. Han, C.Y. Choi, M. Bui, **R.G. Sinclair**, and others. 2009. "Real-Time Detection of Escherichia Coli in Water Pipe Using a Microfluidic Device with One-Step Latex Immunoagglutination Assay." *Transactions of the ASABE* 52 (3): 1031–39.
- Sinclair, R.**, S. Boone, D. Greenberg, P. Keim, and C.P. Gerba. 2008. "Persistence of Category A Select Agents in the Environment." *Applied and Environmental Microbiology* 74.
- Sinclair, R.G.**, C.Y. Choi, M.R. Riley, and C.P. Gerba. 2008. "Chapter 9 Pathogen Surveillance Through Monitoring of Sewer Systems." *Advances in Applied Microbiology* Volume 65: 249–69.
- Yel, D., G.K. Hallen, **R.G. Sinclair**, K. Mom, and C.T. Srey. 2005. "Biochemical Validation of Self Reported Quit Rates among Buddhist Monks in Cambodia." *Tobacco Control* 14: 359–359.
- Jeng, H.C., **R. Sinclair**, R. Daniels, and A.J. Engle. 2005. "Survival of *Enterococci Faecalis* in Estuarine Sediments." *International Journal of Environmental Studies* 62: 283–91.

**DISSERTATION**

**Sinclair, R.** Point of use water treatment options in rural Cambodia households. An analysis of the effectiveness of solar water disinfection in Rovieng district, Preah Vihear province, Cambodia. Dissertation, Tulane, New Orleans, 2006. Committee members: A.J. Englande Ph.D. P.E.(chair), Assaf Abdelghani Sc.D., Paul Hutchinson Ph.D., Janet Rice Ph.D., and Robert Reimers Ph.D.

Description: This drinking water disinfection health intervention took place from 2004-2006 and evaluated the use of SODIS program for rural residents in Rovieng district, Preah Vihear province, Cambodia. The program studied SODIS as it relates with good hygiene and sanitation among rural households who normally drink water directly from rivers or wells without treatment. The project outcomes were adoption of the SODIS techniques among villagers and expansion of the project to three additional provinces under the direction of ADRA Cambodia.

**BOOK CHAPTERS**

**Ryan G. Sinclair**, Kristen Gunther, and Rhonda Spencer-Hwang. "Environmental Health Risk Assessment." In *The Praeger Handbook of Environmental Health*, 1:281–304. Praeger Publications, 2012.

**PUBLISHED CONFERENCE PROCEEDINGS (Not peer reviewed)**

Riley, Mark R., Syreeta L. Miles, **Ryan G. Sinclair**, and Ian L. Pepper. "Real Time Monitoring for Pathogens in Water." In *Proceedings of the Water Distribution Systems Analysis 2010*, 303–308. Tucson: American Society of Civil Engineers, 2010. <http://ascelibrary.org/doi/abs/10.1061/41203%28425%2928>.

**Sinclair, R.**, AJ Englande, R. Reimers, J. Rice, A. Abdelghani, and S. Samreth. "A Microbiological Investigation of a Point of Use Drinking Water Disinfection Technology: Solar Photo-Disinfection and Its Challenges in Cambodia." In *Proceedings of the Water Environment Federation*, 2007:334–359. Pittsburgh, PA, 2007.

**Sinclair, Ryan**, Celeste Cantu, Maria Kennedy, and Kristen Gunther. "The Public Health Risks from Inadequate Septic Tank Percolation in Low Income Areas of California." In *WEFTEC CONFERENCE PROCEEDINGS*, 2011.

Englande, A.J., Paul Lo, and **Ryan G. Sinclair**. 2007. "Water Quality and Public Health: Case Studies of Hurricane Katrina and the December 2004 Tsunami in Thailand." In *Cities of the Future : Towards Integrated Sustainable Water and Landscape Management : Proceedings of an International Workshop Held July 12-14, 2006 in Wingspread Conference Center, Racine, WI*, 52. London: IWA Publishing.

**OTHER PUBLICATIONS, POSTERS, PRESENTATIONS AND REPORTS**

"Microbial Contamination of Drinking Water from Vending Machines." T. Hile and **R.Sinclair**. An oral presentation given at the UNC Water & Health Conference in Chapel Hill, NC on October 7, 2019.

"Low Cost Air Quality Sensors and Air Quality Health Hazards in San Bernardino." **R. Sinclair** and J. Gaio. A presentation given to the Community Steering Committee of the SCAQMD's AB617 San Bernardino meeting in June of 2019 at San Bernardino Valley College.

"A microbial assessment of the Santa Monica Urban Recycled water Facility." **R. Sinclair** and R. Mutioso. Given at the 11th IWA International Conference on Water Reclamation and Reuse on July 28, 2017.

"Creating places of health and wellbeing." **R.Sinclair**, P. Newman and A. Le. A panel discussion on Environmental Justice held in the Bi-Annual Medical Narratives Conference at the University of California, Riverside on October 13, 2016. The conference title was "Signs and Symptoms: Medicine is Humanities."

"An augmented reality sandbox virtual water presentation for high school and elementary school children." **R.Sinclair** The flying doctors Mecca health fair. The presentation used a participatory method to educate children on the concept of watershed and drought in the Coachella Valley. The health fair took place at the Desert Mirage High School in Mecca, CA on October 1<sup>st</sup>, 2016.

"How to use the Augmented Reality Sandbox to teach hydrology, topographical maps and water conservation." **R. Sinclair**. This was included as a workshop in this summer's interactive STEM series of the Loma Linda University's EXSEED Summer Conference. Four workshops were held in June, 2016.

"Antibacterial inhibitory effect of size-controlled silver gold nanoparticles with Porphyronmonas Gingivalis W83." C. Stewart, E. Stuffle, E. Walemba, W. Chen, D. Boskovic, **R.Sinclair**, C. Perry. A poster presented at the 16<sup>th</sup> annual Health Disparities Research Symposium organized by the Loma Linda University School of Medicine's Center for Health Disparities and Molecular Medicine. August 3, 2016.

"Development of a low-cost air quality particulate sensor for use by Citizen Scientists." L. Lay, T. Boskovic, C. Perry, **R. Sinclair**. A poster presented at the 16<sup>th</sup> annual Health Disparities Research Symposium organized by the Loma Linda University School of Medicine's Center for Health Disparities and Molecular Medicine. August 3, 2016.

The antibacterial properties of silver-gold bimetallic nanoparticles against multidrug-resistant pathogens. E. Stuffle, C. Stewart, M. Lu, E. Walemba, D. Boskovic, E. Vanterpool, R. Sinclair, C. Perry. A poster presented at the 16<sup>th</sup> annual Health Disparities Research Symposium organized by the Loma Linda University School of Medicine's Center for Health Disparities and Molecular Medicine. August 3, 2016.



**OTHER PUBLICATIONS, POSTERS, PRESENTATIONS AND REPORTS (continued)**

“An Augmented Reality Terrain Map for Health Needs Assessment Visualization.” **R. Sinclair**, M. Tsai and C. Tsui. Loma Linda University’s Faculty Development showcase titled “The Art and Science of Successful Learning.” Workshop held on February, 3 2016.

“Weather balloons and crowdsourcing: new citizen science approaches to participatory community mapping”. **Ryan G. Sinclair**; Nicole Alleyne-Oliver, Diana Ibrahim, Ivan Biarmont, Lea Urita, Rebecca Marsile, Jessica Camacho and Sammy Roth. Presented at the SCPHA 2014 Annual Conference titled “Place Matters: Healthography in Southern California.” Conference held on November 7, 2014 at the Los Angeles office of the California Endowment.

“Arsenic contamination and other water quality concerns on tribal lands of Southern California.” A field based training session given on the Pala and Pauma reservation headquarters near Temecula, California on August 21 and 28, 2014. **R. Sinclair** and M. Randhawa.

“The hidden mobile home parks of the Eastern Coachella Valley: Estimating population of a neglected community”. **R. Sinclair**. An oral presentation given at the 2014 Environmental Justice Summit held in May of 2014 in Mecca, CA.

“Partnering with the Adventist development and relief agency (ADRA) to access needs in northern Laotian villages.” (283358), and “Using a community participatory approach to assess health through a water, sanitation and hygiene sustainability project.” (288182). A. Desai, **R. Sinclair**, D. Rawson, T. Gamboa. Two oral presentations given by A. Desai at the American Public Health Association annual conference in Boston, MA. November 2013.

The occurrence of *Listeria* in onsite wastewater failures from the Eastern Coachella Valley. **R. Sinclair**. An oral presentation and training given at the California Environmental Health Association (CEHA) Annual Update in Garden Grove, CA in October 2013.

Using community based methods to create a GIS database on wastewater failures in the Eastern Coachella Valley. **R. Sinclair**. An oral presentation given at the GIS monthly seminar in the LLU School of Public Health in October 2013.

Plenary Session: “Food Systems 101: Academic perspectives of food safety” and “Emerging pathogens and threats”. **R. Sinclair**. Two oral presentations given at the S3 Food Symposium in Riverside, CA in May, 2013.

Crowdsourcing Wastewater Failures: Promotoras and Youth Use Community Mapping to Advocate for Improved Wastewater Management. **R. Sinclair**. An oral presentation given at the Metropolitan Water District of Los Angeles, CA in May, 2013.

A Christian’s global stewardship and duty for sustainable water sanitation and hygiene. **R. Sinclair**. An oral presentation to the Loma Linda University School of Public Health annual faculty meeting in August, 2013 and at a LUU symposium titled Entrusted: Christians and Environmental Care in April 2013.

**OTHER PUBLICATIONS, POSTERS, PRESENTATIONS AND REPORTS (continued)**

Disinfection Efficiency and User Compliance of SODIS in Cambodia (TS040) **R. Sinclair**. An oral presentation at the Water Environment Federation Technical Conference in New Orleans, LA. October 2012.

Household hygiene assessment in an urban, low-income community. **R. Sinclair**, K. Reynolds, J. Soto: A poster given at the American Society for Microbiology annual meeting in San Francisco, CA in June 2012.

The infection risks associated with Clothing and Household Linens. **R. Sinclair**, S. Bloomfield. Oral presentation at a press release and global presentation of a new product for Unilever international in Jakarta, Indonesia. June 2012.

Talking Trash: Does it matter where our garbage goes? KPCC radio interview with **R. Sinclair** and two other panelists: Crawford Family Forum: Panel speaker for Wednesday June 13, 2012 KPCC Studio in Los Angeles.

We flush our toilets with Drinking water; A microbiology perspective on wastewater re-use and public health risk assessment." **R. Sinclair**. Oral presentation given for the LLU Preventive care grand rounds on February 9, 2012 in Loma Linda University, CA.

Tools used to identify inadequate onsite wastewater treatment in disadvantaged communities. **R. Sinclair**. Oral presentation given at the January 2012 Southwest On-site Wastewater Conference in Laughlin, Nevada.

Priority ranking and community assessment in the Eastern Coachella Valley. A series of three participatory workshops targeted towards community advocates and promotoras groups in Coachella, California. Organized and delivered by **R. Sinclair**. January, 2012.

**Sinclair, R.** Vivanco, S. Atencio, R. "Community Engagement Methods in Building Healthy Communities" A panel discussion and oral presentation given at Loma Linda University's Health Communities by Design annual summit in November 2011.

The Public Health Risks From Inadequate Septic Tank Percolation in Low Income Areas of California. **R. Sinclair**, C. Cantu, M.E. Kennedy, K. Gunther. Oral presentation given at the October 2011 WEFTEC conference in Los Angeles, California.

Household hygiene and Critical Control Point analysis for informal settlements in Lima, Peru. **R. Sinclair**, K. Reynolds. Presented on how to prevent pathogen contamination on bathroom and kitchen surfaces using disinfection with Clorox or other household cleaning products. Presented on September 5, 2011 at the KALLPA NGO headquarters in Lima, Peru. Presented to NGO staff and faculty from Boston University, the University of Arizona and staff from the Instituto de Investigación Nutricional.

**OTHER PUBLICATIONS, POSTERS, PRESENTATIONS AND REPORTS (continued)**

Water Quality. **R. Sinclair**. A course series on Environmental Health and Safety put on by the Loma Linda University Office of Public Health practice and the Native American Environmental Protection Coalition (NAEPC). The training was on water and wastewater and was held on August 31, 2011.

Environmental Health and Safety: The Key Elements. **R. Sinclair**, S. Soret, L. Beeson. An oral presentation and workshop given to the general public at an environmental health and justice summit at the Conference Center at Aspen in the Desert in Brawley, CA on in August 31, 2011.

Enchanted Heights case study: how to obtain funding for public wastewater projects. **R. Sinclair**, R. Shintaku. Presented at a conference entitled: Developing funding for disadvantaged community infrastructure projects. The conference was organized by The Cal State University at Fresno Water Resources and Policy Initiatives group. It was held at the Frontier Project in Rancho Cucamonga of California on June 28, 2011.

Health effects of Arsenic in drinking water. **R. Sinclair**, M. Randhawa. Organized by Loma Linda University School of Public Health Office of Public Health Practice. The lecture was presented on Feb 1, 2011 to health professionals of the Mecca, CA government health clinic. The following groups were involved: El Sol, Clinica de Salud and the Comité Cívico Del Valle Inc.

Crowd Sourcing in the Eastern Coachella Valley: Inadequate Septic Tank Percolation in Low Income Areas of Riverside County, California. **R. Sinclair**. Oral presentation given at the November 2011 Healthy Communities by Design Summit at Loma Linda University and ESRI in Redlands, CA.

Haiti 2010 Earthquake: Public Health Disaster Assessment and Response: January 22 – March 20, 2010. **R. Sinclair**. Oral presentation given at the California Environmental Health Association annual meeting in Riverside, CA on April 5, 2010. Additional oral presentation given at the Environmental Health Training in Emergency Response meeting held at the University of California, Riverside on March 30, 2010. Poster presentation given at the Southern California Public Health Association annual meeting on April 22, 2010 in Long Beach, CA.

A HRWM member's response to Haiti 1/12/2010 earthquake. An article written for the Health Related Water Microbiology group newsletter. Issue 6 May 2010. International Water Association.

Microbial Contamination in the kitchens and bathrooms of USA and Cambodian Households: the importance of handwashing. **R. Sinclair**, L. Uisetiawan, C. Gerba. Poster presentation at the Sanitation Options in the Asia Pacific conference held in Hanoi Vietnam during November, 2008.

Exposure Assessment. **R. Sinclair** and C. Gerba. Oral presentation and workshop convener for the American Society of Microbiology's workshop entitled "Introduction of Quantitative

**OTHER PUBLICATIONS, POSTERS, PRESENTATIONS AND REPORTS (continued)**

Microbial Risk Assessment”. The workshop was held on June 1, 2008 at the Arizona State University Campus in Mesa, AZ.

Axial Dispersion of salt tracers and MS-2 phage in an experimental water distribution system. **R. Sinclair**, C. Choi, C. Gerba. Poster presentation at the May 2008 American Society for Microbiology annual meeting in Boston, MA.

Dispersion of MS-2 in Water Distribution Systems. **R. Sinclair**, P. Romero, C. Choi, C. Gerba. Poster presentation at the April 2008 USEPA and DHS conference on real-world applications and solutions for microbial risk assessment.

Factors affecting the persistence of pathogens on fomites. **R. Sinclair**, C. Gerba. Oral presentation at the April 2008 USEPA and Department of Homeland Security conference on real-world applications and solutions for microbial risk assessment.

Dispersion of MS-2 in Water Distribution Systems. **R. Sinclair**, P. Romero, C. Choi, C. Gerba. Poster presentation at the April 2008 USEPA and DHS conference on real-world applications and solutions for microbial risk assessment.

Criteria for the selection of surrogates for studying the fate and transport of pathogens in the environment. **R. Sinclair**, D. Greeneberg, P. Keim, C. Gerba. Poster presentation at the April 2008 USEPA and DHS conference on real-world applications and solutions for microbial risk assessment.

C. Gerba, **R. Sinclair**. Criteria for microbial surrogates for assessing fate and transport of pathogens in the environment. Poster presentation at the 14th International Symposium on Health-Related Water Microbiology in Tokyo, Japan during September 2007.

“Tuk Sa’at” meaning Pure Water. A. Stickle, M. Schwisow. **R. Sinclair**. Finalist for World Bank Development Marketplace funding. Presented proposal and poster at the May 2007 Development Marketplace in Washington D.C.

Diarrhea disease reduction through solar water disinfection: prevalence studies and user compliance. **R. Sinclair**, A.J. Englande. Oral presentation at the November 2006 American Public Health Association 134<sup>th</sup> annual meeting.

Household drinking water disinfection and diarrhea disease in Cambodia. **R. Sinclair**, A.J. Englande. Presented at the December 2006 Asia-Pacific Academic Consortium for Public Health (APACPH) 38<sup>th</sup> annual conference in Bangkok, Thailand.

Water quality and public health – Case studies of Hurricane Katrina and the December 2004 tsunami in Thailand. A.J. Englande, **R. Sinclair**, P. Lo. Presented at the Wingspread workshop: “Cities of the Future: Creating Blue Water in Green Cities”. July 13, 2006. International Water Association.

**OTHER PUBLICATIONS, POSTERS, PRESENTATIONS AND REPORTS (continued)**

Comparisons of Hurricane Katrina and the December 2004 tsunami in Thailand. A.J. Englande, **R. Sinclair**. Presentation at the December 2006 APACPH annual conference in Bangkok, Thailand.

A microbiological risk assessment approach for drinking water technology verification: A presentation of the solar disinfection option in reference to epidemiology and microbiology studies. **R. Sinclair**, A.J. Englande, G. Zornes, A. LaFraniere. Winner of a student poster competition at the December 2006 National Center for Environmental Health Conference in Atlanta, Georgia.

A microbiology investigation of a point-of-use drinking water disinfection technology: Solar photo-disinfection and its challenges in Cambodia. **R. Sinclair**, A.J. Englande, R. Reimers, J. Rice, S. Samreth. Oral presentation at the February 2007 WEF disinfection conference in Pittsburg, PA.

**RESEARCH PROJECTS**

2018 - 2020: "A community science approach to research on water and air quality environmental health impacts around the Salton Sea." **Description:** Funded by the California Endowment and administered through the Alianza, Coachella Valley.

2018-2019: "An Opportunity to Improve Health through Improved Wastewater Service: A Health Impact Assessment on Fresno County's Pending General Plan Update." **Description:** A project funded by the PEW charitable trust and administered through the Leadership Council for Justice and Accountability.

2016 - 2018: "A microbial assessment of the Santa Monica Urban Runoff Recycling Facility (SMURRF)." **Description:** This is a continuation of the previous USEPA project. It is funded by the Metropolitan Water District's World Water Forum and is currently supporting one Masters student.

2016 - 2018: "Characterization of microbial contamination in water vending machines of the Eastern Coachella Valley." **Description:** This project is funded through the Metropolitan Water District's World Water Forum. The project matches houses from our Environmental Justice Health Data project to nearby water vending machines. We evaluate the microbial quality of drinking water from both locations. The project is an add-on to the current California Endowment funded project in the Eastern Coachella Valley. It funds one PhD student.

**RESEARCH PROJECTS (continued)**

2016 - 2017: “The Eastern Coachella Valley Environmental Justice Health Data Project.”

**Description:** This is year three of the project that works to collaboratively engage community members and stakeholders to develop and administer an environmental health assessment. The project has completed over 1700 in person surveys and over 200 household environmental assessments. The survey project has lasted over 3 years and uses a rigorous multi-stage sampling design where homes are selected from a combination of ground-truthing and satellite map enumeration. The project builds on 2012 efforts to characterize the EJ issues in a participatory manner alongside with *Promotoras* and community members. Project organization partners with the California Endowment and the California Institute for Rural Studies.

Jan-2014 - Aug-2015: “Determining the Microbial Characteristics of Dry Weather Urban Runoff Coming in and out of the Santa Monica Urban Runoff Recycling Facility (SMURRF)”.

**Description:** This is a water sampling project in partnership with the Los Angeles County department of Public Health cross connection control department, the RAND corporation, The USEPA NERL, and the City of Santa Monica. The research questions involve the SMURRF treatment process' microbial removal efficiency. This forecasting model experiment calculates the microbial infection risk to users of the processed water for irrigation and toilet flushing. The health risks are expanded to the potential future use of the water for potential direct potable reuse of wastewater.

Jan 2015 – Nov 2015: “Contamination of Antibacterial Reusable Grocery Bags”.

**Description:** This contract was to evaluate the efficiency and field use practices of two brands of antimicrobial reusable grocery bags. The laboratory project worked with the University of Arizona to evaluate the grocery bag's antimicrobial efficiency. The field project recruited 40 faculty and staff from the LLU to participate in the IRB approved study. A manuscript is currently under preparation.

Apr-2013 - Jan-2014: “Disadvantaged Community (DAC) Outreach Demonstration Project”.

**Description:** This project engaged Disadvantaged Communities (DAC) to participate in California's Integrated Regional Water Management (IRWM) planning process for the Coachella Valley. The aim was to activate disadvantaged groups that have traditionally been left out of the IRWM processes. The project used qualitative community mapping techniques along with an in-person survey questionnaire on water and sanitation. The research is complimentary to the PI's research direction by funding the first participatory community map of the region and promoting awareness of water and wastewater issues among the population. The project recommended proceeding for funding in three priority areas of on-site alternative wastewater treatment, point-of-use water treatment and extension of existing water and wastewater infrastructure. See the team's output reports here. Funded by the CA Dept. of Water Resources *through the RMC Water and Environment*

**RESEARCH PROJECTS (continued)**

Aug-2011 - Aug-2012: “A zeolite-ceramic filter to remove pesticides and pathogens from drinking water”. **Description:** This project was awarded by the USEPA to develop a zeolite ceramic filter prototype that can remove contaminants such as arsenic and pesticide for better drinking water. The project was approved for funding by USEPA. It was not allowed for a contract by the host Loma Linda University due to a technicality within the University policy regarding hiring practices that needed to be disclosed within the USEPA contract.

Aug 2011 – Mar 2013: “Microbial evaluation of the Arts For Behavior Change intervention”. **Description:** This project worked with an urban informal settlement in the *San Juan De Miraflores* community near Lima, Peru. The project promoted good household hygiene practices through the partner organization KALLPA, a Peruvian drama group that promotes public health. The team evaluated the household hygiene practices of the community by conducting a pre- and post- household hygiene microbial surface evaluation. The project partners were the *Instituto de Investigación Nutricional* (IIN) to conduct the field survey and setup the satellite microbiology laboratory.

Jun 2011 – Dec 2011: “A field and laboratory evaluation of contamination in the Laotian Tobacco Waterpipe”. **Description:** This project collected environmental samples and survey questionnaire data onsite in rural northern Laotian communities. The project determined the average *E.coli* indicator contamination in water directly from water pipes. The project also collected traditional water pipes for evaluation in the laboratory for microbial absorption.

May 2010 – Jun 2010: “Evaluation of reusable grocery bag contamination”. **Description:** This project evaluated the occurrence of environmental bacteria on reusable grocery bags in Arizona and the Inland Empire of Southern California.

**SERVICE BASED PROJECTS while at LLU**

Jun 2013 – Current: “The Loma Linda Bicycle Hospital”. **Description:** This community bicycle workshop teaches community members how to maintain their bicycles through providing a fully equipped bicycle workspace. The project aim is to increase the amount of bicycle commuters, educate locals in bike maintenance and promote safe bicycle riding throughout the community.

January 2019 – Current: Member of the South Coast Air Quality District Community Steering Committee and Technical Advisory group for administration of the AB617 air quality bill. **Description:** That bill seeks to improve regional air quality in the San Bernardino and Eastern Coachella Valley areas through community air monitoring and emission reductions efforts.

Dec 2012 – Jan 2013: “Community Priority Ranking Response to a SCAQMD Request for Proposals”. **Description:** This project coordinated and held a series of participatory workshops with stakeholders and community residents from the Eastern Coachella Valley to determine community member priorities for air quality related funding. The aim was to promote and empower community groups to apply for funds and define their immediate health needs. The workshops helped organize community groups to apply for funding for which they were awarded over two million dollars.

### **SERVICE BASED PROJECTS while at LLU (continued)**

Summers of 2010 – 2015: Conducted an annual student research trip for the LLU SPH course called GLBH Integrated Community Development. **Description:** Student projects included: an air quality assessment of rural homes, the construction of a protected water source and other community led initiatives partnering through the Suma Marka NGO in Puno, Peru.

### **EXPERT TESTIMONY**

March 15, 2019. Expert Witness testimony in court for Stark, Friedman & Chapman, LLP. on the topic of "Home Hygiene and Moisture".

2017. Deposition given as expert Witness for Stark, Friedman & Chapman, LLP. on the topic of "Home Hygiene and Moisture".

April 2012: Consulted with a lawfirm as an expert witness on grocery cart sanitation and current grocery industry practices. This consultancy conducted field research into large multi-ethnic supermarkets of Orange County, CA. The research addressed questions on grocery cart disinfection, grocery cart sanitation and the possibility of a customer-acquired streptococcus from a contaminated grocery cart.

### **CONSULTING**

2015 – Current: Consultant on home hygiene and moisture with law firms in Southern California.

July 2018. Consulted with the PurThread company on microbial reductions on silver infused fabric washed in a cold water washing machine.

June 2012: Consulted with the Unilever™ Indonesia country office and international office on the disinfection efficiency of a new laundry disinfection product. The Oral presentation and press release took place in Jakarta, Indonesia in June 2012.

September 2012 – January 2014: Consulted with the Environmental Safety Alliance on reusable grocery bag microbial contamination. The consultations required expert testimony before the state senate committee on environmental safety and toxic materials, preparation of policy briefs and visiting key state senators and assembly member offices during bill voting sessions. This consultancy involved 3 LLU ENVH MPH students on a formal research project and included 3 consultations during the period between 2012 and 2014.

October 2011 – April 2012: Consulted with a lawfirm as an expert witness on grocery cart sanitation and current grocery industry practices. This consultancy utilized 3 LLU ENVH MPH students to conduct field research into large multi-ethnic supermarkets of Orange County, CA. The research addressed questions on grocery cart disinfection, grocery cart sanitation and the possibility of a customer-acquired streptococcus from a contaminated grocery cart.



**CONSULTING (continued)**

July 2012. Served as an expert international consultant to the Ana Stahl clinic in Iquitos, Peru. The consultant team included myself and four MPH GLBH students who visited the Iquitos clinic to conduct a water safety plan for the hospital. The hospital needed a new onsite water well system because the city water system could not meet their demand. Our team evaluated the problem and recommended next steps for external funding agencies.

June 2001 - World Vision Cambodia; Qualitative Research Methods Consultant. Organized and trained World Vision NGO staff in qualitative research methods appropriate for a maternal and child health program.

Sep.1999 – Aug. 2000 - ADRA Cambodia; Health Center Reform Project Consultant. International adviser of health center reform initiative in Pursat and Kompong Thom provinces of Cambodia.

December 2004 - WHO Tobacco Free Initiative and National Institute of Statistics, Cambodia; Tobacco Control Epidemiology Consultant. Provided training on data analysis and report writing with the Cambodian National Institute of Statistics 2004 national tobacco control survey.

June 2004 – July 2005 - ADRA Cambodia; Agriculture Project Research Consultant. Designed, organized, and analyzed survey questionnaires and research representing four years of ADRA agricultural projects in Siem Reap province, Cambodia. The consultancy coordinated participatory workshops, data analysis training, and presentations on lessons learned from the data analysis.

December 2005 - ADRA Cambodia; Monitoring and Evaluation Seminar Consultant. Prepared and presented an intensive seminar on research design, monitoring, and evaluation for Khmer staff managers. The seminar was hosted by ADRA Cambodia and included members of other international NGOs and national organizations such as World Vision and the Cambodian MOH.

October – December 2005 - World Vision Cambodia; Environmental Impact Assessment Consultant. Developed and conducted an environmental impact assessment for the AusAID funded Integrated Mine Action Program with World Vision, CARE, and AUSTCARE NGOs. The resulting environmental management plan was presented to international NGOs, national de-mining agencies, the Australian embassy and all other stakeholders involved in the de-mining and resettlement processes.

February 2005 - Mahidol University, Thailand and Tulane University; Post-Tsunami Relief Consultant. Organized a community needs assessment in select tsunami-affected areas of Pangnga province. Conducted rapid advisory sessions on sanitary survey methods for the Thai Pollution Control Department. Assisted local government members on water/environmental sampling activities.

## **TEACHING**

### **2020 Courses to date (LLUSPH)**

PCOR 502: Public Health Core

HMED 625: Civic Engagement

### **2019 Courses (LLUSPH)**

PCOR 501, 502, 503. Public Health Core (4 units per quarter)

OMED 525 Clinical Toxicology and Occupational Health Disorders (3 units)

OMED 524 Industrial Hygiene

EPI 515 Epidemiology of Infectious Disease

### **2016 Courses (LLUSPH)**

- ENVH 515 Food Quality Assurance: 2 units
- ENVH 569 Environmental Sampling: 4 units
- ENVH 509 Environmental Health (online): 3 units
- ENVH 694 Directed Study Research: 2 units
- ENVH 568 Water Quality Assurance: 2 units
- PCOR 501 Public Health for Community Resilience (in class and online): 5 units

### **2015 Courses (LLUSPH)**

- ENVH 568 Water Quality Assurance: 2 units
- ENVH 569 Environmental Sampling: 4 units
- PHCJ Field Practicum Courses (3 students)
- ENVH 694 Directed Study Research: 2 units

### **2014 Courses (LLUSPH)**

- ENVH 568 Water Quality Assurance: 2 units
- ENVH 569 Environmental Sampling: 4 units
- ENVH 414 Fundamental of Environmental Health (online): 3 units
- PHCJ Field Practicum Courses (4 students)
- GLBH 545 Integrated Community Development in Peru: 5 units
- ENVH 568 Water Quality Assurance: 2 units

### **2013 Courses (LLUSPH)**

ENVH 569 Environmental Sampling and Analysis: 4 units

ENVH 568 Water Quality Assurance: 2 units

ENVH 509 Environmental Health: 3 units

ENVH 445 Environmental Health online: 3 units

GLBH 545 Integrated Community Development: 1 unit

### **2013 Guest Lectures in GLBH classes (LLUSPH)**

ENVH 569 Environmental Sampling and Analysis: Lead lecturer.

GLBH 545 Integrated Community Development: Lead lecturer (2011)

GLBH 569 Global Health: Lead lecturer on survey research methods.

2010-2014 Guest Lectures (LLUSPH) (selected courses)

ENVH 509 Principles of Environmental Health: Lecture series on Water Quality.  
GLBH 565 International Health: Lecture series on Environmental Impact Assessment.  
GLBH 564 Community Health and Development: Lecture series on water, sanitation and disaster.

**Guest Lectures 2008 -2009 (selected courses)**

The University of Arizona:

SWES 530 Environmental Monitoring & Remediation: Lecture series on water quality indicators and Quantitative Microbial Risk Assessment.

SWES 418 Human Health Risk Assessment: Lecture series on bioterrorism and microbial risk assessment, real-time water quality sensors and point-of-use water disinfection.

**Tulane University 2006**

ENHS Water Chemistry Laboratory