NEW YORK STATE VETERANS' AND SERVICEMEMBERS' LAWS

New York State Department of Veterans' Services

DECEMBER 30, 2025

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PREFACE 10
.....VETERANS' SERVICES LAW 11
§1. Definitions 11
§2. Dept. of veterans' servs..... 12
§3. Veterans' services commn. 12
§4. General functions, powers and duties of division 13
§5. Veteran speaker education program 20
§6. Cooperation and facilities of other departments 21
§7. Information on status of veterans receiving assistance 21
§8. New York State supplemental burial allowance 22
§9. New York State Veterans Burial Fund..... 24
§10. Time Within Which Marriage May Be Solemnized..... 25
§11. Use Of Confidential Information..... 26
§12. Acceptance Of Gifts 26
§13. Location and cost of state veterans service agencies..... 26
§14. Local veterans' service agencies 27
§15. Powers and duties of local veterans' service agencies 29
§16. Location and cost of local veterans' service agencies..... 30
§17. Local veterans' services committees..... 31
§18. Appropriations for Expenses and Activities of local veterans' service agencies..... 31
§19. Women Veterans Coordinator 32
§20. Women Veterans Advisory Committee..... 33
§21. Creation of [blind] annuity..... 35
§22. Evidence of entitlement [for blind annuity] 37
§23. Persons who may receive [blind annuity]..... 37
§24. New York State Veterans' Cemeteries 40
§25. Veterans Health Screening 48
§26. Payment to parents of veterans [Gold Star Parent Annuity]..... 49
§27. Cremated remains of a Veteran 50
§28. Silver Rose Certificate..... 51
§29. Intake Forms for Admission and Residency 51

§ 30. Veterans Employment Act 52
§ 31. Legislative Findings [Veterans Employment Act] 52
§ 32. Definitions [Veterans Employment Act]..... 52
§ 33. Temporary Hiring Of Post-9/11 Veterans 53
§ 34. Dept. of Civil Service Responsibilities [Temp. Hiring] 53
§ 35. Regulations [Temporary Hiring Program] 53
§ 40. Definitions [Service-Disabled Veteran-Owned Businesses]..... 54
§ 41. Division of Service-Disabled Veteran-Owned Business Development 56
§ 42. Opportunities for Service-Disabled Veteran-Owned Businesses 59
§ 43. Severability 60

TAX LAW 61

§ 458. Veterans [Eligible Funds Exemption] 61

§ 458-a. Veterans; alternative exemption 68

§ 458-b. Exemption for Cold War Veterans..... 77

§ 458-c. Severely injured members of the Armed Forces 84

MILITARY LAW 85

§ 235. Relief from civil or criminal liability; exemption from civil process..... 85

§ 235-a. Income and resources not to include agent orange benefits..... 85

§ 237. Free passage through toll-gates and tunnels and over toll-bridges and ferries..... 86

§ 242. Rights of public officers and employees absent on military duty as members of the organized militia or of reserve forces or reserve components..... 86

§ 243. Provisions applicable to public employees who are absent on military duty 92

§ 243-a. Non-contributory retirement service credit for members of the New York state and local retirement systems or the New York state teachers' retirement system 106

§ 243-b. Civil service examinations by military personnel..... 107

§ 243-c. Application period for civil service examinations for military personnel 108

§ 243-d. Non-contributory retirement service credit for members of the New York state and local retirement systems, the New York city retirement systems or the New York state teachers' retirement system called to active duty 108

§ 244. Members of pension system absent on military duty 108

§ 244-a. Credit to members of public retirement systems for military service performed during war 109

§ 245. Retirement allowances of certain war veterans 110

§ 246. Leave of absence for public employees who are war veterans to continue study 111

§ 250. Recording certificates of honorable discharge..... 111

§ 251. Depriving members of organized militia of employment 112

§ 252. Discrimination against members of organized militia 112

§ 253. Military service by parent; effect on child custody proceedings 113
§ 255. Benefits Information For National Guard Members & Families..... 113
§ 300. Findings and declaration of emergency 114
§ 301. Definitions 115
§ 302. Stay, et cetera, to persons secondarily liable 116
§ 303. Representation; opening judgment; default 116
§ 304. Proceedings to be stayed unless interest unaffected by military service 117
§ 305. Relief against fines and penalties, et cetera 118
§ 306. Actions against persons in service 118
§ 307. Continuance of stay, et cetera 119
§ 308. Statutes of limitations and statutes of a similar nature; time of military service not included 119
§ 308-a Professional licenses 119
§ 308-b. Extension of license, certificate or registration 120
§ 309. Evictions; restraint 120
§ 310. Liability for rent accruing after induction; termination of lease 121
§ 311. Installment purchases..... 122
§ 311-a. Termination of motor vehicle lease contracts 123
§ 311-b. Cancellation without penalty of certain additional rental contracts 123
§ 312. Mortgages 124
§ 313. Settlement of cases involving stayed proceeding in foreclosure or repossession of personal property 125
§ 314. Taxes; taxes on real property, et cetera 125
§ 315. Taxes; income taxes 126
§ 316. Policies of insurance; policies not to lapse or be forfeited 127
§ 317. Reemployment in private industry 128
§ 318. Policy of the state [Discrimination Because of Military Duty] 129
§ 319. Evasive transfers of interest 130
§ 321. Certificates of service 130
§ 322. Interlocutory orders 131
§ 323. Further relief 131
§ 323-a. Maximum rate of interest 132

§ 323-b. Filing fees waiver; civil actions 132
§ 324. Separability 133
§ 325. Inconsistent provisions in other acts 133
§ 326. Article thirteen of military law, added by laws of nineteen hundred forty-one, chapter six hundred eighty-six 133
§ 327. Duration of the emergency 133
BUSINESS LAW 134
§ 442-g. Nonresident licenses 134
§ 32. Licenses to veterans of the armed forces of the United States 134
§ 35-a. Veterans of the armed forces who vend in cities having a population of one million or more 136
§ 406. License application; procedure; requirements; temporary license 142
§ 435. License without examination; temporary licenses 143
CIVIL SERVICE LAW 144
§ 50. Examinations Generally 144
§ 55-c. Employment of veterans with disabilities by the state 144
§ 85. Additional credit allowed veterans in competitive examinations; preference in retention upon abolition of positions 145
§ 86. Transfer of veterans or exempt volunteer firemen upon abolition of positions 151
§ 87. Prohibition against disqualification on account of age or disability 152
§ 88. Prohibition against discrimination against public employees in the armed service s…15
EDUCATION LAW 153
§ 360. Powers to regulate traffic on university grounds 153
§ 3301. Purpose [Children of Military Families] 153
§ 3302. Definitions [Children of Military Families] 154
§ 3303. Applicability [Children of Military Families] 156
§ 3304. Educational records and enrollment [Children of Military Families] 157
§ 3305. Placement and attendance [Children of Military Families] 158
§ 3306. Eligibility [Guardianship of Children of Military Families] 159
§ 3307. Graduation [Children of Military Families] 160
§ 3308. State coordination [Children of Military Families] 160

§ 3309. Interstate commission on educational opportunity for military children 161
§ 3310. Powers and duties of the interstate commission [Children of Military Families] 163
§ 3311. Organization and operation of the interstate commission [Children of Military Families] 165
§ 3312. Rulemaking functions of the interstate commission [Children of Military Families] 167
§ 3313. Oversight, enforcement, and dispute resolution [Children of Military Families] 168
§ 3314. Financing of the interstate commission [Children of Military Families] 170
§ 3315. Member states, effective date and amendment [Children of Military Families] 170
§ 3316. Withdrawal and dissolution [Children of Military Families] 171
§ 3317. Severability and construction [Children of Military Families] 171
§ 3318. Binding effect of compact and other laws [Children of Military Families] 172
§ 355. Powers and duties of trustees--administrative and fiscal functions [military students] 172
§ 6206. Powers and duties 172
§ 6223. Deferred education payments 173
§ 6305. Non-resident and out-of-state students 173
§ 6350. Leave of absence for military service 173
§ 6351. Preservation of educational status and financial resources 174
§ 6352. Option of refund or credit [Military Leave of Absence] 174
§ 6353. Enforcement [Education Law] 174
§ 6354. Applicability [Education Law] 174
§ 668. Regents awards for children of deceased and disabled veterans 175
§ 668-c. Awards for Vietnam veterans' children born with Spina Bifida enrolled in approved undergraduate or graduate programs at degree granting institutions 177
§ 668-e. Military enhanced recognition, incentive and tribute ("MERIT") scholarships 177
§ 669-a. Veterans tuition awards program [VTA] 178
§ 669-b. Recruitment incentive and retention program for members of the New York state organized militia [State Tuition Assistance] 181
§ 305. General powers and duties ["Operation Recognition"] 184
ENVIRONMENTAL CONSERVATION LAW 185
§ 11-0715. Fees [Hunting and Fishing License] 185

.....RETIREMENT & SOCIAL SECURITY LAW 186

§ 1000. Military service credit [Retirement] 186

PUBLIC HEALTH LAW 188

§ 2630. Purpose [State Veterans Homes] 188

§ 2631. Board of visitors; special provision [State Veterans Homes] 188

§ 2632. Admission to home [State Veterans Homes] 188

§ 2633. Acquisition and application of property [State Veterans Homes] 191

§ 2805-b. Admission of patients and emergency treatment of non-admitted patients [Notification of Veterans Health Care] 192

§ 2805-o. Identification of veterans and their spouses by nursing homes and residential health care facilities..... 192

§ 3800. Policy and purposes of article [Veteran Employment in Healthcare] 193

§ 3801. Veterans' health manpower center [Veteran Employment in Healthcare] 193

§ 3802. Powers and duties [Veteran Employment in Healthcare] 188

§ 3803. Veterans' health care information program 194

VEHICLE AND TRAFFIC LAW 195

§ 490. Definition; application for and issuance of identification card 195

§ 504. Form of license 196

§ 404. Issuance of special number plates 197

§ 404-a. Registration of motor vehicles of severely disabled persons 197

§ 404-aa. Distinctive plates for members of the Catholic War Veterans of America 199

§ 404-c. Distinctive plates for former prisoners of war 199

§ 404-d. Distinctive plates for members of the organized militia and reserve 200

§ 404-dd. Distinctive plates for members of AMVETS 201

§ 404-e. Distinctive plates for purple heart recipients 201

§ 404-h. Distinctive plates for members of the Jewish War Veterans of America..... 202

§ 404-i. Distinctive plates for gold star mothers 202

§ 404-j. Registration and issuance of special number plates for veterans who survived the Pearl Harbor attack 202

§ 404-k. Distinctive plates for Marine Corps League members 203

§ 404-p. Distinctive plates for Congressional Medal of Honor recipients 204

§ 404-s. Distinctive plates for the Saratoga National Cemetery Honor Guard Association 204
§ 404-v. Distinctive plates for the United States Naval Armed Guard 205
§ 404-v. Distinctive plates for members of the Eighth Air Force Historical Society 205
§ 404-w. Distinctive plates for war on terror veterans 206
§ 404-w. Distinctive plates for Persian Gulf veterans 207
§ 404-y. Distinctive plates for veterans of the Iraq & Afghanistan wars 207

DEBTOR AND CREDITOR LAW 209
§ 282. Permissible exemptions in bankruptcy 209

ECONOMIC DEVELOPMENT LAW 210
§ 210. Definitions 210
§ 211. Development centers 210
§ 212. Entrepreneurship support centers 212

HEALTHCARE LAW 214
§ 202. General powers and duties of office 214
§ 79.01. Definitions [Mental Hygiene Law] 214
§ 79.03. Application [Mental Hygiene Law] 214
§ 79.05. Limitations on number of wards [Guardianship] 215
§ 79.07. Petition; contents [Guardianship] 215
§ 79.09. Consolidated procedure [Guardianship] 216
§ 79.11. Prima facie evidence of infancy or incompetency 216
§ 79.13. Notice [Guardianship] 217
§ 79.29. Admission and retention of mentally ill veterans 217
§ 79.31. Discharge of guardian 217
§ 79.39. Recognition of veterans' administration as a party in interest 218

PUBLIC OFFICERS LAW 219
§ 63. Leave of absence for veterans on Memorial Day and Veterans Day 219

UNCONSOLIDATED LAWS 221
§ 2. Definitions 221
§ 3. Veterans priority system [Veterans Employment] 222

§ 4. Order of priority [Veterans Employment] 222
§ 5-c. POW/MIA Chair [Public Buildings] 222
§ 6. Reporting [NYS DVA Services Provided to Veterans]..... 223
§ 7. Administration [Agency Coordinator of Veterans Services] 223
§ 8. Agency duties and responsibilities [Treatment of Veterans] 223
VITAL STATISTICS + SOCIAL SERVICES LAW 225
§ 4173. Records; transcripts and certifications by registrars; fees 225
§ 19. Records to be kept by town and city clerks 226
§ 148. Burial of members of the armed forces of the United States and their families; headstones 227
§ 168. Definitions [Social Services Law] 230
§ 169 Social Services Law 232
§ 170. Character 233
§ 171. Responsibility; county social services districts; city social services districts; cities; towns 233
§ 172. Moneys to be provided 233
§ 173. Election to administer veteran assistance by county public welfare district; organization 234
§ 174-b. Authorization of veteran assistance in towns..... 235
§ 175. Administration of veteran assistance in New York City 235
§ 176. Veteran advisory committees; duties 236
§ 177. Care in public homes; consent of veteran or other eligible persons 237
§ 178. Veteran assistance financing; state reimbursement 237
§ 327. Approvals, Notices and Consents [Not-For-Profit Corporation] 237
HUMAN RIGHTS LAW 238
§ 291. Equality of Opportunity a Civil Right 238
§ 292. Definitions [New York State Human Rights Law] 238
§ 296. Unlawful Discriminatory Practices 245
§ 296. Pension Poaching Prevention..... 264
ACCESS TO VETERANS TREATMENT COURTS 267
DISPLAY OF VETERANS' SERVICES INFORMATIONAL POSTERS 270
DESIGNATION OF NEW YORK AS PURPLE HEART STATE 270
STATE PARKS ACCESS FOR VETERANS & GOLD STAR FAMILIES..... 271

PREFACE

This book is intended to assist Veterans' advocates in understanding New York State's laws that are directly applicable to Veterans, Service Members, and their families. This book is NOT intended to answer every question about every statute and court case impacting this population, but offers instead a thorough first look into this fascinating area of law.

The laws in this book are annotated to assist the reader in understanding the legal interpretations of these statutes. Court Cases and General Counsel Opinions are binding on the implementation and scope of the law within their jurisdiction. Where applicable, we have added the legislative intent to help the reader understand the purposes and goals of the Legislature in the construction of the law. This type of information can be very valuable in advocating for your client. The book uses [brackets] to enclose words added by other than the original drafters to help clarify the meaning or to clearly identify the topic of the law.

Please take notice of the effective date of this publication. The law changes as often as the tides, and is relevant and binding only in its most recent incarnation.

If there is a question regarding any law referenced in this book, please contact the General Counsel of the New York State Department of Veterans' Services.

To every person who ever served in our Nation's military

To every person who currently serves in our Nation's military

To every person who will someday serve in our Nation's military

To every person who advocates for people who served in our Nation's military

We dedicate this book to you.

VETERANS' SERVICES LAW

Veterans' Services Law Article 1, Section 1

§1. Definitions

When used in this article:

1. The term "department" means the department of veterans' services.

2. The term "state commissioner" means the New York state commissioner of veterans' services.

3. The term "veteran" means a person who served on active duty in the uniformed services of the United States, or in the army national guard, air national guard, or service as a commissioned officer in the public health service, commissioned officer of the national oceanic and atmospheric administration or environmental sciences services administration, cadet at a United States armed forces service academy, and who has been released from such service under other than dishonorable conditions.

4. The term "uniformed services" means the army, navy, marine corps, air force, space force, coast guard, public health commissioned corps, and the national oceanic and atmospheric administration commissioned officer corps of the United States.

5. The term "local director" means the director of a county or city veterans' service agency.

6. The term "county director" means a local director of a county veterans' service agency.

7. The term "city director" means a local director of a city veterans' service agency.

8. The term "qualifying condition" means a diagnosis of post-traumatic stress disorder or traumatic brain injury made by, or an, experience of military sexual trauma, as described in 38 U.S.C. 1720D, disclosed to an individual licensed to provide health care services at a Department of Veterans Affairs facility or an individual licensed to provide health care services within the state of new york. The department shall develop a standardized form to confirm that the veteran has a qualifying condition under this subdivision.

9. The term "discharged LGBT veteran" means a veteran who was discharged less than honorably from military or naval service due to their sexual orientation or gender identity or expression, as those terms are defined in section two hundred ninety-two of this chapter, or statements, consensual sexual conduct, or consensual acts relating to sexual orientation, gender identity or expression, or the disclosure of such statements, conduct, or acts, that were prohibited by the military or naval service at the time of discharge. The department shall establish a consistent and uniform process to determine whether a veteran qualifies as a discharged LGBT veteran under this subdivision, including, at a minimum, standards for verifying a veteran's status as a discharged LGBT veteran, and a method of demonstrating eligibility as a discharged LGBT veteran.

Veterans' Services Law Art. 1, Sect. 2

§ 2. Department of veterans' services

There is hereby created in the executive department a department of veterans' services. The head of such department shall be the New York state commissioner of veterans' services who shall be a veteran. He or she shall be appointed by the governor and shall hold office during his or her pleasure. Such state director shall receive an annual salary to be fixed by the governor within the limitation provided by law. He or she shall also be entitled to receive his expenses actually and necessarily incurred by him in the performance of his duties. The state director, with the approval of the governor, may establish such bureaus within the department as are necessary and appropriate to carrying out its functions and may consolidate or abolish such bureaus. The state director may appoint such officers, consultants, clerks and other employees and agents as he may deem necessary, fix their compensation within the limitation provided by law, and prescribe their duties.

Veterans' Services Law Art.1, Sect. 3

§ 3. Veterans' services commission

1. There shall be in the department a veterans' services commission, which shall consist of the members and the ex officio members provided for in this section.

2. There shall be thirteen members of the commission who shall be veterans appointed by the governor, including two appointed on recommendation of the temporary president of the senate, one appointed on recommendation of the minority leader of the senate, two appointed on recommendation of the speaker of the assembly, and one appointed on recommendation of the minority leader of the assembly. The appointment of members made by the governor without recommendation shall be subject to advice and consent of the senate. The members of the commission shall serve for terms of three years each, provided, however, that of the members appointed during nineteen hundred ninety-three or nineteen hundred ninety-four (a) the persons appointed on recommendation of the temporary president of the senate and the speaker of the assembly shall be appointed for terms ending December thirty-first, nineteen hundred ninety-six; (b) the persons appointed on recommendation of the minority leader of the senate and the minority leader of the assembly and the first appointed two persons by the governor shall be appointed for terms ending December thirty-first, nineteen hundred ninety-five; and (c) the other five persons appointed by the governor shall be appointed for terms ending December thirty-first, nineteen hundred ninety-four. Appointed members presently serving on the commission shall continue to serve for the remainder of the term appointed. Any member chosen to fill a vacancy of such an appointed member occurring otherwise than by expiration of term shall be appointed for the remainder of the unexpired term of the member whom he or she is to succeed. Members appointed as provided in this subdivision shall receive no salary or other

compensation, but each shall be entitled to receive expenses actually and necessarily incurred in the performance of their duties.

3. Ex officio members.

(a) The adjutant general of the state of New York shall be an ex officio member of the commission.

(b) In addition, the state commissioner may appoint the head of any other state agency or their designee as a non-voting, ex officio member of the commission. Such appointments shall expire annually on December thirty-first unless such appointments are renewed by the state director.

4. One of the members of the commission, which shall include the adjutant general, shall be designated as chairperson by the governor. The designation shall be in writing and shall be filed with the commission.

5. The commission shall have power, and it shall be its duty, to assist the state commissioner in the formulation of policies affecting veterans and in the coordination of all operations of state agencies relating to veterans' services.

Veterans' Services Law Art. 1, Sect. 4

§ 4. General functions, powers and duties of department

The department, by and through the state director or his or her duly authorized officer or employee shall have the following functions, powers and duties:

1. To coordinate the program and activities of departments, divisions, boards, bureaus, commissions or agencies of the state or of any political subdivision of the state in providing services and facilities to members of the armed forces and to veterans who are residents of this state and their families.

2. To maintain liaison with other public officials and agencies concerned with the development or execution of plans for members of the armed forces and veterans who are residents of this state, and their families, and to assist in the development and execution of such plans.

3. To establish, direct and supervise a state veterans' service agency; and to create or designate other agencies of the department to aid and assist in the discharge of one or more of its functions, powers or duties under this article, and grant authority to such agencies as may be deemed necessary for the effective accomplishment of any of such functions, powers or duties.

4. To operate and maintain counseling services, rest camps and other agencies and institutions and to administer benefits and facilities for members of the armed forces and veterans who are residents of this state, and their families.

5. To provide seminars three times per year at locations throughout the state to advise veterans and their surviving spouses, who are age sixty-two or older, of veterans' benefits for which they may be eligible from the state and federal governments, and the means of obtaining such benefits.

6. To provide seminars three times per year at locations throughout the state to advise women veterans of their benefits for which they may be eligible from the state and federal governments, the means of obtaining such benefits and other topics, including, but not limited to, health care issues of specific interest to women veterans.

7. To provide in cooperation with the office of general services and the office of the comptroller a series of seminars, that shall be conducted four or more times per year at regional sites located throughout the state of New York for the purpose of advising veteran-owned businesses regarding the opportunities available for obtaining procurement contracts from New York state agencies, municipalities, and authorities.

8. To execute and assist in the execution of plans for the efficient utilization of the resources and facilities of the state in matters related to members of the armed forces and veterans who are residents of this state, and their families.

9. To make studies and analyses and develop and execute plans for assistance and benefits to members of the armed forces and veterans who are residents of this state, and their families, and the creation of agencies, institutions and facilities therefor.

10. To conduct a study, in consultation with the office of temporary and disability assistance, department of labor, and office of children and family services to determine the number of homeless persons in New York state that are veterans. Such report shall include, but not be limited to, the following information to the extent it is reasonably accessible to the department: (a) an analysis of veterans in New York state who are currently homeless, or have been homeless within five years of being released from active duty including an analysis of gender as it relates to homelessness of veterans; (b) data on the number of children of homeless veterans, including the current placement of such children; (c) cases of military sexual trauma experienced by homeless veterans while on active duty or during military training, including a breakdown of the collected data based upon the gender of the victim; and (d) the unemployment rate for New York state veterans. The term "children of homeless veterans" shall mean a person who is unmarried and who is under the age of eighteen years, and is the biological or legally adopted child of a veteran. The report shall be delivered to the governor, the speaker of the assembly and the temporary president of the senate by June thirtieth, two thousand twenty and every three years thereafter. Such report shall be publicly available and posted on the department of veterans' services website.

11. To develop and encourage plans for the occupational reorientation of veterans who are residents of this state, including the determination and certification of civilian equivalents for military experience and the development and encouragement of on-the-

job training and apprenticeship training programs. Furthermore, the department shall provide an internet connection to correlate military occupations and skills into civilian translations and terms.

12. To provide information regarding resources that are available to assist veterans in establishing and sustaining a small business by maintaining a small business portal on the department's internet website. Such portal shall provide virtual links to appropriate government programs including, but not limited to the United States department of veterans' affairs. The department may consult with the New York State Small Business Development Center and any other appropriate state agencies. The department shall make reference to this information in its newsletter, at the three seminars sponsored by the department pursuant to subdivisions four-a, four-b, and four-c of this section and the annual report to the governor and the legislature as provided in subdivision eleven of this section. Such information required under this subdivision shall be maintained and updated annually. The information may also be made available in printed form.

13. To provide information regarding resources that are available to assist veterans in obtaining employment by maintaining a veterans' employment portal on the department's internet website. Such portal shall provide virtual links to appropriate governmental programs on the federal and state level, including, but not limited to the United States department of labor, the New York state department of labor, and the New York state department of civil service. The department may consult with members of the community devoted to helping veterans obtain employment. The department shall make reference to this information pursuant to subdivisions four-a, four-b, and four-c of this section and the annual report to the governor and the legislature as provided in subdivision eleven of this section. Such information required under this subdivision shall be maintained and updated annually. The information may also be made available in printed form.

14. To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this article.

15. To recommend to the legislature and the governor legislative proposals for the benefit of military members and veterans who are residents of this state, and their families.

16. To exercise and perform such other functions, powers and duties as may be deemed necessary to protect the interests and promote the welfare of members of the armed forces and veterans who are residents of this state, and their families.

17. To render each year to the governor and to the legislature a written report of the activities and recommendations of the department.

18. (a) For the purpose of providing for the construction, establishment, expansion, improvement, support, operation, maintenance and the provision of perpetual care for state veterans cemeteries, to seek funding from, and make application for funding to:

(1) the government of the United States, including any agency thereof;

(2) the government of the state of New York, including any agency thereof;

(3) any political subdivision of the government of the state of New York, including any agency or public authority thereof; or

(4) any private individual, corporation or foundation;

(b) Pursuant to section three hundred sixty-five of this article, to provide for the construction, establishment, expansion, improvement, support, operation, maintenance and the provision of perpetual care for state veterans cemeteries;

(c) To expend moneys from the veterans remembrance and cemetery maintenance and operation fund, established pursuant to section ninety-seven-mmmm of the state finance law; and

(d) To evaluate, monitor and otherwise oversee the operation of veterans cemeteries in this state.

19. To make application to the government of the United States or any political subdivision, agency or instrumentality thereof, for funds for the purpose of providing an optional fund for the burial of veterans who (I) were honorably discharged or (II) had a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) were a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, in any not-for-profit cemetery corporation in this state.

20. To establish, operate and maintain a toll-free telephone number, under the supervision of the state director, for the purpose of providing callers thereof with information relating to services provided by the department as well as services and programs provided to veterans by other agencies, bureaus and organizations. Such services and programs shall include, but not be limited to, educational and job benefits, tuition assistance programs, survivor benefits, health and mental health referrals and real property tax exemptions.

21. To establish, operate and maintain a free mobile application, under the supervision of the state director, for the purposes of providing veterans and their family members with information, available on a region-specific basis, relating to services provided by the department as well as services and programs provided to veterans by other state agencies, the federal government, and other organizations. Such services and programs shall include, but not be limited to educational and job benefits, tuition assistance programs, survivor benefits, health and mental health referrals, and real property tax exemptions. The department's website shall contain a link to the free mobile application.

22. To develop, jointly with the commissioner of education, a form by which the parent or person in parental relation to a designated child may, should he or she so elect, report to the department that a parent of such child is a veteran of the armed forces who served in Vietnam during the Vietnam conflict. This form shall:

(i) clearly state that the parent or person in parental relation is not required to provide the information requested and that the information will have no bearing upon the services the child will receive;

(ii) state that the information will be used exclusively for research purposes and explain those research purposes in plain language; and

(iii) provide the address to which the form is to be mailed, should the parent or person in parental relation elect to make such report.

23. To process all information received from nursing homes and residential health care facilities indicating veteran or veteran spouse status. Such processing shall occur by transmitting such information to state counselors for review and potential linkage to applicable benefits, including but not limited to federal aid and attendance and a federal improved pension program. State counselors shall work with county counselors or any accredited service officers of an organization chartered by the congress of the United States and/or recognized by the department of veterans affairs for claim representation as necessary and where appropriate. Such information shall be protected as personal confidential information under article six-A of the public officers law against disclosure of confidential material, and shall be used only to assist in providing linkage to applicable benefits and entitlements under federal and state law.

24. To include within the annual report as required by subdivision eleven of this section an accounting of the number of forms received from nursing homes and residential health care facilities, including assisted living and assisted living residences as defined in section forty-six hundred fifty-one of the public health law, and adult care facilities authorized under title two of article seven of the social services law, and the specific number of veterans and spouses of veterans linked to applicable benefits, including, but not limited to federal aid and attendance and a federal improved pension program. Such report shall evaluate the average time taken by the department between receipt of such information, transmission to veterans counselors and linkage to available benefits. Such report shall also evaluate the effectiveness of the program and make recommendations for improvements as necessary.

25. To encourage the development of and to provide for the establishment of a state women veterans coordinator, as provided in section nineteen of this article.

26. To make available information on accident prevention courses approved by the commissioner of motor vehicles online on the department's website. The department shall provide a link to the department of motor vehicles website pages containing information on the accident prevention courses.

27. To provide information regarding resources that are available to assist veterans who experience mental health or substance abuse problems, and veterans with physical disabilities, by maintaining mental health, substance abuse and physical disabilities portals on the department's internet website.

Such portals shall provide virtual links to appropriate governmental programs on the federal and state levels and information on suicide prevention, traumatic brain injury, post-traumatic stress disorder, peer outreach and support, and services that address the special needs of physically disabled veterans. The department may consult with the office of mental health, the office of alcoholism and substance abuse services, the department of health and the department of labor. The department shall refer to this information provided pursuant to subdivisions four-a and four-b and in the annual report to the governor and the legislature required pursuant to subdivision eleven. Such information shall be maintained and updated annually.

28. To include within the annual report as required by subdivision seventeen of this section an accounting of the number of veteran-owned small businesses in the state of New York, to be listed by the following designations: small business concern owned and controlled by veterans as set forth in 15 U.S.C. section 632(Q)(3), as amended from time to time, and service disabled veteran-owned business enterprise as set forth in article seventeen-B of this chapter. Such listing shall include but not be limited to the name of the veteran owner or owners of each business, location of each such business, the type of each such business and whenever practicable, be divided into categories of labor, services, equipment, materials and recognized construction trades. The department shall request this information annually from the U.S. department of veterans affairs, any other appropriate federal agencies and the division of service-disabled veterans' business development within the New York state office of general services.

29. To maintain a fact sheet on the department's webpage containing (a) contact information for all veterans integrated service networks located within the state, (b) current contact information for the veterans health administration including VA medical centers and clinics and (c) contact information for each New York State veterans' home.

30. To maintain a listing on the department's website of the local veterans' service agencies established pursuant to section three hundred fifty-seven of this article with the name, location, hours of operation and contact information of each county and city veterans' service agency. The department shall also provide this information in its annual report to the governor and the legislature as required pursuant to subdivision eleven of this section. Information under this subdivision shall be provided to the department by each local veterans' service agency and shall be updated annually.

31. To maintain a discharge upgrade advisory board program within the department to provide written non-binding advisory opinions to veterans of the state of New York appealing their character of discharge from the discharge review board or the board for corrections of military records for their branch of service on the federal level. Individuals may submit an application with evidence, including all relevant documents, which shall be reviewed by the discharge upgrade advisory board program in a timely manner.

If such board finds the veteran's application for a discharge upgrade is meritorious, then the board will provide the veteran with a written opinion advocating for the discharge review board or board for corrections of military or naval records to grant that veteran's appeal. The department shall post information on the discharge upgrade advisory board program on its official webpage. The annual report required by subdivision eleven of this section shall contain information including, but not limited to, the number of cases reviewed, and the number of cases where a veteran's application was found to be meritorious.

32. To provide information regarding resources that are available to assist veterans who experienced military sexual trauma while on active duty or during military training, by maintaining a military sexual trauma portal on the department's website. Such portal shall provide links to appropriate governmental programs on the federal and state levels.

33. To make widely available to the public via, among other things, publication on the department's website and free mobile application, information regarding the veterans remembrance and cemetery maintenance and operation fund established pursuant to section ninety-seven-mmmm of the state finance law.

34. To prepare and submit a report in consultation with the department of health and the department of mental hygiene including the following information to the extent it is reasonably accessible: (a) the number of veterans who died by suicide; (b) trends of veterans suicide rates over the last five years, including details by period of military service; and (c) a comparison of veterans suicide rates by county, statewide and nationwide. Such report shall be delivered to the governor and legislature no later than June thirteenth, two thousand twenty-four and every three years thereafter. Such report shall also be made available on the department's website.

35. The department shall: (a) forward completed forms received from a coroner, coroner's physician or medical examiner pursuant to section six hundred seventy-seven of the county law to the office of mental hygiene pursuant to subdivision (g) of section 7.07 of the mental hygiene law in a timely manner; and (b) compile such information for inclusion in the annual report pursuant to this section.

36. To coordinate outreach efforts that ensure members of the uniformed services and veterans who are residents of this state, and their families, are made aware of services for veterans from any departments, divisions, boards, bureaus, commissions or agencies of the state or any political subdivision of this state.

37. To develop collaborative relationships among state, federal, and local agencies and private organizations, including but not limited to the office of mental health, state office for the aging, and office of addiction services and supports, to help facilitate access to services by members of the uniformed services and veterans who are residents of the state and their families.

Veterans' Services Law Art. 1, Sect. 5

§ **5. Veteran speaker education program**

1. There is hereby established within the department a veteran speaker education program to be developed and implemented by the commissioner in consultation with the director of the New York state military museum and veterans resource center and in accordance with the provisions of this section. Such program shall provide school districts within this state with a listing of available veteran speakers willing to visit classrooms for the purpose of discussing their military experience.

2. The department, from its available resources, shall develop an informational pamphlet to be distributed either by mail or electronically to school districts which provides a general overview of the program including its purpose and how to participate. The department shall, in consultation with congressionally chartered veterans organizations and local veterans services agencies, appoint and create a listing of veteran speakers coordinators for each county of the state who shall be listed in the informational pamphlet. The veteran speakers coordinators' duties shall include but not be limited to contacting veterans who reside in their county including those who have participated in the veteran's oral history program at the New York state military museum or the West Point oral history project or the veterans history project of the American Folklore Center or any similar oral history project with information about this program and inquiring as to whether such persons would be willing to participate as speakers or in any other capacity. The listing shall include the names and contact information for such veterans including information describing the type of military service performed by each such person, the time and length of service, geographic area or areas where such person served and rank. The veteran speakers coordinators shall annually update such information regarding the availability of such veterans.

3. No teacher or veteran shall be required to participate in this program. Any teacher who wishes to supplement his or her classroom instruction concerning a particular era in American military history may contact a participating veteran personally to request that such person visit a classroom to discuss his or her military experience. A teacher shall be responsible for ascertaining the appropriateness of any proposed speaker based upon the age of the children and the intended subject matter. Nothing in this section shall be intended to supersede any particular or general school rules or regulations or other laws relating to curriculum.

4. The department shall require a certified copy of the veteran's discharge papers to participate in the veteran speaker program. Such form shall be filed with the department to serve as evidence that such person is a veteran who served in the United States military honorably.

5. The department shall implement a procedure for evaluations of each speaker to be completed by teachers and students, and maintain such evaluations and make them available upon

request to other teachers who plan to participate.

6. The department may consult with other veterans' organizations and any branch of the U.S. military in the development of this program.

Veterans' Services Law Art. 1, Sect. 6

§ 6. Cooperation and facilities of other departments

To effectuate the purposes of this article, the governor may direct any department, division, board, bureau, commission or agency of the state, or of any political subdivision thereof, to cooperate with and assist and advise the department in the performance of its duties and functions, and to provide such facilities, including personnel, materials and other assistance and data as will enable the department or any of its agencies to properly carry out its activities and effectuate its purposes under this article.

Veterans' Services Law Art. 1, Sect. 7

§ 7. Information on status of veterans receiving assistance

Departments, divisions, bureaus, boards, commissions and agencies of the state and political subdivisions thereof, which provide assistance, treatment, counseling, care, supervision or custody in service areas involving health, mental health, family services, criminal justice or employment, including but not limited to the office of addiction services and supports, office of mental health, office of probation and correctional alternatives, office of children and family services, office of temporary and disability assistance, department of health, department of labor, local workforce investment boards, office for people with developmental disabilities, and department of corrections and community supervision, shall request assisted persons to provide information with regard to their veteran status and military experiences.

Individuals identifying themselves as veterans, including individuals requesting and obtaining a veterans notation on their driver's license or non-driver identification card pursuant to sections four hundred ninety and five hundred two of the vehicle and traffic law shall be advised that the department of veterans' services and local veterans' service agencies established pursuant to section three hundred fifty-seven of this article provide assistance to veterans regarding benefits under federal and state law. Information regarding veterans status and military service provided by assisted persons solely to implement this section shall be protected as personal confidential information under article six-a of the public officers law against disclosure of confidential material, and used only to assist in the diagnosis, treatment, assessment and handling of the veteran's problems within the agency requesting such information and in referring the veteran to the department of veterans' services for information and assistance with regard to benefits and entitlements under federal and state law.

Veterans' Services Law Art. 1, Sect. 8

§ 8. New York State supplemental burial allowance

New York state supplemental burial allowance for members of the armed forces of the United States killed in combat or duty subject to hostile fire or imminent danger, as defined in 37 USC § 310.

1. As used in this section, "parent" means a father, a mother, a father through adoption, a mother through adoption, or an individual who, for a period of not less than one year, at any time before the decedent's entry into active military service stood in the relationship of a parent to a decedent who died in combat or duty subject to hostile fire or imminent danger, as defined in 37 USC § 310, or who died from a wound incurred in combat or while serving on duty subject to hostile fire or imminent danger, as defined in 37 USC § 310 or, if two persons stood in the relationship of a parent for one year or more, the person who bore the expenses of the funeral of the decedent.

2. As used in this section, (a) "wound" means a physical injury to a servicemember on active duty caused by (i) a bullet, shrapnel, or other projectile; (ii) a mine or trap; (iii) an explosion; (iv) a vehicle or aircraft accident not caused by the servicemember's willful misconduct; or (v) any other action caused or induced by the enemy directly resulting in physical harm to the servicemember.

(b) "burial receptacle" means (i) a casket, which shall mean a rigid container that is designed for the encasement of human remains and customarily ornamented and lined with fabric, (ii) an urn, which shall mean a container of wood, metal, pottery, or other material designed for the storage of cremated human remains, and/or (iii) an outer burial receptacle, which shall mean a grave liner, burial vault, or other similar type of container for the placement of a casket or urn.

3. There is hereby established within the department a New York state supplemental burial allowance for any member of the armed forces of the United States [fig 2] who: [a] died in combat or duty subject to hostile fire or imminent danger, as defined in 37 USC § 310 or died from a wound incurred in combat or while serving on duty subject to hostile fire or imminent danger, as defined in 37 USC § 310, other than the exceptions noted in paragraphs [d], [e] and [f] of subdivision four of this section, and [b] who was [i] a resident of New York state at the time of his or her death or [ii] a nonresident of New York state at the time of his or her death and a member of the New York Army National Guard or New York Air National Guard at the time he or she entered title 10, United States Code, federal active duty status during which period of service he or she died.

4. (a) The purpose of the program is to administer and monitor a supplemental allowance program to aid families of military personnel who died in combat or duty subject to hostile

fire or imminent danger, as defined in 37 USC § 310, or died from a wound incurred in combat or duty subject to hostile fire or imminent danger, as defined in 37 USC § 310, with respect to expenses incurred in connection with the decedent's funeral and the burial, burial receptacle, cremation, or other interment of the decedent's remains .

(b) Eligible recipients under this program shall be those who bore the cost of the decedent's funeral and burial, burial receptacle, cremation, or other interment , in the following order of priority: (i) a surviving spouse or domestic partner of the decedent; (ii) adult children of the decedent, to include step-children and adopted children; (iii) parents or grandparents of the decedent, and parents-in-law or grandparents-in-law of the decedent; (iv) brothers or sisters of the decedent, to include brothers or sisters adopted by the decedent's immediate family and brothers or sisters with whom the decedent shares only one parent in common, and brothers-in-law or sisters-in-law of the decedent; [v] aunts, uncles, and first cousins of the decedent; and [vi] any other relative. Any applicant convicted of making any false statement in the application for the reimbursement shall be subject to the penalties prescribed in the penal law.

(c) Such burial allowance is a partial reimbursement of an eligible decedent's [fig 1] funeral and burial, burial receptacle, cremation or other interment costs. The reimbursement is generally applicable to two components: (i) funeral expenses, and (ii) expenses arising from the burial, burial receptacle, cremation, or other interment of the decedent's remains. Any allowance granted by the government of the United States, pursuant to 38 U.S.C. § 2301, 2302, 2303, 2306, 2307 and 2308 or 10 U.S.C. § 1482, or by the decedent's state of residence in the case of an allowance eligible pursuant to subparagraph [ii] of paragraph [b] of subdivision three of this section, shall be first applied toward funeral and burial, burial receptacle, cremation or other interment costs. [The state may award an allowance of up to six thousand dollars to cover any remaining expenses].

(d) The state shall not award any funds from this allowance to reimburse any costs for the headstone, grave marker, or medallion of the decedent.

(e) The state shall not grant supplemental burial allowance payments for the funeral or the burial, burial receptacle, cremation, or other interment of remains of any decedent whose relations received any reimbursement from this allowance for any previous funeral or burial, burial receptacle, cremation, or other interment of remains for this same decedent.

(f) The state shall not grant supplemental burial allowance payments for any person filing a completed application for such allowance with the state later than: (i) two years after the applicant received final written notice from the United States Department of Veterans Affairs regarding an application for reimbursement of funeral or burial, burial receptacle, cremation or other interment expenses pursuant to 38 U.S.C.§§ 2301, 2302, 2303, 2306, 2307, or 2308, or 10 U.S.C. § 1482, or any combination thereof; or (ii) two years after the expiration

date of the filing deadline to apply for reimbursement of funeral, burial, burial receptacle, cremation or other interment expenses from the United States Department of Veterans Affairs, as defined in 38 U.S.C. § 2304, if the applicant never applied for reimbursement of funeral, burial, burial receptacle, cremation or interment expenses from the United States Department of Veterans Affairs. Any applications received subsequent to these prescribed periods shall be denied as time-barred.

(g) Any family members of an individual who died after September eleventh, two thousand one for whom the time limitations described in paragraph (f) of this subdivision have expired, and who prior to the effective date of this paragraph did not receive reimbursement under this section but would have qualified if the criteria in paragraph (a) of this subdivision had been in effect at the time of the decedent's death, shall have two years from the effective date of this paragraph to file a completed application for this supplemental burial allowance with the state director. Any application filed under this paragraph and received subsequent to this two-year period shall be denied as time-barred.

(h) Applicants shall furnish evidence of the decedent's military service and relevant after action reports or other documents explaining why the application meets eligibility requirements for each case in the manner and form prescribed by the state director or his or her designee. Upon being satisfied that the facts in the application are true, the state director or his or her designee shall certify to the state comptroller the name and address of such recipient. The decision of the state director or designee on all matters regarding any payment from this allowance shall be final.

(i) The state director shall submit a report to the governor, the chairperson of the senate finance committee, and the chairperson of the assembly ways and means committee not later than January fifteenth of each year in which this section is in effect. Such report shall include, but not be limited to, regulations promulgated pursuant to this section, allowances paid, and an account of monies spent and the relationship of distributees to the decedent.

Veterans' Services Law Art. 1, Sect. 9

§ 9. New York State Veteran Burial Fund

(1) As used in this section, "agent in control of the disposition of remains" means the person responsible or designated to control the disposition of a deceased veteran's remains as defined and outlined in section forty-two hundred one of the public health law. The term "interment" means the disposition of remains as defined in paragraph (g) of section fifteen hundred two of the not-for-profit corporation law. The term "burial" shall include the process as defined in paragraph (e) of section fifteen hundred two of the not-for-profit corporation law.

(2) As provided in subdivision nineteen of section four of this article, there is hereby established within the department a New York state veterans burial fund for honorably discharged members of the uniformed services of the United States who were residents of

New York State at the time of his or her death who (i) were honorably discharged from such service, or (ii) had a qualifying condition, as defined in section one of this article, and received a discharge other than bad conduct or dishonorable from such service, or (iii) were discharged LGBT veterans as defined in section one of this article, and received a discharge other than bad conduct or dishonorable from such service.

(a) Eligible recipients under this program shall be those who bore the cost of the funeral as the agent in control of the disposition of remains. An application shall be made available to an eligible recipient. Any applicant convicted of making any false statement in the application for the reimbursement shall be subject to the penalties prescribed in the penal law.

(b) Such optional burial allowance is a reimbursement of an eligible decedent's burial and interment costs not to exceed two thousand five hundred dollars in a New York state not-for-profit cemetery. The reimbursement is generally available as a plot interment allowance. Any allowance granted by the government of the United States, pursuant to 38 U.S.C. §§ 2302, 2303, 2306, 2307 and 2308 or 10 U.S.C. § 1482 shall be first applied toward interment costs. An additional allowance of up to the cost of the actual burial and interment as provided under subdivision nineteen of section four of this article may be awarded to cover any remaining expenses.

(c) Evidence of the military service of the decedent for each case shall be furnished in the manner and form prescribed by the state commissioner; upon being satisfied that the facts in the application are true, the state commissioner shall certify to the state comptroller the name and address of such agent in control of the disposition of remains for reimbursement as provided in this section.

Veterans' Services Law Art. 1, Sect. 10

§ 10. Time Within Which Marriage May Be Solemnized

Notwithstanding section thirteen-b of the domestic relations law, where either of the parties making application for a marriage license, pursuant to section thirteen of the domestic relations law, is a member of the uniformed services of the United States on active duty the marriage of the parties shall not be solemnized within twenty-four hours after the issuance of the marriage license, nor shall it be solemnized after one hundred eighty days from the date of the issuance of the marriage license.

Proof that the applicant is a member of the uniformed services of the United States shall be furnished to the satisfaction of the official issuing the marriage license. Every license to marry issued pursuant to the provisions of this section shall state the day and hour the license is issued and shall contain a recital that it is issued pursuant to the provisions of this section

Veterans' Services Law Art. 1, Sect. 11

§ 11. Use Of Confidential Information Obtained From Veterans Or Family Members Of Veterans Receiving Services From The State And Political Subdivisions Thereof

(1) Departments, divisions, bureaus, boards, commissions and agencies of the state and political subdivisions thereof, which provide assistance, treatment, counseling, care, supervision or custody in service areas involving health, mental health, family services, criminal justice or employment shall be required to solicit information on whether their customer or client is a veteran as defined in section eighty-five of the civil service law or family member of a veteran. Any new forms created after the effective date of this section shall contain the following questions: "Have you served in the United States military?" "Has someone in your family served in the United States military?"

(2) Individuals identifying themselves as having served in the military or a family member shall be advised that the department of veterans' services and local veterans service agencies established pursuant to section seventeen of this article provide assistance to veterans regarding benefits under federal and state law. Information regarding veterans and military status provided by assisted persons solely to implement this section shall be protected as personal confidential material, and used only to assist in the diagnosis, treatment, assessment and handling of the veteran's or family member's problems within the agency requesting such information and in referring the veteran or family member to the department of veterans' services for the information and assistance with regard to benefits and entitlements under federal and state law.

Veterans' Services Law Art. 1, Sect. 12

§ 12. Acceptance Of gifts

The department, with the approval of the governor, may accept any gift or grant for any of the purposes of this article. Any moneys so received may be expended by the department to effectuate any of the purposes of this article, subject to the same limitations as to authorization, audit and approval as are prescribed for state moneys appropriated for the purposes of this article.

Veterans' Services Law Art. 1, Sect. 13

§ 13. State veterans' service agency

1. A state veterans' service agency established by the department pursuant to this article shall have power and it shall be its duty to inform military and naval authorities of the United States and assist members of the armed forces and veterans, who are residents of this state, and their families, in relation to (1) matters pertaining to educational training and retraining services and facilities, (2) health, medical and rehabilitation services and

facilities, (3) provisions of federal, state and local laws and regulations affording special rights and privileges to members of the armed forces and veterans and their families, (4) employment and re-employment services, including the employment of veterans with disabilities program under section 55-c of the civil service law, and (5) other matters of similar, related or appropriate nature. The state veterans' service agency also shall perform such other duties as may be assigned by the state commissioner.

2. The state commissioner may, with the approval of the governor, appoint and remove a director of the state veterans' service agency. The state director may establish, alter or abolish state veterans' service agency districts within the state, establish or abolish offices therefor, and appoint and at pleasure remove a deputy director of the state veterans' service agency for each such district office. With the approval of the state director, the director of the veterans' service agency may appoint such officers, consultants, clerks and other employees to administer the functions of the state veterans' service agency, fix their compensation within the limitation provided by law, and prescribe their duties.

Veterans' Services Law Art. 1, Sect. 14

§ **14. Local veterans' service agencies**

(1) County veterans' service agencies. There shall be established a county veterans' service agency in each county not wholly included within a city, and there shall be a county director of each county veterans' service agency. Any county director hired after the effective date of this statute shall be a veteran as defined in New York state statute. The chairman of the board of supervisors of a county, with the approval of the board of supervisors, shall appoint and may at pleasure remove a county director of the county veterans' service agency for such county. In a county having a county president, a county executive or other chief executive officer, such president or executive officer shall appoint and may at pleasure remove a county director. The county director may be paid such compensation as shall be fixed by the appointing officer and the board of supervisors. The county director shall appoint such assistants and employees as he may deem necessary, other than those, if any, supplied by the state; he may prescribe the duties of those appointed by him and fix their salaries within the appropriations made available for that purpose by the county and may at pleasure remove any such assistants or employees. The county director shall have jurisdiction throughout the territorial limits of the county, including any city therein which does not have a city veterans' service agency, provided that after the establishment of a city veterans' service agency in any such city, the county director shall not have jurisdiction within such city.

(2) City veterans' service agency. There may be established a city veterans' service agency in each city; and there shall be a city director of each city veterans' service agency which is established. The mayor of such city, or the city manager in a city of less than one hundred forty thousand population having a city manager, shall appoint and may at pleasure remove the city director.

A city director may be paid such compensation as shall be fixed by the mayor or city manager, as the case may be, empowered to appoint the city director, and the governing body of the city. The city director may appoint such deputies, assistants and employees as he may deem necessary other than those, if any, supplied by the state; he may prescribe the duties of those appointed by him and fix their salaries within the appropriations made available for that purpose by the city and may at pleasure remove any such assistant or employee. A city director shall have jurisdiction throughout the territorial limits of the city.

(3) Accreditation.

(a) Current county or city directors within three years from the effective date of this subdivision shall take all steps necessary to be accredited as a veterans service organization (VSO) representative. Accreditation shall mean the authority granted by the United States Department of Veterans Affairs to assist veterans and their family members in the preparation, presentation, and prosecution of claims for benefits pursuant to section 5902 of Title 38 U.S.C. and section 14.628 of Title 38 Code of Federal Regulations. Once an application for accreditation is approved by the General Counsel of the United States Department of Veterans Affairs and the applicant is notified of this action, the director of the county or city veterans service agency shall file a copy of the accreditation certificate from the appropriate veterans service organization with the commissioner of the department. Such accreditation shall be maintained during the duration of his or her status as a director of such county or city veterans service agency. The commissioner of the department may determine that satisfactory completion of a course or instruction on veterans' benefits approved by the United States Department of Veterans Affairs and conducted by the department may fulfill the requirements of this subdivision.

(b) Any county or city director hired after the effective date of this statute shall take all steps necessary to be accredited as a veterans service organization (VSO) representative within eighteen months of such appointment. Accreditation shall mean the authority granted by the United States Department of Veterans Affairs to assist veterans and their family members in the preparation, presentation, and prosecution of claims for benefits pursuant to section 5902 of Title 38 U.S.C. and section 14.628 of Title 38 Code of Federal Regulations. Once an application for accreditation is approved by the General Counsel of the United States Department of Veterans Affairs and the applicant is notified of this action, the director of the county or city veterans service agency shall file a copy of the accreditation certificate from the appropriate veteran’s service organization with the commissioner of the department. Such accreditation shall be maintained during the duration of his or her status as a director of such county or city veterans service agency. The commissioner of the department may determine that a satisfactory completion of a course of instruction on veterans' benefits approved by the United States Department of Veterans Affairs and conducted by the department may fulfill the requirements of this subdivision.

(c) During the time a director is working toward accreditation pursuant to paragraphs (a) and (b) of this subdivision, such individual may provide services to veterans and their family members as defined in section three hundred fifty-eight of this article other than the preparation, presentation, and prosecution of claims for benefits under federal statutes and regulations.

Veterans' Services Law Art. 1, Sect. 15

§ 15. Powers and duties of local veterans' service agencies

1. A local veterans' service agency shall have power under the direction of the state veterans' service agency, and it shall be its duty to inform military and naval authorities of the United States and assist members of the armed forces and veterans, who are residents of this state, and their families, in relation to (1) matters pertaining to educational training and retraining services and facilities, (2) health, medical and rehabilitation services and facilities, (3) provisions of federal, state and local laws and regulations affording special rights and privileges to members of the armed forces and veterans and their families, (4) employment and re-employment services, including the employment of veterans with disabilities under section fifty-five-c of the civil service law, and (5) other matters of similar, related or appropriate nature.

The local veterans' service agency may also assist families of members of the reserve components of the armed forces and the organized militia ordered into active duty to ensure that they are made aware of and are receiving all appropriate support available to them and are placed in contact with the agencies responsible for such support, including, but not limited to, the division of military and naval affairs and other state agencies responsible for providing such support. The local veterans' service agency also shall perform such other duties as may be assigned by the state director.

2. A local veterans' service agency shall utilize, so far as possible, the services and facilities of existing officers, offices, departments, commissions, boards, bureaus, institutions and other agencies of the state and of the political subdivisions thereof and all such officers and agencies shall cooperate with and extend such services and facilities to the local veterans' service agency as it may require.

Practice Notes, Cases, and General Counsel Opinions

Cases:

Client Relations: Veteran-counselor relationship was not so one-sided as to warrant shifting burden of proof from veteran to state, in Veteran's fraud claim against New York State, since (1) counselor's duties consisted of no more than informing and assisting Veteran regarding obtaining benefits and other services; (2) Veteran was not in such weakened and unequal position as to be unfairly taken advantage of; (3) any intimacy or dependence which existed was not so great as to create fiduciary relationship; and (4) no deception or undue influence was used by the counselor. Di Maio v State, 135 Misc. 2d 1021 (N.Y. Ct. Cl. 1987).

General Counsel Opinions:

Certified Copies: Clerks of the various municipal subdivisions of the State must furnish the Veterans' Service Agency with certified copies of the papers on file in their office free of charge upon the request of such agency. 1945 Ops. St. Compt. 228.

Transportation Service: A County Veterans Service Agency may provide van service to transport veterans to a veterans' hospital. 1980 Op. St. Compt. File #665.

Veterans' Services Law Law Art. 16, Sect. 16

§ 16. Location and cost of local veterans' service agencies; deputy local directors

1. A local director shall designate the location of the local and branch offices of the local veterans' service agency within his jurisdiction, which offices shall be open during convenient hours. The cost of maintenance and operation of a county veterans' service agency shall be a county charge and the cost of maintenance and operation of a city veterans' service agency shall be a city charge, excepting that the state director with the approval of the veterans' services commission shall allot and pay, from state moneys made available to him for such purposes, to each county veterans' service agency and each city veterans' service agency, an amount equal to fifty per centum of its expenditures for maintenance and operation approved by the state director, provided that in no event shall the amount allotted and paid for such approved expenditures incurred in any given year exceed (1) in the case of any county veterans' service agency in a county having a population of not more than one hundred thousand or in the case of any city veterans' service agency in a city having a population of not more than one hundred thousand, the sum of ten thousand dollars, nor (2) in the case of any county veterans' service agency in a county having a population in excess of one hundred thousand excluding the population of any city therein which has a city veterans' service agency, the sum of ten thousand dollars, and, in addition thereto, the sum of five thousand dollars for each one hundred thousand, or major portion thereof, of the population of the county in excess of one hundred thousand excluding the population of any city therein which has a city veterans' service agency, nor (3) in the case of any city veterans' service agency in a city having a population in excess of one hundred thousand, the sum of ten thousand dollars, and, in addition thereto, the sum of five thousand dollars for each one hundred thousand, or major portion thereof, of the population of the city in excess of one hundred thousand. Such population shall be certified in the same manner as provided by section fifty-four of the state finance law.

2. The head of a branch office of a local veterans' service agency shall be a deputy local director of the local veterans' service agency who shall be appointed by the local director of the county or city in which the branch office is located with the approval of the governing body which makes the appropriation for the maintenance of such branch office; provided, however, that the head of a branch office of a local veterans' service agency which operates

in and for two or more adjoining towns or adjoining villages in the same county, and hereinafter in this article referred to as a consolidated branch office, shall be appointed by the local director of the county in which the branch office is located with the approval of the governing body of each town or village which makes an appropriation for or toward the maintenance of such branch office, and any town or village is authorized to enter into an agreement with an adjoining town or an adjoining village in the same county, respectively, or with two or more respective adjoining towns or villages in the same county, providing for their joint undertaking to appropriate and make available moneys for or toward the maintenance of such a consolidated branch office.

Veterans' Services Law Art. 1, Sect. 17

§ 17. Local veterans' service committees

The same authority which appoints a local director shall appoint for each county and city veterans' service agency a veterans' service committee to assist the local director and shall appoint a chairman thereof. Similar committees may be appointed in each village and town where there is a deputy local director by the mayor of such village and the supervisor of such town in which the branch office of the deputy local director is located or in which it operates. A similar committee may also be appointed in any city in and for which there is not established a separate city veterans' service agency, and in and for which there is a deputy local director and a branch office of the county veterans' service agency; and such appointment in any case shall be made by the city official authorized to appoint a city director in the case of a separate city veterans' service agency.

Veterans' Services Law Art. 1, Sect. 18

§ 18. Appropriations for expenses and activities of local veterans' service agencies

Each county and each city of the state in which is established a county veterans' service agency or a city veterans' service agency, as the case may be, is hereby authorized to appropriate and make available to the veterans' service agency of such respective county or city, such sums of money as it may deem necessary to defray the expenses and activities of such agency, and the expenses and activities of such agencies are hereby declared to be proper county and city purposes for which the moneys of the county or city may be expended. Each city in and for which there is not established a separate city veterans' service agency, and each village and town of the state is hereby authorized to appropriate and make available to the deputy local director heading the branch office in and for such city, village or town, if any, of the county veterans' service agency having jurisdiction within such city, village or town, such sums of money as it may deem necessary to defray the salary, expenses and activities of the deputy local director heading such branch office in and for such city, village or town and his or her office, including the salaries of persons employed in such office, and such salaries, expenses and activities are hereby declared to

be proper city, village and town purposes for which the moneys of such cities, villages and towns may be expended. Each village and town is also authorized to appropriate and make available to the deputy local director heading the consolidated branch office, if any, for such village or town and any adjoining village or villages, or town or towns, as the case may be, of the county veterans' service agency having jurisdiction within such village or town, such sums of money as it may determine to defray in part the salary, expenses and activities of the deputy local director heading such consolidated branch office for such village or town and any adjoining village or villages or town or towns, as the case may be, including the salaries of persons employed in such consolidated branch office, and such salaries, expenses and activities are hereby declared to be proper village and town purposes for which the moneys of such villages and towns may be expended.

Veterans' Services Law Art. 1, Sect. 19

§ 19. Women veterans coordinator

1. Definitions.

(a) "Veteran" shall have the same meaning as provided in subdivision one of section three hundred sixty-four of this article.

(b) "Department" shall mean the state department of veterans' services.

(c) "Women veterans coordinator" shall be a veteran.

2. Such women veterans coordinator shall be appointed by the commissioner.

3. Establishment of women veterans coordinator. There is hereby established within the department, a "women veterans coordinator" who shall work under the direction of the commissioner and whose duties shall include, but not be limited to, the:

(a) identification, development, planning, organization and coordination of all statewide programs and services to meet the needs of women veterans;

(b) recommendation to the director to ensure compliance with all existing department policies and regulations pertaining to the needs of women veterans on the state and federal level and make recommendations regarding the improvement of benefits and services to women veterans;

(c) liaison between the department, the United States department of veterans affairs center for women veterans, the United States department of veterans affairs advisory committee on women veterans, state veterans nursing homes, state agencies, community groups, advocates and other veterans and military organizations and interested parties;

(d) advocating for all women veterans in the state;

(e) development and maintenance of a clearinghouse for information and resources for women veterans;

(f) promote events and activities that recognize, educate and honor women veterans, including but not limited to seminars required under subdivision six of section four of this article; veterans human rights conferences, veterans benefits and resources events, and veterans cultural competence training;

(g) inclusion of the contributions women veterans have made on behalf of the United States and this state on the department's official website; and

(h) preparation of reports on topics including, but not limited to, the demographics of women veterans, the number of women veterans listed by county, and the unique needs of the women veterans population.

4. Reports. The women veterans coordinator shall submit a report to the commissioner each year after the effective date of this section. Such report shall include, but not be limited to, a description of the women veterans coordinator's activities for the calendar year and the programs developed pursuant to the provisions of this section. The commissioner shall submit the report or a synopsis of the report to the governor in accordance with the provisions of section four of this article.

Veterans' Services Law Art. 1, Sect. 20

§ 20. Women veterans advisory committee

1. The women veterans advisory committee is hereby created consisting of twelve members, with members appointed as follows:

(A) Six members by the governor;
(B) Two members by the temporary president of the senate;
(C) Two members by the speaker of the assembly; and
(D) One member each by the minority leader of the senate and the minority leader of the assembly

All appointed members must be women, and veterans who served in the United States armed forces including members of the reserve component. Each veteran shall have received an honorable discharge or have a qualifying condition as defined in section three hundred fifty of this article.

2. In making appointments pursuant to subdivision one of this section, the following shall be considered:

(A) Whether the appointments provide a geographical balance between the urban and rural areas of this state and represent the cultural diversity of this state; and
(B) The level of activity of the woman in the veteran community

3. The committee shall elect a chair from among its members.

4. Each member of the committee shall serve a term of four years.

5. A vacancy on the committee shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

6. The committee shall meet at least four times per year at the call of the chair.

7. A majority of the members of the committee appointed constitutes a quorum.

8. Each member of the committee:
(A) Serves without compensation, except that a member of the committee who is a state officer or employee may receive her regular compensation while engaging in the business of the committee; and
(B) While engaged in the business of the committee, is entitled to receive the per diem allowance and travel expenses provided for state officers and employees.

9. The committee shall:
(a) Support and assist the department of veterans' services and the women veterans coordinator in
(I) Locating, educating, and advocating for all women veterans in this state;
(II) Identifying the unique needs of women veterans;
(III) Conducting outreach and education through various means, including, without limitation, the organization of statewide women veterans events, the promotion of benefits and healthcare for women veterans and the development of programs that inform students, business leaders, and educators about the important role women play in the armed forces of the United States;
(IV) Educating women veterans as to benefits and programs that are available to them;
(V) At least annually, making such recommendations as may be deemed necessary or advisable to the governor, the state legislature, the office of the commissioner of the department of veterans' services and such other offices of this state as may be appropriate;

(VI) Making information available regarding job and career opportunities
(VII) Providing outreach regarding available resources for veterans with a qualifying condition as defined in section three hundred fifty of this article; and
(VIII) Advocating on behalf of women veterans to ensure that the programs and policies of this state and of the United States department of veterans affairs remain open to women and mindful of the elements of the experience of a veteran that are unique to women

(b) Submit a report on or before February fifteenth of each year, outlining the activities of the committee during the preceding calendar year and any recommendations of the committee to the governor and legislature. The report must include, without limitation, information pertaining to:
(I) The demographics of women veterans;
(II) The current contributions that women veterans have made on behalf of the United States and this state;
(III) The unique needs of the population of women veterans;
(IV) Recommendations regarding what steps should be taken to reduce misinformation and improve support for programs for women veterans; and
(V) Outreach activities undertaken by the committee

10. The department of veterans' services shall help support the committee's activities.

Veterans' Services Law Art. 1, Section 21

§ 21. Creation of [blind] annuity

1. Payment to veterans.

a. Any veteran as defined in this article who has been or is hereafter classified by the New York State commission for the visually handicapped as a blind person as defined in section three of chapter four hundred fifteen of the laws of nineteen hundred thirteen, as amended, and continues to be a blind person within the meaning of that section, shall, upon application to the commissioner of the department of veterans' services, be paid out of the treasury of the state for such term as such veteran shall be entitled thereto under the provisions of this article, the sum of one thousand dollars annually, plus any applicable annual adjustment, as provided by this section.

b. The entitlement of any veteran to receive the annuity herein provided shall terminate upon his or her ceasing to continue to be a resident of and domiciled in the state, but such entitlement may be reinstated upon application to the commissioner of veterans' services, if such veteran shall resume his or her residence and domicile in the state.

c. The effective date of an award of the annuity to a veteran shall be the date of receipt of the application therefor by the commissioner of veterans' services, except that if the application is denied but is granted at a later date upon an application for reconsideration based upon new evidence, the effective date of the award of the annuity to a veteran shall be the date of receipt of the application for reconsideration by the commissioner of veterans' services.

2. Payment to widows and widowers of blind veterans.

a. The unremarried spouse of a veteran who heretofore has died or the unremarried spouse of a veteran dying hereafter, such veteran being at the time of her or his death a recipient of, or eligible for, the benefits above provided, shall, upon application to the commissioner of veterans' services, also be paid out of the treasury of the state the sum of one thousand dollars annually, plus any applicable annual adjustment, for such term as such unremarried spouse shall be entitled thereto under the provisions of this article.

b. The entitlement of any widow or widower to receive the annuity herein provided shall terminate upon her or his death or re-marriage or upon her or his ceasing to continue to be a resident of and domiciled in the state of New York, but such entitlement may be reinstated upon application to the commissioner of veterans' services, if such widow or widower shall thereafter resume her or his residence and domicile in the state.

c. The effective date of an award of the annuity to a widow or widower shall be the day after the date of death of the veteran if the application therefor is received within one year from such date of death. If the application is received after the expiration of the first year following the date of the death of the veteran, the effective date of an award of the annuity to a widow or widower shall be the date of receipt of the application by the commissioner of veterans' services. If an application is denied but is granted at a later date upon an application for reconsideration based upon new evidence, the effective date of the award of the annuity to a widow or widower shall be the date of receipt of the application for reconsideration by the commissioner of veterans' services.

3. Annual adjustment. Commencing in the year two thousand five, and for each year thereafter, the amount of any annuity payable under this section shall be the same amount as the annuity payable in the preceding year plus a percentage adjustment equal to the annual percentage increase, if any, for compensation and pension benefits administered by the United States Department of Veterans Affairs in the previous year. Such percentage increase shall be rounded up to the next highest one-tenth of one percent and shall not be less than one percent nor more than four percent. Commencing in the year two thousand five, the commissioner of veterans' services, not later than February first of each year, shall publish by any reasonable means the amount of the annuity as adjusted payable under this section.

Practice Notes, Cases, and General Counsel Opinions

General Counsel Opinions:

Exemption from Liens and Garnishment: The annuity for blind veterans paid by the State is not subject to lien or garnishment. 1962 NY Ops. Atty. Gen. Jan 29.

Veterans' Services Law Art. 1, Sect. 22

§ 22. Evidence of entitlement [blind annuity]

1. The evidence of such service, blindness, residence and domicile, or of such marriage, widowhood, residence and domicile in each case shall be furnished in the manner and form prescribed by the commissioner of veterans' services who shall examine the same.

2. Upon being satisfied that such service was performed, that other facts and statements in the application of such veteran or widow are true and that the said veteran has been classified by the New York state commission for the visually handicapped as a blind person, where such veteran is not receiving or not entitled to receive a benefit from any existing retirement system to which the state is a contributor, unless such veteran shall have become disabled by reason of loss of sight, while engaged in employment entitling him to receive a benefit from any existing retirement system to which the state is a contributor, and as a result of such disability has retired from such employment and is receiving or is entitled to receive a benefit from such retirement system the commissioner of veterans' services shall certify to the state comptroller the name and address of such veteran or widow.

3. Thereafter the department of taxation and finance, through the division of finance, on the audit and warrant of the comptroller, shall pay such veteran or widow such sum as is authorized by the provisions of this article in monthly installments for so long as such veteran or widow shall meet the requirements of this article.

Veterans' Services Law Art. 1, Section 23

§ 23. Persons who may receive [blind] annuity

1. a. The word "veteran," as used in this article shall be taken to mean and include any person who is a resident of the state of New York, and who (i) has been or may be released from such service under other than dishonorable conditions, or (ii) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and who (iv) was a recipient of the armed forces expeditionary medal, the navy expeditionary medal or the marine corps expeditionary medal for participation in operations in Lebanon

from June first, nineteen hundred eighty-three to December first, nineteen hundred eighty-seven, in Grenada from October twenty-third, nineteen hundred eighty-three to November twenty-first, nineteen hundred eighty-three, or in Panama from December twentieth, nineteen hundred eighty-nine to January thirty-first, nineteen hundred ninety, or (v) served on active duty for ninety days or more in the armed forces of the United States during any one of the following wars or hostilities:

(1) in the Spanish-American war from the twenty-first day of April, eighteen hundred ninety-eight to the eleventh day of April, eighteen hundred ninety-nine, inclusive;

(2) in the Philippine insurrection or the China relief expedition from the eleventh day of April, eighteen hundred ninety-nine to the fourth day of July, nineteen hundred two, inclusive;

(3) in the Mexican border campaign from the ninth day of May, nineteen hundred sixteen, to the fifth day of April, nineteen hundred seventeen, inclusive;

(4) in world war I from the sixth day of April, nineteen hundred seventeen to the eleventh day of November, nineteen hundred eighteen, inclusive;

(5) in world war II from the seventh day of December, nineteen hundred forty-one to the thirty-first day of December, nineteen hundred forty-six, inclusive, or who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions, or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions; in the Korean hostilities from the twenty-seventh day of June, nineteen hundred fifty to the thirty-first day of January, nineteen hundred fifty-five, inclusive;

(6) in the Korean hostilities from the twenty-seventh day of June, nineteen hundred fifty to the thirty-first day of January, nineteen hundred fifty-five, inclusive;

(7) in the Vietnam conflict from the first day of November, nineteen hundred fifty-five to the seventh day of May, nineteen hundred seventy-five;

(8) in the Persian Gulf conflict from the second day of August, nineteen hundred ninety to the end of such conflict.

b. The word "veteran" shall also mean any person who meets the other requirements of paragraph a of this subdivision, who served on active duty for less than ninety days, if he or she was discharged or released from such service for a service-connected disability or who served for a period of ninety consecutive days or more and such period began or ended during any war or period of hostilities as defined in paragraph a of this subdivision.

c. The term "active duty" as used in this article shall mean full time duty in the uniformed services, other than active duty for training; provided, however, that "active duty" shall also include any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated during such period.

2. No annuity shall be paid under this article to or for a person who is in prison in a federal, state or local penal institution as a result of conviction of a felony or misdemeanor for any part of the period beginning sixty-one days after his or her imprisonment begins and ending when his or her imprisonment ends.

3. Where any veteran is disqualified for the annuity for any period solely by reason of the provisions of subdivision two of this section, the commissioner of veterans' services shall pay to his wife, if any, the annuity which such veteran would receive for that period but for said subdivision two.

4. In case an unmarried, divorced or widowed veteran or a widow of a deceased annuitant is being furnished hospital treatment, institutional or domiciliary care by the United States or the state, the annuity payable under this article to such veteran or widow may be discontinued after the first day of the seventh calendar month following the month of admission of such veteran or widow for treatment or care. Payment of such annuity shall be resumed if such veteran or widow is discharged from the hospital, institution or home, or if his or her treatment or care therein is otherwise terminated.

5. Where payment of the annuity as hereinbefore authorized is to be made to a mentally incompetent person or a conservatee, such payment may be authorized by the commissioner of veterans' services of the state to be paid only to a duly qualified court-appointed committee or conservator, legally vested with the care of such incompetent's person or property or of such conservatee's property, except that in the case of an incompetent annuitant for whom a committee has not been appointed or a person under a substantial impairment within the meaning of the conservatorship provisions of article seventy-seven of the mental hygiene law for whom a conservator has not been appointed and who is hospitalized in a United States veterans' administration hospital or in a hospital under the jurisdiction of the state of New York, the commissioner of veterans' services of the state may in his or her discretion certify payment of the annuity, as hereinbefore authorized, to the manager of

such veterans' administration hospital or to the director of such state hospital for the for the account of the said incompetent or substantially impaired annuitant.

Veterans' Services Law Art. 1, Sect. 24

§ 24. New York state veterans' cemeteries

1. Legislative intent. The legislature finds and determines that the devoted service and sacrifice of veterans deserve important, unique and eternal recognition by the state of New York. That it is by means of the devoted service and sacrifice of veterans that the liberty, freedom and prosperity enjoyed by all New Yorkers is maintained and preserved.

The legislature further finds and determines that to provide this important, unique and eternal recognition, the state shall establish a program of New York state veterans cemeteries in New York. Such program shall provide for the construction, establishment, expansion, improvement, support, operation, maintenance and the provision of perpetual care for state veterans cemeteries in this state, and thereby for the memorialization and remembrance of individual veterans and their service to their community, state and nation.

The legislature additionally finds and determines that it is therefore necessary to provide for the construction and establishment of one or more New York state veterans cemeteries, and that to thereafter, provide for the expansion, improvement, support, operation, maintenance and the provision of perpetual care of all such cemeteries so constructed and established. The legislature also finds and determines that it is appropriate to have the responsibility for the construction, establishment, expansion, improvement, support, operation, maintenance and the provision of perpetual care for veterans cemeteries in this state, to be under the oversight and direction of the state department of veterans affairs, and its director, individually, and as chair of the management board, for each such veterans cemetery so constructed and established.

2. The establishment of the first New York state veterans cemetery.

(a) The commissioner shall issue, on behalf of the department, a public request for information for any local government desiring to have the first state veterans cemetery located within its political subdivision. Such request shall specify the type of information to be provided, including, at minimum, a detailed map of the site including potential transportation routes, the history of the site, the types of burials the site could accommodate, and the estimated number of veterans within a seventy-five mile radius of the site. Such request for information shall be returnable to the department by no later than sixty days following the issuance of the requests for information. Requests for information issued by and returned to the department shall be publicly available and posted on the department's website.

(a-1) Following the deadline for the return of requests for information pursuant to paragraph (a) of this subdivision, the department, in cooperation with the United States

department of veterans affairs, and in consultation with, and upon the support of the department of state division of cemeteries, is hereby directed to conduct an investigation and study on the issue of the construction and establishment of the first New York state veterans cemetery. Such investigation and study shall include, but not be limited to:

(i) Potential site locations for such cemetery, with full consideration as to the needs of the veterans population; only locations within local governments that have submitted a request for information pursuant to paragraph (a) of this subdivision shall be considered and each such submission shall be considered;

(ii) The size of the cemetery and types of grave sites;

(iii) The number of annual interments at the cemetery;

(iv) Transportation accessibility to the cemetery by veterans, their families and the general public;

(v) Costs for construction of the cemetery;

(vi) Costs of operation of the cemetery, including but not limited to staffing costs to maintain the cemetery;

(vii) Scalability of the cemetery for future growth and expansion;

(viii) Potential for funding for the cemetery from federal, local and private sources;

(ix) Cost of maintenance;

(x) Data on the population that would be served by the site;

(xi) The average age of the population in the area covered;

(xii) The mortality rate of the veteran population for the area;

(xiii) Surrounding land use;

(xiv) Topography of the land;

(xv) Site characteristics;

(xvi) Cost of land acquisition;

(xvii) The location of existing cemeteries including but not limited to national veterans' cemeteries, county veterans' cemeteries, cemeteries that have plots devoted to veterans, not-for-profit cemeteries and any other burial ground devoted to veterans and any other type of burial grounds devoted to the interment of human remains that is of public record; and

(xviii) Such other and further items as the commissioner of the department deems necessary for the first state veterans cemetery to be successful.

A report of the investigation and study conclusions shall be delivered to the governor, the temporary president of the senate, the speaker of the assembly and the chair of the senate committee on veterans, homeland security and military affairs, and the chair of the assembly committee on veterans' affairs by no later than one hundred eighty days after the department has commenced the conduct of the investigation and study.

(a-2) Upon completion of the investigation and study, the results shall be provided to the selection committee. The selection committee shall consist of nine members as follows:

(I) The commissioner of the department of veterans' services, or his or her representative;
(II) The director of the division of the budget, or his or her representative;
(III) Three members appointed by the governor, two of whom shall be veterans;
(IV) Two members appointed by the temporary president of the senate, at least one of whom shall be a veteran; and
(V) Two members appointed by the speaker of the assembly, at least one of whom shall be a veteran.

(A-3) The selection committee shall be subject to articles six and seven of the public officers law. The selection committee shall evaluate the results of the study and, upon a majority vote, make a determination as to the location of the first state veterans cemetery. In making this determination, the committee's consideration shall, at a minimum, include:
(I) The findings established by the study;
(II) The submitted responses to the requests for information issued pursuant to paragraph (a) of this subdivision;
(III) The guidelines for receipt of federal funding specified in 38 USC 2408, 38 CFR 39, and any other relevant federal statute or regulation;
(IV) The possibility of funding from private individuals , corporations, or foundations; and
(V) Any other consideration that would facilitate the successful operation of the first state veterans cemetery.

The commissioner of the department, the commissioner of the office of general services, and the chair of the division of cemeteries shall determine the amount of money necessary to fund the non-reimbursable costs of a state veterans' cemetery, such as operation and maintenance, for a period of not less than ten years, provided that such amount shall not include monies that would be recoverable by the cemetery pursuant to a charge of fee for the provision of a gravesite for a non-veteran spouse or eligible dependent. Prior to submitting any application for funding from the government of the United States in accordance with the grant requirements specified in 38 USC 2408, 38 CFR 30, and any other relevant federal statutes or regulations, for the purpose of seeking funds to support the construction, establishment, expansion, improvement, support, operation or maintenance of New York State's veterans' cemeteries, the director of the division of budget and the office of the state comptroller, must certify to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate finance committee and the chair of the assembly ways and means committee that there are sufficient funds to cover such amount; provided further that such moneys may include the veterans remembrance and cemetery maintenance and operation fund created pursuant to section ninety-seven-mmmm of the state finance law. In making such a certification, the director of the division of the budget and the office of the state comptroller shall consider, but are not limited to, the following factors:

(i) physical attributes of the veterans cemetery, including size, location, and terrain;

(ii) staffing costs, cost of equipment and equipment maintenance, and security costs;

(iii) relevant state and federal requirements and specifications for interment and perpetual care;

(iv) estimates provided by the United States department of veterans affairs;

(v) any other fiscal cost, charge or assessment that would be incurred by the cemetery.

(c) Once the certification that there are sufficient funds pursuant to paragraph (b) of this subdivision has been made, and no later than thirty days following the selection of the site pursuant to paragraph (a-3) of this subdivision, the director, in consultation with the management board of the first state veterans cemetery, shall commence the application process for funding from the government of the United States in accordance with the grant requirements specified in section 2408 of title 38 of the United States code, part 39 of title 38 of the code of federal regulations, and any other relevant federal statute or regulation, for the purpose of seeking funds to support the construction, establishment, expansion, improvement, support, operation, maintenance and the provision of perpetual care of New York state's first veterans cemetery. Such grant application shall be based on a site selected pursuant to paragraph (a-3) of this subdivision, and shall be consistent with the guidelines for receipt of federal funding pursuant to the relevant provisions of federal law.

(d) A management board for the first New York state veterans cemetery shall be appointed pursuant to subdivision three of this section.

(e) The director shall promulgate rules and regulations governing:

(i) The guidelines and standards for the construction, establishment, expansion, improvement, support, operation, maintenance and the provision of perpetual care for a state veterans cemetery. Such guidelines shall include, but not be limited to:

(1) The size and terrain of the cemetery;

(2) The management and operation of the cemetery, including but not limited to:

(a) Hours of operation;

(b) Employees, employee relations, and employee duties;

(c) The conduct and practice of events, ceremonies and programs;

(d) The filing and compliance of the cemetery with state and federal regulations; and

(e) Such other and further operational and management practices and procedures as the director shall determine to be necessary for the successful operation of a state veterans cemetery.

(3) The layout of plots;

(4) The locations of building and infrastructure, including but not limited to:

(A) Electrical lines and facilities;

(B) Waterlines, irrigation systems, and drainage facilities;

(C) Trees, flowers and other plantings;

(D) Non gravesite memorials, gravesite memorials, mausoleums, columbarium niches, headstones, grave markers, indoor interment facilities, committal-service shelters, signage, flag poles, and other memorial gathering spaces or infrastructure;

(E) Roadways, pedestrian pathways, parking sites, curbs and curb cuts;

(F) Ponds, lakes and other water sites;

(G) Retaining walls, gates, fences, security systems or other devices for cemetery protection; and

(H) Any other buildings, structures or infrastructure necessary for the safe, efficient and effective operation of the cemetery;

(5) The qualifications for interment, consistent with the provisions of state and federal law and any requirements pursuant to the receipt of federal, state, local or private funds;

(6) The location and placement of interments;

(7) Consistent with the provisions of state and federal law and any requirements pursuant to the receipt of federal, state, local or private funds, the financial management of the cemetery, including but not limited to:

(A) The procedures for the protection and implementation of the cemetery's annual budget;

(B) The seeking, collecting, deposit and expenditure of operating funds pursuant to the cemetery's budget;

(C) The seeking, collecting, deposit and expenditure of capital funds pursuant to the cemetery's capital plan;

(D) The seeking, collecting, deposit and expenditure of emergency funds to address an unexpected event;

(E) The assessment, charging, collection and deposit of fees and charges;

(F) The management of cemetery finances, both current and future, with respect to investments; and

(G) Such other and further procedures and activities concerning the financial management of the cemetery;

(8) The provision of perpetual care for the cemetery, including but not limited to:

a. The frequency, standards and methods for the beautification and maintenance of grounds, memorials, gravesites, buildings, ceremonial sites, or other locations within, or upon the curtilage of the cemetery;
b. The frequency, standards and methods for the provision of flags, patriotic and military symbols, and other honorary items, at each gravesite and throughout the cemetery; and
c. Such other and further standards as are necessary to assure the proper perpetual care of the cemetery in a manner befitting the highest level of honor and respect deserving to those veterans and their families interred in the cemetery;

(9) Guidelines and standards for the procurement of land for the cemetery providing that the state veterans cemetery, and all the property upon which it resides shall be owned in fee simple absolute by the state of new york.

(10) Guidelines and standards for the practices and procedures for the construction and establishment of a state veterans cemetery, including contracting and purchasing for construction services, professional services, legal services, architectural services, consulting services, as well as the procurement of materials, all consistent with the relevant provisions of federal, state and local law, the regulations promulgated thereunder, and the requirements contained in the grants awarded or pursued from the federal government, or any source of private funding;

(11) Guidelines and standards for the practices and procedures for the expansion and improvement of a state veterans cemetery, including contracting and purchasing for construction services, professional services, legal services, architectural services, consulting services, as well as the procurement of materials, all consistent with the relevant provisions of federal, state and local law, the regulations promulgated thereunder, and the requirements contained in the grants awarded or pursued from the federal government, or any source of private funding;

(12) Any other guidelines and standards that would facilitate the successful construction, establishment, expansion, improvement, support, operation, maintenance and the provision of perpetual care for the state veterans cemetery;

(ii) Guidelines and standards for the request for proposals for any local government desiring to have the first state veterans cemetery located within its political subdivision, including, but not limited to:

(1) The requirement that the local government will comply with all state and federal statutes and regulations concerning the construction, establishment, expansion, improvement, support, operation, maintenance and the provision of perpetual care of the state veterans cemetery, and shall satisfy any and all applicable state and federal standards and requirements for the perpetual care of the state veterans cemetery;

(2) That the state veterans cemetery, and all the property upon which it resides shall be owned in fee simple absolute by the state of New York;

(3) That all lands upon which such cemetery is constructed and established shall be used solely for state veterans cemetery purposes, and for the purpose of providing the honor and remembrance of veterans and their service through ceremonies and programs;

(4) Such other and further requirements as the director may deem prudent in the facilitation of the successful siting and operation of a state veterans cemetery in the jurisdiction of the local government; and

(iii) Such other and further guidelines and standards as are necessary for the successful construction, establishment, expansion, improvement, support, operation, maintenance and the provision of perpetual care for a state veterans cemetery.

(f) Upon the approval of the application for funding from the government of the United States, made pursuant to paragraph (c) of this subdivision, the director, upon consultation with the management board, shall commence the process of construction and establishment of the first state veterans cemetery. Such process shall be consistent with the relevant provisions of local, state and federal law, and the rules and regulations established pursuant to paragraph (h) of this subdivision.

3. Management boards of New York state veterans cemeteries.

(a) For each New York state veterans cemetery there shall be a management board. Each such management board shall consist of nine members, including the commissioner of the department who shall serve as chair, and four members, appointed by the governor. Of such four members, not fewer than two shall be a veteran of the United States army, the United States navy, the United States air force, the United States marines, the New York army national guard, the New York air national guard, the New York naval militia, or a member who has served in a theater of combat operations of the United States coast guard or the United States merchant marine. Two members shall be appointed by the temporary president of the senate, and two members shall be appointed by the speaker of the state assembly. At least one of the members appointed by the temporary president of the senate and at least one of the members appointed by the speaker of the assembly shall be a veteran of the United States army, the United States navy, the United States air force, the United States marines, the New York army national guard, the New York air national guard, the New York naval militia, or a member who has served in a theater of combat operations of the United States coast guard or the United States merchant marine. No member shall receive any compensation for his or her service, but members who are not state officials may be reimbursed for their actual and necessary expenses, including travel expenses incurred in performance of their duties. The management board may consult with any federal, state or local entity for the purposes of advancing its purposes, mission and duties.

(b) The management board shall advise, by majority vote, the director on issues concerning the construction, establishment, expansion, improvement, support, operation, maintenance and the provision of perpetual care for the veterans cemetery, including but not limited to issues of financial concern, employment relations, cemetery policy, cemetery events and programs, and such other and further issues as the board and director shall deem important.

4. Additional state veterans cemeteries.

(a) Not later than ten years after the construction and establishment of the first New York state veterans cemetery, and every ten years thereafter, the department, in cooperation with the United States department of veterans affairs, shall conduct an investigation and study on the issue of the construction and establishment of additional New York state veterans cemeteries. Such investigation and study shall consider, but not be limited to, the study parameters established pursuant to paragraph (a) of subdivision two of this section. A report of the investigation and study required to be conducted pursuant to this subdivision shall be delivered to the governor, the temporary president of the senate, the speaker of the assembly and the chair of the senate committee on veterans, homeland security and military affairs, and the chair of the assembly committee on veterans' affairs, by no later than ninety days after the department has commenced the conduct of the investigation and study;

(b) The report of the investigation and study required to be conducted pursuant to this subdivision shall provide a determination by the commissioner as to whether the state should construct and establish one or more additional veterans cemeteries, and shall state the reasoning and basis for such determination; and

(c) The department may, at the discretion of the commissioner, at any time after five years from the completion of construction of the most recently constructed and established state veterans cemetery, in cooperation with the United States department of veterans affairs, conduct an investigation and study on the issue of the construction and establishment of additional New York state veterans cemeteries. A report of the investigation and study required to be conducted shall be delivered to the governor, the temporary president of the senate, the speaker of the assembly and the chair of the senate committee on veterans, homeland security and military affairs, and the chair of the assembly committee on veterans' affairs, by no later than ninety days after the department has commenced the conduct of the investigation and study.

If the commissioner, pursuant to the investigation and study conducted pursuant to this subdivision, determines that there shall be an additional state veterans cemetery in New York state, the director shall provide for the construction and establishment of such new veterans cemetery pursuant to the same guidelines and standards for the construction and establishment of the first state veterans cemetery under this section.

5. Expansion and improvement of existing state veterans cemeteries. The commission, in consultation with the management board of a state veterans cemetery, may provide for the expansion and/or improvement of the cemetery. Such expansion and improvement shall be conducted in accordance with the rules and regulations of the department under paragraph (h) of subdivision two of this section.

Veterans' Services Law Art. 1, Sect. 25

§ 25. Veterans health screening

1. As used in this section:

a. "Eligible member" means a member of the New York army national guard or the New York air national guard who served in the Persian Gulf War, as defined in 38 USC 101, or in an area designated as a combat zone by the president of the United States during Operation Enduring Freedom or Operation Iraqi Freedom;

b. "Veteran" means a person, male or female, resident of this state, who has served in the active military, naval or air service of the United States during a time of war in which the United States engaged and who has been released from such service otherwise than by dishonorable discharge, or who has been furloughed to the reserve;

c. "Military physician" includes a physician who is under contract with the United States department of defense to provide physician services to members of the armed forces; and

d. "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

2. On and after February first, two thousand seven, the adjutant general and the state director shall assist any eligible member or veteran who has been experiencing health problems. Such problems may include exposure to toxic materials or harmful physical agents such as depleted uranium.

An eligible member or veteran who has been assigned a risk level I, II or III for depleted uranium exposure by his or her branch of service, is referred by a military physician, or has reason to believe that he or she was exposed to toxic materials or harmful physical agents such as depleted uranium during such service, in obtaining federal treatment services. Such treatment shall include, but not be limited to, a best practice health screening test for exposure to depleted uranium using a bioassay procedure involving sensitive methods capable of detecting depleted uranium at low levels and the use of equipment with the capacity to discriminate between different radioisotopes in naturally occurring levels of uranium and the characteristic ratio and marker for depleted uranium. As more scientific reliable tests become available such test shall be included in the treatment protocol. No state funds shall be used to pay for such tests or such other federal treatment services.

3. On or before February first, two thousand seven, the adjutant general shall submit a report to the chair of the senate veterans, homeland security and military affairs committee and the chair of the assembly veterans' affairs committee on the scope and adequacy of training received by members of the New York army national guard and the

New York air national guard on detecting whether their service as eligible members is likely to entail, or to have entailed, exposure to toxic materials or harmful physical agents such as depleted uranium. The report shall include an assessment of the feasibility and cost of adding predeployment training concerning potential exposure to depleted uranium and other toxic chemical substances and the precautions recommended under combat and noncombat conditions while in a combat theater or combat zone of operations.

Veterans' Services Law Art. 1, Sect. 26

§ 26. Payment to immediate family members of veterans [Gold Star Families]

1. Annuity established.

(a) A parent, spouse, or minor child of a veteran who died while on active duty shall, upon application to the state commissioner, be paid an annual annuity of five hundred dollars for such term as such parent, spouse, or minor child shall be entitled thereto under the provisions of this article. Commencing in the year two thousand nineteen, the amount of any annuity payable under this section shall be the same amount as the annuity payable in the preceding year plus a percentage adjustment equal to the annual percentage increase, if any, for compensation and pension benefits administered by the United States Department of Veterans Affairs in the previous year. Such percentage increase shall be rounded up to the next highest one-tenth of one percent and shall not be less than one percent nor more than four percent. The term "parent" for the purposes of this section includes mother, father, stepmother, stepfather, mother through adoption and father through adoption. The term "spouse" for the purposes of this section means a person who was the spouse or domestic partner of the veteran at the time of such veteran's death regardless of whether such person has remarried or entered into a new domestic partnership since such veteran's death.

(b) The entitlement of any parent, spouse, or minor child to receive the annuity provided by paragraph (a) shall terminate upon their death or upon their ceasing to continue to be a resident of and domiciled in New York, but such entitlement may be reinstated upon application to the state commissioner, if such parent, spouse, or minor child shall resume his or her residence and domicile in the state.

(c) The effective date of an award of the annuity shall be the day after the date of death of the veteran if the application therefor is received within one year from date of death. If the application is received after the expiration of the first year following the date of the death of the veteran, the effective date of an award of the annuity shall be the date of receipt of the application by the state commissioner. If the application is denied but is granted at a later date upon an application for reconsideration based upon new evidence, the effective date of the award of the annuity to a parent, spouse, or minor child shall be the date of the receipt of the application for reconsideration by the state commissioner.

(d) Any applicant convicted of making any false statement in the application for the annuity shall be subject to penalties prescribed in the penal law.

2. Qualifications.

(a) Any gold star parent, spouse, or minor child, who is the parent of a deceased veteran, and who is a resident of and domiciled in the state of New York, shall make application to the department.

(b) No entitlement shall be paid under this section to or for a gold star family member who is in prison in a federal, state, or local penal institution as a result of conviction of a felony or misdemeanor for any part of the period beginning sixty-one days after his or her imprisonment begins and ending with his or her release.

(c) Where one or more gold star family members are disqualified for the annuity for a period under paragraph (b) of this subdivision, the state commissioner shall pay the shares of such disqualified family members to the other remaining family members, if they meet the qualifications on their own.

(d) The decision of the state commissioner on matters regarding the payment of such annuity shall be final.

3. Method of payment.

(a) Evidence of the military service of the deceased veteran for each case shall be furnished in the manner and form prescribed by the state commissioner.

(b) Upon being satisfied that such service was honorable, that other facts and statements in the application of such gold star parent, spouse, or minor child are true, the state commissioner shall certify to the state comptroller the name and address of such gold star parent, spouse, or minor child. Thereafter, the department of taxation and finance, on the audit and warrant of the comptroller, shall pay such gold star parent, spouse, or minor child such sum as is authorized by the provisions of this section in semi-annual installments so long as such qualified gold star parent shall meet the requirements of this section.

4. Report. The state commissioner shall submit a report to the governor, the chair of the senate finance committee, and the chair of the assembly ways and means committee not later than January fifteenth of each year this section is in effect.

Veterans' Services Law Art. 1, Sect. 27

§ 27. Cremated remains of a veteran

The cremated remains of a veteran may be disposed of pursuant to the provisions of section forty-two hundred three of the public health law.

Veterans' Services Law Art.1, Sect. 28

§ 28. New York Silver Rose Veterans Services Certificate

The commissioner, in consultation with the adjutant general, is hereby authorized to present in the name of the legislature of the state of New York, a certificate, to be known as the "New York State Silver Rose Veterans Service Certificate", bearing a suitable inscription to any person:

(1) who is a citizen of the state of New York; or

(2) who was a citizen of the state of New York while serving in the uniformed services of the United States, and who while serving in the uniformed services of the United States, or the organized militia on active duty was exposed to dioxin or phenoxy herbicides, as evinced by a medical diagnosis of a disease associated with dioxin or phenoxy herbicides, and any other proof determined by the adjutant general to be necessary; or

(3) who was honorably discharged or released under honorable circumstances.

Not more than one New York state silver rose veterans certificates shall be awarded or presented, under the provisions of this section, to any person whose entire service subsequent to the time of the receipt of such certificate shall not have been honorable. In the event of the death of any person during or subsequent to the receipt of such certificate it shall be presented to such representative of the deceased as may be designated. The commissioner, in consultation with the adjutant general, shall make such rules and regulations as may be deemed necessary for the proper presentation and distribution of such certificates.

Veterans' Services Law Art.1, Sect. 29

§ 29. Intake Forms For Admission And Residency

(1) The department, in cooperation with the office of temporary and disability assistance, the office of mental health and any other state department, office, division, or agency the department deems necessary, shall require that all intake forms for admission or residence to any homeless shelter shall ask an applicant on their intake forms: "Have you ever served in the military?" Such homeless shelter shall in writing advise all individuals identifying themselves as having served in the United States military that the department of veterans' services and local veterans' service agencies established pursuant to section three hundred fifty-seven of this article provide assistance to veterans regarding benefits available under federal and state law. Such written information shall include the name, address, and telephone number of the new york state department of veterans' services, the nearest department of veterans' services office, the nearest county or city veterans' service agency, and the nearest accredited veterans' service officer. Every homeless shelter, with the permission of such individuals identifying themselves as a veteran, shall transmit such veteran's status information to the department of veterans' services.

(2) The department, in cooperation with the office of temporary and disability assistance and any other state department, office, division or agency the department deems necessary, shall encourage all other temporary shelter providers to share information to increase veteran access to benefits by:

(a) providing information on the department website including:

(i) potential questions for inclusion on intake forms including, but not limited to: "Have you or anyone in your household ever been in the United States military?";

(ii) advising such providers that all individuals identifying themselves as having been in the United States military that the department and local veterans' service agencies provide assistance to veterans regarding benefits available under federal and state law; and

(iii) the address and telephone number of the department, county and city veterans' service agencies and accredited veterans' service officers; and

(b) facilitating the transmission of such veteran's status information, with the permission of individuals identifying themselves as a veteran, to the department.

Veterans' Services Law Art.2, Sect. 30

§ 30. Short Title

This article shall be known and may be cited as the "veterans employment act."

Veterans' Services Law Art.2, Sect. 31

§ 31. Legislative Findings

The legislature hereby finds that it is estimated that over the next five years, forty-four thousand veterans are expected to return to this state from their military posts, making the Empire State home to one of the largest veteran populations in the country. Shockingly, the unemployment rate for Post-9/11 veterans in New York was 10.7% in two thousand twelve, which is nearly one percent higher than the national average and higher than the state's overall 8.2% unemployment rate. The legislature has found previously that it is in the interest of the state to ensure that returning veterans have employment opportunities available upon their separation from military service.

The state already encourages private businesses to hire military veterans through tax credits and other economic incentives. In addition, the legislature has previously found that state agencies spend millions of dollars annually on temporary staff hired from temporary employment service companies to cover temporary staffing needs. These temporary state jobs could serve as a bridge for recently discharged military veterans who have yet to find full-time permanent work. In addition, these temporary assignments could serve to develop the next generation of the state workforce and help with succession planning for the current workforce.

The legislature declares it to be the policy of this state to use veterans for temporary appointments in state agencies rather than utilizing temporary employment service companies in order to provide employment opportunities for returning military veterans.

Veterans' Services Law Art.2, Sect. 32

§ 32. Definitions

1. "State agency" shall mean any department, board, bureau, division, commission, council or committee within the executive branch, the state university of New York, the city University of New York, and all public authorities under the control of the executive branch.

2. "Temporary appointment" shall have the same meaning as provided in section sixty-four of the civil service law.

3. "Veteran" means a veteran (a) as defined in section one of this chapter, or (b) a member of the New York guard or New York naval militia who was discharged under other than dishonorable conditions, and who was released from such service after September eleventh, two thousand one.

4. "Veteran temporary hiring list" shall mean a hiring list maintained by the department of civil service.

Veterans' Services Law Art. 2, Sect. 33

§ 33. Temporary Hiring

Notwithstanding any provision of law to the contrary, a state agency shall select a veteran from the veteran temporary hiring list when making a temporary appointment provided such veteran possesses the applicable skills needed for the temporary assignment.

Veterans' Services Law Art. 2, Sect. 34

§ 34. Department of civil services responsibilities [temporary hiring program]

The department of civil service shall:

1. Establish and maintain a veteran temporary hiring list, for use by state agencies in the implementation of this article;

2. Assist state agencies by making available services of the department of civil service to facilitate the provisions of this article; and

3. Establish and maintain, together with the commissioner of the department of veterans' services, a program to educate separating service members as to the benefits available to veterans under this article.

Veterans' Services Law Art. 2, Sect. 35

§ 35. Regulations [temporary hiring program]

The president of the state civil service commission shall promulgate such rules and regulations as shall be necessary to implement the provisions of this article.

Veterans' Services Law Art. 3, Sect. 40

§ **40. Definitions [Service-Disabled Veteran-Owned Businesses]**

As used in this article, the following terms shall have the following meanings:

1. "Certified service-disabled veteran-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

(a) at least fifty-one percent owned by one or more service-disabled veterans;

(b) an enterprise in which such service-disabled veteran ownership is real, substantial, and continuing;

(c) an enterprise in which such service-disabled veteran ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(d) an enterprise authorized to do business in this state and is independently-owned and operated;

(e) an enterprise that is a small business which has a significant business presence in the state, not dominant in its field and employs, based on its industry, a certain number of persons as determined by the director, but not to exceed three hundred, taking into consideration factors which include, but are not limited to, federal small business administration standards pursuant to 13 CFR part 121 and any amendments thereto; and

(f) certified by the office of general services.

2. "Commissioner" shall mean the commissioner of the office of general services.

3. "Director" shall mean the director of the division of service-disabled veterans' business development.

4. "Division" shall mean the division of service-disabled veterans' business development in the office of general services.

5. "Service-disabled veteran" shall mean (a) in the case of the United States army, navy, air force, space force, marines, coast guard, army national guard or air national guard and/or reserves thereof, a veteran who received a compensation rating of ten percent or greater from the United States Department of veterans affairs or from the United States department of defense because of a service-connected disability incurred in the line of duty and (b) in the case of the New York guard or the New York naval militia and/or reserves thereof, a veteran who certifies, pursuant to the rules and regulations promulgated by the director, to having incurred an injury equivalent to a compensation rating of ten percent or greater from the United States department of veterans affairs or from the United States department of defense because of a service-connected disability incurred in the line of duty.

6. "State Agency" shall mean:

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

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

Albany County Airport Authority;
Albany Port District Commission;
Alfred, Almond, Hornellsville Sewer Authority;
Battery Park City Authority;
Cayuga County Water and Sewer Authority;
(Nelson A. Rockefeller) Empire State Plaza Performing Arts Center Corporation; Industrial Exhibit Authority;
Livingston County Water and Sewer Authority; Long Island Power Authority; Long Island Rail Road;
Long Island Market Authority;
Manhattan and Bronx Surface Transit Operating Authority; Metro-North Commuter Railroad; Metropolitan Suburban Bus Authority;
Metropolitan Transportation Authority;
Natural Heritage Trust;
New York City Transit Authority;
New York Convention Center Operating Corporation; New York State Bridge Authority;
New York State Olympic Regional Development Authority; New York State Thruway Authority; Niagara Falls Public Water Authority;
Niagara Falls Water Board;
Port of Oswego Authority;
Power Authority of the State of New York;
Roosevelt Island Operating Corporation;
Schenectady Metroplex Development Authority; State Insurance Fund;
Staten Island Rapid Transit Operating Authority; State University Construction Fund;
Syracuse Regional Airport Authority;
Triborough Bridge and Tunnel Authority;
Upper Mohawk valley regional water board;
Upper Mohawk valley regional water finance authority;
Upper Mohawk valley memorial auditorium authority;

Urban Development Corporation and its subsidiary corporations.

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

Dormitory Authority of the State of New
York; Facilities Development Corporation;
New York State Energy Research and Development Authority;
New York State Science and Technology Foundation.

(d) "state contract" shall mean: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars, whereby a contracting agency is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; (ii) a written agreement in excess of one hundred thousand dollars whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and (iii) a written agreement in excess of one hundred thousand dollars whereby the owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project.

7. "Veteran" shall mean (a) a veteran as defined in section one of this chapter, or (b) a member of the New York guard who was discharged under other than dishonorable conditions, or (c) has a qualifying condition, as defined in section one of this chapter, and has received a discharge other than bad conduct or dishonorable from such service, or (d) is a discharged LGBT veteran, as defined in section one of this chapter, and has received a discharge other than bad conduct or dishonorable from such service.

Veterans' Services Law Art. 3, Sect. 41

§ 41. Division of service-disabled veterans' business development

1. The head of the division of service-disabled veterans' business development shall be the director who shall be appointed by the governor and who shall hold office at the pleasure of the commissioner.

2. The director may appoint such deputies, assistants, and other employees as may be needed for the performance of the duties prescribed herein subject to the provisions of the civil service law and the rules and regulations of the civil service commission. The director may request and shall receive from any (i) department, division, board, bureau, or executive commission of the state or (ii) state agency, such assistance as may be necessary to carry out the provisions of this article.

3. The director shall have the following powers and duties:

(a) Develop, collect, summarize and disseminate information that will be helpful to persons and organizations throughout the state in undertaking or promoting the establishment and successful operation of a service-disabled veteran-owned business.

(b) Develop and make available to state agencies a directory of certified service-disabled veteran-owned business enterprises which shall, wherever practicable, be divided into categories of labor, services, supplies, equipment, materials and recognized construction trades and which shall indicate areas or locations of the state where such enterprises are available to perform services. Such directory shall be posted on the office of general services website.

(c) Assist state agencies in the development of programs to foster and promote the use of service-disabled veteran-owned business enterprises on state contracts.

(d) Coordinate the plans, programs and operations of the state government which affect or may contribute to the establishment, preservation and development of service-disabled veteran-owned business enterprises.

(e) To appoint independent hearing officers who by contract or terms of employment shall preside over adjudicatory hearings pursuant to this section for the office and who are assigned no other work by the office.

(f) In conjunction with the commissioner, develop a comprehensive statewide plan and operational guidelines to promote service-disabled veteran-owned business enterprises and to assist them in obtaining opportunities to participate in the procurement of goods and services by the state, including identification of barriers to service-disabled veterans' business development and investigation and evaluation of their impact on achieving the objectives of this article.

4. The commissioner shall:

(a) Coordinate training of all procurement personnel of state agencies, emphasizing increased sensitivity and responsiveness to the unique needs and requirements of service-disabled veteran-owned business enterprises.

(b) Conduct a coordinated review of all existing and proposed state training and technical assistance activities in direct support of the service-disabled veterans' business development program to assure consistency with the objectives of this article.

(c) Evaluate and assess availability of firms for the purpose of increasing participation of such firms in state contracting in consultation with relevant state entities including, but not limited to, the New York state department of veterans’ services.

(d) Provide advice and technical assistance to promote service-disabled veteran-owned business enterprises' understanding of state procurement laws, practices and procedures to facilitate and increase the participation of service-disabled veteran-owned business enterprises in state procurement.

(e) Establish regular performance reporting systems regarding implementation of the programs designed to increase service-disabled veteran-owned business participation in procurement contracts by state agencies.

(f) Submit a report by the thirty-first of December each year, with the first report due by the thirty-first of December in the calendar year next succeeding the calendar year in which this article shall have become a law, to the governor, the temporary president of the senate, and the speaker of the assembly. Such report shall include information including, but not limited to, the number of contracts entered into pursuant to this article, the average amount of such contracts, the number of service-disabled veteran-owned business enterprises certified, the number of applications for certification as a service-disabled veteran-owned business enterprise, the number of denials for such certification, the number of appeals of such denials, and the outcome of such appeals and the average time that is required for such certification to be completed.

5. Certification.

(a) The director, or in the absence of the director, the commissioner, within ninety days of the effective date of this article, shall promulgate rules and regulations providing for the establishment of a statewide certification program including rules and regulations governing the approval, denial, or revocation of any such certification. Such rules and regulations shall include, but not be limited to, such matters as may be required to ensure that the established procedures thereunder shall at least be in compliance with the code of fair procedure set forth in section seventy-three of the civil rights law.

(b) The division of service-disabled veterans' business development shall be responsible for verifying businesses as being owned, operated, and controlled by a service-disabled veteran and for certifying such verified businesses. Status as a service-disabled veteran pursuant to paragraph (a) of this subdivision shall be documented by a copy of the veteran's certificate of release or discharge from active duty, including but not limited to, a DD-214 form or an honorable service certificate/report of causality from the department of defense, a letter of certification by the United States department of veterans affairs or the United States department of defense and any additional information that may be required by the division of service-disabled veterans' business development. In the case of the New York guard or the New York naval militia and/or reserves thereof, status as a service-disabled veteran pursuant to this paragraph shall be documented pursuant to rules and regulations promulgated by the director, or in the absence of the director, the commissioner.

(c) Following application for certification pursuant to this section, the director shall provide the applicant with written notice of the status of the application, including notice of any

outstanding deficiencies, within thirty days. Within sixty days of submission of a final completed application, the director shall provide the applicant with written notice of a determination by the director approving or denying such certification and, in the event of a denial, a statement setting forth the reasons for such denial. Upon a determination denying or revoking certification, the business enterprise for which certification has been so denied or revoked shall, upon written request made within thirty days from receipt of notice of such determination, be entitled to a hearing before an independent hearing officer designated for such purpose by the director. In the event that a request for a hearing is not made within such thirty day period, such determination shall be deemed to be final. The independent hearing officer shall conduct a hearing and upon the conclusion of such hearing, issue a written recommendation to the director to affirm, reverse, or modify such determination of the director. Such written recommendation shall be issued to the parties. The director, within thirty days, by order, must accept, reject or modify such recommendation of the hearing officer and set forth in writing the reason therefor. The director shall serve a copy of such order and reasons therefor upon the business enterprise by personal service or by certified mail return receipt requested. The order of the director of the division shall be subject to review pursuant to article seventy-eight of the civil practice law and rules.

(d) All certifications shall be valid for a period of five years.

Veterans' Services Law Art. 3, Sect. 42

§ 42. Opportunities for certified service-disabled veteran-owned business enterprises

1. The director, or in the absence of the director, the commissioner, within ninety days of the effective date of this article shall promulgate rules and regulations for the following purposes:

(a) provide measures and procedures to ensure that certified service-disabled veteran-owned business enterprises are afforded the opportunity for meaningful participation in the performance of state contracts and to assist in state agencies' identification of those state contracts for which certified service-disabled veteran-owned business enterprises may best perform;

(b) provide for measures and procedures that assist state agencies in the identification of state contracts where service-disabled veteran contract goals are practical, feasible and appropriate for the purpose of increasing the utilization of service-disabled veteran-owned business enterprise participation on state contracts;

(c) achieve a statewide goal for participation on state contracts by service-disabled veteran-owned business enterprises of six percent;

(d) provide for procedures relating to submission and receipt of applications by service-disabled veteran-owned business enterprises for certification;

(e) provide for the monitoring and compliance of state contracts by state agencies with respect to the provisions of this article;

(f) provide for the requirement that state agencies submit regular reports, as determined by the director, with respect to their service-disabled veteran-owned business enterprise program activity, including but not limited to, utilization reporting and state contract monitoring and compliance;

(g) notwithstanding any provision of the state finance law, the public buildings law, the highway law, the transportation law or the public authorities law to the contrary, provide for the reservation or set-aside of certain procurements by state agencies in order to achieve the objectives of this article; provided, however, that such procurements shall remain subject to (i) priority of preferred sources pursuant to sections one hundred sixty-two and one hundred sixty-three of the state finance law; (ii) the approval of the comptroller of the state of New York pursuant to section one hundred twelve and section one hundred sixty-three of the state finance law and section twenty-eight hundred seventy-nine-a of the public authorities law; and (iii) the procurement record requirements pursuant to paragraph g of subdivision nine of section one hundred sixty-three of the state finance law; and

(h) provide for any other purposes to effectuate this article.

2. State agencies shall administer the rules and regulations promulgated by the director for the implementation of this article.

Veterans' Services Law Art. 3, Sect. 43

§ **43. Severability**

If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this article directly involved in the controversy in which the judgment shall have been rendered.

Real Property Tax Law Article 4, Title 2, Section 458

§ 458. Veterans [Eligible Funds Exemption]

The following property shall be exempt from taxation:

1. All property exempt by law from execution, other than an exempt homestead. But real property purchased with the proceeds of a pension, bonus or insurance, or dividends or refunds on such insurance, or payments received as prisoner of war compensation from the United States government, heretofore or hereafter received, hereinafter referred to as eligible funds, granted by the United States or by this state for military or naval services, and owned by the person who rendered such services, or by the spouse or unremarried surviving spouse, or dependent father or mother, or the children under twenty-one years of age of such person is subject to taxation as herein provided.

(1) Such property shall be assessed in the same manner as other real property in the tax districts. On or before the appropriate taxable status date, a verified application on a form prescribed or approved by the commissioner for the exemption of such real property from taxation may be filed in the appropriate assessor's office by or on behalf of the owner thereof, which application must show the facts on which the exemption is claimed, including the amount of eligible funds used in or toward the purchase of such property.

(2) Except as provided in subdivision five of this section, no such exemption on account of eligible funds paid on account of military or naval services rendered by an individual shall be allowed in excess of five thousand dollars. For the purposes of this subdivision any established exemption, or newly claimed exemption, or an aggregate thereof, as the case may be, in excess of any multiple of fifty dollars shall be regarded as being the nearest multiple of fifty dollars and allowed in such amount. If the amount of such exemption has no nearest multiple of fifty dollars, it shall be regarded as being the next higher multiple of fifty dollars and allowed in such amount. The mingling of such eligible funds with other funds or their retention by the United States for insurance premiums shall not bar the granting of a claim for such exemption.

(2) Except as provided in subdivision five of this section, no such exemption on account of eligible funds paid on account of military or naval services rendered by an individual shall be allowed in excess of seven thousand five hundred dollars. For the purposes of this subdivision any established exemption, or newly claimed exemption, or an aggregate thereof, as the case may be, in excess of any multiple of fifty dollars shall be regarded as being the nearest multiple of fifty dollars and allowed in such amount. If the amount of such exemption has no nearest multiple of fifty dollars, it shall be regarded as being the next higher multiple of fifty dollars and allowed in such amount. The mingling of such eligible funds with other funds or their retention by the United States for insurance premiums shall not bar the granting of a claim for such exemption.

(3) If the assessors are satisfied that the applicant is entitled to any exemption, they shall make appropriate entries upon the assessment-roll opposite the description of such property and subtract the total amount of such exemption from the total amount assessed pursuant to the provisions of paragraph one of this subdivision. Such entries shall be made and continued in each assessment of the property so long as it is exempt from taxation for any purpose. Such real property, to the extent of the exemption entered by the assessors, shall be exempt from state, county and general municipal taxation, but shall be taxable for local school purposes. The provisions herein, relating to the assessment and exemption of property purchased with eligible funds apply and shall be enforced in each municipal corporation authorized to levy taxes.

(4) If the application for exemption is not granted, the property shall be subject to taxation for all purposes.

(5) Notwithstanding the provisions of this section or any other provision of law, in any city with a population of one million or more, applications for the exemption authorized pursuant to this section shall be considered timely filed if they are filed on or before the fifteenth day of March of the appropriate year.

(1) Real property purchased with moneys collected by popular subscription in partial recognition of extraordinary services rendered by any veteran of world war one, world war two, or of the hostilities which commenced June twenty-seventh, nineteen hundred fifty, who (A) was honorably discharged from such service, or (B) has a qualifying condition, as defined in Section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (C) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and who sustained permanent disability while on military duty, either total or partial, and owned by the person who sustained such injuries, or by his or her spouse or unremarried surviving spouse, or dependent father or mother, is subject to taxation as herein provided. Such property shall be assessed in the same manner as other real property in the tax district. At the meeting of the assessors to hear complaints concerning the assessments, a verified application for the exemption of such real property from taxation may be presented to them by or on behalf of the owner thereof, which application must show the facts on which the exemption is claimed, including the amount of moneys so raised and used in or toward the purchase of such property. No exemption on account of any such gift shall be allowed in excess of five thousand dollars. The application for exemption shall be presented and action thereon taken in the manner provided by subdivision one of this section. If no application for exemption be granted, the property shall be subject to taxation for all purposes. The provisions herein, relating to the assessment and exemption of property purchased with moneys raised by popular subscription, apply and shall be enforced in each municipal corporation authorized to levy taxes.

2. In addition to any exemption from taxation on real property which may be allowed to veterans pursuant to the provisions of subdivisions one and two of this section, the primary residence of any seriously disabled veteran who is eligible for pecuniary assistance from the United States government, or who has received pecuniary assistance from the United States government and has applied such assistance toward the acquisition or modification of a

suitable housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, and the necessary land therefor, shall be fully exempt from taxation and special district charges and assessments and special ad valorem levies. The same exemption shall also be allowed on such a housing unit owned by the unremarried surviving spouse of such veteran, or by such veteran and spouse while occupying such premises as a residence. The unremarried surviving spouse of such veteran may transfer the exemption to any new housing unit to be used as his or her primary residence. If an exemption has already been granted pursuant to the provisions of subdivisions one and two of this section, application for a further exemption as herein provided may be made and action taken thereon in the same manner as set forth in subdivision one of this section.

4. The definitions set forth in section one hundred two of this chapter shall not apply to this section and the terms used in this section shall have the same meaning as they had prior to the enactment of this chapter.

(1) 4-a. For the purposes of this section, the term "military or naval services" shall be deemed to also include service: [a] by a person who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the department of defense; [b] service by a United States civilian employed by the American Field Service who served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (I) was discharged or released therefrom under honorable conditions, or (II) has a qualifying condition, as defined in Section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service; or [c] service by a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates who served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five.

5. (a) Notwithstanding the limitation on the amount of exemption prescribed in subdivision

one or two of this section, upon adoption of a local law by the governing board of a county, city, town or village that levies taxes or for which taxes are levied on an assessment roll, if the total assessed value of the real property for which such exemption has been granted increases or decreases as the result of a revaluation or update of assessments, and a material change in level of assessment, as provided in title two of article twelve of this chapter, is certified for the assessment roll pursuant to the rules of the commissioner, the assessor shall increase or decrease the amount of such exemption by multiplying the amount of such exemption by the change in level of assessment factor. If the assessor receives the certification after the completion, verification and filing of the final assessment roll, the assessor shall certify the amount of exemption as recomputed pursuant to this paragraph to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the assessor on the roll.

(b) Notwithstanding the provisions of paragraph (b) of subdivision six of this section, in municipalities granting exemptions pursuant to section four hundred fifty-eight-a of this article, a local law adopted pursuant to paragraph (a) of this subdivision may also authorize owners of property who previously received an exemption pursuant to this section, but who opted instead to receive exemption pursuant to section four hundred fifty-eight-a, to again receive an exemption pursuant to this section upon application by the owner within one year of the adoption of such local law. Where such provision is included in the local law, the assessor shall recompute all exemptions granted pursuant to this section by multiplying the amount of each such exemption by the cumulative change in level of assessment factor certified by the commissioner measured from the assessment roll immediately preceding the assessment roll on which exemptions were first granted pursuant to section four hundred fifty-eight-a; provided, however, that if an exemption pursuant to this section was initially granted to a parcel on a later assessment roll, the cumulative change in level factor to be used in recomputing that exemption shall be measured from the assessment roll immediately preceding the assessment roll on which that exemption was initially granted. No refunds or retroactive entitlements shall be granted.

(c) Notwithstanding the provisions of subdivision four of this section, terms used in this subdivision shall be subject to the definitions of section one hundred two of this chapter. For special assessing units, the change in level of assessment factor to be used for purposes of this subdivision is the municipal-wide change in level of assessment factor determined for the class in which the property subject to exemption is included.

(d)

(i) For the purposes of this paragraph (d), a "recompute exemption" means the sum of the original exemption and any additional eligible funds received multiplied by the change in level of assessment from the assessment roll in the year the exemption was originally granted.

(ii) An assessing unit which finally files a change in level of assessment roll in or after the calendar year nineteen hundred ninety-eight may, pursuant to local law adopted by the governing board of a county, city, town or village that levies taxes or for which taxes are

levied on an assessment roll, grant to every veteran who is entitled to any additional eligible funds a recompute exemption in lieu of the exemption otherwise authorized by this subdivision. Such recompute exemption may be granted on any change in level of assessment roll filed in or after calendar year nineteen hundred ninety-eight. A local law adopted pursuant to this paragraph (d) shall not be subject to referendum.

6. (a) (i) Except as otherwise provided in subparagraph of this paragraph, no new exemption may be granted pursuant to subdivision one or former subdivision five of this section on an assessment roll based upon a taxable status date occurring on or after March second, nineteen hundred eighty-six, except for purposes of taxes levied by or on behalf of a county, city, town or village that has enacted and has in effect a local law as provided in subdivision four of section four hundred fifty-eight-a of this chapter. Notwithstanding the foregoing, the owner of real property receiving an exemption pursuant to subdivision one or former subdivision five of this section prior to March second, nineteen hundred eighty-six may continue to receive the exemption on the property to which it is applicable.

(ii) In any city with a population of one million or more, no new exemption may be granted pursuant to subdivision one or former subdivision five of this section on an assessment roll based upon a taxable status date occurring on or after January sixth, nineteen hundred eighty-five, except for purposes of taxes levied by or on behalf of such city that has enacted and has in effect a local law as provided in subdivision four of section four hundred fifty-eight-a of this chapter. Notwithstanding the foregoing provisions of this subparagraph, the owner of real property receiving an exemption pursuant to subdivision one or former subdivision five of this section prior to January sixth, nineteen hundred eighty-five may continue to receive the exemption on the property to which it is applicable.

(iii) Except as provided in paragraph (b) of former subdivision five of this section, where such property is sold and moneys equaling or exceeding the amount of eligible funds used in the purchase of the parcel are received upon such sale, if such moneys are at any time thereafter used to purchase another parcel, an exemption may be granted as provided in subdivision one of this section provided the parcel is otherwise eligible for such exemption.

(iv) The provisions of former subdivision five of this section as referred to in this paragraph are the provisions originally enacted by chapter one hundred thirty-four of the laws of nineteen hundred seventy-nine and repealed by chapter four hundred ten of the laws of nineteen hundred ninety-four.

(b) In lieu of receiving an exemption pursuant to this section, the owner may apply for an exemption pursuant to section four hundred fifty-eight-a or four hundred fifty-eight-b of this title. If an exemption is granted pursuant to section four hundred fifty-eight-a, the owner may not thereafter receive an exemption pursuant to this section, unless the owner sells the property receiving exemption and uses the proceeds of such sale to purchase property in a municipality that has adopted and has in effect a local law as provided in subdivision four of section four hundred fifty-eight-a of this title. In such event, the owner may again receive exemption pursuant to subdivision one of this section.

7. Notwithstanding any other provision of law to the contrary, the provisions of this section shall apply to any real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to subdivision one, two or three of this section, were such person or persons the owner or owners of such real property.

8. (a) For the purposes of this section, title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides and which is represented by his share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

(b) Provided that all other eligibility criteria of this section are met, that proportion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant-stockholder to such real property owned by such cooperative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this section and any exemption so granted shall be credited by the appropriate taxing authority against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

(c) Notwithstanding paragraph (b) of this subdivision, a tenant-stockholder who resides in a dwelling that is subject to the provisions of either article two, four, five or eleven of the private housing finance law shall not be eligible for an exemption pursuant to this section.

(d) Notwithstanding paragraph (b) of this subdivision, real property owned by a cooperative apartment corporation may be exempt from taxation pursuant to this section by a municipality in which such real property is located only if the governing body of such municipality, after public hearing, adopts a local law, ordinance or resolution providing therefor.

9. Notwithstanding the provisions of subdivision one of this section, the governing body of any municipality may, after public hearing, adopt a local law, ordinance or resolution providing where a veteran, the spouse of the veteran or unremarried surviving spouse already receiving an exemption pursuant to this section sells the property receiving the exemption and purchases property within the same city, town or village, the assessor shall transfer and prorate, for the remainder of the fiscal year, the exemption which the veteran, the spouse of the veteran or unremarried surviving spouse received. The prorated exemption shall be based upon the date the veteran, the spouse of the veteran or unremarried surviving spouse obtains title to the new property and shall be calculated by multiplying the tax rate or rates for each municipal corporation which levied taxes, or for which taxes were levied, on the appropriate tax roll used for the fiscal year or years during which the transfer occurred times the previously granted exempt amount times the fraction

of each fiscal year or years remaining subsequent to the transfer of title. Nothing in this section shall be construed to remove the requirement that any such veteran, the spouse of the veteran or unremarried surviving spouse transferring an exemption pursuant to this subdivision shall reapply for the exemption authorized pursuant to this section on or before the following taxable status date, in the event such veteran, the spouse of the veteran or unremarried surviving spouse wishes to receive the exemption in future fiscal years.

10. The commissioner shall develop in consultation with the commissioner of the New York state department of veterans' services a listing of documents to be used to establish eligibility under this section, including but not limited to a certificate of release or discharge from active duty also known as a DD-214 form or an Honorable Service Certificate/Report of Causality from the department of defense. Such information shall be made available to each county, city, town or village assessor's office, or congressional chartered veterans service officers who request such information. The listing of acceptable military records shall be made available on the internet websites of the department of veterans' services and the office of real property tax services.

Practice Notes, Cases, and General Counsel Opinions

General Counsel Opinions:

Corporate Property: Real property owned by a corporation is not eligible for a Veterans exemption even if all the shares in the corporation are owned by a veteran. 1 Op. Counsel S.B.E.A. No. 76

Improved Property: There is no requirement that real property subject to the Veterans exemption be improved property. 33 Op. State Compt. 129

Limited Liability Company Property: Real property owned by a limited liability company is not eligible for an Eligible Funds or Alternative Veteran's Exemption. 10. Op. Counsel SBRPS No. 97

Maritime Service Veterans: A person asserting United States Maritime service is not considered to have rendered military or naval services and is therefore may not receive a Veterans exemption. 6. Op. Counsel S.B.E.A. No. 114.

Partnership Property: If the ownership of the properties is held in a partnership, the ownership requirement is not satisfied. 1 Op. Counsel S.B.E.A. No. 54

Retroactive Exemption: A Veterans exemption may not be granted retroactively. 2 Op. Counsel S.B.E.A. No. 102

Seriously Disabled Veteran: Seriously disabled Veterans may receive total exemption from county, municipal, and school taxes. A Veteran qualifies as "seriously disabled" if the Veteran received financial assistance from the federal government and used this money to acquire a primary residence, and a specially adapted housing grant was awarded to the Veteran because of the Veteran's service-connected disability. 2 Op. Counsel S.B.E.A. No. 114. In addition, the property must be the Veteran's primary residence. This total exemption is available only to seriously disabled veterans of World War I, World War II, the Korean War and the Vietnam War who have suffered a service-connected disability. 2 Op. Counsel S.B.E.A. No. 10.

Real Property Tax Law Article 4, Title 2, Section 458-a

§ **458-a. Veterans; alternative exemption**

1. The following terms whenever used or referred to in this section shall have the following meanings unless a different meaning clearly appears in the context:

(a) "Period of war" means the Spanish-American war; the Mexican border period; World War I; World War II; the hostilities, known as the Korean war, which commenced June twenty-seventh, nineteen hundred fifty and terminated on January thirty-first, nineteen hundred fifty-five; the hostilities, known as the Vietnam war, which commenced November first, nineteen hundred fifty-five and terminated on May seventh, nineteen hundred seventy-five; and the hostilities, known as the Persian Gulf conflict, which commenced August second, nineteen hundred ninety.

(b) "Service connected" means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval or air service.

(c) "Qualified owner" means a veteran, the spouse of a veteran or the unremarried surviving spouse of a veteran. Where property is owned by more than one qualified owner, the exemption to which each is entitled may be combined. Where a veteran is also the unremarried surviving spouse of a veteran, such person may also receive any exemption to which the deceased spouse was entitled.

(d) "Qualifying residential real property" means property owned by a qualified owner which is used exclusively for residential purposes; provided however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section. Such property must be the primary residence of the veteran or unremarried surviving spouse of the veteran, unless the veteran or unremarried surviving spouse is absent from the property due to medical reasons or institutionalization. In the event the veteran dies and there is no unremarried surviving spouse, "qualifying residential real property" shall mean the primary residence owned by a qualified owner prior to death, provided that the title to the property becomes vested in the dependent father or mother or dependent child or children under twenty-one years of age of a veteran by virtue of devise by or descent from the deceased qualified owner, provided that the property is the primary residence of one or all of the devisees.

(2) "Veteran" means a person (i) who served in the active military, naval, or air service during a period of war, or who was a recipient of the armed forces expeditionary medal, navy expeditionary medal, marine corps expeditionary medal, or global war on terrorism expeditionary medal, and who (1) was discharged or released therefrom under honorable conditions, or (2) has a qualifying condition, as defined in Section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, (ii) who

was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the department of defense, (iii) who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions, (iv) who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions, [v] notwithstanding any other provision of law to the contrary, who are members of the reserve components of the armed forces of the United States who received an honorable discharge or release therefrom under honorable conditions, but are still members of the reserve components of the armed forces of the United States provided that such members meet all other qualifications under the provisions of this section, or (vi) who shall be considered to have been discharged or released from active military service of the United States under honorable conditions if: (1) the individual served in the active military service of the United States for the period of time such individual was obligated to serve at the time of entry into service; (2) the individual was not discharged or released from such service at the time of completing such period of obligation due to an intervening enlistment or reenlistment; (3) the individual would have been eligible for a discharge or release under conditions other than dishonorable at such times except for such intervening enlistment or reenlistment; and (4) the individual served in the active military service of the United States for a period of at least ten years, provided that such individual meets all other qualifications under the provisions of this section.

(f) "Latest state equalization rate" means the latest final state equalization rate or special equalization rate established by the commissioner pursuant to article twelve of this chapter. The commissioner shall establish a special equalization rate if it finds that there has been a material change in the level of assessment since the establishment of the latest state equalization rate, but in no event shall such special equalization rate exceed one hundred. In the event that the state equalization rate exceeds one hundred, then the state equalization rate shall be one hundred for the purposes of this section. In the event that the

assessor does not have custody of the roll when such recomputation is accomplished, the assessor shall certify such recomputation to the local officers having custody and control of such roll, and such local officers are hereby directed and authorized to enter the recomputed alternative veterans exemption certified by the assessor on such roll.

(g) "Latest class ratio" means the latest final class ratio established by the commissioner pursuant to title one of article twelve of this chapter for use in a special assessing unit as defined in section eighteen hundred one of this chapter.

2. (a) Qualifying residential real property shall be exempt from taxation to the extent of fifteen percent of the assessed value of such property; provided, however, that such exemption shall not exceed twelve thousand dollars or the product of twelve thousand dollars multiplied by the latest state equalization rate for the assessing unit, or in the case of a special assessing unit, the latest class ratio, whichever is less.

(b) In addition to the exemption provided by paragraph (a) of this subdivision, where the veteran served in a combat theatre or combat zone of operations, as documented by the award of a United States campaign ribbon or service medal, or the armed forces expeditionary medal, navy expeditionary medal, marine corps expeditionary medal, or global war on terrorism expeditionary medal, qualifying residential real property also shall be exempt from taxation to the extent of ten percent of the assessed value of such property; provided, however, that such exemption shall not exceed eight thousand dollars or the product of eight thousand dollars multiplied by the latest state equalization rate for the assessing unit, or in the case of a special assessing unit, the class ratio, whichever is less.

(c) In addition to the exemptions provided by paragraphs (a) and (b) of this subdivision, where the veteran received a compensation rating from the United States veteran's administration or from the United States department of defense because of a service connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by fifty percent of the veteran's disability rating; provided, however, that such exemption shall not exceed forty thousand dollars or the product of forty thousand dollars multiplied by the latest state equalization rate for the assessing unit, or in the case of a special assessing unit, the latest class ratio, whichever is less. For purposes of this paragraph, where a person who served in the active military, naval or air service during a period of war died in service of a service connected disability, such person shall be deemed to have been assigned a compensation rating of one hundred percent.

(d) Limitations.

(i) The exemption from taxation provided by this subdivision shall be applicable to county, city, town, village and school district taxation if the governing body of the school district in which the property is located, after public hearings, adopts a resolution providing such exemption, the procedure for such hearing and resolution shall be conducted separately from the procedure for any hearing and local law or resolution conducted pursuant to subparagraph (ii) of this paragraph, paragraph [b] of subdivision four, paragraph (d) of subdivision six and paragraph (b) of subdivision seven of this section.

(ii) Each county, city, town, village or school district may adopt a local law to reduce the maximum exemption allowable in paragraphs (a), (b) and (c) of this subdivision to nine thousand dollars, six thousand dollars and thirty thousand dollars, respectively, or six thousand dollars, four thousand dollars and twenty thousand dollars, respectively. Each county, city, town, village or school district is also authorized to adopt a local law to increase the maximum exemption allowable in paragraphs (a), (b) and (c) of this subdivision to fifteen thousand dollars, ten thousand dollars and fifty thousand dollars, respectively; eighteen thousand dollars, twelve thousand dollars and sixty thousand dollars, respectively; twenty-one thousand dollars, fourteen thousand dollars, and seventy thousand dollars, respectively; twenty-four thousand dollars, sixteen thousand dollars, and eighty thousand dollars, respectively; twenty-seven thousand dollars, eighteen thousand dollars, and ninety thousand dollars, respectively; thirty thousand dollars, twenty thousand dollars, and one hundred thousand dollars, respectively; thirty-three thousand dollars, twenty-two thousand dollars, and one hundred ten thousand dollars, respectively; thirty-six thousand dollars, twenty-four thousand dollars, and one hundred twenty thousand dollars, respectively. In addition, a county, city, town, village or school district which is a "high-appreciation municipality" as defined in this subparagraph is authorized to adopt a local law to increase the maximum exemption allowable in paragraphs (a), (b) and (c) of this subdivision to thirty-nine thousand dollars, twenty-six thousand dollars, and one hundred thirty thousand dollars, respectively; forty-two thousand dollars, twenty-eight thousand dollars, and one hundred forty thousand dollars, respectively; forty-five thousand dollars, thirty thousand dollars and one hundred fifty thousand dollars, respectively; forty-eight thousand dollars, thirty-two thousand dollars and one hundred sixty thousand dollars, respectively; fifty-one thousand dollars, thirty-four thousand dollars and one hundred seventy thousand dollars, respectively; fifty-four thousand dollars, thirty-six thousand dollars and one hundred eighty thousand dollars, respectively.

3. Application for exemption must be made by the owner, or all of the owners, of the property on a form prescribed by the commissioner. The owner or owners shall file the completed form in the assessor's office on or before the appropriate taxable status date.

The exemption shall continue in full force and effect for all appropriate subsequent tax years and the owner or owners of the property shall not be required to refile each year. Applicants shall be required to refile on or before the appropriate taxable status date if the percentage of disability percentage increases or decreases or may refile if other changes have occurred which affect qualification for an increased or decreased amount of exemption. Any applicant convicted of making any willful false statement in the application for such exemption shall be subject to the penalties prescribed in the penal law.

3-a. Notwithstanding the provisions of this section or any other provision of law, in a city having a population of one million or more, applications for the exemption authorized pursuant to this section shall be considered timely filed if they are filed on or before the fifteenth day of March of the appropriate year.

4. (a) Notwithstanding the foregoing provisions of this section, no later than ninety days before the taxable status date next occurring on or after the thirty-first day of December nineteen hundred eighty-four, the governing board of any county, city, town or village may adopt a local law to provide that no exemption shall be granted pursuant to this section for the purposes of taxes levied for such county, city, town or village. For the purposes of a county which is not an assessing unit, the taxable status date next occurring on or after December thirty-first, nineteen hundred eighty-four shall mean the first such taxable status date of any city or town within such county upon the assessment roll of which the county levies taxes. A local law adopted pursuant to this paragraph may be repealed by the governing board of the applicable county, city, town or village. Such repeal must occur at least ninety days prior to the taxable status date of such county, city, town or village.

(b) Notwithstanding any other provision of law to the contrary, no later than ninety days before the taxable status date next occurring on or after the thirty-first day of December, two thousand thirteen, the governing body of a school district may repeal a resolution adopted pursuant to subparagraph (i) of paragraph (d) of subdivision two of this section providing the exemption from taxation pursuant to this section for the purposes of taxes levied by such school district. Nothing contained in this paragraph shall be construed to preclude the governing body of a school district from subsequently adopting a resolution granting such exemption pursuant to this section.

5. Notwithstanding any other provision of law to the contrary, the provisions of this section shall apply to any real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to this section, were such person or persons the owner or owners of such real property.

6. (a) For the purposes of this section, title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides and which is represented by his share or shares of stock in such corporation as determined

by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

(b) Provided that all other eligibility criteria of this section are met, that proportion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant-stockholder to such real property owned by such cooperative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this section and any exemption so granted shall be credited by the appropriate taxing authority against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

(c) Notwithstanding paragraph (b) of this subdivision, a tenant-stockholder who resides in a dwelling that is subject to the provisions of either article two, four, five or eleven of the private housing finance law shall not be eligible for an exemption pursuant to this section.

(d) Notwithstanding paragraph (b) of this subdivision, real property owned by a cooperative corporation may be exempt from taxation pursuant to this section by a municipality in which such property is located only if the governing body of such municipality, after public hearing, adopts a local law, ordinance or resolution providing therefor.

7. (a) As used in this subdivision, "Gold Star Parent" shall mean the parent of a child who died in the line of duty while serving in the United States armed forces during a period of war.

(b) A county, city, town, village or school district may adopt a local law to include a Gold Star Parent within the definition of "qualified owner", as provided in paragraph (c) of subdivision one of this section, and to include property owned by a Gold Star Parent within the definition of "qualifying residential real property" as provided in paragraph (d) of subdivision one of this section, provided that such property shall be the primary residence of the Gold Star Parent.

(c) The additional exemption provided for in paragraph (c) of subdivision two of this section shall not apply to real property owned by a Gold Star Parent.

8. Notwithstanding the provisions of paragraph [c] of subdivision one of this section and subdivision three of this section, the governing body of any municipality may, after public hearing, adopt a local law, ordinance or resolution providing that where a veteran, the spouse of the veteran or unremarried surviving spouse already receiving an exemption pursuant to this section sells the property receiving the exemption and purchases property

within the same city, town or village, the assessor shall transfer and prorate, for the remainder of the fiscal year, the exemption received. The prorated exemption shall be based upon the date the veteran, the spouse of the veteran or unremarried surviving spouse obtains title to the new property and shall be calculated by multiplying the tax rate or rates for each municipal corporation which levied taxes, or for which taxes were levied, on the appropriate tax roll used for the fiscal year or years during which the transfer occurred times the previously granted exempt amount times the fraction of each fiscal year or years remaining subsequent to the transfer of title. Nothing in this section shall be construed to remove the requirement that any such veteran, the spouse of the veteran or unremarried surviving spouse transferring an exemption pursuant to this subdivision shall reapply for the exemption authorized pursuant to this section on or before the following taxable status date, in the event such veteran, the spouse of the veteran or unremarried surviving spouse wishes to receive the exemption in future fiscal years.

9. The commissioner shall develop in consultation with the commissioner of the New York state department of veterans' services a listing of documents to be used to establish eligibility under this section, including but not limited to a certificate of release or discharge from active duty also known as a DD-214 form or an Honorable Service Certificate/Report of Causality from the department of defense. Such information shall be made available to each county, city, town or village assessor's office, or congressional chartered veterans service officers who request such information. The listing of acceptable military records shall be made available on the internet websites of the department of veterans' services and the office of real property tax services.

10. A county, city, town, village or school district may adopt a local law or resolution to include military personnel who served in the Reserve component of the Armed Forces that were deemed on active duty under Executive Order 11519 signed March twenty-third, nineteen hundred seventy, dated March twenty-fourth, nineteen hundred seventy and later designated by the United States Department of Defense as Operation Graphic Hand, if such member was discharged or released therefrom under honorable conditions, provided that such veteran meets all other qualifications of this section.

Practice Notes, Cases, and General Counsel Opinions

Cases:

Legislative Intent: Tax exemptions are to be strictly construed, though not so strictly as to defeat legislative intent. People ex rel. Watchtower Bible & Tract Soc., Inc. v. Haring, 8 N.Y.2d 350 (N.Y. 1960); Newsday, Inc. v. Huntington, 82 A.D.2d 245, 441 N.Y.S.2d 689 (N.Y. App. Div. 2d Dept. 1981).

General Counsel Opinions:

Active Duty: Active duty military personnel are not eligible for the exemption except, when the individual served in the Armed Forces during a period of war, received an honorably discharge, and subsequently relisted. 11 Op. Counsel SBRPS No. 58.

Coast Guard: Qualifying service in the Coast Guard entitles the Veteran to the Alternative Veterans Exemption. 11 Op. Counsel SBRPS No. 3.

Dual Receipt: A Veteran who elected to receive the Alternative Veterans Exemption on his or her residence may not retain any Eligible Funds Veterans Exemption on other real property. 8. Op. Counsel SBEA. No. 12.

Foreign Military Service: Wartime military service in the military of a foreign government does not constitute qualifying service for the Alternative Veterans Exemption. 8 Op. Counsel SBEA. No. 72.

Gold Star Parent: Where a municipality decides to grant the Alternative Veterans Exemption to Gold Star Parents, if the Gold Star Parent is the sole owner of the property, such parent may only receive either the Gold Star Parent exemption or the Alternative Veterans Exemption. However, if the property is owned by two Gold Star Parents, one may take the Gold Star Parent exemption and the other may receive the Alternative Veterans Exemption concurrently. 10 Op. Counsel SBRPS No. 114.

Lebanon, Grenada, or Panama: Receipt of an expeditionary medal for service in Lebanon, Grenada, or Panama is proof of service in a combat zone. 9 Op. Counsel SBEA No. 120.

Merchant Marine: Service in the Merchant Marine DOES NOT qualify an individual as a "Veteran" for the Alternative Veterans Exemption. 8 Op. Counsel SBEA No. 88.

National Guard and Reserve: A member of any reserve component (National Guard, Reservists) of the United States Armed Forces who perform significant, full-time active duty military service during wartime and is now been released back into a reserve status is a Veteran. 11 Op. Counsel SBRPS No. 58. Reservists and National Guard members who engaged in active duty for training, or who were activated for only short periods of time, are NOT eligible as a Veteran for purposes of Real Property Tax Law §458-a. 10 Op. Counsel SBEA No. 103.

Peacetime Service: An individual who suffered a service-connected disability while in active duty military service during peacetime is not eligible for an Alternative Veterans Exemption. 10 Op. Counsel SBRPS No. 52.

Period of Service: There is no statutorily prescribed minimum period of military service for the purposes of qualifying for the alternative veteran's exemption. 11 Op. Counsel SBRPS No. 38.

Period of War: The term "period of war" means the same as defined in 38 U.S.C. § 101). 8 Op. Counsel SBEA No. 69.

Public Health Service: A surgeon in the commissioned officers corps of the Public Health Service who provided honorable service during a time of war is a Veteran for the purposes of Real Property Tax Law §458-a. 10 Op. Counsel SBRPS No. 105.

Service Academies: Service as a cadet (or other student title) at a service academy during wartime qualifies one as a "veteran" for the purposes of Real Property Tax Law §458-a. 11 Op. Counsel SBRPS No. 10.

Two Periods of Military Service: A discharge under "other than honorable" conditions does not vitiate (impair the legal validity of) or otherwise impact a prior honorable discharge. 8 Op. Counsel SBEA No. 103.

Trust: Real property held in trust solely for the benefit of a person who otherwise qualifies for any Veterans or senior citizens real property tax exemption may receive, or continue to receive, the benefit if trust beneficiaries are not enjoying the property. 10 Op. Counsel SBRPS No. 25. A trust beneficiary's current eligibility for the Alternative Veterans Exemption is not impacted by a trust instrument which invests in the trustee discretion to sell the beneficiaries residence where the beneficiary vacates the property for a period of time specified in the trust. 11 Op. Counsel SBRPS. No. 44.

Unremarried Surviving Spouse of a Veteran: A Veteran who is the unremarried surviving spouse of another Veteran may receive only one Veterans exemption. 8. Op. Counsel SBEA. No. 98.

Veteran: The statutory definition of a Veteran in Real Property Tax Law §458-a(1)(e) is derived from, and based upon, federal law. 8 Op. Counsel SBEA No. 69.

Notes:

Acceptable Military Records: The New York State Department of Taxation & Finance maintains an online listing of "Acceptable Military Records for Veterans' Property Tax Exemptions." This listing shows all of the military documents that a local assessor may accept as valid proof of an applicant's active duty military service: https://www.tax.ny.gov/pit/property/exemption/vetexemptproof.htm

Individual Unemployability: A Veteran with an Individual Unemployability rating from the United States Department of Veterans Affairs is recognized as receiving a disability compensation rating of 100% for Alternative Veterans Exemption calculation purposes, regardless of the Veteran's actual numerical rating.

Significant Full-Time Active Duty Military Service: The term "significant, full-time active duty military service during wartime" (11 Op. Counsel SBRPS No. 58) is vague, and is often ambiguously applied. Local assessors hold discretion to determine whether an applicant's military service qualifies as "significant." For instance, most assessors have held that members of the National Guard and the Reserves who were activated by President Richard Nixon during Operation Graphic Hand, a military action to counter the effects of a strike of postal workers throughout the United States, did not perform "significant" military service. This is particularly important in New York State, given that post offices in New York City were arguably the focal point of Operation Graphic Hand, with Servicemembers ensuring that essential mail was delivered while the postal workers were on strike. However, local assessors hold the authority to declare that this service was not "significant" enough for exemption eligibility purposes. See also City of New York v. Civ. Serv. Comm., 60 N.Y.2d 436 (N.Y. 1983) ("It is not enough that an applicant's service fall within the literal definitions of 'member of the armed forces' and 'time of war' if that service did not significantly interfere with the applicant's normal employment and way of life.").

Surviving Spouse: If a Veteran passes away from a service-connected disability, then the surviving spouse of that Veteran is eligible to receive the Alternative Veterans Exemption at a level as if the Veteran received a 100% rating from the United States Department of Veterans Affairs during the Veteran's lifetime. This rule applies even if the Veteran received a service-connected rating lower than 100% -- or even no service-connected rating at all -- during the Veteran's life.

Real Property Tax Law Article 4, Title 2, Section 458-b

§ 458-b. Exemption for Cold War veterans

1. As used in this section:

(a) "Cold War veteran" means a person, male or female, who served on active duty in the United States armed forces, during the time period from September second, nineteen hundred forty-five to December twenty-sixth, nineteen hundred ninety-one, and (I) was discharged or released therefrom under honorable conditions, or (II) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

(b) "Armed forces" means the United States army, navy, marine corps, air force, space force, and coast guard.

(c) "Active duty" means full-time duty in the United States armed forces, other than active duty for training.

(d) "Service connected" means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty on active military, naval or air service.

(e) "Qualified owner" means a Cold War veteran, the spouse of a Cold War veteran, or the unremarried surviving spouse of a deceased Cold War veteran. Where property is owned by more than one qualified owner, the exemption to which each is entitled may be combined. Where a veteran is also the unremarried surviving spouse of a veteran, such person may also receive any exemption to which the deceased spouse was entitled.

(f) "Qualified residential real property" means property owned by a qualified owner which is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not used exclusively for residential purposes, but is used for other purposes, such portion shall be subject to taxation and only the remaining portion used exclusively for residential purposes shall be subject to the exemption provided by this section. Such property shall be the primary residence of the Cold War veteran or the unremarried surviving spouse of a Cold War veteran, unless the Cold War veteran or unremarried surviving spouse is absent from the property due to medical reasons or institutionalization.

(g) "Latest state equalization rate" means the latest final state equalization rate or special equalization rate established by the commissioner pursuant to article twelve of this chapter. The commissioner shall establish a special equalization rate if it finds that there has been a material change in the level of assessment since the establishment of the latest state equalization rate, but in no event shall such special equalization rate exceed one hundred. In the event that the state equalization rate exceeds one hundred, then the state equalization rate shall be one hundred for the purposes of this section. Where a special equalization rate is established for purposes of this section, the assessor is directed and authorized to recompute the Cold War veterans exemption on the assessment roll by applying such special equalization rate instead of the latest state equalization rate applied in the previous year and to make the appropriate corrections on the assessment roll, notwithstanding the fact that such assessor may receive the special equalization rate after the completion, verification and filing of such final assessment roll. In the event that the assessor does not have custody of the roll when such recomputation is accomplished, the assessor shall certify such recomputation to the local officers having custody and control of such roll, and such local officers are hereby directed and authorized to enter the recomputed Cold War veterans exemption certified by the assessor on such roll.

(h) "Latest class ratio" means the latest final class ratio established by the commissioner pursuant to title one of article twelve of this chapter for use in a special assessing unit as defined in section eighteen hundred one of this chapter.

2. (a) Each county, city, town or village may adopt a local law to provide that qualifying residential real property shall be exempt from taxation to the extent of either: (i) ten percent of the assessed value of such property; provided however, that such exemption shall not exceed eight thousand dollars or the product of eight thousand dollars multiplied by the latest state equalization rate of the assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less or; (ii) fifteen percent of the assessed value of such property; provided however, that such exemption shall not exceed twelve thousand dollars or the product of twelve thousand dollars multiplied by the latest state equalization rate for the assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less.

(b) In addition to the exemption provided by paragraph (a) of this subdivision, where the Cold War veteran received a compensation rating from the United States veterans affairs or from the United States department of defense because of a service connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by fifty percent of the Cold War veteran disability rating; provided, however, that such exemption shall not exceed forty thousand dollars, or the product of forty thousand dollars multiplied by the latest state equalization rate for the assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less.

(c) Limitations.

(i) The exemption from taxation provided by this subdivision shall be applicable to county, city, town, and village taxation, but shall not be applicable to taxes levied for school purposes.

(ii) If a Cold War veteran receives the exemption under section four hundred fifty-eight or four hundred fifty-eight-a of this title, the Cold War veteran shall not be eligible to receive the exemption under this section.

(iii) The exemption provided by paragraph (a) of this subdivision shall be granted for a period of ten years. The commencement of such ten year period shall be governed pursuant to this subparagraph. Where a qualified owner owns qualifying residential real property on the effective date of the local law providing for such exemption, such ten year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring on or after the effective date of the local law providing for such exemption. Where a qualified owner does not own qualifying residential real property on the effective date of the local law providing for such exemption, such ten year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring at least sixty days after the date of purchase of qualifying residential real property; provided, however, that should the veteran apply for and be granted an exemption on the assessment roll prepared pursuant to a taxable status date occurring within sixty days after the date of purchase of residential real property, such ten year period shall be measured from the first assessment roll in which the exemption occurs. If, before the expiration of such ten year period, such exempt property is sold and replaced with other residential real property, such exemption may be granted pursuant to this subdivision for the unexpired portion of the ten year exemption period. Each county, city, town or village may adopt a local law to reduce the maximum exemption allowable in paragraphs (a) and (b) of this subdivision to six thousand dollars, nine thousand dollars and thirty thousand dollars, respectively, or four thousand dollars, six thousand dollars and twenty thousand dollars, respectively. Each county, city, town, or village is also authorized to adopt a local law to increase the maximum exemption allowable in paragraphs (a) and (b) of this subdivision to ten thousand dollars, fifteen thousand dollars and fifty thousand dollars, respectively; twelve thousand dollars, eighteen thousand dollars and sixty thousand dollars, respectively; fourteen thousand dollars, twenty-one thousand dollars and seventy thousand dollars, respectively; sixteen thousand dollars, twenty-four thousand dollars and eighty thousand dollars, respectively; eighteen thousand dollars, twenty-seven thousand dollars and ninety thousand dollars, respectively; twenty thousand dollars, thirty thousand dollars and one hundred thousand dollars, respectively; twenty-two thousand dollars, thirty-three thousand dollars and one hundred ten thousand dollars, respectively; twenty-four thousand dollars, thirty-six thousand dollars and one hundred twenty thousand dollars, respectively. In addition, a county, city, town or village which is a "high-appreciation municipality" as defined in this subparagraph is authorized to adopt a local law to increase the maximum exemption allowable in paragraphs (a) and (b) of this subdivision to twenty-six thousand dollars,

thirty-nine thousand dollars and one hundred thirty thousand dollars, respectively; twenty-eight thousand dollars, forty-two thousand dollars and one hundred forty thousand dollars, respectively; thirty thousand dollars, forty-five thousand dollars and one hundred fifty thousand dollars, respectively; thirty-two thousand dollars, forty-eight thousand dollars and one hundred sixty thousand dollars, respectively; thirty-four thousand dollars, fifty-one thousand dollars and one hundred seventy thousand dollars, respectively; thirty-six thousand dollars, fifty-four thousand dollars and one hundred eighty thousand dollars, respectively. For purposes of this subparagraph, a "high-appreciation municipality" means: (A) a special assessing unit that is a city, (B) a county for which the commissioner has established a sales price differential factor for purposes of the STAR exemption authorized by section four hundred twenty-five of this title in three consecutive years, and (C) a city, town or village which is wholly or partly located within such a county.

3. Application for exemption shall be made by the owner, or all of the owners, of the property on a form prescribed by the commissioner. The owner or owners shall file the completed form in the assessor's office on or before the first appropriate taxable status date. The exemption shall continue in full force and effect for all appropriate subsequent tax years and the owner or owners of the property shall not be required to refile each year. Applicants shall be required to refile on or before the appropriate taxable status date if the percentage of disability percentage increases or decreases or may refile if other changes have occurred which affect qualification for an increased or decreased amount of exemption. Any applicant convicted of willfully making any false statement in the application for such exemption shall be subject to the penalties prescribed in the penal law.

4. Notwithstanding the provisions of this section or any other provision of law, in a city having a population of one million or more, applications for the exemption authorized pursuant to this section shall be considered timely filed if they are filed on or before the fifteenth day of March of the appropriate year.

5. A local law adopted pursuant to this section may be repealed by the governing body of the applicable county, city, town, or village. Such repeal shall occur at least ninety days prior to the taxable status date of such county, city, town, or village.

6. Notwithstanding any other provision of law to the contrary, the provisions of this section shall apply to any real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to this section, were such person or persons the owner or owners of such real property.

7. (a) For the purposes of this section, title to the portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides and which is represented by his or her share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the

corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

(b) Provided that all other eligibility criteria of this section are met, that proportion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant-stockholder to such real property owned by such cooperative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this section and any exemption so granted shall be credited by the appropriate taxing authority against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

(c) Notwithstanding paragraph (b) of this subdivision, a tenant-stockholder who resides in a dwelling that is subject to the provisions of either article two, four, five or eleven of the private housing finance law shall not be eligible for an exemption pursuant to this section.

(d) Notwithstanding paragraph (b) of this subdivision, real property owned by a cooperative corporation may be exempt from taxation pursuant to this section by a municipality in which such property is located only if the governing body of such municipality, after public hearing, adopts a local law, ordinance or resolution providing therefor.

8. The commissioner shall develop in consultation with the commissioner of the New York state department of veterans' services a listing of documents to be used to establish eligibility under this section, including but not limited to a certificate of release or discharge from active duty also known as a DD-214 form or an Honorable Service Certificate/Report of Causality from the department of defense. Such information shall be made available to each county, city, town or village assessor's office, or congressional chartered veterans service officers who request such information. The listing of acceptable military records shall be made available on the internet websites of the department of veterans' services and the office of real property tax services.

Practice Notes, Cases, and General Counsel Opinions

General Counsel Opinions:

Cold War Time Period: For the purposes of the Cold War Veterans Exemption, the Cold War Period begins before the end of World War II, encompasses the entire Korean and Vietnam war periods, and extends to the onset of the Persian Gulf conflict (August 2, 1990). However, the overlapping date should not complicate assessment administration since a veteran eligible for more than one Veterans exemption must choose which only one exemption for tax purposes. 12 Op. Counsel SBRPS No. 26.

Real Property Tax Law Article 4, Title 2, Section 458-c

1. For the purpose of this section, "member of the armed forces of the United States" shall mean a person who served in the army, navy, air force, space force, marines, coast guard or a reserve command.

2. Real property altered, installed or improved for the purposes of removal of architectural barriers that challenge the mobility of a severely injured member of the armed forces of the United States who has a service-connected disability due to combat and found fit to serve by the physical evaluation board of such service member's branch of service, in existing property used solely for residential purposes shall be exempt from taxation and special ad valorem levies as hereinafter provided. After a public hearing, the governing board of a county, city, town or village may adopt a local law and a school district may adopt a resolution to grant the exemption authorized pursuant to this section. A copy of such local law or resolution shall be filed with the commissioner and the assessor of such county, city, town or village who prepares the assessment roll on which the taxes of such county, city, town, village or school district are levied.

3. (a) Improvements to such real property shall be exempt pursuant to the following exemption schedule (TABLE OMITTED, Provided as separate Appendix)

(b) No exemption shall be granted for alterations, installations, or improvements unless such alterations, installations, or improvements were commenced after the date of the severely injured member of the armed forces' disability due to combat and subsequent to the effective date of the local law or resolution adopted pursuant to subdivision two of this section. Notwithstanding the foregoing provision, if such alterations, installations or improvements were commenced prior to the effective date of the local law or resolution adopted pursuant to subdivision two of this section, such alternations, installations or improvements may receive an exemption pursuant to the exemption schedule of this section for the remainder of the authorized period of exemption as if such alterations, installations or improvements, had been commenced on or after such effective date; provided, however, the property shall not be eligible for refunds of property taxes or special ad valorem levies paid prior to the effective date of the local law or resolution.

4. For the purpose of this section, the terms alteration, installation and improvement shall not include ordinary maintenance and repair.

5. (a) The provisions of this section shall only apply to the qualifying real property which is the primary residence of the applicant, provided that, in the event any portion of such real property is not used exclusively for the applicant's primary residence such portion shall not be subject to the exemption granted by this section.

(b) The exemption from taxation provided by this section shall be applicable to county, city, town, village, and school district taxation.

(c) If a severely injured member of the United States armed forces receives the exemption under sections four hundred fifty-eight, four hundred fifty-eight-a, four hundred fifty-eight-b, four hundred fifty-nine or four hundred fifty-nine-c of this title, the severely injured member of the armed forces of the United States shall not be eligible under this section.

6. (a) Applications for the exemption allowable under this section shall be made by the owner, or all other owners, of the property on a form prescribed by the commissioner. The owner or owners shall file the completed form in the assessor's office of the county, city, town or village having the power to assess property for taxation on or before the appropriate taxable status date of such county, city, town or village, with the following documentation:

(i) a copy of the applicant's military ID card;
(ii) a copy of the applicant's current military orders;
(iii) a statement from the applicant's commander or superior addressing the applicant's physical capabilities;
(iv) a letter or letters from the applicant's treating physician or physicians addressing the applicant's physical capabilities and need for the alterations, installations or improvements of the applicant's primary residence;
(v) copy of the after action report which describes the events that resulted in the disability; and
(vi) any other evidence determined to be necessary by the commissioner.
(b) Any applicant convicted of making a false statement on the application or submitted evidence for such exemption shall be subject to the penalties prescribed in article one hundred seventy-five of the penal law.

(c) Notwithstanding the provisions of this section or any other provisions of law, in a city having a population of one million or more applications for the exemption authorized pursuant to this section shall be considered timely filed on or before the fifteenth day of March of the appropriate tax years.

7. If satisfied that the applicant is entitled to an exemption pursuant to this section, the assessor shall approve the application and such building shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the assessment roll prepared on the basis of the taxable status date referred to in subdivision three of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

8. A county, city, town or village may by local law, or in a school district may by resolution:
(a) reduce the per centum of the exemption otherwise allowed pursuant to this section; and
(b) limit eligibility for the exemption to those forms of alterations, installations, or improvements as are prescribed in such local law or resolution.

Real Property Tax Law Article 4, Title 2, Section 459-c

§ 458-c. Persons with disabilities and limited incomes

1. (a) Real property owned by one or more persons with disabilities, or real property owned by a husband, wife, or both, or by siblings, at least one of whom has a disability, or real property owned by one or more persons, some of whom qualify under this section and the others of whom qualify under section four hundred sixty-seven of this title, and whose income, as hereafter defined, is limited by reason of such disability, shall be exempt from taxation by any municipal corporation in which located to the extent of fifty per centum of the assessed valuation thereof as hereinafter provided. After a public hearing, the governing board of a county, city, town or village may adopt a local law and a school district, other than a school district subject to article fifty-two of the education law, may adopt a resolution to grant the exemption authorized pursuant to this section.

2. For purposes of this section:

(a) "sibling" shall mean a brother or a sister, whether related through half blood, whole blood or adoption.

(b) a person with a disability is one who has a physical or mental impairment, not due to current use of alcohol or illegal drug use, which substantially limits such person's ability to engage in one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, and who (i) is certified to receive social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the federal Social Security Act, or (ii) is certified to receive Railroad Retirement Disability benefits under the federal railroad Retirement Act, or (iii) has received a certificate from the state commission for the blind stating that such person is legally blind, or . . . (v) is certified to receive a United States department of veterans affairs disability pension pursuant to 38 U.S.C. § 1521.

An award letter from the Social Security Administration or the Railroad Retirement Board, or a certificate from the state commission for the blind, or an award letter from the United States Postal Service, or an award letter from the United States department of veterans' affairs shall be submitted as proof of disability.

Any exemption provided by this section shall be computed after all other partial exemptions allowed by law, excluding the school tax relief (STAR) exemption authorized by section four hundred twenty-five of this title, have been subtracted from the total amount assessed; provided, however, that no parcel may receive an exemption for the same municipal tax purpose pursuant to both this section and section four hundred sixty-seven of this title.

9. Notwithstanding any other provision of law to the contrary, the provisions of this section shall apply to real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to subdivision one of this section, were such person or persons the owner or owners of such real property.

Military Law Article 11, Section 235

§ 235. Relief from civil or criminal liability; exemption from civil process; security for costs

1. Members of the militia ordered into the active service of the state pursuant to sections six and seven of this chapter, shall not be liable civilly or criminally, for any act or acts done by them in the performance of their duty.

When an action or proceeding of any nature shall be commenced in any court by any person against any officer of the militia for any act done by him in his official capacity in the discharge of any duty under this chapter, or an alleged omission by him to do an act which it was his duty to perform, or against any person acting under the authority or order of any such officer, or by virtue of any warrant issued by him pursuant to law, the defendant may require the person instituting or prosecuting the action or proceeding to file security for the payment of costs that may be awarded to the defendant therein, and the defendant in all cases may make a general denial and give the special matter in evidence. A defendant, in whose favor a final judgment is rendered in an action or a final order is made in a special proceeding, shall recover treble costs.

2. No person belonging to the organized militia of the state shall be arrested on any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty.

Practice Notes, Cases, and General Counsel Opinions

Cases:

Active Service: An officer of a militia regiment, mustered into the United States service, awaiting orders to move, must be regarded as belonging to the military forces of the state and entitled to the protections given to him under this section. People v. Campbell, 40 N.Y. 133 (1869).

Military Law Article 11, Section 235-a

§ 235-a. Income and resources not to include agent orange benefits

Notwithstanding any inconsistent provision of law, the terms "income" and "resources" for the purpose of determining eligibility for or the amount of benefits under any means-tested state or state assisted or federally assisted program including but not limited to programs of public assistance and care, including [fig 1] family assistance, safety net assistance , medical assistance, title XX of the social security act, food stamp program, the program of additional state payments to persons eligible for supplemental security income, the low

income home energy assistance program and grants, loans and scholarships and other means-tested programs for educational assistance, shall not include payments received from the agent orange settlement fund or any other fund established pursuant to the settlement in the in re agent orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.) and/or any payments received from court proceedings brought for personal injuries sustained by veterans resulting from exposure to dioxin or phenoxy herbicides in connection with the war in Indochina in the period January first, nineteen hundred sixty-two through May seventh, nineteen hundred seventy-five.

Military Law Article 11, Section 237

§ 237. Free passage through toll-gates and tunnels and over toll-bridges and ferries

Any person belonging to the organized militia shall, together with the conveyance in his charge and property of the state or of the United States in his charge, be allowed to pass free through all toll-gates and tunnels and over all toll-bridges and also over all ferries if he is in uniform or presents an order for duty or certificate of an order for duty.

Military Law Article 11, Section 242

§ 242. Rights of public officers and employees absent on military duty as members of the organized militia or of reserve forces or reserve components of the armed forces of the United States

1. Definitions.

(a) Public officer or employee. The term "public officer or employee", as used in this section, shall include every person, by whatsoever title, description or designation known, who receives any pay, salary or compensation of any kind from the state or a municipal corporation or any other political subdivision thereof, or who is in any department of the state or in the service of any public authority, but shall not include a person holding a position in the exempt class of the civil service whose appointment is terminated or whose position is filled by other than a substitute appointee.

(b) Ordered military duty. The term "ordered military duty", as used in this section, shall mean:

Any military duty performed in the service of the state or of the United States, including but not limited to attendance at any service school or schools conducted by the armed forces of the United States, by a public officer or employee as a member of any force of the organized militia or of any reserve force or reserve component of the armed forces of the United States, pursuant to orders issued by competent state or federal authority, with or

without the consent of such public officer or employee. Participation in routine reserve officer training corps training is not considered to be military duty except when performing advanced training duty as a member of a reserve component of the armed forces.

2. Leave of absence while engaged in performance of ordered military duty. Every public officer or employee shall be entitled to absent himself and shall be deemed to have a leave of absence from his duties or service as such public officer or employee while engaged in the performance of ordered military duty and while going to and returning from such duty.

3. Leave of absence while attending service schools. Every public officer or employee who is or becomes a voluntary member of any force of the organized militia or of any reserve force or reserve component of the armed forces of the United States shall be entitled to absent himself and shall be deemed to have a leave of absence from his duties or service as such public officer or employee while in attendance, as a member of such force or reserve components, at any service school or schools conducted by the armed forces of the United States, and while going to and returning from such school or schools, notwithstanding that orders for such attendance are or may be issued with the consent of such public officer or employee.

3-a. Leave of absence while performing full-time training duty or active duty for training with or in an armed force of the United States. Every public officer or employee who is or becomes a member of any force of the organized militia or of any reserve force or reserve component of the armed forces of the United States shall be entitled to absent himself and shall be deemed to have a leave of absence from his duties or service as such public officer or employee while performing, as a member of such force or reserve component, initial full-time training duty or initial active duty for training with or in an armed force of the United States under the provisions of this chapter or the laws of the United States or both, and while going to and returning from such full-time training duty or active duty for training, notwithstanding that orders for such duty are or may be issued with the consent of such public officer or employee.

4. Employment rights. Time during which a public officer or employee is absent pursuant to the provisions of subdivisions two, three and three-a of this section shall not constitute an interruption of continuous employment and, notwithstanding the provisions of any general, special or local law or the provisions of any city charter, no such officer or employee shall be subjected, directly or indirectly, to any loss or diminution of time service, increment, vacation or holiday privileges, or any other right or privilege, by reason of such absence, or be prejudiced, by reason of such absence, with reference to continuance in office or employment, reappointment to office, re-employment, reinstatement, transfer or promotion.

5. Pay for military duty. (a) Every public officer or employee shall be paid his or her salary or other compensation as such public officer or employee for any and all periods of absence while engaged in the performance of ordered military duty, and while going to and returning

from such duty, not exceeding a total of thirty days or twenty-two working days, whichever is greater, in any one calendar year and not exceeding thirty days or twenty-two working days, whichever is greater, in any one continuous period of such absence.

(b) Every public officer or employee employed by the state of New York who served in a combat theater or combat zone of operations as documented by a copy of his or her DD214, certificate of release or discharge from active duty, or other applicable department of defense documentation, shall be paid his or her salary or other compensation as such public officer or employee for any and all periods of absence while utilizing any healthcare related services related to such duty, not exceeding eight working days, in any one calendar year.

5-a. Pay for employees of a city with a population of one million or more. This subdivision shall govern the calculation of compensation and, where applicable, repayment of same by public officers or employees of a city with a population of one million or more who are engaged in the performance of ordered military duty, including time spent traveling to and returning from such duty. In any conflict between this subdivision and any other provision of law with respect to such public servant soldiers, this subdivision shall be controlling.

(a) Definitions. As used in this subdivision:

(i) "Base pay of city salary" means the base pay received by a public officer or employee from employment by a city. For public officers and employees who, prior to the effective date of this subdivision, elected to participate in a "full pay/repayment plan", have returned to city employment from ordered military duty as of the effective date of this subdivision and are, on the effective date of this subdivision, public officers or employees, the base pay of city salary shall be calculated by the implementing agency as the salary received by the public servant soldier as of the effective date of this subdivision or the date of return to city service, whichever is later.

For public officers and employees who, prior to the effective date of this subdivision, elected to participate in a "full pay/repayment plan" and who return to city employment from ordered military duty after the effective date of this subdivision, the base pay of city salary shall be calculated on the date of return to city employment.

For public officers and employees who, prior to the effective date of this subdivision, elected to participate in a "full pay/repayment plan" and who have, by the effective date of this subdivision, already separated from city employment in a manner other than by retirement, and except where the implementing agency shall determine the existence of hardship, the base pay of city salary shall be calculated as the salary received by the public servant soldier as of the date of separation from city service.

For public officers and employees who, prior to the effective date of this subdivision, elected to participate in a "full pay/repayment plan" and who separate from city employment in a manner other than retirement after the effective date of this subdivision, and except where

the implementing agency shall determine the existence of hardship, the base pay of city salary shall be calculated as the salary received by the public servant soldier as of the date of return to city service.

(ii) "Balloon payment" means the payment required for full satisfaction of any remaining outstanding repayment obligation after ten years from the date of return from ordered military duty pursuant to paragraph (e) of this subdivision.

(iii) "City" means a city with a population of one million or more.

(iv) "City salary" means the gross salary received by a public officer or employee from employment by a city, before taxes, deductions, or court-ordered payments, required or voluntary; but excluding payments by a city as employer for health, pension, and other benefits.

(v) "Covered operation" means those military operations designated by the federal government of the United States, in support of "Operation Enduring Freedom", "Operation Iraqi Freedom", "Operation Noble Eagle", or successors thereto, or operations specifically connected by federal designation, action or implication with homeland security. The implementing agency may make such additional designations on a case-by-case basis as it shall deem, in its discretion, to be in keeping with the spirit and intent of this subdivision.

(vi) "Differential pay" means the pay calculated as the difference between a public servant soldier's military salary and city salary, where the military salary is less than the city salary.

(vii) "Full pay/repayment plan" means a salary and benefits plan in effect in a city prior to the effective date of this subdivision whereby a public servant soldier elected to receive city salary while on military duty, but is required to repay the lesser of such city salary or military salary to a city upon return from military duty.

(viii) "Implementing agency" means an agency of a city, as designated by the mayor of such city in writing, that is authorized to implement the provisions of this subdivision.

(ix) "Military salary" means the gross salary paid by the government of the United States to a public servant soldier for ordered military duty in the armed forces of the United States in a covered operation, as further defined by the implementing agency, provided that such military pay shall be calculated without regard to such extra or additional stipends as hazard pay, housing or food allowances, or other similar additions.

(x) "Public officer" or "employee" means a public officer or an employee of a city.

(xi) "Public servant soldier" means a public officer or employee of a city performing ordered military duty in connection with a covered operation.

(b) The mayor of a city shall designate an agency of such city to be the implementing agency that will administer and implement this subdivision. The implementing agency is hereby authorized to and shall:

(i) provide for the continuation of health insurance benefits, to the public servant soldier and to such public servant soldier's family, if the family had been included in such coverage prior to the public servant soldier beginning ordered military duty, under the same terms and conditions as applied to such public servant soldier prior to leaving city employment for ordered military duty; and

(ii) provide for hardship under certain conditions determined by the implementing agency for public servant soldiers who elected to participate in a "full pay/repayment plan". Such conditions shall include, but shall not be limited to, any material unforeseen or compelling changes in circumstances affecting a public servant soldier's ability to repay that occurred since such public servant soldier elected to participate in the "full pay/repayment plan," including but not limited to injuries sustained while on ordered military duty, or a determination by the implementing agency that the public servant soldier is or will be experiencing severe economic hardship due to a change in circumstances. Relief may include an extension of the repayment term or a reduction in the percentage of salary dedicated to repayment, or a modification to the requirement for a balloon payment. Such determinations of economic hardship may be made on a case-by-case basis, and the implementing agency may require the provision of such information by the public servant soldier as it deems necessary to make such determination.

(c) Subdivision five of this section or any other law to the contrary notwithstanding, until August first, two thousand ten, unless the mayor of a city, in his or her discretion, extends such date, a public officer or employee shall be paid city salary as such public officer or employee for any and all periods of absence while engaged in the performance of ordered military duty, and while going to and returning from such duty, not exceeding thirty working days in any one calendar year and not exceeding thirty working days in any one continuous period of such absence.

(d) Subdivision five of this section or any other law to the contrary notwithstanding, until August first, two thousand ten, unless the mayor of a city, in his or her discretion, extends such date, a public servant soldier shall, after having received the city salary to which he or she is entitled pursuant to paragraph (c) of this subdivision, be paid differential pay thereafter on his or her regularly scheduled pay period for the duration of such ordered military duty, if such ordered military duty is in connection with a covered operation. No repayment shall be required to the city for such differential pay received by a public servant soldier, provided that this prohibition on repayment shall not apply in the case of a material error in calculation that results in an unwarranted increase to the public servant soldier. Repayment of any such overage shall be governed by the terms of paragraph (e) of this subdivision.

(e) A public officer or employee who, prior to the effective date of this subdivision, elected to participate in a "full pay/repayment plan" and, in having done so, incurred a repayment obligation, shall make repayments in accordance with terms adopted by the implementing agency, except that, with respect to such repayment obligations, such officer or employee shall have satisfied the obligation to repay when he or she has repaid eighty-five percent of the amount of city salary or military salary, whichever is less, less other such discounts implemented by the implementing agency as of the effective date of this subdivision and such incentives as may be implemented by the implementing agency to encourage payment, and no such term shall:

(i) require a public officer or employee, while employed by such city, to pay in any pay period more than seven and one-half percent of his or her base pay of city salary toward satisfying his or her repayment obligation, except that a term may provide for full satisfaction of any remaining outstanding repayment obligation after ten years from the date of return from ordered military duty; or

(ii) require a retired public officer or employee to pay, in any month, an amount more than seven and one-half percent of his or her monthly pension payment, except that a term may provide for full satisfaction of any remaining outstanding repayment obligation after ten years from the date of return from ordered military duty; or

(iii) require a public officer or employee separated from employment by such city in a manner other than by retirement, to pay, in any year, an amount more than seven and one-half percent of the base pay of city salary, except that a term may provide for full satisfaction of any remaining outstanding repayment obligation after ten years from the date of return from ordered military duty.

(f) Notwithstanding paragraph (e) of this subdivision, a city shall not require the satisfaction of any repayment obligation in the event that a public servant soldier is killed in the performance of ordered military duty.

6. Rights and contributions under retirement systems.

(a) The amount of required contributions to any pension or retirement system of which a public officer or employee absent while engaged in the performance of ordered military duty is a member shall be deducted from the salary or other compensation paid to him as such public officer or employee as provided in this section. If such required contributions exceed the amount of such salary or other compensation to which a public officer or employee is entitled while engaged in the performance of military duty, the amount of such salary or other compensation shall be applied upon such required contributions and such public officer or employee shall have the right to pay to such pension or retirement system the amount by which such contributions exceed such salary or other compensation. Such public officer or employee shall also have the right to pay to such system the amount that he would have

contributed to such system if he had been present and continuously engaged in the performance of the duties of his position during such period.

(b) Such payments, other than those deducted from his salary or other compensation as such officer or employee, may be paid from time to time at any time while engaged in such ordered military duty or within five years after the date of termination of such ordered military duty, or, in the event of the death of such public officer or employee while engaged in ordered military duty, such payments, or any part thereof, may be made by the named beneficiary or the legal representative of such public officer's or employee's estate within one year following proof of such death.

(c) To the extent that such contributions are paid, absence while engaged in the performance of military duty shall be counted in determining the length of total service under such pension or retirement system.

(d) Any such public officer or employee, while engaged in the performance of ordered military duty, or his beneficiary, as the case may be, shall be entitled to all the benefits of the pension or retirement system of which he is a member except accidental disability retirement and accidental death benefit.

Military Law Article 11, Section 243

§ **243. Provisions applicable to public employees who are absent on military duty**

1. Definitions. As used in this section:

(a) The term "public employee" shall mean an officer or employee holding a position by appointment or employment in the state of New York or in the cities, counties, towns, villages or school districts thereof, or in any other political or civil division of the state or of a municipality, or in any public or special district, or in the service of any public authority, public benefit corporation, commission or board, or in any other branch of the public service.

(b) The term "military duty" shall mean military service in the military, naval, aviation or marine service of the United States subsequent to July first, nineteen hundred forty, or service under the selective training and service act of nineteen hundred forty, or the national guard and reserve officers mobilization act of nineteen hundred forty, or any other act of congress supplementary or amendatory thereto, or any similar act of congress hereafter enacted and irrespective of the fact that such service was entered upon following a voluntary enlistment therefor or was required under one of the foregoing acts of congress, or service with the United States public health service as a commissioned officer, or service with the American Red Cross while with the armed forces of the United States on foreign service, or service with the special services section of the armed forces of the United States on foreign service, or service in the merchant marine which shall consist of service as an officer or member of the crew on or in

connection with a vessel documented under the laws of the United States or a vessel owned by, chartered to, or operated by or for the account or use of the government of the United States, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (I) was discharged or released therefrom under honorable conditions, or (II) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, and who (I) was discharged or released therefrom under honorable conditions, or (II) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service; or service in police duty on behalf of the United States government in a foreign country, and if such police officer obtained the prior consent of his or her public employer to absent himself or herself from his or her position to engage in the performance of such service; or as an enrollee in the United States maritime service on active duty and, to such extent as may be prescribed by or under the laws of the United States, any period awaiting assignment to such service and any period of education or training for such service in any school or institution under the jurisdiction of the United States government, but shall not include temporary and intermittent gratuitous service in any reserve or auxiliary force. It shall include time spent in reporting for and returning from military duty and shall be deemed to commence when the public employee leaves his position and to end when he is reinstated to his position, provided such reinstatement is within ninety days after the termination of military duty. Notwithstanding the foregoing provisions of this paragraph, the term "military duty" shall not include any of the foregoing services entered upon voluntarily on or after January first, nineteen hundred forty-seven and before June twenty-fifth, nineteen hundred fifty; and, on or after July first,

hundred seventy, the term "military duty" shall not include any voluntary service in excess of four years performed after that date, or the total of any voluntary services, additional or otherwise, in excess of four years performed after that date, shall not exceed five years, if the service in excess of four years is at the request and for the convenience of the federal government, except if such voluntary service is performed during a period of war, or national emergency declared by the president.

(c) The term "termination of military duty" shall mean the date of a certificate of honorable discharge or a certificate of completion of training and service as set forth in the selective training and service act of nineteen hundred forty, and the national guard and reserve officers mobilization act of nineteen hundred forty or a certificate of release or discharge from active duty where an employee (I) has a qualifying condition, as defined in Section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (II) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or in the event of the incurrence of a temporary disability arising out of and in the course of such military duty, the date of termination of such disability. The existence and termination of such temporary disability, in the case of a public employee occupying a position in the classified civil service or of a person on an eligible list for a position in such service, shall be determined by the civil service commission having jurisdiction over such position and, in the case of a public employee occupying a position not in the classified civil service, shall be determined by the officer or body having the power of appointment.

(d) The term "position" shall mean the office or position held by a public employee at the time of his entrance upon military duty.

2. Leave of absence and re-employment.

(a) Every public employee shall be entitled to absent himself or herself from his or her position while engaged in the performance of military duty, except for those police officers who are required by paragraph [b] of subdivision one of this section to obtain the prior consent of their employers before absenting themselves for military service, who accordingly shall be entitled to absent themselves from their positions only after obtaining such prior consent, and shall be deemed to have a leave of absence for the duration of such military duty. Such public employee shall be reinstated to his position as soon as possible provided he makes application for such reinstatement within ninety days after the termination of his military duty, or at any time during his terminal leave. Thereafter, he may be so reinstated, at any time after such ninety-day period and within one year after the termination of his military duty, in the discretion of the appointing officer or body.

(b) A public employee who resigned from his position during his military duty, or within six months prior to the commencement of such military duty, may, in the discretion of the appointing officer or body, be reinstated to his position within one year after the date of his resignation, excluding from said period the time he was on military duty. Every public employee reinstated under the provisions of this subdivision or pursuant to subdivision one-

a of rule sixteen of the rules for the classified civil service for the state or pursuant to any comparable rule of a municipal civil service commission, shall be deemed to have been on a leave of absence for the duration of his military duty.

3. Substitutes. A position held by a public employee who is absent on military duty shall, so far as practicable, be continued in existence but shall be deemed temporarily vacant and shall be filled only when the public interest so requires. Any appointment to fill such vacancy shall be designated as a substitute appointment and the request for certification, the certification and the indicia of appointment shall show that the person is being appointed as a substitute. Any public employee, who accepts appointment as a substitute shall be granted a leave of absence from his former position until the termination of such appointment and the temporary vacancy resulting from such leave of absence shall be filled in like manner only when the public interest so requires and any appointment to such position shall also be designated as a substitute appointment and the request for certification, the certification and the indicia of appointment shall show that the person is being appointed to such position as a substitute. Every such substitute appointment shall be for a period not exceeding the leave of absence of the former incumbent and shall be made in accordance with the provisions of law applicable to such position, provided, however, that such substitute appointment may be continued for a period in excess of one year, notwithstanding the provisions of section fifteen of the civil service law. Such substitute employee shall acquire no right to permanent appointment or tenure by virtue of his service as a substitute and such service may be terminated at any time in the discretion of the appointing officer or body. His rights, if any, with respect to appointment or tenure, shall not, however, be impaired in any way by his acceptance of an appointment as a substitute and his name shall remain on any eligible or other list and he shall be certified as eligible for any other appointment authorized by law during the existence of such list.

The appointment of a substitute shall terminate (a) upon the return of the former incumbent to his position or (b) upon the death or permanent total disability of the former incumbent or (c) upon failure of the former incumbent to return to said position within ninety days after the termination of his military duty or (d) upon the appointment or promotion of the former incumbent to another position as authorized by subdivision six of this section, and, upon the happening of any of such events, said position may then be filled in the manner provided by law.

4. Pensions. Any public employee who is a member of any pension or retirement system may elect, while on military duty, to contribute to such pension or retirement system the amount which he would have contributed had his employment been continuous and upon making such contribution he shall have the same rights in respect to membership in the retirement system as he would have had if he had been present and continuously engaged in the performance of the duties of his position.

Time during which a member is absent on military duty shall not constitute an interruption of continuous employment, but such time shall not be counted or included in determining the length of total service unless such member contributes to the retirement system the amount he would have been required to contribute if he had been continuously employed during such period. Such contribution, or any part thereof, may be paid at any time and from time to time, while in military duty, or within five years after the date of his restoration to his position or before December thirty-first, nineteen hundred sixty-two, whichever date is later, or in the event of the death of the member while in military duty such contribution, or any part thereof, may be paid by the named beneficiary or the legal representative of the member's estate within one year following proof of such death. A member of the New York state employees' retirement system or of the New York state policemen's and firemen's retirement system, other than a member of the state police in a collective negotiating unit established pursuant to article fourteen of the civil service law, who is in the employ of the state on March thirty-first, nineteen hundred seventy, who failed to make such contributions during the prescribed period of time may nonetheless obtain credit for time during which he was on military duty by depositing with such retirement system an amount equal to the contribution he would have made had he made a timely election, with regular interest, on or before March thirty-first, nineteen hundred seventy-two, provided, however, such member may elect to deposit such amount over a period of time no greater than the period for which credit is being claimed, in which case such payments must commence no later than March thirty-first, nineteen hundred seventy-two. If the full amount of such payments is not paid to the retirement system, the amount of service credited shall be proportional to the total amount of the payments made. A member of the New York state policemen's and firemen's retirement system who is a member of the state police in a collective negotiating unit established pursuant to article fourteen of the civil service law, who is in the employ of the state on March thirty-first, nineteen hundred seventy-one, who failed to make such contributions during the prescribed period of time may nonetheless obtain credit for time during which he was on military duty by depositing with such retirement system an amount equal to the contribution he would have made had he made a timely election, with regular interest, on or before March thirty-first, nineteen hundred seventy-two, provided, however, such member may elect to deposit such amount over a period of time no greater than the period for which credit is being claimed, in which case such payments must commence no later than March thirty-first, nineteen hundred seventy-two. If the full amount of such payments is not paid to the retirement system, the amount of service credited shall be proportional to the total amount of the payments made.

A member of the New York state teachers' retirement system, whose service terminates on the expiration of his contract, and for whom there is no employer to cover the cost of his accruing pension rights while in military service following the cessation of his contract, may pay in addition to his own contributions, an amount equal to the percentage of his salary which his employer would have paid had he remained under contract, which contributions shall be paid into the pension accumulation fund of the aforementioned retirement system and be treated as if they had been continued by his employer except that in the event of his death as a member prior to retirement or on his withdrawal of his accumulated contributions from the system, the

amounts so paid by him shall be returnable, with regular interest, as if they were a part of his accumulated contributions. Such contributions or any parts thereof may be paid at any time and from time to time while in military duty or within five years after the member has returned to public school teaching in New York state or before December thirty-first, nineteen hundred sixty-two, whichever date is later.

Any such member, while on military duty, or his beneficiary, as the case may be, shall be entitled to all benefits of the retirement system of which he is a member except accidental disability retirement and accidental death benefit.

Any public employee holding a position by appointment who is or was a member of any pension or retirement system and who, while such member and while on military duty, applied for retirement as a member of such system to take effect within thirty days prior to the date of expiration of his appointment and who shall accordingly have been retired pursuant to such application but thereafter and within thirty days after the effective date of such retirement shall have been reappointed to his said position and shall have applied thereafter, before or upon his release from military duty, for membership in such pension or retirement system, shall be deemed to have had continuous membership in such pension or retirement system and shall be entitled to all the rights, benefits and privileges under his contract of membership as it existed at the time of such retirement, provided he shall (1) return any pension, annuity and retirement allowance payments received by him during the period of such retirement, (2) consent to the termination of his right to receive pension, annuity or retirement allowance payments on the basis of such retirement, (3) pay into the appropriate fund of such pension or retirement system the amount he would have contributed thereto, if he had not so retired, on the basis of the salary he was receiving when he so retired, and (4) pay into the appropriate fund of such pension or retirement system the amount which his employer would have paid thereto on his account if he had continued as a member during such period of retirement.

4-a. Notwithstanding the provisions of subdivision four of this section, in any case where any member of any pension or retirement system maintained under any provision of the administrative code of the city of New York, or under section twenty-five hundred seventy-five of the education law, did not, within five years after the date of the restoration of such member to his position, pay the contribution required by such subdivision four to be paid within such period, as a prerequisite to obtaining service credit in such system for the period of his military duty, such contribution, or any part thereof remaining due, may be paid on or before June thirtieth, nineteen hundred fifty-seven, provided that any such member who, on or before such last-mentioned date, retires or is retired, without having paid such contribution, shall not be entitled to make such payment.

4-b. (a) As used in this subdivision, the following terms shall mean and include:

(2) "New York city veteran of world war II". Any member of the New York city employees' retirement system in city-service who, after his last membership in such system began, served as a member of the armed forces of the United States during the period beginning on December seventh, nineteen hundred forty-one and ending on December thirty-first, nineteen hundred forty-six, and was (I) honorably discharged or released under honorable circumstances from such service, or (II) has a qualifying condition, as defined in Section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

(3) "New York city veteran of the Korean conflict." Any member of the New York city employees' retirement system in city-service who, after his last membership in such system began, served as a member of the armed forces of the United States during the period beginning on the twenty-seventh of June, nineteen hundred fifty and ending on the thirty-first day of January, nineteen hundred fifty-five, and was (I) honorably discharged or released under honorable circumstances from such service, or (II) has a qualifying condition, as defined in Section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

(b) Notwithstanding any provision of subdivision four of this section to the contrary, any New York city veteran of World War II or New York city veteran of the Korean conflict who did not, within the applicable period of time prescribed by subdivision four of this section, comply with the requirements of such subdivision for obtaining service credit in the New York city employees' retirement system for the period of his military duty, may, by a written application duly executed and filed with the board of estimate of the city of New York, prior to July first, nineteen hundred sixty-nine, elect to purchase such service credit. If such veteran shall pay to such retirement system, prior to July first, nineteen hundred sixty-nine, the amount which he would have contributed thereto if he had been continuously employed during such period of military duty, he shall have in such retirement system the service credit which he could have obtained for such period of military duty if he had complied with the requirements of such subdivision four within the period of time therein prescribed.

5. Rights upon restoration to position. A public employee restored to his position after the termination of his military duty or after the termination of his substitute appointment shall thereafter be entitled to the rate of compensation he would have received had he remained in his position continuously during such period of military duty or during such period of service as a substitute . . . and shall not be subjected directly or indirectly to any loss of . . . any other right or privilege ..... If a public employee, by reason of injuries sustained or disease contracted while on military duty, as hereinbefore defined, is incapable of efficiently performing the duties of his position after the termination of his military duty, he may, with the approval of the civil service commission having jurisdiction of such position, be transferred to any vacant position in the same jurisdictional classification and in the same governmental unit for which he has applied in writing and for which he has been found qualified ..... provided the rate of compensation for such position is not greater than the rate of compensation for the position to which such public employee was restored. If a

promotion examination is held while a public employee entitled to participate therein is on military duty, such public employee shall be given a comparable examination, provided he makes request therefor within sixty days after restoration to his position. If he passes such examination his name shall be placed upon a special eligible list provided that his name would have been reached for certification between the date when he entered upon such military duty and the date that he was officially notified that he had passed such examination. Such special eligible list shall remain in existence for a period of two years from the date that the name of such person is placed thereon and such special eligible list shall be certified before certification shall be made from any subsequent or eligible list, whether open competitive, promotion or preferred which has been established for the same position, or from the original eligible list for such position. A public employee thus appointed after passing a comparable examination as herein provided, shall, for the purpose of computing seniority credit and training and experience credit upon promotion and seniority in the event of suspension or demotion, be deemed to have been appointed on the earliest date upon which any eligible, who was lower on the regular promotion eligible list, was appointed.

6. Appointment while on military duty. Any appointing officer or body may, in his or its discretion, fill a vacancy by the appointment or promotion of a public employee or any other person legally eligible for such appointment or promotion, notwithstanding the absence of such person or employee in military duty but such appointment or promotion shall not serve to increase in any degree any civil compensation which he may have been receiving pursuant to section six of chapter six hundred eight of the laws of nineteen hundred fifty-two. Such employee, upon the termination of his military duty shall have the same rights, privileges and obligations as if he had served continuously in such position from the date of his appointment thereto.

7. Status of existing lists. Any person whose name is on any eligible list shall, while in military duty, retain his rights and status on such list. If the name of any such person is reached for certification during his military duty, it shall be placed on a special eligible list in the order of his original standing, provided he makes request therefor following termination of his military duty and during the period of his eligibility on such list. Such list shall be certified before certification shall be made from a subsequent open competitive or promotion eligible list for the same position or from the original eligible list for such position. Such names shall remain on such special eligible list for a period of two years after the termination of such military duty. Any such person thus appointed shall, for the purpose of computing seniority credit and training and experience credit for promotion and date of membership in the retirement system and seniority in the event of suspension or demotion, be deemed to have been appointed on the earliest date upon which any eligible, who was the lower on such original eligible list, was appointed, provided, however that service credit shall be computed from the actual date of appointment. The retirement system contributions of any such person who made any contribution to the retirement system

pursuant to article fourteen or fifteen of the retirement and social security law, and who was appointed on or after July twenty-seventh, nineteen hundred seventy-six shall not be refunded.

7-a. [Repealed]

7-b. Status of applicants called for military duty before taking all parts of an examination. Any person who has passed one or more of several parts of an examination for a position for which competitive examinations are required, and who has been prevented from taking or completing the remaining part or parts of the examination for such position by reason of his service in military duty shall be afforded an opportunity to take a comparable examination as to such remaining part or parts, provided he makes request therefor during the period of ninety days following termination of his military duty. If he passes such examination his name shall be placed upon a special eligible list provided that his name would have been reached for certification between the date when he entered upon such military duty and the date that he was officially notified that he had passed such examination. Such special eligible list shall remain in existence for a period of two years from the date that the name of such person is placed thereon. Such special eligible list shall be certified before certification shall be made from a subsequent eligible list whether open competitive, promotion or preferred for the same position or from the original eligible list for such position. Any such person thus appointed shall, for the purpose of computing seniority credit and training and experience credit for promotion and seniority in the event of suspension or demotion, be deemed to have been appointed on the earliest date upon which any eligible was appointed who was lower on such original eligible list or lower in relative order of rating thereon than such person would have been had his name been entered thereon.

8. Service and efficiency ratings. A public employee who is absent on military duty shall be credited with the average of the efficiency ratings which he received for the three periods immediately prior to his absence on military duty but such rating shall not be less than a passing grade for the period of such absence, nor shall it be less than the rating which he received for the period immediately prior to his absence on military duty. In computing seniority and service requirements for promotion eligibility, such period of military duty shall be counted as service in the position held by such employee.

9. Probationary service. If a public employee or other person enters military duty before the expiration of the probationary period in any position to which he may have theretofore been appointed, or to which he may thereafter be appointed or promoted pursuant to subdivision six of this section, the time he is absent on military duty shall be credited as satisfactory service during such probationary period.

9-a. Probationary service of teachers. Notwithstanding the provisions of subdivision five of

this section and subdivision four of section two hundred forty-two of this chapter, in any case where a teacher, as defined in section thirty-one hundred one of the education law, enters military duty before the expiration of the probationary period to which he may have theretofore been appointed, the time he is absent on military duty shall be credited as satisfactory service during such probationary period. If the end of such probationary service occurs while the teacher is on military duty or within one year following the termination of such military duty, the period of such probationary service may be extended by the local board of education for a period of not to exceed one year from the date of termination of such military duty, but in no event for a period of probationary service in the actual performance of teaching services, exclusive of such military service, beyond that required by the school district at the time of his entry into military service.

10. Physical examination. If a physical examination is required for employment in or promotion to any position in the public service, the physical disability of a candidate incurred by reason of injury sustained or disease contracted while in military duty, as hereinbefore defined, or during the world war shall not be deemed to disqualify him for such position unless the disability is of such a nature as to prevent him from efficiently performing the duties of such position.

10-a. Age requirements. If maximum age requirements are established by law, or rule or by action of a civil commission for examination for, or for appointment or promotion to, any position in the public service, the period of military duty as hereinbefore defined, the period of service after June twenty-seventh, nineteen hundred fifty, voluntarily entered upon between January first, nineteen hundred forty-seven, and June twenty-seventh, nineteen hundred fifty, if such service otherwise falls within the definition of military duty, and the period of terminal leave granted by the military authorities of a candidate or eligible shall not be included in computing the age of such candidate or eligible for the purposes of such examination or appointment or promotion; provided, however, that neither shall the total time deducted hereunder in computing the age of a candidate or eligible exceed six years.

10-b. If a public employer consolidates, abolishes, displaces, or demotes a position, in accordance with section eighty, eighty-a or eighty-five of the civil service law, which is occupied by a public employee currently on active duty with the armed forces of the United States, as pursuant to title ten, fourteen or thirty-two of the United States code, such employer shall comply with subdivisions eleven and twelve of this section and, upon the termination of the public employee's active duty, as defined in title ten, fourteen or thirty-two of the United States code, such public employer shall provide full re-employment rights warranted to such employee under the Federal Uniformed Services Employment and Reemployment Rights Act of 1994, provided, however, the right of re-employment under this subdivision does not entitle such employee to displacement rights over any person with greater seniority. Such public employer shall not abolish any position or positions solely based upon the fact that the position or positions are currently filled by an individual or

individuals engaged in military duty.

11. Preferred lists. If the position occupied by a public employee is abolished prior to the termination of his military duty his name shall be placed forthwith upon a preferred list, as herein provided. Public employees in the competitive class of the civil service shall have their names placed upon a preferred eligible list, pursuant to the provisions of section eighty-one of the civil service law and public employees subject to sections twenty-five hundred ten, twenty-five hundred eighty-five and twenty-five hundred eighty-eight of the education law shall have their names placed upon a preferred list as provided in such section.

12. Military re-employment lists. If the position occupied by a public employee, who is not included in the provisions of subdivision eleven of this section, has been abolished or is no longer in existence upon the termination of his military duty such employee, upon filing a written request within ninety days after the termination of his military duty, shall have his name placed forthwith, upon a military re-employment list, as herein provided, for the position last held by him or any similar position. The military re-employment list for public employees in the classified civil service, other than in the competitive class, shall be established by the civil service commission having jurisdiction of such position and such list for public employees who are not in the classified civil service shall be established by the officer who makes payment of the wages or salary for such position. Separate lists shall be established for positions in the non-competitive and the labor class of the classified civil service. After the establishment of a military re-employment list, it shall be made available to appointing officers and bodies and no position shall be filled until the appointing officer or body certifies to the civil service commission or to the disbursing officer, as the case may be, that no person on such military re-employment list, who formerly held the same or a similar position, is qualified to fill and willing to accept appointment to such vacancy. The civil service commission or the disbursing officer, as the case may be, shall refuse to approve the payroll for such position until such certificate is filed. Appointments from a military re-employment list may be made without regard to the order of standing on said list. Eligibility for appointment from such military re-employment list shall not continue for a period longer than four years from the date of termination of military duty. Refusal to accept an offer of appointment to a position similar to the last held by such public employee shall cause the removal of his name from such list. Upon a failure or refusal to comply with the provisions of subdivisions eleven and twelve of this section, the supreme court is empowered, upon the filing of a petition or other appropriate pleading, by the public employee entitled to the benefits of such provisions, to specifically require compliance therewith, and may, as an incident thereto, compensate such employee for any loss of wages suffered by reason of such unlawful action. The court shall order a speedy hearing in any such case and shall advance it on the calendar. Nothing in this subdivision shall be construed to apply to positions in the exempt class of the classified civil service.

13. Temporary positions. The provisions of subdivisions three and five of this section shall not be applicable to a public employee holding a temporary position, but such employee shall, nevertheless, be placed upon a military re-employment list, as provided in subdivision twelve of this section and, so far as practicable, shall be restored to a position similar to that held at the time such employee entered military duty.

14. Public employees appointed for a definite term. A public employee appointed for a definite term shall be deemed to have a leave of absence until the end of his term of office and until his successor has been appointed, but not thereafter, for the purpose of determining his rights under this section.

15. Elective officers. The provisions of subdivision four of this section shall be applicable to an elective officer and he shall be deemed to continue in his office until his successor has been elected, but not thereafter, for the purpose of determining his rights under such subdivision. No other provisions of this section shall be applicable to elective officers.

16. Salaries. Nothing in this section shall be construed to give any public employee any claim for salary or compensation during his absence on military duty.

17. Certificates as to service. A certificate signed by the commander, total army personnel center as to persons in the army or in any branch of the United States service while serving pursuant to law with the army of the United States, signed by the commander, naval military personnel as to persons in the United States service while serving pursuant to law with the United States navy, and signed by the commandant, United States marine corps, as to persons in the marine corps, or in any other branch of the United States service while serving pursuant to law with the marine corps, signed by the chief, air force military personnel center as to persons in the United States service while serving pursuant to law with the United States air force or signed by an officer designated by any of them, respectively, for the purpose, shall when produced be prima facie evidence as to any of the following facts stated in such certificate: That a person named has not been, or is, or has been in military service; the time when and the place where such person entered military service, his residence at that time, and the rank, branch, and unit of such service that he entered, the dates within which he was in military service, the monthly pay received by such person at the date of issuing the certificate, the time when and the place where such person died in or was discharged from such service. It is the duty of the foregoing officers to furnish such certificate on application, and any such certificate when purporting to be signed by any one of such officers, or by any person purporting upon the face of the certificate to have been so authorized, shall be prima facie evidence of its contents and of the authority of the signer to issue the same.

18. Rights and privileges of public employees and other persons while engaged in essential war work. Every public employee, or other person to whom this section is applicable, who

has been or may be discharged or relieved from military duty on condition that he engage in work essential to the prosecution of the war, shall be entitled, while engaged in such work, to all the rights and privileges to which he would have been entitled, under the provisions of this section, had he continued to perform military duty. A certificate of the war manpower commission, or of the United States employment service, or of the proper authorities in the armed forces of the United States, or of any other authorized federal agency, that any such public employee, or other person to whom this section is applicable, is or has been, for the period stated in such certificate, engaged in such work, shall be required in order to confer upon such employee or person the rights and privileges accorded by this subdivision, and such certificate shall be presumptive evidence of such facts.

19. Leaves of absence and re-employment of certain teachers and school supervisors. A member of the teaching or supervising staff in a school district other than a school district employing a superintendent of schools shall be entitled to absent himself from his position while engaged in the performance of military duty and shall be deemed to have a leave of absence for the duration of such military duty. Such person shall be reinstated to his position provided he makes application for such reinstatement within ninety days after the termination of his military duty, notwithstanding that his contract with the school district shall have expired.

20. Payment of pension contributions by city of New York.

(1) the term "New York city member" shall mean any public employee (a) who was granted a leave of absence for the period of his military duty pursuant to the provisions of subdivision two of this section and who was on April eleventh, nineteen hundred forty-seven, or shall become prior to January first, nineteen hundred fifty-two, a member of any pension or retirement system to which the city of New York, the Triborough bridge and tunnel authority, or the New York city housing authority is required by law to make contributions on account of such employee, or (b) who was on April eleventh, nineteen hundred forty-seven, or shall thereafter become a member of any such system and who is or shall be entitled to seniority credit and training and experience credit under the provisions of subdivision seven, seven-a or seven-b of this section by reason of appointment from an eligible list or special eligible list, but such term shall not include any public employee whose rights as to civil compensation are or were governed by section six of chapter six hundred eight of the laws of nineteen hundred fifty-two;

(2) the term "system" shall mean any pension or retirement system referred to in subsection (1) of paragraph A of this subdivision.

B. Except as otherwise provided in paragraphs C, D and E of this subdivision, any New York city member shall have as to any period of military duty performed by him the same rights and shall be entitled to the same benefits in respect to his membership in any system as he would have had if he had been present and continuously engaged in the performance of the

duties

(1) of the position from which he was granted a leave of absence pursuant to the provisions of subdivision two of this section, if he is not entitled to seniority and training and experience credit as provided by subdivision seven, seven-a or seven-b of this section, and was not appointed to a position while on military duty as provided by subdivision six of this section, or

(2) if he was granted such leave and received an appointment as provided by subdivision six of this section, of the position from which he received such leave of absence, up to the date of such appointment, and thereafter as if he had been present and continuously engaged in the performance of the duties of such position to which he was appointed, or

(3) if granted such leave of absence and entitled to credit as provided by subdivision seven, seven-a or seven-b of this section, of the position from which he was granted such leave of absence, up to the date upon which he is deemed to have been appointed as provided in such subdivision seven, seven-a or seven-b and thereafter as if he had been present and continuously engaged in the performance of the duties of the position with respect to which the date on which he is deemed to have been appointed is specified by such subdivision seven, seven-a or seven-b, or

(4) if he did not receive such leave, but is entitled to credit under such subdivision seven, seven-a or seven-b, of the position to which he is deemed to have been appointed on the date specified therein, and as if he had actually been appointed and had entered upon the performance of the duties of such position upon such date.

C. No New York city member shall be entitled to any of the rights, benefits or credit conferred by this subdivision with respect to

(1) any period of military duty, or portion thereof, during which the military base pay of such member or his compensation for military duty performed other than as a member of the armed forces, exceeded the civil compensation of the position or positions with respect to which his rights and benefits for the corresponding period or portion thereof are determined by the provisions of paragraph B of this subdivision, or

(2) any period of military duty or portion thereof prior to the date upon which any member, who was not granted a leave of absence pursuant to the provisions of subdivision two of this section, is deemed to have been appointed by virtue of the provisions of subdivision seven, seven-a or seven-b of this section.

As to any period of military duty or portion thereof referred to in subsection (1) of this paragraph, the rights of any such member with respect to membership in any system shall be governed by the provisions of subdivision four of this section.

D. Time during which any New York city member was absent on military duty shall not constitute an interruption of continuous employment and, except as provided in paragraph C of this subdivision, such time shall be counted and included in determining the length of total service.

E. Upon the death or retirement of a New York city member, but not otherwise, the city of New York, the Triborough bridge and tunnel authority, or the New York city housing authority (whichever shall have first employed such member after the termination of his military duty) shall pay into the appropriate fund of the system in which such member held membership at the time of his death or retirement, the amount of all contributions which such member would have been required to make if, during the period of his military duty, he had been present and had continuously performed the duties of the position or positions with respect to which his rights and benefits during the corresponding period or portion thereof are determined by the provisions of paragraph B of this subdivision; provided that such city or authority shall not pay into any such fund any contributions payable or accruing for any period of military duty or portion thereof, referred to in paragraph C of this subdivision. Each such member shall be credited with such contributions paid in his behalf by such city or authority for all pension or retirement purposes; provided that (1) any portion of any retirement allowance, pension, death benefit or other benefit or right derived from such contributions paid in behalf of such member by such city or authority, shall be such amount as the payment required by this paragraph, made at the time herein specified, shall provide, (2) such member shall not under any circumstances have the right to withdraw the amount of such contributions, or any interest thereon, as a part of his accumulated deductions or otherwise, and (3) such contributions shall be excluded in determining the amount of any loan which any such member shall be entitled to make.

F. In any case where any New York city member has heretofore paid or shall hereafter pay to any system any contributions which the city of New York, the Triborough bridge and tunnel authority, or the New York city housing authority is required to pay to such system by the provisions of this subdivision, such contributions shall be regarded as excess contributions which are (1) creditable in lieu of regular contributions (a) upon the return of such member to his position after the termination of his military duty, or (b) upon his becoming a member of such system, if he did not become a member thereof until after the termination of such duty, or (2) payable in addition to other benefits upon separation meanwhile with benefit.

Military Law Article 11, Section 243-a

§ 243-a. Non-contributory retirement service credit for members of the New York state and local retirement systems or the New York state teachers' retirement system called to active military duty on or after August first, nineteen hundred ninety

Notwithstanding any other provision of law, any member of the New York state and local employees' retirement system, the New York state and local police and fire retirement system, or the New York state teachers' retirement system who is called to active military

duty on or after August first, nineteen hundred ninety and prior to January first, nineteen hundred ninety-three, who is not receiving full salary from a participating employer and is otherwise eligible to receive retirement service credit in such system for such active military duty pursuant to section two hundred forty-two or two hundred forty-three of this article, shall not be required to make member contributions to receive such credit.

Military Law Article 11, Section 243-b

§ **243-b. Civil service examinations by military personnel**

1. Notwithstanding any other provision of this chapter or any other law, any member of the armed forces of the United States of America who having duly filed an application to compete in a scheduled competitive examination for civil service employment by the state of New York or any of its subdivisions and who due to active military duty is deprived of the opportunity to compete in such examination shall be provided with an opportunity to compete, under terms and conditions deemed appropriate by the state department of civil service or municipal commission, by way of a special military make-up examination.

2. Notwithstanding any other provision of this chapter or any other law, any member of the force of the organized militia, as the term is defined in subdivision nine of section one of this chapter or reserve armed forces, as that term is defined in subdivision twenty-nine of section two hundred ninety-two of the executive law or any member of the armed forces of the United States who missed the application deadline for a scheduled competitive examination for civil service employment by the state of New York or any of its subdivisions due to military service, as defined in subdivision one of section three hundred one of this chapter or due to a call to active duty, pursuant to 10 USC 101 (d) (1), and is deprived of the opportunity to compete in such examination due to military service, as defined in subdivision one of section three hundred one of this chapter or due to a call to active duty, pursuant to 10 USC 101 (d) (1), shall be provided with an opportunity to compete, under terms and conditions deemed appropriate by the state department of civil service or municipal commission, by way of a special military make-up examination.

3. Notwithstanding any other provision of this chapter or any other law, any member of the force of the organized militia, as the term is defined in subdivision nine of section one of this chapter or reserve armed forces, as that term is defined in subdivision twenty-nine of section two hundred ninety-two of the executive law or any member of the armed forces of the United States who missed the application deadline for a scheduled competitive examination for civil service employment by the state of New York or any of its subdivisions due to military service, as defined in subdivision one of section three hundred one of this chapter or due to a call to active duty pursuant to 10 USC 101 (d) (1), and who returns from such duty prior to the administration of such competitive examination shall be granted

a waiver of the application requirement and allowed to compete in such upcoming examination.

Military Law Article 11, Section 243-c

§ 243-c. Application period for civil service examinations for military personnel

Application period for civil service examinations for military personnel. Notwithstanding any provision of this chapter, any general or special law, rule or regulation to the contrary, a person serving on active duty in the armed forces of the United States during the filing period for a civil service examination, or a person who has been discharged therefrom with other than a dishonorable discharge after the filing period for a civil service examination has commenced, shall be permitted to file an application for such examination no later than ten business days prior to the scheduled date of such examination or the last date to file for such examination, whichever is later, and if qualified shall be provided with an opportunity to compete in such examination under terms and conditions deemed appropriate by the state department of civil service or municipal commission.

Military Law Article 11, Section 243-d

§ 243-d. Non-contributory retirement service credit for members of the New York state and local retirement systems, the New York city retirement systems or the New York state teachers' retirement system called to active military duty on or after September eleventh, two thousand one

Notwithstanding any other provision of law, any member of the New York state and local employees' retirement system, the New York city retirement systems, the New York state and local police and fire retirement system, or the New York state teachers' retirement system who is called to active military duty on or after September eleventh, two thousand one and prior to January first, two thousand six, who is not receiving his or her full salary from a participating employer and is otherwise eligible to receive retirement service credit in such system for such active military duty pursuant to section two hundred forty-two or two hundred forty-three of this article, shall not be required to make member contributions to receive such credit.

Military Law Article 11, Section 244

§ 244. Members of pension system absent on military duty

Where any duly elected office holder, or any officer or employee of the state or any municipality or political subdivision thereof, who is a member of any pension or retirement system, entered or enters the armed forces of the United States before his term of office

expired or expires, and prior to the date when he first would be eligible for pension benefits or payments provided for under such pension or retirement system of which he is a member had he continued in the office or employment of the state or such municipality or political subdivision, he may, during the period he is in the armed forces of the United States, remain a member of such pension or retirement system provided he paid or pays into such system monthly, until the date his term of office expired or expires, such amount as he would have paid if he had been present and continuously engaged in the performance of his regular duties as such office holder, officer or employee and provided that after his term of office expired or expires he paid or pays into such pension or retirement system monthly, such full and entire amount as he individually would have paid, together with such amount as would have been paid on his behalf by the state or such municipality or political subdivision of which he was an office holder, officer or employee, had he continued as such office holder, officer, or employee and had been present and continuously engaged in the regular performance of his duties, and he shall have and be entitled to the same rights in respect to membership in such pension or retirement system and the rights and obligations provided thereunder, as he would have had if he had continued as such office holder, officer or employee and had been present and continuously engaged in the regular performance of his duties except that a disability or injury occurred or an accidental death occurring while a member of the armed forces of the United States shall not entitle such office holder, officer or employee, his beneficiaries or representatives to any disability or accidental death benefits.

The provisions of this section shall be construed to include all elected office holders, officers or employees of the state or of a municipality or political subdivision thereof, whose term of office expired since January first, nineteen hundred forty-one, and who since January first, nineteen hundred forty-one, entered the armed forces of the United States, provided such office holder, officer or employee shall on or before July first, nineteen hundred forty-eight notify the fiscal officer of such pension or retirement system in writing that he has determined to take advantage of the rights and privileges afforded him hereunder and provided further that he pays within five years the full amount required to be paid into such system by him as provided for under this section and not already paid by him.

Military Law Article 11, Section 244-a

§ 244-a. Credit to members of public retirement systems for military service performed during war

1. Notwithstanding any other provision of law, a member of a public retirement system of the state, as defined in subdivision twenty-three of section five hundred one of the retirement and social security law, shall be eligible for credit for military service performed during a period of war upon attainment of no less than ten years of service and may obtain, upon application to such retirement system, a total not to exceed three years of service

credit within three years prior to retirement for up to three years of military service as a member of the armed forces of the United States if such service was rendered during a period of war. For purposes of the New York state and local employees' retirement system and the New York state and local police and fire retirement system all such service shall be credible in all plans specified in the retirement and social security law.

2. In order to purchase credit pursuant to this subdivision, the member shall pay into the pension accumulation fund the contribution amount as determined by the comptroller necessary to pay in full the cost of such previous service.

3. In no event shall the credit granted pursuant to this section, when added to credit granted for military service with any retirement system pursuant to this section or any other provision of law, exceed a total of three years.

Military Law Article 11, Section 245

§ 245. Retirement allowances of certain war veterans

(4) Any member of a teachers' retirement system to which the city of New York is required by law to make contributions on account of such member who (I) is an honorably discharged member of any branch of the armed forces of the United States, or (II) has a qualifying condition, as defined in Section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable, having served as such during the time of war and who has attained the age of fifty years, may retire upon his own request upon written application to the board setting forth at what time not less than thirty days subsequent to the execution and filing thereof he desires to be retired, provided that such member at the time so specified for his retirement shall have completed at least twenty-five years of allowable service. Upon retirement such member shall receive an annuity of equivalent actuarial value to his accumulated deductions, and, in addition, a pension beginning immediately, having a value equal to the present value of the pension that would have become payable had he continued at his current salary to the age at which he would have first become eligible for service retirement, provided, however, that the said member on making application for retirement shall pay into the retirement fund a sum of money which calculated on an actuarial basis, together with his prior contributions and other accumulations in said fund then to his credit, shall be sufficient to entitle the said member to the same annuity and pension that he would have received had he remained in the service of the city until he had attained the age at which he otherwise would have first become eligible for service retirement.

Notwithstanding any other provision of this section or of any general, special or local law or code to the contrary, a member of any such teachers' retirement system who is separated or discharged under honorable conditions from any branch of the armed forces of the United

States, having served as such during the time of war and who has attained the age of fifty years, may retire upon his own request upon written application to the board setting forth at what time, not less than thirty days subsequent to the execution and filing thereof, he desires to be retired, provided that such member at that time so specified for his retirement shall have completed at least twenty-five years of allowable service. Upon reaching his previously selected minimum retirement age, such member shall receive an annuity of equivalent actuarial value, at that time, to his accumulated deductions, and, in addition, a pension based upon his credited years of allowable service, plus the pension-for-increased-take-home-pay, if any. Should such member die before reaching his retirement age, then any beneficiary under a selected option shall be eligible for benefits under such option at the date upon which the member would have reached his selected retirement age.

Military Law Article 11, Section 246

§ 246. Leave of absence for public employees who are war veterans to continue study

Notwithstanding the provisions of any law to the contrary, every public officer and employee, who served in the armed forces of the United States on or after September sixteenth, nineteen hundred forty, and prior to the termination of hostilities in world war II, or during the period of hostilities engaged in by the armed forces of the United States on and after June twenty-fifth, nineteen hundred fifty, or who served in the armed forces of the United States after January thirty-first, nineteen hundred fifty-five, and who is eligible under the provisions enacted by the congress of the United States known as "Servicemen's Readjustment Act of nineteen hundred forty-four," or "Veterans' Readjustment Assistance Act of nineteen hundred fifty-two," or "Veterans' Readjustment Benefits Act of nineteen hundred sixty-six," to continue the pursuit of studies or to take a refresher or retraining course shall be granted a leave of absence from his position for the period of such course of study, not to exceed four years. Such public officer or employee shall be reinstated to his position provided he makes application for such reinstatement within sixty days after the termination of such course of study.

Military Law Article 11, Section 250

§ 250. Recording certificates of honorable discharge

Any certificate issued after April sixth, nineteen hundred seventeen, of the honorable separation from or service in the armed forces of the United States of any veteran, may be recorded in any one county, in the office of the county clerk, and when so recorded shall constitute notice to all public officials of the facts set forth therein. It shall be the duty of the county clerk to record the certificate upon presentation thereof without the payment of any fee.

For any purpose for which the original certificate may be required in the state of New York, a certified copy of the record shall be deemed sufficient and shall be accepted in lieu thereof. Notwithstanding any inconsistent provisions of law, it shall be the duty of the county clerk of each county, to furnish without charge to any veteran, or parent, spouse, dependent or child of the veteran, a certified copy of the certificate of the veteran so recorded in the office of the county clerk. No filed certificate or any information contained therein, shall be disclosed to any person except the veteran or parent, spouse, dependent or child of the veteran, representative of the estate of the deceased veteran or a public official, acting within the scope of his or her employment, unless such disclosure is authorized in writing by the veteran. The provisions of this section also apply to the counties within the city of New York.

Military Law Article 11, Section 251

§ 251. Depriving members of organized militia of employment

A person who, either by himself or with another, willfully deprives a member of the organized militia of his employment, or prevents his being employed by himself or another, or obstructs or annoys said member of said organized militia, or his employer, in respect of his trade, business, or employment, because, said member of said organized militia is such member, or dissuades any person from enlistment in the said organized militia by threat of injury to him in case he shall so enlist, in respect to his employment, trade, or business, is guilty of a misdemeanor.

Military Law Article 11, Section 252

§ 252. Discrimination against members of organized militia

No association or corporation, constituted or organized for the purpose of promoting the success of the trade, employment, or business of the members thereof, shall by any constitution, rule, by-law, resolution, vote, or regulation, discriminate against any member of the organized militia of the state of New York, because of such membership in respect of the eligibility of such member of the said organized militia to membership in such association or corporation, or in respect of his right to retain said last mentioned membership; it being the purpose of this section and the section immediately preceding to protect a member of the said organized militia from disadvantage in his means of livelihood and liberty therein but not to give him any preference or advantage on account of his membership of said organized militia. A person who aids in enforcing any such provisions against a member of the said organized militia with the intent to discriminate against him because of such membership, is guilty of a misdemeanor.

Military Law Article 11, Section 253

§ 253. Military service by parent; effect on child custody proceedings

Notwithstanding any law, rule or regulation to the contrary, child custody proceedings filed in a court of competent jurisdiction in this state, involving a parent who is activated, deployed, or temporarily assigned to military service shall be governed by subdivision (f) of section six hundred fifty-one of the family court act, section seventy-five-l or paragraph (a-2) of subdivision one of section two hundred forty of the domestic relations law.

Domestic Relations Law Note:

Pursuant to Section 240, subsection a-1 of the Domestic Relations Law, a court may enter an order to modify custody during a period of military activation, deployment, or temporary assignment "if there is clear and convincing evidence that the modification is in the best interests of the child." During periods of leave of not more than four months from military assignments, "the court shall consider the best interests of the child when establishing a [temporary] parenting schedule."

Military Law Article 11, Section 254

§ 254. Video teleconferencing for families of persons ordered to active duty

(1) Definition. For the purposes of this section, "military service" shall mean military duty in the active military service of the United States, as defined in section three hundred one of this chapter.

(2) The division of military and naval affairs shall make available teleconferencing facilities to the families, which shall include spouses, domestic partners, children, and parents and such others as meet criteria established by the division of every person in military service who is a resident of this state so as to facilitate, in cooperation with the department of defense and the armed forces of the United States, communications between such persons in military service and their families.

Military Law Article 11, Section 255

§ 255. Benefit information for National Guard members and families

(1) For the purpose of this section, "military service" shall have the same meaning as defined in section three hundred one of this chapter.

(2) The division of military and naval affairs shall make available state and federal benefit information for national guard members and their spouses, domestic partners, children, and parents, including but not limited to, information from the state family support services program.

Such benefit information shall be made available in a printed version and posted electronically on such division's website.

Military Law Article 13, Section 300

§ 300. Findings and declaration of emergency [Soldiers' and Sailors' Civil Relief Act]

It has been nationally recognized that because of the emergent conditions which are threatening the peace and imperiling the security of the nation, there is imperative need to augment and strengthen the national defense. It is further recognized that the emergent conditions which endanger the national well-being likewise constitute an imminent threat and hazard to the peace and security of the people of the state. Moreover, it is acknowledged that the exigencies of national defense require that the people of the state, in large numbers, be called into military service, and as a consequence, the health, prosperity and welfare of all of the people of the state is inevitably affected.

In these circumstances, and in order to promote and to assist the national defense, and thereby to protect the peace, prosperity and health of the people of the state, it is necessary that citizens and residents of the state in the military service as well as those who are members of the organized militia or of a reserve component of the armed forces of the United States should be free to devote their entire energy and effort to the defense needs of the nation and of the state. To assist in this end, it is essential to provide in certain cases for the temporary suspension of legal proceedings and transactions which may prejudice the civil rights of persons in the military service. It is further essential in the interests of the prosperity and well-being of the people of the state, that such persons, upon completion of military service, be restored to their former employment.

The legislature finds, further, that citizens and residents of the state, not in military service, who are members of the organized militia or of a reserve component of the armed forces of the United States are being discriminated against by certain employers who either refuse to employ them because of such membership or, if employed, discharge or otherwise discriminate against them because of such membership and that such acts of discrimination jeopardize the recruiting of citizens and residents of the state into the organized militia and the reserve components of the armed forces of the United States and otherwise affect the security of the state.

The legislature finds, further, that citizens and residents of the state, not in military service and not members of the organized militia or of the reserve components of the armed forces

of the United States, are discriminated against by certain employers who refuse to employ them because they are subject to military service in the armed forces of the United States under the selective service act of nineteen hundred forty-eight, as amended.

In the interpretation and application of this article, it is hereby declared to be the public policy of the state to maintain, secure and protect the civil and property rights of persons in the military service, as hereinafter defined, and of employees who are members of the organized militia or members of a reserve component of the armed forces.

The legislature hereby declares the existence of a public emergency affecting the health, safety and comfort of the people, requiring the enactment of the provisions of this act to protect the vital interests of the state.

All the provisions of this article shall be liberally construed for the accomplishment of this purpose.

This article shall be deemed an exercise of the police power of the state, for the protection of the public welfare, prosperity, health and peace of the people of the state.

Practice Notes, Cases, and General Counsel Opinions

Cases:

Objective of the Civil Relief Act: "[T]o protect those who have been obliged to drop their own affairs to take up the burdens of the nation." Boone v. Lightner, 319 U.S. 561, 575 (1943).

Interpreting the Civil Relief Act: "The Act should be read with an eye friendly to those who dropped their affairs to answer their country's call." LeMaistre v. Leffers, 333 U.S. 1, 6 (1946).

Military Law Article 13, Section 301

§ 301. Definitions

As used in this article:

1. The term "military service" means duty by a person, male or female, in the active military service of the United States as defined in section one of this chapter and active duty in the military service of the state pursuant to an order of the governor issued pursuant to section six or seven of this chapter; and state active duty by members of the national guard who are activated pursuant to a call of the governor of this state or of any other state as provided for by law.

2. The term "person" when used herein with reference to the holder of any right alleged to exist against a person in military service, or against a person secondarily liable under such right, shall include individuals, partnerships, corporations, and any other forms of business association.

3. The term "court" as used herein, shall include any state court of competent jurisdiction, whether or not a court of record.

Military Law Article 13, Section 302

§ 302. Stay, et cetera, to persons secondarily liable

1. Whenever, pursuant to any of the provisions of this article, the enforcement of any obligation or liability, the prosecution of any suit or proceeding, the entry or enforcement of any order, writ, judgment or decree, or the performance of any act, may be stayed, postponed or suspended, such stay, postponement or suspension may, in the discretion of the court, likewise be granted to sureties, guarantors, endorsers and others subject to the obligation or liability, the performance or enforcement of which is stayed, postponed or suspended.

2. When a judgment or decree is vacated or set aside, in whole or in part, as provided in this article, the same may, in the discretion of the court, likewise be set aside and vacated as to any surety, guarantor, endorsers, accommodation maker or other person whether primarily or secondarily liable upon the contract or liability for the enforcement of which the judgment or decree was entered.

3. Nothing contained in this article shall prevent a waiver in writing of the benefits afforded by subdivisions one and two of this section by any surety, guarantor, endorser, accommodation maker, or other person whether primarily or secondarily liable upon the obligation or liability except that after the date of enactment of this subdivision no such waiver shall be valid unless it is executed as an instrument separate from the obligation or liability in respect of which it applies, and no such waiver shall be valid after the beginning of the period of military service if executed by an individual who, subsequent to the execution of such waiver becomes a person in military service.

Military Law Article 13, Section 303

§ 303. Representation; opening judgment; default

1. In any action or proceeding in which a person in military service is a party, if such party does not personally appear therein or is not represented by an authorized attorney, the court may appoint an attorney to represent him; and in such case a bond, approved by the court, conditioned to indemnify the defendant, if in military service, against any loss or damage that he may suffer by reason of any judgment, should the judgment be thereafter set aside in whole or in part, may be required and an order made to protect the rights of such person. But no attorney appointed under this act to protect a person in military service

shall have power to waive any right of the person for whom he is appointed or bind him by his acts.

2. If any judgment shall be rendered in any action or proceeding against any person in military service during the period of such service, or within thirty days thereafter, and it appears that such person was prejudiced by reason of his military service in making his defense thereto, such judgment may, upon application, made by such person or his legal representative, not later than ninety days after the termination of such service, be opened by the court rendering the same and such defendant or his legal representative let in to defend; provided it is made to appear that the defendant has a meritorious or legal defense to the action or proceeding, or to some part thereof. Vacating, setting aside, or reversing any judgment because of any of the provisions of this act shall not impair any right or title acquired by any bona fide purchaser for value under such judgment.

3. Where a default judgment may properly be rendered in any action or proceeding in any court, the court shall not require the attorney for the plaintiff or petitioner to submit an affidavit or affirmation that the defendant or respondent is not in military service, provided that the court may impose such requirement where authorized by federal law. For purposes of this subdivision, the term "military service" shall have the meaning ascribed by the provisions of the Federal Soldiers' and Sailors' Civil Relief Act of 1940, as amended.

Military Law Article 13, Section 304

§ 304. Proceedings to be stayed unless interest unaffected by military service

At any stage thereof, any action or proceeding in any court or in any adjudicatory or licensing proceeding before any state agency, including any public benefit corporation or public authority, or any political subdivision of the state, in which a person in military service is involved as a party, during the period of such service or within sixty days thereafter may, in the discretion of the court or adjudicatory or licensing agency before which it is pending, on its own motion, and shall, on application to it by such person or some person on his behalf, be stayed as provided in this act, unless, in the opinion of the court or adjudicatory or licensing agency, the ability of plaintiff to prosecute the action, or the defendant to conduct his defense, or in any adjudicatory or licensing proceeding the ability of the party to represent his interest, is not materially affected by reason of his military service.

Practice Notes, Cases, and General Counsel Opinions

Cases:

Co-Defendants: A non-military co-defendant cannot indefinitely avoid facing trial simply because the Servicemember defendant in the case enjoys the benefits of the Soldiers' & Sailors' Civil Relief Act. Turchiano v Jay Dee Transp., 109 A.D.2d 790 (N.Y. App. Div. 2d Dep't 1985).

Lack of Prosecution: An action will not be dismissed for lack of prosecution where the plaintiff was in the Armed Forces. Gallik v Pepsi Cola New York Bottling Co., 180 Misc. 741 (N.Y. City Ct. 1943).

Lack of Viable Defense: Where there was no proof that the absence of Servicemember defendant would interfere with the Servicemember's defense and in fact it was clear that the Servicemember lacked any viable defense, the court's refusal to stay a proceeding because of the defendant's military service was proper. De Metre v Hall, 269 A.D. 802 (N.Y. App. Div. 3d Dep't 1945).

Pre-Trial Examination: The fact that an individual is serving in the military is not enough by itself to dispense with the court-ordered examination of that person before trial. The individual must show that military service materially affects that individual's ability to appear at such examination before the court will dispense with the examination. Sardo v Donnellan, 180 Misc. 611 (N.Y. Sup. Ct. 1943).

Requirement to Prove Material Effect of Military Service: A Servicemember defendant stationed near the site of the trial who failed to offer any proof that military service prevented his ability to appear in the case could not receive a stay under the Civil Relief Act. Film Renovating Co. v Lefkof, 44 N.Y.S.2d 845 (N.Y. Sup. Ct. 1943).

Military Law Article 13, Section 305

§ 305. Relief against fines and penalties, et cetera

When an action for compliance with the terms of any contract is stayed pursuant to this act no fine or penalty shall accrue by reason of failure to comply with the terms of such contract during the period of such stay, and in any case where a person fails to perform any obligation and a fine or penalty for such non-performance is incurred a court may, on such terms as may be just, relieve against the enforcement of such fine or penalty if it shall appear that the person who would suffer by such fine or penalty was in the military service when the penalty was incurred, and that by reason of such service the ability of such person to pay or perform was thereby materially impaired.

Military Law Article 13, Section 306

§ 306. Actions against persons in service

In any action or proceeding commenced in any court or in any adjudicatory or licensing proceeding before any state agency, including any public benefit corporation or public authority, or any political subdivision of the state, against a person in military service: before or during the period of such service, or within sixty days thereafter, the court or adjudicatory or licensing agency may, in its discretion, on its own motion, or on application to it by such person or some person on his behalf shall, unless in the opinion of the court or adjudicatory or licensing agency the ability of the party to comply with the judgment or

order entered or sought is not materially affected by reason of his military service:

1. Stay the execution of any judgment or order entered against such person, as provided in this act; and

2. Vacate or stay any attachment or garnishment of property, money, or debts in the hands of another, whether before or after judgment as provided in this act.

Military Law Article 13, Section 307

§ 307. Continuance of stay, et cetera

Any stay of any action, proceeding, attachment, or execution ordered by any court or adjudicatory or licensing agency under the provisions of this act may, except as otherwise provided, be ordered for the period of military service and three months thereafter or any part of such period, and subject to such terms as may be just, whether as to payment in installments of such amounts and at such times as the court or adjudicatory or licensing agency may fix or otherwise determine. Where the person in military service is a codefendant with others the plaintiff may nevertheless, by leave of court, proceed against the others.

Military Law Article 13, Section 308

§ 308. Statutes of limitations and statutes of a similar nature; time of military service not included

The period of military service shall not be included in computing any period now or hereafter to be limited by any law, regulation or order for the bringing of any action or proceeding in any court, board, bureau, commission, department or other agency of government of this state or any of its governmental subdivisions by or against any person in military service, or by or against his heirs, executors, administrators, or assigns, whether such cause of action or the right or privilege to institute such an action or proceeding shall have accrued prior to or during the period of such service, nor shall any part of such period which occurs after the date of enactment of this act be included in computing any period now or hereafter provided by any law for the redemption of real property sold or forfeited to enforce any obligation, tax or assessment.

Military Law Article 13, Section 308-a

§ 308-a Professional licenses

Notwithstanding any provision of general, special or local law, code or ordinance, or rule or regulation to the contrary, no person in military service, as defined in section three hundred

one of this article, who was licensed, registered or certified to engage in a profession or occupation prior to entering into military service, shall be required to complete the continuing education requirements for such profession or occupation for any entire licensing, registration or certification period during which such military service occurs, and where such military service is partially within a licensing, registration or certification period, such continuing education requirements shall be reduced proportionately so that such individual is not required to complete such requirements while in military service.

Military Law Article 13, Section 308-b

§ 308-b. Extension of license, certificate or registration

Notwithstanding any other provision of general, special or local law, code or ordinance, or rule or regulation to the contrary, military personnel serving on active duty, who were licensed, certified or registered to engage in a profession or occupation prior to being called to active duty, and whose license, certificate or registration shall expire during such period of active duty, shall have such license, certificate or registration automatically extended for the period of active duty and for twelve months after such military personnel have been released from active duty, provided that with regard to professions subject to title VIII of the education law, this section shall not apply to limited permits or other credentials issued for a period of two months or less and shall not extend the term of a limited permit that expires for reasons other than the passage of time, including but not limited to failure on a licensure examination, and further provided that this section shall not be construed to permit any individual whose authority to engage in a profession or occupation has been revoked or suspended to engage in such profession or occupation.

Military Law Article 13, Section 309

§ 309. Evictions; restraint

1. No eviction or distress shall be made during the period of military service in respect of any premises occupied chiefly for dwelling purposes by a person in military service or the spouse, children, or other dependents of a person in military service, except upon leave of court granted upon application therefor or granted in any action or proceeding affecting the right of possession.

2. On any such application or in any such action the court may, in its discretion, on its own motion, and shall, on application, unless in the opinion of the court the ability of the tenant to pay the agreed rent is not materially affected by reason of military service, stay the proceedings for not longer than six months, as provided in this article, or it may make such other order as may be just.

3. Any person who shall knowingly take part in any eviction or distress otherwise than as provided in subdivision one of this section, or attempts so to do, shall be guilty of a misdemeanor, and shall be punishable by imprisonment not to exceed one year or by fine not to exceed one thousand dollars, or both.

Practice Notes, Cases, and General Counsel Opinions

Cases:

Insufficient Evidence: Landlords are not entitled to a default judgment against a tenant when landlords failed to conduct a meaningful investigation of whether the tenant was serving in the military. Obtaining an affidavit from the doorman of the apartment building stating the doorman's "belief" that the tenant was not in the military did not satisfy the landlords' obligations to ascertain whether the tenant was presently serving in the military. Mill Rock Plaza Assoc. v. Lively, 153 Misc. 2d 254 (N.Y. Civ. Ct. 1990).

Military Law Article 13, Section 310

§ 310. Liability for rent accruing after induction; termination of lease

1. The provisions of this section shall apply to any lease covering premises occupied for dwelling, professional, business, agricultural, or similar purposes in any case in which (a) such lease was executed by or on the behalf of a person who, after the execution of such lease, entered military service, and (b) the premises so leased have been occupied for such purposes, or for a combination of such purposes by such person or by him and his dependents.

The provisions of this section shall also apply to any lease covering premises occupied for dwelling purposes where such lease was executed by or on the behalf of a person who, after the execution of such lease, entered military service where such lease was also executed by or on the behalf of the spouse of such a person.

2. Any such lease may be terminated by notice in writing delivered to the lessor (or his grantee) or to the lessor's (or his grantee's) agent by a lessee at any time following the date of the beginning of such military service. Delivery of such notice may be accomplished by placing it in an envelope properly stamped and duly addressed to the lessor (or his grantee) or to the lessor's (or his grantee's) agent and depositing the notice in the United States mails. Termination of any such lease providing for monthly payment of rent shall not be effective until thirty days after the first date on which the next rental payment is due and payable subsequent to the date when such notice is delivered or mailed. In the case of all other leases, termination shall be effected on the last day of the month following the month in which such notice is delivered or mailed and in such case any unpaid rental for a period preceding termination shall be portably computed and any rental paid in advance for a period succeeding termination shall be refunded by the lessor (or his assignee). Upon application by the lessor to the appropriate court prior to the termination period provided

for in the notice, any relief granted in this subdivision shall be subject to such modifications or restrictions as in the opinion of the court justice and equity may in the circumstances require.

3. Any person who shall knowingly seize, hold or detain the personal effects, clothing, furniture or other property of any person who has lawfully terminated a lease covered by this section or the spouse or dependent of any such person, or in any manner interfere with the removal of such property from the premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts so to do, shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one year or by fine not to exceed one thousand dollars, or both.

Military Law Article 13, Section 311

§ 311. Installment purchases

1. No person who has received, or whose assignor has received, under a contract for the purchase of real or personal property, or of lease or bailment with a view to purchase of such property, a deposit or installment of the purchase price or a deposit or installment under the contract, lease or bailment from a person or from the assignor of a person who, after the date of payment of such deposit or installment, has entered military service, shall exercise any right or option under such contract to rescind or terminate the contract or resume possession of the property for nonpayment of any installment thereunder due or for any other breach of the terms thereof occurring prior to or during the period of such military service, except by action in a court of competent jurisdiction; provided, that nothing contained in this section shall prevent the modification, termination, or cancellation of any such contract, or prevent the repossession, retention, foreclosure, sale or taking possession of property purchased or received or which is security for any obligation under such contract, pursuant to a mutual agreement of the parties thereto, or their assignees, if such agreement is executed in writing subsequent to the making of such contract and during or after the period of military service of the person concerned.

2. Any person who shall knowingly resume possession of property which is the subject of this section otherwise than as provided in subdivision one hereof or attempt so to do, shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one year, or by fine not to exceed one thousand dollars, or both.

3. Upon the hearing of such action the court may order the repayment of prior installments or deposits or any part thereof, as a condition of terminating the contract and resuming possession of the property, or may, in its discretion, on its own motion, and shall, except as provided in section three hundred and thirteen, on application to it by such person in

military service or some person on his behalf, order a stay of proceedings as provided in this act except that such stay under this section may be ordered for the period of military service and six months thereafter or any part of such period, unless, in the opinion of the court, the ability of the defendant to comply with the terms of the contract is not materially affected by reason of such service; or it may make such other disposition of the case as may be equitable to conserve the interests of all parties.

Military Law Article 13, Section 311-a

§ 311-a. Termination of motor vehicle lease contracts

1. The provisions of this section shall apply to every lease of a motor vehicle for personal, professional, business, agricultural or similar purposes in any case in which (a) such lease was executed by or on behalf of a person who, after the execution of such lease, entered active military service, and (b) the motor vehicle so leased has been used for such purposes, or for a combination of such purposes by such person or his or her legal dependents.

The provision of this section shall also apply to any lease covering a motor vehicle used for personal purposes where such lease was executed by or on the behalf of a person, who, after the execution of such lease, entered active military service where such lease was also executed by or on the behalf of the spouse of such a person.

2. All leases described in subdivision one of this section may be terminated by notice in writing delivered to the lessor or to the lessor's agent by a lessee at any time following the date of the beginning of such active military service. Delivery of such notice shall be accomplished by certified mail duly addressed to the lessor or to the lessor's agent. Termination of any such lease providing for monthly lease payments shall not be effective until: (a) thirty days after the first date on which the next lease payment is due and payable subsequent to the date when such notice is delivered; or (b) the motor vehicle subject to the lease is returned to the custody or the control of the lessor, whichever is later. In the case of all motor vehicle leases, any unpaid lease payments for a period preceding termination shall be proratably computed and any lease payments made in advance for a period succeeding termination shall be refunded by the lessor. Upon application by the lessor to a court of competent jurisdiction prior to the termination period provided for in the notice, any relief granted in this subdivision shall be subject to such modifications or restrictions as in the opinion of such court may be appropriate in the interest of justice.

Military Law Article 13, Section 311-b

§ 311-b. Cancellation without penalty of certain additional rental contracts

1. The provision of this section shall apply to any rental contracts in which (a) such a contract was executed by or on the behalf of a person, who, after the execution of such contract, entered active military service, and (b) where such entry into military service now renders it impossible for such person to abide by the terms and conditions of the rental contract.

2. A person who enters into a rental contract for goods or services not otherwise addressed by the provisions of this article, who enters into active military service subsequent to the execution of such contract, and where his or her military activation causes it to be impossible for him or her to abide by the terms and conditions of the rental contract, is entitled to cancel such contract at no penalty and with a full refund of any moneys which may have been placed on deposit.

3. Any such contract may be terminated by notice in writing delivered to the contractor by such person in active military service canceling his or her rental contract within one week of his or her receipt of orders to report for military service, and such notice shall include a copy of the orders in question. Delivery of such notice shall be accomplished by certified mail duly addressed to the contractor.

Military Law Article 13, Section 312

§ 312. Mortgages

1. The provisions of this section shall apply only to obligation and secured by mortgage, trust deed, or other security in the nature of a mortgage upon real or personal property owned by a person in military service at the commencement of the period of his military service and still so owned by him which obligations originated prior to such person's period of military service.

2. In any proceeding commenced in any court during the period of military service to enforce such obligation arising out of nonpayment of any sum thereunder due or out of any other breach of the terms thereof occurring prior to or during the period of such service the court may, after hearing, in its discretion, on its own motion, and shall, except as hereinafter provided in this act, on application to it by such person in military service or some person on his behalf, unless in the opinion of the court the ability of the defendant to comply with the terms of the obligation is not materially affected by reason of his military service

(a) stay the proceedings as provided in this act; or

(b) make such other disposition of the case as may be equitable to conserve the interests of all parties.

3. No sale, foreclosure, or seizure of property for nonpayment of any sum due under any such obligation, or for any other breach of the terms thereof, whether under a power of sale, under a judgment entered upon warrant of attorney to confess judgment contained therein, or otherwise, shall be valid if made during the period of military service, or within <1> *six* months thereafter, unless upon an order of sale previously granted by the court and a return thereto made and approved by the court.

4. Any person who shall knowingly cause to be made any sale, foreclosure or seizure of property defined as invalid by subdivision three hereof, or attempts so to do, shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one year, or by fine not to exceed one thousand dollars, or both.

Military Law Article 13, Section 313

§ 313. Settlement of cases involving stayed proceeding in foreclosure or repossession of personal property

Where a proceeding to foreclose a mortgage upon or to resume possession of personal property, or to rescind or terminate a contract for the purchase thereof, has been stayed as provided in this act, the court may, unless in its opinion an undue hardship would result to the dependents of the person in military service, appoint three disinterested parties to appraise the property and, based upon the report of the appraisers, order such sum, if any, as may be just, paid to the person in military service or his dependent, as the case may be, as a condition of foreclosing the mortgage, resuming possession of the property, or rescinding or terminating the contract.

Military Law Article 13, Section 314

§ 314. Taxes; taxes on real property, et cetera

1. The provisions of this section shall apply when any taxes or assessments, whether general or special, other than taxes on income, whether falling due prior or during the period of military service in respect of personal property, money or credits or real property owned and occupied for dwelling, agricultural, or business purposes by a person in military service, or his dependents, at the commencement of his period of military service and still so occupied by his dependents or employees, are not paid.

2. No sale of such property shall be made to enforce the collection of such tax or assessment, or any proceeding or action for such purpose commenced, except upon leave of court granted upon application made therefor by the collector of taxes or other officer whose duty it is to enforce the collection of taxes or assessments. The court thereupon,

unless in its opinion the ability of the person in military service to pay such taxes or assessments is not materially affected by reason of such service, may stay such proceedings or such sale, as provided in this act, for a period extending not more than six months after the termination of the period of military service of such person.

3. When by law such property may be sold or forfeited to enforce the collection of such tax or assessment, such person in military service shall have the right to redeem or commence an action to redeem such property, at any time not later than six months after the termination of such service, but in no case later than six months after the date when this act ceases to be in force; but this shall not be taken to shorten any period, now or hereafter provided by the laws of the state, or any political subdivision thereof, for such redemption.

4. (a) Except as provided in paragraph (b) of this subdivision, whenever<1> any tax or assessment shall not be paid when due, such tax or assessment due and unpaid shall bear interest until paid at the rate of six per centum per annum from the date when such tax first became a lien, and no other penalty or interest shall be incurred by reason of such nonpayment, whether such penalty or interest shall have accrued prior or shall accrue subsequent to the commencement of the period of military service of such person. Any lien for such unpaid taxes or assessment shall also include such interest thereon.

(b) A municipal corporation is hereby authorized to adopt a local law or, in the case of a school district, a resolution providing that the rate of interest pursuant to this section on unpaid taxes or assessment shall be at a rate less than six per centum per annum.

Military Law Article 13, Section 315

§ 315. Taxes; income taxes

The collection from any person in the military service of any tax on the income of such person, whether falling due prior to or during his period of military service, shall be deferred for a period extending not more than six months after the termination of his period of military service, if such person's ability to pay such tax is materially impaired by reason of such service. No interest on any amount of tax, collection of which is deferred for any period under this section, shall accrue for such period of deferment, by reason of such non-payment. The running of any statute of limitations against collection of such tax, by distraint or otherwise, shall be suspended for the period of military service, of any individual, the collection of whose tax is deferred under this section, and for an additional period of nine months beginning with the day following the termination of his period of military service.

Military Law Article 13, Section 316

§ 316. Policies of insurance; policies not to lapse or be forfeited

1. No policy which insures the life of a member of a reserve component of the armed forces of the United States, including the National Guard, who is called to active duty, or no policy which has been brought within the benefits of the federal "soldiers' and sailors' civil relief act" shall lapse or be forfeited for the nonpayment of premium during the period of such service, or during two years after the expiration of such period; provided that any such policy has not lapsed for the nonpayment of premium before the commencement of the period of military service of the insured, provided that in no case shall this prohibition extend for more than one year after this article ceases to be in force.

2. For the purposes of this section, the term "policy" shall include any contract of life insurance as defined in paragraph one of subsection (a) of section one thousand one hundred thirteen of the insurance law. It shall also include any benefit in the nature of life insurance arising out of membership in any fraternal benefit society as defined in subsection (a) of section four thousand five hundred one of the insurance law. In no case, however, shall the term "policy" include insurance exceeding a total face value of one hundred thousand dollars whether in one or more companies, but shall not include a policy insured under Servicemen's Group Life Insurance. The term "premium" shall include membership dues or assessments in such society, and the date of issuance of policy as herein limited shall refer to the date of admission to membership in such association; the term "insured" shall include any person who is the holder of a policy as defined in this section; the term "insurer" shall include any corporation, partnership, or other form of association which secures or provides insurance under any policy as defined herein.

3. No individual accident and health insurance policy, defined in paragraph three of subsection (a) of section one thousand one hundred thirteen of the insurance law, which policy insures a member of the organized militia of the state, and has not lapsed for the non-payment of premiums before the commencement of a period of active duty in the military service of the state of New York by such member, pursuant to an order of the governor issued under the authority of section six or seven of this chapter, shall lapse or be forfeited for the non-payment of premiums during a period of sixty days from the date that said member begins such active duty provided the insurer is furnished with written notice of said duty within thirty days after the commencement thereof. An insurer shall have the right to deduct the amount of due and unpaid premiums from any benefit that may become payable as a result of this subdivision.

Military Law Article 13, Section 317

§ 317. Reemployment in private industry

1. In the case of any person who, in order to perform military service, has left or leaves a position, other than a temporary position, in the employ of any employer, and who

(a) receives a certificate of completion of military service duly executed by an officer of the applicable force of the armed forces of the United States or by an officer of the applicable force of the organized militia of this state or any other state as provided by law;

(b) is still qualified to perform the duties of such position; and

(c) makes application for reemployment within ninety days after he or she is relieved from such service, if such position was in the employ of a private employer, such employer shall restore such person to such position, or to a position of like seniority, status and pay, unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so.

2. The benefits, rights and privileges granted to persons in the military service by this section shall be extended to and be applicable to any person who, in order to participate in assemblies for drill or other equivalent training, reserve duty training, instruction or duties, or annual full-time training duty, active duty for training or other annual training pursuant to any law of the United States or section forty-six of this chapter or the regulations issued thereunder, or in order to attend service schools conducted by the armed forces of the United States, temporarily leaves or has left his or her position, other than a temporary position, in the employ of any employer and who, being qualified to perform the duties of such position, makes application for reemployment within ten days after completion of such temporary period of service.

2-a. The benefits, rights and privileges granted to persons in the military service by this section shall be extended to and be applicable to any person who, in order to perform initial full-time training duty or initial active duty for training with or in an armed force of the United States under the provisions of this chapter or the laws of the United States or both, temporarily leaves or has left his or her position, other than a temporary position, in the employ of any employer and who, being qualified to perform the duties of such position, makes application for re-employment within sixty days after completion of such period of full-time training duty or active duty for training.

3. The benefits, rights and privileges granted to persons in the military service by this section shall be extended to and be applicable to any person who is or becomes a member of the organized militia of this state or any other state as provided for by law, or of a reserve component of the armed forces of the United States and who, because of such membership is discharged by his or her employer or whose employment is suspended by his employer because of such membership and who, being qualified to perform the duties

of such position, makes application for reemployment or termination of the period of his or her suspension within ten days after such discharge or suspension. These benefits, rights and privileges are not applicable to persons participating in routine reserve officer training corps training except when performing advanced training duty as a member of a reserve component of the armed forces.

4. Any person who is restored to a position in accordance with the provisions of this section shall be considered as having been on furlough or leave of absence during his or her period of military service, temporary service under subdivision two or subdivision two-a of this section, or of discharge or suspension under subdivision three of this section, shall be so restored without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person entered the military service or commenced such temporary service or was so discharged or suspended, and shall not be discharged from such position without cause, within one year after such restoration.

5. In case any private employer fails or refuses to comply with the provisions of this section, the supreme court of the state within the county in which such private employer maintains a place of business, shall have the power, upon the filing of a motion, petition or other appropriate pleading, by the person entitled to the benefits of such provisions, to specifically require such employer to comply with such provisions, and may, as an incident thereto, compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action. The court shall order a speedy hearing in any such case, and shall advance it on the calendar. Any person claiming to be entitled to the benefits of the provisions of this section may appear and be represented by counsel, or, upon application to the attorney general of the state, may request that the attorney general appear and act on his or her behalf. If the attorney general is reasonably satisfied that the person so applying is entitled to such benefits, he or she shall appear and act as attorney for such person in the amicable adjustment of the claim, or in the filing of any motion, petition or other appropriate pleading and the prosecution thereof. In the hearing and determination of such applications under this section no fees or court costs shall be assessed against a person so applying for such benefits.

Military Law Article 13, Section 318

§ 318. Policy of the state [Prevention of Discrimination Because of Military Duty]

1. It is hereby declared to be the policy of the state that citizens and residents of the state should not be discriminated against because they are subject to military duty pursuant to this chapter or the laws of the United States or both; and that persons doing business in the state should not refuse to employ such persons because they are so subject to military duty.

2. (a) No person shall solicit, require, demand or otherwise request that a person waive any of his or her rights under this article, whether existing at that time or thereafter to accrue.

(b) Any person who shall knowingly violate paragraph (a) of this subdivision shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one year, or by fine not to exceed one thousand dollars, or both such imprisonment and fine, and shall be further subject to a civil penalty in an amount not to exceed five thousand dollars for each occurrence. Such penalty may be recovered in an action brought by the attorney general in any court of competent jurisdiction.

(c) Any waiver entered into in violation of this subdivision shall not be deemed to be binding on any person in military service who executed such waiver.

Practice Notes, Cases, and General Counsel Opinions

Notes:

Under the Uniformed Services Employment and Reemployment Rights Act (USERRA), military status needs to be only a "motivating factor" in employment discrimination (as opposed to the "only" factor) for a tribunal to find that unlawful discrimination occurred. 38 USC § 4311(c)(1).

Military Law Article 13, Section 319

§ 319. Evasive transfers of interest

Where in any proceeding to enforce a civil right in any court it is made to appear to the satisfaction of the court that any interest, property, or contract has since the date of the approval of this act been transferred or acquired with intent to delay the just enforcement of such right by taking advantage of this act, the court shall enter such judgment or make such order as might lawfully be entered or made, the provisions of this act to the contrary notwithstanding.

Military Law Article 13, Section 321

§ 321. Certificates of service

1. In any proceeding under this act a certificate executed by an officer of the applicable force of the armed forces of the United States or by an officer of the applicable force of the organized militia shall, when produced, be prima facie evidence of the facts therein certified and of the authority of the signer to issue the same.

2. When a person in military service has been reported missing he shall be presumed to

continue in such service until accounted for, and no period herein limited which begins or ends with the death of such person shall begin or end until the death of such person is in fact reported to or proved by the applicable force of the armed forces of the United States or of the organized militia, or until such death is proved by a court of competent jurisdiction; provided, that no period herein limited which begins or ends with the death of such person shall be extended beyond a period of six months after the time when this act ceases to be in force.

Military Law Article 13, Section 322

§ 322. Interlocutory orders

Any interlocutory order made by any court under the provisions of this act may, upon the court's own motion or otherwise, be revoked, modified, or extended by it upon such notice to the parties affected as it may require.

Military Law Article 13, Section 323

§ 323. Further relief

1. A person may, at any time during his period of military service or within six months thereafter, apply to a court for relief in respect of any obligation or liability incurred by such person prior to his period of military service or in respect of any tax or assessment whether falling due prior to or during his period of military service. The court, after appropriate notice and hearing, unless in its opinion the ability of the applicant to comply with the terms of such obligation or liability or to pay such tax or assessment has not been materially affected by reason of his military service, may grant the following relief:

(a) In the case of an obligation payable under its terms in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, a stay of the enforcement of such obligation during the applicant's period of military service and, from the date of termination of such period of military service or from the date of application if made after such service, for a period equal to the period of the remaining life of the installment contract or other instrument plus a period of time equal to the period of military service of the applicant, or any part of such combined period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, as the case may be, in equal installments during such combined period at such rate of interest on the unpaid balance as is prescribed in such contract, or other instrument evidencing the obligation, for installments paid when due, and subject to such other terms as may be just.

(b) In the case of any other obligation, liability, tax, or assessment, a stay of the enforcement thereof during the applicant's period of military service and, from the date of termination of such period of military service or from the date of application if made after such service, for a period of time equal to the period of military service of the applicant or any part of such period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of the termination of such period of military service or the date of application, as the case may be, in equal periodic installments during such extended period at such rate of interest as may be prescribed for such obligation, liability, tax, or assessment, if paid when due, and subject to such other terms as may be just.

2. When any court has granted a stay as provided in this section no fine or penalty shall accrue during the period the terms and conditions of such stay are complied with by reason of failure to comply with the terms or conditions of the obligation, liability, tax, or assessment in respect of which such stay was granted.

Military Law Article 13, Section 323-a

§ 323-a. Maximum rate of interest

No obligation or liability bearing interest at a rate in excess of six percent per year incurred by a person in active military service in the armed forces of the United States or in active military service of the organized militia of the state before that person's entry into such service shall, during any part of the period active military service, bear interest at a rate in excess of six percent per year unless, in the opinion of the court, upon application thereto by the obligee, the ability of such person in military service to pay interest upon such obligation or liability at a rate in excess of six percent per year is not materially affected by reason of such service, in which case the court may make such order as in its opinion may be just. As used in this section the term "interest" includes service charges, renewal charges, fees and any other charges (except bona fide insurance) with respect to such obligation or liability.

Military Law Article 13, Section 323-b

§ 323-b. Filing fees waiver; civil actions

In any civil action or proceeding commenced in any court by a person who is an active member of the force of the organized militia, as defined by subdivision nine of section one of this chapter, where the dispute or controversy is related to such person's service in <1> the organized militia or the reserves, and the claims are based in whole or in part on this chapter, or on the human rights law relating to military status, or on title 38 or title 50 of

the United States code, all court costs or filing fees for the commencement of the civil action or proceeding shall be waived.

Military Law Article 13, Section 324

§ 324. Separability

If any clause, sentence, paragraph, or part of this article or the application thereof to any person or circumstances, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this article, and the application thereof to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the legislative intent that this article would have been adopted had such invalid provisions not been included.

Military Law Article 13, Section 325

§ 325. Inconsistent provisions in other acts

Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, or of any local law, the provisions of this act shall be controlling.

Military Law Article 13, Section 326

§ 326. Article thirteen of military law, added by laws of nineteen hundred forty-one, chapter six hundred eighty-six

Wherever in any section or provision of Article thirteen of the military law, added by laws of nineteen hundred forty-one, chapter six hundred eighty-six, as last amended by laws of nineteen hundred forty-seven, chapter three hundred fifty-six, a proceeding, remedy, privilege, stay, limitation, accounting or other transaction has been authorized or provided with respect to military service performed prior to April first, nineteen hundred forty-eight, such section or provision shall be deemed to continue in full force and effect so long as may be necessary for the exercise or enjoyment of such proceeding, remedy, privilege, stay, limitation, accounting or other transaction.

Military Law Article 13, Section 327

§ 327. Duration of the emergency

This act shall remain in force and effect until repealed or otherwise terminated by subsequent act of the legislature.

BUSINESS LAW

Real Property Law Article 12-A, Section 442-g, Subsection 6

§ 442-g. Nonresident licenses

6. Notwithstanding any other provisions of this article, the department of state shall grant a real estate broker or a real estate salesman license to an applicant who is a member of the household of a member of the armed forces of the United States, national guard or reserves and was a member of such household before such member of the armed forces relocated to the state who submits satisfactory evidence of licensure, certification or registration to practice an equivalent occupation issued by a state, territory, protectorate or dependency of the United States, provided that such license, certification or certificate of registration was current and effective within one year of the date of the individual's application for licensure in New York, was granted in compliance with standards that are, in the judgment of the secretary, no less rigorous than those required for licensure in New York. If such standards for licensure, certification or registration are deemed by the secretary to be less rigorous than those required for licensure in New York, the secretary shall permit an applicant to submit evidence in a form acceptable to the department of state to demonstrate the applicant's competency and trustworthiness. If such evidence is sufficient in the judgment of the secretary, the secretary shall grant a real estate broker or real estate salesperson license.

General Business Law, Article 4, Section 32

§ **32. Licenses to veterans of the armed forces of the United States**

1. Every member of the armed forces of the United States, who (A) was honorably discharged from such service, or (B) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (C) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and who is a resident of this state and a veteran of any war, or who shall have served in the armed forces of the United States overseas, and the surviving spouse of any such veteran, if a resident of the state, shall have the right to hawk, peddle, vend and sell goods, wares or merchandise or solicit trade upon the streets and highways within the county of his or her residence, as the case may be, or if such county is embraced wholly by a city, within such city, by procuring a license for that purpose to be issued as herein provided. No part of the lands or premises under the jurisdiction of the division of the state fair in the department of agriculture and markets, shall be deemed a street or highway within the meaning of this section.

2. Any such former member of the armed forces may present to the clerk of any county in which he has resided for a period of at least six months, his original certificate of release or discharge from active duty, or a copy thereof duly certified by the recording officer or a certificate in lieu of lost discharge issued by a department of the armed forces of the

United States which shall show that the person presenting it is a veteran of any war, or that he has served overseas in the armed forces of the United States. He shall also fill out a blank which shall when filled out state his name, residence at the time of application, nature of goods to be sold, and if the applicant is working on commission or percentage for any person, firm or corporation, the name and business address of such person, firm or corporation. This statement shall be signed by the applicant in the presence of the county clerk, or a deputy designated by him, and the name on this application and on the original certificate of release or discharge from active duty shall be compared by the county clerk to ascertain if the person so applying is the same person named in the original certificate of release or discharge from active duty. Such county clerk when so satisfied shall issue, without cost, to such former member of the armed forces of the United States, a license certifying him to be entitled to the benefits of this section.

3. A copy of this statement shall be attached to the license granted by the county clerk and shall remain attached thereto. On presentation to such clerk of the affidavit of such surviving spouse and two other residents of the county, that he or she is such surviving spouse, accompanied by such original certificate of release or discharge from active duty of his or her deceased spouse, and the filing of the statement hereinabove required, such county clerk shall issue, without cost to the surviving spouse, a license certifying the surviving spouse to be entitled to the benefits of this section.

4. The license provided for by this section shall be used and valid only for use in the county in which it was issued, except that if issued in a county embraced wholly by a city, it may be used within such city.

5. The application for the license herein provided shall be accompanied by a photograph of the applicant taken within thirty days prior to such application and upon the issuance of such license shall be attached thereto.

6. A license issued without cost, under the provisions of this section, shall be personal to the licensee and any assignment or transfer thereof shall be absolutely void. Upon satisfactory proof by affidavit of the loss or destruction of any license issued as herein provided, the county clerk shall issue a duplicate license for the one so lost or destroyed and in which event the word "duplicate" shall be legibly written in ink across the face thereof.

7. A person assigning or transferring, or attempting to assign or transfer any such license or using or attempting to use such license contrary to the provisions of this section shall be guilty of a misdemeanor.

8. Any provisions of this section to the contrary notwithstanding, any city, village or town may, by local law or ordinance, require a person holding a license issued pursuant to the provisions of this section by the clerk of the county in which such city, village or town is

located, to file a further application with such official of the city, village or town as is designated in such local law or ordinance, for the issuance of a local license and may prescribe the terms and conditions under which such local license may be issued and may prohibit the right to hawk, peddle, vend and sell goods, wares or merchandise or solicit trade upon the streets and highways within any such city, village or town under the provisions of this section unless such local license has been issued.

General Business Law, Article 4, Section 35-a

§ 35-a. Veterans of the armed forces who vend in cities having a population of one million or more

(a) In cities having a population of one million or more, the official designated by a local law or ordinance to issue a local license to hawk, peddle, vend and sell goods, wares or merchandise or solicit trade upon the streets and highways within such city shall issue specialized vending licenses to members of the armed forces of the United States who (I) were honorably discharged from such service, or (II) have a qualifying condition, as defined in section 350 of the executive law, and received a discharge other than bad conduct or dishonorable from such service, or (III) are a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and who are physically disabled as a result of injuries received while in the service of said armed forces and who are eligible to hold licenses granted pursuant to section thirty-two of this article. Such specialized vending licenses shall authorize holders thereof to hawk or peddle within such city in accordance with the provisions contained in this section. Specialized vending licenses issued under this section shall permit the holders thereof to vend on any block face, and no licensee authorized under this section shall be restricted in any way from vending in any area, except as provided in this section.

(b) The official in such city responsible for issuing specialized vending licenses shall set forth by rule procedures for issuing specialized vending licenses pursuant to this section; such rules shall establish a priority system, based upon the date of application for specialized vending licenses issued pursuant to this section, provided, however, that any disabled veteran vendor holding a specialized vending license issued in such city prior to March first, two thousand three, shall be accorded a priority based upon the date of issuance of such specialized vending license.

2. In areas where general vending is authorized, outside of the area specified in subdivision seven of this section, all specialized vending license holders, including those vendors authorized to vend in the area specified in subdivision seven of this section, shall be subject to those restrictions on the placement of vehicles, pushcarts and stands contained in any local law, ordinance, by-law, rule or regulation of a city having a population of one million or more, to the extent that such restrictions are not inconsistent with the provisions contained in subdivisions four, five, six and eight of this section.

3. Specialized vending licenses issued pursuant to this section shall authorize the holders thereof to vend on block faces, outside the area specified in subdivision seven of this section, on the days and at the times when other vending businesses have been prohibited on such block faces pursuant to any local law, ordinance, by-law, rule or regulation. Not more than two such specialized vending licensees shall be authorized pursuant to this subdivision per restricted block face, provided that no restriction shall apply to such licensees when vending on such block faces except as provided in paragraphs (e), (g), (h), (i), (j), (k) and (l) of subdivision seven of this section; and provided further no specialized vending licensee shall vend on any sidewalk unless such sidewalk has at least a ten-foot wide clear pedestrian path to be measured from the boundary of any private property to any obstructions in or on the sidewalk, or if there are no obstructions, to the curb. Where three or more specialized vending license holders attempt to vend simultaneously on the same block face, the two specialized vending license holders with the higher priority, as established pursuant to paragraph (b) of subdivision one of this section, shall have the exclusive right to vend on such block face, and any other specialized vending license holder vending on such block face shall be deemed to be vending without first having obtained a license.

4. Where exigent circumstances exist, a police officer of the city may order a specialized vending license holder to temporarily move from a location; for purposes of this subdivision, "exigent circumstances" shall mean an immediate threat to public safety caused by unusual and severe pedestrian congestion due to an impediment other than the specialized vending license holder, or by an accident, fire, parade, demonstration or other emergency situation. Nothing herein shall be construed to limit such city's authority to place restrictions on vending in order to protect national security.

5. Specialized vending licenses to vend shall be accompanied by a photographic color coded identification which shall include the priority number established pursuant to paragraph (b) of subdivision one of this section, and shall be displayed by such specialized vending license holder.

6. Specialized vending licenses to vend shall not be loaned, leased, subcontracted or otherwise transferred except:

(a) Upon the death of the disabled veteran who held the license, the license shall be transferred by operation of law to the surviving spouse or, if there is no surviving spouse or the surviving spouse elects not to use the license, to the guardian of a minor child or children who may use the license for the support of the minor child or children. The license shall revert to the licensing agency for reassignment upon the death of the surviving spouse, if the surviving spouse remarries, when the youngest minor child reaches age eighteen, or when either the surviving spouse or guardian of the minor child or children elects not to use the license to vend in the city of New York or abandons the use of the license. Temporary periods when the spouse or guardian do not vend shall not cause the

license to revert to the licensing agency in the absence of other evidence of an intent to abandon the use of the license; a period of six months or more in which the holder of the license does not vend shall create a rebuttable presumption that the spouse or guardian has abandoned the use of the license; and

(b) If the veteran who holds the license becomes totally and permanently disabled, the holder of the license may transfer it to the holder's spouse or, if the veteran has no spouse, to an adult child if the child assumes the duty to support the veteran. The license shall revert to the licensing agency when: (1) the veteran who held the license immediately before the transfer dies; (2) the spouse dies or divorces the veteran who held the license immediately before the transfer; or (3) the child to whom the license is transferred dies or renounces the obligation to support the veteran who held the license immediately before the transfer.

7. In the borough of Manhattan in the city of New York in the area bounded on the east by Second avenue, on the south by Thirtieth street, on the west by Ninth avenue and Columbus avenue and on the north by Sixty-fifth street, the following additional provisions shall apply to the issuance of specialized vending licenses to disabled veteran vendors pursuant to this section:

(a) such specialized vending license holders shall be prohibited from vending on Second avenue, Third avenue, Lexington avenue, Park avenue, Vanderbilt avenue, Madison avenue, Fifth avenue, Sixth avenue, Seventh avenue, Broadway, Eighth avenue, Amsterdam avenue, Ninth avenue, Columbus avenue, Thirty-fourth street between Lexington avenue and Seventh avenue, Forty-second street between Lexington avenue and Eighth avenue, Forty-ninth street between Lexington avenue and Seventh avenue, Fiftieth street between Lexington Avenue and Seventh avenue and Fifty-seventh street between Lexington Avenue and Seventh avenue;

(b) there shall be a limit of one authorized specialized vending license holder per block face;

(c) there shall be a limit of one hundred five specialized vending license holders authorized to vend within the area at any one time to be allocated as follows: sixty upon the effective date of the chapter of the laws of two thousand four which amended this paragraph, an additional fifteen commencing three months from the effective date of the chapter of the laws of two thousand four which amended this paragraph, and an additional ten in each of the succeeding three years commencing on January thirty-first, two thousand five;

(d) the rule set forth pursuant to paragraph (b) of subdivision one of this section shall establish, pursuant to the priority system, procedures for issuing specialized vending licenses pursuant to paragraph (c) of this subdivision; any dispute regarding the implementation of such procedure shall be subject to a prompt hearing before an administrative law judge with the New York state department of labor, provided that if such judge determines that a specialized vending license holder willfully violated such procedure, such specialized vending license holder shall be subject to a thirty day suspension of the

specialized vending license to peddle in the area described in this subdivision; if any specialized vending license holder who has been determined to have willfully violated such procedure is determined, in a subsequent proceeding, to have willfully violated such procedure at any time following the initial violation, such specialized vending license holder shall be subject to a one-year suspension of the specialized vending license to peddle in the area described in this subdivision; if such specialized vending license holder is determined for a third time to have willfully violated such procedure, such specialized vending license holder shall be subject to permanent revocation of the specialized vending license to peddle in the area described in this subdivision;

(e) specialized vending licensees under this section shall:

(i) permit regular inspections by the official in such city responsible for issuing specialized vending licenses or any authorized city agency of any goods, vehicle, pushcart, or stand used in the operation of the vending business, or any premises used by him or her for the storage or preparation of goods intended to be vended in such business; and

(ii) provide the official in such city responsible for issuing specialized vending licenses or other authorized officer of the city on a semi-annual basis, or more often if required by local law, by-law or regulation in such city, the address and name of the owners or the manufacturers, suppliers or distributors from whom the specialized vending licensee receives his or her goods and also the address at which the specialized vending licensee stores his or her goods or any vehicle, pushcart or stand used in the operation of the vending business;

(f) no specialized vending licensee shall vend on any sidewalk unless such sidewalk is at least ten feet in width;

(g) no vending vehicle, pushcart, stand, goods, or any other item related to the operation of a vending business shall touch, lean against or be affixed permanently or temporarily to any building or structure including, but not limited to, lamp posts, parking meters, mail boxes, traffic signal stanchions, fire hydrants, tree boxes, benches, bus shelters, refuse baskets or traffic barriers;

(h) no vending pushcart, stand or goods shall be located against display windows of fixed location businesses, nor shall they be within twenty feet from an entranceway to any commercial building or store, measured as a radius extending from the center of the doorway, except where such doorways are within forty feet from each other, and in such case a vending pushcart, stand or goods shall be an equal distance from the center of the doorway of each such commercial business or store at the furthest possible distance on the sidewalk from the building line, and no vending pushcart, stand or goods shall be within sixty-five feet of the entranceway to any theater, movie house, indoor sports arena, or place of worship or school, measured as a radius extending from the center of such entranceway;

(i) no specialized vending licensee shall occupy more than eight linear feet of public space parallel to the curb in the operation of a vending business and, in addition, no specialized vending licensee operating any vending business on any sidewalk shall occupy more than three linear feet to be measured from the curb toward the property line;

(j) each specialized vending licensee who vends from a pushcart or stand in the roadway shall obey all traffic and parking laws, rules and regulations as now exist or as may be promulgated, but in no case shall a specialized vending licensee restrict the continued maintenance of a clear passageway for vehicles;

(k) no specialized vending licensee shall vend using the surface of the sidewalk, or a blanket or board placed immediately on the sidewalk or on top of a trash receptacle or cardboard boxes to display merchandise. No specialized vending licensee display may exceed five feet in height from ground level. The display may not be less than twenty-four inches above the sidewalk where the display surface is parallel to the sidewalk, and may not be less than twelve inches above the sidewalk where the display surface is vertical. Where a rack or other display structure is placed on top of or above a table or other base, the size of the base shall not be less than the size of the display structure placed thereon. Nothing shall be placed on the base so as to exceed the size limitations contained in this paragraph. No specialized vending licensee shall use any area other than that area immediately beneath the surface of the display space of the storage of items for sale; and

(l) no specialized vending licensee shall:

(i) vend within any bus stop or taxi stand or within ten feet of any driveway, any subway entrance or exit or any corner; provided, however, for the purpose of this subparagraph, ten feet from any corner shall be measured from a point where the property line on the nearest intersecting block face, when extended, meets the curb, except when noncompliance with the ten foot limitation of this paragraph is due to the placement of an obstruction. In such case the specialized vending licensee may vend within ten feet; provided, however, that such licensee must vend as far as possible from the nearest such driveway, subway entrance or exit, or corner, and in no event within five feet of such driveway, subway entrance or exit, or corner;

(ii) vend on the median strip of a divided roadway unless such strip is intended for use as a pedestrian mall or plaza;

(iii) vend over any ventilation grill, cellar door, manhole, transformer vault, or subway access grating;

(iv) sell or offer for sale any item directly from any parked or double-parked motor vehicle;

(v) use electricity or oil or gasoline powered equipment devices or machinery of any kind; provided, however, that such specialized vending license holder shall be authorized to use self-contained battery packs not exceeding sixteen volts in total solely to provide lighting for their vending business;

(vi) vend within thirty feet of an entrance to a park or within a park under the jurisdiction of the agency in such city that is responsible for such city's parks and recreational areas unless written authorization therefor has been obtained from such agency;

(vii) vend within twenty feet of a sidewalk cafe;

(viii) vend within five feet from bus shelters, news stands, public telephones, or disabled access ramps; and

(ix) vend within ten feet from entrances or exits to buildings which are exclusively residential at street level.

7-a. In the borough of Manhattan in the city of New York, the following additional provisions shall apply to the issuance of specialized vending licenses to disabled veteran vendors pursuant to this section:

(a) such specialized vending license holders shall additionally be prohibited from vending on Broadway between Murray Street and Battery Place and on Park Row between Ann Street and Spruce Street;

(b) such specialized vending license holders shall additionally be prohibited from vending in the area including and bounded on the east by the easterly side of Broadway, on the south by the southerly side of Liberty Street, on the west by the westerly side of West Street and on the north by the northerly side of Vesey Street.

8. Any dispute concerning the location of a vendor under subdivision three of this section shall be subject to a prompt hearing before an administrative law judge with the New York state department of labor, provided that if such judge determines that a specialized vending license holder willfully violated such procedure, such specialized vending license holder shall be subject to a thirty day suspension of the specialized vending license to peddle in the area and on the days and at the times described in subdivision three of this section; if any specialized vending license holder who has been determined to have willfully violated such procedure is determined, in a subsequent proceeding, to have willfully violated such procedure at any time following the initial violation, such specialized vending license holder shall be subject to a one-year suspension of the specialized vending license to peddle in the area and on the days and at the times described in subdivision three of this section; if such specialized vending license holder is determined for a third time to have willfully violated such procedure, such specialized vending license holder shall be subject to permanent revocation of the specialized vending license to peddle in the area and on the days and at the times described in subdivision three of this section; other disputes arising under this section, other than those disputes arising under paragraph (d) of subdivision seven of this section, shall be adjudicated in accordance with local laws, ordinances, by-laws or regulations concerning general vending.

9. There shall be established within the agency responsible for issuing specialized vending licenses in such city an advisory committee consisting of up to six disabled veteran vendors who shall consult with the official designated to issue specialized vending licenses under this section concerning the process by which specialized vending licenses are issued and the restrictions herein are enforced. The members of such committee shall be elected on or before August first, nineteen hundred ninety-eight by a majority of the disabled veteran vendors holding general vending licenses in such city as of August fifteenth, nineteen hundred ninety-eight. The election of such members shall be by an election which shall be conducted by the state department of labor; provided, however, that if the majority of such disabled veteran vendors holding general vendor licenses in such city as of June fifteenth,

nineteen hundred ninety-eight fail to select the members of such committee on or before August second, nineteen hundred ninety-eight, the agency responsible for issuing specialized vending licenses in such city may still establish procedures for issuing specialized vending licenses pursuant to this section no later than October first, nineteen hundred ninety-eight. In the event a committee member resigns or is unable to fulfill his or her duties, such member will be replaced by someone from the ranks of the disabled veteran vendors by consensus of veterans on the existing committee.

10. The agency responsible for issuing specialized vending licenses shall publish educational materials describing the provisions of state and local laws, rules and regulations governing disabled veteran vending in the city of New York and enforcement thereof for distribution to the public and appropriate city enforcement agencies.

11. Where the city of New York authorizes general vending, through permit, auction, lottery or any other method subsequent to the effective date of this subdivision other than temporary general vendor licenses issued in connection with street fairs on any block face, street or avenue specified in paragraph (a) of subdivision seven or subdivision seven-a of this section, the prohibitions and restrictions in this section on vending by specialized vending licensees shall not apply on such block face, street or avenue and the number of specialized vending licensees authorized per block face, street or avenue shall, at a minimum, be equal to the greatest number of any single type of other vendor including but not limited to food, general, or vendors of written matter and others similarly situated on such block face, street or avenue.

Practice Notes, Cases, and General Counsel Opinions

Cases:

Local Vendor Licenses: This provision of the General Business Law does not exempt Veterans from reasonable licensing requirements for vendors established by localities under Section 32(8) of the General Business Law. People v. Sands, 829 N.Y.S.2d 887 (N.Y. City Crim. Ct. 2007)

General Business Law, Article 27, Section 406, Subsection 2(c)

§ 406. License application; procedure; requirements; temporary license

c. Any applicant for a license to practice nail specialty, waxing, natural hair styling, esthetics or cosmetology may submit satisfactory evidence of licensure to practice an equivalent occupation issued by any other state, territory, protectorate or dependency of the United States or any other country in lieu of the evidence of schooling and examination required by this subdivision, provided that such license was granted in compliance with standards which were, in the judgment of the secretary, not lower than those of this state and provided that such state, territory, protectorate, dependency, or country extends similar reciprocity to the licensees of this state, or the applicant practiced an equivalent occupation in such state, territory, protectorate, dependency or country for a minimum of five years, or the applicant

is a member of the household of a member of the armed forces of the United States, national guard or reserves and was a member of such household before such member relocated to the state.

General Business Law, Article 28, Section 435, Subsection

§ 435. License without examination; temporary licenses

5. The secretary of state shall upon application and without examination, issue a license to any person over the age of seventeen years who has been duly licensed by any other state, territory, protectorate or dependency of the United States to engage in the practice of barbering upon compliance with standards and requirements not lower, in the judgment of the secretary of state, than those of this state, provided, however, that either such state extends similar reciprocity to licensees of this state or the applicant is a member of the household of a member of the armed forces of the United States, national guard or reserves and was a member of such household before such member relocated to the state. Such application shall be accompanied by the photographs, evidence and the certificate required by paragraphs (a), (b) and (c), respectively, of subdivision one of section four hundred thirty-four of this article and the required license fee.

CIVIL SERVICE LAW

Civil Service Law Article 4, Section 50

§ 50. Examinations Generally

5. (a) Every applicant for examination for a position in the competitive or non-competitive class, or in the labor class when examination for appointment is required, shall pay a fee to the civil service department or appropriate municipal commission at a time determined by it. Such fees shall be dependent on the minimum annual salary announced for the position, as follows: (1) on salaries of less than three thousand dollars per annum, a fee of two dollars; (2) on salaries of more than three thousand dollars and not more than four thousand dollars per annum, a fee of three dollars; (3) on salaries of more than four thousand dollars and not more than five thousand dollars per annum, a fee of four dollars; and (4) on salaries of more than five thousand dollars per annum, a fee of five dollars.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the state civil service department, subject to the approval of the director of the budget, a municipal commission, subject to the approval of the governing board or body of the city or county, as the case may be, or a regional commission or personnel officer, pursuant to governmental agreement, may elect to waive application fees, or to abolish fees for specific classes of positions or types of examinations or candidates, or to establish a uniform schedule of reasonable fees different from those prescribed in paragraph (a) of this subdivision, specifying in such schedule the classes of positions or types of examinations or candidates to which such fees shall apply; provided, however, that fees shall be waived for candidates who certify to the state civil service department, a municipal commission or a regional commission that they are unemployed and primarily responsible for the support of a household, or are receiving public assistance. Provided further, the state civil service department shall waive the state application fee for examinations for original appointment for all veterans. Notwithstanding any other provision of law, for purposes of this section, the term "veteran" shall mean a person who served in the armed forces of the United States or the reserves thereof, or in the army national guard, air national guard, New York guard, or the New York naval militia, and who (1) has been honorably discharged or released under honorable circumstances, or (2) has a qualifying condition and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

Civil Service Law Article 4, Title A, Section 55-c

§ 55-c. Employment of veterans with disabilities by the state

1. The commission may determine up to five hundred positions with duties such as can be performed by disabled veterans and veterans with disabilities who are found otherwise qualified to perform satisfactorily the duties of any such position. Upon such determination,

the said positions shall be classified in the noncompetitive class, and may be filled only by veterans of the armed forces of the United States (a) who establish by appropriate documentary evidence that they are disabled veterans, as defined in paragraph (b) of subdivision one of section eighty-five of this chapter, or (b) by those veterans, as defined in paragraph (a) of subdivision one of section eighty-five of this chapter, who shall have been certified by the employee health service of the department as being disabled but capable of performing the duties of said positions. Priority in certification and referral of both such disabled veterans and certified disabled but capable veterans shall be given to those veterans who received a wound in combat, as documented by the awarding of the purple heart, as authorized by the United States department of defense, and that wound is the cause of, or a substantially contributing factor to, the degree of impairment, who otherwise meet the requirements of this section. The number of veterans appointed pursuant to this section shall not exceed five hundred.

2. Those employees hired under subdivision one of this section, shall be afforded the same opportunity to take promotional examinations as provided to employees in the competitive class.

3. When posting jobs that fall under the provisions of this section, all state agencies shall prominently identify on such posting that such job is "55-c Eligible."

Practice Notes, Cases, and General Counsel Opinions

Notes:

No Need for Additional Medical Examinations: A wartime Veteran who provides the Department of Civil Service with a decision letter from the U.S. Department of Veterans Affairs affirming that this Veteran has a disability rating of 10% or higher does not need to take any additional medical examinations administered by New York State's Employee Health Services to qualify for Section 55(c) eligibility.

No Guarantee of Hiring: A wartime Veteran who receives a Section 55(c) letter of eligibility is not guaranteed to be hired into a desired Civil Service position. The Veteran must meet the minimum qualifications for the posted position before the Veteran can be considered for an interview for that position.

Civil Service Law Article 6, Section 85

§ 85. Additional credit allowed veterans in competitive examinations; preference in retention upon abolition of positions

1. Definitions.

(a) The terms "veteran" and "non-disabled veteran" mean a member of the armed forces of the United States who was honorably discharged or released under honorable

circumstances from such service including (1) having a qualifying condition as defined in section 350 of the executive law, and receiving a discharge other than bad conduct or dishonorable from such service, or (2) being a discharged LGBT veteran, as defined in section 350 of the executive law, and receiving a discharge other than bad conduct or dishonorable from such service, who is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States and who is a resident of the state of New York at the time of application for appointment or promotion or at the time of retention, as the case may be.

(b) The term "disabled veteran" means a veteran who is certified by the United States veterans' administration or a military department as entitled to receive disability payments upon the certification of such veterans' administration or a military department for a disability incurred by him or her in the course of his or her service and in existence at the time of application for appointment or promotion or at the time of retention, as the case may be. Such disability shall be deemed to be in existence at the time of application for appointment or promotion or at the time of retention, as the case may be, if the certificate of such veterans' administration shall state affirmatively that such veteran has been examined by a medical officer of such veterans' administration on a date within one year of either the date of filing application for competitive examination for original appointment or promotion or the date of the establishment of the resulting eligible list or within one year of the time of retention, as the case may be; that at the time of such examination the disability described in such certificate was found to exist; and that such disability is rated at ten per centum or more.

Such disability shall also be deemed to be in existence at such time if the certificate of such veterans' administration shall state affirmatively that a permanent stabilized condition of disability exists to an extent of ten per centum or more, notwithstanding the fact that such veteran has not been examined by a medical officer of such veterans' administration within one year of either the time of application for appointment or promotion or the date of filing application for competitive examination for original appointment or promotion, or within one year of the time of retention, as the case may be.

(c) The term "time of application for original appointment or promotion" shall mean the date of the establishment of an eligible list resulting from a competitive examination for original appointment or promotion, as the case may be, which date shall be the date on which the term of such eligible list commences.

(d) The term "time of retention" shall mean the time of abolition or elimination of positions.

2. Additional credits in competitive examinations for original appointment or promotion.

(a) On all eligible lists resulting from competitive examinations, the names of eligibles shall be entered in the order of their respective final earned ratings on examination, with the name of the eligible with the highest final earned rating at the head of such list, provided, however, that for the purpose of determining final earned ratings,

(1) Disabled veterans shall be entitled to receive ten points additional in a competitive examination for original appointment and five points additional credit in a competitive examination for promotion, and

(2) Non-disabled veterans shall be entitled to receive five points additional credit in a competitive examination for original appointment and two and one-half points additional credit in a competitive examination for promotion.

(b) Such additional credit shall be added to the final earned rating of such disabled veteran or non-disabled veteran, as the case may be, after he or she has qualified in the competitive examination and shall be granted only at the time of establishment of the resulting eligible list.

3. Application for additional credit; proof of eligibility; establishment of eligible list. Any candidate, believing himself entitled to additional credit in a competitive examination as provided herein, may make application for such additional credit at any time between the date of his application for examination and the date of the establishment of the resulting eligible list. Such candidates shall be allowed a period of not less than two months from the date of the filing of his application for examination in which to establish by appropriate documentary proof his eligibility to receive additional credit under this section.

At any time after two months have elapsed since the final date for filing applications for a competitive examination for original appointment or promotion, the eligible list resulting from such examination may be established, notwithstanding the fact that a veteran or disabled veteran who has applied for additional credit has failed to establish his eligibility to receive such additional credit. A candidate who fails to establish, by appropriate documentary proof, his eligibility to receive additional credit by the time an eligible list is established shall not thereafter be granted additional credit on such eligible list.

4. Use of additional credit.

(a) Except as herein otherwise provided, no person who has received a permanent original appointment or a permanent promotion in the civil service of the state or of any city or civil division thereof from an eligible list on which he was allowed the additional credit granted by this section, either as a veteran or disabled veteran, shall thereafter be entitled to any additional credit under this section either as a veteran or a disabled veteran.

(b) Where, at the time of establishment of an eligible list, the position of a veteran or disabled veteran on such list has not been affected by the addition of credits granted under this section, the appointment or promotion of such veteran or disabled veteran, as the case may be, from such eligible list shall not be deemed to have been made from an eligible list on which he was allowed the additional credit granted by this section.

(c) If, at the time of appointment from an eligible list, a veteran or disabled veteran is in the same relative standing among the eligibles who are willing to accept appointment as if he had not been granted the additional credits provided by this section, his appointment from among such eligibles shall not be deemed to have been made from an eligible list on which he was allowed such additional credits.

(d) Where a veteran or disabled veteran has been originally appointed or promoted from an eligible list on which he was allowed additional credit, but such appointment or promotion is thereafter terminated either at the end of the probationary term or by resignation at or before the end of the probationary term, he shall not be deemed to have been appointed or promoted, as the case may be, from an eligible list on which he was allowed additional credit, and such appointment or promotion shall not affect his eligibility for additional credit in other examinations.

5. Withdrawal of application; election to relinquish additional credit. An application for additional credit in a competitive examination under this section may be withdrawn by the applicant at any time prior to the establishment of the resulting eligible list. At any time during the term of existence of an eligible list resulting from a competitive examination in which a veteran or disabled veteran has received the additional credit granted by this section, such veteran or disabled veteran may elect, prior to permanent original appointment or permanent promotion, to relinquish the additional credit theretofore granted to him and accept the lower position on such eligible list to which he would otherwise have been entitled;

provided, however, that such election shall thereafter be irrevocable. Such election shall be in writing and signed by the veteran or disabled veteran, and transmitted to the state civil service department or the appropriate municipal civil service commission.

6. Roster. The state civil service department and each municipal commission shall establish and maintain in its office a roster of all veterans and disabled veterans appointed or promoted as a result of additional credits granted by this section to positions under its jurisdiction. The appointment or promotion of a veteran or disabled veteran as a result of additional credits shall be void if such veteran or disabled veteran, prior to such appointment or promotion, had been appointed or promoted as a result of additional credits granted by this section.

7. Preference in retention upon the abolition of positions. In the event of the abolition or elimination of any position in the civil service for which eligible lists are established or any position the incumbent of which is encompassed by section eighty-a of this chapter, any suspension, demotion or displacement shall be made in the inverse order of the date of original appointment in the service subject to the following conditions: (1) blind employees shall be granted absolute preference in retention; (2) the date of such original appointment for disabled veterans shall be deemed to be sixty months earlier than the actual date, determined in accordance with section thirty of the general construction law; (3) the date of such original appointment for non-disabled veterans shall be deemed to be thirty months earlier than the actual date, determined in accordance with section thirty of the general construction law; (4) no permanent competitive class employee subject to the jurisdiction of the civil service commission of the city of New York who receives an injury in the line of duty, as defined in this paragraph, which requires immediate hospitalization, and which is not compensable through workmen's compensation may be suspended, demoted or displaced pursuant to section eighty of this chapter within three months of the date of his confinement, provided that medical authorities approved by such commission shall certify that the employee is not able to perform the duties of his position; provided further, that such three-month period may be extended by such commission for additional periods not to exceed one year each upon the certification of medical authorities selected by such commission that the employee is, as a result of his injury, still not able to perform the duties of his position.

An injury in the line of duty, as used herein, shall be construed to mean an injury which is incurred as a direct result of the lawful performance of the duties of the position. In determining whether an injury was received in the line of duty, such commission shall require the head of the agency by which the employee is employed to certify that the injury was received as a direct result of the lawful performance of the employee's duties; and (5) the spouse of a veteran with one hundred percent service

connected disability shall be deemed to be sixty months earlier than the actual date, determined in accordance with section thirty of the general construction law, provided, the spouse is domiciled with the veteran-spouse and is the head of the household. This section shall not be construed as conferring any additional benefit upon such employee other than a preference in retention. Such employee shall be subject to transfer upon the abolition of his function within his agency or department.

7-a. For the purpose of subdivision seven of this section, the terms "date of original appointment" and "date of original appointment in the service" shall mean, for persons subject to subdivisions one-a and one-c of section eighty of this chapter, the date of original appointment on a permanent basis in the grade or title in the service of the governmental jurisdiction in which such abolition or reduction occurs.

8. Penalty for denial of preference in retention. A refusal to allow the preference in retention provided for in this section to any veteran or disabled veteran, or a reduction of his compensation intended to bring about his resignation shall be deemed a misdemeanor, and any such veteran or disabled veteran shall have a right of action therefor in any court of competent jurisdiction for damages and for righting the wrong.

Practice Notes, Cases, and General Counsel Opinions

Cases:

Active Duty: Active duty for training purposes does not qualify Reservist for Veterans preference credits under civil service statute. LaRocca v. Bronstein, 44 A.D.2d 668 (N.Y. App. Div. 1st Dep't 1974).

Disability Rating Requirement: A disability rating for a Veteran's civil service preference requires at least a 10% disability rating by the United States Department of Veterans' Affairs. Carry v. Morton, 76 N.Y.S.2d 776 (Sup. Ct. N.Y. Cnty. 1947), *aff'd* 297 N.Y. 361 (N.Y. 1948). The Veteran must have an existing service connected disability when application to take a promotional examination is made. Coyle v. Gray, 73 N.Y.S.2d 277 (Sup. Ct. Westchester Cnty. 1947).

Disability: The word "disability" does not mean disability materially impairing earning capacity. Civil service preference must be given to a person who has sustained some disability in war service as recognized by the federal government and such recognized illness, disease, or will it has continued to exist. Barry v. Chapman, 189 Misc. 928 (Sup. Ct. Albany Cnty. 1947).

Finality of VA Determinations: For Veterans preference credits, courts and agencies must accept as a final determination the United States Department of Veterans Affairs' findings as to the nature, extent, continuance, and service-connected character of injuries and diseases claimed to constitute disabilities. Carey v. Morton, 273 A.D. 245 (N.Y. App. Div. 1st Dep't 1948), *aff'd* 297 N.Y. 361 (N.Y. 1948).

Full-Time Active Duty: Honorably discharged Reservists who served during time of war but who were not engaged in "full-time active duty" were not entitled to Veterans preference credits on civil service examinations. Rahill v. Bronstein 32 N.Y.2d 417 (N.Y. 1973).

Residency Requirement Voided: A requirement that a Veteran could receive additional points on a civil service exam only if the Veteran was a New York State residence at the time of induction into the military violated the Equal Protection Clause of the Fourteenth Amendment by irrationally abridging the constitutional right to travel. Civil Service Law no longer contains such a requirement. Atty. Gen. of New York v. Soto-Lopez, 476 U.S. 898 (1986).

Severity of Disability: If the Department of Veterans Affairs certifies to the incurring and continued existence of a disability, whether that disability is considered serious or trivial, the Veteran must be granted disabled veteran preference. Barry v. Chapman, 189 Misc. 928 (Sup. Ct. Albany Cnty. 1947).

General Counsel Opinions:

Active Duty for Retention Preferences: A Reservist discharged under honorable conditions after serving on full time active duty basis other than active duty for training or a National Guard member who has been discharged under honorable conditions after their National Guard unit has been federalized for Title 10 active duty service is eligible for Veterans Retention Preference. 1971 Op. Atty. Gen Apr 23.

Civil Service Law Article 6, Section 86

§ 86. Transfer of veterans or exempt volunteer firemen upon abolition of positions

If the position in the non-competitive or in the labor class held by any honorably discharged veteran of the armed forces of the United States or by any veteran of the armed forces of the United States released under honorable circumstances from such service including (1) having a qualifying condition as defined in section 350 of the executive law, and receiving a discharge other than bad conduct or dishonorable from such service, or (2) being a discharged LGBT veteran, as defined in section 350 of the executive law, and receiving a discharge other than bad conduct or dishonorable from such service, who served therein in time of war as defined in section eighty-five of this chapter, or by an exempt volunteer fireman as defined in the general municipal law, shall become unnecessary or be abolished for reasons of economy or otherwise, the honorably discharged veteran or exempt volunteer fireman holding such position shall not be discharged from the public service but shall be transferred to a similar position wherein a vacancy exists, and shall receive the same compensation therein. It is hereby made the duty of all persons clothed with the power of appointment to make such transfer effective. The right to transfer herein conferred shall continue for a period of one year following the date of abolition of the position, and may be exercised only where a vacancy exists in an appropriate position to which transfer may be made at the time of demand for transfer.

Where the positions of more than one such veteran or exempt volunteer fireman are abolished and a lesser number of vacancies in similar positions exist to which transfer may be made, the veterans or exempt volunteer firemen whose positions are abolished shall be entitled to transfer to such vacancies in the order of their original appointment in the service. Nothing in this section shall be construed to apply to the position of private secretary, cashier or deputy of any official or department.

Civil Service Law Article 6, Section 87

§ 87. Prohibition against disqualification on account of age or disability

A veteran or disabled veteran shall not be disqualified from holding any position in the civil service on account of age, except for positions for which age limitations are specifically authorized or prescribed by law, provided such age does not render him incompetent to perform the duties of the position applied for. A disabled veteran shall not be disqualified from holding any position in the civil service by reason of a war-incurred disability, provided such disability does not render him incompetent to perform the duties of the position applied for.

Civil Service Law Article 6, Section 88

§ 88. Prohibition against discrimination against public employees serving in the armed forces

No public employer, as defined in subdivision six of section two hundred one of this chapter, shall deny employment, re-employment or any benefit of employment to any person or employee based on prospective, current or past enlistment, appointment or commission with the armed forces of the United States. Such person or employee shall be afforded full enforcement rights under the laws of this state and of the United States, including the Federal Uniformed Services Employment and Reemployment Rights Act of 1994.

EDUCATION LAW

Education Law Article 8, Section 360, Subsection 1(c)

§ 360. Powers to regulate traffic on university grounds

c. Adopt and enforce campus rules and regulations not inconsistent with the vehicle and traffic law relating to parking, vehicular and pedestrian traffic, and safety. Such rules and regulations may include provisions for the disposition of abandoned vehicles, removal by towing or otherwise of vehicles parked in violation of such rules at the expense of the owner, the payment of fees for the registration or parking of such vehicles, provided that such campus rules and regulations may provide that any veteran attending the state university as a student shall be exempt from any fees for parking or registering a motor vehicle, and the assessment of administrative fines upon the owner or operator of such vehicles for each violation of the regulations. However, no such fine may be imposed without a hearing or an opportunity to be heard conducted by an officer or board designated by the board of trustees..... For purposes of this subdivision, the term "veteran" shall mean a member of the armed forces of the United States who served in such armed forces in time of war and who (I) was honorably discharged or released under honorable circumstances from such service, or (II) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

Education Law Article 66, Section 3301

§ 3301. Purpose [Children of Military Families]

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

1. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or districts or variations in entrance/age requirements.

2. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

3. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

4. Facilitating the on-time graduation of children of military families.

5. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.
6. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

7. Promoting coordination between this compact and other compacts affecting military children.

8. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

Education Law Article 66, Section 3302

§ 3302. Definitions [Children of Military Families]

As used in this compact, unless the context clearly requires a different meaning:

1. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. sections 1209 and 1211.

2. "Children of military families" means a school-aged child or children, enrolled in kindergarten through twelfth grade, in the household of an active duty member.

3. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to section thirty-three hundred nine of this article.

4. "Deployment" means the period one month prior to the service members' departure from their home station on military orders through six months after return to their home station.

5. "Education records" or "educational records" means those official records, files, and data directly related to a student and maintained by the school or local educational agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

6. "Extracurricular activities" means a voluntary activity sponsored by the school or local educational agency or an organization sanctioned by the local educational agency.

Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

7. "Interstate commission on educational opportunity for military children" means the commission that is created under section thirty-three hundred nine of this article, which is generally referred to in this article as the "interstate commission".

8. "Local educational agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions. In New York state, a local educational agency means a public-school district located within New York state.

9. "Member state" means a state that has enacted this compact.

10. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the department of defense, including any leased facility, which is located within any of the several states, the District of Columbia, the commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

11. "Non-member state" means a state that has not enacted this compact.

12. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

13. "Rule" means a written statement by the interstate commission promulgated pursuant to section thirty-three hundred twelve of this article that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission.

14. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

15. "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory.

16. "Student" means the child of a military family for whom the local educational agency receives public funding and who is formally enrolled in kindergarten through twelfth grade.

17. "Transition" means (a) the formal and physical process of transferring from school to school as a result of military orders or (b) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

18. "Uniformed service" or "uniformed services" means the Army, Navy, Air Force, Space Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

19. "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

Education Law Article 66, Section 3303

§ 3303. Applicability [Children of Military Families]

1. Except as otherwise provided in subdivision two of this section, this compact shall apply to the children of:

(a) active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. sections 1209 and 1211;

(b) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

(c) members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

2. The provisions of this interstate compact shall only apply to local educational agencies as defined in this compact.

3. The provisions of this compact shall not apply to the children of:

(a) inactive members of the national guard and military reserves;

(b) members of the uniformed services now retired, except as provided in subdivision one of this section;

(c) veterans of the uniformed services, except as provided in subdivision one of this section; and

(d) other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

Education Law Article 66, Section 3304

§ **3304. Educational records and enrollment [Children of Military Families]**

1. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records, to the extent feasible, and using any template developed by the interstate commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

2. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten days or within such time as is determined under the rules promulgated by the commission.

3. Notwithstanding any provisions of subdivision seven of section twenty-one hundred sixty-four of the public health law to the contrary, compacting states shall give thirty days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the interstate commission, for students transferring from a school in a sending state to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

4. For purposes of ensuring a smooth educational transition, students transferring from a local educational agency in a sending state shall initially be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level from a local educational agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local educational agency in the sending state shall initially be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state. Nothing in this subdivision shall prohibit a local educational agency in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

Education Law Article 66, Section 3305

§ **3305. Placement and attendance [Children of Military Families]**

1. When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered and there is space available as determined by the local educational agency. Course placement includes but is not limited to honors, international baccalaureate, advanced placement, vocational, technical and career pathways courses. Where the local educational agency contracts with a board of cooperative educational services to deliver such courses, the local educational agency and the board of cooperative educational services shall arrange to enroll the student in the applicable board of cooperative educational services program where there is space available. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

2. The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state, provided that the programs and/or courses exist and there is space available, as determined by the local educational agency. Such programs include, but are not limited to, gifted and talented programs and English as a second language. Nothing in this subdivision shall preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

3. (a) In compliance with the federal requirements of the individuals with disabilities education act, 20 U.S.C.A. section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his or her current individualized education program; and

(b) In compliance with the requirements of section 504 of the rehabilitation act, 29 U.S.C.A. section 794, and with title II of the Americans with disabilities act, 42 U.S.C.A. sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or title II plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

4. Local educational agency administrative officials shall have flexibility in waiving course or

program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the local educational agency.

5. A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local educational agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

Education Law Article 66, Section 3306

§ 3306. Eligibility [Guardianship of Children of Military Families]

1. (a) When properly executed under applicable law, a special power of attorney, relative to the guardianship of a military child, shall be considered sufficient for the sole purpose of establishing residency of a transferring student into a local educational agency and for all other actions in the local educational agency requiring parental participation and consent, for the duration of the guardianship. For students attending school in New York, a special designation of person in parental relation pursuant to title fifteen-A of article five of the general obligations law, in the form prescribed in paragraph (b) of this subdivision, shall constitute a special power of attorney for such purpose, provided that notwithstanding any other provision of law to the contrary, such delegation shall remain in effect until revoked or the child re-establishes residence with a parent.

(b) A local educational agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis with a special designation of person in parental relation pursuant to title fifteen-A of article five of the general obligations law and this paragraph who lives in a jurisdiction other than that of the custodial parent. The special designation of person in parental relation shall be in the form prescribed by section 5-1552 of the general obligations law, except that it shall clearly identify the student as a transitioning military child and shall provide that the designation shall continue in effect until revoked or the child re-establishes residence with a parent. Notwithstanding any provisions of law to the contrary, such designation shall not be for a fixed period and shall result in a change in the school district of residence for purposes of this chapter to the school district in which the designee resides.

(c) A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school within New York in which he or she was enrolled while residing with the custodial parent until the child completes the highest grade level in such school. Nothing in this paragraph shall be construed to require a local educational agency to

provide transportation services to such student while residing outside of the district for distances greater than the maximum transportation limit established under school district policy.

2. State and local educational agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

Education Law Article 66, Section 3307

§ 3307. Graduation [Children of Military Families]

In order to facilitate the on-time graduation of children of military families, states and local educational agencies shall incorporate the following procedures:

1. Local educational agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local educational agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local educational agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

2. States shall accept (a) exit or end-of-course exams required for graduation from the sending state, (b) national norm referenced achievement tests or (c) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of subdivision three of this section shall apply.

3. Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local educational agency after all alternatives have been considered, the sending and receiving local educational agencies shall ensure the receipt of a diploma from the sending local educational agency, if the student meets the graduation requirements of the sending local educational agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subdivisions one and two of this section.

Education Law Article 66, Section 3308

§ 3308. State coordination [Children of Military Families]

1. Each member state shall, through the creation of a state council or use of an existing

body or board, provide for the coordination among its agencies of government, local educational agencies and military installations concerning the state's participation in, and compliance with, this compact and interstate commission activities. In New York, the state council shall include the commissioner or his or her designee, the commissioner of the New York state department of veterans' services or his or her designee, the adjutant general of the state of New York or his or her designee, a superintendent of a school district with a high concentration of military children appointed by the commissioner, a district superintendent of schools of a board of cooperative educational services serving an area with a high concentration of military children appointed by the commissioner, a representative from a military installation appointed by the governor, a representative of military families appointed by the governor, a public member appointed by the governor and one representative each appointed by the speaker of the assembly, the temporary president of the senate and the governor.

2. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

3. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the governor or as otherwise determined by each member state.

4. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the state council, unless either is already a full voting member of the state council.

Education Law Article 66, Section 3309

§ 3309. Interstate commission on educational opportunity for military children

The member states hereby create the "interstate commission on educational opportunity for military children". The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission shall:

1. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein.

2. Consist of one interstate commission voting representative from each member state who shall be that state's compact commissioner.

(a) Each member state represented at a meeting of the interstate commission is entitled to one vote.

(b) A majority of the total member states shall constitute a quorum for the transaction

of business, unless a larger quorum is required by the bylaws of the interstate commission.

(c) A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the interstate commission, the governor or state council may delegate voting authority to another person from their state for a specified meeting.

(d) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

3. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local educational agency officials, parent and teacher groups, the United States department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel and other interstate compacts affecting the education of children of military members.

4. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

5. Establish an executive committee, whose members shall include the officers of the interstate commission and such other members of the interstate commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The United States department of defense, shall serve as an ex-officio, non-voting member of the executive committee.

6. Establish bylaws and rules that provide for conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

7. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

(a) Relate solely to the interstate commission's internal personnel practices and procedures;

(b) Disclose matters specifically exempted from disclosure by federal and state statute;

(c) Disclose trade secrets or commercial or financial information which is privileged or confidential;

(d) Involve accusing a person of a crime, or formally censuring a person;

(e) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) Disclose investigative records compiled for law enforcement purposes; or

(g) Specifically relate to the interstate commission's participation in a civil action or other legal proceeding.

8. Shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission.

9. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules, and shall in all cases be consistent with all applicable privacy laws.

10. Shall create a process that permits military officials, education officials and parents to inform the interstate commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local educational agency. This section shall not be construed to create a private right of action against the interstate commission or any member state.

Education Law Article 66, Section 3310

§ 3310. Powers and duties of the interstate commission [Children of Military Families]

The interstate commission shall have the following powers:

1. To provide for dispute resolution among member states.

2. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact.

3. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions.

4. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

5. To establish and maintain offices which shall be located within one or more of the member states.

6. To purchase and maintain insurance and bonds.

7. To borrow, accept, hire or contract for services of personnel.

8. To establish and appoint committees including, but not limited to, an executive committee as required by subdivision five of section thirty-three hundred nine of this article which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder.

9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

13. To establish a budget and make expenditures.

14. To adopt a seal and bylaws governing the management and operation of the interstate commission.

15. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

16. To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

17. To establish uniform standards for the reporting, collecting and exchanging of data.
18. To maintain corporate books and records in accordance with the bylaws.

19. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

20. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact consistent with all applicable privacy laws.

Education Law Article 66, Section 3311

§ 3311. Organization and operation of the interstate commission [Children of Military Families]

1. The interstate commission shall, by a majority of the members present and voting, within twelve months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(a) Establishing the fiscal year of the interstate commission;

(b) Establishing an executive committee, and such other committees as may be necessary;

(c) Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the interstate commission;

(d) Providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting;

(e) Establishing the titles and responsibilities of the officers and staff of the interstate commission;

(f) Providing a mechanism for concluding the operations of the interstate commission and

the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and

(g) Providing "start up" rules for initial administration of the compact.

2. The interstate commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the interstate commission.

3. (a) The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

(i) Managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the interstate commission;

(ii) Overseeing an organizational structure within, and appropriate procedures for the interstate commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

(iii) Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the interstate commission.

(b) The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, but shall not be a member of the interstate commission. The executive director shall hire and supervise such other persons as may be authorized by the interstate commission.

4. The interstate commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(a) The liability of the interstate commission's executive director and employees or interstate commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this section shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(b) The interstate commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(c) To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

Education Law Article 66, Section 3312

§ 3312. Rulemaking functions of the interstate commission [Children of Military Families]

1. The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this article, or conflicts with the laws of a member state, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

2. Rules shall be made pursuant to a rulemaking process that substantially conforms to

section two hundred two of the state administrative procedure act as may be appropriate to the operations of the interstate commission.

3. Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the interstate commission's authority.
4. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

Education Law Article 66, Section 3313

§ 3313. Oversight, enforcement, and dispute resolution [Children of Military Families]

1. (a) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the interstate commission.

(b) The interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, this compact or promulgated rules.

2. If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the interstate commission shall:

(a) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default.

(b) Provide remedial training and specific technical assistance regarding the default.

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all

rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(d) Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(e) The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

(f) The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(g) The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

3. (a) The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

(b) The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

4. (a) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(b) The interstate commission, may by majority vote of the members, initiate legal action in the United States district court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(c) The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

Education Law Article 66, Section 3314

§ 3314. Financing of the interstate commission [Children of Military Families]

1. The interstate commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

2. The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

3. The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the member states, except by and with the authority of the member state.

4. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

Education Law Article 66, Section 3315

§ 3315. Member states, effective date and amendment [Children of Military Families]

1. Any state is eligible to become a member state.

2. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten of the states. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states.

3. The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

Education Law Article 66, Section 3316

§ 3316. Withdrawal and dissolution [Children of Military Families]

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.
2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the commission.

Education Law Article 66, Section 3317

§ 3317. Severability and construction [Children of Military Families]

1. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

2. The provisions of this compact shall be liberally construed to effectuate its purposes.

3. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

Education Law Article 66, Section 3318

§ 3318. Binding effect of compact and other laws [Children of Military Families]

1. All agreements between the interstate commission and the member states are binding in accordance with their terms.

2. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Education Law Article 8, Section 355, Subsections (h)(3)(i) and (ii), and (h)(5)

§ 355. Powers and duties of trustees--administrative and fiscal functions [military students]

h. To regulate the admission of students, prescribe the qualifications for their continued attendance, regulate tuition charges where no provision is otherwise made therefor by law, and regulate other fees and charges, curricula and all other matters pertaining to the operation and administration of each state-operated institution in the state university.

(3) (i) Such regulations shall further provide that the payment of tuition and fees by any student in any state-operated institution of the state university who is a member or the spouse or the dependent of a member of the armed forces of the United States on full-time active duty and stationed in this state, whether or not a resident of the state, shall be paid at a rate or charge no greater than that imposed for students thereat who are residents of this state.

(ii) Such regulations shall further provide that the payment of tuition and fees by any student who is not a resident of New York state shall be paid at a rate or charge no greater than that imposed for students who are residents of the state if such student is enrolled in an institution or educational unit of the state university and is attending such institution or educational unit in accordance with the federal GI bills and in compliance with all applicable eligibility requirements thereof.

(5) The trustees shall further provide standards for the granting of advanced standing to veterans applying for college admissions at the state university, who have successfully completed United States Armed Forces Institute or other comparable course work.

Education Law Article 125, Section 6206, Subsection 7 (a-2) and 13

§ 6206. Powers and duties

7(a-2) The trustees shall further provide that the payment of tuition and fees by any student who is not a resident of New York state shall be paid at a rate or charge no greater

than that imposed for students who are residents of the state if such student is enrolled in any college or educational unit of the city university of New York and is attending such college or educational unit in accordance with the federal GI bills and in compliance with all applicable eligibility requirements thereof.

13. The board of trustees shall provide standards for the granting of advanced standing to veterans applying for college admissions at schools in the city university who have successfully completed United States Armed Forces Institute or comparable course work.

Education Law Article 125, Section 6223

§ 6223. Deferred education payments

The board of trustees, by regulation, shall provide that upon request by a student attending any college of the city university who is an eligible veteran, the payment of tuition and other fees and charges, less the amounts payable for such purposes from scholarships or other financial assistance awarded said veteran pursuant to article thirteen of this chapter, article one hundred thirty of this chapter or any other college, state or federal aid program, shall be deferred in such amounts and until such times as the several payments of veterans' benefits under the Veterans' Readjustment Benefits 2 Act of 1966, as amended,3 are received by the veteran, provided that the veteran has filed a claim for such benefits and presents to the city university proof of eligibility, extent of entitlement to benefits and the need for deferral until the receipt of such benefits.

Education Law Article 126, Section 6305, Subsection 8

§ 6305. Non-resident and out-of-state students

8. Part-time and out-of-state students shall be charged such tuition and fees as may be approved by the state university trustees. Any student attending a community college who is a member or the spouse or the dependent of a member of the armed forces of the United States on full-time active duty and stationed in this state, whether or not a resident of this state, shall be charged the tuition rate for residents as approved by the state university trustees. Any student attending a community college in accordance with the federal GI bills and in compliance with all applicable eligibility requirements thereof, whether or not a resident of this state, shall be charged the tuition rate for residents as approved by the state university trustees.

Education Law Article 127, Section 6350

§ 6350. Leave of absence for military service

Whenever a student who is: (a) a member of the national guard or other reserve

component of the armed forces of the United States and is called or ordered to active duty, as defined in 10 USC § 101(d)(1), or (b) a member of the state organized militia, and is called or ordered to active duty for the state, as defined in subdivision one of section six of the military law, the institution of higher education in which the student is enrolled shall grant the student a military leave of absence from the institution while such student is serving on active duty, and for one year after the conclusion of such service.

Education Law Article 127, Section 6351

§ 6351. Preservation of educational status and financial resources

A student on a military leave of absence from an institution of higher education shall be entitled, upon release from serving on active duty, to be restored to the educational status such student had attained prior to being called or ordered to such duty without loss of academic credits earned, scholarships or grants awarded, or tuition and other fees paid prior to the commencement of his or her active duty.

Education Law Article 127, Section 6352

§ 6352. Option of refund or credit [Military Leave of Absence]

An institution of higher education shall refund tuition or fees paid or credit the tuition and fees to the next period of enrollment after the student returns from a military leave of absence, at the option of the student.

Education Law Article 127, Section 6353

§ 6353. Enforcement [Education Law]

Any violation of this article shall constitute an unfair educational practice pursuant to section three hundred thirteen of this chapter. Any student alleging a violation of this article may commence an administrative or judicial proceeding pursuant to section three hundred thirteen of this chapter.

Education Law Article 127, Section 6354

§ 6354. Applicability [Education Law]

This article shall apply to all institutions of higher education and any business or trade school in the state.

Education Law Article 14, Section 668

§ 668. Regents awards for children of deceased and disabled veterans

1. Period of military service. For a student to be eligible, the parent, or step-parent where the student is the dependent of the step-parent, (i) must have been a recipient of the armed forces expeditionary medal, the navy expeditionary medal or the marine corps expeditionary medal for participation in operations in Lebanon from June first, nineteen hundred eighty-three to December first, nineteen hundred eighty-seven, in Grenada from October twenty-third, nineteen hundred eighty-three to November twenty-first, nineteen hundred eighty-three, or in Panama from December twentieth, nineteen hundred eighty-nine to January thirty-first, nineteen hundred ninety, or (ii) must have served on regular active duty (other than for training) in the armed forces of the United States during part of one of the following periods:

(a) April sixth, nineteen hundred seventeen to November eleven, nineteen hundred eighteen.

(b) December seven, nineteen hundred forty-one to December thirty-one, nineteen hundred forty-six, or have been employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense or have served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions, or have served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (I) was discharged or released therefrom under honorable conditions, or (II) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

(c) June twenty-seven, nineteen hundred fifty to January thirty-one, nineteen hundred fifty-five.

(d) November first, nineteen hundred fifty-five to May seventh, nineteen hundred seventy-five.

(e) August two, nineteen hundred ninety to the end of hostilities in the Persian Gulf conflict.

(f) From September eighteenth, two thousand one until the end of the United States military efforts in Afghanistan.

(g) From October sixteenth, two thousand two until the end of the United States military efforts in Iraq.

2. Eligible groups. Awards shall be made to students each of whom has a parent with such service, or a step-parent with such service where the student is the dependent of the step-parent even if the student's biological parent is still living, who:

(a) was a legal resident of New York state at the time of his or her demise and who died or die while so serving, or as a result of injury or illness suffered or incurred during such military service; or

(b) (I) is an honorably discharged veteran of the United States or member of the armed forces of the United States, or (II) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, who is a resident of the state of New York, and who has a current disability of forty percent or more as a result of an injury or illness which is incurred or was incurred during such military service; or

(c) is now deceased, who was a resident of this state at the time of his or her demise, and who at the time of his or her demise had a disability to a degree of forty percent or more as a result of an injury or illness which was incurred during such military service; or

(d) is classified as a former prisoner of war, or as missing in action, who has been so classified by the United States department of defense, and who is a resident of the state of New York if a former prisoner of war or was a resident of the state of New York when classified as missing in action.

3. Determinations of disability. Determinations concerning disability or death by the United States Administrator of Veterans Affairs or the separate branches of the armed forces of the United States shall be conclusive.

4. Amount and duration. Every recipient shall receive an annual award of four hundred fifty dollars for each of not more than four academic years, or five academic years if the

recipient is enrolled in a program normally requiring five years, as defined by the commissioner, pursuant to article thirteen.

Practice Notes, Cases, and General Counsel Opinions

Notes:

Approved Programs of Instruction: Approved programs of instruction are covered under 8 NYCRR 145-2.3, Section 145-2.3. Five-year approved programs are covered under 8 NYCRR 145-2.7, Section 145-2.7.

Education Law Article 14, Section 668-c

§ 668-c. Awards for Vietnam veterans' children born with Spina Bifida enrolled in approved undergraduate or graduate programs at degree granting institutions

Eligible students. Awards shall be made to Vietnam veterans' resident children born with Spina Bifida enrolled in approved undergraduate or graduate programs at degree granting institutions. For the purpose of this section, "Vietnam veteran" shall mean a person who served in Indochina at any time from the first day of November, nineteen hundred fifty-five, to and including the seventh day of May, nineteen hundred seventy-five and (A) was honorably discharged from the armed forces of the United States, or (B) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (C) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service; "born with Spina Bifida" shall mean a diagnosis at birth of such disease inclusive of all forms, manifestations, complications and associated medical conditions thereof, but shall not include Spina Bifida Occulta. Such diagnosis shall be in accordance with the provisions of the federal Spina Bifida program.

1. Amount and duration. Every recipient shall receive an annual award of four hundred fifty dollars for each of not more than four academic years of undergraduate study or five academic years if a program normally requires five years, as defined by the commissioner pursuant to article thirteen of this chapter.

Education Law Article 14, Section 668-e

§ 668-e. Military enhanced recognition, incentive and tribute scholarships

1. Eligible persons.

a. Notwithstanding subdivisions three and five of section six hundred sixty-one of this title, children, spouses and financial dependents of a member of the armed forces of the United States or state organized militia who at any time, while in service in the armed forces of the United States, as defined by subdivision eight of section one of the military law or in a force of the state organized militia, as defined in subdivision nine of section one of the military law: (i) while a legal resident of New York state, died, became severely and permanently disabled or was classified as missing in action, or died as a result of injury or illness suffered or incurred during such military service; or (ii) while a legal resident of New York

state, died or became severely and permanently disabled as a result of injury or illness suffered or incurred during military training operations.

b. A member of the armed forces of the United States who: (i) became severely and permanently disabled as a result of service in the armed forces of the United States, as defined by subdivision eight of section one of the military law; and (ii) was a legal resident of New York state at the time of military service.

c. A member of the armed forces of the United States who: (i) became severely and permanently disabled as a result of injury or illness suffered or incurred during military training operations; and (ii) was a legal resident of New York state at the time of military service.

d. A member of the state organized militia who: (i) became severely and permanently disabled as a result of injury or illness suffered or incurred during active military service, as defined in subdivision six of section one of the military law; and (ii) was a legal resident of New York state at the time of active military service.

2. Amount. The president shall grant annual scholarships in amounts determined in accordance with subdivisions two and three of section six hundred sixty-eight-d of this part.

Practice Notes, Cases, and General Counsel Opinions

Notes:

Children: "Children" … shall mean: (a) birth children, adopted children, stepchildren who survive an individual, or children for whom an individual was a legal guardian, and (b) other children related by blood, adoption or marriage to an individual for whom such individual had assumed and was exercising custody and care as of the date of such individual's death. Education Law § 601.

Severely & Permanently Disabled: This term is undefined in this section of law and the accompanying regulations. The Higher Education Services Corporation (HESC) uses the definition of this term contained in the law and regulations governing the World Trade Center Memorial Scholarship, requiring medical proof that the Veteran's service-related injury(ies) or illness(es) prevent them from employment. Without this proof on the HESC-prescribed form (available on the agency's website), HESC will not grant this scholarship.

Education Law Article 14, Section 669-a

§ 669-a. Veterans tuition awards program

1. As used in this section, the following terms shall have the following meanings:

a. "Vietnam veteran" means (i) a person who is a resident of this state, (ii) who served in the armed forces of the United States in Indochina at any time from the first day of November,

nineteen hundred fifty-five, to and including the seventh day of May, nineteen hundred seventy-five, and (iii) who was either discharged therefrom under honorable conditions, including but not limited to honorable discharge, discharge under honorable conditions, or general discharge, or has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service. . . .

d. "Other eligible veteran" means: an individual who (i) is a resident of this state, (ii) served in the armed forces of the United States on active duty for at least four years, and (iii) was either discharged under honorable conditions, including but not limited to honorable discharge, discharge under honorable conditions, or general discharge, or has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

e. "Part time study" means enrollment for at least three but less than twelve semester hours per semester in an approved undergraduate or graduate program.

f. "Approved vocational training programs" means programs offered by agencies approved by the commissioner for funding pursuant to this section.

The commissioner shall approve only such non-credit programs which are at least three hundred twenty clock hours in length, and which meet standards of instructional quality established in regulations by the commissioner.

These standards shall include, but not be limited to, qualifications of administrative and instructional personnel, quality of facilities and equipment, recordkeeping, admission, grading, attendance, and record of placement of completers which meets standards of acceptability as established by the commissioner.

2. a. Tuition awards are available for all other eligible veterans, as defined in subdivision one of this section, who are enrolled, pursuant to paragraph a of subdivision four of section six hundred sixty-one of this part, in approved undergraduate or graduate programs at degree granting institutions or enrolled in approved vocational training programs and who apply for a tuition assistance program award, for up to the equivalent of eight full-time semesters, pursuant to section six hundred sixty-seven of this subpart.

b. Eligibility for awards under this section shall be established as of the date the application is received by the corporation. All eligible recipients shall receive an award in an amount as set forth in subdivision four of this section.

3. a. No recipient shall receive awards for more than eight semesters of full time undergraduate study, or the equivalent of four academic years, or, if an undergraduate program normally requires five academic years of full time study, for more than ten semesters of full time study, or the equivalent of five academic years. Recipients enrolled in a program of remedial study conforming to the provisions of this article, approved by the commissioner in a degree granting institution, and intended to culminate in an undergraduate degree shall be considered as enrolled in a program normally requiring five years. No recipient enrolled in an approved vocational training program shall receive awards for more than four semesters of full-time study or the equivalent of two academic years of full-time study.

b. No recipient shall receive awards for more than sixteen semesters of part time undergraduate study as defined in subdivision one, or the equivalent of eight academic years of part time study, or, if an undergraduate program normally requires five academic years of full time study, for more than twenty semesters of part time study, or the equivalent of ten academic years. Recipients enrolled in a program of remedial study conforming to the provisions of this chapter, approved by the commissioner in a degree granting institution, and intended to culminate in an undergraduate degree shall be considered as enrolled in a program normally requiring five years. No recipient enrolled in an approved vocational training program shall receive awards for more than eight semesters of part-time study or the equivalent of four academic years of part-time study.

c. No recipient shall receive awards for more than six semesters of full time study, or the equivalent of three academic years, for graduate study. No recipient shall receive awards for more than twelve semesters of part time graduate study as defined in subdivision one of this section, or the equivalent of six academic years of part time graduate study.

4. Every recipient shall receive an award equal to the amount of undergraduate tuition for residents of New York state charged by the state university of New York or actual tuition charged, whichever is less, for each semester, or the equivalent, of full time study, or a pro-rated amount for part-time study; provided, however, that such award shall not be reduced by any benefits available under the federal Montgomery GI Bill act of 1984 or the federal Pell grant program pursuant to section one thousand seventy-a of title twenty of the United States code.

Practice Notes, Cases, and General Counsel Opinions

Notes:

Duration of eligibility: See 8 NYCRR 2204.1, subsection 8:

Tuition awards for Vietnam veterans:

(i) Full-time recipients. Four regular academic years of undergraduate study, or five regular academic years if the recipient is enrolled in a program intended to culminate in an undergraduate degree normally requiring five years, approved by the commissioner pursuant to section 145-2.7 of this Title; provided, however, that a recipient enrolled in an approved vocational training program shall be limited to two academic years, or its equivalent, while enrolled in such program.

(ii) Part-time recipients. Eight regular academic years of part-time study as defined in subdivision 1 of section 669-a of the Education Law, or 10 regular academic years if the recipient is enrolled in a program intended to culminate in an undergraduate degree normally requiring five years, approved by the commissioner pursuant to section 145-2.7 of this Title; provided, however, that a recipient enrolled in an approved vocational program shall be limited to four academic years, or its equivalent, while enrolled in such program.

Education Law Article 14, Section 669-b

§ 669-b. Recruitment incentive and retention program for members of the New York state organized militia [State Tuition Assistance]

1. The division of military and naval affairs is authorized, within amounts appropriated or otherwise lawfully available from any other source, to establish a recruitment incentive and retention program.

2. Definitions as used in this section:

a. The term "active member" shall mean a member of a federally recognized unit of the New York army national guard, New York air national guard, or New York naval militia who meets the minimum requirements for satisfactory active membership as set forth in the regulations of the United States departments of the army, navy and air force, as applicable, and the New York state division of military and naval affairs.

b. The term "degree producing curriculum" shall mean a series of courses programmed to culminate in a specific post-secondary degree or diploma when successfully completed.

c. The term "tuition" shall mean the total semester, quarter, or classroom hour cost of instruction to the student as periodically published in the catalogue of the institution, specifically excluding mandatory fees, book charges, and room and board.

d. The term "tuition benefit" shall mean the payment of whatever cost is attributable to the

cost of tuition after the deduction of any other available educational grant aid, including the Army Continuing Education System (ACES) (AR-621-5 17 November 1993) and any successor Army regulations, that could defray such cost; however, specifically excluding the federal Montgomery GI Bill.

e. The term "part-time study" shall mean enrollment in an approved post-secondary degree program for at least six but less than twelve semester hours, or the equivalent per semester, or at least four but less than eight semester hours per quarter in an institution.

f. The term "institution" shall mean any institution of higher education recognized and approved by the regents or the university of the state of New York which provides a course of study leading to the granting of a post-secondary degree or diploma.

g. The term "legal resident" shall mean a person whose principal domicile is located within New York state in excess of one hundred eighty- six days per year; excepting active federal military duty.

3. Notwithstanding the provisions of any other general, special, or local law, rule, or regulation, any active member who has successfully completed advanced individual training or commissioning and other requirements of the division of military and naval affairs for tuition benefit eligibility shall be entitled to the tuition benefit provided by this section upon his or her enrollment in a degree producing curriculum in any institution.

4. Unless otherwise provided for in this section, eligibility for the tuition benefit provided by this section shall be determined by the education services offices of the division of military and naval affairs, which shall issue certificates of eligibility and promulgate such administrative rules and procedures as are necessary to implement the tuition benefit provided under this section. Such administrative rules and procedures shall include in the factors for the determination of eligibility for the tuition benefit provided by this section the fulfillment of the contractual obligation and commitments for service in the New York army national guard, New York air national guard and New York naval militia.

5. Any active member who currently possesses a baccalaureate degree or higher is ineligible for participation in the recruitment incentive program provided by this section.

5-a. Notwithstanding the provisions of subdivision three of this section, the adjutant general may, as defined in agency regulation, and within appropriated amounts, allow active members who have not completed basic or advanced individual training or commissioning to participate in the recruitment incentive program.

5-b. Notwithstanding the provisions of any other general, special or local law, rule or regulation, a recipient who has failed to successfully complete his or her term of enlistment,

if such failure is not due to causes beyond his or her control as determined by the adjutant general or his designee, shall be ineligible to participate in the tuition benefit provided by this section. Monies expended by the administrating agency of such benefit shall be reimbursed to the state in the full amount by the former recipient within one year of termination of active membership.

5-c. Notwithstanding the provisions of any other general, special or local law, a recipient who has successfully completed his or her term of enlistment due to having served in a combat theater or combat zone of operations, shall be eligible to continue to participate in the tuition benefit provided by this section, if such recipient was enrolled in said benefit prior to deployment in a combat theater or combat zone of operations.

6. The tuition benefit provided by this section shall be restricted to legal residents of the state. The benefit may be used for either part-time or full-time study. No restriction as to sessions, student status, or space availability which does not apply to all students shall be placed by institutions upon recipients under this program.

7. Upon the recipient's attainment of a baccalaureate degree or cessation of status as an active member, whichever occurs first, the benefit provided by this section shall be discontinued. The tuition benefit provided by this section may be suspended at the direction of the division of military and naval affairs for a recipient's failure to maintain good military standing as an active member, for the failure to maintain good academic progress and program pursuit, or for the failure to maintain sufficient academic standing to retain eligibility for any other financial assistance the recipient may be receiving.

8. Unless otherwise provided for in this section, the tuition benefit shall be on the terms and conditions set by the division of military and naval affairs, provided that any such benefit shall not exceed an amount equal to the actual annual tuition charged to the recipient or the tuition charged by the state university of New York, whichever is less, offset by any financial assistance and any other resources available through the national guard or the division of military and naval affairs on behalf of the recipient, including the Army Continuing Education System (ACES) (AR-621-5 17 November 1993) and any successor Army regulations, and the total of all other state, federal, or other educational grant aid that is received or receivable by such student during the school year for which such benefit is applicable. For the purposes of this subdivision, benefits available under the federal Montgomery GI Bill act of 1984 shall not be considered as federal or other educational aid.

9. Any active member who is eligible for the tuition benefit provided by this section must apply for all other available state, federal, including the Army Continuing Education System (ACES) (AR-621-5 17 November 1993) and any successor Army regulations, or other educational grant aid at time of enrollment. The division of military and naval affairs shall access all financial assistance available on behalf of all such active members. Any grant aid

or financial assistance received, excluding that of the Montgomery GI Bill Act of 1984, shall be utilized to offset the cost of tuition to the maximum extent possible, except that nothing shall require that aid or assistance received which may be used towards costs other than that of tuition shall be applied toward the cost of tuition.

10. The tuition benefit provided by this section shall be effective beginning with the school semester or quarter following its enactment into law.

Education Law Article 7, Section 305, Subsections 29, 29-a, and 29-b

§ 305. General powers and duties [Award of High School Diploma]

The commissioner of education is hereby charged with the following powers and duties:

29. The commissioner shall develop a program whereby any veteran of the armed forces who served in World War II and who was unable, for any reason, to complete a secondary education, may be awarded a high school diploma based on knowledge and experience gained while in service.

29-a. The commissioner shall develop a program whereby any veteran of the armed forces who served in the Korean conflict and who was unable, for any reason, to complete a secondary education, may be awarded a high school diploma based on knowledge and experience gained while in service.

29-b. The commissioner shall develop a program whereby any veteran of the armed forces who served in the Vietnam war and who was unable, for any reason, to complete a secondary education, may be awarded a high school diploma based on knowledge and experience gained while in service.

29-c. The commissioner shall develop a program whereby any veteran of the armed forces who has served on active duty in the united states armed forces, and who was unable, for any reason, to complete a secondary education, may be awarded a high school diploma based on knowledge and experience gained while in service.

ENVIRONMENTAL CONSERVATION LAW

Environmental Conservation Law Article 11, Title 7, Section 11-0715, Subsection 2 & 4

§ 11-0715. Fees [Hunting and Fishing License]

2. A member of the Shinnecock tribe or the Poospatuck tribe or a member of the six nations, residing on any reservation wholly or partly within the state, is entitled to receive free of charge a fishing license, a hunting license, a muzzle-loading privilege, a trapping license, and a bowhunting privilege; a resident of the state who is a member of the United States armed forces in active service who is not stationed within the state and has not been herein longer than thirty days on leave or furlough, is entitled to receive free of charge a fishing license, a hunting license, and a trapping license; a resident of the state who is an active member of the organized militia of the state of New York as defined by section one of the military law, or the reserve components of the armed forces of the United States, and excluding members of the inactive national guard and individual ready reserve, is entitled to receive free of charge a fishing license, a hunting license, and a trapping license; and a resident who is blind is entitled to receive a fishing license free of charge. For the purposes of this subdivision a person is blind only if either: (a) his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or (b) his or her visual acuity is greater than 20/200 but is accompanied by a limitation of the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

4. A person, resident in the state for at least thirty days immediately prior to the date of application, who has been honorably discharged from service in the armed forces of the United States, or (B) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (C) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and is certified as having a forty percent or greater service-connected disability is entitled to receive all licenses, privileges, tags, and permits authorized by this title for which he or she is eligible, except turkey permits, renewable each year for a five dollar fee.

RETIREMENT LAW

Retirement and Social Security Law Article 20, Section 1000

§ 1000. Military service credit ["Pension Buyback"]

Notwithstanding any law to the contrary, a member of a public retirement system of the state, as defined in subdivision twenty-three of section five hundred one of this chapter, shall be eligible for credit for military service as hereinafter provided:

1. A member, upon application to such retirement system, may obtain a total not to exceed three years of service credit for up to three years of military duty, as defined in section two hundred forty-three of the military law, if the member (a) was honorably discharged from the military, or (b) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

2. A member must have at least five years of credited service (not including service granted hereunder) to be eligible to receive credit under this section.

3. To obtain such credit, a member shall pay such retirement system, for deposit in the fund used to accumulate employer contributions, a sum equal to the product of the number of years of military service being claimed and three percent of such member's compensation earned during the twelve months of credited service immediately preceding the date that the member made application for credit pursuant to this section. If permitted by rule or regulation of the applicable retirement system, the member may pay such member costs by payroll deduction for a period which shall not exceed the time period of military service to be credited pursuant to this section. In the event the member leaves the employer payroll prior to completion of payment, he or she shall forward all remaining required payments to the appropriate retirement system prior to the effective date of retirement. If the full amount of such member costs is not paid to the appropriate retirement system, the amount of service credited shall be proportional to the total payments made prior to retirement.

4. In no event shall the credit granted pursuant to this section, when added to credit granted for military service with any retirement system of this state pursuant to this or any other provision of law, exceed a total of three years.

5. To be eligible to receive credit for military service under this section, a member must make application for such credit before the effective date of retirement.

6. All costs for service credited to a member pursuant to this section, other than the member costs set forth in subdivision three, shall be paid by the state and all employers which participate in the retirement system in which such member is granted credit.

7. A member who has purchased military service credit pursuant to section two hundred forty-four-a of the military law shall be entitled to a refund of the difference between the amount paid by the member for such purchase and the amount that would be payable if service had been purchased pursuant to this section.

8. Notwithstanding any other provision of law, in the event of death prior to retirement, amounts paid by the member for the purchase of military service credit pursuant to this section shall be refunded, with interest, to the extent the military service purchased with such amounts does not produce a greater death benefit than would have been payable had the member not purchased such credit. Notwithstanding any other provision of law, in the event of retirement, amounts paid by the member for the purchase of military service credit pursuant to this section shall be refunded, with interest, to the extent the military service purchased with such amounts does not produce a greater retirement allowance than would have been payable had the member not purchased such credit.

9. Anything to the contrary in subdivision three of this section notwithstanding, to obtain such credit, a member who first joins a public retirement system of the state on or after April first, two thousand twelve shall pay such retirement system, for deposit in the fund used to accumulate employer contributions, a sum equal to the product of the number of years of military service being claimed and six percent of such member's compensation earned during the twelve months of credited service immediately preceding the date that the member made application for credit pursuant to this section.

Practice Notes, Cases, and General Counsel Opinions

Cases:

Buyback Benefits Are Separate Property: Increase in State Retirement System pension benefits attributable to buying back three years of military service time qualifies as separate property for the Veteran, not marital property to be equitably distributed between former spouses, in a divorce proceeding. DeLapp v DeLapp, 37 A.D.3d 1161 (N.Y. App. Div. 4th Dep't 2007).

Service Academy Service: An employee who served as a United States Coast Guard Academy Cadet during the Korean War was not eligible to count Coast Guard Academy service as active duty military service creditable for this buyback program. Canzoneri v Hevesi, 21 A.D.3d 639 (N.Y. App. Div. 3d Dep't), *app. denied*, 5 N.Y.3d 715 (N.Y. 2005).

Notes:

The New York State Department of Veterans' Services (DVS) disagrees with the Appellate Division, Third Department, in *Canzoneri v. Hevesi*. This opinion fails to recognize the true nature of military service academy service, creating the wrongful impression that a service academy's students are no different regarding their military obligations than students in a Reserve Officers' Training Corps (ROTC) program at a traditional college. DVS was successfully able to help a Veteran count active duty service at the United States Naval Academy toward this pension buyback, and believes that all service academy service should be treated equally for buyback purposes.

Starting in November 2022, New York State's Restoration of Honor Act applies to the buyback. Veterans with a less-than-honorable discharge but a favorable Restoration of Honor Act decision can now buy back their military time, notwithstanding their character of discharge.

PUBLIC HEALTH LAW

Public Health Law Article 26-A, Section 2630

§ 2630. Purpose [State Veterans Homes]

The New York state home for veterans and their dependents at Oxford, the New York state home for veterans in the city of New York, the New York state home for veterans in western New York and the New York home for veterans in the lower-Hudson Valley shall be for the care of aged dependent veterans and their spouses, veterans' mothers and fathers, unremarried surviving spouses, and army nurses.

Public Health Law Article 26-A, Section 2631

§ 2631. Board of visitors; special provision [State Veterans Homes]

The board of visitors of each such home shall consist of nine members appointed from the members of the New York departments of the major organizations of war veterans to which charters have been issued by Acts of Congress or of their women's auxiliaries. The terms of office of such visitors hereafter appointed shall be five years, and they shall be so appointed that the terms of two of the members shall expire on the first day of February of each year, except that the term of but one member shall so expire every fifth year. Appointments shall be so made that there will be at all times four women and five men members of such board.

Public Health Law Article 26-A, Section 2632

§ 2632. Admission to home [State Veterans Homes]

Every veteran of the armed forces of the United States, who (i) (A) was separated or discharged under honorable conditions after serving on active duty therein for a period of not less than thirty days, or (B) has a qualifying condition, as defined in Section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (C) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable after serving on active duty therein for a period of not less than thirty days, or (ii) was separated or discharged under honorable conditions after serving on active duty therein for a period of not less than thirty days, and who was a recipient of the armed forces expeditionary medal, navy expeditionary medal or marine corps expeditionary medal for participation in operations in Lebanon from June first, nineteen hundred eighty-three to December first, nineteen hundred eighty-seven, in Grenada from October twenty-third, nineteen hundred eighty-three to November twenty-first, nineteen hundred eighty-three, or in Panama from December twentieth, nineteen hundred eighty-nine to January thirty-first, nineteen hundred ninety, or in Bosnia and Herzegovina from November twenty-first, nineteen hundred ninety-five to November first, two thousand seven, or was a recipient of the Kosovo campaign medal or (iii) was separated or discharged under honorable conditions after serving on active duty therein for a period of not less than thirty days and who served during the period of actual hostilities of either

(a) the Spanish-American war; or

(b) the incidental insurrection in the Philippines prior to July fourth, nineteen hundred two; or

(c) world war I between April sixth, nineteen hundred seventeen and November eleventh, nineteen hundred eighteen, both inclusive; or

(d) world war II between December seventh, nineteen hundred forty-one and December thirty-first, nineteen hundred forty-six, both inclusive, or who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions, or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions; or

(e) Korean conflict between June twenty-seventh, nineteen hundred fifty and January thirty-first, nineteen hundred fifty-five, both inclusive; or

(f) Viet Nam conflict between November first, nineteen hundred fifty-five and May seventh, nineteen hundred seventy-five, both inclusive; or

(g) veterans who served in the United States military and were exposed to radiation

during military service in a "radiation-risk activity" defined as participation in the occupation of Hiroshima or Nagasaki, Japan between August sixth, nineteen hundred forty-five through July first, nineteen hundred forty-six; were prisoners of war in Japan during World War II; onsite participation in a test involving the atmospheric detonation of a nuclear device, whether or not the testing nation was the United States; or

(h) in the Persian Gulf conflict from the second day of August, nineteen hundred ninety to the end of such conflict including military service in Operation Enduring Freedom, Operation Iraqi Freedom, Operation New Dawn or Operation Inherent Resolve and was the recipient of the global war on terrorism expeditionary medal or the Iraq campaign medal or the Afghanistan campaign medal; and who was a resident of the state of New York at the time of entry upon such active duty or who shall have been a resident of this state for one year next preceding the application for admission shall be entitled to admission to said home after the approval of the application by the board of visitors, subject to the provisions of this article and to the conditions, limitations and penalties prescribed by the regulations of the department. Any such veteran or dependent, who otherwise fulfills the requirements set forth in this section, may be admitted directly to the skilled nursing facility or the health related facility provided such veteran or dependent is certified by a physician designated or approved by the department to require the type of care provided by such facilities.

2. The unremarried surviving spouse as such term is defined under section 101 of title thirty-eight of the United States Code of any such veteran, or the unremarried surviving spouse, mother or father of any such member of the armed forces of the United States who died while on active duty, notwithstanding the length of such service, shall be entitled to admission to said home after the approval of the application by the board of visitors, subject to the provisions of this article and to the conditions, limitations and penalties prescribed by the regulations of the department and by the secretary of the United States department of veterans affairs.

3. The spouse, as such term is defined under section 101 of title thirty-eight of the United States Code, of any such veteran, unless such veteran and his or her spouse have been legally separated, shall be entitled to admission to said home after the approval of the application by the board of visitors, subject to the provisions of this article and to the conditions, limitations and penalties prescribed by the regulations of the department and by the secretary of the United States department of veterans affairs.

4. No spouse or unremarried surviving spouse of such a veteran shall be admitted as a resident of said home unless married to such veteran at least one year prior to the date of application.

5. Preference in admission shall be given as follows: first, to veterans accompanied by their spouses based upon severity of illness or disability and need for care; second, to other

eligible veterans pursuant to clause (ii) or (iii) of subdivision one of this section based upon severity of illness or disability and need for care and the order of the date of the conflict or operation listed in such clauses; third, to other eligible veterans pursuant to clause (i) of subdivision one of this section based upon severity of illness or disability and need for care; fourth, to spouses and unremarried surviving spouses based upon severity of illness or disability and need for care; fifth, to mothers and fathers based upon severity of illness or disability and need for care.

6. The board of visitors shall require an applicant for admission to such home to file an affidavit of New York state residence and the affidavits of at least two householders in and residents of the county in New York state of which the applicant claims at the time of such application to be a resident; and such affidavits shall, on presentation, be accepted and received as sufficient proof, unless contradicted, of the residence of such applicant in any actions or proceedings against such county in which such residence of such applicant is material.

7. The regulations of the department shall require that each applicant for admission shall furnish a certification of all property of which he or she is possessed and of all sources of income and that, following admission, each resident shall be required to furnish further certifications as to such facts from time to time, but not oftener than at intervals of twelve months, and shall also require the payments by residents of the home from such resources or income, or both, such amounts in payment on account of the care and maintenance provided by the home as the department shall find to be reasonable.

Public Health Law Article 26-A, Section 2633

§ 2633. Acquisition and application of property [State Veterans Homes]

Subject to the regulations of the department, the board of visitors or the duly appointed treasurer of the homes, as agent of the department, may receive, retain and expend receipts other than state appropriations, any money or other personal property given, bequeathed or entrusted to the board of visitors or duly appointed treasurer, for the purposes for which it is given or bequeathed to the homes or entrusted for safekeeping or, if unaccompanied by conditions or limitations, for any of the purposes of the homes or for the convenience of the residents thereof.

Public Health Law Article 28, Section 2805-b

§ 2805-b. Admission of patients and emergency treatment of non-admitted patients [Notification of Veterans Health Care]

5. The staff of a general hospital shall:

(a) inquire whether or not the person admitted has served in the United States armed forces. Such information shall be listed on the admissions form;

(b) notify any admittee who is a veteran of the possible availability of services at a hospital operated by the veterans administration, and, upon request by the admittee, such staff shall make arrangements for the individual's transfer to a veterans administration operated hospital, provided, however, that transfers shall be authorized only after it has been determined, according to accepted clinical and medical standards, that the patient's condition has stabilized and transfer can be accomplished safely and without complication; and

(c) provide any admittee who has served in the United States Armed Forces with a copy of the "Information for Veterans concerning Health Care Options" fact sheet, maintained by the department of veterans' services pursuant to subdivision twenty-three of section three hundred fifty-three of the executive law prior to discharging or transferring the patient. The commissioner shall promulgate rules and regulations for notifying such admittees of possible available services and for arranging a requested transfer.

Public Health Law Article 28, Section 2805-o

§ 2805-o. Identification of veterans and their spouses by nursing homes, residential health care facilities, and assisted living residences

1. Every nursing home and residential health care facility as defined in subdivisions two and three of section two thousand eight hundred one of this article and assisted living residences as defined in section forty-six hundred fifty-one of this chapter shall keep and maintain accurate records identifying veterans and their spouses residing within such facilities. Such information shall be solicited by nursing home and/or residential health care facility staff upon a patient's admission, noted on the admission form, and included with the patient's file by asking the question "Have you ever served in the United States military?" In the case of patients currently residing at such nursing homes or residential health care facilities, staff shall solicit such information by asking the question "Have you ever served in the United States military?" from each patient residing at such institution and update the patient's file to indicate veteran status.

2. Every nursing home, residential health care facility and assisted living residence shall in writing advise all individuals identifying themselves as veterans or spouses of veterans that the department of veterans' services and local veterans' service agencies to provide assistance to veterans and their spouses regarding benefits under federal and state law. Such written information shall include name, address, and telephone number of the New York state department of veterans' services,

the nearest department of veterans' services office, the nearest county or city veterans' service agency and the nearest accredited veterans' service officer.

3. Every nursing home, residential health care facility and assisted living residence, with the permission of individuals identifying themselves as veterans or spouses of veterans, shall transmit such veteran status information to the department of veterans' services.

4. Any person who violates the provisions of this section shall be subject to a civil fine not to exceed fifty dollars per violation but in no event shall any fine exceed one thousand dollars

Public Health Law Article 38, Section 3800

§ 3800. Policy and purposes of article [Veteran Employment in Healthcare]

The availability of adequate numbers of competent personnel for the provision of health services required by the people of the state is essential to the public health. Many of those returning from duty with the armed services possess experience acquired during assignment to military hospitals or other medically connected duty for which there exists a critical need in civilian health service fields.

It is the policy of the state to utilize this valuable resource in the protection and promotion of the health of the inhabitants of the state.

For that purpose the department of health is hereby vested with responsibility for the identification of veterans' health manpower resources and the recruitment and qualification of veterans having experience in health fields for employment in health service occupations.

Public Health Law Article 38, Section 3801

§ 3801. Veterans' health manpower center [Veteran Employment in Healthcare]

The commissioner shall establish within the department a veterans' health manpower center for the purpose of instituting and conducting studies and surveys of veterans health manpower resources, maintaining registries of such resources and recruiting veterans having experience in health fields for employment in health service occupations.

Public Health Law Article 38, Section 3802

§ 3802. Powers and duties [Veteran Employment in Healthcare]

1. The veterans health manpower center shall have the following duties:

(a) To identify veterans health manpower resources.

(b) To conduct studies and surveys of health needs to determine the extent to which such needs can be filled by veterans with health service experience.

(c) To institute and operate a veterans health manpower recruiting service including, but not limited to, a guidance and counselling service.

2. In the exercise of the foregoing powers and duties the commissioner shall consult with the commissioner of the department of veterans' services and the heads of state agencies charged with responsibility for manpower and health resources.

Public Health Law Article 38, Section 3803

§ 3803. Veterans' health care information program

1. There is hereby created within the department the veterans health care information program (referred to in this section as the "program"), which shall provide information on health issues associated with military duty, including but not limited to Agent Orange, Gulf War Syndromes, toxic materials or harmful physical agents such as, depleted uranium, and hepatitis C, and specific mental and physical health issues including post-traumatic stress disorder, traumatic brain injury and other brain-related injuries, for veterans, their surviving spouses, children of veterans, and health care providers.

2. The program shall include but not be limited to the following elements:

(a) public service announcements;

(b) establishment of a toll-free telephone hotline to provide information regarding health care providers and treatment centers with expertise in illnesses associated with military duty; and

(c) establish a veterans health information clearing house on-line.

3. In exercising any of his or her powers under this section, the commissioner shall consult with appropriate health care professionals, providers, veterans or organizations representing them, the department of veterans' services, the federal department of veterans' affairs and the United States defense department.

4. The commissioner may make rules and regulations necessary and appropriate for the implementation of this section.

Vehicle and Traffic Law, Title IV, Article 17-A, Section 490, Subsection 3

§ 490. Definition; application for and issuance of identification card

(3) Issuance.

(a) (i) The commissioner shall upon submission of an appropriate application, upon payment of the prescribed fee, and upon being satisfied that the person described is the applicant and that such applicant meets the requirements set forth in subdivision two of this section, issue to such applicant a nontransferable identification card. In addition, the commissioner also shall require that an applicant for an identification card or renewal thereof provide his or her social security number. The commissioner shall provide space so that an applicant may request a notation upon such identification card that he or she is a veteran of the United States armed forces.

(ii) In the case of a person (A) sixty-two years of age or older or (B) a recipient of supplemental security income benefits as defined in section two hundred eight of the social services law, application for a card which expires ten years after the date of issuance shall be made on a form prescribed by the commissioner and shall include proof that such person is sixty-two years of age or older or a recipient of such supplemental security income benefits, as the case may be.

(iii) Notwithstanding any other law, rule or regulation to the contrary, a person who is sixty-two years of age or older and who is a recipient of supplemental security income benefits who has not been issued a driver's license, or whose driver's license is expired, or who surrendered his or her driver's license, shall be issued an identification card without the payment of any fee, upon submitting the appropriate application.

(b) The identification card shall contain a distinguishing number or mark and adequate space upon which an anatomical gift, pursuant to article forty-three of the public health law, by the holder may be recorded and shall contain such other information and shall be issued in such form as the commissioner shall determine; provided, however, every identification card or renewal thereof issued to a person under the age of twenty-one years shall have prominently imprinted thereon the statement "UNDER 21 YEARS OF AGE" in notably distinctive print or format. Provided, further, however, that every identification card issued to an applicant who was a member of the armed forces of the United States and (I) received an honorable discharge or was released therefrom under honorable conditions, or (II) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, shall, upon his or her request and submission of proof as set forth herein, contain a distinguishing mark, in such form as the commissioner shall determine, indicating that he or she is a veteran. Such proof shall consist of a certificate of release or discharge from active duty including but not limited to a DD Form 214 or other proof satisfactory to the commissioner.

The commissioner shall not require fees for the issuance of such identification cards or renewals thereof to persons under twenty-one years of age which are different from the fees required for the issuance of identification cards or renewals thereof to persons twenty-one years of age or over, nor fees to persons requesting a veteran distinguishing mark which are different from fees that would otherwise be required. Provided, however, that notwithstanding the provisions of section four hundred ninety-one of this article, the commissioner shall not require any fees for the duplication or amendment of an identification card prior to its renewal if such duplication or amendment was solely for the purpose of adding a veteran distinguishing mark to such identification card.

(c) The identification card may also contain the photograph of the holder pursuant to regulations established by the commissioner. Any photograph taken as part of the application procedure for an identification card shall not be a public record.

Practice Notes, Cases, and General Counsel Opinions

Notes:

Uniformed Services Included In Definition: The New York State Department of Motor Vehicles interprets the term "armed forces" in the context of this statute to include not only the United States Army, Navy, Air Force, Space Force, Marine Corps, and Coast Guard, but also to include the branches of the United States Uniformed Services (namely, the commissioned officers' corps of the United States Public Health Service and the commissioned officers' corps of the National Oceanic and Atmospheric Administration).

Vehicle and Traffic Law, Title IV, Article 19, Section 504, Subsection 1(a-1)

§ 504. Form of license

(a-1) Every license or renewal thereof issued to an applicant who was a member of the armed forces of the United States and who (I) received an honorable discharge or was released therefrom under honorable conditions, , or (II) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, shall, upon his or her request and submission of proof as set forth herein, contain a distinguishing mark, in such form as the commissioner shall determine, indicating that he or she is a veteran. Such proof shall consist of a certificate of release or discharge from active duty including but not limited to a DD Form 214 or other proof satisfactory to the commissioner. The commissioner shall not require fees for the issuance of such licenses or renewals thereof to persons requesting a veteran distinguishing mark which are different from fees otherwise required; provided, however, that notwithstanding the provisions of this section, the commissioner shall not require fees for a duplication or amendment of a license prior to its renewal if such duplication or amendment was solely for the purpose of adding a veteran distinguishing mark to such license.

Practice Notes, Cases, and General Counsel Opinions

Notes:

Uniformed Services Included In Definition: The New York State Department of Motor Vehicles interprets the term "armed forces" in the context of this statute to include not only the United States Army, Navy, Air Force, Space Force, Marine Corps, and Coast Guard, but also the United States Uniformed Services (namely, the commissioned officers corps of the United States Public Health Service and the commissioned officers corps of the National Oceanic and Atmospheric Administration).

Vehicle and Traffic Law, Title IV, Article 14, Section 404, Subsection 1-a

§ 404. Issuance of special number plates

1-a. The commissioner may issue special number plates to applicants who are members of veterans organizations in the same manner as other number plates are issued pursuant to this article. Such special number plates shall be issued only upon (a) payment of a one-time service charge of ten dollars in addition to the regular registration fee prescribed by section four hundred one of this article, and (b) submission of proof, satisfactory to the commissioner, that the applicant is presently a member of the veterans organization for which such plate is requested. Such membership shall be verified annually by the applicant. Application for such plates shall be made in accordance with regulations promulgated by the commissioner with respect to the issuance of such plates. Provided, however, that nothing contained herein shall be deemed to supersede the provisions of section four hundred four-d, four hundred four-e, four hundred four-h, four hundred four-i, four hundred four-j, four hundred four-k or four hundred four-p of this article.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-a, Subsections 3, 4 & 5

§ 404-a. Registration of motor vehicles of severely disabled persons

3. Registration of vehicles owned by severely disabled veterans. The commissioner shall assign to such motor vehicles, including any vans or pick-up trucks used for transporting handicapped veterans which are not used for commercial purposes and which are owned by such veterans or a not-for-profit corporation serving such veterans, a distinctive number and issue and deliver in such manner as the commissioner may prescribe to the owner a certification of registration, in such form as the commissioner shall prescribe and two number plates, called disabled veteran plates. Said severely disabled veteran plates shall conform to the requirements of section four hundred one of this chapter, but shall bear distinctive marks to distinguish them from number plates to be issued to other persons, qualifying under this chapter. The commissioner in his discretion, may issue, for any registration year, only one plate as a set for a motor vehicle, in which event a set of severely disabled veteran plates for a motor vehicle shall consist of one plate.

Where a severely disabled veteran owns more than one vehicle and such vehicle or vehicles is or are used by severely disabled members of the owner's family who reside with the

owner, the commissioner shall issue one set of plates for each additional vehicle used by such severely disabled veteran, provided that such user qualifies as a severely disabled veteran in the manner required by this section. For purposes of this subdivision, the term "severely disabled veteran" shall mean a veteran as defined in section eighty-five of the civil service law, and whose disability qualifies him as a severely disabled person within the meaning of such term as defined in subdivision four of this section.

4. Issue of plates. The commissioner shall issue sets of plates to such person in accordance with subdivision two of this section with proof of such disability of such person or such members of his or her family certified by a physician, physician assistant or nurse practitioner, to the extent authorized by law, including the education law, and consistent with any applicable written practice agreement, or podiatrist pursuant to subdivision four-a of this section or optometrist pursuant to subdivision four-b of this section, to the satisfaction of the commissioner who is empowered to carry out the effects of this section by formulating rules and regulations.

For the purposes of this section, a "severely disabled person" shall mean any person having any one or more of the following impairments, disabilities or conditions which are permanent in nature:

(a) Has limited or no use of one or both lower limbs;

(b) Has a neuro-muscular dysfunction which severely limits mobility;

(c) Has a physical or mental impairment or condition which is other than those specified above, but is of such nature as to impose unusual hardship in utilization of public transportation facilities and such condition is certified by a physician, physician assistant or nurse practitioner, to the extent authorized by law, including the education law, and consistent with any applicable written practice agreement, duly licensed to practice medicine in this state, or, pursuant to subdivision four-a of this section, a podiatrist duly licensed to practice podiatry in this state or, pursuant to subdivision four-b of this section, an optometrist duly licensed to practice optometry in this state, as constituting an equal degree of disability (specifying the particular condition) so as to prevent such person from getting around without great difficulty in accordance with subdivision two of this section; or

(d) A blind person.

5. Application for registration.

(a) The application for registration under this section shall be filed with the commissioner of motor vehicles in such form and detail as the commissioner shall prescribe, setting forth such information as the commissioner may reasonably prescribe beyond such information required under section four hundred one of this chapter.

(b) The commissioner may require the applicant for registration to furnish such proof of his or her disability or such proof of disability of such members of his or her family from a physician, physician assistant or nurse practitioner, to the extent authorized by law, including the education law, and consistent with any applicable written practice agreement, or podiatrist pursuant to subdivision four-a of this section or optometrist pursuant to subdivision four-b of this section, as the commissioner deems necessary either for initial registration or renewal thereof; provided, however, that a handicapped or disabled permit issued by a municipality to such applicant pursuant to section twelve hundred three-a of this chapter shall be deemed sufficient proof of disability for purposes of this paragraph.

(c) Application under this section shall only apply to a vehicle subject to registration pursuant to subdivision six of section four hundred one of this chapter and to a van or pick-up truck as provided in subdivision two of this section.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-aa

§ 404-aa. Distinctive plates for members of the Catholic War Veterans of America

1. Any member of the Catholic War Veterans of America residing in this state shall, upon request, be issued a license plate bearing the words "Catholic War Veterans of America". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized in this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of the Catholic War Veterans of America.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-c

§ 404-c. Distinctive plates for former prisoners of war

1. Any former prisoner of war residing in this state or the spouse of any such former prisoner of war shall, upon request, be issued a license plate bearing the words "former prisoner of war". If a distinctive plate is issued to a former prisoner of war pursuant to this section, additional distinctive plates may be issued for every vehicle registered in the name of the former prisoner of war residing in this state or the spouse of such former prisoner of war. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the

commissioner, that the applicant or the spouse of the applicant is a former prisoner of war.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this chapter provided, however, that no additional service charge shall be charged for such plate.

4. The unremarried widow or widower of a former prisoner of war married to such former prisoner at the time of his or her imprisonment shall be included in the term "spouse" for the purposes of this section. A distinctive plate issued pursuant to this subdivision shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this chapter, provided, however, that no additional service charge shall be charged for such plate.

5. Notwithstanding subdivision three of this section and the fees prescribed or permitted by section four hundred one of this article, there shall be no charge for the issuance of a number plate pursuant to this section to a former prisoner of war, nor shall there be imposed an additional service charge for the issuance of such a plate to such a person. Furthermore, upon the issuance of a distinctive plate pursuant to this section, such a former prisoner of war shall be exempt from the payment of any fees relating to the registration or renewal thereof as prescribed by section four hundred one of this article.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-d

§ **404-d. Distinctive plates for members of the organized militia and reserve**

1. Any member of the organized militia of the state of New York and any member of a reserve unit from this state of any branch of the armed forces of the United States or the spouse of any such member shall, upon request, be issued a license plate bearing a militiaman and the appropriate organization -- army national guard, air national guard, state guard or naval militia, army reserve, marine corps reserve, air force reserve, navy reserve or coast guard reserve. If a distinctive plate is issued to a member of the organized militia pursuant to this section, such a distinctive plate shall not be issued to the spouse of such member of the organized militia. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the applicant.

2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is presently an active member of the organized militia or reserve.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as

other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-dd

§ 404-dd. Distinctive plates for members of AMVETS

1. Any member of AMVETS residing in this state shall, upon request, be issued a license plate bearing the word "AMVETS". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of AMVETS.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

4. For the purposes of this section, "AMVETS" shall mean the veterans service organization chartered by congress as a membership corporation created pursuant to chapter 227 of title 36 of the United States code.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-e

§ 404-e. Distinctive plates for purple heart recipients

1. Any purple heart recipient residing in this state or the spouse of any such recipient shall, upon request, be issued a license plate bearing the words "combat wounded" and inscribed the purple heart medal imprint. If a distinctive plate is issued to a purple heart recipient pursuant to this section, additional distinctive plates may be issued for every vehicle registered in the name of the purple heart recipient residing in this state or the spouse of such purple heart recipient. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a purple heart recipient.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that no service charge shall be charged for such plate.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-h

§ 404-h. Distinctive plates for members of the Jewish War Veterans of America

1. Any member of the Jewish War Veterans of America residing in this state shall, upon request, be issued a license plate bearing the words "Jewish War Veterans of America". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of the Jewish War Veterans of America.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one-time service charge of [fig 2] ten dollars shall be charged for such plate.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-i

§ 404-i. Distinctive plates for gold star mothers

1. Any gold star mother or the spouse of a gold star mother residing in this state shall, upon request, be issued a license plate bearing the words "gold star mother". If a distinctive plate is issued to a gold star mother pursuant to this section, additional distinctive plates may be issued for every vehicle registered in the name of the gold star mother recipient residing in this state or the spouse of such gold star mother. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a gold star mother.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that no service charge shall be charged for such plate.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-J

§ 404-j. Registration and issuance of special number plates for veterans who survived the Pearl Harbor attack

1. Registration of vehicles owned by veterans who survived the Pearl Harbor attack. The commissioner shall assign to motor vehicles, owned by persons who while on military duty

serving in the armed forces of the United States survived the Pearl Harbor attack by Japan on December seventh, nineteen hundred forty-one or the spouse of such a person, a distinctive number and issue and deliver in such manner as the commissioner may select to the owner a certification of registration, in such form as the commissioner shall prescribe and two number plates, called Pearl Harbor attack veterans plates. Said plates shall conform to the requirements of section four hundred one of this chapter, but shall bear the distinctive words PEARL HARBOR SURVIVOR to distinguish them from number plates to be issued to other persons, qualifying under this chapter. The commissioner, in his discretion, may issue, for any registration year, only one plate as a set for a motor vehicle, in which event a set of plates for a motor vehicle shall consist of one plate. If a distinctive plate set is issued to a Pearl Harbor attack veteran pursuant to this section, such a distinctive plate set shall not be issued to the spouse of such veteran.

2. Issue of plates. The commissioner shall issue sets of plates to such person in accordance with subdivision one of this section with proof by such person or the spouse of such person that such person survived the Pearl Harbor attack by Japan on December seventh, nineteen hundred forty-one in a manner satisfactory to the commissioner who is empowered to carry out the effects of this section by formulating rules and regulations. Such plates shall not be considered as "vanity plates". The plates authorized to be issued hereunder are special and are to be issued in recognition of valiant service rendered by the veteran to the United States.

3. Application for registration.

(a) The application for registration under this section shall be filed with the commissioner of motor vehicles in such form and detail as the commissioner shall prescribe, setting forth such information as the commissioner may reasonably prescribe beyond such information required under section four hundred one of this chapter.
(b) Application under this section shall only apply to a vehicle subject to registration pursuant to subdivision six of section four hundred one of this chapter and as provided in subdivision one of this section.

4. Fee. A special plate and registration issued pursuant to this section shall be issued upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-k

§ 404-k. Distinctive plates for Marine Corps League members

1. Any member of the Marine Corps League residing in this state shall, upon request, be

issued a license plate bearing the United States Marine Corps emblem and the words "Marine Corps League". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of the Marine Corps League.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-p

§ 404-p. Distinctive plates for Congressional Medal of Honor recipients

1. Any congressional medal of honor recipient residing in this state shall, upon request, be issued a license plate bearing the words "congressional medal of honor". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant is a Congressional Medal of Honor recipient.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates, provided, however, that no registration fee or service charge shall be charged for such plate.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-s

§ 404-s. Distinctive plates for the Saratoga National Cemetery Honor Guard Association

1. Any member of the Saratoga national cemetery honor guard association residing in this state shall, upon request, be issued a license plate bearing the logo of such association as illustrated by such association's shoulder patch. Application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the applicant.

2. A distinctive plate authorized by subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant presently is an active member of the Saratoga national cemetery honor guard association.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of fifteen dollars shall be charged for such plate. Provided, however, that one year after the effective date of this section funds in the amount of six thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-v

§ 404-v. Distinctive plates for the United States Naval Armed Guard

1. Any member of the United States Naval Armed Guard residing in this state shall, upon request, be issued a license plate bearing the words "United States Naval Armed Guard", or such other phrase as the commissioner shall designate showing the registrant served in the United States Naval Armed Guard. Application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized pursuant to this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is a veteran who served in the United States Naval Armed Guard and who (1) was honorably discharged from such service, or (2) or has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate. Provided, however, that one year after the effective date of this section funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated from such funds to the department to offset costs associated with the production of such license plates.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-v

§ 404-v. Distinctive plates for members of the Eighth Air Force Historical Society

1. Any member of the Eighth Air Force Historical Society residing in this state shall, upon request, be issued a license plate bearing the words "Eighth Air Force". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized in this section shall be issued upon proof, satisfactory to

the commissioner, that the applicant is a member of the Eighth Air Force Historical Society.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of fifteen dollars shall be charged for such plate. Such annual service charge shall be deposited to the credit of the Eighth Air Force Historical Society fund established pursuant to section ninety-five-f of the state finance law and shall be used for veterans' counseling services provided by local veterans' service agencies pursuant to section three hundred fifty-seven of the executive law under the direction of the department of veterans' services. Provided, however, that one year after the effective date of this section funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-w

§ 404-w. Distinctive plates for war on terror veterans

1. Any war on terror veteran residing in this state shall, upon request, be issued a license plate bearing the words "War on Terror veteran". For purposes of this section, a "war on terror" veteran shall mean:

(a) a person who served in the armed forces of the United States in the hostilities that occurred in the Persian Gulf from the eleventh day of September, two thousand one, to the end of such hostilities, who (I) was discharged there from under other than dishonorable conditions, or (II) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service; or

(b) a person who served in the armed forces of the United States in the hostilities that occurred in Afghanistan from the eleventh day of September, two thousand one, to the end of such hostilities, who (I) was discharged there from under other than dishonorable conditions, or (II) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

2. The distinctive plate authorized by this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is a war on terror veteran.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred of this article, provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-w

§ 404-w. Distinctive plates for Persian Gulf veterans

1. Any Persian Gulf veteran or the spouse of any such veteran shall, upon request, be issued a license plate bearing the words "Persian Gulf Veteran". If a distinctive plate is issued to a veteran pursuant to this section, such a distinctive plate shall not be issued to the spouse of such veteran. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a Persian Gulf veteran.

3. For the purposes of this section, "Persian Gulf veteran" shall mean a person who is a resident of this state, who served in the armed forces of the United States in the hostilities that occurred in the Persian Gulf from the second day of August, nineteen hundred ninety to the end of such hostilities, and was (A) honorably discharged from the military, or (B) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (C) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

4. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one time service charge of ten dollars shall be charged for such plate.

5. Nothing contained herein shall require the issuance of a special number plate under this section unless the commissioner is satisfied that the aggregate amount of annual service charges collected pursuant to subdivision four of this section will be sufficient to recover the costs of the design and manufacture of such special plates.

Vehicle and Traffic Law, Title IV, Article 14, Section 404-y

§ 404-y. Distinctive plates for veterans of the Iraq War and veterans of the Afghanistan War

1. Any veteran of the Iraq War or the Afghanistan War residing in this state or the spouse of any such veteran shall, upon request, be issued a license plate bearing the words “Veteran of the Iraq War” or “Veteran of the Afghanistan War”. If a distinctive plate is issued to a veteran pursuant to this section, such a distinctive plate shall not be issued to the spouse of such veteran. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plates authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a veteran of the Iraq War or the Afghanistan War.

3. For the purposes of this section, the following terms shall have the following meanings:

(a) "Veteran of the Iraq War" shall mean a person who is a resident of this state, who served in the armed forces of the United States in the hostilities that occurred in Iraq from the sixteenth day of October, two thousand two to the end of such hostilities who was (I) discharged therefrom under other than dishonorable conditions, or (II) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service; and

(b) "Veteran of the Afghanistan War" shall mean a person who is a resident of this state, who served in the armed forces of the United States in the hostilities that occurred in Afghanistan from the seventh day of October, two thousand one to the end of such hostilities who was (I) discharged therefrom under other than dishonorable conditions, or (II) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

4. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one time service charge of ten dollars shall be charged for such plate.

Debtor and Creditor Law, Article 10-A, Section 282, Subsection 2

§ 282. Permissible exemptions in bankruptcy

Under section five hundred twenty-two of title eleven of the United States Code, entitled "Bankruptcy", an individual debtor domiciled in this state may exempt from the property of the estate, to the extent permitted by subsection (b) thereof, only (i) personal and real property exempt from application to the satisfaction of money judgments under sections fifty-two hundred five and fifty-two hundred six of the civil practice law and rules, (ii) insurance policies and annuity contracts and the proceeds and avails thereof as provided in section three thousand two hundred twelve of the insurance law and (iii) the following property:

2. Bankruptcy exemption for right to receive benefits. The debtor's right to receive or the debtor's interest in: (a) a social security benefit, unemployment compensation or a local public assistance benefit; (b) a veterans' benefit; (c) a disability, illness, or unemployment benefit; (d) alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor; and (e) all payments under a stock bonus, pension, profit sharing, or similar plan or contract on account of illness, disability, death, age, or length of service unless (i) such plan or contract, except those qualified under section 401, 408 or 408A of the United States Internal Revenue Code of 1986, as amended, was established by the debtor or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose, (ii) such plan is on account of age or length of service, and (iii) such plan or contract does not qualify under section four hundred one (a), four hundred three (a), four hundred three (b), four hundred eight, four hundred eight A, four hundred nine or four hundred fifty-seven of the Internal Revenue Code of nineteen hundred eighty-six, as amended.

ECONOMIC DEVELOPMENT LAW

Economic Development Law Article 9, Section 210, Subsections 1 & 6

§ 210. Definitions

As used in this article the following terms, unless the context indicates otherwise, shall have the following meanings:

1. "Development centers" shall mean the business enterprise development centers which provide assistance to primarily minority group members, women, individuals with a disability, and veterans as established by the department pursuant to section two hundred eleven of this article.

6. "Veteran" shall mean a person who served in the United States army, navy, air force, space force, marines, coast guard, and/or reserves thereof, and/or in the army national guard, air national guard, New York guard and/or the New York naval militia and who (A) has received an honorable or general discharge from such service, or (B) has a qualifying condition as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (C) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

Economic Development Law Article 9, Section 211

§211. Development centers

1. The department shall provide grants, within available appropriations, on a competitive basis, in response to a request for proposals to pilot development centers, to provide intensive community-based management and technical assistance targeted primarily to minority group members, women, individuals with a disability, and veterans who are seeking to start or are starting new business ventures.

2. The department shall establish criteria for selection and designation of such development centers which shall include, but not be limited to:

(a) the level of participation in the development center of local leaders in post-secondary education, business, finance and government;

(b) the level of financial assistance provided at the local level to support the operations of the development center;

(c) the applicant's understanding of program goals and objectives articulated by the department;

(d) the plans of the development center to supplement state and local funding through fees for services which may be based on a sliding scale based on ability to pay;

(e) the need for and anticipated impact of the development center on the community in which it will function;

(f) the quality of the proposed work plan and staff of the development center; and

(g) the extent of economic distress in the area to be served.

3. Each development center shall:

(a) be operated by a board of directors representing community leaders in business, education, finance and government;

(b) be incorporated as a not-for-profit corporation;

(c) be located in an area accessible to eligible clients;

(d) establish an advisory group of community business experts, at least one-half of whom shall be representative of the clientele to be served by the center, which shall constitute a support network to provide counseling and mentoring services to minority group members, women and individuals with a disability from the concept stage of development through the first one to two years of existence on a regular basis and as needed thereafter during the first five years of a new venture; and

(e) establish a referral system and linkages to existing area small business assistance programs and financing sources.

4. Each development center shall provide needed services to eligible clients, including, but not limited to:

(a) orientation and screening of prospective entrepreneurs;

(b) analysis of business concepts and technical feasibility;

(c) market analysis;

(d) management analysis and counseling;

(e) business planning and financial planning assistance;

(f) referrals to financial resources; and

(g) referral to existing educational programs for training in such areas as marketing,

accounting and other such training programs as may be necessary and available; and

(h) referral to business incubator facilities, where appropriate, for the purpose of entering into agreements to access shared support services.

Economic Development Law Article 9, Section 212

§ 212. Entrepreneurship support centers

1. The department shall establish and support, within available appropriations, entrepreneurship support centers at career education agencies and not-for-profit corporations including, but not limited to, local development corporations, chambers of commerce and community-based organizations. The purpose of such support centers shall be to train dislocated workers, individuals with a disability, minorities, women, and veterans in the principles and practice of entrepreneurship in order to prepare such persons to pursue self-employment opportunities. Such support centers shall provide for training in all aspects of business development and small business management as defined by the commissioner. For purposes of this section, "career education agency" shall mean a community college or board of cooperative educational services operating within the state.

2. In furtherance of the purposes of this section, the commissioner shall:

(a) require that each support center program provide at least sixty hours of classroom instruction and at least thirty hours of one-to-one counseling for each participant and that each program be supplemented by ongoing technical assistance for business development for those who have completed the program;

(b) select and designate career education agencies and not-for-profit corporations to offer entrepreneurship training and support on a competitive basis and in response to a request for proposals issued by the commissioner. Such proposals shall include, but shall not be limited to:

(i) a description of the training program to be offered;

(ii) a listing of instructors from the career education agencies and not-for-profit corporations and from the community participating in the program and their curricula vitae;

(iii) designation of a program director;

(iv) plans for providing ongoing technical assistance to program graduates, including linkages with providers of other entrepreneurial assistance programs and with providers of small business technical assistance and services;

(v) a program budget, including matching funds, in-kind and otherwise, to be provided by the applicant; and

(vi) such other requirements as deemed necessary by the commissioner; and

(c) permit joint application from a consortium of career education agencies and not-for-profit corporations, or any combination thereof, for establishing a cooperative program.

3. The commissioner is authorized to make grants to career education agencies and not-for-profit corporations, or any combination thereof, for the purpose of establishing entrepreneurship support centers and programs subject to the following limitations:

(a) no grant shall be made to any one or any consortium of career education agencies and not-for-profit corporations in excess of fifty thousand dollars;

(b) such grant shall be disbursed for payment of the cost of services and expenses of the program director, the instructors of the participating career education agency or not-for-profit corporation, the faculty and support personnel thereof and any other person in the service of providing instruction and counseling in furtherance of the program; and

(c) training programs of entrepreneurship support centers proposed and approved for funding shall be required to meet the standards of instructional quality established in regulations by the commissioner of education. These standards shall include, but not be limited to, qualification of the administrative and instructional personnel, quality of the curricula, quality of facilities and equipment, record keeping, admission, attendance, and record of placement of completers which meets standards of acceptability as established by the commissioner of education in conjunction with the commissioner of labor.

4. Application for grants made pursuant to the provisions of subdivision three of this section shall be made in the manner and on forms prescribed by the commissioner.

Elder Law Article II, Title I, Section 202, Subsection 15

§ 202. General powers and duties of office

The office shall have the following powers and duties:

15. To periodically, in consultation with the state commissioner of veterans' services, review the programs operated by the office to ensure that the needs of the state's aging veteran population are being met and to develop improvements to programs to meet such needs.

Mental Hygiene Law Article 79, Section 79.01

§ 79.01. Definitions [Guardianship of a Veteran]

As used in this article:

The term "person" includes a partnership, corporation, or an association.

The term "administration" means the United States veterans' administration or its successor.

The terms "estate" and "income" shall include only moneys received by the guardian from the administration and all earnings, interest, and profits derived therefrom.

The term "benefits" shall mean all moneys payable by the United States through the administration.

The term "director" means the director of the United States veterans' administration or his successor.

The term "ward" means a beneficiary of the administration.

The term "guardian" as used herein shall mean any person acting as a fiduciary for a ward.

Mental Hygiene Law Article 79, Section 79.03

§ 79.03. Application [Guardianship of a Veteran]

Whenever, pursuant to any law of the United States or regulation of the administration, the director requires, prior to payment of benefits, that a guardian be appointed for a ward,

such appointment shall be made in the manner hereinafter provided. The provisions of this article shall apply only to the wards of the administration and with respect to such wards, except as herein otherwise specifically provided, shall supersede any inconsistent provision of law relating to incompetents, conservatees or infants.

Mental Hygiene Law Article 79, Section 79.05

§ 79.05. Limitations on number of wards [Guardianship of a Veteran]

Except as hereinafter provided it shall be unlawful for any person to accept appointment as guardian of any ward if such proposed guardian shall at that time be acting as guardian for five wards. In any case upon presentation of a petition by an attorney of the administration under this section alleging that a guardian is acting in a fiduciary capacity for more than five wards and requesting his discharge for that reason, the court, upon proof substantiating the petition, shall require a final accounting forthwith from such guardian and shall discharge such guardian in said case.

The limitations of this section shall not apply where the guardian is a bank or trust company. An individual may be guardian of more than five wards if they are all members of the same family.

Mental Hygiene Law Article 79, Section 79.07

§ 79.07. Petition; contents [Guardianship of a Veteran]

A petition for the appointment of a guardian for an incompetent or conservatee ward may be filed in the supreme court or in the county court pursuant to jurisdiction given in the laws of the state, by or on behalf of any person who, under the laws of the state, is entitled to file such a petition. A petition for the appointment of a guardian for an infant ward may be filed in the surrogate's court pursuant to jurisdiction given in the surrogate's court procedure act, by or on behalf of any person who, under the provision of the surrogate's court procedure act, is entitled to file such petition.

The petition for appointment of a guardian, whether the ward be a mental incompetent or an infant, shall set forth the name, age, place of residence of the ward, the names and places of residence of the nearest relative, if known, and the fact that such ward is entitled to receive moneys payable by or through the administration and shall set forth the amount of moneys then due and the amount of probable future payments.

The petition shall also set forth the name and address of the person or institution, if any, having actual custody of the ward.

In the case of a mentally incompetent ward the petition shall show that such ward has been rated incompetent on examination by the administration in accordance with the laws and regulations governing the administration.

Mental Hygiene Law Article 79, Section 79.09 §

79.09. Consolidated procedure [Guardianship of a Veteran]

Upon petition for the appointment of a guardian the court may appoint such guardian to receive not only benefits from the veterans' administration and income from such benefits, but such other property of the ward to which he may be entitled and which is not then being administered by a committee appointed pursuant to the provisions of article seventy-eight of this chapter in the case of an incompetent or pursuant to article seventy-seven of this chapter in the case of a conservatee, or guardian appointed pursuant to the provisions of the surrogate's court procedure act in the case of an infant; provided, however, that if objection to such appointment of a guardian be made by or on behalf of such ward, such appointment shall not be made except upon compliance with said provisions of this chapter in the case of an incompetent or conservatee, or the surrogate's court procedure act in the case of an infant.

Mental Hygiene Law Article 79, Section 79.11

§ **79.11. Prima facie evidence of infancy or incompetency [Guardianship of a Veteran]**

(a) Where a petition is filed for the appointment of a guardian of an infant ward, a certificate of the director, or his representative, setting forth the age of such infant as shown by the records of the administration and the fact that the appointment of a guardian is a condition precedent to the payment of any moneys due the infant by the administration shall be prima facie evidence of the necessity for the appointment of a guardian to receive benefits from the administration and income from such benefits.

(b) Where a petition is filed for the appointment of a guardian of a mentally incompetent ward, a certificate of the director, or his representative, setting forth the fact that such person has been rated incompetent by the administration on examination in accordance with the laws and regulations governing such administration and that the appointment of a guardian is a condition precedent to the payment of any moneys due such person by the administration shall be prima facie evidence of the necessity for the appointment of a guardian to receive benefits from the administration and income from such benefits.

Mental Hygiene Law Article 79, Section 79.13

§ 79.13. Notice [Guardianship of a Veteran]

(a) Upon the filing of a petition for the appointment of a guardian under the provisions of this article, the court shall cause the same notice to be given that is required by this chapter when the appointment is being made for an incompetent and by the surrogate's court procedure act when it is being made for an infant.

(b) Due and timely notice shall be given to the administration of any proceeding had involving the estate of a claimant of said administration where said claimant is receiving payment from said administration through a guardian.

Mental Hygiene Law Article 79, Section 79.29

§ 79.29. Admission and retention of mentally ill veterans [Guardianship of a Veteran]

Whenever it appears that a mentally ill veteran of any war, military occupation or expedition is eligible for treatment in a United States veterans' administration hospital or that a mentally ill seaman or other person is eligible for treatment in a United States public health service hospital and the official in charge of such hospital determines that such person is suitable for voluntary admission to such hospital or that an involuntary admission to such hospital is necessary for the proper care and treatment of such veteran, seaman, or other person, such official is authorized to admit and retain such veteran, seaman or other person, provided, however, such official shall comply with all applicable provisions of article nine of this chapter relating to admission and retention of patients. The officials in charge of such hospitals are also authorized to apply to the commissioner for approval to receive and retain such veterans, seamen or other eligible persons on an emergency basis, in accordance with the provisions of section 9.39 of this chapter. Such veteran, seaman, or other person, upon admission, shall be subject to the rules and regulations of such hospital to the extent that such rules and regulations do not conflict with the provisions of this section.

Mental Hygiene Law Article 79, Section 79.31 §

79.31. Discharge of guardian [Guardianship of a Veteran]

When a minor ward for whom a guardian has been appointed under the provisions of this article or other laws of this state shall have attained his or her majority, and if incompetent, shall be declared competent by the administration and the court, and when any incompetent ward, not a minor, shall be declared competent by said administration and the court, the guardian shall upon making a satisfactory accounting be discharged upon a petition filed for

that purpose. Provided, however, if a guardian has received other property in addition to the benefits from the administration and income from such benefits, his discharge as to such property shall, in the case of an incompetent ward, be governed by the laws which govern the discharge of a committee of an incompetent, and in the case of an infant ward, by the laws which govern the discharge of a guardian of an infant.

Mental Hygiene Law Article 79, Section 79.39

§ 79.39. Recognition of veterans' administration as a party in interest [Guardianship of a Veteran]

(a) With respect to benefits from the administration or the income therefrom, the administrator of the United States veterans' administration or his duly authorized attorney, for the purpose of bringing any action, or otherwise appearing, in behalf of a ward of the administration to whom benefits from said administration may accrue, shall be recognized as a party in interest and entitled to all the rights and privileges of a party.

(b) In addition to any official authorized by law to administer oaths, any attorney or field representative employed by the United States veterans' administration shall be authorized to administer any oath required in any court proceeding wherein such administration is a party in interest, as provided in subdivision (a). The certification, on any affidavit, instrument, or document, as to an oath taken by any such attorney or field representative of the United States veterans' administration pursuant to the authority of this section, shall contain a statement of the title of the office or employment of such attorney or field representative in such administration.

PUBLIC OFFICER'S LAW

Public Officer's Law Article 4, Section 63

§ 63. Leave of absence for veterans on Memorial day and Veterans' day

(1) It shall be the duty of the head of every public department and of every court of the state of New York, of every superintendent or foreman on the public works of said state, of the county officers of the several counties of said state, of the town officers of the various towns in this state, of the fire district officers of the various fire districts in this state, and of the head of every department, bureau and office in the government of the various cities and villages in this state, and the officers of any public benefit corporation or any public authority of this state, or of any public benefit corporation or public authority of any county or subdivision of this state, to give leave of absence with pay for twenty-four hours on the day prescribed by law as a public holiday for the observance of Memorial day and on the eleventh day of November, known as Veterans' day, to every person in the service of the state, the county, the town, the fire district, the city or village, the public benefit corporation or public authority of this state, or any public benefit corporation or public authority of any county or subdivision of this state, as the case may be, (i) who served on active duty in the armed forces of the United States during world war I or world war II, or who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (A) was discharged or released therefrom under honorable conditions, or (B) has a qualifying condition, as defined in Section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (C) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and

who was discharged or released therefrom under honorable conditions, or during the period of the Korean conflict at any time between the dates of June twenty-seventh, nineteen hundred fifty and January thirty-first, nineteen hundred fifty-five, or during the period of the Vietnam conflict from the first day of November, nineteen hundred fifty-five to the seventh day of May, nineteen hundred seventy-five, or (ii) who served on active duty in the armed forces of the United States and who was a recipient of the armed forces expeditionary medal, navy expeditionary medal or marine corps expeditionary medal for participation in operations in Lebanon from June first, nineteen hundred eighty-three to December first, nineteen hundred eighty-seven, in Grenada from October twenty-third, nineteen hundred eighty-three to November twenty-first, nineteen hundred eighty-three, or in Panama from December twentieth, nineteen hundred eighty-nine to January thirty-first, nineteen hundred ninety, or (iii) who served in the armed forces of a foreign country allied with the United States during world war I or world war II, or during the period of the Korean conflict at any time between June twenty-seventh, nineteen hundred fifty and January thirty-first, nineteen hundred fifty-five, or during the period of the Vietnam conflict from the twenty-eighth day of February , nineteen hundred sixty-one to the seventh day of May, nineteen hundred seventy-five, or during the period of the Persian Gulf conflict from the second day of August, nineteen hundred ninety to the end of such conflict, or who served on active duty in the army or navy or marine corps or air force or space force or coast guard of the United States, and who was honorably discharged or separated from such service under honorable conditions, except where such action would endanger the public safety or the safety or health of persons cared for by the state, in which event such persons shall be entitled to leave of absence with pay on another day in lieu thereof. All such persons who are compensated on a per diem, hourly, semi-monthly or monthly basis, with or without maintenance, shall also be entitled to leave of absence with pay under the provisions of this section and no deduction in vacation allowance or budgetary allowable number of working days shall be made in lieu thereof. A refusal to give such leave of absence to one entitled thereto shall be neglect of duty.

Unconsolidated Laws Chapter 138-A, Section 2

§ **2. Definitions**

As used in this act:

1. "Special disabled veteran" means a veteran who is entitled to, or who but for the receipt of military retirement pay would be entitled to, compensation under any law administered by the United States department of veterans' affairs for a disability rated thirty percent or more or a person who was discharged or released from active duty because of a service-connected disability.

2. "Vietnam-era veteran" means an eligible veteran, any part of whose military, naval, or air service was during the Vietnam era of December 22, 1961 through May 5, 1975.

3. "Disabled veteran" means a veteran who is entitled to, or who but for the receipt of military retirement pay would be entitled to compensation, under any law administered by the United States department of veterans' affairs and who is not a special disabled veteran.

4. "Combat theater veteran" means any member of the armed forces of the United States who served in a campaign or expedition for which a campaign ribbon or combat badge is authorized and who was discharged or released from such duty with other than a dishonorable discharge.

5. "Recently separated veteran" means any person who served more than one hundred eighty continuous days or on active duty within the previous forty-eight months with other than a dishonorable discharge.

6. "Employment and training programs" means any education, training, remediation or rehabilitation program administered by a state agency that is directed at improving the employability or skills of enrolled participants including but not limited to the Job Training Partnership Act (P.L. 97-300) as amended by the Job Training Reform Amendments of 1992 and its successor program, the Workforce Investment Act of 1998 (P.L. 105-220), and all employment services including but not limited to veterans employment and training programs offered through a one-stop delivery system center.

Unconsolidated Laws Chapter 138-A, Section 3

§ 3. Veterans priority system [Veterans Employment]

Veterans who meet eligibility requirements for any employment and training program administered by any state agency shall be given preference in referral to those programs over non-veterans. Veterans shall be referred according to the order of priority set forth in section five of this act.

Unconsolidated Laws Chapter 138-A, Section 3

§ 4. Order of priority [Veterans Employment]

Each state agency shall refer veterans to employment and training programs according to the following order of priority:

1. Special disabled veterans;

2. Vietnam era veterans;

3. Disabled veterans;

4. Combat theater veterans;

5. Recently separated veterans; and

6. Other veterans.

Public Buildings Law, Article 2, Section 5-c

§ 5-c. POW/MIA Chair [Public Buildings]

There shall be set aside space in the capitol by the commissioner of general services for a POW/MIA chair and plaque, and such commissioner shall provide for the placement and maintenance of such chair and plaque in the capitol to honor United States prisoners of war and those still missing in action.

Unconsolidated Laws Chapter 138-A, Section 6

§ 6. Reporting [NYS DVS Services Provided to Veterans]

Prior to March first of each year, state agencies administering employment and training programs shall submit an annual written report to the governor, the speaker of the assembly, the temporary president of the senate and the commissioner of veterans' services on the services provided to veterans. Each annual report shall include:

1. the numbers served for each priority group defined in section five of this act;

2. actions taken to ensure compliance with requirements under this act; and

3. the number of veterans, as defined in section three of this act who are identified under subdivision 5 of section nine of this act.

Unconsolidated Laws Chapter 138-A, Section 7

§ 7. Administration [Agency Coordinator of Veterans Services]

1. Each state agency shall designate an administrator or coordinator of veterans services who shall ensure that requirements under this act are carried out and that active communication, coordination, and cooperative efforts are maintained with other state agencies.

2. Such veterans services administrator or coordinator positions shall be funded from existing appropriations in such agencies.

3. A listing of all veterans services administrators or coordinators shall be maintained by the department of veterans' services and updated annually.

Unconsolidated Laws Chapter 138-A, Section 8 §

8. Agency duties and responsibilities [Treatment of Veterans]

All state agencies administering employment and training programs shall:

1. ensure that veterans are treated with courtesy and respect at all state governmental facilities;

2. provide information and assistance to veterans regarding benefits and services that may be obtained through other agencies, including but not limited to the department of veterans' services;

3. inform each veteran of his or her rights; and

4. provide an ongoing in-service training program for agency staff on how to identify and address the special needs for veterans.

5. make inquiry and identify all veterans as defined in section three of this act within their agency. The results of this inquiry will be provided to the New York state department of veterans' services. Information collected regarding this section shall be protected as personal and confidential information under article 6-A of the public officers law against disclosure of confidential material, and used only to determine the number of veterans who are employed by the state of New York.

SOCIAL SERVICES LAW

Public Health Law Article 41, Title VII, Section 4173

§ 4173. Records; transcripts and certifications by registrars; fees

1. Upon request, a certification of birth or of death or a certified copy or certified transcript of a birth or death record shall be issued by the registrar under regulations prescribed by the commissioner.

2. A certified copy or certified transcript of a birth record shall be issued only upon order of a court of competent jurisdiction or upon a specific request therefor by the person, if eighteen years of age or more, or by a parent or other lawful representative of the person to whom the record of birth relates.

3. The registrar shall be entitled to a fee of ten dollars, except in the county of Chemung and the county of Monroe and the county of Onondaga and the county of Tompkins whereby such fee shall be set by the county health commissioner and in the city of Oswego whereby such fee shall be set by the Oswego common council, up to the amount charged by the commissioner as prescribed in subdivision two of section forty-one hundred seventy-four of this title for each certification of birth or death or for each certified copy or certified transcript of any record of a birth or of a death or for a certification that a search discloses no record of a birth or of a death, furnished by him to an applicant, except that no fee shall be charged for a search, certification of birth or death or certified copy or certified transcript of a birth or a death record to be used for school entrance, employment certificate or for purposes of public relief or government compensation or when required by the veterans administration to be used in determining the eligibility of any person to participate in the benefits made available by the veterans administration, provided, however, that if such registrar is a city clerk, town clerk or village clerk, he shall collect such fees for and on behalf of the city, town or village in which he serves, provided, however, that an amount equivalent to the sum of such fees shall be paid at least monthly by such city, town or village to such city clerk, town clerk or village clerk entitled to receive fees as a registrar of vital statistics.

Practice Notes, Cases, and General Counsel Opinions

General Counsel Opinions:

Fee Waiver for Veterans' Benefits Applications: A registrar of vital statistics may not charge a fee for furnishing copies of birth and death records to be used for purposes of (1) school entrance, (2) employment certificate, (3) public relief, (4) government compensation, and (5) determining eligibility for Veterans' benefits. 1955 Op. St. Compt. No. 55-7121.

Limits to Fee Waiver: The exceptions in the law in relation to nonpayment of fees for birth and marriage certificates do not apply to any veterans' agency other than the United States Department of Veterans Affairs. 1960 Op. St. Compt. No. 60-469.

Domestic Relations Law Article 3, Section

§ 19. Records to be kept by town and city clerks

1. Each town and city clerk hereby empowered to issue marriage licenses shall keep a book supplied by the state department of health in which such clerk shall record and index such information as is required therein, which book shall be kept and preserved as a part of the public records of his office. Whenever an application is made for a search of such records the city or town clerk, excepting the city clerk of the city of New York, may make such search and furnish a certificate of the result to the applicant upon the payment of a fee of five dollars for a search of one year and a further fee of one dollar for the second year for which such search is requested and fifty cents for each additional year thereafter, which fees shall be paid in advance of such search. Whenever an application is made for a search of such records in the city of New York, the city clerk of the city of New York may make such search and furnish a certificate of the result to the applicant upon the payment of a fee of five dollars for a search of one year and a further fee of one dollar for the second year for which search is requested and fifty cents each additional year thereafter. Notwithstanding any other provision of this article, no fee shall be charged for any search or certificate when required by the veterans administration or by the department of veterans' services of the state of New York to be used in determining the eligibility of any person to participate in the benefits made available by the veterans administration or by the state of New York. A town or city may elect to waive the fee for a certificate when either of the parties making application for such certificate is a member of the Armed Forces of the United States on active duty.

At such times as the commissioner shall direct, the said town or city clerk, excepting the city clerk of the city of New York, shall file in the office of the state department of health the original of each affidavit, statement, consent, order of a justice or judge authorizing immediate solemnization of marriage, license and certificate, filed with or made before such clerk during the preceding month. Such clerk shall not be required to file any of said documents with the state department of health until the license is returned with the certificate showing that the marriage to which they refer has been actually performed.

The county clerks of the counties comprising the city of New York shall cause all original applications and original licenses with the marriage solemnization statements thereon heretofore filed with each, and all papers and records and binders relating to such original documents pertaining to marriage licenses issued by said city clerk, in their custody and

possession to be removed, transferred, and delivered to the borough offices of the city clerk in each of said counties.

Practice Notes, Cases, and General Counsel Opinions

General Counsel Opinions:

Limits to Fee Waiver: The exceptions in the law in relation to nonpayment of fees for birth and marriage certificates do not apply to any veterans' agency other than the United States Department of Veterans Affairs. 1960 Ops. St. Compt. File #469.

General Municipal Law, Article 7-A, Section 148

§ 148. Burial of members of the armed forces of the United States and their families; headstones [*Changes effective April 1, 2025*]

1. Burial.

The board of supervisors in each of the counties, or the board of estimate in the city of New York, shall designate some proper person, association or commission, other than that designated for the care of burial of public charges or criminals, who shall cause to be interred the body of any member of the armed forces of the United States who (I) was honorably discharged from such service, or (II) had a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) was a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or the body of any minor child or either parent, or the spouse or unremarried surviving spouse of any such member of the armed forces of the United States, if such person shall hereafter die in a county or in the city of New York without leaving sufficient means to defray his or her funeral expenses.

(a) Notwithstanding any other provision of this section, such counties or city, as the case may be, shall receive reimbursement for such expense subject to the reimbursement limitations provided for in subdivision five of section one hundred forty-one of the social services law, provided that such expense is otherwise eligible for state reimbursement pursuant to the provisions of such section.

(b) If the deceased has relatives who desire to conduct the burial, but are unable to pay the charge therefor, such sum shall be paid by the county treasurer or other fiscal officer, to the person, association or commission so conducting such burial, upon due proof of the claim, made to such person, association or commission of the death or burial of such person, and audit thereof.

(c) Such interment shall not be made in a cemetery or cemetery plot used exclusively for the burial of needy persons deceased, and the board of supervisors of each county is hereby authorized and empowered to purchase and acquire lands, or to appropriate money for the purchase and acquisition of lands, for a cemetery or cemetery plot for the burial of any such

persons and also to provide for the care, maintenance or improvement of any cemetery or plot where such persons are buried or may hereafter be buried.

1-a. Notwithstanding any other provision of this section, in the case of a veteran, as defined in section one of the veterans' services law, or who has a qualifying condition as defined in section one of the veterans' services law and has received a discharge other than bad conduct or dishonorable, or is a discharged LGBT veteran as defined in section one of the veterans' services law and has received a discharge other than bad conduct or dishonorable, who died in a county or the city of New York leaving no funds or insurance sufficient to pay funeral and burial expenses of such veteran and such veteran has no next of kin or person of record previously designated to control his or her final disposition pursuant to section four thousand two hundred one of the public health law, such county or the city of New York shall request a congressionally chartered veterans' organization within the county or the city of New York where the decedent resided at the time of death, to engage the services of a funeral firm to conduct the funeral and burial services.

(a) Such organization shall incur the costs associated with such services.

(b) The county or the city of New York shall endeavor to make such requests to a diversity of veterans' organizations within their jurisdiction, in an effort to share the costs described in paragraph (b) of this subdivision in a fair and equitable manner.

(c) The state shall reimburse such veterans' organization for such funeral and burial service expenses for veterans, except those expenses previously reimbursed pursuant to section one hundred forty-one of the social services law or any other law or those expenses reimbursable or payable by the federal government; provided however, that the total reimbursement pursuant to this subdivision shall not exceed two thousand dollars per burial. With respect to any state fiscal year, the commissioner of veterans' services shall provide a percentage increase in the maximum amount of funeral and burial services payable under this paragraph, equal to the percentage increase of the consumer price index (all items, United States city average) for the twelve-month period ending on March thirty-first preceding the beginning of the state fiscal year for which the increase is made. Such percentage increase shall be rounded up to the next highest one-tenth of one percent and shall not be less than one percent nor more than four percent.

(d) A congressionally chartered veterans' organization determining in good faith that it cannot financially bear the costs of the requested funeral and burial services as described in paragraph (b) of this subdivision, and declaring in good faith to the requesting county or the city of New York that the organization is unable to pay for these expenses, shall not be required by the county or the city of New York to initially fund these requested services.

2. Headstones.

(a) The grave of any such person whose body has been heretofore or shall hereafter be so interred, or who shall have been heretofore buried in any of the counties of this state, but whose grave is not marked by a suitable headstone, if such person has died or shall die without leaving means to defray the expense of such headstone, or whose grave shall have

remained unmarked for five years by a suitable headstone, shall be marked by a headstone bearing the name of the deceased, the war in which he served, and, if possible, the organization to which he belonged or in which he served.

(b) The headstone at the grave of the spouse or surviving spouse of such member of the armed forces of the United States shall contain the name of the deceased, the war in which his or her spouse served and, if possible, the organization to which he or she belonged or in which he or she served.

(c) Such headstone shall be of such design and material as shall be approved by the board of supervisors.

(d) Where a headstone or the foundation thereof as herein provided, shall have become damaged by accident or the elements, it may be repaired, provided the expense is less than the cost of a new headstone.

(e) The board of supervisors of the county of which such deceased person was a resident at the time of his or her death is hereby authorized and directed to audit the account and pay the expenses of such burial and headstone, and a reasonable sum for the services and necessary expenses of the person or commission so designated. In case such person shall be at the time of his or her death an inmate of any state institution, including state hospitals and soldiers' homes, or any institution, supported by the state and supported by public expense therein, the expense of such burial and headstone shall be a charge upon the county of his or her legal residence.

(f) Where the providing of a headstone is authorized in any case pursuant to this section, and in lieu of making such provision as hereinbefore set forth, the board responsible for payment of the cost thereof may make application for a headstone in such case to any officer, board, body or agency of the United States required by or pursuant to the laws thereof to furnish a headstone without charge to mark the grave of the deceased person in such case and, in the event such headstone is accordingly furnished, may audit the account and pay the expense incident to the obtaining and for the erection thereof, including any necessary transportation charges, in an amount not in excess of the maximum sum authorized to be expended for a headstone as provided in paragraph (c) of this subdivision.

3. Reports. It shall be the duty of the person or commission in this section provided, prior to the annual meeting of the board of supervisors to make an annual report to such board of supervisors of all the applications since the last annual report for burial and the erection of tombstones as provided herein, together with the amounts allowed. All applications herein referred to shall accompany said annual report and be placed and kept on file with the board of supervisors.

Social Services Law, Article 5, Title 4, Section 168

§ 168. Definitions [Social Services Law]

As used in this title:

1. Veteran means a person who has served in the armed forces of the United States, or who was a recipient of the armed forces expeditionary medal, navy expeditionary medal or marine corps expeditionary medal for participation in operations in Lebanon from June first, nineteen hundred eighty-three to December first, nineteen hundred eighty-seven, in Grenada from October twenty-third, nineteen hundred eighty-three to November twenty-first, nineteen hundred eighty-three, or in Panama from December twentieth, nineteen hundred eighty-nine to January thirty-first, nineteen hundred ninety, and who (a) has been honorably discharged or released under honorable circumstances from such service or furloughed to the reserve, or (b) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

2. In time of war means the periods herein set forth for the following wars and conflicts:

(1) Civil war; from twentieth day of April, eighteen hundred sixty-one to and including the ninth day of April, eighteen hundred sixty-five.

(2) Spanish-American war; from the twenty-first day of April, eighteen hundred ninety-eight to and including the eleventh day of April, eighteen hundred ninety-nine.

(3) Philippine insurrection; from the eleventh day of April, eighteen hundred ninety-nine to and including the fourth day of July, nineteen hundred two.

(4) World war I; from the sixth day of April, nineteen hundred seventeen to and including the eleventh day of November, nineteen hundred eighteen.

(5) World war II; from the seventh day of December, nineteen hundred forty-one to and including the thirty-first day of December, nineteen hundred forty-six, or who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of

Casualty, from the Department of Defense or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions, or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who was (I) discharged or released therefrom under honorable conditions, or (II) has a qualifying condition, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (III) is a discharged LGBT veteran, as defined in section 350 of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

(6) Korean conflict; from the twenty-seventh day of June, nineteen hundred fifty to and including the thirty-first day of January, nineteen hundred fifty-five.

(7) Viet Nam conflict; from the first day of November, nineteen hundred fifty-five, to and including the seventh day of May, nineteen hundred seventy-five.

(8) Persian Gulf conflict; from the second day of August, nineteen hundred ninety to and including the end of such conflict.

3. Veteran organization means the:

(a) Grand Army of the Republic;

(b) United Spanish War Veterans;

(c) American Legion;

(d) Disabled American Veterans;

(e) Veterans of Foreign Wars of the United States;

(f) Jewish War Veterans of the United States, Incorporated;

(g) Catholic War Veterans, Incorporated;

(h) Army and Navy Union of the United States;

(i) Italian American War Veterans of the United States, Incorporated;

(j) Polish Legion of American Veterans, Incorporated;

(k) The Marine Corps League;

(l) Military Order of the Purple Heart, Inc.;

(m) Amvets;

(n) American Veterans of World War II;

(o) Veterans of World War I, U.S.A., Inc.;

(p) Polish-American Veterans of World War II;

(q) Masonic War Veterans of the state of N.Y., Inc.;

(r) American Gold Star Mothers, Inc.;

(s) Regular Veterans Association, Inc.;

(t) Vietnam Veterans of America;

(u) Eastern Paralyzed Veterans Association.

4. Veteran assistance means safety net assistance given pursuant to the provisions of this title, to the persons eligible therefor.

Social Services Law, Article 5, Title 4, Section 169

§ 169 Social Services Law

Each of the following persons who is a resident of the state on the date of making application for veteran assistance shall be eligible for such assistance if he or she is unable to provide for himself or herself, or is unable to secure support from a legally responsible relative, and is not receiving needed assistance or care under other provisions of this chapter, or from other sources:

1. A veteran;

2. The wife, husband, child or grandchild under the age of twenty-one years, father, mother, stepfather or stepmother of a veteran, if living with the veteran;

3. The unremarried surviving spouse of a veteran;

4. The dependent children under the age of twenty-one years or the incapacitated children of a deceased veteran.

Social Services Law, Article 5, Title 4, Section 170

§ 170. Character

Except as hereinafter otherwise prescribed, veteran assistance shall be granted in cash provided, however, that in an individual case where the granting of cash may be deemed impracticable, veteran assistance may be granted in whole or in part by order.

Social Services Law, Article 5, Title 4, Section 171

§ 171. Responsibility; county social services districts; city social services districts; cities; towns

1. A county social services district which has elected, pursuant to the provisions of this title, to administer veteran assistance shall be responsible for providing veteran assistance, and the expense thereof, to:

(a) persons residing or found therein, subject to reimbursement by the state;

(b) persons residing or found in any town in the county, when the expense of providing safety net assistance to persons residing or found in such towns is a county charge pursuant to the provisions of section seventy-two and section seventy-three of this chapter;

(c) persons residing or found in a city forming part of the county social services district, when the expense of providing safety net assistance to persons residing or found in such city is a county charge pursuant to the provisions of section seventy-two and section seventy-three of this chapter.

2. A town responsible for the expense of providing safety net assistance to persons residing or found therein, pursuant to section sixty-nine, which has elected to administer veteran assistance, pursuant to the provisions of this title, shall be responsible for providing veteran assistance to local charges residing or found therein, and the expense thereof.

Social Services Law, Article 5, Title 4, Section 172

§ 172. Moneys to be provided

1. The social services official of every county, city or town responsible for veteran assistance, under the provisions of this title, shall include in his or her annual estimate for

safety net assistance the amount necessary to carry out the provisions of this title in such county, city or town.

2. Legislative bodies shall make appropriations and raise money for veteran assistance in the same manner as for safety net assistance.

Social Services Law, Article 5, Title 4, Section 173

§ 173. Election to administer veteran assistance by county public welfare district; organization

1. When a majority of the veteran organizations in a county, by and through their respective county divisions, file with the clerk of the board of the supervisors of the county, a petition addressed to the board of supervisors of the county requesting that veteran assistance be administered by such county, the board of supervisors may, by resolution passed by a majority vote, establish a division or bureau, or direct that a division or bureau be established, within the county department of public welfare, and under the direction of the county commissioner of public welfare, for the purpose of administering veteran assistance.

2. In the event that the county board of supervisors shall pass such a resolution, it shall also authorize and direct the county commissioner of public welfare to appoint a veteran, as herein defined, as deputy commissioner or director of the veteran assistance division or bureau, as the case may be.

3. The county commissioner shall transfer to the veteran assistance division or bureau so much of the staff of the county welfare department as may be necessary or practicable to administer and execute the functions, powers and duties assigned to such division or bureau. Officers and employees shall be transferred without further examination or qualification and they shall retain their respective civil service classification and status.

The civil service qualifications for all positions in the veteran assistance division or bureau shall be the same as required for the same or similar positions in the other divisions or bureaus of the county department of welfare, except that the qualifications for the position of the deputy commissioner or director, as the case may be, shall also require that he be a veteran.

4. The salaries or compensation paid to employees of the veteran assistance division or bureau shall be subject to reimbursement by the state under the same terms and conditions as are applicable to other employees of the county department of public welfare under the provisions of this chapter.

5. Upon recommendation of the county commissioner of public welfare, the county board of

supervisors may authorize, by resolution passed by a majority vote, the veteran assistance division or bureau to administer, in addition to veteran assistance, such other forms or categories of public assistance and care as may be practicable or necessary, provided that sufficient qualified staff shall be available for transfer or assignment to the veteran assistance division or bureau to execute and perform the additional functions and duties so assigned to such division or bureau.

6. The board of supervisors may also authorize the commissioner of public welfare to establish and operate a branch of the veteran assistance division or bureau in each or any major population center in the county.

Social Services Law, Article 5, Title 4, Section 174-b

§ 174-b. Authorization of veteran assistance in towns

1. The town board of a town responsible for the expense of providing safety net assistance to persons residing or found therein, upon the presentation of a petition to it by one or more posts, camps or garrisons of one or more veteran organizations in the town, requesting that veteran assistance be authorized by the local social services officer, may, by resolution adopted by majority vote, authorize and direct the local social services officer to authorize and furnish veteran assistance to persons residing or found therein. Thereafter, the local social services officer shall have, exercise and perform the same powers and duties with relation to veteran assistance as he has, exercises and performs with relation to safety net assistance.

2. When the town board of a town has authorized and directed the local social services officer to authorize and furnish veteran assistance, if neither the local social services officer, or the supervisor of the town authorized to act as such official, nor the assistant local social services officer, if there be one, is a veteran, as herein defined, the town board may appoint, or authorize the local social services officer to appoint, a veteran, as herein defined, as a deputy or assistant local social service officer.

Social Services Law, Article 5, Title 4, Section 175

§ 175. Administration of veteran assistance in New York City

1. In the city of New York, veteran assistance committee means each welfare committee chosen by the county unit of each veteran organization.

2. In the city of New York, veteran assistance shall be paid or granted direct to the beneficiaries by the commissioner of public welfare through the veterans division of the department of public welfare on a written recommendation signed by three members of the

veteran assistance committee of the county in which the applicant resides.

3. The comptroller of the city of New York shall, out of the amount appropriated for such assistance, provide a cash fund to be placed under the control of the commissioner from which to pay such assistance, and he shall replenish said fund upon presentation of properly receipted recommendations by the county veteran assistance committees for the amounts paid out of said fund.

Social Services Law, Article 5, Title 4, Section 176

§ 176. Veteran advisory committees; duties

1. (a) In every county, city or town which has elected to furnish veteran assistance, pursuant to the provisions of this title, in which there are more than one veteran organization or more than one post, camp or garrison of any veteran organization, there shall be appointed and constituted a joint veteran assistance advisory committee to consist of one representative from each post, camp and garrison of each such veteran organization, chosen in such manner as the post, camp or garrison shall direct, to serve for one year, commencing the first day of January. Each such committee shall choose a chairman and such other officers as it may deem necessary or require. In counties and cities the deputy commissioner or director of the veteran assistance division or bureau of the public welfare department shall serve ex officio as secretary of the committee. In towns, the town welfare officer shall serve ex officio as such secretary, unless he is not a veteran and his deputy or assistant is a veteran, in which case such deputy or assistant, as the case may be, shall serve as such secretary.

(b) In any town which has elected to furnish veteran assistance pursuant to the provisions of this title, in which there is only one veteran organization and only one post, camp or garrison thereof, such post, camp or garrison shall constitute a veterans assistance advisory committee, consisting of its chairman and two other representatives designated by it, which committee shall serve for one year commencing the first day of January. The town welfare officer, his deputy or assistant, if a veteran, shall serve ex officio as the secretary of the committee; if neither be a veteran, the town welfare officer shall serve as such secretary.

2. All committees constituted under subdivision one of this section shall have and perform the following functions and duties:

(a) (1) In the case of county or city committees, to submit to the public welfare official of the county or city in which it operates a list of veterans qualified to serve as deputy commissioner or director of the veteran assistance division or bureau in the county or city department of welfare, as the case may be, whenever there be a vacancy in that office.

(2) In the case of town committees, to submit to the town public welfare officer a list of veterans qualified to serve as his deputy or assistant to furnish veteran assistance, whenever there be a vacancy in that office.

(b) To keep informed all posts, camps or garrisons of each veteran organization in its territory concerning the administration of veteran assistance and the activities of the veteran assistance division or bureau.

(c) To transmit to the veteran assistance division, bureau or official administering veteran assistance in its territory, the views of the veteran organizations operating in such territory.

(d) To advise the public welfare official of the county, city or town administering veteran assistance in its territory on matters relating to assistance and care given to veterans and their families.

Social Services Law, Article 5, Title 4, Section 177

§ 177. Care in public homes; consent of veteran or other eligible persons

Any person eligible for veteran assistance may receive care in a public home with his consent.

Social Services Law, Article 5, Title 4, Section 178

§ 178. Veteran assistance financing; state reimbursement

All provisions of this chapter or of any other law relating to the financing of safety net assistance by counties, cities and towns, or reimbursement by the state for safety net assistance expenditures made by counties, cities and towns, shall apply with the same force and effect to veteran assistance.

Not-For-Profit Corporation Law Article 4, Section 404

§ 327. Approvals, Notices and Consents [Not-For-Profit Corporation]

(i) Every certificate of incorporation which indicates that the proposed corporation is to solicit funds for or otherwise benefit the armed forces of the United States or of any foreign country, or their auxiliaries, or of this or any other state or any territory, shall have endorsed thereon or annexed thereto the approval of the adjutant general. The department of state, in conjunction with the division of military and naval affairs, shall establish and maintain on the department [of state's] website a public listing of all approved not-for-profit corporations soliciting funds for or otherwise benefiting the armed forces of the United States

or of any foreign country, or their auxiliaries, or of this or any other state or territory. [NOTE: The Division of Military and Naval Affairs shall also maintain on its website a list of all not-for-profit corporations approved for "soliciting funds for or otherwise benefiting the Armed Forces of the United States or of any foreign country, or their auxiliaries, or of this or any other state or territory."]

HUMAN RIGHTS LAW

Executive Law, Article 15, Section 291 ("New York Human Rights Law")

§ 291. Equality of Opportunity a Civil Right

1. The opportunity to obtain employment without discrimination because of age, race, creed, color, national origin, sexual orientation, military status, sex, marital status, or disability, is hereby recognized as and declared to be a civil right.

2. The opportunity to obtain education, the use of places of public accommodation and the ownership, use and occupancy of housing accommodations and commercial space without discrimination because of age, race, creed, color, national origin, sexual orientation, military status, sex, marital status, or disability, as specified in section two hundred ninety-six of this article, is hereby recognized as and declared to be a civil right.

Executive Law, Article 15, Section 292 ("New York Human Rights Law")

§ 292. Definitions When used in this article:

1. The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

2. The term "employment agency" includes any person undertaking to procure employees or opportunities to work.

3. The term "labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

4. The term "unlawful discriminatory practice" includes only those practices specified in sections two hundred ninety-six, two hundred ninety-six-a and two hundred ninety-six-c of this article.

5. The term "employer" does not include any employer with fewer than four persons in his or her employ except as set forth in section two hundred ninety-six-b of this article, provided, however, that in the case of an action for discrimination based on sex pursuant to subdivision one of section two hundred ninety-six of this article, with respect to sexual harassment only, the term "employer" shall include all employers within the state.

6. The term "employee" in this article does not include any individual employed by his or her parents, spouse or child, or in the domestic service of any person except as set forth in section two hundred ninety-six-b of this title

7. The term "commissioner", unless a different meaning clearly appears from the context, means the state commissioner of human rights; and the term "division" means the state division of human rights created by this article.

8. The term "national origin" shall, for the purposes of this article, include "ancestry."

9. The term "place of public accommodation, resort or amusement" shall include, regardless of whether the owner or operator of such place is a state or local government entity or a private individual or entity, except as hereinafter specified, all places included in the meaning of such terms as: inns, taverns, road houses, hotels, motels, whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest, or restaurants, or eating houses, or any place where food is sold for consumption on the premises; buffets, saloons, barrooms, or any store, park or enclosure where spirituous or malt liquors are sold; ice cream parlors, confectionaries, soda fountains, and all stores where ice cream, ice and fruit preparations or their derivatives, or where beverages of any kind are retailed for consumption on the premises; wholesale and retail stores and establishments dealing with goods or services of any kind, dispensaries, clinics, hospitals, bath-houses, swimming pools, laundries and all other cleaning establishments, barber shops, beauty parlors, theatres, motion picture houses, airdromes, roof gardens, music halls, race courses, skating rinks, amusement and recreation parks, trailer camps, resort camps, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool parlors; garages, all public conveyances operated on land or water or in the air, as well as the stations and terminals thereof; travel or tour advisory services, agencies or bureaus; public halls, public rooms, public elevators, and any public areas of any building or structure. Such term shall not include kindergartens, primary and secondary schools, high schools, academies, colleges and universities, extension courses, and all educational institutions under the supervision of the regents of the state of New York; any such kindergarten, primary and secondary school, academy, college, university, professional school, extension course or other education facility, supported in whole or in part by public funds or by contributions solicited from the general public; or any institution, club or place of accommodation which proves that it is in its nature distinctly private. In no event shall an institution, club or place of accommodation be considered in its nature distinctly private if it has more than one hundred members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or

beverages directly or indirectly from or on behalf of a nonmember for the furtherance of trade or business. An institution, club, or place of accommodation which is not deemed distinctly private pursuant to this subdivision may nevertheless apply such selective criteria as it chooses in the use of its facilities, in evaluating applicants for membership and in the conduct of its activities, so long as such selective criteria do not constitute discriminatory practices under this article or any other provision of law. For the purposes of this section, a corporation incorporated under the benevolent orders law or described in the benevolent orders law but formed under any other law of this state or a religious corporation incorporated under the education law or the religious corporations law shall be deemed to be in its nature distinctly private. No institution, club, organization or place of accommodation which sponsors or conducts any amateur athletic contest or sparring exhibition and advertises or bills such contest or exhibition as a New York state championship contest or uses the words "New York state" in its announcements shall be deemed a private exhibition within the meaning of this section.

10. The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings.

11. The term "publicly-assisted housing accommodations" shall include all housing accommodations within the state of New York in:

(a) public housing,

(b) housing operated by housing companies under the supervision of the commissioner of housing,

(c) housing constructed after July first, nineteen hundred fifty, within the state of New

York[,]

(1) which is exempt in whole or in part from taxes levied by the state or any of its political subdivisions,

(2) which is constructed on land sold below cost by the state or any of its political subdivisions or any agency thereof, pursuant to the federal housing act of nineteen hundred forty-nine,

(3) which is constructed in whole or in part on property acquired or assembled by the state or any of its political subdivisions or any agency thereof through the power of condemnation or otherwise for the purpose of such construction, or

(4) for the acquisition, construction, repair or maintenance of which the state or any of its political subdivisions or any agency thereof supplies funds or other financial assistance,

(d) housing which is located in a multiple dwelling, the acquisition, construction, rehabilitation, repair or maintenance of which is, after July first, nineteen hundred fifty-five, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof, provided that such a housing accommodation shall be deemed to be publicly assisted only during the life of such loan and such guaranty or insurance; and

(e) housing which is offered for sale by a person who owns or otherwise controls the sale of ten or more housing accommodations located on land that is contiguous (exclusive of public streets), if (1) the acquisition, construction, rehabilitation, repair or maintenance of such housing accommodations is, after July first, nineteen hundred fifty-five, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof, provided that such a housing accommodation shall be deemed to be publicly assisted only during the life of such loan and guaranty or insurance, or (2) a commitment, issued by a government agency after July first, nineteen hundred fifty-five, is outstanding that acquisition of such housing accommodations may be financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof.

12. The term "multiple dwelling", as herein used, means a dwelling which is occupied, as a rule, for permanent residence purposes and which is either sold, rented, leased, let or hired out, to be occupied as the residence or home of three or more families living independently of each other. A "multiple dwelling" shall not be deemed to include a hospital, convent, monastery, asylum or public institution, or a fireproof building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one penthouse occupied by not more than two families. The term "family," as used herein, means either a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers. A "boarder," "roomer" or "lodger" residing with a family means a person living within the household who pays a consideration for such residence and does not occupy such space within the household as an incident of employment therein. Within the context of this definition, the terms "multiple dwelling" and "multi-family dwelling" are interchangeable.

13. The term "commercial space" means any space in a building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property; and any space which is used or occupied, or is intended, arranged or designed to be used or occupied as a separate business or professional unit or office in any building, structure or portion thereof.

14. The term "real estate broker" means any person, firm or corporation who, for another and for a fee, commission or other valuable consideration, lists for sale, sells, at auction or otherwise, exchanges, buys or rents, or offers or attempts to negotiate a sale, at auction or otherwise, exchange, purchase or rental of an estate or interest in real estate, or collects or offers or attempts to collect rent for the use of real estate, or negotiates, or offers or attempts to negotiate, a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate. In the sale of lots pursuant to the provisions of article nine-a of the real property law, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

15. The term "real estate salesperson" means a person employed by a licensed real estate broker to list for sale, sell or offer for sale, at auction or otherwise, to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate, or to negotiate a loan on real estate, or to lease or rent or offer to lease, rent or place for rent any real estate, or who collects or offers or attempts to collect rent for the use of real estate for or in behalf of such real estate broker.

16. The term "necessary party" means any person who has such an interest in the subject matter of a proceeding under this article, or whose rights are so involved, that no complete and effective disposition can be made without his or her participation in the proceeding.

17. The term "parties to the proceeding" means the complainant, respondent, necessary parties and persons permitted to intervene as parties in a proceeding with respect to a complaint filed under this article.

18. The term "hearing examiner" means an employee of the division who shall be assigned for stated periods to no other work than the conduct of hearings under this article;

19. The term "discrimination" shall include segregation and separation.

20. The term "credit", when used in this article means the right conferred upon a person by a creditor to incur debt and defer its payment, whether or not any interest or finance charge is made for the exercise of this right.

21. The term "disability" means (a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others as such an impairment, provided, however, that in all provisions of this article dealing with employment, the term shall be limited to disabilities which, upon the

provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held.

21-a. "Predisposing genetic characteristic" shall mean any inherited gene or chromosome, or alteration thereof, and determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of development of a physical or mental disease or disability.

21-b. "Genetic test" shall mean a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins in order to identify a predisposing genetic characteristic.

21-c. The term "reasonable accommodation" means actions taken which permit an employee, prospective employee or member with a disability, or a pregnancy-related condition, to perform in a reasonable manner the activities involved in the job or occupation sought or held and include, but are not limited to, provision of an accessible worksite, acquisition or modification of equipment, support services for persons with impaired hearing or vision, job restructuring and modified work schedules; provided, however, that such actions do not impose an undue hardship on the business, program or enterprise of the entity from which action is requested.

21-d. The term "pregnancy-related condition" means a medical condition related to pregnancy or childbirth that inhibits the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; provided, however, that in all provisions of this article dealing with employment, the term shall be limited to conditions which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held; and provided further, however, that pregnancy-related conditions shall be treated as temporary disabilities for the purposes of this article.

22. The term "creditor", when used in this article, means any person or financial institution which does business in this state and which extends credit or arranges for the extension of credit by others. The term creditor includes, but is not limited to, banks and trust companies, private bankers, foreign banking corporations and national banks, savings banks, licensed lenders, savings and loan associations, credit unions, sales finance companies, insurance premium finance agencies, insurers, credit card issuers, mortgage brokers, mortgage companies, mortgage insurance corporations, wholesale and retail merchants and factors.

23. The term "credit reporting bureau", when used in this article, means any person doing business in this state who regularly makes credit reports, as such term is defined by subdivision e of section three hundred seventy-one of the general business law.

24. The term "regulated creditor", when used in this article, means any creditor, as herein defined, which has received its charter, license, or organization certificate, as the case may be, from the department of financial services or which is otherwise subject to the supervision of the department of financial services.

25. The term "superintendent", when used in this article, means the head of the department of financial services appointed pursuant to section two hundred two of the financial services law.

26. The term "familial status", when used in this article, means:

(a) any person who is pregnant or has a child or is in the process of securing legal custody of any individual who has not attained the age of eighteen years, or

(b) one or more individuals (who have not attained the age of eighteen years) being domiciled with:

(1) a parent or another person having legal custody of such individual or individuals, or (2) the designee of such parent.

27. The term "sexual orientation" means heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived. However, nothing contained herein shall be construed to protect conduct otherwise proscribed by law.

28. The term "military status" when used in this article means a person's participation in the military service of the United States or the military service of the state, including but not limited to, the armed forces of the United States, the army national guard, the air national guard, the New York naval militia, the New York guard, and such additional forces as may be created by the federal or state government as authorized by law.

29. The term "reserve armed forces", when used in this article, means service other than permanent, full-time service in the military forces of the United States including but not limited to service in the United States Army Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Air Force Reserve, or the United States Coast Guard Reserve.

30. The term "organized militia of the state", when used in this article, means service other than permanent, full-time service in the military forces of the state of New York including but not limited to the New York army national guard, the New York air national guard, the New York naval militia and the New York guard.

31. The term "domestic violence victim", when used in this article, means an individual who is a victim of an act which would constitute a family offense pursuant to subdivision one of section eight hundred twelve of the family court act.

Practice Notes, Cases, and General Counsel Opinions

Notes:

Absence of the Term "Veteran": The term "Veteran" is conspicuously absent from the definitions under this section. This brings into question the limit of the protections against discriminatory conduct afforded to Veterans under New York State's Human Rights Law. To date, there is no reported case that has answered the question of Veterans' protections under this section, nor is there a General Counsel Opinion from Division of Human Rights clarifying the agency's position on this matter.

Executive Law, Article 15, Section 296 ("New York State Human Rights Law")

§ 296. Unlawful Discriminatory Practices

1. It shall be an unlawful discriminatory practice:

(a) For an employer or licensing agency, because of an individual's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

(b) For an employment agency to discriminate against any individual because of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, or marital status, in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants to an employer or employers.

(c) For a labor organization, because of the age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, or marital status of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer.

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses directly or indirectly, any limitation, specification or discrimination as to age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, or marital status, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide

occupational qualification; provided, however, that neither this paragraph nor any provision of this chapter or other law shall be construed to prohibit the department of civil service or the department of personnel of any city containing more than one county from requesting information from applicants for civil service examinations concerning any of the aforementioned characteristics, other than sexual orientation, for the purpose of conducting studies to identify and resolve possible problems in recruitment and testing of members of minority groups to insure the fairest possible and equal opportunities for employment in the civil service for all persons, regardless of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, or marital status.

(e) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article.

(f) Nothing in this subdivision shall affect any restrictions upon the activities of persons licensed by the state liquor authority with respect to persons under twenty-one years of age.

(g) For an employer to compel an employee who is pregnant to take a leave of absence, unless the employee is prevented by such pregnancy from performing the activities involved in the job or occupation in a reasonable manner.

1-a. It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs:

(a) To select persons for an apprentice training program registered with the state of New York on any basis other than their qualifications, as determined by objective criteria which permit review;

(b) To deny to or withhold from any person because of race, creed, color, national origin, sexual orientation, military status, sex, age, disability, familial status, or marital status, the right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, executive training program, or other occupational training or retraining program;

(c) To discriminate against any person in his or her pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs because of race, creed, color, national origin, sexual orientation, military status, sex, age, disability, familial status or marital status;

(d) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for such programs or to make any inquiry in

connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sexual orientation, military status, sex, age, disability, familial status or marital status, or any intention to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

2. (a) It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of the race, creed, color, national origin, sexual orientation, military status, sex, or disability or marital status of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, including the extension of credit, or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, creed, color, national origin, sexual orientation, military status, sex, or disability or marital status, or that the patronage or custom thereat of any person of or purporting to be of any particular race, creed, color, national origin, sexual orientation, military status, sex or marital status, or having a disability is unwelcome, objectionable or not acceptable, desired or solicited.

(b) Nothing in this subdivision shall be construed to prevent the barring of any person, because of the sex of such person, from places of public accommodation, resort or amusement if the division grants an exemption based on bona fide considerations of public policy; nor shall this subdivision apply to the rental of rooms in a housing accommodation which restricts such rental to individuals of one sex.

(c) For the purposes of paragraph (a) of this subdivision, "discriminatory practice" includes:

(i) a refusal to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford facilities, privileges, advantages or accommodations to individuals with disabilities, unless such person can demonstrate that making such modifications would fundamentally alter the nature of such facilities, privileges, advantages or accommodations;

(ii) a refusal to take such steps as may be necessary to ensure that no individual with a disability is excluded or denied services because of the absence of auxiliary aids and services, unless such person can demonstrate that taking such steps would fundamentally alter the nature of the facility, privilege, advantage or accommodation being offered or would result in an undue burden;

(iii) a refusal to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including

barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable;

(iv) where such person is a local or state government entity, a refusal to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal does not constitute an undue burden; except as set forth in paragraph (e) of this subdivision; nothing in this section would require a public entity to: necessarily make each of its existing facilities accessible to and usable by individuals with disabilities; take any action that would threaten or destroy the historical significance of an historic property; or to make structural changes in existing facilities where other methods are effective in achieving compliance with this section; and

(v) where such person can demonstrate that the removal of a barrier under subparagraph (iii) of this paragraph is not readily achievable, a failure to make such facilities, privileges, advantages or accommodations available through alternative methods if such methods are readily achievable.

(d) For the purposes of this subdivision:

(i) "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

(A) the nature and cost of the action needed under this subdivision;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the place of public accommodation, resort or amusement; the overall size of the business of such a place with respect to the number of its employees; the number, type and location of its facilities; and

(D) the type of operation or operations of the place of public accommodation, resort or amusement, including the composition, structure and functions of the workforce of such place; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to such place.

(ii) "Auxiliary aids and services" include:

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(iii) "Undue burden" means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered shall include:

(A) The nature and cost of the action needed under this article;

(B) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(C) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;

(D) If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and

(E) If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.

(iv) "Reasonable modifications in policies, practices, procedures" includes modification to permit the use of a service animal by a person with a disability, consistent with federal regulations implementing the Americans with Disabilities Act, Title III, at 28 CFR 36.302(c).

(e) Paragraphs (c) and (d) of this subdivision do not apply to any air carrier, the National Railroad Passenger Corporation, or public transportation facilities, vehicles or services owned, leased or operated by the state, a county, city, town or village, or any agency thereof, or by any public benefit corporation or authority.

2-a. It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, assignee, or managing agent of publicly-assisted housing accommodations or other person having the right of ownership or possession of or the right to rent or lease such accommodations:

(a) To refuse to sell, rent or lease or otherwise to deny to or withhold from any person or group of persons such housing accommodations because of the race, creed, color, disability, national origin, sexual orientation, military status, age, sex, marital status, or familial status

of such person or persons, or to represent that any housing accommodation or land is not available for inspection, sale, rental or lease when in fact it is so available.

(b) To discriminate against any person because of his or her race, creed, color, disability, national origin, sexual orientation, military status, age, sex, marital status, or familial status in the terms, conditions or privileges of any publicly-assisted housing accommodations or in the furnishing of facilities or services in connection therewith.

(c) To cause to be made any written or oral inquiry or record concerning the race, creed, color, disability, national origin, sexual orientation, membership in the reserve armed forces of the United States or in the organized militia of the state, age, sex, marital status, or familial status of a person seeking to rent or lease any publicly-assisted housing accommodation; provided, however, that nothing in this subdivision shall prohibit a member of the reserve armed forces of the United States or in the organized militia of the state from voluntarily disclosing such membership.

(c-1) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such housing accommodation or to make any record or inquiry in connection with the prospective purchase, rental or lease of such a housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status, or any intent to make any such limitation, specification or discrimination.

(d) (1) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the said person, if the modifications may be necessary to afford the said person full enjoyment of the premises, in conformity with the provisions of the New York state uniform fire prevention and building code, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(2) To refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling, including reasonable modification to common use portions of the dwelling, or

(3) In connection with the design and construction of covered multi-family dwellings for first occupancy after March thirteenth, nineteen hundred ninety-one, a failure to design and construct dwellings in accordance with the accessibility requirements of the New York state uniform fire prevention and building code, to provide that:

(i) The public use and common use portions of the dwellings are readily accessible to and usable by disabled persons with disabilities;

(ii) All the doors are designed in accordance with the New York state uniform fire prevention and building code to allow passage into and within all premises and are sufficiently wide to allow passage by persons in wheelchairs; and

(iii) All premises within covered multi-family dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space, in conformity with the New York state uniform fire prevention and building code.

(e) Nothing in this subdivision shall restrict the consideration of age in the rental of publicly-assisted housing accommodations if the division grants an exemption based on bona fide considerations of public policy for the purpose of providing for the special needs of a particular age group without the intent of prejudicing other age groups.

(f) Nothing in this subdivision shall be deemed to restrict the rental of rooms in school or college dormitories to individuals of the same sex.

3. (a) It shall be an unlawful discriminatory practice for an employer, licensing agency, employment agency or labor organization to refuse to provide reasonable accommodations to the known disabilities, or pregnancy-related conditions, of an employee, prospective employee or member in connection with a job or occupation sought or held or participation in a training program.

(b) Nothing contained in this subdivision shall be construed to require provision of accommodations which can be demonstrated to impose an undue hardship on the operation of an employer's, licensing agencies, employment agency's or labor organization's business, program or enterprise.

In making such a demonstration with regard to undue hardship the factors to be considered include:

(i) The overall size of the business, program or enterprise with respect to the number of employees, number and type of facilities, and size of budget;

(ii) The type of operation which the business, program or enterprise is engaged in, including the composition and structure of the workforce; and

(iii) The nature and cost of the accommodation needed.

(c) There are two paragraphs (c). Nothing in this subdivision regarding "reasonable accommodation" or in the chapter of the laws of two thousand fifteen which added this

paragraph shall alter, diminish, increase, or create new or additional requirements to accommodate protected classes pursuant to this article other than the additional requirements as explicitly set forth in such chapter of the laws of two thousand fifteen.

(c) There are two paragraphs (c). The employee must cooperate in providing medical or other information that is necessary to verify the existence of the disability or pregnancy-related condition, or that is necessary for consideration of the accommodation. The employee has a right to have such medical information kept confidential.

3-a. It shall be an unlawful discriminatory practice:

(a) For an employer or licensing agency to refuse to hire or employ or license or to bar or to terminate from employment an individual eighteen years of age or older, or to discriminate against such individual in promotion, compensation or in terms, conditions, or privileges of employment, because of such individual's age.

(b) For any employer, licensing agency or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination on account of age respecting individuals eighteen years of age or older, or any intent to make any such limitation, specification, or discrimination.

(c) For any employer, licensing agency or employment agency to discharge or otherwise discriminate against any person because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article.

(d) Notwithstanding any other provision of law, no employee shall be subject to termination or retirement from employment on the basis of age, except where age is a bona fide occupational qualification reasonably necessary to the normal operation of a particular business, where the differentiation is based on reasonable factors other than age, or as otherwise specified in paragraphs (e) and (f) of this subdivision or in article fourteen-A of the retirement and social security law.

(e) Nothing contained in this subdivision or in subdivision one of this section shall be construed to prevent the compulsory retirement of any employee who has attained sixty-five years of age, and who, for a two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least forty-four thousand dollars; provided that for the purposes of this paragraph only, the term "employer" includes any employer as otherwise defined in this article but does not include (i) the state of New

York, (ii) a county, city, town, village or any other political subdivision or civil division of the state, (iii) a school district or any other governmental entity operating a public school, college or university, (iv) a public improvement or special district, (v) a public authority, commission or public benefit corporation, or (vi) any other public corporation, agency, instrumentality or unit of government which exercises governmental power under the laws of the state. In applying the retirement benefit test of this paragraph, if any such retirement benefit is in a form other than a straight life annuity with no ancillary benefits, or if employees contribute to any such plan or make rollover contributions, such benefit shall be adjusted in accordance with rules and regulations promulgated by the division, after an opportunity for public hearing, so that the benefit is the equivalent of a straight life annuity with no ancillary benefits under a plan to which employees do not contribute and under which no rollover contributions are made.

(f) Nothing contained in this subdivision, in subdivision one of this section or in article fourteen-A of the retirement and social security law shall be construed to prevent the compulsory retirement of any employee who has attained seventy years of age and is serving under a contract for unlimited tenure, or a similar arrangement providing for unlimited tenure, at a nonpublic institution of higher education. For purposes of such subdivisions or article, the term "institution of higher education" means an educational institution which (i) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (ii) is lawfully authorized to provide a program of education beyond secondary education, and (iii) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree.

(g) In the event of a conflict between the provisions of this subdivision and the provisions of article fourteen-A of the retirement and social security law, the provisions of article fourteen-A of such law shall be controlling.

But nothing contained in this subdivision, in subdivision one of this section or in article fourteen-A of the retirement and social security law shall be construed to prevent the termination of the employment of any person who, even upon the provision of reasonable accommodations, is physically unable to perform his or her duties or to affect the retirement policy or system of any employer where such policy or system is not merely a subterfuge to evade the purposes of said subdivisions or said article; nor shall anything in such subdivisions or such article be deemed to preclude the varying of insurance coverages according to an employee's age. The provisions of this subdivision shall not affect any restriction upon the activities of persons licensed by the state liquor authority with respect to persons under twenty-one years of age.

3-b. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation, partnership or organization for the purpose of inducing a real estate transaction from which any such

person or any of its stockholders or members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, or familial status of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

4. It shall be an unlawful discriminatory practice for an education corporation or association which holds itself out to the public to be non-sectarian and exempt from taxation pursuant to the provisions of article four of the real property tax law to deny the use of its facilities to any person otherwise qualified, or to permit the harassment of any student or applicant, by reason of his race, color, religion, disability, national origin, sexual orientation, military status, sex, age or marital status, except that any such institution which establishes or maintains a policy of educating persons of one sex exclusively may admit students of only one sex.

5. (a) It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, assignee, or managing agent of, or other person having the right to sell, rent or lease a housing accommodation, constructed or to be constructed, or any agent or employee thereof:

(1) To refuse to sell, rent, lease or otherwise to deny to or withhold from any person or group of persons such a housing accommodation because of the race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status of such person or persons, or to represent that any housing accommodation or land is not available for inspection, sale, rental or lease when in fact it is so available.

(2) To discriminate against any person because of race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

(3) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such housing accommodation or to make any record or inquiry in connection with the prospective purchase, rental or lease of such a housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status, or any intent to make any such limitation, specification or discrimination.

The provisions of this paragraph (a) shall not apply (1) to the rental of a housing accommodation in a building which contains housing accommodations for not more than two

families living independently of each other, if the owner resides in one of such housing accommodations, (2) to the restriction of the rental of all rooms in a housing accommodation to individuals of the same sex or (3) to the rental of a room or rooms in a housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner resides in such housing accommodation or (4) solely with respect to age and familial status to the restriction of the sale, rental or lease of housing accommodations exclusively to persons sixty-two years of age or older and the spouse of any such person, or for housing intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing is intended and operated for occupancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall apply.

(b) It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent or lease, land or commercial space:

(1) To refuse to sell, rent, lease or otherwise deny to or withhold from any person or group of persons land or commercial space because of the race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status of such person or persons, or to represent that any housing accommodation or land is not available for inspection, sale, rental or lease when in fact it is so available;

(2) To discriminate against any person because of race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status in the terms, conditions or privileges of the sale, rental or lease of any such land or commercial space; or in the furnishing of facilities or services in connection therewith;

(3) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of such land or commercial space which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status; or any intent to make any such limitation, specification or discrimination.

(4) With respect to age and familial status, the provisions of this paragraph shall not apply to the restriction of the sale, rental or lease of land or commercial space exclusively to persons fifty-five years of age or older and the spouse of any such person, or to the restriction of the sale, rental or lease of land to be used for the construction, or location of housing accommodations exclusively for persons sixty-two years of age or older, or intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing is intended and operated for occupancy by

persons fifty-five years of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall apply.

(c) It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof:

(1) To refuse to sell, rent or lease any housing accommodation, land or commercial space to any person or group of persons or to refuse to negotiate for the sale, rental or lease, of any housing accommodation, land or commercial space to any person or group of persons because of the race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status of such person or persons, or to represent that any housing accommodation, land or commercial space is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise to deny or withhold any housing accommodation, land or commercial space or any facilities of any housing accommodation, land or commercial space from any person or group of persons because of the race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status of such person or persons.

(2) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of any housing accommodation, land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of any housing accommodation, land or commercial space which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status; or any intent to make any such limitation, specification or discrimination.

(3) With respect to age and familial status, the provisions of this paragraph shall not apply to the restriction of the sale, rental or lease of any land or commercial space exclusively to persons fifty-five years of age or older and the spouse of any such person, or to the restriction of the sale, rental or lease of any housing accommodation or land to be used for the construction or location of housing accommodations for persons sixty-two years of age or older, or intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing is intended and operated for occupancy by persons fifty-five years of age or older, Sec. 807 (b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall apply.

(d) It shall be an unlawful discriminatory practice for any real estate board, because of the race, creed, color, national origin, sexual orientation, military status, age, sex, disability, marital status, or familial status of any individual who is otherwise qualified for membership, to exclude or expel such individual from membership, or to discriminate against such individual in the terms, conditions and privileges of membership in such board.

(e) It shall be an unlawful discriminatory practice for the owner, proprietor or managing agent of, or other person having the right to provide care and services in, a private proprietary nursing home, convalescent home, or home for adults, or an intermediate care facility, as defined in section two of the social services law, heretofore constructed, or to be constructed, or any agent or employee thereof, to refuse to provide services and care in such home or facility to any individual or to discriminate against any individual in the terms, conditions, and privileges of such services and care solely because such individual is a blind person. For purposes of this paragraph, a "blind person" shall mean a person who is registered as a blind person with the commission for the visually handicapped and who meets the definition of a "blind person" pursuant to section three of chapter four hundred fifteen of the laws of nineteen hundred thirteen entitled "An act to establish a state commission for improving the condition of the blind of the state of New York, and making an appropriation therefor".

(f) The provisions of this subdivision, as they relate to age, shall not apply to persons under the age of eighteen years.

(g) It shall be an unlawful discriminatory practice for any person offering or providing housing accommodations, land or commercial space as described in paragraphs (a), (b), and (c) of this subdivision to make or cause to be made any written or oral inquiry or record concerning membership of any person in the state organized militia in relation to the purchase, rental or lease of such housing accommodation, land, or commercial space, provided, however, that nothing in this subdivision shall prohibit a member of the state organized militia from voluntarily disclosing such membership.

6. It shall be an unlawful discriminatory practice for any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this article, or to attempt to do so.

7. It shall be an unlawful discriminatory practice for any person engaged in any activity to which this section applies to retaliate or discriminate against any person because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article.

8. It shall be an unlawful discriminatory practice for any party to a conciliation agreement made pursuant to section two hundred ninety-seven of this article to violate the terms of such agreement.

9. (a) It shall be an unlawful discriminatory practice for any fire department or fire company therein, through any member or members thereof, officers, board of fire commissioners or other body or office having power of appointment of volunteer firefighters, directly or indirectly, by ritualistic practice, constitutional or by-law prescription, by tacit agreement among its members, or otherwise, to deny to any individual membership in any volunteer fire department or fire company therein, or to expel or discriminate against any volunteer member of a fire department or fire company therein, because of the race,

creed, color, national origin, sexual orientation, military status, sex, marital status, or familial status, of such individual.

(b) Upon a complaint to the division, as provided for under subdivision one of section two hundred ninety-seven of this article, and in the event the commissioner finds that an unlawful discriminatory practice has been engaged in, the board of fire commissioners or other body or office having power of appointment of volunteer firefighters shall be served with any order required, under subdivision four of section two hundred ninety-seven of this article, to be served on any or all respondents requiring such respondent or respondents to cease and desist from such unlawful discriminatory practice and to take affirmative action. Such board shall have the duty and power to appoint as a volunteer firefighter, notwithstanding any other statute or provision of law or by-law of any volunteer fire company, any individual whom the commissioner has determined to be the subject of an unlawful discriminatory practice under this subdivision. Unless such board has been found to have engaged in an unlawful discriminatory practice, service upon such board of such order shall not constitute such board or its members as a respondent nor constitute a finding of an unlawful discriminatory practice against such board or its members.

10. (a) It shall be an unlawful discriminatory practice for any employer, or an employee or agent thereof, to impose upon a person as a condition of obtaining or retaining employment, including opportunities for promotion, advancement or transfers, any terms or conditions that would require such person to violate or forego a sincerely held practice of his or her religion, including but not limited to the observance of any particular day or days or any portion thereof as a sabbath or other holy day in accordance with the requirements of his or her religion, unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious observance or practice without undue hardship on the conduct of the employer's business. Notwithstanding any other provision of law to the contrary, an employee shall not be entitled to premium wages or premium benefits for work performed during hours to which such premium wages or premium benefits would ordinarily be applicable, if the employee is working during such hours only as an accommodation to his or her sincerely held religious requirements. Nothing in this paragraph or paragraph (b) of this subdivision shall alter or abridge the rights granted to an employee concerning the payment of wages or privileges of seniority accruing to that employee.

(b) Except where it would cause an employer to incur an undue hardship, no person shall be required to remain at his or her place of employment during any day or days or portion thereof that, as a requirement of his or her religion, he or she observes as his or her sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his or her place of employment and his or her home, provided however, that any such absence from work shall, wherever practicable in the reasonable judgment of the employer, be made up by an equivalent amount of time and work at some other mutually convenient time, or shall be charged against any leave with pay ordinarily granted, other

than sick leave, provided further, however, that any such absence not so made up or charged, may be treated by the employer of such person as leave taken without pay.

(c) It shall be an unlawful discriminatory practice for an employer to refuse to permit an employee to utilize leave, as provided in paragraph (b) of this subdivision, solely because the leave will be used for absence from work to accommodate the employee's sincerely held religious observance or practice.

(d) As used in this subdivision:

(1) "undue hardship" shall mean an accommodation requiring significant expense or difficulty (including a significant interference with the safe or efficient operation of the workplace or a violation of a bona fide seniority system). Factors to be considered in determining whether the accommodation constitutes an undue economic hardship shall include, but not be limited to:

(i) the identifiable cost of the accommodation, including the costs of loss of productivity and of retaining or hiring employees or transferring employees from one facility to another, in relation to the size and operating cost of the employer;

(ii) the number of individuals who will need the particular accommodation to a sincerely held religious observance or practice; and

(iii) for an employer with multiple facilities, the degree to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive.

Provided, however, an accommodation shall be considered to constitute an undue hardship if it will result in the inability of an employee to perform the essential functions of the position in which he or she is employed.

(2) "premium wages" shall include overtime pay and compensatory time off, and additional remuneration for night, weekend or holiday work, or for standby or irregular duty.

(3) "premium benefit" shall mean an employment benefit, such as seniority, group life insurance, health insurance, disability insurance, sick leave, annual leave, or an educational or pension benefit that is greater than the employment benefit due the employee for an equivalent period of work performed during the regular work schedule of the employee.

In the case of any employer other than the state, any of its political subdivisions or any school district, this subdivision shall not apply where the uniform application of terms and conditions of attendance to employees is essential to prevent undue economic hardship to the employer. In any proceeding in which the applicability of this subdivision is in issue, the burden of proof shall be upon the employer. If any question shall arise whether a particular position or class of positions is excepted from this subdivision by this paragraph, such

question may be referred in writing by any party claimed to be aggrieved, in the case of any position of employment by the state or any of its political subdivisions, except by any school district, to the civil service commission, in the case of any position of employment by any school district, to the commissioner of education, who shall determine such question and in the case of any other employer, a party claiming to be aggrieved may file a complaint with the division pursuant to this article. Any such determination by the civil service commission shall be reviewable in the manner provided by article seventy-eight of the civil practice law and rules and any such determination by the commissioner of education shall be reviewable in the manner and to the same extent as other determinations of the commissioner under section three hundred ten of the education law.

11. Nothing contained in this section shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting employment or sales or rental of housing accommodations or admission to or giving preference to persons of the same religion or denomination or from taking such action as is calculated by such organization to promote the religious principles for which it is established or maintained.

12. Notwithstanding the provisions of subdivisions one, one-a and three-a of this section, it shall not be an unlawful discriminatory practice for an employer, employment agency, labor organization or joint labor-management committee to carry out a plan, approved by the division, to increase the employment of members of a minority group (as may be defined pursuant to the regulations of the division) which has a state-wide unemployment rate that is disproportionately high in comparison with the state-wide unemployment rate of the general population. Any plan approved under this subdivision shall be in writing and the division's approval thereof shall be for a limited period and may be rescinded at any time by the division.

13. It shall be an unlawful discriminatory practice (i) for any person to boycott or blacklist, or to refuse to buy from, sell to or trade with, or otherwise discriminate against any person, because of the race, creed, color, national origin, sexual orientation, military status, sex, disability, or familial status, of such person, or of such person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers or customers, or (ii) for any person willfully to do any act or refrain from doing any act which enables any such person to take such action. This subdivision shall not apply to:

(a) Boycotts connected with labor disputes; or

(b) Boycotts to protest unlawful discriminatory practices.

14. In addition to reasonable modifications in policies, practices, or procedures, including those defined in subparagraph (iv) of paragraph (d) of subdivision two of this section or

reasonable accommodations for persons with disabilities as otherwise provided in this section, including the use of an animal as a reasonable accommodation, it shall be an unlawful discriminatory practice for any person engaged in any activity covered by this section to deny access or otherwise to discriminate against a blind person, a hearing impaired person or a person with another disability because he or she is accompanied by a dog that has been trained to work or perform specific tasks for the benefit of such person by a professional guide dog, hearing dog or service dog training center or professional guide dog, hearing dog or service dog trainer, or to discriminate against such professional guide dog, hearing dog or service dog trainer engaged in such training of a dog for use by a person with a disability, whether or not accompanied by the person for whom the dog is being trained.

15. It shall be an unlawful discriminatory practice for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to deny any license or employment to any individual by reason of his or her having been convicted of one or more criminal offenses, or by reason of a finding of a lack of "good moral character" which is based upon his or her having been convicted of one or more criminal offenses, when such denial is in violation of the provisions of article twenty-three-A of the correction law. Further, there shall be a rebuttable presumption in favor of excluding from evidence the prior incarceration or conviction of any person, in a case alleging that the employer has been negligent in hiring or retaining an applicant or employee, or supervising a hiring manager, if after learning about an applicant or employee's past criminal conviction history, such employer has evaluated the factors set forth in section seven hundred fifty-two of the correction law, and made a reasonable, good faith determination that such factors militate in favor of hire or retention of that applicant or employee.

16. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law or by a conviction which is sealed pursuant to section 160.59 or 160.58 of the criminal procedure law, in connection with the licensing, employment or providing of credit or insurance to such individual; provided, further, that no person shall be required to divulge information pertaining to any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a

conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 or 160.59 of the criminal procedure law. The provisions of this subdivision shall not apply to the licensing activities of governmental bodies in relation to the regulation of guns, firearms and other deadly weapons or in relation to an application for employment as a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law; provided further that the provisions of this subdivision shall not apply to an application for employment or membership in any law enforcement agency with respect to any arrest or criminal accusation which was followed by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 or 160.59 of the criminal procedure law.

17. Nothing in this section shall prohibit the offer and acceptance of a discount to a person sixty-five years of age or older for housing accommodations.

18. It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, assignee, or managing agent of, or other person having the right of ownership of or possession of or the right to rent or lease housing accommodations:

(1) To refuse to permit, at the expense of a person with a disability, reasonable modifications of existing premises occupied or to be occupied by the said person, if the modifications may be necessary to afford the said person full enjoyment of the premises, in conformity with the provisions of the New York state uniform fire prevention and building code except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(2) To refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford said person with a disability equal opportunity to use and enjoy a dwelling, including reasonable modification to common use portions of the dwelling, or

(3) In connection with the design and construction of covered multi-family dwellings for first occupancy after March thirteenth, nineteen hundred ninety-one, a failure to design and construct dwellings in accordance with the accessibility requirements for multi-family dwellings found in the New York state uniform fire prevention and building code to provide that:

(i) The public use and common use portions of the dwellings are readily accessible to and usable by persons with disabilities;

(ii) All the doors are designed in accordance with the New York state uniform fire prevention and building code to allow passage into and within all premises and are sufficiently wide to allow passage by persons in wheelchairs; and

(iii) All premises within covered multi-family dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space, in conformity with the New York state uniform fire prevention and building code.

19. (a) Except as provided in paragraph (b) of this subdivision, it shall be an unlawful discriminatory practice of any employer, labor organization, employment agency, licensing agency, or its employees, agents, or members:

(1) to directly or indirectly solicit, require, or administer a genetic test to a person, or solicit or require information from which a predisposing genetic characteristic can be inferred as a condition of employment, preemployment application, labor organization membership, or licensure; or

(2) to buy or otherwise acquire the results or interpretation of an individual's genetic test results or information from which a predisposing genetic characteristic can be inferred or to make an agreement with an individual to take a genetic test or provide genetic test results or such information.

(b) An employer may require a specified genetic test as a condition of employment where such a test is shown to be directly related to the occupational environment, such that the employee or applicant with a particular genetic anomaly might be at an increased risk of disease as a result of working in said environment.

(c) Nothing in this section shall prohibit the genetic testing of an employee who requests a genetic test and who provides written and informed consent to taking a genetic test for any of the following purposes:

(1) pursuant to a workers' compensation claim;

(2) pursuant to civil litigation; or

(3) to determine the employee's susceptibility to potentially carcinogenic, toxic, or otherwise hazardous chemicals or substances found in the workplace environment only if the employer does not terminate the employee or take any other action that adversely affects any term, condition or privilege of employment pursuant to the genetic test results.

(d) If an employee consents to genetic testing for any of the aforementioned allowable reasons, he or she must be given and sign an authorization of consent form which explicitly

states the specific purpose, uses and limitations of the genetic tests and the specific traits or characteristics to be tested.

20 [Repealed] L.2010, c. 565, § 2, eff. Oct. 31, 2010

21. Nothing in this section shall prohibit the offer and acceptance of a discount for housing accommodations to a person with a disability, as defined in subdivision twenty-one of section two hundred ninety-two of this article.

Practice Notes, Cases, and General Counsel Opinions

Cases:

Lack of Vested Rights: A Veteran with disabilities who sought appointment as a police officer upon return from military service had no vested rights and his denial did not support a charge of discrimination under Military Law, Civil Service Law, or Executive Law. Messina v Codd, 52 A.D.2d 784 (N.Y. App. Div. 1st Dep't 1976).

PENSION POACHING PREVENTION ACT & N.Y. GUARD ACT

General Business Law, Article 22-A, Section 349-f

§ 349-f. Pension Poaching Prevention

(1) For purposes of this section:

(a) The term "veterans' benefits matter" means the preparation, presentation, or prosecution of any claim affecting any person who has filed or expressed an intent to file a claim for any benefit, program, service, commodity, function, or status, entitlement which is determined under the laws and regulations administered by the United States department of veterans affairs or the New York state department of veterans' affairs pertaining to veterans, their dependents, their survivors, and any other party eligible for such besnefits.

(b) The term "compensation" means money, property, or anything else of value.

(c) The term "entity" includes, but is not limited to, any natural person, corporation, trust, partnership, alliance, or unincorporated association.

(2) (a) No entity shall solicit, contract for, charge, or receive, or attempt to solicit, contract for, charge, or receive, any fee or compensation with respect to any veterans' benefits matter, except as permitted under title 38 of the United States code and the corresponding provisions within title 38 of the United States code of federal regulations.

(b) No entity shall receive compensation for referring any party to another individual to advise or assist this party with any veterans' benefits matter.

(c) Any entity seeking to receive compensation for advising or assisting any party with any veterans' benefits matter shall, before rendering any services, memorialize all terms regarding the party's payment of fees for services rendered in a written agreement, signed

by both parties, that adheres to all criteria specified within title 38, section 14.636, of the United States code of federal regulations.

(d) No entity shall receive any fees for any services rendered before the date on which a notice of disagreement is filed with respect to the party's case.

(e) No entity shall guarantee, either directly or by implication, that any party is certain to receive specific veterans' benefits or that any party is certain to receive a specific level, percentage, or amount of veterans' benefits.

(f) No entity shall receive excessive or unreasonable fees as compensation for advising or assisting any party with any veterans' benefits matter. The factors articulated within title 38, section 14.636 of the code of federal regulations shall govern determinations of whether a fee is excessive or unreasonable.

(3) (a) No entity shall advise or assist for compensation any party with any veterans' benefits matter without clearly providing, at the outset of this business relationship, the following disclosure, both orally and in writing: "this business is not sponsored by, or affiliated with, the United States department of veterans affairs, the New York state department of veterans' services, or any other congressionally chartered veterans service organization. Other organizations, including but not limited to the New York state department of veterans' services, your local county veterans service agency, and other congressionally chartered veterans service organizations, may be able to provide you with this service free of charge. Products or services offered by this business are not necessarily endorsed by any of these organizations. You may qualify for other veterans' benefits beyond the benefits for which you are receiving services here." The written disclosure must appear in at least twelve-point font and must appear in a readily noticeable and identifiable place in the entity's agreement with the party seeking services. The party must verbally acknowledge understanding of the oral disclosure and must provide his or her signature to represent understanding of these provisions on the document in which the written disclosure appears. The entity offering services must retain a copy of the written disclosure while providing veterans' benefits services for compensation to the party and for at least one year after the date on which this service relationship terminates.

(b) No entity shall advertise for-compensation services in veterans benefits matters without including the following disclosure: "this business is not sponsored by, or affiliated with, the United States department of veterans affairs, the New York state department of veterans' services, or any other congressionally chartered veterans service organization. Other organizations, including but not limited to the New York state department of veterans' services, your local county veterans service agency, and other congressionally chartered veterans service organizations, may be able to provide you with these services free of charge. Products or services offered by this business are not necessarily endorsed by any of these organizations. You may qualify for other veterans' benefits beyond the services that this business offers." If the advertisement is printed, including but not limited to advertisements visible to internet users, the disclosure must appear in a readily visible place on the advertisement. If the advertisement is verbal, the statement of the disclosure must

be clear and intelligible.

(4) (a) Any violation of this section shall constitute a deceptive act in the conduct of business, trade, or commerce, and except as provided in this section, shall be subject to the provisions of section three hundred forty-nine of this article, including any right of action and corresponding penalties described within such section.

(b) If an entity's violation of this section concerns a party who is sixty-five years of age or older, said entity may be liable for supplemental civil penalties as established within, and subject of the terms of, section three hundred forty-nine-c of this article.

(c) Notwithstanding any provision of this article to the contrary:

(i) An individual who is harmed by an entity as a result of an entity's violation of this section may bring an action in their own name against an entity to enjoin such unlawful act or practice, an action to recover their actual damages or twenty-five hundred dollars, whichever is greater, or both such actions, in addition to any other remedy available in law or equity. The court may award costs and reasonable attorney's fees to a prevailing plaintiff.

(ii) Whenever the court shall determine that a violation of this section has occurred, the court may impose a civil penalty of not more than ten thousand dollars for each violation.

(iii) Any violation of paragraph (a) of subdivision two of this section shall be a class A misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment; provided however, a second or subsequent offense shall be punishable by a fine of not more than three thousand dollars or by imprisonment for not more than one year, or by both such fine and imprisonment. In addition, the court may order as part of the sentence imposed restitution or reparation to the victim of the crime pursuant to section 60.27 of the penal law. The attorney general shall have the power to prosecute any violation of paragraph (a) of subdivision two of this section.

(iv) The civil and criminal remedies set forth in this section shall not preclude any individual or entity or government authority from seeking relief under any other statutory or common law right to relief.

(5) (a) In addition to any liability for damages or a civil penalty imposed pursuant to sections three hundred forty-nine, three hundred fifty-c and three hundred fifty-d of this chapter, regarding deceptive practices and false advertising, and subdivision twelve of section sixty-three of the executive law, regarding proceedings by the attorney general for equitable relief against fraudulent or illegal consumer fraud, a person or entity who engages in any conduct prohibited by such provisions of law, and whose conduct is perpetrated against one or more persons seeking or using services in connection with a veterans' benefits matter, may be liable for an additional civil penalty not to exceed ten thousand dollars, in accordance with paragraph (b) of this subdivision.

(c) In determining whether to impose a supplemental civil penalty that is pursuant to paragraph (a) of this subdivision, and the amount of any such penalty, the court shall consider, in addition to other appropriate factors as determined by the court, the extent to which the following factors are present:

(i) whether the defendant knew that such defendant's conduct was directed to one or more persons seeking or using services in connection with a veteran's benefits matter or whether such defendant knowingly acted with disregard for the rights of a person seeking or using services in connection with a veterans' benefits matter;

(ii) whether the defendant's conduct:

(1) caused a person seeking or using services to suffer loss or encumbrance of a primary residence, loss of employment or source of income, substantial loss of property or assets essential to the health or welfare of the person seeking or using services in connection with a veteran's benefits matter; or

(2) whether one or more persons seeking or using services in connection with a veteran's benefits matter were substantially more vulnerable to such defendant's conduct because of disability, impaired understanding, or any other perceived disadvantage, and actually suffered physical or economic damage resulting from such defendant's conduct.

(c) Restitution ordered pursuant to the provisions of law listed in paragraph (a) of this subdivision or pursuant to any other section of law shall be given priority over the imposition of civil penalties ordered by the court under this subdivision.

(6) If any clause, sentence, paragraph or part of this section or the application thereof shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ACCESS TO VETERANS TREATMENT COURTS

Criminal Procedure Law, Article 170, Section 170.15

§ 170.15. Removal of action from one local criminal court to another

5(a). Notwithstanding any provision of this section to the contrary, in any county outside a city having a population of one million or more, upon or after arraignment of a defendant on an information, a simplified information, a prosecutor's information or a misdemeanor complaint pending in a local criminal court, such court may, upon motion of the defendant

and after giving the district attorney an opportunity to be heard, order that the action be removed from the court in which the matter is pending to another local criminal court in the same county, or with consent of the district attorney and the district attorney of the adjoining county to another court in such adjoining county, that has been designated as a human trafficking court or veterans treatment court by the chief administrator of the courts, and such human trafficking court or veterans treatment court may then conduct such action to judgment or other final deposition; provided, however, that no court may order removal pursuant to this subdivision to a veterans treatment court of a family offense charge described in subdivision one of section 530.11 of this chapter where the accused and the person alleged to be the victim of such offense charged are members of the same family or household as defined in such subdivision one of section 530.11; and provided further that an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the human trafficking court or veterans treatment court notifies the court that issued the order that:

i. it will not accept the action, in which event the order shall not take effect; or
ii. it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date.

(b) Upon providing notification pursuant to subparagraph i or ii of paragraph (a) of this subdivision, the human trafficking court or veterans treatment court shall promptly give notice to the defendant, his or her counsel, and the district attorney.

§ 180.20. Proceedings upon felony complaint; removal of action from one local criminal court to another.

4(a). Notwithstanding any provision of this section to the contrary, in any county outside a city having a population of one million or more, upon or after arraignment of a defendant on a felony complaint pending in a local criminal court having preliminary jurisdiction thereof, such court may, upon motion of the defendant and after giving the district attorney an opportunity to be heard, order that the action be removed from the court in which the matter is pending to another local criminal court in the same county, or with consent of the district attorney and the district attorney of the adjoining county to another court in such adjoining county, that has been designated as a human trafficking court or veterans treatment court by the chief administrator of the courts, and such human trafficking court or veterans treatment court may then conduct such action to judgment or other final disposition; provided, however, that no court may order removal pursuant to this subdivision to a veterans treatment court of a family offense charge described in subdivision one of section 530.11 of this chapter where the accused and the person alleged to be the victim of such offense charged are members of the same family or household as defined in such subdivision one of section 530.11; and provided further an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the human trafficking court or veterans treatment court notifies the court that issued the order that:

i. it will not accept the action, in which event the order shall not take effect; or
ii. it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date.

(b) Upon providing notification pursuant to subparagraph i or ii of paragraph (a) of this subdivision, the human trafficking court or veterans treatment court shall promptly give notice to the defendant, his or her counsel and the district attorney.

§ 230.11. Removal of action to certain courts within a county.

1. In any county outside a city having a population of one million or more, upon or after arraignment of a defendant on an indictment pending in a superior court having jurisdiction thereof, such court may, upon motion of the defendant and after giving the district attorney an opportunity to be heard, order that the action be removed from the court in which the matter is pending to another court in the same county that has been designated as a human trafficking court or veterans treatment court by the chief administrator of the courts, and such human trafficking court or veterans treatment court may then conduct such action to judgment or other final disposition; provided, however, that no court may order removal pursuant to this section to a veterans treatment court of a family offense charge described in subdivision one of section 530.11 of this chapter where the accused and the person alleged to be the victim of such offense charged are members of the same family or household as defined in such subdivision one of section 530.11; and provided further that an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the human trafficking court or veterans treatment court notifies the court that issued the order that:

(a) it will not accept the action, in which event the order shall not take effect; or
(b) it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date.

2. Upon providing notification pursuant to paragraph (a) or (b) of subdivision one of this section, the human trafficking court or veterans treatment court shall promptly give notice to the defendant, his or her counsel and the district attorney.

§ 230.21. Removal of action to certain courts in an adjoining county.

1. In any county outside a city having a population of one million or more, the court may, upon motion of the defendant and with consent of the district attorney and the district attorney of the adjoining county that has a superior court designated a human trafficking court or veterans treatment court by the chief administrator of the courts, order that the indictment and action be removed from the court in which the matter is pending to such human trafficking court or veterans treatment court, whereupon such court may then conduct such action to judgment or other final disposition; provided, however, that no court may order removal to a veterans treatment court of a family offense charge described in subdivision one of section 530.11 of this chapter pursuant to this section where the accused and the person alleged to be the victim of such offense charged are members of the same family or household as defined in such subdivision one of section 530.11; and provided further that an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the human trafficking court or veterans treatment court notifies the court that issued the order that:
(a) it will not accept the action, in which event the order shall not take effect, or
(b) it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date.

2. Upon providing notification pursuant to paragraph (a) or (b) of subdivision one of this section, the human trafficking court or veterans treatment court shall promptly give notice to the defendant, his or her counsel and the district attorney of both counties.

DISPLAY OF VETERANS' SERVICES INFORMATIONAL POSTERS

Labor Law, Article 7, Section 201-h

1. The department [of labor] shall consult with the department of veterans' services to create and distribute a veterans' benefits and services poster.

2. Such poster shall, at a minimum, include information regarding the following services available to veterans:

a. contact and website information for the department of veterans' services and the department of labor's veterans' program;

b. substance abuse and mental health treatment;

c. educational, workforce, and training resources;

d. tax benefits;

e. New York state veteran drivers' licenses and non-driver identification cards;

f. eligibility for unemployment insurance benefits under state and/or federal law;

g. legal services; and

h. contact information for the U.S. Department of Veterans Affairs Veterans Crisis Line.

3. Every employer in the state with more than fifty full-time equivalent employees shall display the poster created pursuant to this section in a conspicuous place accessible to employees in the workplace.

DESIGNATION OF NEW YORK AS PURPLE HEART STATE

State Law, Article 6, Section 93

The state of New York is designated a "purple heart state," honoring our combat veterans for their service and sacrifice.

PARKS, RECREATION & HISTORIC PRESERVATION LAW

Parks, Recreation & Historic Preservation Law, Article 13, Section 13.19

§ 13.19. Free Use of Campsites

1. Notwithstanding the provisions of any other law, any person who is blind, non-ambulatory, or an amputee or any veteran or member of a Gold Star family shall be permitted to use any of the public campsites, parks and other public places of recreation in this state, upon the same terms and conditions as apply to the general public, but without the payment of any fees or other charges for the use of such campsites, parks and other public places of recreation.

2. For the purposes of this section "veteran" shall: (a) have the same meaning as such term is defined in section one of the veterans' services law and shall be a resident of this state who has served on active duty or ordered to active duty and has been discharged or released therefrom under conditions other than dishonorable, or has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service; or (b) mean an individual who has served on active duty or ordered to active duty for the state as a member of the state organized militia as defined in subdivision nine of section one of the military law and who was discharged or released therefrom under conditions other than dishonorable.

PRIVATE HOUSING FINANCE LAW

Private Housing Finance Law, Article 2, Section 31

§ 31. Rentals & Selection of Tenants [Veterans & Surviving Spouses of Veterans]

7. Preference in admission to a project with an open waiting list, as determined by the commissioner or the supervising agency, shall be given by a mutual company or an urban rental company or by the New York state housing finance agency when subleasing dwellings in projects of such companies pursuant to section forty-four-a of this chapter, to persons or surviving spouses of persons who are veterans as such term is defined pursuant to section eighty-five of the civil service law. The number of persons given preference as a veteran or a surviving spouse of a veteran shall be published adjacent to the application to be on such waiting list. For projects with a closed list, as determined by the commissioner or the supervising agency, such preference shall be given upon the opening of the waiting list.