



NEW YORK STATE SENATOR

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## Highlights of New Laws to Take Effect January 1, 2008

JOSEPH E. ROBACH November 30, 2007

Additional property tax relief totaling \$1.3 billion for New York families, a consumer bill of rights for airline passengers, and legislation to improve oversight of the mortgage lending industry highlight the list of new laws scheduled to take effect on January 1, 2008.

"You ask any homeowner where our number one priority should be focused, and they will tell you it is reducing the crushing burden of high property taxes in New York State," said Senate Majority Leader Joseph L. Bruno. "The Senate Majority has a strong record of fighting for lower property taxes, and on January 1st, new laws taking effect will continue that effort by providing an additional \$1.3 billion in property tax relief in the form of direct rebate checks to homeowners across this state. Even with this tax relief, property taxes are still an enormous problem and the Senate will work for even greater property tax relief next year."

The tax rebates for SFY 2008 represent the second year of a three-year expansion of the Senate-initiated property tax rebate program. This year, the State is expected to provide approximately \$1 billion in rebate checks to homeowners. In the Fall of 2008, the program is expected to provide rebates totaling \$1.3 billion, with scheduled expansion for SFY 2009 set at \$1.53 billion.

### Airline Passenger Bill of Rights

On January 1, 2008, the Airline Passengers' Bill of Rights is scheduled to take effect to provide

passengers stranded on airplanes at New York airports with basic amenities to make their wait more tolerable. Under the legislation (S.5050-C), all airlines at New York airports will be required to provide snacks and water, fresh air and power, and working restrooms for passengers on planes that leave the gate and sit on the tarmac for more than three hours.

"New York is home to some of the world's busiest airports, and in enacting this new law, we have taken the lead in protecting the rights of passengers," said Senator Charles Fuschillo (R-Merrick, Long Island), Chairman of the Senate Committee on Consumer Protection. "This first-in-the-nation law will ensure that stranded passengers are treated with respect by the airlines that serve our airports and are not held hostage on delayed flights without basic amenities."

On Valentine's Day 2007, thousands of passengers on several JetBlue Airways flights were stranded aboard planes at John F. Kennedy International Airport (JFK) in Queens, some for up to 10 hours, during a snow and ice storm. On March 17th, a day-long ice storm forced other airlines to strand hundreds more passengers on jets at JFK for hours. Passengers onboard these planes complained of no food or water, overflowing toilets and no ventilation.

The measure would also create an Office of Airline Consumer Advocate within the New York State Consumer Protection Board to provide the public with a New York State-based consumer advocate to help coordinate with appropriate airline industry officials, federal agencies and the Port Authority of New York and New Jersey in the event an incident occurs. The Airline Consumer Advocate would refer any violations of the new law to the New York State Attorney General's Office, who could seek a civil penalty of up to \$1,000 per passenger per violation by an airline.

New York's first-in-the-nation law is being challenged by the Air Transport Association of America, Inc. (ATA), which represents the major airlines. U.S. District Judge Lawrence E.

Kahn conducted a hearing recently in U.S. District Court for the Northern District of New York, located in Albany, at which the ATA fought to keep the New York law from taking effect. Judge Kahn indicated that he will make a decision on the law before the new year.

### Mortgage Lending Accountability

Recognizing concerns in the lending industry, legislation will take effect on January 1, 2008 to improve oversight and accountability of mortgage lenders.

The legislation (S.7431-A, Chapter 744, L. 2006) would provide for the registration of individual mortgage loan originators and set educational standards to increase professionalism within the lending industry. New York's Banking Department, and regulators in other states, have identified that individuals who engage in abusive mortgage practices tend to move from company to company, and also from state to state. As a result, state regulators, through the Conference of State Bank Supervisors, are developing a nationwide registry of mortgage companies and their employees. Such a system would assist regulators in identifying and tracking any devious actors in the mortgage industry.

"Owning a home is a dream for every American," said Senator Hugh Farley (R-C, Schenectady), Chairman of the Senate Committee on Banks. "The current serious issues in the mortgage industry have made this dream harder than ever to achieve for citizens across the nation. While the vast majority of lenders do an outstanding job, there are unscrupulous mortgage brokers that can turn the dream of home ownership into a nightmare. This law will provide a greater check on unscrupulous mortgage brokers and enhance accountability and oversight throughout the lending industry."

The following is a list of laws enacted during the 2006-2007 Legislative Sessions scheduled to go into effect on January 1, 2008, in order of: year of enactment and chapter number.

## 2007 Laws

### Chapter 6, L. 2007, §56 & 65 (S. 3322, Bruno)

As part of a comprehensive Workers' Compensation Reform bill, enacts various alterations to the method of calculation of the State assessment (a surcharge added to all Workers' Compensation policies that pays for the Workers' Compensation Board and other administrative expenses) for group self-insurers, generally seeking to treat group self-insureds as a category unto themselves as opposed to considering them in with single-employer self-insureds.

### Chapter 14, L. 2007, §18 (S.2876, Bruno)

As part of the comprehensive Public Employee Ethics Reform Act of 2007, which reforms the ethical standards that apply to public officials and strengthens the oversight bodies charged with enforcing those standards, newly requires certain registered lobbyists to report their lobbying activities in relation to grants, loans, and other disbursements of public funds over \$15,000 other than specified governmental procurements.

### Chapter 57, L. 2007, Part K-6 (S. 2107-C, Budget)

As part of the 2007-08 State Budget, Education, Labor and Family Assistance Article VII bill, strengthens and establishes in statute the Office of the Ombudsman within the State Office of Children and Family Services (OCFS), to protect and promote the legal rights of youth under the jurisdiction of OCFS and to assist in providing oversight of children and to handle and investigate complaints.

### Chapter 57, L. 2007, Part M (S. 2107-C, Budget)

As part of the 2007-08 State Budget, Education, Labor and Family Assistance Article VII bill, revises statutory provisions relating to the collection of certain motor vehicle surcharges and

the use of such funds by municipalities for their local criminal justice programs and purposes.

Chapter 58, L. 2007, Part C, §1-a to 1-e (S. 2108-C, Budget)

As part of the 2007-08 State Budget, Health and Mental Hygiene Article VII bill, streamlines the recertification and eligibility determination process for Medicaid by requiring that the Commissioner of Health verify income and residence data.

Chapter 81, L. 2007, § 2-4 (S. 3982-A, Hannon)

Revises existing provisions of law relating to hospital acquired infection (HAI) reporting, requiring that hospitals report a suspected or confirmed HAI associated with another hospital to the originating hospital, mandating that documentation of reporting be maintained for 6 years, and requiring hospitals to report HAIs to the State Department of Health monthly rather than every 6 months as previously required.

Chapter 248, L. 2007 (S. 4415, O. Johnson)

Relates to licensing and certification of real estate appraisers; requires minimum qualifications as set forth pursuant to the Financial Institution Reform, Recovery and Enforcement Act of 1989; increases required continuing education course hours from 20 to 28 hours.

Chapter 295, L. 2007 (S. 3214-B, Skelos)

Authorizes an optional twenty-five year retirement plan for county fire marshals, supervising fire inspectors, fire marshals, assistant fire marshals, assistant chief fire marshals and chief fire marshals in Nassau County at the county's option.

Chapter 394, L. 2007 (S. 5670-B, Saland)

Clarifies the scope of protections against discrimination on the basis of disability under the

Human Rights Law in the areas of public accommodations to be consistent with the federal Americans with Disabilities Act and the current policies and practices of the Division of Human Rights.

Chapter 407, L. 2007 (S. 5248-A, Winner)

Requires the Department of State (DOS) to post or maintain a link on its website to an unofficial version of the New York Codes, Rules, and Regulations at no cost to the user and directs all State agencies that have adopted rules and regulations to maintain a link to the DOS website link.

Chapter 424, L. 2007 (S. 800, Breslin)

Provides a real property tax exemption for certain members of volunteer fire companies and ambulance services in Albany County and its municipalities to the extent of 10 percent of assessed value of such property, upon the election of the county or municipality.

Chapter 441, L. 2007 (S. 2939, Larkin)

Authorizes the conduct of bingo games without a license, where no participant or other person pays anything of value for the opportunity to participate, when such game is conducted in a municipality that authorizes licensed bingo, and such games are conducted in a private home or certain residential complexes, or by certain bona fide charitable organizations and entertainment businesses; makes such free bingo subject to regulation and civil penalties.

Chapter 451, L. 2007, § 2,3,12 (S. 3986-A, Hannon)

As part of a larger bill (effective April 1, 2008) that enhances consumer rights and protections relating to health insurance, establishes new provisions in the Insurance Law governing preauthorization of health care services by health plans and the circumstances under which payment for preauthorized services may be denied; amends existing provisions of the Health

Information and Quality Improvement Act relating to the collection and dissemination of health care plan data by the Department of Health (DOH), to add the collection and dissemination of preferred provider organization (PPO) data; and adds new provisions to the statutes governing the time limits on the submission of claims for payment under Child Health Plus (CHP), Family Health Plus (FHP), and Medicaid managed care plans (applicable to all services provided on or after January 1, 2008).

Chapter 470, L. 2007 (S. 4988, DeFrancisco)

Provides for document discovery by the party conducting an examination of a fiduciary under oath, before or after such party files objections.

Chapter 472, L. 2007 (S. 5050-C, Fuschillo)

Creates a consumer bill of rights regarding airline passengers, which requires carriers to provide certain services whenever airline passengers have boarded and are delayed more than 3 hours on an airport runway prior to takeoff. Creates an Office of Airline Consumer Advocate within the Consumer Protection Board.

Chapter 549, L. 2007 (S. 5089-A, DeFrancisco)

Relates to disclosure regarding real estate agency relationships; adds definitions for broker's agent, tenant, landlord, tenant's agent, and landlord's agent.

Chapter 596, L. 2007 (S. 6271, Leibell)

Authorizes designated communities to establish community preservation funds and to impose a real estate transfer tax with revenues to be deposited in community preservation funds.

Chapter 636, L. 2007 (S. 2383, Leibell)

Provides that if an undistributed asset is found after the original probate and distribution of

the assets of the estate, the Surrogate's Court that granted such original probate petition is to maintain jurisdiction and must not require any additional service of notice by the estate, unless such undiscovered asset has an estimated value of more than \$5,000 or more than 7 years has passed since the original probate and distribution of assets.

## 2006 Laws

### Chapter 189, L. 2006 (S. 8341-A, Hannon)

Requires immunization against pneumococcal disease (pneumonia) of every child in New York State born on and after January 1, 2008, beginning with enrollment in any public, private, or parochial child caring center, day nursery, day care agency, or nursery school.

### Chapter 392, L. 2006, §2 (S. 7803, Spano)

Provides for an increase in the pilotage fees from or into the Port of New York over a period of three years (effective January 1, 2007, January 1, 2008, and January 1, 2009).

### Chapter 744, L. 2006 (S. 7431-A, Farley)

Seeks to improve the professionalism of the mortgage industry, requiring individual mortgage loan originators to register with the Banking Department, and setting educational standards for such individuals. (Effective January 1, 2008, but grants the Superintendent of Insurance, in his or her sole discretion, the authority to postpone any date prescribed by the act by which any person or entity subject to any requirements of the act must be in compliance with such requirements until such date or dates as the Superintendent determines will achieve the effective implementation of such requirements.)