

Agriculture and Markets

ARTICLE 2

Department of Agriculture and Markets; Jurisdiction; General Powers and Duties

- Section 4. Department of agriculture and markets.
5. Commissioner of agriculture and markets.
 6. Deputy commissioners.
 7. Secretary.
 8. Counsel.
 9. Bureaus.
 10. Confidential positions.
 11. Other officers and employees.
 12. Oaths of office.
 13. Salaries of officers; expenses.
 14. Offices of department.
 15. Seal of department.
 16. General powers and duties of department.
 - 16-a. Food products containing nitrous oxide; packaging.
 17. Delegation of powers.
 18. Rules of department.
 19. Publication of rules.
 20. Access to place of business.
 - 20-a. Search warrant in aid of the commissioner of agriculture.
 21. Interference with department employees in performance of duties; bribery.
 22. Power to administer oaths and compel testimony.
 23. Records, documents and papers of department.
 24. Publication of department bulletins; publications and reports.
 25. Annual reports.
 26. Transfer of property and records in custody of council of agriculture and markets.
 - 26-a. Advisory board on kosher law enforcement.
 27. Obtaining title to real property by purchase or acquisition.

§ 4. Department of agriculture and markets. There shall continue to be in the state government a department of agriculture and markets.

§ 5. Commissioner of agriculture and markets. The head of the department of agriculture and markets shall be the commissioner of agriculture and markets, who shall be appointed by the governor, by and with the advice and consent of the senate, and hold office until the end of the term of the governor by whom he was appointed, and until his successor is appointed and has qualified. He shall be a person qualified by training and experience for the duties of his office. Subject to removal by the governor, the commissioner of agriculture and markets in office at the time this section takes effect shall be the head of the department of agriculture and markets and shall hold such office until his successor is appointed and has qualified. In addition to the powers and duties specifically prescribed by this chapter, the commissioner shall have supervision over and direction of all officers and employees and of the affairs of the department. He shall be responsible for the enforcement and carrying into effect of the laws, rules and orders pertaining to matters as to which the department has

functions, powers and duties.

§ 6. Deputy commissioners. The commissioner may appoint and at pleasure remove such deputies and other officers and assistants as he may find necessary, and assign them the work which shall be under their respective supervision, and fix their compensation within the amounts appropriated therefor, subject to the approval of the director of the budget. Each of such deputies, officers and assistants shall be a person qualified by training and experience for the performance of the duties so assigned to him.

§ 7. Secretary. There shall be a secretary of the department to be appointed by the commissioner and who shall serve during the pleasure of the commissioner.

§ 8. Counsel. There shall be a counsel of the department to be appointed by the commissioner and who shall serve during the pleasure of the commissioner. The counsel of the department shall represent and appear for the department in all actions and proceedings involving any question under this chapter or within the jurisdiction of the department under any general or special law or under or in reference to any act, order or proceeding of or before the commissioner, and shall, when directed, intervene, if possible, in behalf of the department in any action or proceeding involving or relating to any matter within the jurisdiction or powers of the department as herein prescribed, except that the attorney-general of the state shall continue to have direct charge of and bring such actions as he may deem necessary for any and all violations of this chapter. The said counsel shall, also, act as counsel for any officer of the department in the conduct of a hearing, investigation or inquiry instituted under authority of the department or as provided in this chapter. He shall advise the commissioner or any officer of the department, when so requested, in regard to all matters in connection with their powers and duties, and perform generally all duties and services as counsel of the department which may reasonably be required of him.

§ 9. Bureaus. Existing bureaus in the department are continued until consolidated or abolished pursuant to this section. The commissioner may establish such divisions, bureaus, and other units within the department as may be necessary for the administration and operation of the department and the proper exercise of its powers and the performance of its duties, under this chapter, and may, from time to time, consolidate or abolish such divisions, bureaus or other units within the department. Notwithstanding any inconsistent provision of law, the commissioner may determine the official functions of each division, bureau, or other unit within the department. There shall be a director of each bureau to be appointed by the commissioner and who shall serve during the pleasure of the commissioner. The directors of bureaus in the department who are in office when this chapter takes effect shall continue in office during the pleasure of the commissioner.

§ 10. Confidential positions. The deputy commissioners, secretary and counsel shall be deemed to occupy confidential positions to the commissioner, and may be appointed without competitive examination.

§ 11. Other officers and employees. There shall be such agents, inspectors, chemists, experts, statisticians, accountants and other

assistants and employees, as the commissioner shall deem necessary for the exercise of the powers and the performance of the duties of the department under this chapter.

Such officers and employees shall be appointed by the commissioner and hold office during the pleasure of the commissioner. The officers and employees of the department who are in office when this chapter takes effect shall continue in office during the pleasure of the commissioner.

The commissioner may transfer officers or employees from their positions to other positions in the department, or abolish or consolidate such positions.

Prior to the appointment of inspectors and investigators by the department, applicants for such positions shall be fingerprinted as a condition of employment. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

§ 12. Oaths of office. The commissioner, the deputy commissioners, the counsel and the secretary shall, before entering upon the duties of their offices, take and subscribe the constitutional oath of office. Such oaths shall be filed in the office of the secretary of state.

§ 13. Salaries of officers; expenses. The annual salaries and compensation of the deputy commissioners, the counsel, secretary and all other officers and employees of the department shall be fixed by the commissioner within the limits of appropriations made therefor.

The reasonable and necessary traveling and other expenses of the commissioner, deputy commissioners, secretary, counsel and other officers and employees of the department, while actually engaged in the performance of their duties, shall be paid in accordance with the rules and regulations of the department of audit and control from the state treasury upon the audit of the comptroller, upon vouchers approved by the commissioner.

§ 14. Offices of department. The principal office of the department shall be in the county of Albany in office space to be designated by the commissioner of general services pursuant to law. Branch offices shall be established and maintained by the department in such places as the commissioner of agriculture and markets may determine. The offices shall be supplied with all necessary books, stationery, office equipment and furniture, to be furnished and paid for in the manner provided by law.

§ 15. Seal of department. The department shall have an official seal, to be prepared and furnished by the secretary of state, as provided by law. Such seal shall be used for the authentication of the orders and proceedings of the commissioner and for such other purposes as the commissioner may prescribe.

§ 16. General powers and duties of department. The department through the commissioner shall have power to:

1. Execute and carry into effect the laws of the state and the rules of the department, relative to agriculture, horticulture, farm, fruit, and dairy products, aquaculture, and the production, processing, transportation, storage, marketing and distributing of food; enforce and carry into effect the provisions of the laws of the state relative to

weights and measures.

2. Aid in the promotion and development of the agricultural resources of the state and the improvement of the conditions of rural life; the improvement of the fertility and productiveness of farm lands and the restoration to fertility and productiveness of unoccupied and unproductive land; the settlement of farms and the supply of farm labor; the stocking of farms with meat-producing and dairy animals and promoting the production of cereals, fruits and vegetables, and co-operate with county farm bureaus, and with agricultural, dairying and horticultural associations or corporations and other agencies organized for any or all of such purposes.

2-a. Aid in the promotion and marketing of finfish and shellfish derived from commercial fishing or aquacultural activities and cooperate with fishing and aquaculture associations or corporations organized for any or all such purposes.

2-b. Aid in the promotion, marketing, and sale of New York state labelled wines, grapes and grape products in cooperation with the department of economic development both within and outside the state and to provide promotion and marketing advisement to wineries, farm wineries, micro-wineries, grape and other fruit growers and processors, and related trade organizations located within this state.

2-c. Aid in the export promotion and marketing of eligible agricultural products, in cooperation with the department of economic development.

2-d. Coordinate with the office of general services and the department of economic development to provide a training program once per year, in each economic development region, established in article eleven of the economic development law, to encourage and increase participation in the procurement process, pursuant to article eleven of the state finance law, by small businesses, as defined in section one hundred thirty-one of the economic development law, including farms, selling food or food products grown, produced, harvested, or processed in New York state and assist such businesses in identifying such food or food products, which may help to meet state agencies' needs. The departments and office may also invite to the regional training programs representatives of local governments, including school districts, that may be interested in purchasing New York state food products.

2-e. Develop, and update, guidance and other information to:

(i) assist county legislative bodies, agricultural and farmland protection boards and departments in creating and reviewing agricultural districts pursuant to sections three hundred three, three hundred three-a and three hundred three-b of this chapter; and

(ii) assist the commissioner of taxation and finance to support training of assessors and any other local government officials who have responsibility for agricultural assessment and taxation.

3. Investigate the cost of food production and marketing in all its phases.

4. Investigate the sources of food supply for the state, the production, transportation, storage, marketing and distribution of food sold, offered for sale, stored or held within the state, the cost of transportation to the leading centers of population and of distribution to consumers.

5. Collect and disseminate accurate data and statistics as to the food produced, stored or held within the state, the quantities available from time to time and the location thereof, and so far as practicable and available collect such like statistics from without the state, as are of value to producers and consumers within the state.

5-a. Establish an information network between agricultural producers and consumers to facilitate and promote the direct marketing of New York farm products. The commissioner may publicize such direct marketing information network. He may compile information voluntarily provided by farmers and growers who desire to sell farm products directly to consumers, and distribute such information, in the manner he deems appropriate, to food buying cooperatives, governmental agencies, community service organizations, the bureau of government-donated foods distribution in the office of general services, the cooperative extension service, and to any person requesting such information.

5-b. (a) Establish, in cooperation with the commissioner of education, a farm-to-school program to facilitate and promote the purchase of New York farm products by schools, universities and other educational institutions under the jurisdiction of the education department. The department shall solicit information from the education department regarding school districts and other educational institutions interested in purchasing New York farm products, including but not limited to, the type and amount of such products schools wish to purchase and the name of the appropriate contact person from the interested school district. The department shall make this information readily available to interested New York farmers, farm organizations and businesses that market New York farm products. The department shall provide information to the education department and interested school districts and other educational institutions about the availability of New York farm products, including but not limited to, the types and amount of products, and the names and contact information of farmers, farm organizations and businesses marketing such products. The commissioner shall report to the legislature on the need for changes in law to facilitate the purchases of such products by schools and educational institutions.

The department shall also coordinate with the education department, and school food service, education, health and nutrition, farm, and other interested organizations in establishing a promotional event, to be known as New York Harvest For New York Kids Week, in early October each year, that will promote New York agriculture and foods to children through school meal programs and the classroom, at farms and farmers' markets and other locations in the community.

(b) Cooperate with the department of health in implementing the childhood obesity prevention program pursuant to title eight of article twenty-five of the public health law and with the commissioner of education to encourage the production and consumption of fresh locally produced fruits and vegetables by elementary and secondary school aged children pursuant to paragraph (a) of this subdivision to help combat the increasing incidence of childhood obesity.

(c) Cooperate with federal, other state and municipal agencies to encourage the expansion of community gardens pursuant to article two-C of this chapter to help encourage the production and consumption of fresh locally produced fruits and vegetables to help combat the increasing incidence of adult and child obesity.

5-c. Cooperate with the commissioner of education, pursuant to subdivision fifty-six of section three hundred five of the education law, to develop guidelines for the voluntary implementation by school districts and institutions of higher education of programs which encourage the donation of excess, unused, edible food from meals served at such educational facilities to local voluntary food assistance programs.

6. Investigate and recommend useful methods of co-operative

production, marketing and distribution of foods within the state.

7. Aid in the organization and operation of co-operative associations and corporations among producers and consumers of farm products, and also aid in the organization and operation of co-operative associations, corporations or other agencies for the purpose of increasing the production, improving the quality, grading or bringing together of farm products for wholesale marketing.

7-a. Call conferences of co-operative associations of producers of farm products organized under or subject to the provisions of chapter seventy-seven of the consolidated laws for discussion of cost of production, transportation and marketing, of market conditions and prices for sale of farm products to the end that the marketing operating operations for such co-operative associations may be facilitated, made more efficient and the producers may obtain the reasonable cost of production, plus cost of compliance with sanitary regulations affecting production or marketing. Such conferences shall be held under the supervision of the commissioner. Neither such conferences nor any agreements or arrangements resulting therefrom, if such agreements or arrangements are approved by the commissioner, shall be deemed or construed to be acts, conspiracies, agreements or arrangements in restraint of trade or commerce or injurious to public welfare. The powers hereby conferred may also be exercised in conjunction with officials or representatives of the federal government.

8. Co-operate with and aid farmers and other producers of food, and distributors and consumers thereof, in improving and maintaining economic and efficient systems of production, storage, distribution and marketing, and in reaching advantageous markets. The commissioner may develop, coordinate and conduct programs for advertising, publicity and general promotion of agricultural and food products grown, processed, packed or otherwise made within the state. The commissioner may establish a voluntary program for the improvement of direct marketing of New York farm products at roadside farm markets. The commissioner may adopt a word or symbol to identify roadside markets participating in such program, advertise and publicize the roadside farm market program, and provide technical and promotional assistance to effectuate said program. The commissioner may charge fees for the sale or use of promotional materials or items, and any income derived from such programs shall be deposited in a special account of the farm products publicity fund established under section one hundred fifty-six-i of this chapter. Any expenses incurred in the conduct of such programs may be paid out of such account on vouchers approved by the commissioner, after audit by the comptroller.

9. Acquire and disseminate accurate information as to market prices of food products, and market conditions, in the markets of the state and any other markets, through use of department market reporters, or agreements with organized groups of producers or shippers or dealers in farm produce for the joint employment of market reporters, or special arrangements with existing market reporting agencies, when in the judgment of the commissioner such information will be valuable to the producers or consumers of the state.

10. Acquire and publish useful information to facilitate transportation, to avoid delays therein and upon request advise shippers or purchasers as to the most direct and expeditious route of shipment to market.

11. Co-operate with the commissioner of transportation with the view of obtaining suitable, expeditious and economical facilities for the shipment of food, and recommend as to the action to be taken by such

commissioner to avoid and prevent unfair discrimination in such shipment and unreasonable delay in the transportation thereof, and to obtain fair and reasonable rates for such transportation.

12. Investigate delays in transportation, and in case food is likely to spoil for lack of ready market, take such action as seems advisable for facilitating the sale thereof.

13. Investigate restraints of trade or unlawful combinations to fix prices.

14. Investigate as to the needs of terminal, dock and other distributing facilities for the delivery and distribution of foods at the centers of population, and the establishment and operation of co-operative or public abattoirs for the slaughter of animals and poultry for food purposes; and advise and co-operate with corporations and municipalities or other agencies to promote their establishment, construction or acquisition for the public use and make recommendations as to the conduct thereof.

15. Advise and co-operate in establishing local markets, and warehouses for assembling, grading, packing and storing food or farm products, whenever in the judgment of the commissioner the public interests require such establishment.

16. Co-operate with producers in the conduct of experiments and disseminate information as to producing, assembling, grading, packing, distributing and selling farm products, so as to demonstrate economic and efficient methods, and to standardize the grades of such products and determine the cost of such production, assembling, grading, packing, distribution and sale.

17. Investigate plans to be established by law for the purpose of securing an ample supply of pure milk in centers of population upon an economic basis of distribution and to aid in the accomplishment of such purpose within the provisions of existing law.

18. Ascertain the names and addresses of producers, manufacturers, importers, exporters and potential exporters and distributors of food, the kind of food produced, manufactured, imported, exported or to be exported or distributed by such persons, and to publish the same whenever in the judgment of the commissioner public interests require or, upon request, when in the public interest, supply lists of such persons.

19. Make such recommendations as in the judgment of the commissioner will stimulate and increase the production or distribution or sale of food and co-operate with public or private agencies for that purpose.

20. Act as mediator or arbitrator in any controversy or issue that may arise between producers and distributors of food.

21. Investigate, when deemed advisable, the conduct and methods of exchanges and boards of trade within the state for the purchase and sale of food.

22. Collect and publish data concerning the purity, wholesomeness, economic value and the nutritious and hygienic properties of food produced, sold or available for sale within the state, and for such purpose to take, examine and analyze samples of such food.

23. Investigate deceptions in the quality, quantity or character of foods produced, stored, sold or offered for sale within the state, including the adulteration and misbranding thereof.

24. Co-operate with local health departments and other local agencies in preventing the production, manufacture, sale or offering for sale of fraudulent, deleterious or unwholesome food. The commissioner may contract with any such local health department or other local agency for the performance of inspections with respect to any food or other product

over which he has jurisdiction, powers and duties under the provisions of this chapter.

25. Inspect and determine the grade or condition of farm products at shipping points and receiving centers, and provide for the issuance of certificates of such inspections and enter into co-operative arrangements with state and federal marketing agencies for joint inspections. The commissioner shall require and receive the payment of fees for such inspection services in amounts not exceeding the estimated cost of the services. The commissioner shall remit to the state treasurer such fees received monthly.

25-a. Inspect and determine the grade or condition of farm products, issue certificates of such inspections and provide quality control services for growers, canners, processors, packers, shippers, sellers, buyers, retailers and receivers upon request therefor; enter into cooperative arrangements with state and federal agencies, or persons or organizations authorized by a federal agency to conduct farm products inspections, for joint inspections; enter into contracts with applicants for such inspections and services, which contracts shall require payment by applicants of the full costs of the services provided. All moneys received by the commissioner pursuant to such contracts shall be deposited in an account within the miscellaneous special revenue fund and shall be used to defray the expenses incidental to carrying out the powers and duties authorized by this subdivision. The state's financial contribution to the pest control compact adopted pursuant to section one hundred forty-nine of this chapter may be paid out of the portion of said moneys received by the commissioner for phytosanitary inspections. All moneys shall be paid out of such fund on vouchers approved by the commissioner, after audit by the comptroller. Nothing contained in this subdivision shall apply to fees received for inspections performed under subdivision twenty-five of this section.

25-b. Require and receive the payment of a fee of fifty dollars for the issuance of certificates of compliance with the food related provisions of this chapter and the regulations promulgated pursuant thereto. Notwithstanding any other provision of law to the contrary, the commissioner is hereby authorized and directed to deposit all money received pursuant to this subdivision in an account within the miscellaneous special revenue fund.

25-c. The commissioner may enter into a contract or cooperative agreement under which laboratory services of the department may be made available to federal, state, local, and educational entities when, in the commissioner's judgment, such contract or cooperative agreement shall be in the public interest and shall not adversely affect the department's obligations under this chapter. Such contracts or cooperative agreements shall require payment by contractors and cooperators of, at a minimum, the full costs of the services provided. All moneys received by the commissioner pursuant to such contracts and agreements shall be deposited in an account within the miscellaneous special revenue fund and shall be used to defray the expenses incidental to carrying out the services authorized by this subdivision.

25-d. The commissioner may enter into a contract or cooperative agreement under which services relating to food safety and inspection, animal health, invasive species control, the collection of samples for research studies and similar services relating to the duties and responsibilities of the department may be made available to federal entities, educational entities located outside of the state, and state and local governmental entities located outside of the state, when, in the commissioner's judgment, such contract or cooperative agreement

shall be in the public interest and shall not adversely affect the department's obligations under this chapter. Such contracts or cooperative agreements shall require payment by contractors and cooperators of, at a minimum, the full costs of the services provided. All moneys received by the commissioner pursuant to such contracts and agreements shall be deposited in an account within the miscellaneous special revenue fund and shall be used to defray the expenses incidental to carrying out the services authorized by this subdivision.

26. Investigate and take action to prevent illegal acts or practices in the sale or distribution of food or of fertilizers, feeding stuffs, materials, apparatus and machinery or other instrumentalities used or needed for the production, marketing and distribution of food.

27. Seize, destroy or denature so that it cannot thereafter be used for food, any unwholesome food or food products sold or exposed for sale on the markets of this state, or any food or food products consisting in whole or in part of any filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal or one that has died otherwise than by slaughter. Provided, however, that the commissioner of agriculture and markets after seizure and before such destruction, shall give the owner, proprietor or custodian of such food ten days notice in writing, to be served either personally or by mail, of a hearing for the said owner, proprietor or custodian to show cause why such food should not be destroyed in accordance with the provisions of the statute.

28. Provide for holding a state fair to be known as the New York state fair and, for the purpose of seeking advice and counsel in relation thereto, consult with the state fair advisory board. The advisory board shall consist of eleven members appointed by the governor, including one member on the recommendation of the temporary president of the senate; one member on the recommendation of the speaker of the assembly; one member on the recommendation of the minority leader of the senate; and one member on the recommendation of the minority leader of the assembly. The governor shall select a member of the advisory board to serve as chairperson. The members of the advisory board shall not receive compensation for their services, but may be paid their actual and necessary expenses incurred in serving upon the advisory board.

29. All the functions of the former department of farms and markets, of the former council of farms and markets and of the former commissioner of farms and markets and all their powers and duties, which were transferred to the department of agriculture and markets by section two hundred and seventy-two of the state departments law or shall have been prescribed by law when this subdivision as hereby enacted takes effect, whether in terms vested in such department, in such council or in such commissioner or in a committee, member or officer thereof, and all the functions of the former council of agriculture and markets and the commissioner of agriculture and markets and all their powers and duties which shall have been prescribed by law when this subdivision, as hereby amended, takes effect, whether in terms vested in such council or in such commissioner or in a committee, member or officer thereof, shall continue to be vested in the department of agriculture and markets and shall continue to be exercised and performed therein by or through the commissioner of agriculture and markets or the appropriate division, bureau, board or officer thereof as prescribed by or pursuant to law, together with such functions, powers and duties as hereafter may be conferred or imposed upon such department by law. All the provisions of this chapter shall apply to the department of agriculture and markets

continued by this chapter as hereby amended and to the commissioner of agriculture and markets and to the divisions, bureaus and officers of such department, in so far as such provisions are not inconsistent with this subdivision.

30. Investigate, inspect and supervise the sale and exposure for sale of meat and meat preparations and enforce the provisions of sections two hundred one-a, two hundred one-b and two hundred one-c of this chapter relating thereto, designate an employee of the department as "director of kosher law enforcement" and to make such rules and regulations imposing such additional requirements and restrictions upon such sale and exposure for sale as may be deemed necessary in connection with or in aid of the proper administration and enforcement of such provisions and of any other applicable laws.

30-a. Whenever under this chapter a person may elect to petition therefor, the commissioner may in his discretion establish inspection of petitioner's meat by-products or meat food products, and shall determine the actual cost of inspection thereof and shall require and receive quarterly the pre-payment of fees for such inspection services in amounts not exceeding the actual cost. The commissioner shall establish in the name of such petitioner an inspection fund to maintain such inspection services and any unexpended funds which may remain over and above the amount needed for such inspection or service shall be paid to the petitioner at the close of each fiscal year.

31. Adopt, promulgate and make effective plans, rules and orders with respect to the furnishing of care for children under fourteen years of age, including children temporarily within the state, whose parent or parents are seasonally or temporarily employed by canners, growers and processors of foods and foodstuffs, and to expend or allocate moneys for such purposes out of moneys appropriated to the department on such terms and conditions as he may deem proper provided that he finds such action is necessary in order to maintain an adequate supply of labor or to avoid waste in the growing, harvesting and processing of food. The commissioner is authorized to enter into contracts approved by the attorney-general, the state comptroller and the director of the budget with non-profit membership corporations providing such care. Such contracts shall specify the terms and standards of operation and shall limit the total financial responsibility of the state to a specified sum which shall not exceed the amount appropriated for such purpose.

32. Receive and disburse federal moneys allotted to the state by or pursuant to the federal agricultural marketing act of nineteen hundred forty-six as amended, or any other act of the congress making appropriation for the allocation among the states for research into basic laws and principles relating to agriculture and to improve and facilitate the marketing and distribution of agricultural products, and for any other purpose relating to agriculture or marketing agricultural products; on behalf of the state, to adopt, execute and administer plans and to put into effect such measures as may be necessary for research into basic laws and principles relating to agriculture and to improve and facilitate the marketing and distribution of agricultural products; on behalf of the state, to make and execute such contracts, agreements, covenants or conditions, not inconsistent with law, as may be necessary or required by any duly constituted agency of the federal government as a condition precedent to receiving such funds or in connection with such research; to cooperate with all federal, state or local authorities, or other agencies, authorized under such acts of congress to carry out the purposes thereof; to adopt and from time to time to amend such rules and regulations and to prescribe such conditions, not inconsistent with law,

as may be necessary to make available to the people of the state the benefits afforded by such acts of congress; and to enforce all the provisions of this subdivision and the rules adopted pursuant hereto. The department of taxation and finance is designated as custodian of all federal-aid funds allotted to the state for the purposes of this subdivision by the United States and such funds shall be payable only on the audit and warrant of the comptroller on certificate of the commissioner as provided in section one hundred ten of the state finance law.

33. Require each applicant for a license, permit or registration or renewal thereof authorized to be issued by the commissioner under the provisions of this chapter to satisfy the commissioner that such applicant is or will be in compliance with all ordinances or local laws of the county, city, town and village in which such business or occupation will be conducted bearing thereon. The commissioner's approval of an application shall not, however, be construed in any way as certifying that such ordinances or local laws have been complied with.

34. Contract with Cornell university or the New York state veterinary college at Cornell for the planning, design and construction of an animal disease diagnostic laboratory at the state veterinary college at Cornell university.

35. Investigate, inspect, and supervise all sanitary aspects relative to the production, processing, sale and distribution of milk and milk products.

36. Require that a written instrument submitted pursuant to this chapter or a rule or regulation adopted pursuant thereto contain a form notice to the effect that false statements made therein are punishable pursuant to section 210.45 of the penal law or, where the commissioner deems necessary, require that any such instrument be subscribed under oath.

37. Provide for the operation of the state soil and water conservation committee pursuant to the soil and water conservation districts law.

38. Establish and maintain a statewide registry of brands for livestock owners to voluntarily register the brand they use to brand their livestock.

39. (a) Establish a program in the state for the planning, design and implementation of integrated pest management. Under such a program the department may contract with Cornell university or the New York state college of agriculture and life sciences at Cornell university, and shall encourage such contractor to seek federal and private sources of funds for such program. The department shall submit a quinquennial report of such integrated pest management program to the governor, the senate finance committee and the assembly ways and means committee on or before January first, two thousand seven and on or before January first of each fifth year thereafter. Such report shall include, but not be limited to:

i. an identification of all revenue sources, including non-state funds, and an identification of expenditures made within each agricultural production area, as described in article eleven of this chapter;

ii. an evaluation and description of the status of implementation with each agricultural production area and the achievements of each objective outlined in such article eleven made in the previous five years; and

iii. the overall status of the program and multi-year timetable for the future implementation of the program.

(b) Between report due dates, the department shall maintain the

necessary records and data to satisfy such report requirements and to satisfy information requests received from the governor, the senate finance committee and the assembly ways and means committee, between such report due dates.

40. Establish and administer, together with the state soil and water conservation committee and the Cornell cooperative extension, a voluntary program to encourage agricultural environmental planning and implementation. The program shall promote farming practices which are compatible with state water quality and other environmental objectives, and may include training and certification of agricultural planners; educational outreach to producers of farm products; technical and financial assistance to farm operators; consultation and coordination with federal, state and local agencies; and periodic evaluation and assessment of program effectiveness.

41. (a) Establish and maintain New York state domestic animal health assurance programs, voluntary, on-farm, integrated disease prevention programs, directed at improving animal health and promoting a safe and wholesome food supply. Such programs may include but are not limited to the New York state cattle and horse health assurance programs. To carry out such programs, the department may contract with public, private and academic entities and shall encourage such entities to seek federal and private sources of funds for such programs.

(b) Any proprietary farm protocol, animal or herd testing information and/or producer herd data maintained in confidence and voluntarily provided by an owner or operator of a farm operation as defined in section three hundred one of this chapter to participate in a voluntary cattle health program established pursuant to this subdivision shall be exempt from public disclosure. The submission of any such information or records by the owner or operator of a farm operation does not constitute a waiver of any applicable privilege or protection under federal or state law.

(c) The exemption described in paragraph (b) of this subdivision shall not apply to: (1) information collected or created as part of a federal, state, or local health agency investigation or official action taken in connection with a public health risk; and (2) records that do not identify and cannot be used to discern the identity of any participating farm.

42. (a) For purposes of making timely determinations and consulting with the chairman of the state liquor authority pursuant to subdivision five of section seventy-six-a of the alcoholic beverage control law, investigate and compile information relative to natural disasters, acts of God, or continued adverse weather conditions which shall affect the crop of grapes or other fruit products used in the production of wine.

(b) For purposes of making timely determinations and consulting with the chairman of the state liquor authority pursuant to subdivision eleven of section fifty-one-a of the alcoholic beverage control law, investigate and compile information relative to natural disasters, acts of God, or continued adverse weather conditions which shall affect the necessary ingredients for brewing beer.

(c) For purposes of making timely determinations and consulting with the chairman of the state liquor authority pursuant to subdivision twelve of section fifty-one-a and subdivision eleven of section fifty-eight-c of the alcoholic beverage control law, investigate and compile information relative to natural disasters, acts of God, or continued adverse weather conditions which shall affect the crop of apples used in the production of cider.

43. Cooperate with the department of environmental conservation and

the environmental facilities corporation to establish methods to facilitate loans to New York state's agricultural community, to develop educational materials for farmers about the low-interest loans available through the water pollution control linked deposit program, and to develop an application form to be provided to lenders for linked deposit loan requests. The department may promulgate rules and regulations necessary and reasonable for the operation of the program.

44. Encourage and support the practice of forestry and manufacture of wood products in the state, in coordination with the departments of environmental conservation and economic development; and provide for the operation of the wood products development council as established in section two hundred twenty-five of this chapter.

45. When considering plans, policies, regulations and programs pursuant to article fourteen of this chapter, the commissioner shall take into consideration the impact on the horticulture and other plant based industries in the state of New York, including but not limited to greenhouse, nursery, and fruit and vegetable production.

46. Within the amount of monies appropriated or otherwise made available therefor, establish, administer and operate, or provide for the administration and operation of, a program, which may include establishment of a revolving loan fund, to assist in the development, implementation and operation of agricultural programs.

47. Evaluate, in conjunction with the state office for the aging, programs and services offered by the department to ensure that they support the needs of farmers, and other individuals engaged in agriculture, and the production, processing, marketing and distributing of food, who are also seniors, which shall mean an individual sixty years of age or older.

48. Make available in written and electronic medium, in a manner readily accessible to police agencies and officers and district attorneys, information about animal cruelty and protection laws in this chapter, including, but not limited to, article twenty-six of this chapter. The development of such information shall be coordinated with the division of criminal justice services, including the municipal police training council, in a manner designed to enhance training of municipal police officers and to assist such officers and district attorneys in enforcing and applying such laws.

§ 16-a. Food products containing nitrous oxide; packaging. The commissioner shall promulgate rules and regulations to require that all food products containing nitrous oxide be offered for sale in tamper evident packaging. For the purposes of this section, the term "tamper evident packaging" shall mean packaging having an indicator or barrier to entry which, if breached or missing, can reasonably be expected to provide visible evidence to consumers that tampering has occurred.

§ 17. Delegation of powers. (a) The commissioner may delegate any of his powers to, or direct any of his duties to be performed by, a deputy commissioner or the director of a bureau and, except where it is otherwise provided in this chapter or the context otherwise requires, may delegate any of such powers to any officer or employee of the department.

(b) The commissioner, except when it is otherwise provided in this chapter or the context otherwise requires, may also delegate to an officer or employee of the United States department of agriculture, engaged within this state in joint or cooperative state-federal programs, any of the powers invested in him by article five of this

chapter for the control, suppression or eradication of communicable diseases in domestic animals or domestic fowls, any of the powers invested in him by article five-B of this chapter relative to ante-mortem and post-mortem inspection of animals slaughtered for food purposes and processing inspection of meat, meat by-products and meat food products, any of the powers invested in him by article five-D of this chapter relative to ante-mortem inspection of poultry slaughtered for human food, post-mortem inspection of poultry carcasses and inspection of poultry and poultry products, any of the powers invested in him by article fourteen of this chapter in the control or eradication of injurious insects or plant diseases, and any of the powers invested in him by subdivisions four and five of section sixteen of this chapter relative to the collection, analysis and publication of primary statistical data relating to agricultural products of this state. Such delegation shall be in writing and shall state the specific limits of the powers so delegated.

(c) Whenever by the education law or other statute the commissioner is made a member by virtue of his office of the board of visitors, managers or trustees or other similar body of a state institution, he may in writing authorize and empower a deputy commissioner, the secretary of the department or the director of a bureau to act in his place and stead at any meeting or meetings of any such board or body.

§ 18. Rules of department. Subject and in conformity to this chapter and the constitution and laws of the state, the commissioner may enact, amend and repeal necessary rules which shall

1. Regulate and control the transaction of business by the department, provide for the exercise of the powers and the performance of the duties of the department and prescribe the powers and duties of the bureaus and of the directors of bureaus and other officers and employees thereof;

2. Provide for carrying into effect the provisions of this chapter and of the laws of the state in respect of food and food traffic;

3. Regulate the conduct of investigations, inquiries and hearings authorized by this chapter and prescribe necessary forms and notices;

4. Establish official grades for foods and farm products and prescribe the use of such grades, and provide for the marking, packing and shipping of foods and farm products so graded.

5. Establish uniform tolerances or amounts of reasonable variation for containers of food and provide uniform regulations for carrying out the provisions of this chapter in relation to such containers.

6. Provide generally for the exercise of the powers and performance of the duties of the department as prescribed in this chapter and the laws of the state and for the enforcement of their provisions and the provisions of the rules enacted as herein provided.

The rules of the department in force at the time this chapter takes effect shall continue as the rules of the department, until amended or repealed by the commissioner.

§ 19. Publication of rules. Every rule or regulation enacted by the commissioner pursuant to the provisions of this chapter and intended to have the force of law shall be promptly published once in the New York state bulletin, published by the department of state pursuant to section one hundred sixty of the executive law. A copy of every such rule or regulation certified by the commissioner, a deputy commissioner or the secretary of the department shall be promptly filed with the secretary

of state. Every such rule or regulation shall take effect twenty days after such filing, unless some other date of taking effect shall be prescribed by the commissioner.

§ 20. Access to place of business. The commissioner, each deputy commissioner and the directors, counsel, experts, chemists, agents and other officers and employees of the department shall have full access to all places of business, factories, farms, buildings, carriages, cars and vessels used in the production, manufacture, storage, sale or transportation within the state of any dairy products or any imitation thereof, or of any article or product with respect of which any authority is conferred by this chapter on the department. They may examine and open any package or container of any kind containing or believed to contain any article or product, which may be manufactured, sold or exposed for sale in violation of the provisions of this chapter, or of the rules of the department, and may inspect the contents therein, and take therefrom samples for analysis.

§ 20-a. Search warrant in aid of the commissioner of agriculture. A search warrant, in the name of the people, directed to a police officer commanding him to search for dairy products, imitations thereof and substitutes therefor, to open any place of business, factory, building, store, bakery, hotel, tavern, boarding house, restaurant, saloon, lunch counter, place of public entertainment, carriage, car, boat, package, vessel, barrel, box, tub or can, containing, or believed to contain the same, in the possession or under the control of any person who shall refuse to allow the same to be inspected or samples taken therefrom by the commissioner of agriculture, a deputy commissioner or any person or officer authorized by the commissioner or by the agriculture and markets law or to which access is refused or prevented, and to allow and enable the officer mentioned in section fifty-one of the agriculture and markets law applying therefor to take such samples of dairy products, imitations thereof and substitutes therefor, found in the execution of the warrant, as the officer applying for the search warrant shall designate when the same are found, shall be issued by any court to which application is made therefor, whenever it shall be made to appear to such court that such person has refused to permit any dairy products, imitations thereof or substitutes therefor, to be inspected or samples taken therefrom, or that access thereto by any officer mentioned in section fifty-one of the agriculture and markets law has been refused or prevented, and that such officer has reasonable grounds for believing that such person has any dairy products, imitations thereof or substitutes therefor in his possession, or under his control, or that he is violating any of the provisions of the agriculture and markets law relating thereto. The provisions of article six hundred ninety of the criminal procedure law shall apply to such warrant as far as applicable thereto. The officer to whom the warrant is delivered shall make a return in writing of his proceedings thereunto to the court which issued the same.

§ 21. Interference with department employees in performance of duties; bribery. No person shall attempt, by means of any threat or violence, to deter or prevent an inspector, agent or other employee of the department from performing any duty imposed by law upon him or upon the department;

nor shall any person give or offer a bribe or any valuable consideration to any inspector, agent or other employee of the department to influence him in respect to any official act or duty.

§ 22. Power to administer oaths and compel testimony. The commissioner, a deputy commissioner, the secretary or counsel of the department, or any other officer or employee duly authorized by the commissioner, may administer oaths and take affidavits in relation to any matter or proceeding in the exercise of the powers and duties of the department under this chapter. The commissioner, or a deputy commissioner may subpoena and require the attendance of witnesses and the production of books, papers and documents pertaining to the investigations and inquiries which such commissioner or deputy commissioner is authorized to conduct, and examine them in relation to any matter to be investigated by them and issue commissions for the examination of witnesses who are out of the state or unable to attend or excused from attendance.

Any person who shall wilfully testify falsely as to any material matter pending in an investigation or proceeding under this chapter shall be guilty of and punishable for perjury.

An officer who serves the subpoenas issued as above provided and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil actions in courts of record, to be audited and paid in the same manner as other expenses of the department.

§ 23. Records, documents and papers of the department. All proceedings, documents, papers and records filed or deposited with the department relating to matters within its jurisdiction and powers shall be public records; except such portions thereof as are received and accepted by the commissioner, as being of a confidential nature which when so received and accepted shall not be subject to subpoena. Copies of all official documents and orders so filed or deposited, certified by the commissioner, a deputy commissioner, counsel, a division director, or an assistant director under the seal of the department to be true copies of the originals, shall be evidence in like manner as the originals.

§ 24. Publication of department bulletins, publications and reports. There may be published by the department from time to time bulletins or other publications and reports containing accurate data, statistics and information.

1. As to agriculture, agricultural production, agricultural labor and the agricultural conditions of the state, and the development and improvement thereof, with a view of increasing farm production and values;

2. As to the sources, supply and prices of foods, their storage and accumulation at different places, and the quantities and location of the available supply thereof;

3. As to the market prices of foods;

4. As to facilities afforded for transportation, marketing and distribution of foods within the state;

5. As to matters pertaining generally to the production of foods, the

actual food value of articles used as foods, and the sale and distribution thereof to the consumers, which in the opinion of the commissioner will prove valuable or of interest to the public;

6. As to investigations, hearings and inquiries conducted as provided in this chapter, the conclusions reached as to the matters involved therein, and the orders and recommendations made as a result thereof;

7. As to any other matter which the commissioner deems proper.

Such bulletins, publications and reports and the information contained therein shall be published and distributed in the manner deemed best by the commissioner for the dissemination of knowledge as to the agricultural and dairy interests of the state and the production, sale, purchase, storage, marketing and distribution of foods, and the economic and food value of articles used as food. The cost of publishing such bulletins, publications and reports shall be paid in the same manner as other expenses of the department out of appropriations made therefor. Copies of the bulletins, publication and reports of the department may also be sold to the public at the estimated cost thereof, in accordance with a schedule of charges which the commissioner is hereby authorized to adopt.

§ 25. Annual reports. The commissioner may require all agricultural societies receiving money from the state to make reports to the department, and may prescribe the form of such reports.

§ 26. Transfer of property and records in custody of council of agriculture and markets. The property, records, books, papers and documents, if any, in the custody, possession or control of the council of agriculture and markets at the time this section takes effect, which pertain or relate to any of the functions, powers and duties of the department of agriculture and markets or of the council, which is hereby abolished, shall be delivered and belong to the department of agriculture and markets.

§ 27. Obtaining title to real property by purchase or acquisition. 1. The commissioner, when an appropriation therefor has been made by the legislature, may obtain title to any real property which he may deem necessary for the purposes of the department, including the purposes of the state fair, by purchase or pursuant to the eminent domain procedure law, which title shall be taken in the name of and be vested in the people of the state of New York; provided, however, that title to real property shall be so obtained by purchase unless such title thereto shall be approved by the attorney general.

2. Whenever real property is to be acquired pursuant to the eminent domain procedure law, the commissioner shall cause to be made by the state department of transportation an accurate acquisition map as so provided in said law.

3. On the approval of such map by the commissioner, the original tracing of such map shall be filed in the main office of the department pursuant to the eminent domain procedure law.

4. If the commissioner shall determine, prior to the filing of such map in the office of the clerk or register of the county, that changes, alterations or modifications of such map as filed in the main office of the department should be made, he or she shall direct the preparation by the department of transportation of an amended map. On the approval of

such amended map by the commissioner, it shall be filed in the main office of the department and the amended map shall thereupon in all respects and for all purposes supersede the map previously filed.

5. If the commissioner shall determine, prior to the filing of a copy of such acquisition map in the office of the county clerk or register as provided in section four hundred two of the eminent domain procedure law, if applicable, that such map should be withdrawn, he or she may file a certificate of withdrawal in the offices of the department and of the department of law. Upon the filing of such certificate of withdrawal, the map to which it refers shall be cancelled and all rights thereunder shall cease and determine.

6. The commissioner shall deliver to the attorney general a copy of such acquisition map, whereupon it shall be the duty of the attorney general to advise and certify to the commissioner the names of the owners of the property, easements, interests or rights described in the said acquisition map, including the owners of any right, title or interest therein, pursuant to the requirements of section four hundred three of the eminent domain procedure law.

7. If, at or after the vesting of title to such property in the people of the state of New York as provided for in the eminent domain procedure law, the commissioner shall deem it necessary to cause the removal of an owner or occupant from any real property so acquired, he may cause such owner or occupant to be removed therefrom by proceeding in accordance with section four hundred five of the eminent domain procedure law. The proceeding shall be brought in the name of the commissioner as agent of the state and the attorney general shall represent the petitioner in the proceedings. No execution shall issue for costs, if any, awarded against the state or the commissioner, but they shall be part of the costs of the acquisition of the real property and be paid in like manner. Proceedings may be brought separately against one or more of the owners or occupants of any such property, or one proceeding may be brought against all or several of the owners or occupants of any or all such property within the territorial jurisdiction of the same court, justice or judge; precepts or final orders shall be made for immediate removal of persons defaulting in appearance or in answering, or withdrawing their answers, if any, without awaiting the trial or decision of issues raised by contestants, if any.

8. Upon making any agreement provided for in section three hundred four of the eminent domain procedure law, the commissioner shall deliver to the comptroller such agreement and a certificate stating the amount due such owner or owners thereunder on account of such appropriation of his or their property and the amounts so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of such real property, but not until there shall have been filed with the comptroller a certificate of the attorney general showing the person or persons claiming the amount so agreed upon to be legally entitled thereto.

9. Application for reimbursement of incidental expenses as provided in section seven hundred two of the eminent domain procedure law shall be made to the commissioner upon forms prescribed by him and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereof, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section.

10. The commissioner, with the approval of the director of the budget, shall establish and may from time to time amend rules and regulations authorizing the payment of actual reasonable and necessary moving expenses of occupants of property acquired pursuant to this section; of actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not exceeding an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the commissioner; and actual reasonable expenses in searching for a replacement business or farm; or in hardship cases for the advance payment of such expenses and losses. For the purposes of making payment of such expenses and losses only the term "business" means any lawful activity conducted primarily for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted. Such rules and regulations may further define the terms used in this subdivision. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of residential property may elect to accept a moving expense allowance, plus a dislocation allowance, determined in accordance with a schedule prepared by the commissioner and made a part of such rules and regulations. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of commercial property who relocates or discontinues his business or farm operation may elect to accept a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than two thousand five hundred dollars nor more than ten thousand dollars. In the case of a business, no such fixed relocation payment shall be made unless the commissioner finds and determines that the business cannot be relocated without a substantial loss of its existing patronage, and that the business is not part of a commercial enterprise having at least one other establishment, which is not being acquired by the state or the United States, which is engaged in the same or similar business. In the case of a business which is to be discontinued but for which the findings and determinations set forth above cannot be made, the commissioner may prepare an estimate of what the actual reasonable and necessary moving expenses, exclusive of any storage charges, would be if the business were to be relocated and enter into an agreed settlement with the owner of such business for an amount not to exceed such estimate in lieu of such actual reasonable and necessary moving expenses. Application for payment under this subdivision shall be made to the commissioner upon forms prescribed by him and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section. As used in this subdivision the term "commercial property" shall include property owned by an individual, family, partnership, corporation, association or a nonprofit organization and includes a farm operation. As used in this subdivision the term "business" means any lawful activity, except a farm operation, conducted primarily for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products,

commodities, or any other personal property; for the sale of services to the public; or by a nonprofit organization.

11. Authorization is hereby given to the commissioner to make supplemental relocation payments, separately computed and stated, to displaced owners and tenants of residential property acquired pursuant to this section who are entitled thereto, as determined by him. The commissioner, with the approval of the director of the budget, may establish and from time to time amend rules and regulations providing for such supplemental relocation payments. Such rules and regulations may further define the terms used in this subdivision. In the case of property acquired pursuant to this section which is improved by a dwelling actually owned and occupied by the displaced owner for not less than one hundred eighty days immediately prior to initiation of negotiations for the acquisition of such property, such payment to such owner shall not exceed fifteen thousand dollars. Such payment shall be the amount, if any, which, when added to the acquisition payment equals the average price, established by the commissioner on a class, group or individual basis, required to obtain a comparable replacement dwelling that is decent, safe and sanitary to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market, but in no event shall such payment exceed the difference between acquisition payment and the actual purchase price of the replacement dwelling. Such payment shall include an amount which will compensate such displaced owner for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired pursuant to this section was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located. Any such mortgage interest differential payment shall, notwithstanding the provisions of section twenty-six-b of the general construction law, be in lieu of and in full satisfaction of the requirements of such section. Such payment shall include reasonable expenses incurred by such displaced owner for evidence of title, recording fees and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses. Such payment shall be made only to a displaced owner who purchases and occupies a replacement dwelling which is decent, safe and sanitary within one year subsequent to the date on which he is required to move from the dwelling acquired pursuant to this section or the date on which he receives from the state final payment of all costs of the acquired dwelling, whichever occurs later, except advance payment of such amount may be made in hardship cases. In the case of property acquired pursuant to this section from which an individual or family, not otherwise eligible to receive a payment pursuant to the above provisions of this subdivision, is displaced from any dwelling thereon which has been actually and lawfully occupied by such individual or family for not less than ninety days immediately prior to the initiation of negotiations for the acquisition of such property, such payment to

such individual or family shall not exceed four thousand dollars. Such payment shall be the amount which is necessary to enable such individual or family to lease or rent for a period not to exceed four years, a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities and reasonably accessible to his place of employment, but shall not exceed four thousand dollars, or to make the down payment, including reasonable expenses incurred by such individual or family for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses, on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities, but shall not exceed four thousand dollars, except if such amount exceeds two thousand dollars, such person must equally match any such amount in excess of two thousand dollars, in making the down payment. Such payments may be made in installments as determined by the commissioner. Application for payment under this subdivision shall be made to the commissioner upon forms prescribed by him and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller, together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section.

12. The owner of any real property so acquired may present to the court of claims, pursuant to section five hundred three of the eminent domain procedure law a claim for the value of such property appropriated and for legal damages caused by such appropriation, as provided by law for the filing of claims with the court of claims. Awards and judgments of the court of claims shall be paid in the same manner as awards and judgments of that court for the acquisition of lands generally and shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of such real property.

13. If the commissioner shall determine subsequent to the acquisition of a temporary easement in any real property that the purposes for which such easement right was acquired have been accomplished and that the exercise of such easement is no longer necessary, he shall make his certificate that the exercise of such easement is no longer necessary and that such easement right is therefore terminated, released and extinguished. The commissioner shall cause such certificate to be filed in the office of the department of state and upon such filing all rights acquired by the state in such property shall cease and determine. The commissioner shall cause a certified copy of such certificate as so filed in the office of the department of state to be mailed to the owner of the property affected, as certified by the attorney general, if the place of residence of such owner is known or can be ascertained by a reasonable effort and such commissioner shall cause a further certified copy of such certificate to be filed in the office of the recording officer of each county in which the property affected or any part thereof is situated. On the filing of such certified copy of such certificate with such recording officer, it shall be his duty to record the same in his office in the books used for recording deeds and to index the same against the name of the people of the state of New York as grantor.