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## **New York City Bar Association Supports LIBOR Discontinuance Legislation**

New York, March 12, 2021 – The New York City Bar Association has [issued a report](#) supporting New York State legislation that aims “to avoid substantial disruption to the rights of parties to trillions of dollars of financial contracts that may be affected by the cessation of U.S. Dollar LIBOR.” The Proposed Statute has been introduced as a stand-alone bill in the Legislature by Senator Thomas and Assembly Member Zebrowski (A.164-B/S.297-B) and as part of the 2021-2022 Executive Budget proposed by Governor Cuomo (A.3008-A/S.2508-B, Part PP).

The report warns that “many contracts governed by New York law...using LIBOR do not have adequate provisions to determine what will happen when LIBOR ceases to be published.” The likely results, according to the report, include uncertainty “regarding how New York Contracts will be treated,” possibly “substantial financial market disruption,” and impaired liquidity “in securities that reference LIBOR and do not have adequate Fallbacks.”

However, “the Proposed Statute seeks to reduce such disruptions and mitigate these issues” says the report. The report undertakes an extensive review of the statute’s provisions, including for a “safe harbor” and for the implementation of the Secured Overnight Financing Rate (“SOFR”) as the replacement rate for legacy contracts. The report points out that under these provisions parties will “retain their ability to enter into modifications to their contracts for the purpose of addressing the cessation of LIBOR,” and that “the Proposed Statute does not impose SOFR as the replacement rate, where contracts contain Fallback provisions that would result in a benchmark replacement that is not based on LIBOR.” And, based on a detailed analysis provided in several Appendices, the report concludes that the Proposed Statute would survive a legal challenge if one is brought.

At its core, “[t]he Proposed Statute addresses an important need, where contracts cannot be practically amended or are otherwise not amended by the parties in time,” says the report.

Led by the City Bar’s LIBOR Replacement Legislation Working Group, the report lists the participation and endorsement of nine City Bar committees: Futures and Derivatives Regulation; Investment Management Regulation; Securities Regulation; Structured Finance; Banking Law; Commercial Law and Uniform State Laws; Real Property Law; In-House Counsel; and Consumer Affairs.

Read the report here: <https://bit.ly/3qBRCXP>

**About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*

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