NEW YORK STATE OF OPPORTUNITY.

Division of Local Government Services

The New NY Government Reorganization and Citizen Empowerment Act:

A Summary of the Process for Consolidation and Dissolution

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Andrew M. Cuomo, Governor

A Division of the New York Department of State

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"NEW N.Y. GOVERNMENT REORGANIZATION AND CITIZEN EMPOWERMENT ACT"

A SUMMARY OF THE PROCESS FOR CONSOLIDATION AND DISSOLUTION

The recently enacted "New N.Y. Government Reorganization and Citizen Empowerment Act" establishes procedures in a new Article 17-A of the General Municipal Law for the consolidation and dissolution of towns, villages, fire districts, fire protection districts, fire alarm districts, special improvement districts or other improvement districts, library districts, and other districts created by law. It does not include school districts, city districts or special purpose districts created by counties under county law. For simplicity, we'll refer to the second type as the dissolution of a special district. The law provides that the process of consolidation or dissolution may be initiatied by either the governing bodies or by a petition of voters of the local government. This publication summarizes the procedures that must be followed, with relevant sections of the General Municipal Law referenced in brackets.

CONSOLIDATION

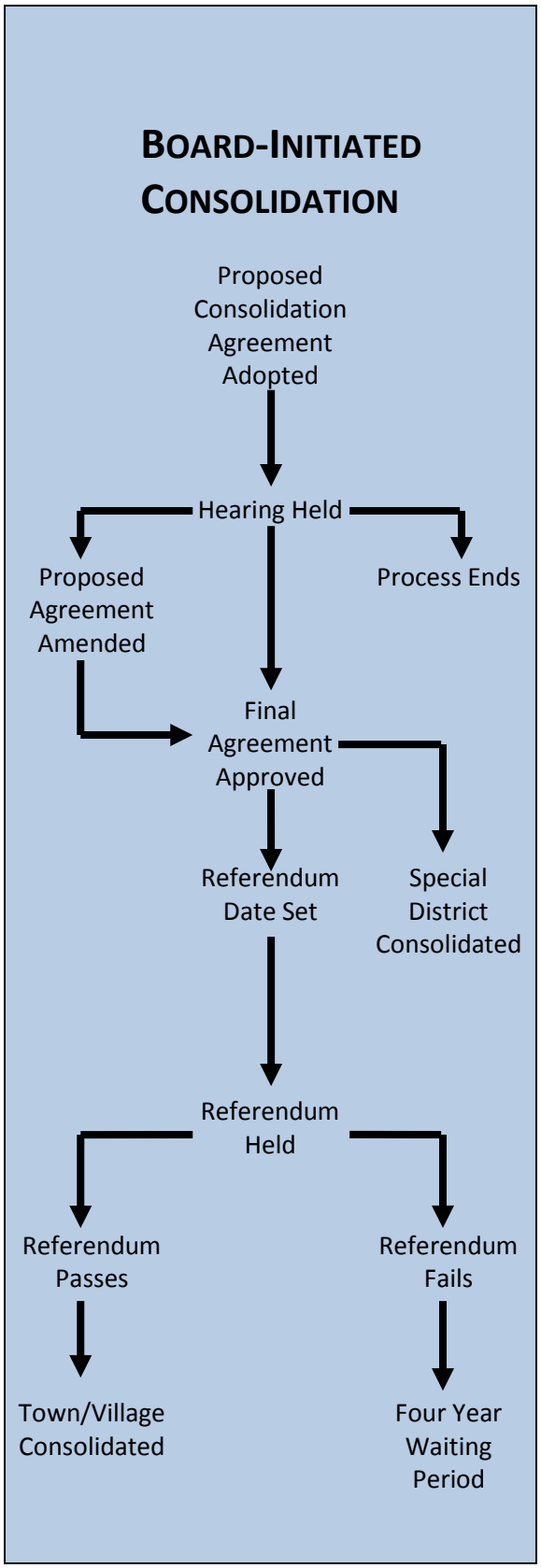
The consolidation of local government entities can result either in the elimination of the original local governments and the forming of a new local governmental entity or in one surviving governmental entity with the others absorbed into it. Consolidation can't be initiated unilaterally by one of the governments, as it requires the consent of the governing bodies and, in most cases, the voters of all the governments involved.

The groundwork for consolidation begins long before the statutory procedures kick in. A joint consolidation agreement will require considerable data gathering, analysis, and discussion within and among each local government entity to be consolidated. To facilitate that effort, each local government entity may want to designate an individual or group of people to examine the issues that must be identified in the proposed agreement. The governing body may also want to seek public input as the proposed joint agreement is being developed, long before the public hearing required by the statute.

BOARD-INITIATED CONSOLIDATION

The statutory process of consolidation, when initiated by the governing body of the participating local government entities, begins with a resolution endorsing a proposed joint consolidation agreement [§751(2)(a)]. That agreement must specify:

- The name of each local government entity to be consolidated;
- The name of the proposed consolidated local government entity;
- The rights, duties and obligations of the proposed consolidated entity;
- The territorial boundaries of the proposed consolidated entity;
- The type and/or class of the proposed consolidated entity;
- The governmental organization of the proposed consolidated entity insofar as it concerns elected and appointed officials and public employees, along with a transitional plan and schedule for elections and appointment of officials;
- A fiscal estimate of the cost of and savings that may be realized from consolidation;
- Each entity's assets, including, but not limited to, real and personal property, and the fair value thereof in current money of the United States;
- Each entity's liabilities and indebtedness, bonded and otherwise, and the fair value thereof in current money of the United States;
- Terms for the disposition of existing assets, liabilities and indebtedness of each entity, either jointly, separately or in certain defined proportions;
- Terms for the common administration and uniform enforcement of local laws, ordinances, resolutions, orders and the



like, within the proposed consolidated entity;

- The effective date of the proposed consolidation; and
- The time and place or places for the public hearing or hearings on the proposed joint consolidation agreement.

After the proposed joint consolidation agreement is endorsed by each local government entity, the following procedures apply to board-initiated consolidation:

- No later than 5 business days after the resolution is adopted:
    - The proposed joint agreement must be displayed and made readily available in a public place within each entity, along with a summary of the agreement [§753(1)].
    - The proposed joint agreement and summary must also be posted on a website maintained by each entity, or by the village, town or county in which the entities are located [§753(2)].
    - The governing bodies must arrange for publication of the summary of the proposed joint agreement in a newspaper of general circulation within each entity at least once each week for four successive weeks [§753(3)].
- As part of the joint consolidation agreement, the governing body of each entity must set a time and place for one or more public hearings on the proposed agreement. The hearing or hearings must be held 35 to 90 days after adoption of the resolution endorsing the proposed agreement, and may be held jointly or separately [§754(1)].
- The governing bodies must give notice of each public hearing in a newspaper of general circulation within each entity, and on the website identified above, at least 10 days but not more than 20 days before the date of the hearing [§754(2)].
- Once the final hearing on the proposed consolidation agreement is closed:
    - A governing body may decline to proceed further with consolidation proceedings [§754(3)].
    - The governing bodies may amend the proposed joint consolidation agreement. No later than 5 business days after the agreement is amended, a summary and copy of the proposed agreement must be displayed and made available in a public place

within each entity and posted on a website maintained by each entity, or by the village, town or county in which the entities are located [§754(3), (4)].

- Approval of a final consolidation agreement must occur within 180 days from the close of the last public hearing on the proposed agreement [§754(3)].
    - If the agreement is for the consolidation of special districts, the agreement will take effect without referendum on the date specified in the proposed joint consolidation agreement [§752(2)(l)].
    - If the agreement calls for the consolidation of two or more towns, two or more villages, or one or more towns and villages, then at the same time as approval of the final consolidation agreement, the governing body or bodies must enact a resolution calling for a referendum. The resolution must establish a date for the referendum, name each of the towns and/or villages proposed to be consolidated and the territory that will be included in the consolidated entity, and provide the name of the proposed consolidated entity. Additional matters are listed in the law [§755(1), (2)].
    - The referendum must be held 60 to 90 days after the enactment of the resolution calling for the referendum. The referendum may be held on different days in the entities proposed to be consolidated, but may not be held more than 20 days apart [§758(1), (2)].
- Notice of the referendum must be published in a newspaper of general circulation within each entity to be consolidated at least once each week for four successive weeks prior to the referendum [§758(3)].
- If the referendum to consolidate fails in one or more of the entities to be consolidated, the consolidation process may not be initiated again for the same purpose for at least four years from the date of the referendum [§759(4)].
- If the referendum to consolidate passes in all of the entities to be consolidated, the consolidation will become effective on the date specified in the joint consolidation agreement [§752(2)(l)].

VOTER- INITIATED CONSOLIDATION

The "New N.Y. Government Reorganization and Citizen Empowerment Act" provides a process for voters to petition for a public vote on consolidating their local governments. Only voters registered in the local government entity may sign consolidation petitions, or serve as the contact person for the petition.

The new legislation requires one petition to be submitted to the clerk of the town containing the greatest portion of the entities to be consolidated. If however, the consolidation involves a village government, an original petition containing the signatures of village voters must be filed with the village clerk; the balance of the original petition would be filed with the previously mentioned town clerk [§757(1)]. The petition must contain, for each governmental entity to be dissolved, the signatures of 10 percent of the voters in that governmental entity or 5000 signatures, whichever is less. However, if a governmental entity to be consolidated has 500 or fewer registered voters then the signatures of at least 20 percent of the voters are required [§757(2)].

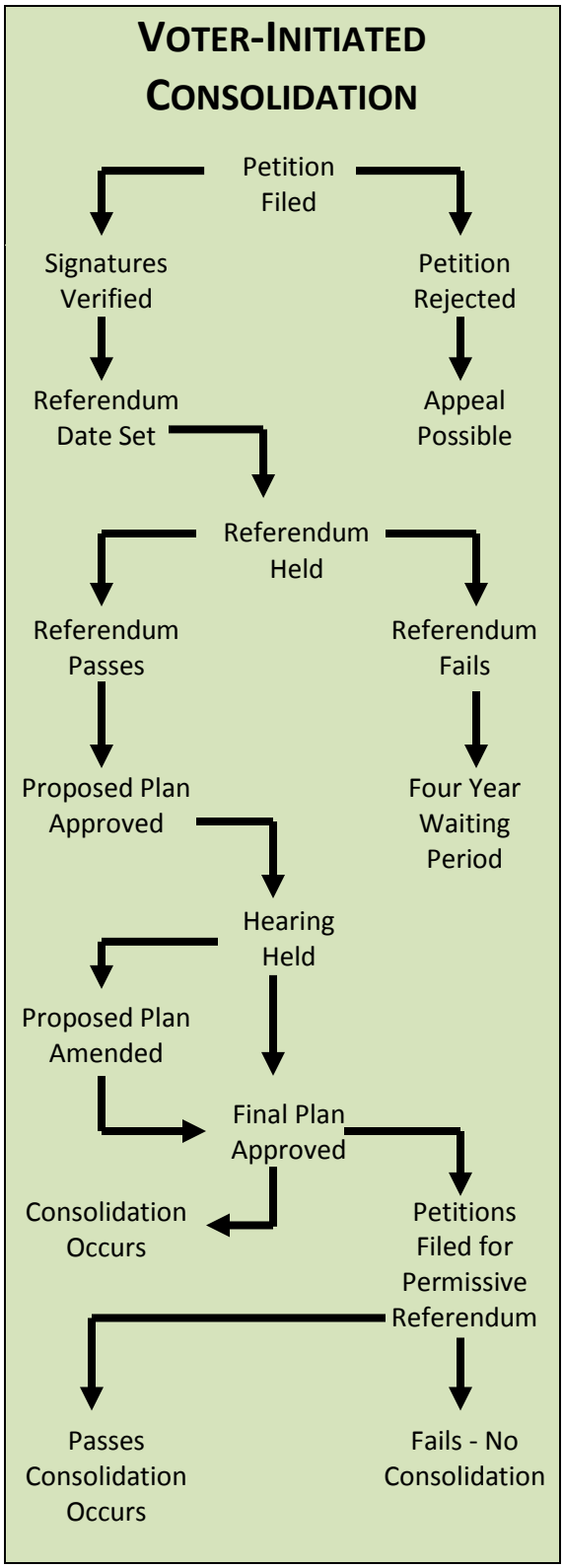
Because consolidation involves more than one local government entity, the process of preparing the petition and gathering signatures from voters in each entity will need to be coordinated so the petitions circulated in each local government unit all seek the same result.

Unlike a board-initiated consolidation, in a voter-initiated process the consolidation plan will not be developed until after the referendum on whether to consolidate passes. The plan must contain the same information as the joint agreement prepared in a board-initiated process (see page 1). Once a proposed consolidation plan is prepared by the governing bodies, voters have the opportunity to conduct another petition drive to require a second referendum, this time on the consolidation plan itself. If that drive is successful and another referendum is held, it too must pass in order for the consolidation to take effect.

If the governing bodies are unable or unwilling to prepare and approve a consolidation plan, five voters who signed the original petition may bring a C.P.L.R. Article 78 action in state Supreme Court. Depending on its findings, the court may refer the matter to mediation or issue an injunction compelling the governing bodies to act. If the governing bodies still fail to act, the court may appoint a judicial hearing officer to develop and approve a plan [§764].

The following procedures apply to voter-initiated consolidation:

- To initiate consolidation proceedings, the voters of two or more local government entities may file a petition with the town clerk of the town in which the greatest amount of territory to be consolidated is located. That petition will include signature sheets containing for each entity at least the minimum number of signatures required [§757(1)].
    - If one of the entities to be consolidated is a village, a petition containing the signatures of voters from that village must be filed with the village clerk [§757(1)].
- Within 10 days of receiving the petition, the clerk with whom it is filed must make a final determination regarding the sufficiency of the number of signatures on the petition. The clerk must notify the person identified as the contact person on the cover sheet of the petition of the determination. Any voter who signed the petition can seek judicial review of an unfavorable determination [§757(6)].
- If there are enough signatures, the governing bodies of the local government entities proposed for consolidation must enact a resolution calling for a referendum and setting a date for the vote. The resolution must be enacted within 30 days of the clerk's determination [§757(7)].



- The governing bodies must arrange for publication of the summary of the petition for consolidation in a newspaper of general circulation within each entity at least once each week for four successive weeks [§758(3)].

- The referendum must be held 60 to 90 days after adoption of the resolution calling for a referendum on consolidation [§758(1)].

- Consolidation will not take place if the referendum fails in any of the local government entities proposed to be consolidated, and the consolidation process may not be initiated for the same purpose for four years from the date of the referendum [§759(4)].

- The consolidation process will continue if a majority of the votes received in each local government entity are in favor of the referendum. A certificate of the results must be filed with the Secretary of State and with the clerks of the entities and county in which any part of the entities to be consolidated are situated [§759(3)].

- Within 30 days after certification of the favorable vote on consolidation, the governing bodies of the local government entities to be consolidated must meet [§760(1)].

- Within 180 days of that meeting, the governing bodies must prepare a proposed consolidation plan and approve it by resolution [§760(1)].

- No later than 5 business days after the resolution is adopted:

    - The proposed consolidation plan must be displayed and made readily available in a public place within each entity, along with a summary of the plan [§761(1)].

    - The proposed plan and summary must also be posted on a website maintained by each entity, or by the village, town or county in which the entities are located [§761(2)].

    - The governing bodies must arrange for publication of the summary of the proposed consolidation plan in a newspaper of general circulation within each entity at least once each week for four successive weeks [§761(3)].

- As part of the consolidation plan, the governing bodies must set a time and place for one or more public hearings on the proposed agreement. The hearing or hearings must be held 35

to 90 days after adoption of the resolution endorsing the proposed plan, and may be held jointly or separately [§762(2)].

- The governing bodies must give notice of each public hearing in a newspaper of general circulation within each entity, and on the website identified above, at least 10 days but not more than 20 days before the date of the hearing [§762(2)].

- Once the final hearing on the proposed consolidation plan is closed:

    - The governing bodies may amend the proposed consolidation plan. No later than 5 business days after the plan is amended, a summary and copy of the proposed plan must be displayed and made readily available in a public place within each entity and posted on a website maintained by each entity, or by the village, town or county in which the entities are located [§762(3), (4)].

    - The governing bodies must approve a final consolidation plan within 60 days from the close of the last public hearing [§762(3)].

- Unless a qualified petition calling for a referendum on the consolidation plan is submitted, the local government entities will consolidate on the date specified in the final consolidation plan, which must be at least 45 days after the final plan was approved [§763(1)].

- The voters of any local government unit involved in the consolidation may, within 45 days after the governing body approves the final plan, file a petition to require a referendum on the consolidation plan with the clerk of the town in which the entity or the greater portion of its territory is located. If, however, the entity is a village the original petition must be filed with the village clerk. The petition must contain the signatures of at least 25 percent of the voters in the entity, or 15,000 signatures, whichever is less. The petition could be circulated and a referendum held in one or more of the local government units that would be consolidated [§763(2)].

- Within 10 days of receiving the petition, the clerk with whom it is filed must make a final determination regarding the sufficiency of the number of signatures on the petition. The clerk must notify the person identified as the contact person on the cover sheet of the petition of the determination. Any voter who signed the petition can seek judicial review of an unfavorable determination [§763(4)].

- If there are enough signatures, the governing body to which the petition applies must enact a resolution calling for a referendum on the question whether to approve the consolidation plan and setting a date for the vote. The resolution must be enacted within 30 days of the clerk's determination [§763(4)].

- The governing body must arrange for publication of the summary of the proposed consolidation plan in a newspaper of general circulation within each entity at least once each week for four successive weeks [§763(6)].

- The referendum must be held 60 to 90 days after approval of the resolution calling for a referendum on consolidation [§763(5)].

- If a majority votes in favor of the plan taking effect, the consolidation will take effect on the date specified in the proposed consolidation plan. Without a majority vote, the referendum will fail and the consolidation will not take effect [§763(1), (8)].

DISSOLUTION

Dissolution is the termination of a local government entity. The services it provides may end, or may be assumed by another local government entity that will provide them at the same or a different level. The dissolution plan is the written document that contains the terms and information regarding the dissolution of a local government entity.

The law speaks to two types of dissolution. The first is the dissolution of a village, which requires a referendum in order to be accomplished. The second type is the dissolution of fire districts, fire protection districts, fire alarm districts, special improvement districts or other improvement districts, library districts, and other districts created by law. It does not include school districts, city districts or special purpose districts created by counties under county law. For simplicity, we'll refer to the second type as the dissolution of a special district. The dissolution of a special district does not require a referendum unless the process is initiated by a petition of voters.

A town may not be dissolved.

The dissolution plan will require considerable data gathering, analysis, and discussion. To facilitate that process, the local governing body may want to designate an individual or group of people to examine the issues that must be identified in the dissolution plan. The governing body may even want to seek public input as the proposed dissolution plan is being developed, long before the public hearing required by the statute.

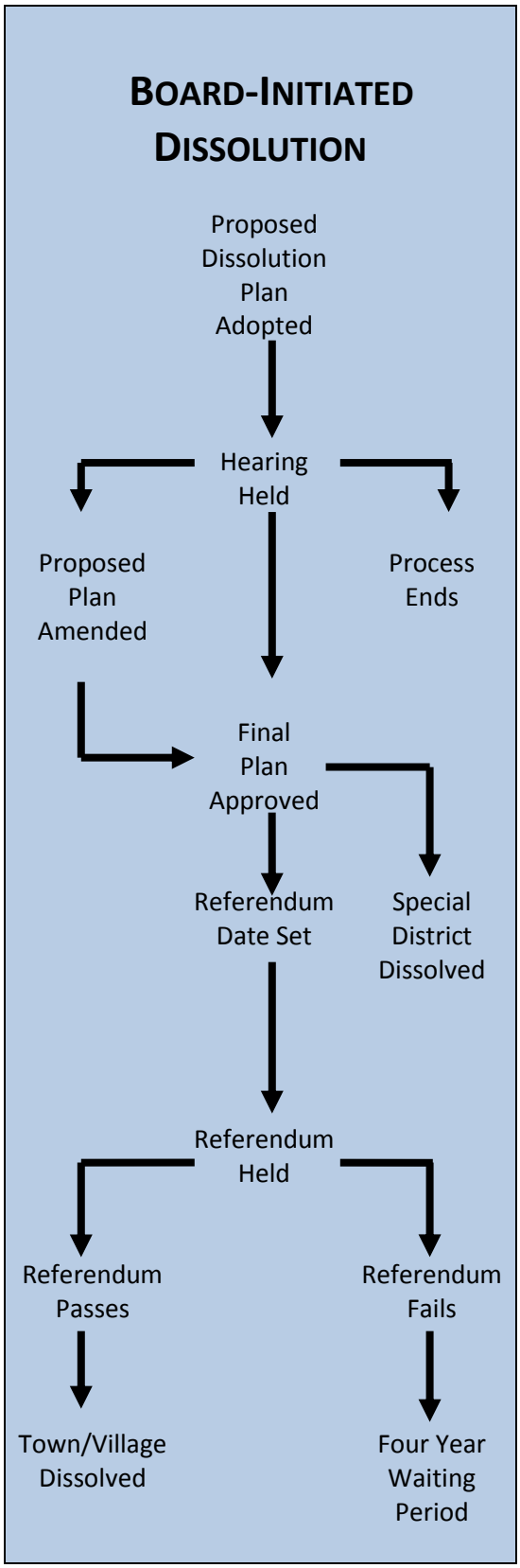
BOARD-INITIATED DISSOLUTION

The statutory process of dissolution, when initiated by the governing body, begins with a resolution endorsing a proposed dissolution plan [§773(2)]. That plan must specify:

- The name of the local government entity to be dissolved;
- The territorial boundaries of the entity;
- The type and/or class of the entity;
- A fiscal estimate of the cost of dissolution;
- Any plan for the transfer or elimination of public employees;
- The entity's assets, including but not limited to real and personal property, and the fair value thereof in current money of the United States;
- The entity's liabilities and indebtedness, bonded and otherwise, and the fair value

thereof in current money of the United States;

- Any agreements entered into with the town or towns in which the entity is situated in order to carry out the dissolution;
- The manner and means by which the residents of the entity will continue to be furnished municipal services following the entity's dissolution;
- Terms for the disposition of the entity's assets and the disposition of its liabilities and indebtedness, including the levy and collection of the necessary taxes and assessments;
- Findings as to whether any local laws, ordinances, rules or regulations of the entity shall remain in effect after the effective date of the dissolution or shall remain in effect for a period of time other than two years following dissolution;
- The effective date of the proposed dissolution;
- The time and place or places for a public hearing or hearings on the proposed dissolution plan; and
- Any other matter desirable or necessary to carry out the dissolution.



After the proposed dissolution plan is endorsed by the local governing board, the following procedures apply to board-initiated dissolution:

- No later than 5 business days after the resolution is adopted:
    - The proposed dissolution plan must be

displayed and made readily available in a public place within the entity, along with a summary of the plan [§775(1)].

  - The proposed dissolution plan and summary must also be posted on a website maintained by the entity, or by the village, town or county in which the entity is located [§775(2)].

  - The governing body must arrange for publication of the summary of the proposed dissolution plan in a newspaper of general circulation within the entity at least once each week for four successive weeks [§775(3)].

  - Where the dissolution of a village is proposed, the governing body of the village must cause the proposed dissolution plan to be mailed to the supervisor of the town or towns in which the village is located [§775(4)].

- As part of the dissolution plan, the governing body must set a time and place for one or more public hearings on the proposed plan. The hearing or hearings must be held 35 to 90 days after adoption of the resolution endorsing the proposed plan [§776(1)].

- The governing body must give notice of each public hearing in a newspaper of general circulation within the entity, and on the website identified above, at least 10 days but not more than 20 days before the date of the hearing [§776(2)].

- Once the final hearing on the proposed dissolution plan is closed:

  - The governing body may decline to proceed further with dissolution proceedings [§776(3)].

  - The governing body may amend the proposed dissolution plan. No later than 5 business days after the plan is amended, a summary and copy of the proposed plan must be displayed and made readily available in a public place within the entity and posted on a website maintained by the entity, or by the village, town or county in which the entity is located [§776(3), (4)].

- Approval of the final dissolution plan must occur within 180 days from the close of the last public hearing on the proposed plan [§776(3)].

  - It the plan is for the dissolution of a special district, the plan will take effect without referendum on the date specified in the proposed dissolution plan [§778)].

- If the plan calls for the dissolution of a village, than at the same time the governing body of the village approves the final dissolution plan, it must enact a resolution calling for a referendum. The resolution must establish a date for a referendum, name the village to be dissolved, and contain other matters addressed in the law [§777(1), (2)].
- The referendum must be held at least 60 but no more than 90 days after the enactment of the resolution calling for the referendum [§780(1)].

- Notice of the referendum must be published in a newspaper of general circulation within the entity to be consolidated at least once each week for four successive weeks prior to the referendum [§780(2)].
- If the referendum to dissolve fails, the dissolution process may not be initiated again for the same purpose for at least four years from the date of the referendum [§781(4)].
- If the referendum to dissolve passes, the dissolution will become effective on the date specified in the dissolution plan [§778].

VOTER- INITIATED DISSOLUTION

The "New N.Y. Government Reorganization and Citizen Empowerment Act" provides a process for voters to petition for a public vote on dissolving their local government. The new legislation requires the petition to be submitted to the clerk of the town containing the greatest portion of the entity to be dissolved. If, however, the dissolution would be of a village government, an original petition containing the signatures of village voters must be filed with the village clerk [§779(1)]. The petition must contain the signatures of 10 percent of the voters in that governmental entity or 5000 signatures, whichever is less. However, if the governmental entity to be dissolved has 500 or fewer registered voters then the signatures of at least 20 percent of the voters are required [§779(2)].

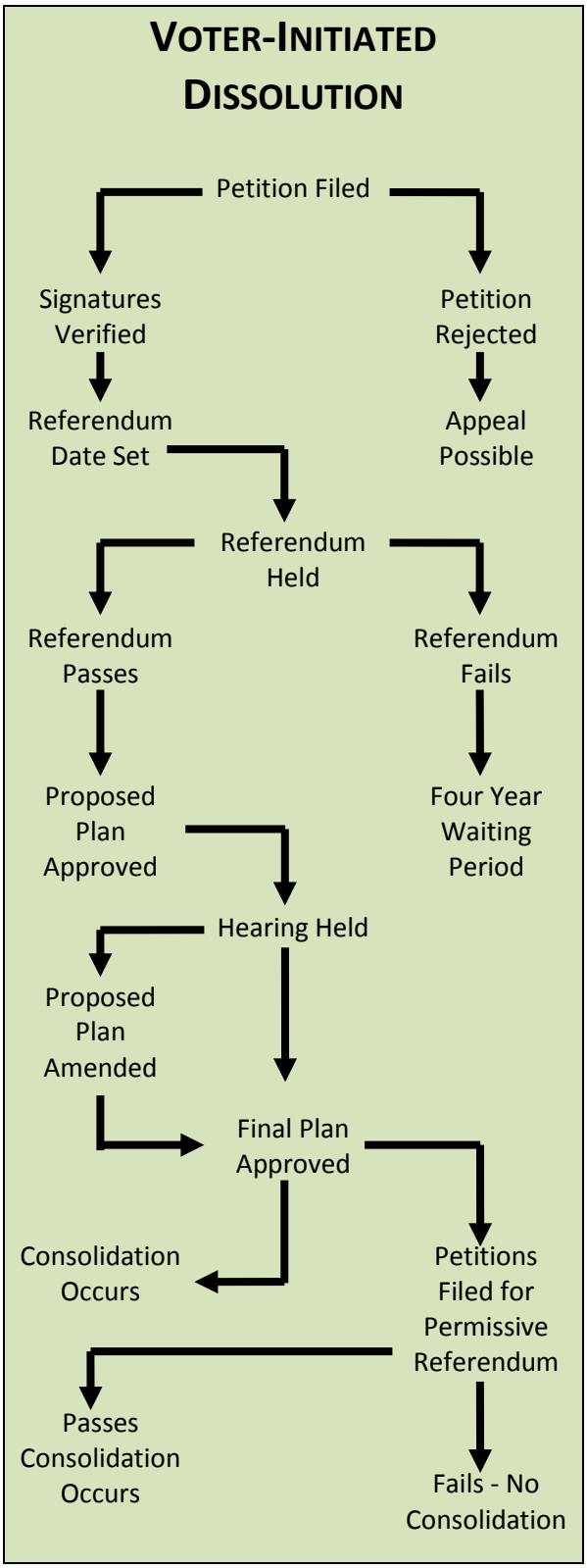
Unlike a board-initiated dissolution, in a voter-initiated process the dissolution plan will not be developed until after the referendum on whether to dissolve passes. The plan must contain the same information as in a board-initiated process (see page 10). Once a proposed dissolution plan is prepared by the governing body, voters have the opportunity to conduct another petition drive to require a second referendum, this time on the dissolution plan itself. If that drive is successful and another referendum is held, it too must pass in order for the dissolution to take

effect.

If the governing body is unable or unwilling to prepare and approve a dissolution plan, five voters who signed the original petition may bring a C.P.L.R. Article 78 action in state Supreme Court. Depending on its findings, the court may issue an injunction compelling the governing body to act. If the governing body still fails to act, the court may appoint a judicial hearing officer to develop and approve a plan [§786].

The following procedures apply to voter-initiated dissolution:

- To initiate dissolution proceedings, the voters of a local government entity may file a petition with the town clerk of the town in which the greatest amount of territory to be dissolved is located. That petition will include signature sheets containing the signatures of at least the minimum number of voters required [§779(1)].
    - If one of the entities to be dissolved is a village, a petition containing the signatures of voters from that village must be filed with the village clerk [§779(1)].
- Within 10 days of receiving the petition, the clerk with whom it is filed must make a final determination regarding the sufficiency of the number of signatures on the petition. The



clerk must notify the person identified as the contact person on the cover sheet of the petition of the determination. Any voter who signed the petition can seek judicial review of an unfavorable determination [§779(6)].

- If there are enough signatures, the governing body of the local government entity proposed for dissolution must enact a resolution calling for a referendum and setting a date for the vote. The resolution must be enacted within 30 days of the clerk's determination [§779(7)].
- The governing body must arrange for publication of the summary of the petition for dissolution in a newspaper of general circulation within each entity at least once each week for four successive weeks [§780(2)].
- The referendum must be held 60 to 90 days after approval of the resolution calling for a referendum on dissolution [§780(1)].
- Dissolution will not take place if the referendum fails, and the dissolution process may not be initiated for the same purpose for four years from the date of the referendum [§781(2), (4)].
- The dissolution process will continue if a majority of the votes received are in favor of the referendum. A certificate of the results must be filed with the Secretary of State and with the clerk of the entity and county in which any part of the entity to be dissolved is situated [§781(3)].
- Within 30 days after certification of the favorable vote on dissolution, the entity's governing body must meet [§782(1)].
- Within 180 days of that meeting, the local governing body must prepare a proposed dissolution plan and approve it by resolution [§782(1)].
- No later than 5 business days after the resolution is adopted:
    - The proposed dissolution plan must be displayed and made readily available in a public place within the entity, along with a summary of the plan [§783(1)].
    - The proposed plan and summary must also be posted on a website maintained by the entity, or by the village, town or county in which the entity is located [§783(2)].

- The governing body must arrange for publication of the summary of the proposed dissolution plan in a newspaper of general circulation within the entity at least once each week for four successive weeks [§783(3)].

- As part of the dissolution plan, the governing body must set a time and place for one or more public hearings on the proposed dissolution plan. The hearing or hearings must be held 35 to 90 days after the resolution endorsing the proposed plan [§784(1)].

- The governing body must give notice of each public hearing in a newspaper of general circulation within the entity, and on the website identified above, at least 10 days but not more than 20 days before the date of the hearing [§784(2)].

- Once the final hearing on the proposed dissolution plan is closed:

  - The governing body may amend the proposed dissolution plan. No later than 5 business days after the plan is amended, a summary and copy of the proposed plan must be displayed and made readily available in a public place within the entity and posted on a website maintained by the entity, or by the village, town or county in which the entity is located [§784(3), (4)].

  - The governing body must approve a final dissolution plan within 60 days from the close of the last public hearing [§784(3)].

- Unless a qualified petition calling for a referendum on the dissolution plan is submitted, the local government entity will dissolve on the date specified in the final dissolution plan, which must be at least 45 days after the final plan was approved [§785(1)].

- The voters of the local government entity may within 45 days, after the governing body approves the final plan, file a petition to require a referendum on the dissolution plan with the clerk of the town in which the entity or the greater portion of its territory is located. If, however, the entity is a village the original petition must be filed the village clerk. The petition must contain the signatures of at least 25 percent of the voters in the entity, or 15,000 signatures, whichever is less [§785(2)].

- Within 10 days of receiving the petition, the clerk with whom it is filed must make a final determination regarding the sufficiency of the number of signatures on the petition. The clerk must notify the person identified as the contact person on the cover sheet of the petition of

the determination. Any voter who signed the petition can seek judicial review of an unfavorable determination [§785(4)].

- If there are enough signatures, the governing body must enact a resolution calling for a referendum on the question whether to approve the dissolution plan and setting a date for the vote. The resolution must be enacted within 30 days of the clerk's determination [§785(4)].
- The governing body must arrange for publication of the summary of the proposed dissolution plan in a newspaper of general circulation within the entity at least once each week for four successive weeks [§785(6)].
- The referendum must be held 60 to 90 days after adoption of the resolution calling for a referendum on dissolution [§785(5)].
- If a majority votes in favor of the plan taking effect, the dissolution will take effect on the date specified in the proposed dissolution plan. Without a majority vote, the referendum will fail and the dissolution will not take effect [§785(1), (8)].

COUNTY-INITIATED DISSOLUTION

The "New N.Y. Government Reorganization and Citizen Empowerment Act" amends Section 33-a of the Municipal Home Rule Law to allow the board of supervisors or legislature of any county to abolish any units of local government wholly contained in the county. This can include whole cities, towns, villages or districts, or the offices, departments or agencies within those local governments.

Counties already have the ability to transfer functions or duties of one local government within the county to another local government. This new law extends county governing board authority to allow them to abolish a unit of local government when the level and quality of ongoing services of all their functions or duties are transferred.

A county local law to abolish one or more government units or to transfer the functions of one or more government units must be approved by county voters at referendum. The referendum on the law must be approved by:

(1) a majority of county voters who live in cities;

(2) a majority of county voters who do not live in a city; and

(3) if the local law affects the functions or duties of one or more villages, then by a majority of county voters living in the affected village(s).

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