

STATE OF NEW YORK

7828

2017-2018 Regular Sessions

IN ASSEMBLY

May 16, 2017

Introduced by M. of A. ZEBROWSKI, PEOPLES-STOKES -- (at request of the Department of State) -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to ensuring proper administration and enforcement of the uniform fire prevention and building code and the state energy conservation construction code

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 381 of the executive law, as
2 amended by chapter 560 of the laws of 2010, is amended to read as
3 follows:

4 2. Except as may be provided in regulations of the secretary pursuant
5 to subdivision one of this section, every local government shall admin-
6 ister and enforce the uniform fire prevention and building code and the
7 state energy conservation construction code on and after the first day
8 of January, nineteen hundred eighty-four, provided, however, that a
9 local government may enact a local law prior to the first day of July in
10 any year providing that it will not enforce such codes on and after the
11 first day of [~~January~~] April next succeeding. In such event, the county
12 in which said local government is situated shall administer and enforce
13 such codes within such local government from and after the first day of
14 [~~January~~] April next succeeding the effective date of such local law, in
15 accordance with the provisions of paragraph b of subdivision five of
16 this section unless the county shall have previously enacted a local law
17 providing that it will not enforce such codes within that county. In
18 such event the secretary, in the place and stead of the local
19 government, shall, directly or by contract, administer and enforce the
20 uniform code and the state energy conservation construction code in such
21 local government on and after the first day of April next succeeding. In
22 the event that a county enacts a local law prior to the first day of
23 October in any year providing that it will not enforce such codes, the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

LBD10126-01-7

1 secretary, in the place and stead of the local government, shall,
2 directly or by contract, administer and enforce such codes from and
3 after the first day of April next succeeding. A local government or a
4 county may repeal a local law which provides that it will not enforce
5 such codes and shall thereafter administer and enforce such codes as
6 provided above. Two or more local governments may provide for joint
7 administration and enforcement of the uniform code, the state energy
8 conservation construction code, or both, by agreement pursuant to arti-
9 cle five-G of the general municipal law. Any local government may enter
10 into agreement with the county in which such local government is situ-
11 ated to administer and enforce the uniform code, the state energy
12 conservation construction code, or both, within such local government.
13 Local governments or counties may charge fees to defray the costs of
14 administration and enforcement.

15 § 2. Subdivision 4 of section 381 of the executive law, as added by
16 chapter 707 of the laws of 1981, is amended to read as follows:

17 4. If the secretary determines that a local government has failed to
18 administer and enforce the uniform fire prevention and building code in
19 accordance with the minimum standards promulgated pursuant to subdivi-
20 sion one of this section, the secretary shall take any of the following
21 actions, either individually or in combination in any sequence:

22 a. The secretary may issue an order compelling compliance by such
23 local government with the standards for administration and enforcement
24 of the uniform code.

25 b. The secretary may appoint an oversight officer who shall have the
26 power and authority to do any or all of the following, at the discretion
27 of the oversight officer and at the expense of such local government:
28 (i) observe and report on compliance with the minimum standards by the
29 local government; (ii) direct all or any part of the code enforcement
30 activities of the local government's code enforcement personnel; (iii)
31 hire, contract for, or otherwise obtain the services of qualified third
32 parties to review building permit applications and plans and specifica-
33 tions submitted therewith, conduct construction inspections and periodic
34 fire safety and property maintenance inspections, and perform other code
35 enforcement activities within the local government; (iv) issue notices
36 of violation, appearance tickets, orders to remedy, and other instru-
37 ments related to code violations within the local government, or direct
38 the local government to do so, and refer such violations to counsel for
39 the local government or the district attorney for the county in which
40 the local government is located for appropriate prosecution; and (v)
41 take any other steps deemed by the oversight officer to be necessary or
42 appropriate to ensure that the uniform code is administered and enforced
43 within such local government in a due and proper manner.

44 c. The secretary may ask the attorney general to institute in the name
45 of the secretary an action or proceeding seeking appropriate legal or
46 equitable relief to require such local government to administer and
47 enforce the uniform code.

48 ~~[a-]~~ d. the secretary may designate the county in which such local
49 government is located to administer and enforce the uniform code in such
50 local government. In the case of such designation, the provisions of
51 subdivision five of this section shall apply.

52 ~~[d-]~~ e. The secretary may, in the place and stead of the local govern-
53 ment, administer and enforce the uniform code in accordance with the
54 minimum standards promulgated pursuant to subdivision one of this
55 section. In such event, the provisions of subdivision five of this
56 section shall apply.

1 § 3. The opening paragraph of subdivision 5 of section 381 of the
2 executive law, as added by chapter 707 of the laws of 1981, is amended
3 to read as follows:

4 Where the secretary has designated a county to administer and enforce
5 the uniform fire prevention and building code within a local government
6 or has assumed authority for administration and enforcement pursuant to
7 subdivision two or paragraph [~~a~~] e of subdivision four of this section:

8 § 4. This act shall take effect immediately.