

STATE OF NEW YORK

5685

2023-2024 Regular Sessions

IN ASSEMBLY

March 20, 2023

Introduced by M. of A. ZEBROWSKI -- read once and referred to the
Committee on Governmental Operations

AN ACT to amend the executive law, in relation to enforcing fire
prevention and building codes and appointing an oversight officer and
their duties

The People of the State of New York, represented in Senate and Assem-
bly, 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 enacted a local law providing
17 that it will not enforce such codes within that county. In such event
18 the secretary in the place and stead of the local government shall,
19 directly or by contract, administer and enforce the uniform code and the
20 state energy conservation construction code in such local government on
21 and after the first day of April next succeeding. In the event that a
22 county enacts a local law prior to the first day of October in any year
23 providing that it will not enforce such codes, the secretary, in the
24 place and stead of the local government, shall, directly or by contract,

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

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

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

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

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

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

8 § 4. This act shall take effect immediately.