

3451

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

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

AN ACT to amend the executive law and the general business law, in
relation to authorizing local governments to enact local laws and
ordinances which are more stringent than the New York state uniform
fire prevention and building code

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 379 of the executive law, as added by chapter 707
2 of the laws of 1981, subdivision 1 as amended by chapter 772 of the laws
3 of 1986 and subdivision 5 as added by chapter 622 of the laws of 1986,
4 is amended to read as follows:
5 S 379. [Incorporation of higher standards by council upon recommenda-
6 tion of local government; local] LOCAL building regulations. 1. Except
7 in the case of factory manufactured homes, intended for use as one or
8 two family dwelling units or multiple dwellings of not more than two
9 stories in height, the legislative body of any local government may duly
10 enact or adopt local laws or ordinances imposing higher or more restric-
11 tive standards for construction within the jurisdiction of such local
12 government than are applicable generally to such local government in the
13 uniform code. [Within thirty days of such enactment or adoption, the
14 chief executive officer, or if there be none, the chairman of the legis-
15 lative body of such local government, shall so notify the council, and
16 shall petition the council for a determination of whether such local
17 laws or ordinances are more stringent than the standards for
18 construction applicable generally to such local government in the
19 uniform code. During the period in which the council is considering such
20 petition, such local laws or ordinances shall remain in full force and
21 effect.
22 2. If the council finds that such higher or more restrictive standards
23 are reasonably necessary because of special conditions prevailing within

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

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1 the local government and that such standards conform with accepted engi-
2 neering and fire prevention practices and the purposes of this article,
3 the council shall adopt such standards, in whole or part. The council
4 shall have the power to limit the term or duration of such standards,
5 impose conditions in connection with the adoption thereof, and to termi-
6 nate such standards at such times, and in such manner as the council may
7 deem necessary, desirable or proper.

8 3.] 2. Nothing in this article shall be construed to prohibit any
9 municipality from adopting or enacting any building regulations relating
10 to any matter as to which the uniform fire prevention and building code
11 does not provide, but no municipality shall have the power to [super-
12 sede, void, repeal or] make [more or] less restrictive any provisions of
13 this article or of rules or regulations made pursuant hereto.

14 [4. Within one hundred twenty days after the effective date of the
15 uniform code, a local government may by resolution duly enacted petition
16 the council for a determination as to whether an existing building
17 and/or fire code in force in said local government is more stringent
18 than the uniform code. During the period in which the council is consid-
19 ering such petition such local code shall remain in full force and
20 effect. If, after review, the council determines that such local code is
21 less stringent than the uniform code the council shall notify the chief
22 executive officer or, if there be none, the chairman of the legislative
23 body of such local government and the uniform code shall, thirty days
24 after the date of notification, apply in such local government. If the
25 council finds that such local code is not less stringent than the
26 uniform code such local code shall continue in full force and effect
27 until the council, upon its own initiative, reviews such local code and
28 determines that it is no longer more stringent, whereupon the council
29 shall notify the chief executive officer or chairman of the legislative
30 body of such local government and thirty days after the date of notifi-
31 cation the uniform code shall apply in such local government.

32 5. Notwithstanding the provisions of subdivision one of this section,
33 the legislative body of Nassau county may have duly enacted or adopted
34 or may duly enact or adopt local laws or ordinances imposing higher or
35 more restrictive standards for construction within the jurisdiction of
36 the county than are applicable generally to the county in the uniform
37 code. The chief executive officer, or if there be none, the chairman of
38 the legislative body of the county, shall notify the council, and shall
39 petition the council for a determination of whether such preexisting
40 local laws or ordinances, or within thirty days of such enactment or
41 adoption of such local laws or ordinances, are more stringent than the
42 standards for construction applicable generally to such county in the
43 uniform code. During the period in which the council is considering such
44 petition, such local laws or ordinances shall remain in full force and
45 effect.]

46 S 2. Subdivision 2 of section 777 of the general business law, as
47 added by chapter 709 of the laws of 1988, is amended to read as follows:

48 2. "Building code" means the uniform fire prevention and building code
49 promulgated under section three hundred seventy-seven of the executive
50 law, local building code standards [approved by the uniform fire
51 prevention and building code council under] ENACTED PURSUANT TO section
52 three hundred seventy-nine of the executive law, and the building code
53 of the city of New York, as defined in title twenty-seven of the admin-
54 istrative code of the city of New York.

55 S 3. This act shall take effect immediately.