

S T A T E O F N E W Y O R K

4770--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 6, 2009

Introduced by M. of A. BRENNAN, MARKEY, ROSENTHAL, HEVESI, BROOK-KRASNY, LANCMAN, PERALTA, LENTOL, MILLMAN, MAISEL, BING, CLARK, COLTON, CAMARA, BENEDETTO, CYMBROWITZ, PHEFFER, GOTTFRIED, ROBINSON, DINOWITZ, JAFFEE -- Multi-Sponsored by -- M. of A. GLICK, JACOBS, JOHN, V. LOPEZ, NOLAN, PERRY -- read once and referred to the Committee on Cities -- recommitted to the Committee on Cities in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the administrative code of the city of New York, in relation to enacting the New York city department of buildings community accountability act

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

1 Section 1. Legislative findings. The legislature hereby finds and
2 declares that the health and safety of the population living in and
3 around the many construction projects within the densely populated city
4 of New York is a matter of state concern as pressure mounts to build
5 more and more while completing projects in the shortest time possible.
6 Construction is the most dangerous occupation, with death rates four
7 times the average for other workers and conditions adjacent to
8 construction sites dangerous to the public.
9 A comprehensive public reporting system for the tracking of accidents,
10 vacate orders, safety violations, and enforcement actions of the depart-
11 ment of buildings is an essential component of assuring greater account-
12 ability and transparency in assuring compliance with the building code
13 and the zoning resolution to improve public safety.
14 S 2. This act shall be known and may be cited as the "New York city
15 department of buildings community accountability act".
16 S 3. Section 28-103.18.1 of the administrative code of the city of New
17 York, as added by local law number 33 of the city of New York for the
18 year 2007, is amended to read as follows:

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

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1 S28-103.18.1 Complaint records. The department shall keep records of
2 complaints made by any person in reference to any building or other
3 matter under the jurisdiction of the department. Recorded complaints
4 shall include the name and residence of the complainant, the name of the
5 person complained of, the date of the entry of the complaint and any
6 suggested remedies. Except for entries of names and residences of the
7 complainants, such records shall be made available for public examina-
8 tion. RECORDS ON ACCIDENTS, UNSAFE BUILDING ORDERS, AND VACATE ORDERS
9 SHALL BE POSTED ON THE DEPARTMENT'S INFORMATION WEBSITE MAINTAINED BY
10 THE CITY OF NEW YORK, SUBJECT TO SUCH REGULATIONS AS THE COMMISSIONER
11 SHALL PRESCRIBE.

12 S 4. The administrative code of the city of New York is amended by
13 adding a new section 28-103.18.2 to read as follows:

14 S 28-103.18.2 RECORDS OF CONSTRUCTION AND BUILDING ACCIDENTS. THE
15 DEPARTMENT SHALL MAINTAIN A RECORD OF ALL CONSTRUCTION AND BUILDING
16 ACCIDENTS RESULTING IN EITHER INJURY OR DEATH TO PERSONS OR DAMAGE TO
17 PROPERTY ARISING OUT OF VIOLATIONS OF THE BUILDING CODE. SUCH RECORD
18 SHALL BE POSTED ON THE DEPARTMENT'S INFORMATION WEBSITE MAINTAINED BY
19 THE CITY OF NEW YORK, SUBJECT TO SUCH REGULATIONS AS THE COMMISSIONER
20 SHALL PRESCRIBE. THE COMMISSIONER SHALL CAUSE SUCH ACCIDENTS TO BE
21 INVESTIGATED AND A WRITTEN REPORT PREPARED REGARDING THE CIRCUMSTANCES
22 OF THE ACCIDENT.

23 S 5. The administrative code of the city of New York is amended by
24 adding a new section 28-201.5 to read as follows:

25 S 28-201.5 MONTHLY REPORTS TO COMMUNITY BOARDS AND BOROUGH PRESIDENTS.
26 THE DEPARTMENT SHALL PROVIDE A MONTHLY REPORT ON DEPARTMENT ACTIONS TO
27 EACH COMMUNITY BOARD, FOR DEPARTMENT ACTIONS WITHIN SUCH BOARD, AND TO
28 THE BOROUGH PRESIDENTS, FOR ACTIONS IN THE BOROUGH OF EACH BOROUGH PRES-
29 IDENT. SUCH REPORT SHALL INCLUDE THE STATUS OF ALL VIOLATIONS, BOTH
30 ENVIRONMENTAL CONTROL BOARD AND DEPARTMENT VIOLATIONS, ISSUED WITHIN THE
31 RESPECTIVE COMMUNITY BOARD AND BOROUGH. THE REPORT SHALL SHOW ALL
32 OUTSTANDING VIOLATIONS, VIOLATIONS CORRECTED DURING THE MONTH, ENFORCE-
33 MENT ACTIONS COMMENCED, AND THE DISPOSITION OF ENFORCEMENT ACTIONS,
34 WITHIN THE PERIOD. SUCH ENFORCEMENT ACTIONS SHALL INCLUDE COURT ACTIONS,
35 PADLOCK ORDERS, EMERGENCY REPAIR ORDERS, AND ENVIRONMENTAL CONTROL BOARD
36 ACTIONS AND ORDERS, INCLUDING FINES AND PENALTIES. THE REPORT SHALL
37 FURTHER SHOW ALL UNSAFE BUILDING ORDERS, VACATE ORDERS, AND STOP WORK
38 ORDERS. SUCH REPORT SHALL BE PROVIDED TO THE BOARDS AND THE BOROUGH
39 PRESIDENTS IN A CLEAR AND CONSISTENT FORMAT TO ENABLE A COMPLETE AND
40 ACCURATE TRACKING OF DEPARTMENT ACTIONS.

41 S 6. The administrative code of the city of New York is amended by
42 adding a new section 28-207.6 to read as follows:

43 S 28-207.6 INVESTIGATION AND REPORT; DANGEROUS BUILDING, NUISANCE AND
44 ORDER TO VACATE. WHENEVER THE DEPARTMENT HAS ISSUED AN ORDER REGARDING
45 ANY DANGEROUS BUILDING, PLACE, OR THING, OR ANY NUISANCE, OR ANY ORDER
46 TO VACATE ANY BUILDING, STRUCTURE, PLACE, OR PREMISES, OR FOR ANY SUCH
47 BUILDING, STRUCTURE, PLACE, OR PREMISES TO BE SEALED AND/OR SECURED, THE
48 COMMISSIONER SHALL CAUSE THE CIRCUMSTANCES REGARDING SUCH ORDER TO BE
49 INVESTIGATED, AND A WRITTEN REPORT PREPARED. SUCH REPORT SHALL BE AVAIL-
50 ABLE FOR PUBLIC EXAMINATION, AND POSTED ON THE DEPARTMENT'S INFORMATION
51 WEBSITE MAINTAINED BY THE CITY OF NEW YORK, PURSUANT TO SUCH REGULATIONS
52 AS THE COMMISSIONER MAY PRESCRIBE.

53 S 7. Section 28-118.1 of the administrative code of the city of New
54 York, as added by local law number 33 of the city of New York for the
55 year 2007, is amended to read as follows:

1 S 28-118.1 General provisions. No building or open lot shall be used
2 or occupied without a certificate of occupancy issued by the commission-
3 er. Issuance of a certificate of occupancy shall not be construed as an
4 approval of a violation of the provisions of this code or of other
5 applicable laws and rules.

6 NO CERTIFICATE OF OCCUPANCY SHALL BE ISSUED FOR A NEW OR ALTERED
7 BUILDING UNLESS PAYMENT HAS BEEN MADE OF ALL OUTSTANDING FINES, PENAL-
8 TIES, AND JUDGMENTS ARISING OUT OF DEPARTMENT VIOLATIONS ASSOCIATED WITH
9 THE PROPERTY, INCLUDING BUT NOT LIMITED TO VIOLATIONS ISSUED IN
10 CONNECTION WITH ANY CONSTRUCTION, EXCAVATION OR DEMOLITION WORK.

11 S 8. The administrative code of the city of New York is amended by
12 adding a new section 28-104.10 to read as follows:

13 S 28-104.10 COMMUNITY BOARD NOTIFICATION OF PLAN APPROVAL. 1. A. WHEN
14 AN APPLICATION FOR APPROVAL OF PLANS SUBMITTED TO THE DEPARTMENT HAS
15 BEEN APPROVED FOR A NEW BUILDING, THE DEPARTMENT SHALL NOTIFY THE COMMU-
16 NITY BOARD AND THE BOROUGH PRESIDENT OF THE BOROUGH WHERE THE NEW BUILD-
17 ING SHALL BE LOCATED OF THE DOCKET AND ITS NUMBER FOR SUCH PLAN, AND THE
18 ADDRESS WHERE THE BUILDING IS TO BE BUILT. UPON THE REQUEST OF THE
19 COMMUNITY BOARD, THE DEPARTMENT SHALL FURNISH, AND PROVIDE A REGULAR
20 UPDATE, OF THE COMPLETE DOCKET OF THE PROJECT, INCLUDING ALL PLANS AND
21 DRAWINGS, PERMITS, AMENDMENTS TO THE PLAN, AUDITS, OBJECTIONS, AND SUCH
22 OTHER MATERIAL AS SHALL COMPRISE THE DOCKET OF SAID PROJECT.

23 B. THE DEPARTMENT SHALL FURNISH THE COMPLETE DOCKET OF THE PROJECT
24 WITHIN FIVE BUSINESS DAYS OF SAID REQUEST, AND EACH ADDITIONAL DOCUMENT
25 ADDED TO THE DOCKET WITHIN FIVE DAYS OF SUCH ADDITION.

26 2. A. THE COMMUNITY BOARD IN WHICH ANY NEW BUILDING PROJECT IS
27 LOCATED, IN CONSULTATION WITH THE BOROUGH PRESIDENT IN THE BOROUGH OF
28 THE LOCATION OF SUCH PROJECT, MAY REQUEST IN WRITING AND UPON A VOTE OF
29 THE BOARD, AN AUDIT-REVIEW OF UP TO THIRTY PLANS PER YEAR BY THE DEPART-
30 MENT, WHICH THE DEPARTMENT SHALL BE OBLIGATED TO CONDUCT. THE DEPARTMENT
31 SHALL PROVIDE THE BOARD AND THE BOROUGH PRESIDENT THE RESULTS OF SUCH
32 AUDIT-REVIEW INCLUDING ANY OBJECTIONS TO THE PLAN PROVIDED TO THE APPLI-
33 CANT. THE DEPARTMENT SHALL FURNISH A PRELIMINARY REPORT TO THE BOARD AND
34 THE BOROUGH PRESIDENT WITHIN THIRTY DAYS, AND A FINAL REPORT WITHIN
35 SIXTY DAYS, OF WHETHER THE PLAN COMPLIES WITH THE BUILDING CODE AND THE
36 ZONING RESOLUTION.

37 B. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT REQUESTS FOR
38 AUDITS, REVIEWS, OR OTHER ACTIONS BY THE DEPARTMENT, BY COMMUNITY BOARDS
39 OR BOROUGH PRESIDENTS.

40 3. WHERE THE DEPARTMENT IS AUDITING AND REVIEWING ANY APPROVED PLAN,
41 ANY NOTICE OF OBJECTIONS TO THE PLAN SHALL BE PUBLISHED ON THE DEPART-
42 MENT OF BUILDINGS INFORMATION WEBSITE MAINTAINED BY THE CITY OF NEW
43 YORK.

44 4. WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, THE
45 DEPARTMENT SHALL PROMULGATE STANDARDS FOR ALLOWING PERMITTED WORK TO
46 CONTINUE WHEN OBJECTIONS TO APPROVED PLANS BY THE DEPARTMENT OCCUR. THE
47 ADOPTION OF SUCH STANDARDS SHALL BE SUBJECT TO CHAPTER FORTY-FIVE OF THE
48 NEW YORK CITY CHARTER.

49 S 9. Section 28-105.1 of the administrative code of the city of New
50 York, as added by local law number 33 of the city of New York for the
51 year 2007, is amended to read as follows:

52 S 28-105.1 General. 1. It shall be unlawful to construct, enlarge,
53 alter, repair, move, demolish, remove or change the use or occupancy of
54 any building or structure in the city, or to erect, install, alter,
55 repair, or use or operate any sign or service equipment in or in
56 connection therewith, or to erect, install, alter, repair, remove,

1 convert or replace any gas, mechanical, plumbing or fire suppression
2 system in or in connection therewith or to cause any such work to be
3 done unless and until a written permit therefore shall have been issued
4 by the commissioner in accordance with the requirements of this code,
5 subject to such exceptions and exemptions as may be provided in section
6 28-105.4.

7 2. THE DEPARTMENT SHALL PUBLISH ON ITS WEBSITE BY COMMUNITY BOARD,
8 NOTICE OF PERMITS GRANTED FOR ANY NEW BUILDING, FOUNDATION AND EARTH-
9 WORK, ALTERATION, AND ANY DEMOLITION AND REMOVAL, INCLUDING THE ADDRESS
10 OF THE PROJECT WHERE THE PERMIT HAS BEEN GRANTED. THE DEPARTMENT SHALL
11 PROVIDE ACCESS TO OR FURNISH A COPY OF THE PERMIT AND OTHER DOCUMENTS
12 WITHIN THE DOCKET ESTABLISHED FOR THE PROJECT, EITHER ELECTRONICALLY OR
13 BY OTHER MEANS, UPON REQUEST AND SHALL MAKE SUCH DOCUMENTS AVAILABLE
14 WITHIN FIVE BUSINESS DAYS OF SUCH REQUEST. THE DEPARTMENT MAY WITHHOLD
15 PLANS FOR PARTICULAR BUILDINGS AT THE REQUEST OF LAW ENFORCEMENT AGEN-
16 CIES.

17 S 10. The administrative code of the city of New York is amended by
18 adding a new section 28-110.3 to read as follows:

19 S 28-110.3 PRESENCE OF SITE SAFETY COORDINATOR REQUIRED. A SITE SAFETY
20 COORDINATOR SHALL BE PRESENT ON ANY SITE OF CONSTRUCTION OF A NEW BUILD-
21 ING IN EXCESS OF FIVE STORIES IN HEIGHT, PURSUANT TO DEPARTMENT REGU-
22 LATIONS.

23 S 11. This act shall take effect July 1, 2010.