

4771

2009-2010 Regular Sessions

I N A S S E M B L Y

February 6, 2009

Introduced by M. of A. BRENNAN, MILLMAN, MARKEY, ROSENTHAL, LENTOL, COLTON, BROOK-KRASNY, HEVESI, LANCMAN, CLARK, MAISEL, BENEDETTO, CYMBROWITZ, JOHN, PHEFFER, GOTTFRIED, ROBINSON, COOK, PERRY, N. RIVERA, JAFFEE -- Multi-Sponsored by -- M. of A. CAMARA, DINOWITZ, GLICK, JACOBS, NOLAN, PERALTA -- read once and referred to the Committee on Cities

AN ACT to amend the general city law, in relation to the regulation of contractors

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

Section 1. The general city law is amended by adding a new article 5 to read as follows:

ARTICLE 5
CONTRACTORS

SECTION 75. LEGISLATIVE FINDINGS.

75-A. DEFINITIONS.

75-B. EXEMPTIONS.

75-C. CONTRACTORS LICENSE BOARD.

75-D. POWERS AND DUTIES OF BOARD.

75-E. CLASSIFICATION.

75-F. POWERS TO CLASSIFY AND LIMIT OPERATIONS.

75-G. LICENSES REQUIRED.

75-H. ISSUANCE OF BUILDING PERMITS; OWNER-BUILDER REGISTRATION.

75-I. ADVERTISING.

75-J. AIDING OR ABETTING.

75-K. INVESTIGATION PERMITTED.

75-L. VIOLATION FOR UNLICENSED ACTIVITY.

75-M. STATE DISASTER EMERGENCY; ACTING AS A CONTRACTOR WITHOUT A LICENSE; PENALTY.

75-N. ENHANCED PENALTIES WHEN ELDERLY PERSONS ARE TARGETED.

75-O. NO LICENSE ISSUED WHEN.

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

LBD07225-01-9

1 75-P. REQUIREMENTS TO MAINTAIN LICENSE.
2 75-Q. APPLICATION; FEES.
3 75-R. FORM FOR LICENSES.
4 75-S. PLACE OF BUSINESS AND POSTING OF LICENSE.
5 75-T. FEES; BIENNIAL RENEWALS; INACTIVE LICENSE.
6 75-U. ACTION ON APPLICATIONS.
7 75-V. BOND.
8 75-W. REVOCATION, SUSPENSION, AND RENEWAL OF LICENSES.
9 75-X. DEATH OR DISSOCIATION.
10 75-Y. CIVIL ACTION.
11 75-Z. VIOLATION; PENALTIES.
12 76. FORFEITURE OF PROPERTY FOR UNLICENSED ACTIVITY.
13 76-A. INJUNCTION.
14 76-B. PAYMENT FOR GOODS AND SERVICES.
15 76-C. DISCLOSURE; CONTRACTS.
16 76-D. FALSE STATEMENT.
17 76-E. DISCIPLINARY ACTION AGAINST LICENSEE.
18 76-F. APPLICABILITY TO CITIES WITH A POPULATION OF LESS THAN ONE
19 MILLION.

20 S 75. LEGISLATIVE FINDINGS. THE LEGISLATURE HEREBY FINDS AND DECLARES
21 THAT THE HEALTH AND SAFETY OF THE POPULATION LIVING IN AND AROUND THE
22 MANY CONSTRUCTION PROJECTS WITHIN THE DENSELY POPULATED CITY OF NEW YORK
23 IS A MATTER OF SUBSTANTIAL STATE CONCERN, WHICH IS THREATENED BY ACCI-
24 DENTS AND INJURIES TO PERSONS AND PROPERTY OCCURRING REGULARLY DUE TO
25 UNLICENSED GENERAL CONTRACTORS WHO FAIL TO COMPLY WITH BUILDING CODE AND
26 SAFETY REQUIREMENTS.

27 EVIDENCE FROM THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH ADMINIS-
28 TRATION (OSHA) SHOWS THERE WERE EIGHTY DEATHS FROM CONSTRUCTION ACCI-
29 DENTS IN THE CITY OF NEW YORK BETWEEN TWO THOUSAND TWO AND TWO THOUSAND
30 FIVE. AUDITS OF BUILDING PLANS BY THE CITY OF NEW YORK'S DEPARTMENT OF
31 BUILDINGS AND THE NEW YORK CITY COMPTROLLER SHOW BUILDING CODE AND
32 ZONING NONCOMPLIANCE RATES OF BETWEEN FIFTY-EIGHT AND SIXTY-SEVEN
33 PERCENT. DURING THE CITY OF NEW YORK'S TWO THOUSAND SIX FISCAL YEAR, THE
34 DEPARTMENT OF BUILDINGS ISSUED ELEVEN THOUSAND EIGHT HUNDRED THIRTY-SIX
35 VIOLATIONS FOR HAZARDOUS BUILDING AND CONSTRUCTION CONDITIONS, MAKING A
36 TOTAL OF ONE HUNDRED TWELVE THOUSAND ONE HUNDRED SIXTY-EIGHT OUTSTANDING
37 VIOLATIONS. ACCORDING TO THE DEPARTMENT OF BUILDINGS, APPROXIMATELY
38 FORTY-NINE THOUSAND UNPAID HAZARDOUS VIOLATIONS HAVE NOT BEEN CORRECTED
39 AND PENALTIES TOTALING ONE HUNDRED SEVENTY-ONE MILLION DOLLARS ASSESSED
40 BY THE NEW YORK CITY ENVIRONMENTAL CONTROL BOARD REMAIN UNPAID SINCE TWO
41 THOUSAND.

42 THIS RECORD OF NONCOMPLIANCE WITH THE BUILDING CODES AND ZONING REGU-
43 LATIONS OF THE CITY OF NEW YORK CREATES A SIGNIFICANT THREAT TO THE
44 HEALTH AND SAFETY OF THE POPULATION OF THE CITY OF NEW YORK, WHICH IS A
45 MATTER OF SUBSTANTIAL STATE CONCERN. THIS THREAT CAN BE RESOLVED BY THE
46 LICENSING OF GENERAL CONTRACTORS IN THE CITY OF NEW YORK AS PART OF A
47 COMPREHENSIVE PROGRAM TO ENSURE COMPLIANCE WITH BUILDING CODES, ZONING
48 REGULATIONS, AND SAFETY GUIDELINES.

49 S 75-A. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS
50 SHALL HAVE THE FOLLOWING MEANINGS:

51 1. "BOARD" MEANS THE CONTRACTORS LICENSE BOARD.
52 2. "CHLOROFLUOROCARBON" OR "CFC" MEANS ANY MEMBER OF THE FAMILY OF
53 SUBSTANCES CONTAINING CARBON, FLUORINE, AND CHLORINE, INCLUDING, WITHOUT
54 LIMITATION, THOSE COMPOUNDS KNOWN AS CFC-11, CFC-12, CFC-13, CFC-14,
55 CFC-113, CFC-114, CFC-115, CFC-116, CFC-500, CFC-502, AND CFC-503, AND

1 ANY COMBINATION OR MIXTURE CONTAINING ANY OF THESE CHLOROFLUOROCARBON
2 COMPOUNDS.

3 3. "CONTRACTOR" MEANS ANY PERSON WHO BY ONESELF OR THROUGH OTHERS
4 OFFERS TO UNDERTAKE, OR HOLDS ONESELF OUT AS BEING ABLE TO UNDERTAKE, OR
5 DOES UNDERTAKE TO ALTER, ADD TO, SUBTRACT FROM, IMPROVE, ENHANCE, OR
6 BEAUTIFY ANY REALTY OR CONSTRUCT, ALTER, REPAIR, ADD TO, SUBTRACT FROM,
7 IMPROVE, MOVE, WRECK, OR DEMOLISH ANY BUILDING, HIGHWAY, ROAD, RAILROAD,
8 EXCAVATION, OR OTHER STRUCTURE, PROJECT, DEVELOPMENT, OR IMPROVEMENT, OR
9 DO ANY PART THEREOF, INCLUDING THE ERECTION OF SCAFFOLDING OR OTHER
10 STRUCTURES OR WORKS IN CONNECTION THEREWITH. "CONTRACTOR", TO THE EXTENT
11 ALLOWED UNDER FEDERAL LAW INCLUDES A SUBCONTRACTOR, A SPECIALTY CONTRAC-
12 TOR, AND ANY PERSON, GENERAL ENGINEERING, GENERAL BUILDING, OR SPECIALTY
13 CONTRACTOR WHO PERFORMS ANY OF THE ACTIVITIES SET FORTH IN THIS SUBDIVI-
14 SION DIRECTLY OR INDIRECTLY FOR THE FEDERAL GOVERNMENT.

15 4. "DEPARTMENT" MEANS THE DEPARTMENT OF BUILDINGS OF THE CITY OF NEW
16 YORK.

17 5. "COMMISSIONER" MEANS THE COMMISSIONER OF BUILDINGS OF THE CITY OF
18 NEW YORK.

19 6. "HYDROCHLOROFLUOROCARBON" OR "HCFC" MEANS ANY MEMBER OF THE FAMILY
20 OF SUBSTANCES CONTAINING HYDROGEN, CARBON, FLUORINE, AND CHLORINE,
21 INCLUDING, WITHOUT LIMITATION, THOSE COMPOUNDS KNOWN AS HCFC-22 AND
22 HCFC-123 AND ANY COMBINATION OR MIXTURE CONTAINING ANY OF THREE HYDRO-
23 CHLOROFLUOROCARBON COMPOUNDS.

24 7. "INSPECTOR" MEANS ANY PERSON EMPLOYED BY THE DEPARTMENT TO INVESTI-
25 GATE MATTERS RELATING TO ANY PERSON WHO FURNISHES COMMODITIES OR
26 SERVICES FOR WHICH A LICENSE IS REQUIRED FROM THE DEPARTMENT.

27 8. "REFRIGERANT RECOVERY AND RECYCLING EQUIPMENT" MEANS A DEVICE USED
28 TO RECOVER AND TO PURIFY CFCs FROM A DEVICE FOR LATER REUSE.

29 9. "RME" MEANS RESPONSIBLE MANAGING EMPLOYEE.

30 10. "SALE" MEANS ANY ARRANGEMENT BETWEEN TWO OR MORE PERSONS AS A
31 RESULT OF WHICH THERE IS, OR IS TO BE, A TRANSFER OF PROPERTY FOR A
32 CONSIDERATION.

33 IF ANY PROVISION OF THIS SECTION, OR THE APPLICATION THEREOF TO ANY
34 PERSON, OR CIRCUMSTANCES, IS HELD TO BE INVALID, THE INVALIDITY SHALL
35 NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS SECTION WHICH CAN BE
36 GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS
37 END THE PROVISIONS OF THIS SECTION ARE SEVERABLE.

38 S 75-B. EXEMPTIONS. THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO:

39 1. OFFICERS AND EMPLOYEES OF THE UNITED STATES, THE STATE, OR ANY
40 COUNTY WHILE IN THE PERFORMANCE OF THEIR GOVERNMENTAL DUTIES;

41 2. ANY PERSON ACTING AS A RECEIVER, TRUSTEE IN BANKRUPTCY, PERSONAL
42 REPRESENTATIVE, OR ANY OTHER PERSON ACTING UNDER ANY ORDER OR AUTHORI-
43 ZATION OF ANY COURT;

44 3. A PERSON WHO SELLS OR INSTALLS ANY FINISHED PRODUCTS, MATERIALS, OR
45 ARTICLES OF MERCHANDISE THAT ARE NOT ACTUALLY FABRICATED INTO AND DO NOT
46 BECOME A PERMANENT FIXED PART OF THE STRUCTURE, OR TO THE CONSTRUCTION,
47 ALTERATION, IMPROVEMENT, OR REPAIR OF PERSONAL PROPERTY;

48 4. ANY PROJECT OR OPERATION FOR WHICH THE AGGREGATE CONTRACT PRICE FOR
49 LABOR, MATERIALS, TAXES, AND ALL OTHER ITEMS IS NOT MORE THAN ONE THOU-
50 SAND DOLLARS. THIS EXEMPTION SHALL NOT APPLY IN ANY CASE WHERE A BUILD-
51 ING PERMIT IS REQUIRED REGARDLESS OF THE AGGREGATE CONTRACT PRICE, NOR
52 WHERE THE UNDERTAKING IS ONLY A PART OF A LARGER OR MAJOR PROJECT OR
53 OPERATION, WHETHER UNDERTAKEN BY THE SAME OR A DIFFERENT CONTRACTOR OR
54 IN WHICH A DIVISION OF THE PROJECT OR OPERATION IS MADE IN CONTRACTS OF
55 AMOUNTS NOT MORE THAN ONE THOUSAND DOLLARS FOR THE PURPOSE OF EVADING
56 THIS ARTICLE OR OTHERWISE;

1 5. A REGISTERED ARCHITECT OR PROFESSIONAL ENGINEER ACTING SOLELY IN
2 THE PERSON'S PROFESSIONAL CAPACITY;

3 6. ANY PERSON WHO ENGAGES IN THE ACTIVITIES REGULATED IN THIS ARTICLE
4 AS AN EMPLOYEE WITH WAGES AS THE PERSON'S SOLE COMPENSATION;

5 7. OWNERS OR LESSEES OF PROPERTY WHO BUILD OR IMPROVE RESIDENTIAL,
6 FARM, INDUSTRIAL, OR COMMERCIAL BUILDINGS OR STRUCTURES ON PROPERTY FOR
7 THEIR OWN USE, OR FOR USE BY THEIR GRANDPARENTS, PARENTS, SIBLINGS, OR
8 CHILDREN AND WHO DO NOT OFFER THE BUILDINGS OR STRUCTURES FOR SALE OR
9 LEASE; PROVIDED THAT THIS EXEMPTION SHALL NOT APPLY TO ELECTRICAL OR
10 PLUMBING WORK THAT MUST BE PERFORMED ONLY BY PERSONS OR ENTITIES
11 LICENSED UNDER THIS ARTICLE. IN ALL ACTIONS BROUGHT UNDER THIS SUBDIVI-
12 SION, PROOF OF THE SALE OR LEASE, OR OFFERING FOR SALE OR LEASE, OF THE
13 STRUCTURE NOT MORE THAN ONE YEAR AFTER COMPLETION IS PRIMA FACIE
14 EVIDENCE THAT THE CONSTRUCTION OR IMPROVEMENT OF THE STRUCTURE WAS
15 UNDERTAKEN FOR THE PURPOSE OF SALE OR LEASE; PROVIDED THAT THIS
16 PROVISION SHALL NOT APPLY TO RESIDENTIAL PROPERTIES SOLD OR LEASED TO
17 EMPLOYEES OF THE OWNER OR LESSEE; PROVIDED FURTHER THAT IN ORDER TO
18 QUALIFY FOR THIS EXEMPTION THE OWNER OR LESSEE MUST REGISTER FOR THE
19 EXEMPTIONS AS PROVIDED IN SECTION SEVENTY-FIVE-H OF THIS ARTICLE. ANY
20 OWNER OR LESSEE OF PROPERTY FOUND TO HAVE VIOLATED THIS PARAGRAPH SHALL
21 NOT BE PERMITTED TO ENGAGE IN ANY ACTIVITIES PURSUANT TO THIS PARAGRAPH
22 OR TO REGISTER UNDER SECTION SEVENTY-FIVE-H OF THIS ARTICLE FOR A PERIOD
23 OF THREE YEARS. THERE IS A PRESUMPTION THAT AN OWNER OR LESSEE HAS
24 VIOLATED THIS SECTION, WHEN THE OWNER OR LESSEE OBTAINS AN EXEMPTION
25 FROM THE LICENSING REQUIREMENTS OF SECTION SEVENTY-FIVE-G OF THIS ARTI-
26 CLE MORE THAN ONCE IN TWO YEARS;

27 8. ANY JOINT VENTURE IF ALL MEMBERS THEREOF HOLD LICENSES ISSUED UNDER
28 THIS ARTICLE;

29 9. ANY PROJECT OR OPERATION WHERE IT IS DETERMINED BY THE BOARD THAT
30 LESS THAN TEN PERSONS ARE QUALIFIED TO PERFORM THE WORK IN QUESTION AND
31 THAT THE WORK DOES NOT POSE A POTENTIAL DANGER TO PUBLIC HEALTH, SAFETY,
32 AND WELFARE; OR

33 10. ANY PUBLIC WORKS PROJECT WHICH IS DEEMED NECESSARY AND IN THE
34 PUBLIC INTEREST BY THE CONTRACTING AGENCY.

35 S 75-C. CONTRACTORS LICENSE BOARD. 1. THERE SHALL BE A CONTRACTORS
36 LICENSE BOARD OF THIRTEEN MEMBERS APPOINTED BY THE MAYOR.

37 2. OF THE BOARD MEMBERS:

38 (A) TEN SHALL BE CONTRACTORS WHO HAVE BEEN ACTIVELY ENGAGED IN THE
39 CONTRACTING BUSINESS FOR A PERIOD OF NOT LESS THAN FIVE YEARS PRECEDING
40 THE DATE OF THEIR APPOINTMENT;

41 (B) FIVE SHALL BE GENERAL ENGINEERING OR BUILDING CONTRACTORS, FIVE
42 SHALL BE SPECIALTY CONTRACTORS, AND THREE SHALL BE NONCONTRACTORS. NO
43 MEMBER SHALL RECEIVE ANY COMPENSATION FOR THE MEMBER'S SERVICES, BUT
44 EACH SHALL BE REIMBURSED FOR NECESSARY TRAVELING EXPENSES INCURRED IN
45 THE PERFORMANCE OF DUTIES.

46 3. EACH BOROUGH SHALL BE REPRESENTED ON THE BOARD.

47 4. NO ONE, EXCEPT THE THREE NONCONTRACTOR MEMBERS, SHALL BE ELIGIBLE
48 FOR APPOINTMENT WHO DOES NOT AT THE TIME OF THE MEMBER'S APPOINTMENT
49 HOLD A VALID AND UNEXPIRED LICENSE TO OPERATE AS A CONTRACTOR.

50 S 75-D. POWERS AND DUTIES OF BOARD. IN ADDITION TO ANY OTHER POWERS
51 AND DUTIES AUTHORIZED BY LAW, THE BOARD SHALL:

52 1. GRANT LICENSES, INCLUDING CONDITIONAL LICENSES, TO CONTRACTORS
53 PURSUANT TO THIS ARTICLE AND RULES;

54 2. ADOPT, AMEND, OR REPEAL SUCH RULES AND REGULATIONS AS THE BOARD MAY
55 DEEM PROPER FULLY TO EFFECTUATE THIS ARTICLE AND CARRY OUT THE PURPOSE
56 THEREOF, WHICH IS THE PROTECTION OF THE GENERAL PUBLIC. ALL RULES AND

1 REGULATIONS SHALL BE APPROVED BY THE MAYOR AND THE COMMISSIONER. THE
2 RULES AND REGULATIONS MAY FORBID ACTS OR PRACTICES DEEMED BY THE BOARD
3 TO BE DETRIMENTAL TO THE ACCOMPLISHMENT OF THE PURPOSE OF THIS ARTICLE.
4 THE RULES AND REGULATIONS MAY REQUIRE CONTRACTORS TO MAKE REPORTS TO THE
5 BOARD CONTAINING ANY ITEMS OF INFORMATION AS WILL BETTER ENABLE THE
6 BOARD TO ENFORCE THIS ARTICLE AND RULES OR REGULATIONS, OR AS WILL
7 BETTER ENABLE THE BOARD FROM TIME TO TIME TO AMEND THE RULES AND REGU-
8 LATIONS MORE FULLY TO EFFECTUATE THE PURPOSES OF THIS ARTICLE. THE RULES
9 AND REGULATIONS MAY REQUIRE CONTRACTORS TO FURNISH REPORTS TO OWNERS
10 CONTAINING ANY MATTERS OF INFORMATION AS THE BOARD DEEMS NECESSARY TO
11 PROMOTE THE PURPOSE OF THIS ARTICLE. THE ENUMERATION OF SPECIFIC MATTERS
12 WHICH MAY PROPERLY BE MADE THE SUBJECT OF RULES AND REGULATIONS SHALL
13 NOT BE CONSTRUED TO LIMIT THE BOARD'S GENERAL POWER TO MAKE ALL RULES
14 AND REGULATIONS NECESSARY TO FULLY EFFECTUATE THE PURPOSE OF THIS ARTI-
15 CLE;

16 3. ADOPT RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS
17 OF THIS ARTICLE RELATING TO CFCS, INCLUDING, BUT NOT LIMITED TO, PROCE-
18 DURES FOR THE DISPOSAL OF AIR CONDITIONING UNITS UTILIZING CFCS THAT
19 INCLUDE MANDATORY RECOVERY AND RECYCLING OF CFCS;

20 4. ENFORCE THIS ARTICLE AND RULES AND REGULATIONS ADOPTED PURSUANT
21 THERETO;

22 5. COLLECT FINES AND PENALTIES PURSUANT TO SECTION SEVENTY-FIVE-Z OF
23 THIS ARTICLE;

24 6. CONDUCT HEARINGS WITH RESPECT TO THE IMPOSITION OF FINES AND PENAL-
25 TIES IMPOSED PURSUANT TO SECTION SEVENTY-FIVE-Z OF THIS ARTICLE;

26 7. SUSPEND OR REVOKE ANY LICENSE FOR ANY CAUSE PRESCRIBED BY THIS
27 ARTICLE, OR FOR ANY VIOLATION OF THE RULES AND REGULATIONS, AND REFUSE
28 TO GRANT, RENEW, RESTORE, OR REINSTATE ANY LICENSE FOR ANY CAUSE WHICH
29 WOULD BE GROUNDS FOR REVOCATION OR SUSPENSION OF A LICENSE;

30 8. PUBLISH AND DISTRIBUTE PAMPHLETS AND CIRCULARS CONTAINING ANY
31 INFORMATION AS THE BOARD DEEMS PROPER TO FURTHER THE ACCOMPLISHMENT OF
32 THE PURPOSE OF THIS ARTICLE;

33 9. CONTRACT FOR PROFESSIONAL TESTING SERVICES TO PREPARE, ADMINISTER,
34 AND GRADE THE EXAMINATIONS FOR APPLICANTS AS MAY BE REQUIRED FOR THE
35 PURPOSES OF THIS ARTICLE. THE BOARD SHALL DETERMINE THE SCOPE AND LENGTH
36 OF THE EXAMINATIONS, WHETHER THE EXAMINATIONS SHALL BE ORAL, WRITTEN, OR
37 BOTH, AND THE SCORE THAT SHALL BE DEEMED A PASSING SCORE;

38 10. ORDER SUMMARY SUSPENSION OF A LICENSE;

39 11. ISSUE INFORMAL NONBINDING INTERPRETATIONS OR DECLARATORY RULINGS,
40 AND CONDUCT CONTESTED CASE PROCEEDINGS; AND

41 12. SUBPOENA WITNESSES AND DOCUMENTS, ADMINISTER OATHS, RECEIVE AFFI-
42 DAVITS AND ORAL TESTIMONY, INCLUDING TELEPHONIC COMMUNICATIONS.

43 S 75-E. CLASSIFICATION. 1. FOR THE PURPOSE OF CLASSIFICATION, THE
44 CONTRACTING BUSINESS INCLUDES ANY OR ALL OF THE FOLLOWING BRANCHES:

45 (A) GENERAL ENGINEERING CONTRACTING;

46 (B) GENERAL BUILDING CONTRACTING;

47 (C) SPECIALTY CONTRACTING.

48 2. A GENERAL ENGINEERING CONTRACTOR IS A CONTRACTOR WHOSE PRINCIPAL
49 CONTRACTING BUSINESS IS IN CONNECTION WITH FIXED WORKS REQUIRING
50 SPECIALIZED ENGINEERING KNOWLEDGE AND SKILL, INCLUDING THE FOLLOWING
51 DIVISIONS OR SUBJECTS: IRRIGATION, DRAINAGE, WATER POWER, WATER SUPPLY,
52 FLOOD CONTROL, INLAND WATERWAYS, HARBORS, DOCKS AND WHARVES, SHIPYARDS
53 AND PORTS, DAMS AND HYDROELECTRIC PROJECTS, LEVEES, RIVER CONTROL AND
54 RECLAMATION WORKS, RAILROADS, HIGHWAYS, STREETS AND ROADS, TUNNELS,
55 AIRPORTS AND AIRWAYS, SEWERS AND SEWAGE DISPOSAL PLANTS AND SYSTEMS,
56 WASTE REDUCTION PLANTS, BRIDGES, OVERPASSES, UNDERPASSES AND OTHER SIMI-

1 LAR WORKS, PIPELINES AND OTHER SYSTEMS FOR THE TRANSMISSION OF PETROLEUM
2 AND OTHER LIQUID OR GASEOUS SUBSTANCES, PARKS, PLAYGROUNDS AND OTHER
3 RECREATIONAL WORKS, REFINERIES, CHEMICAL PLANTS AND SIMILAR INDUSTRIAL
4 PLANTS REQUIRING SPECIALIZED ENGINEERING KNOWLEDGE AND SKILL, POWERHOUS-
5 ES, POWER PLANTS AND OTHER UTILITY PLANTS AND INSTALLATIONS, MINES AND
6 METALLURGICAL PLANTS, LAND LEVELLING AND EARTH-MOVING PROJECTS, EXCAVAT-
7 ING, GRADING, TRENCHING, PAVING AND SURFACING WORK AND CEMENT AND
8 CONCRETE WORKS IN CONNECTION WITH THE ABOVE MENTIONED FIXED WORKS.

9 3. A GENERAL BUILDING CONTRACTOR IS A CONTRACTOR WHOSE PRINCIPAL
10 CONTRACTING BUSINESS IS IN CONNECTION WITH ANY STRUCTURE BUILT, BEING
11 BUILT, OR TO BE BUILT, FOR THE SUPPORT, SHELTER, AND ENCLOSURE OF
12 PERSONS, ANIMALS, CHATTELS, OR MOVABLE PROPERTY OF ANY KIND, REQUIRING
13 IN ITS CONSTRUCTION THE USE OF MORE THAN TWO UNRELATED BUILDING TRADES
14 OR CRAFTS, OR TO DO OR SUPERINTEND THE WHOLE OR ANY PART THEREOF.

15 4. A SPECIALTY CONTRACTOR IS A CONTRACTOR WHOSE OPERATIONS AS SUCH ARE
16 THE PERFORMANCE OF CONSTRUCTION WORK REQUIRING SPECIAL SKILL SUCH AS,
17 BUT NOT LIMITED TO, DRYWALL, PAINTING AND DECORATING, LANDSCAPING,
18 FLOORING, CARPET LAYING BY ANY INSTALLATION METHOD, OR ROOFING WORK, AND
19 OTHERS WHOSE PRINCIPAL CONTRACTING BUSINESS INVOLVES THE USE OF SPECIAL-
20 IZED BUILDING TRADES OR CRAFTS, BUT SHALL NOT INCLUDE ELECTRICAL
21 CONTRACTORS REGULATED BY CHAPTER THREE OF TITLE TWENTY-SEVEN OF THE
22 ADMINISTRATIVE CODE OF THE CITY OF NEW YORK OR OTHER TRADES REGULATED BY
23 SUBCHAPTER TWO OF CHAPTER ONE OF TITLE TWENTY-SIX OF THE ADMINISTRATIVE
24 CODE OF THE CITY OF NEW YORK.

25 S 75-F. POWERS TO CLASSIFY AND LIMIT OPERATIONS. 1. THE CONTRACTORS
26 LICENSE BOARD MAY ADOPT RULES AND REGULATIONS NECESSARY TO EFFECT THE
27 CLASSIFICATION OF CONTRACTORS IN A MANNER CONSISTENT WITH ESTABLISHED
28 USAGE AND PROCEDURE AS FOUND IN THE CONSTRUCTION BUSINESS, AND MAY LIMIT
29 THE FIELD AND SCOPE OF THE OPERATIONS OF A LICENSED CONTRACTOR TO THOSE
30 IN WHICH THE CONTRACTOR IS CLASSIFIED AND QUALIFIED TO ENGAGE, AS
31 DEFINED IN SECTION SEVENTY-FIVE-E OF THIS ARTICLE.

32 2. A LICENSEE MAY MAKE APPLICATION FOR CLASSIFICATION AND BE CLASSI-
33 FIED IN MORE THAN ONE CLASSIFICATION IF THE LICENSEE MEETS THE QUALI-
34 FICATIONS PRESCRIBED BY THE BOARD FOR SUCH ADDITIONAL CLASSIFICATION OR
35 CLASSIFICATIONS. FOR QUALIFYING OR CLASSIFYING IN ADDITIONAL CLASSIFICA-
36 TIONS, THE LICENSEE SHALL PAY THE APPROPRIATE APPLICATION FEE BUT SHALL
37 NOT BE REQUIRED TO PAY ANY ADDITIONAL LICENSE FEE.

38 3. THIS SECTION SHALL NOT PROHIBIT A SPECIALTY CONTRACTOR FROM TAKING
39 AND EXECUTING A CONTRACT INVOLVING THE USE OF TWO OR MORE CRAFTS OR
40 TRADES, IF THE PERFORMANCE OF THE WORK IN THE CRAFTS OR TRADES, OTHER
41 THAN IN WHICH THE SPECIALTY CONTRACTOR IS LICENSED, IS INCIDENTAL AND
42 SUPPLEMENTAL TO THE PERFORMANCE OF WORK IN THE CRAFT FOR WHICH THE
43 SPECIALTY CONTRACTOR IS LICENSED.

44 S 75-G. LICENSES REQUIRED. NO PERSON WITHIN THE PURVIEW OF THIS ARTI-
45 CLE SHALL ACT, OR ASSUME TO ACT, OR ADVERTISE, AS GENERAL ENGINEERING
46 CONTRACTOR, GENERAL BUILDING CONTRACTOR, OR SPECIALTY CONTRACTOR WITHOUT
47 A LICENSE PREVIOUSLY OBTAINED UNDER AND IN COMPLIANCE WITH THIS ARTICLE
48 AND THE RULES AND REGULATIONS OF THE CONTRACTORS LICENSE BOARD.

49 S 75-H. ISSUANCE OF BUILDING PERMITS; OWNER-BUILDER REGISTRATION. 1.
50 WHEN APPLYING FOR A PERMIT FROM THE DEPARTMENT EACH APPLICANT SHALL FILE
51 A STATEMENT THAT THE APPLICANT AND ALL SPECIALTY CONTRACTORS ARE
52 LICENSED UNDER THIS ARTICLE, GIVING THE LICENSE NUMBERS AND STATING THAT
53 THE LICENSES ARE IN FULL FORCE AND EFFECT, OR, IF THE APPLICANT IS
54 EXEMPT FROM THIS ARTICLE, THE BASIS FOR THE CLAIMED EXEMPTION; PROVIDED
55 THAT IF THE APPLICANT CLAIMS AN EXEMPTION UNDER SUBDIVISION SEVEN OF
56 SECTION SEVENTY-FIVE-B OF THIS ARTICLE THE APPLICANT SHALL ALSO BE

1 REQUIRED TO CERTIFY THAT THE BUILDING OR STRUCTURE IS FOR THE APPLI-
2 CANT'S PERSONAL USE AND NOT FOR USE OR OCCUPANCY BY THE GENERAL PUBLIC.
3 THE CITY SHALL MAINTAIN AN OWNER-BUILDER REGISTRATION LIST WHICH SHALL
4 CONTAIN THE FOLLOWING INFORMATION: (A) THE NAME OF ANY OWNER OR LESSEE
5 WHO CLAIMS AN EXEMPTION FROM THIS ARTICLE AS PROVIDED IN SUBDIVISION
6 SEVEN OF SECTION SEVENTY-FIVE-B OF THIS ARTICLE; (B) THE ADDRESS OF THE
7 PROPERTY WHERE EXEMPT BUILDING OR IMPROVEMENT ACTIVITY IS TO OCCUR; (C)
8 A DESCRIPTION OF THE TYPE OF BUILDING OR IMPROVEMENT ACTIVITY TO OCCUR;
9 (D) THE APPROXIMATE DATES OF CONSTRUCTION ACTIVITY; AND (E) WHETHER ANY
10 ELECTRICAL OR PLUMBING WORK IS TO BE PERFORMED AND IF SO, THE NAME AND
11 LICENSE NUMBER OF THE PERSON OR ENTITY WHO WILL DO THE WORK. THE ABSENCE
12 OF SUCH REGISTRATION IS PRIMA FACIE EVIDENCE THAT THE EXEMPTION IN
13 SUBDIVISION SEVEN OF SECTION SEVENTY-FIVE-B OF THIS ARTICLE DOES NOT
14 APPLY.

15 2. THE CITY SHALL VERIFY THE LICENSE AGAINST A LIST OF LICENSED
16 CONTRACTORS PROVIDED BY THE STATE CONTRACTORS LICENSING BOARD, WHICH
17 LIST SHALL BE UPDATED AT LEAST QUARTERLY. THE CITY SHALL ALSO VERIFY
18 THAT THE APPLICANT IS IN FACT THE CONTRACTOR SO LICENSED OR THE CONTRAC-
19 TOR'S DULY AUTHORIZED AGENT.

20 3. TO QUALIFY FOR THE EXEMPTION UNDER SUBDIVISION SEVEN OF SECTION
21 SEVENTY-FIVE-B OF THIS ARTICLE, THE CITY SHALL PROVIDE THE APPLICANT
22 WITH A DISCLOSURE STATEMENT IN SUBSTANTIALLY THE FOLLOWING FORM:

23 "DISCLOSURE STATEMENT
24 STATE LAW REQUIRES CONSTRUCTION TO BE DONE BY LICENSED CONTRACTORS. YOU
25 HAVE APPLIED FOR A PERMIT UNDER AN EXEMPTION TO THAT LAW. THE EXEMPTION
26 PROVIDED IN THE GENERAL CITY LAW S75-B(7), ALLOWS YOU, AS THE OWNER OR
27 LESSEE OF YOUR PROPERTY, TO ACT AS YOUR OWN GENERAL CONTRACTOR EVEN
28 THOUGH YOU DO NOT HAVE A LICENSE. YOU MUST SUPERVISE THE CONSTRUCTION
29 YOURSELF. YOU MUST ALSO HIRE LICENSED SUBCONTRACTORS. THE BUILDING MUST
30 BE FOR YOUR OWN USE AND OCCUPANCY. IT MAY NOT BE BUILT FOR SALE OR
31 LEASE. IF YOU SELL OR LEASE A BUILDING YOU HAVE BUILT YOURSELF WITHIN
32 ONE YEAR AFTER THE CONSTRUCTION IS COMPLETE, THE LAW WILL PRESUME THAT
33 YOU BUILT IT FOR SALE OR LEASE, WHICH IS A VIOLATION OF THE EXEMPTION,
34 AND YOU MAY BE PROSECUTED FOR THIS. IT IS YOUR RESPONSIBILITY TO MAKE
35 SURE THAT SUBCONTRACTORS HIRED BY YOU HAVE LICENSES REQUIRED BY STATE
36 LAW AND BY COUNTY LICENSING ORDINANCES. ELECTRICAL OR PLUMBING WORK MUST
37 BE PERFORMED BY CONTRACTORS LICENSED UNDER THE LAWS OF THE STATE OF NEW
38 YORK. ANY PERSON WORKING ON YOUR BUILDING WHO IS NOT LICENSED MUST BE
39 YOUR EMPLOYEE WHICH MEANS THAT YOU MUST DEDUCT F.I.C.A. AND WITHHOLDING
40 TAXES AND PROVIDE WORKERS' COMPENSATION FOR THAT EMPLOYEE, ALL AS
41 PRESCRIBED BY LAW. YOUR CONSTRUCTION MUST COMPLY WITH ALL APPLICABLE
42 LAWS, ORDINANCES, BUILDING CODES, AND ZONING REGULATIONS. IF YOU VIOLATE
43 GENERAL CITY LAW S75-B(7) YOU MAY BE FINED \$5,000 OR FORTY PERCENT OF
44 THE APPRAISED VALUE OF THE BUILDING AS DETERMINED BY THE NEW YORK CITY
45 DEPARTMENT OF FINANCE TAX APPRAISER, WHICHEVER IS GREATER, FOR THE FIRST
46 OFFENSE; AND \$10,000 OR FIFTY PERCENT OF THE APPRAISED VALUE OF THE
47 BUILDING AS DETERMINED BY THE NEW YORK CITY DEPARTMENT OF FINANCE TAX
48 APPRAISER, WHICHEVER IS GREATER FOR ANY SUBSEQUENT OFFENSE."
49 THE CITY SHALL NOT ISSUE A BUILDING PERMIT TO THE OWNER-APPLICANT UNTIL
50 THE APPLICANT SIGNS A STATEMENT THAT THE APPLICANT HAS READ AND UNDER-
51 STANDS THE DISCLOSURE FORM.

52 4. A CITY BUILDING INSPECTOR OR OTHER BUILDING OFFICIAL SHALL REPORT
53 TO THE DEPARTMENT OF BUILDINGS THE NAME AND ADDRESS OF ANY PERSON, WHO,
54 IN THE OPINION OF THE BUILDING INSPECTOR OR OFFICIAL, HAS VIOLATED THIS

ARTICLE BY ACCEPTING OR CONTRACTING TO ACCOMPLISH WORK WHICH WOULD CLASSIFY THE PERSON AS A CONTRACTOR UNDER THIS ARTICLE.

S 75-I. ADVERTISING. 1. IT IS A MISDEMEANOR FOR ANY PERSON, INCLUDING A PERSON WHO IS EXEMPT BY SECTION SEVENTY-FIVE-B OF THIS ARTICLE, TO ADVERTISE WITH OR WITHOUT ANY LIMITING QUALIFICATIONS AS A CONTRACTOR UNLESS SUCH PERSON HOLDS A VALID LICENSE UNDER THIS ARTICLE FOR THE GOODS AND SERVICES ADVERTISED. "ADVERTISE" AS USED IN THIS SECTION INCLUDES, BUT IS NOT LIMITED TO, THE ISSUANCE OF ANY CARD, SIGN, OR DEVICE TO ANY PERSON; THE CAUSING, PERMITTING, OR ALLOWING OF ANY SIGN OR MARKING ON OR IN ANY BUILDING, VEHICLE OR STRUCTURE; OR ADVERTISING IN ANY NEWSPAPER OR MAGAZINE; ANY LISTING OR ADVERTISING IN ANY DIRECTORY UNDER A CLASSIFICATION OR HEADING THAT INCLUDES THE WORD "CONTRACTOR"; OR COMMERCIALS BROADCAST BY AIRWAVE TRANSMISSION.

2. A CONTRACTOR MAY ADVERTISE IN PRINT OR BROADCAST MEDIUM, AS DEFINED IN SUBDIVISION ONE OF THIS SECTION ONLY IF THE CONTRACTOR INCLUDES IN THE ADVERTISEMENT OR LISTING THE CONTRACTOR'S APPLICABLE AND CURRENT LICENSE NUMBER, AND PROVIDES PROOF OF THE NUMBER'S VALIDITY TO THE PUBLISHER OR PRODUCER OF THE ADVERTISING MEDIUM. THE PUBLISHER OR PRODUCER OF A PRINT OR BROADCAST ADVERTISING MEDIUM SHALL REFUSE TO PUBLISH OR BROADCAST AN ADVERTISEMENT OR LISTING FOR A CONTRACTOR WHO DOES NOT COMPLY WITH THE PROVISIONS OF THIS SUBDIVISION. A PUBLISHER OR PRODUCER WHO OBTAINS A SIGNED STATEMENT FROM THE CONTRACTOR WHICH STATES THAT THE CONTRACTOR HAS READ THE TEXT OF THE ADVERTISEMENT OR LISTING, HAS AN APPLICABLE AND CURRENT CONTRACTORS LICENSE FOR THE GOODS AND SERVICES ADVERTISED, HAS INCLUDED ALL APPLICABLE AND CURRENT LICENSE NUMBERS IN THE ADVERTISEMENT OR LISTING, AND IS AWARE OF CIVIL AND CRIMINAL PENALTIES FOR ADVERTISING AS A CONTRACTOR WITHOUT A VALID LICENSE, SHALL BE ENTITLED TO A REBUTTABLE PRESUMPTION OF COMPLIANCE WITH THIS SUBDIVISION.

3. UPON ENTRY OF EITHER A FINAL ORDER OF THE CONTRACTORS LICENSE BOARD OR A JUDGMENT BY A COURT OF COMPETENT JURISDICTION FINDING THAT A CONTRACTOR HAS ADVERTISED IN VIOLATION OF EITHER SECTION SEVENTY-NINE-G OR SUBDIVISION ONE OF THIS SECTION, THE PUBLIC UTILITY FURNISHING TELEPHONE SERVICE TO THE CONTRACTOR SHALL DISCONNECT THE TELEPHONE NUMBER CONTAINED IN THE ADVERTISEMENT OR LISTING.

4. THE PUBLISHER OR PRODUCER OF A PRINT OR BROADCAST ADVERTISING MEDIUM SHALL NOT BE LIABLE IN ANY SUIT, ACTION, OR CLAIM ARISING FROM ITS REFUSAL TO LIST OR ACCEPT ADVERTISEMENTS PURSUANT TO SUBDIVISION TWO OF THIS SECTION. GOOD FAITH COMPLIANCE BY A PUBLIC UTILITY WITH SUBDIVISION THREE OF THIS SECTION IS A COMPLETE DEFENSE TO ANY CIVIL OR CRIMINAL ACTION BROUGHT AGAINST IT ARISING FROM THE TERMINATION OF TELEPHONE SERVICE.

S 75-J. AIDING OR ABETTING. AIDING OR ABETTING AN UNLICENSED PERSON TO EVADE THIS ARTICLE OR KNOWINGLY COMBINING OR CONSPIRING WITH AN UNLICENSED PERSON, OR ALLOWING ONE'S LICENSE TO BE USED BY AN UNLICENSED PERSON, OR ACTING AS AGENT OR PARTNER OR ASSOCIATE, OR OTHERWISE, OF AN UNLICENSED PERSON, WITH THE INTENT TO EVADE THIS ARTICLE, SHALL BE A MISDEMEANOR.

S 75-K. INVESTIGATION PERMITTED. THE CONTRACTORS LICENSE BOARD MAY INVESTIGATE, CLASSIFY, AND QUALIFY APPLICANTS FOR CONTRACTORS LICENSES.

S 75-L. VIOLATION FOR UNLICENSED ACTIVITY. 1. IN ADDITION TO ANY OTHER REMEDY AVAILABLE, THE INSPECTOR MAY ISSUE VIOLATION NOTICES TO PERSONS ACTING IN THE CAPACITY OF OR ENGAGING IN THE BUSINESS OF A CONTRACTOR WITHIN THE CITY, WITHOUT HAVING A LICENSE PREVIOUSLY OBTAINED UNDER AND IN COMPLIANCE WITH THIS ARTICLE AND THE RULES AND REGULATIONS PROMULGATED THEREUNDER. IF THE INSPECTOR DETERMINES THAT A PERSON IS ACTING IN

1 THE CAPACITY OF, OR ENGAGING IN THE BUSINESS OF, A CONTRACTOR WITHIN
2 THIS CITY WITHOUT HAVING A LICENSE TO SO ACT OR ENGAGE, THE INSPECTOR
3 MAY ISSUE A VIOLATION NOTICE TO SUCH PERSON.

4 2. EACH VIOLATION NOTICE SHALL BE IN WRITING AND SHALL DESCRIBE THE
5 BASIS OF THE VIOLATION, INCLUDING THE SPECIFIC STATUTORY PROVISIONS
6 ALLEGED TO HAVE BEEN VIOLATED, AND SHALL CONTAIN AN ORDER TO CEASE AND
7 DESIST FROM THE VIOLATION, AND AN ASSESSMENT OF CIVIL PENALTIES AS
8 PROVIDED IN SECTION SEVENTY-FIVE-Z OF THIS ARTICLE. THE VIOLATION NOTICE
9 SHALL ALSO INCLUDE NOTICE OF THE SANCTIONS FOR VIOLATING THE CEASE AND
10 DESIST ORDER.

11 3. SERVICE OF A VIOLATION NOTICE ISSUED UNDER THIS SECTION SHALL BE
12 MADE BY PERSONAL SERVICE WHENEVER POSSIBLE, OR BY CERTIFIED MAIL,
13 RESTRICTED DELIVERY, SENT TO THE LAST KNOWN BUSINESS OR RESIDENCE
14 ADDRESS OF THE PERSON CITED.

15 4. ANY PERSON SERVED WITH A VIOLATION NOTICE UNDER THIS SECTION MAY
16 SUBMIT A WRITTEN REQUEST TO THE COMMISSIONER FOR A HEARING, WITHIN TWEN-
17 TY DAYS FROM THE RECEIPT OF THE VIOLATION NOTICE, WITH RESPECT TO THE
18 VIOLATIONS ALLEGED, THE SCOPE OF THE ORDER TO CEASE AND DESIST, AND THE
19 AMOUNT OF THE CIVIL PENALTIES ASSESSED.

20 5. IF THE PERSON CITED UNDER THIS SECTION TIMELY NOTIFIES THE COMMIS-
21 SIONER OF THE REQUEST FOR A HEARING, THE COMMISSIONER SHALL AFFORD AN
22 OPPORTUNITY FOR A HEARING AT THE CONTRACTORS LICENSING BOARD. THE HEAR-
23 ING SHALL BE CONDUCTED BY THE COMMISSIONER OR THE COMMISSIONER MAY
24 DESIGNATE A HEARINGS OFFICER TO HOLD THE HEARING. THE COMMISSIONER OR
25 ANY HEARINGS OFFICER DESIGNATED BY THE COMMISSIONER SHALL HAVE THE POWER
26 TO ISSUE SUBPOENAS, ADMINISTER OATHS, HEAR TESTIMONY, FIND FACTS, AND
27 MAKE CONCLUSIONS OF LAW AND ISSUE A FINAL ORDER.

28 6. IF THE PERSON CITED UNDER THIS SECTION DOES NOT SUBMIT A WRITTEN
29 REQUEST TO THE COMMISSIONER FOR A HEARING WITHIN TWENTY DAYS FROM THE
30 RECEIPT OF THE VIOLATION NOTICE, THE VIOLATION NOTICE SHALL BE DEEMED A
31 FINAL ORDER OF THE COMMISSIONER.

32 7. THE COMMISSIONER MAY APPLY TO THE APPROPRIATE COURT FOR A JUDGMENT
33 TO ENFORCE THE PROVISIONS OF ANY FINAL ORDER ISSUED BY THE COMMISSIONER
34 OR DESIGNATED HEARINGS OFFICER PURSUANT TO THIS SECTION, INCLUDING THE
35 PROVISIONS TO CEASE AND DESIST AND FOR CIVIL PENALTIES IMPOSED. IN ANY
36 PROCEEDING TO ENFORCE THE PROVISIONS OF THE FINAL ORDER OF THE COMMIS-
37 SIONER OR DESIGNATED HEARINGS OFFICER, THE COMMISSIONER NEED ONLY SHOW
38 THAT NOTICE WAS GIVEN, A HEARING WAS HELD OR THE TIME GRANTED FOR
39 REQUESTING A HEARING HAS RUN WITHOUT SUCH A REQUEST, AND A CERTIFIED
40 COPY OF THE FINAL ORDER OF THE COMMISSIONER OR DESIGNATED HEARINGS OFFI-
41 CER.

42 8. IF ANY PARTY IS AGGRIEVED BY THE DECISION OF THE COMMISSIONER OR
43 THE DESIGNATED HEARINGS OFFICER, THE PARTY MAY COMMENCE A PROCEEDING
44 PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES;
45 PROVIDED THAT THE OPERATION OF A CEASE AND DESIST ORDER SHALL NOT BE
46 STAYED PENDING SUCH PROCEEDING.

47 9. THE SANCTIONS AND DISPOSITION AUTHORIZED UNDER THIS SECTION SHALL
48 BE SEPARATE FROM AND IN ADDITION TO ALL OTHER REMEDIES EITHER CIVIL OR
49 CRIMINAL PROVIDED IN ANY OTHER APPLICABLE STATUTORY PROVISION. THE
50 COMMISSIONER MAY ADOPT RULES AND REGULATIONS AS MAY BE NECESSARY TO
51 FULLY EFFECTUATE THIS SECTION.

52 10. THE COMMISSIONER MAY APPLY TO THE APPROPRIATE COURT FOR INJUNCTIVE
53 OR ANY OTHER RELIEF THE COURT DEEMS APPROPRIATE, INCLUDING A FINE OF NOT
54 LESS THAN TEN THOUSAND DOLLARS FOR EACH OFFENSE, AGAINST ANY PERSON WHO
55 VIOLATES A CEASE AND DESIST ORDER. EACH DAY'S VIOLATION OR FAILURE TO
56 COMPLY WITH A CEASE AND DESIST ORDER SHALL BE DEEMED A SEPARATE OFFENSE.

1 THE ALLEGATIONS IN THE CITATION SHALL BE DEEMED CONCLUSIVELY ESTABLISHED
2 FOR PURPOSES OF A PROCEEDING FOR PERMANENT OR TEMPORARY RELIEF TO
3 ENFORCE THE CEASE AND DESIST ORDER.

4 S 75-M. STATE DISASTER EMERGENCY; ACTING AS A CONTRACTOR WITHOUT A
5 LICENSE; PENALTY. ANY PERSON WHO VIOLATES SECTION SEVENTY-FIVE-G OF THIS
6 ARTICLE, IN CONNECTION WITH THE OFFER OR PERFORMANCE OF REPAIRS TO A
7 RESIDENTIAL OR NONRESIDENTIAL STRUCTURE FOR DAMAGE CAUSED BY A NATURAL
8 DISASTER IN A POLITICAL SUBDIVISION FOR WHICH A STATE DISASTER EMERGENCY
9 IS DECLARED BY THE GOVERNOR, MAY BE PUNISHED BY A FINE OF UP TO TEN
10 THOUSAND DOLLARS, OR IMPRISONMENT UP TO ONE YEAR, OR BOTH, IN ADDITION
11 TO ALL OTHER REMEDIES OR PENALTIES.

12 S 75-N. ENHANCED PENALTIES WHEN ELDERLY PERSONS ARE TARGETED. IF ANY
13 PERSON IS FOUND TO HAVE VIOLATED SECTION SEVENTY-FIVE-G OF THIS ARTICLE
14 AND THE VIOLATION IS COMMITTED AGAINST AN ELDERLY PERSON, IN ADDITION TO
15 ANY OTHER PENALTY SET FORTH OR IMPOSED, THE COURT MAY IMPOSE A FINE OF
16 UP TO TEN THOUSAND DOLLARS, OR IMPRISONMENT UP TO ONE YEAR, OR BOTH. AS
17 USED IN THIS SECTION, "ELDERLY PERSON" MEANS A PERSON WHO IS SIXTY-FIVE
18 YEARS OF AGE OR OLDER.

19 S 75-O. NO LICENSE ISSUED WHEN. 1. NO LICENSE AUTHORIZED BY THIS ARTI-
20 CLE SHALL BE ISSUED TO:

21 (A) ANY PERSON UNLESS THE PERSON HAS FILED AN APPLICATION AND PAID THE
22 APPLICABLE FEES;

23 (B) ANY PERSON UNLESS THE PERSON MEETS THE EXPERIENCE REQUIREMENTS AS
24 PRESCRIBED IN THE BOARD'S RULES; PROVIDED THAT THE BOARD MAY ACCEPT
25 EXPERIENCE ACQUIRED ON A SELF-EMPLOYED OR UNLICENSED BASIS IF THE EXPE-
26 RIENCE CAN BE VERIFIED;

27 (C) ANY PERSON WHO DOES NOT POSSESS A HISTORY OF HONESTY, TRUTHFUL-
28 NESS, FINANCIAL INTEGRITY, AND FAIR DEALING; PROVIDED THAT ANY PERSON
29 WHO DURING THE SIX YEARS PRIOR TO APPLICATION HAS FAILED TO SATISFY AN
30 UNDISPUTED DEBT OR A JUDGMENT RELATING TO SERVICES OR MATERIALS RENDERED
31 IN CONNECTION WITH OPERATIONS AS A CONTRACTOR SHALL BE PRESUMED NOT TO
32 POSSESS A HISTORY OF FINANCIAL INTEGRITY;

33 (D) ANY PERSON UNLESS THE PERSON HAS SUCCESSFULLY PASSED A WRITTEN
34 EXAMINATION AS PRESCRIBED BY THE BOARD;

35 (E) ANY PERSON UNLESS THE PERSON IS AGE EIGHTEEN YEARS OR MORE;

36 (F) ANY JOINT VENTURE WHICH IS NOT EXEMPT UNDER SUBDIVISION EIGHT OF
37 SECTION SEVENTY-FIVE-B OF THIS ARTICLE UNLESS THE CONTRACTING BUSINESS
38 THEREOF IS UNDER THE DIRECT MANAGEMENT OF A MEMBER OR EMPLOYEE THEREOF,
39 AND UNLESS THE MEMBER OR EMPLOYEE HOLDS AN APPROPRIATE LICENSE;

40 (G) ANY INDIVIDUAL WHO IS UNABLE TO QUALIFY AS A CONTRACTOR OR ANY
41 PARTNERSHIP OR CORPORATION, UNLESS THE CONTRACTING BUSINESS OF THE INDIV-
42 IDUAL, PARTNERSHIP, OR CORPORATION IS UNDER THE DIRECT MANAGEMENT OF AN
43 EMPLOYEE, PARTNER, OR OFFICER THEREOF WHO HOLDS AN APPROPRIATE LICENSE;

44 (H) ANY PERSON UNLESS THE PERSON SUBMITS SATISFACTORY PROOF TO THE
45 BOARD THAT THE PERSON HAS OBTAINED WORKERS' COMPENSATION INSURANCE;

46 (I) ANY PERSON UNLESS THE PERSON SUBMITS SATISFACTORY PROOF TO THE
47 BOARD THAT THE PERSON HAS OBTAINED LIABILITY INSURANCE; OR

48 (J) ANY PERSON UNLESS THE PERSON SUBMITS A BOND IF REQUIRED BY THE
49 BOARD UNDER SECTION SEVENTY-FIVE-V OF THIS ARTICLE.

50 2. ANY LICENSE ISSUED HEREUNDER SHALL NOT BE RENEWED IF THE LICENSEE
51 NO LONGER MEETS ANY OF THE FOREGOING QUALIFICATIONS.

52 3. AN APPLICATION SHALL BE CONSIDERED ABANDONED IF THE APPLICATION IS
53 NOT COMPLETED AND THE REQUIRED DOCUMENTS OR OTHER INFORMATION ARE NOT
54 SUBMITTED TO THE BOARD WITHIN TWO YEARS FROM THE LAST DATE THE DOCUMENTS
55 OR INFORMATION WERE REQUESTED.

1 S 75-P. REQUIREMENTS TO MAINTAIN LICENSE. 1. A LICENSED CONTRACTOR
2 SHALL HAVE AND MAINTAIN IN FULL FORCE AND EFFECT THE FOLLOWING:

3 (A) WORKERS' COMPENSATION INSURANCE;

4 (B) LIABILITY INSURANCE FROM AN INSURANCE COMPANY OR AGENCY FOR
5 COMPREHENSIVE PERSONAL INJURY AND PROPERTY DAMAGE LIABILITY; AND

6 (C) BOND WHEN REQUIRED BY THE BOARD, UNDER SECTION SEVENTY-FIVE-V OF
7 THIS ARTICLE.

8 2. FAILURE, REFUSAL, OR NEGLECT OF ANY LICENSED CONTRACTOR TO MAINTAIN
9 IN FULL FORCE AND EFFECT, THE APPLICABLE WORKERS' COMPENSATION INSUR-
10 ANCE, LIABILITY INSURANCE, OR BOND SHALL CAUSE THE AUTOMATIC FORFEITURE
11 OF THE LICENSE OF THE CONTRACTOR EFFECTIVE AS OF THE DATE OF EXPIRATION
12 OR CANCELLATION OF THE CONTRACTOR'S WORKERS' COMPENSATION INSURANCE,
13 LIABILITY INSURANCE, OR BOND.

14 3. THE BOARD SHALL NOT RESTORE THE FORFEITED LICENSE UNTIL SATISFAC-
15 TORY PROOF OF CONTINUOUS INSURANCE AND BOND COVERAGE ARE SUBMITTED TO
16 THE BOARD AS REQUIRED BY THIS SECTION.

17 4. FAILURE TO RESTORE A LICENSE WITHIN SIXTY DAYS AFTER THE DATE OF
18 FORFEITURE SHALL RESULT IN THE FORFEITURE OF ALL FEES AND SHALL REQUIRE
19 THE PERSON TO APPLY AS A NEW APPLICANT.

20 5. THE BOARD MAY ASSESS A FEE NOT TO EXCEED ONE THOUSAND DOLLARS,
21 IMPOSE A BOND, OR RESTRICT THE LICENSE AS A CONDITION FOR THE RESTORA-
22 TION OF A LICENSE FORFEITED PURSUANT TO THIS SECTION.

23 6. A LICENSEE MAY, WITHIN SIXTY DAYS AFTER RECEIPT OF THE NOTIFICATION
24 OF THE FORFEITURE, REQUEST AN ADMINISTRATIVE HEARING TO REVIEW THE
25 FORFEITURE.

26 S 75-Q. APPLICATION; FEES. 1. EVERY APPLICANT FOR A LICENSE UNDER THIS
27 ARTICLE SHALL COMPLETE AND FILE AN APPLICATION PROVIDED BY THE BOARD AND
28 SHALL FURNISH ANY ADDITIONAL INFORMATION BEARING UPON THE ISSUANCE OF
29 THE LICENSE AS THE BOARD SHALL REQUIRE. IN THE CASE OF A PARTNERSHIP,
30 JOINT VENTURE, OR CORPORATION, ANY PARTNER, MEMBER, OR OFFICER THEREOF
31 MAY SIGN THE APPLICATION ON BEHALF OF THE APPLICANT.

32 2. EVERY APPLICANT WHO IS REQUIRED BY THE BOARD TO BE EXAMINED SHALL
33 PAY, DIRECTLY TO THE TESTING AGENCY, AN EXAMINATION FEE.

34 3. SUCH FEES SHALL BE AS PROVIDED IN RULES AND REGULATIONS ADOPTED BY
35 THE COMMISSIONER.

36 S 75-R. FORM FOR LICENSES. THE FORM OF EVERY LICENSE SHALL BE
37 PRESCRIBED BY THE BOARD AND SHALL BE ISSUED IN THE NAME OF THE BOARD.

38 S 75-S. PLACE OF BUSINESS AND POSTING OF LICENSE. 1. A LICENSED
39 CONTRACTOR SHALL HAVE, MAINTAIN, AND OPERATE FROM A DEFINITE PLACE OF
40 BUSINESS IN THE STATE AND SHALL DISPLAY THEREIN HIS OR HER CONTRACTOR'S
41 LICENSE.

42 2. THE LICENSED CONTRACTOR SHALL REPORT ANY CHANGE OF ADDRESS OR TELE-
43 PHONE NUMBER TO THE BOARD WITHIN TEN BUSINESS DAYS FROM SUCH CHANGE.

44 S 75-T. FEES; BIENNIAL RENEWALS; INACTIVE LICENSE. 1. FEES REQUIRED BY
45 THIS ARTICLE SHALL BE PAID TO THE BOARD ON OR BEFORE SEPTEMBER THIRTIETH
46 OF EACH EVEN-NUMBERED YEAR. THESE FEES SHALL BE AS PROVIDED IN RULES AND
47 REGULATIONS ADOPTED BY THE COMMISSIONER. FAILURE, NEGLECT, OR REFUSAL
48 OF ANY LICENSEE TO PAY THESE FEES AND TO SUBMIT ALL DOCUMENTS REQUIRED
49 BY THE BOARD ON OR BEFORE SEPTEMBER THIRTIETH OF EACH EVEN-NUMBERED YEAR
50 SHALL CONSTITUTE A FORFEITURE OF THE LICENSEE'S LICENSE.

51 2. ANY FORFEITED LICENSE MAY BE RESTORED UPON SUBMITTAL OF ALL
52 REQUIRED DOCUMENTS AND FEES, PLUS A PENALTY FEE, WITHIN SIXTY DAYS FROM
53 SEPTEMBER THIRTIETH OF THE EVEN-NUMBERED YEAR.

54 3. UPON WRITTEN REQUEST OF A LICENSEE, THE BOARD MAY PLACE THAT
55 PERSON'S ACTIVE LICENSE IN AN INACTIVE STATUS. THE LICENSEE, UPON
56 PAYMENT OF THE INACTIVE LICENSE FEE, MAY CONTINUE INACTIVE FOR THE BIEN-

1 NIAL PERIOD. FAILURE, NEGLECT, OR REFUSAL OF ANY LICENSEE IN INACTIVE
2 STATUS TO PAY THE INACTIVE LICENSE FEE SHALL CONSTITUTE A FORFEITURE OF
3 THE LICENSE. THE LICENSE MAY BE REACTIVATED AT ANY TIME DURING THE BIEN-
4 NIAL PERIOD BY MAKING WRITTEN REQUEST TO THE BOARD AND BY FULFILLING ALL
5 THE REQUIREMENTS, INCLUDING THE PAYMENT OF THE APPROPRIATE FEES. WHILE
6 IN AN INACTIVE STATUS, A LICENSEE SHALL NOT ENGAGE IN CONTRACTING; A
7 LICENSEE WHO VIOLATES THIS PROHIBITION SHALL BE SUBJECT TO DISCIPLINE
8 UNDER THIS ARTICLE AND THE BOARD'S RULES AND REGULATIONS.

9 4. FOR PURPOSES OF THIS ARTICLE, THE DISHONORING OF ANY CHECK UPON
10 FIRST DEPOSIT SHALL CONSTITUTE A FAILURE TO MEET THE FEE REQUIREMENTS.

11 S 75-U. ACTION ON APPLICATIONS. WITHIN ONE HUNDRED TWENTY DAYS AFTER
12 THE FILING OF A PROPER APPLICATION FOR A LICENSE AND THE PAYMENT OF THE
13 REQUIRED FEES, THE BOARD SHALL:

14 1. CONDUCT AN INVESTIGATION OF THE APPLICANT, AND IN THAT INVESTI-
15 GATION MAY POST PERTINENT INFORMATION, INCLUDING BUT NOT LIMITED TO, THE
16 NAME AND ADDRESS OF THE APPLICANT, AND IF THE APPLICANT IS ASSOCIATED IN
17 ANY PARTNERSHIP, CORPORATION, OR OTHER ENTITY, THE NAMES, ADDRESSES, AND
18 OFFICIAL CAPACITIES OF THE APPLICANT'S ASSOCIATES; AND

19 2. EITHER ISSUE A LICENSE TO THE APPLICANT OR NOTIFY THE APPLICANT IN
20 WRITING BY REGISTERED MAIL OF THE BOARD'S DECISION NOT TO GRANT THE
21 LICENSE AND SPECIFICALLY NOTIFY THE APPLICANT OF THE APPLICANT'S RIGHT
22 TO SUBMIT A REQUEST FOR A CONTESTED CASE HEARING WITHIN SIXTY DAYS OF
23 THE BOARD'S DECISION.

24 S 75-V. BOND. 1. THE CONTRACTORS LICENSE BOARD MAY REQUIRE EACH LICEN-
25 SEE, APPLICANT, INDIVIDUAL OR CORPORATION, WHO IS A SPECIALTY CONTRACTOR
26 TO PUT UP BOND IN THE SUM OF NOT LESS THAN FIVE THOUSAND DOLLARS
27 EXECUTED BY THE LICENSEE OR APPLICANT AS PRINCIPAL AND BY A SURETY
28 COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE AS SURETY.

29 2. THE BOARD MAY REQUIRE EACH LICENSEE, APPLICANT, INDIVIDUAL OR
30 CORPORATION, WHO IS A GENERAL CONTRACTOR TO PUT UP A BOND IN THE SUM OF
31 NOT LESS THAN FIVE THOUSAND DOLLARS EXECUTED BY THE LICENSEE OR APPLI-
32 CANT AS PRINCIPAL AND BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN
33 THE STATE AS SURETY.

34 3. THE BOARD, IN EXERCISING ITS DISCRETION SHALL TAKE INTO CONSIDER-
35 ATION THE LICENSEE'S OR APPLICANT'S FINANCIAL CONDITION AND EXPERIENCE
36 IN THE FIELD.

37 4. THE BOND SHALL BE IN SUCH FORM AS THE BOARD MAY PRESCRIBE, CONDI-
38 TIONED UPON THE PAYMENT OF WAGES TO THE EMPLOYEES OF THE CONTRACTOR OR
39 ANY OTHER PERSON OR ENTITY ENTITLED TO SUCH WAGES WHEN DUE, AND GIVING
40 EMPLOYEES OR ANY OTHER PERSON OR ENTITY ENTITLED TO SUCH WAGES WHO HAVE
41 NOT BEEN PAID A RIGHT OF ACTION ON THE BOND IN THEIR OWN NAMES; AND UPON
42 THE HONEST CONDUCT OF THE BUSINESS OF THE LICENSEE, AND UPON THE RIGHT
43 OF ANY PERSON INJURED OR DAMAGED BY ANY WRONGFUL ACT OF THE LICENSEE TO
44 BRING AN ACTION ON THE BOND; PROVIDED THAT ANY CLAIM FOR WAGES SHALL
45 HAVE PRIORITY OVER ALL OTHER CLAIMS.

46 S 75-W. REVOCATION, SUSPENSION, AND RENEWAL OF LICENSES. IN ADDITION
47 TO ANY OTHER ACTIONS AUTHORIZED BY LAW, THE BOARD MAY REVOKE ANY LICENSE
48 ISSUED PURSUANT TO THIS ARTICLE, OR SUSPEND THE RIGHT OF A LICENSEE TO
49 USE A LICENSE, OR REFUSE TO RENEW A LICENSE FOR ANY CAUSE AUTHORIZED BY
50 LAW, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

51 1. ANY DISHONEST, FRAUDULENT, OR DECEITFUL ACT AS A CONTRACTOR THAT
52 CAUSES SUBSTANTIAL DAMAGE TO ANOTHER;

53 2. ENGAGING IN ANY UNFAIR OR DECEPTIVE ACT OR PRACTICE PURSUANT TO
54 ARTICLE TWENTY-TWO-A OF THE GENERAL BUSINESS LAW;

55 3. ABANDONMENT OF ANY CONSTRUCTION PROJECT OR OPERATION WITHOUT
56 REASONABLE OR LEGAL EXCUSE;

1 4. WILFUL DIVERSION OF FUNDS OR PROPERTY RECEIVED FOR PROSECUTION OR
2 COMPLETION OF A SPECIFIC CONSTRUCTION PROJECT OR OPERATION, OR FOR A
3 SPECIFIED PURPOSE IN THE PROSECUTION OR COMPLETION OF ANY CONSTRUCTION
4 PROJECT OR OPERATION, AND THE USE THEREOF FOR ANY OTHER PURPOSE;

5 5. WILFUL DEPARTURE FROM, OR WILFUL DISREGARD OF PLANS OR SPECIFICA-
6 TIONS IN ANY MATERIAL RESPECT WITHOUT CONSENT OF THE OWNER OR THE
7 OWNER'S DULY AUTHORIZED REPRESENTATIVE, THAT IS PREJUDICIAL TO A PERSON
8 ENTITLED TO HAVE THE CONSTRUCTION PROJECT OR OPERATION COMPLETED IN
9 ACCORDANCE WITH THOSE PLANS AND SPECIFICATIONS;

10 6. WILFUL VIOLATION OF ANY LAW OF THE STATE, OR OF THE CITY OF NEW
11 YORK, RELATING TO BUILDING, INCLUDING ANY VIOLATION OF ANY APPLICABLE
12 RULE OF THE DEPARTMENT OF HEALTH, OR OF ANY APPLICABLE SAFETY OR LABOR
13 LAW;

14 7. FAILURE TO MAKE AND KEEP RECORDS SHOWING ALL CONTRACTS, DOCUMENTS,
15 RECORDS, RECEIPTS, AND DISBURSEMENTS BY A LICENSEE OF ALL THE LICENSEE'S
16 TRANSACTIONS AS A CONTRACTOR FOR A PERIOD OF NOT LESS THAN THREE YEARS
17 AFTER COMPLETION OF ANY CONSTRUCTION PROJECT OR OPERATION TO WHICH THE
18 RECORDS REFER OR TO PERMIT INSPECTION OF THOSE RECORDS BY THE BOARD;

19 8. WHEN THE LICENSEE BEING A PARTNERSHIP OR A JOINT VENTURE PERMITS
20 ANY PARTNER, MEMBER, OR EMPLOYEE OF THE PARTNERSHIP OR JOINT VENTURE WHO
21 DOES NOT HOLD A LICENSE TO HAVE THE DIRECT MANAGEMENT OF THE CONTRACTING
22 BUSINESS THEREOF;

23 9. WHEN THE LICENSEE BEING A CORPORATION PERMITS ANY OFFICER OR
24 EMPLOYEE OF THE CORPORATION WHO DOES NOT HOLD A LICENSE TO HAVE THE
25 DIRECT MANAGEMENT OF THE CONTRACTING BUSINESS THEREOF;

26 10. MISREPRESENTATION OF A MATERIAL FACT BY AN APPLICANT IN OBTAINING
27 A LICENSE;

28 11. FAILURE OF A LICENSEE TO COMPLETE IN A MATERIAL RESPECT ANY
29 CONSTRUCTION PROJECT OR OPERATION FOR THE AGREED PRICE IF THE FAILURE IS
30 WITHOUT LEGAL EXCUSE;

31 12. WILFUL FAILURE IN ANY MATERIAL RESPECT TO COMPLY WITH THIS ARTICLE
32 OR THE RULES ADOPTED PURSUANT THERETO;

33 13. WILFUL FAILURE OR REFUSAL TO PROSECUTE A PROJECT OR OPERATION TO
34 COMPLETION WITH REASONABLE DILIGENCE;

35 14. WILFUL FAILURE TO PAY WHEN DUE A DEBT INCURRED FOR SERVICES OR
36 MATERIALS RENDERED OR PURCHASED IN CONNECTION WITH THE LICENSEE'S OPER-
37 ATIONS AS A CONTRACTOR WHEN THE LICENSEE HAS THE ABILITY TO PAY OR WHEN
38 THE LICENSEE HAS RECEIVED SUFFICIENT FUNDS THEREFOR AS PAYMENT FOR THE
39 PARTICULAR OPERATION FOR WHICH THE SERVICES OR MATERIALS WERE RENDERED
40 OR PURCHASED;

41 15. THE FALSE DENIAL OF ANY DEBT DUE OR THE VALIDITY OF THE CLAIM
42 THEREFOR WITH INTENT TO SECURE FOR A LICENSEE, THE LICENSEE'S EMPLOYER,
43 OR OTHER PERSON, ANY DISCOUNT OF THE DEBT OR WITH INTENT TO HINDER,
44 DELAY, OR DEFRAUD THE PERSON TO WHOM THE DEBT IS DUE;

45 16. FAILURE TO SECURE OR MAINTAIN WORKERS' COMPENSATION INSURANCE;

46 17. ENTERING INTO A CONTRACT WITH AN UNLICENSED CONTRACTOR INVOLVING
47 WORK OR ACTIVITY FOR THE PERFORMANCE OF WHICH LICENSING IS REQUIRED
48 UNDER THIS ARTICLE;

49 18. PERFORMING SERVICE ON A RESIDENTIAL OR COMMERCIAL AIR CONDITIONER,
50 UTILIZING CFCS, WITHOUT USING REFRIGERANT RECOVERY AND RECYCLING EQUIP-
51 MENT;

52 19. PERFORMING SERVICE ON ANY AIR CONDITIONER WITHOUT SUCCESSFUL
53 COMPLETION OF AN APPROPRIATE TRAINING COURSE IN THE RECOVERY AND RECYCL-
54 ING OF CFC AND HCFC REFRIGERANTS, WHICH INCLUDED INSTRUCTION IN THE
55 PROPER USE OF REFRIGERANT RECOVERY AND RECYCLING EQUIPMENT THAT IS
56 CERTIFIED BY UNDERWRITERS LABORATORIES, INCORPORATED;

20. FAILURE TO PAY DELINQUENT TAXES, INTEREST, AND PENALTIES THAT RELATE TO THE BUSINESS OF CONTRACTING, OR TO COMPLY WITH THE TERMS OF A CONDITIONAL PAYMENT PLAN WITH THE DEPARTMENT OF TAXATION FOR THE PAYMENT OF SUCH DELINQUENT TAXES, INTEREST, AND PENALTIES.

S 75-X. DEATH OR DISSOCIATION. NO COPARTNERSHIP, JOINT VENTURE, OR CORPORATION SHALL BE DEEMED TO HAVE VIOLATED ANY PROVISION OF THIS ARTICLE BY ACTING OR ASSUMING TO ACT AS A CONTRACTOR AFTER THE DEATH OR DISSOCIATION OF A LICENSEE WHO HAD THE DIRECT MANAGEMENT OF THE CONTRACTING BUSINESS THEREOF PRIOR TO FINAL DISPOSITION BY THE CONTRACTORS LICENSE BOARD OF AN APPLICATION FOR A LICENSE MADE WITHIN THIRTY DAYS FROM THE DATE OF THE DEATH OR DISSOCIATION.

S 75-Y. CIVIL ACTION. THE FAILURE OF ANY PERSON TO COMPLY WITH ANY PROVISION OF THIS ARTICLE SHALL PREVENT SUCH PERSON FROM RECOVERING FOR WORK DONE, OR MATERIALS OR SUPPLIES FURNISHED, OR BOTH ON A CONTRACT OR ON THE BASIS OF THE REASONABLE VALUE THEREOF, IN A CIVIL ACTION, IF SUCH PERSON FAILED TO OBTAIN A LICENSE UNDER THIS ARTICLE PRIOR TO CONTRACTING FOR SUCH WORK.

S 75-Z. VIOLATION; PENALTIES. 1. ANY LICENSEE WHO CONTRACTS OUTSIDE THE APPROPRIATE SCOPE OF CLASSIFICATION FOR WHICH THE LICENSEE IS LICENSED SHALL BE FINED FIVE HUNDRED DOLLARS FOR THE FIRST OFFENSE, ONE THOUSAND DOLLARS FOR THE SECOND OFFENSE, AND NOT LESS THAN ONE THOUSAND FIVE HUNDRED DOLLARS OR MORE THAN TWO THOUSAND DOLLARS FOR ANY SUBSEQUENT OFFENSE.

2. ANY LICENSEE WHO VIOLATES SECTION SEVENTY-FIVE-M OR SUBDIVISION SEVENTEEN OF SECTION SEVENTY-FIVE-W OF THIS ARTICLE SHALL BE FINED UP TO TWENTY-FIVE THOUSAND DOLLARS OR UP TO THE FULL AMOUNT OF THE CONTRACT PRICE FOR EACH OFFENSE, WHICHEVER IS GREATER.

3. EXCEPT AS PROVIDED IN SUBDIVISIONS ONE, TWO, FOUR AND FIVE OF THIS SECTION, ANY PERSON WHO VIOLATES OR FAILS TO COMPLY WITH THIS ARTICLE SHALL BE FINED NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN FIVE THOUSAND DOLLARS FOR EACH VIOLATION; PROVIDED THAT ANY PERSON WHO VIOLATES SECTION SEVENTY-FIVE-G OF THIS ARTICLE SHALL BE FINED:

(A) FIVE HUNDRED DOLLARS OR FORTY PER CENT OF THE TOTAL CONTRACT PRICE, WHICHEVER IS GREATER, FOR THE FIRST OFFENSE;

(B) ONE THOUSAND DOLLARS OR FORTY PER CENT OF THE TOTAL CONTRACT PRICE, WHICHEVER IS GREATER, FOR THE SECOND OFFENSE; AND

(C) FIVE THOUSAND DOLLARS OR FORTY PERCENT OF THE TOTAL CONTRACT PRICE, WHICHEVER IS GREATER, FOR ANY SUBSEQUENT OFFENSE, AND WHEN THE PERSON IS OR WAS A DEFENDANT OR RESPONDENT IN A SEPARATE CITATION OR LAWSUIT FILED WITH OR BY THE DEPARTMENT, ALL TOOLS, IMPLEMENTS, DOCUMENTS, MATERIALS, OR ANY OTHER PROPERTY USED BY THE PERSON IN ACTIVITIES VIOLATING SECTION SEVENTY-FIVE-G OF THIS ARTICLE SHALL BE SUBJECT TO FORFEITURE AS PROVIDED BY SECTION SEVENTY-SIX OF THIS ARTICLE AND SHALL BE TURNED OVER TO THE DEPARTMENT FOR DISPOSITION UNDER SUCH SECTION.

4. ANY LICENSEE WHO VIOLATES, OR WHOSE EMPLOYEE VIOLATES, SUBDIVISION EIGHTEEN, NINETEEN OR TWENTY OF SECTION SEVENTY-FIVE-W OF THIS ARTICLE, SHALL BE FINED SEVENTY-FIVE DOLLARS FOR THE FIRST OFFENSE, ONE HUNDRED FIFTY DOLLARS FOR THE SECOND OFFENSE, AND NOT LESS THAN THREE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS FOR EACH SUBSEQUENT OFFENSE; PROVIDED THAT EACH UNIT SERVICED IN VIOLATION OF SUBDIVISION EIGHTEEN OR NINETEEN OF SECTION SEVENTY-FIVE-W OF THIS ARTICLE AND EACH INSTANCE OF RELEASING CFCS IN VIOLATION OF SUBDIVISION TWENTY OF SECTION SEVENTY-FIVE-W OF THIS ARTICLE SHALL CONSTITUTE A SEPARATE OFFENSE.

5. ANY PERSON WHO VIOLATES SUBDIVISION SEVEN OF SECTION SEVENTY-FIVE-B OF THIS ARTICLE, SHALL BE FINED:

1 (A) FIVE THOUSAND DOLLARS OR FORTY PERCENT OF THE APPRAISED VALUE OF
2 THE BUILDING AS DETERMINED BY THE NEW YORK CITY DEPARTMENT OF FINANCE,
3 WHICHEVER IS GREATER, FOR THE FIRST OFFENSE; AND

4 (B) TEN THOUSAND DOLLARS OR FIFTY PERCENT OF THE APPRAISED VALUE OF
5 THE BUILDING AS DETERMINED BY THE NEW YORK CITY DEPARTMENT OF FINANCE,
6 WHICHEVER IS GREATER, FOR ANY SUBSEQUENT OFFENSES.

7 S 76. FORFEITURE OF PROPERTY FOR UNLICENSED ACTIVITY. 1. IF AN INSPEC-
8 TOR FINDS THAT A PERSON HAS ACTED IN THE CAPACITY OF, OR ENGAGED IN THE
9 BUSINESS OF A CONTRACTOR WITHIN THIS STATE WITHOUT HAVING A CURRENT
10 LICENSE AS REQUIRED BY THIS ARTICLE TO SO ACT OR ENGAGE, AND THE PERSON
11 IS OR WAS A DEFENDANT OR RESPONDENT IN A SEPARATE VIOLATION NOTICE OR
12 LAWSUIT FILED WITH OR BY THE DEPARTMENT, THE INVESTIGATOR MAY ISSUE A
13 NOTICE OF FORFEITURE OF PROPERTY USED BY THE PERSON IN THE UNLICENSED
14 ACTIVITY, AND THE PROPERTY THAT IS THE SUBJECT OF THE NOTICE OF FORFEI-
15 TURE SHALL BE TURNED OVER TO THE DEPARTMENT FOR DISPOSITION IN ACCORD-
16 ANCE WITH THIS ARTICLE.

17 2. EACH NOTICE OF FORFEITURE SHALL BE IN WRITING AND SHALL DESCRIBE
18 THE TOOLS, IMPLEMENTS, DOCUMENTS, MATERIALS, OR ANY OTHER PROPERTY USED
19 BY ANY PERSON IN UNLICENSED ACTIVITY THAT VIOLATES SECTION
20 SEVENTY-FIVE-G OF THIS ARTICLE.

21 3. THE DEPARTMENT SHALL MAKE GOOD FAITH EFFORTS TO LOCATE AND NOTIFY
22 WITHIN A REASONABLE PERIOD OF TIME ALL OWNERS OR INTEREST-HOLDERS OF
23 PROPERTY SUBJECT TO A NOTICE OF FORFEITURE.

24 4. SERVICE OF A NOTICE OF FORFEITURE ISSUED UNDER THIS SECTION SHALL
25 BE MADE:

26 (A) IF THE NAME AND CURRENT ADDRESS OF THE UNLICENSED PERSON, OWNER,
27 OR INTEREST-HOLDER IS KNOWN:

28 (I) BY PERSONAL SERVICE; OR

29 (II) BY MAILING A COPY OF THE NOTICE TO THE UNLICENSED PERSON, OWNER,
30 OR INTEREST-HOLDER BY CERTIFIED MAIL TO THE LAST ADDRESS ON RECORD WITH
31 A STATE AGENCY; OR

32 (B) IF THE ADDRESS OF THE UNLICENSED PERSON, OWNER, OR INTEREST-HOLDER
33 IS NOT KNOWN OR IS NOT ON RECORD WITH A STATE AGENCY, BY PUBLIC NOTICE.

34 5. AN UNLICENSED PERSON SERVED WITH A NOTICE OF FORFEITURE UNDER THIS
35 SECTION MAY SUBMIT A WRITTEN REQUEST TO THE COMMISSIONER FOR A HEARING:

36 (A) WITHIN TWENTY DAYS OF RECEIPT OF THE NOTICE OF FORFEITURE, IF THE
37 PERSON IS SERVED PERSONALLY OR BY MAIL; OR

38 (B) WITHIN TWENTY DAYS OF PUBLIC NOTICE OF FORFEITURE. IF A REQUEST
39 FOR A HEARING IS NOT TIMELY FILED WITH THE COMMISSIONER, THE NOTICE OF
40 FORFEITURE SHALL BE DEEMED A FINAL ORDER OF THE COMMISSIONER.

41 6. AN OWNER OR INTEREST-HOLDER SERVED WITH A NOTICE OF FORFEITURE,
42 OTHER THAN THE UNLICENSED PERSON, MAY FILE A PETITION FOR REMISSION OF
43 FORFEITURE WITH THE DEPARTMENT WITHIN TWENTY DAYS OF SERVICE BY PERSONAL
44 SERVICE OR MAIL, OR WITHIN TWENTY DAYS OF THE DATE OF PUBLIC NOTICE, IF
45 SERVICE IS BY PUBLIC NOTICE. THE PETITION SHALL BE SIGNED BY THE PETI-
46 TIONER AND SWORN ON OATH BEFORE A NOTARY PUBLIC AND SHALL CONTAIN THE
47 FOLLOWING:

48 (A) A REASONABLY COMPLETE DESCRIPTION OF THE PROPERTY SUBJECT TO
49 FORFEITURE; AND

50 (B) A STATEMENT OF THE INTEREST OF THE PETITIONER IN THE PROPERTY
51 SUBJECT TO FORFEITURE, WITH SUPPORTING DOCUMENTARY EVIDENCE.

52 7. IF A PETITION FOR REMISSION OF FORFEITURE IS NOT TIMELY FILED WITH
53 THE COMMISSIONER, THE NOTICE OF FORFEITURE SHALL BE DEEMED A FINAL ORDER
54 OF THE COMMISSIONER.

55 8. THE DEPARTMENT SHALL REVIEW THE PETITION FOR REMISSION OF FORFEI-
56 TURE AND, IF REMISSION IS WARRANTED, RETURN THE PROPERTY SUBJECT TO

FORFEITURE TO THE PETITIONER WITHIN THIRTY DAYS OF RECEIPT OF THE PETITION. IF THE DEPARTMENT DETERMINES THAT REMISSION IS NOT WARRANTED, THE DEPARTMENT SHALL ISSUE A WRITTEN DECISION TO THE PETITIONER WITHIN THIRTY DAYS OF RECEIPT OF THE PETITION.

9. A PETITIONER WHOSE PETITION FOR REMISSION HAS BEEN DENIED MAY FILE WITH THE COMMISSIONER A WRITTEN REQUEST FOR A HEARING AS PROVIDED UNDER SUBDIVISIONS TEN AND ELEVEN OF THIS SECTION. THE WRITTEN REQUEST SHALL BE FILED WITHIN TWENTY DAYS OF RECEIPT OF THE WRITTEN DECISION DENYING THE PETITION FOR REMISSION. IF A REQUEST FOR HEARING IS NOT TIMELY FILED WITH THE COMMISSIONER, THE NOTICE OF FORFEITURE SHALL BE DEEMED A FINAL ORDER OF THE COMMISSIONER.

10. HEARINGS SHALL BE CONDUCTED BY THE COMMISSIONER OR A HEARINGS OFFICER DESIGNATED BY THE COMMISSIONER. THE COMMISSIONER OR DESIGNATED HEARINGS OFFICER MAY ISSUE SUBPOENAS, ADMINISTER OATHS, HEAR TESTIMONY, FIND FACTS, MAKE CONCLUSIONS OF LAW, AND ISSUE A FINAL ORDER OF FORFEITURE. THE DEPARTMENT SHALL HAVE THE BURDEN TO SHOW BY CLEAR AND CONVINCING EVIDENCE THAT THE PROPERTY IS SUBJECT TO FORFEITURE. IN DETERMINING WHETHER THE PROPERTY IS SUBJECT TO FORFEITURE, THE COMMISSIONER OR HEARINGS OFFICER SHALL CONSIDER EVIDENCE OF OWNERSHIP, THE DESCRIPTION OF THE PROPERTY, AND ANY OTHER RELEVANT EVIDENCE.

11. ANY PERSON AGGRIEVED BY THE DECISION OF THE COMMISSIONER OR DESIGNATED HEARINGS OFFICER MAY COMMENCE A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

12. THE COMMISSIONER MAY FILE AN ACTION IN THE SUPREME COURT FOR A JUDGMENT TO ENFORCE ANY FINAL ORDER ISSUED BY THE COMMISSIONER OR DESIGNATED HEARINGS OFFICER PURSUANT TO THIS SECTION. A JUDGMENT ENFORCING THE FINAL ORDER SHALL ISSUE UPON A SHOWING BY THE COMMISSIONER EITHER THAT NOTICE WAS GIVEN AND A HEARING WAS HELD, OR, THAT THE TIME GRANTED FOR REQUESTING A HEARING HAS RUN WITHOUT THE TIMELY FILING OF A REQUEST.

13. THE DEPARTMENT MAY DISPOSE OF ALL PROPERTY FORFEITED IN ACCORDANCE WITH THIS ARTICLE BY:

(A) TRANSFERRING PROPERTY TO ANY LOCAL OR STATE GOVERNMENT ENTITY, MUNICIPALITY, OR LAW ENFORCEMENT AGENCY WITHIN THE STATE;

(B) SELLING PROPERTY TO THE PUBLIC BY PUBLIC SALE; OR

(C) USING ANY OTHER MEANS OF DISPOSITION AUTHORIZED BY LAW.

14. FORFEITURE UNDER THIS SECTION SHALL BE SEPARATE FROM AND IN ADDITION TO ALL OTHER APPLICABLE REMEDIES, EITHER CIVIL OR CRIMINAL. THIS SECTION SHALL NOT APPLY TO THE VIOLATIONS SET FORTH IN SUBDIVISIONS ONE AND TWO OF SECTION SEVENTY-FIVE-Z OF THIS ARTICLE.

15. THE COMMISSIONER MAY ADOPT RULES AND REGULATIONS AS NECESSARY TO FULLY EFFECTUATE THIS SECTION.

S 76-A. INJUNCTION. THE CONTRACTORS LICENSE BOARD MAY, IN ADDITION TO ANY OTHER REMEDIES AVAILABLE, APPLY TO A SUPREME COURT JUDGE FOR A PRELIMINARY OR PERMANENT INJUNCTION RESTRAINING ANY PERSON FROM ACTING, OR ASSUMING TO ACT, OR ADVERTISING, AS GENERAL ENGINEERING CONTRACTOR, GENERAL BUILDING CONTRACTOR, OR SPECIALTY CONTRACTOR, WITHOUT A LICENSE PREVIOUSLY OBTAINED UNDER AND IN COMPLIANCE WITH THIS ARTICLE AND THE RULES AND REGULATIONS OF THE BOARD, AND UPON HEARING AND FOR CAUSE SHOWN, THE JUDGE MAY GRANT THE PRELIMINARY OR PERMANENT INJUNCTION.

S 76-B. PAYMENT FOR GOODS AND SERVICES. 1. A CONTRACTOR SHALL PAY THE CONTRACTOR'S SUBCONTRACTOR FOR ANY GOODS AND SERVICES RENDERED WITHIN SIXTY DAYS AFTER RECEIPT OF A PROPER STATEMENT BY THE SUBCONTRACTOR THAT THE GOODS HAVE BEEN DELIVERED OR SERVICES HAVE BEEN PERFORMED. THE SUBCONTRACTOR SHALL BE ENTITLED TO RECEIVE INTEREST ON THE UNPAID PRINCIPAL AMOUNT AT THE RATE OF ONE PERCENT PER MONTH COMMENCING ON THE SIXTIETH DAY FOLLOWING RECEIPT OF THE STATEMENT BY THE CONTRACTOR,

1 PROVIDED THAT THIS SECTION SHALL NOT APPLY IF THE DELAY IN PAYMENT IS
2 DUE TO A BONA FIDE DISPUTE BETWEEN THE CONTRACTOR AND THE SUBCONTRACTOR
3 CONCERNING THE GOODS AND SERVICES CONTRACTED FOR. IF THERE IS NO BONA
4 FIDE DISPUTE BETWEEN THE SUBCONTRACTOR AND THE CONTRACTOR CONCERNING THE
5 GOODS OR SERVICES CONTRACTED FOR, THE SUBCONTRACTOR SHALL BE ENTITLED TO
6 PAYMENT FOR GOODS AND SERVICES UNDER THIS SECTION.

7 2. IF PAYMENT IS CONTINGENT UPON RECEIPT OF FUNDS HELD IN ESCROW OR
8 TRUST, THE CONTRACTOR SHALL CLEARLY STATE THIS FACT IN THE CONTRACTOR'S
9 SOLICITATION OF BIDS. IF THE SOLICITATION FOR BIDS CONTAINS THE STATE-
10 MENT THAT THE TIME OF PAYMENT IS CONTINGENT UPON THE RECEIPT OF FUNDS
11 HELD IN ESCROW OR TRUST AND A CONTRACT IS AWARDED IN RESPONSE TO THE
12 SOLICITATION, INTEREST WILL NOT BEGIN TO ACCRUE UPON ANY UNPAID BALANCE
13 UNTIL THE SIXTIETH DAY FOLLOWING RECEIPT BY THE CONTRACTOR OF THE
14 SUBCONTRACTOR'S STATEMENT OR THE THIRTIETH DAY FOLLOWING RECEIPT OF THE
15 ESCROW OR TRUST FUNDS, WHICHEVER OCCURS LATER.

16 S 76-C. DISCLOSURE; CONTRACTS. 1. PRIOR TO ENTERING INTO A CONTRACT
17 WITH A HOMEOWNER INVOLVING HOME CONSTRUCTION AND PRIOR TO THE APPLICA-
18 TION FOR A BUILDING PERMIT, LICENSED CONTRACTORS SHALL:

19 (A) EXPLAIN VERBALLY IN DETAIL TO THE HOMEOWNER ALL LIEN RIGHTS OF ALL
20 PARTIES PERFORMING UNDER THE CONTRACT INCLUDING THE HOMEOWNER, THE
21 CONTRACTOR, ANY SUBCONTRACTOR OR ANY MATERIALMAN SUPPLYING COMMODITIES
22 OR LABOR ON THE PROJECT;

23 (B) EXPLAIN VERBALLY IN DETAIL THE HOMEOWNER'S OPTION TO DEMAND BOND-
24 ING ON THE PROJECT, HOW THE BOND WOULD PROTECT THE HOMEOWNER AND THE
25 APPROXIMATE EXPENSE OF THE BOND; AND

26 (C) DISCLOSE ALL INFORMATION PERTAINING TO THE CONTRACT AND ITS
27 PERFORMANCE AND ANY OTHER RELEVANT INFORMATION THAT THE BOARD MAY
28 REQUIRE BY RULE.

29 2. ALL LICENSED CONTRACTORS PERFORMING HOME CONSTRUCTION SHALL PROVIDE
30 A WRITTEN CONTRACT TO THE HOMEOWNER. THE WRITTEN CONTRACT SHALL:

31 (A) CONTAIN THE INFORMATION PROVIDED IN SUBDIVISION ONE OF THIS
32 SECTION AND ANY OTHER RELEVANT INFORMATION THAT THE BOARD MAY REQUIRE BY
33 RULE;

34 (B) CONTAIN NOTICE OF THE CONTRACTOR'S RIGHT TO RESOLVE ALLEGED
35 CONSTRUCTION DEFECTS PRIOR TO COMMENCING ANY LITIGATION;

36 (C) BE SIGNED BY THE CONTRACTOR AND THE HOMEOWNER; AND

37 (D) BE EXECUTED PRIOR TO THE PERFORMANCE OF ANY HOME CONSTRUCTION.

38 3. FOR THE PURPOSE OF THIS SECTION, "HOMEOWNER" MEANS THE OWNER OR
39 LESSEE OF RESIDENTIAL REAL PROPERTY, INCLUDING OWNERS OR LESSEES OF
40 CONDOMINIUM OR COOPERATIVE UNITS.

41 4. ANY VIOLATION OF THIS SECTION SHALL BE DEEMED AN UNFAIR OR DECEP-
42 TIVE PRACTICE AND SHALL BE SUBJECT TO PROVISIONS OF ARTICLE TWENTY-TWO-A
43 OF THE GENERAL BUSINESS LAW, AS WELL AS THE PROVISIONS OF THIS ARTICLE.

44 S 76-D. FALSE STATEMENT. IT SHALL CONSTITUTE A MISDEMEANOR FOR ANY
45 PERSON OR THE PERSON'S AGENT TO FILE WITH THE BOARD ANY NOTICE, STATE-
46 MENT, OR OTHER DOCUMENT REQUIRED UNDER THE PROVISIONS OF THIS ARTICLE,
47 WHICH IS FALSE OR UNTRUE OR CONTAINS ANY MATERIAL MISSTATEMENT OF FACT.

48 S 76-E. DISCIPLINARY ACTION AGAINST LICENSEE. NOTHING CONTAINED IN
49 THIS ARTICLE SHALL LIMIT THE AUTHORITY OF THE BOARD TO TAKE DISCIPLINARY
50 ACTION AGAINST ANY LICENSEE FOR A VIOLATION OF ANY OF THE PROVISIONS OF
51 THIS ARTICLE, OR OF THE RULES AND REGULATIONS OF THE CONTRACTORS LICENSE
52 BOARD; NOR SHALL THE REPAYMENT IN FULL OF ALL OBLIGATIONS TO THE
53 CONTRACTORS RECOVERY FUND BY ANY LICENSED CONTRACTOR NULLIFY OR MODIFY
54 THE EFFECT OF ANY OTHER DISCIPLINARY PROCEEDING BROUGHT PURSUANT TO THE
55 PROVISIONS OF THIS ARTICLE OR THE RULES AND REGULATIONS PROMULGATED
56 HEREUNDER.

1 S 76-F. APPLICABILITY TO CITIES WITH A POPULATION OF LESS THAN ONE
2 MILLION. ANY CITY WITHIN THE STATE IS HEREBY AUTHORIZED TO REGULATE
3 CONTRACTORS AS SET FORTH IN THIS ARTICLE, PROVIDED THAT THE GOVERNING
4 BOARD OF SUCH MUNICIPALITY, AFTER PUBLIC HEARING, ADOPTS A LOCAL LAW
5 PROVIDING THEREFOR.
6 S 2. This act shall take effect January 1, 2011.