

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 7, 2009

IN SENATE -- Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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

AN ACT to amend the executive law, in relation to the balanced fire protection act

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "balanced fire protection act".

3 S 2. Legislative intent. The legislature hereby finds that fires that
4 could have been prevented or contained tragically cut down students in
5 the prime of their lives. College dormitories and student housing pose a
6 significant fire risk and require special attention to safety. A high
7 density of students within a building requires early warning detection
8 and alarms, fire control and fire containment systems via fire resistive
9 walls and floors.

10 The legislature further finds that students require time for safe
11 escape and, if necessary, temporary refuge from fire. Containing fire
12 spread with acoustically sound and fire resistive construction provides
13 a critical cornerstone to the safety and well-being of students. Subdi-
14 viding a facility with fire resistive construction allows for extra time
15 to escape, provides a temporary area of refuge, and allows time for
16 emergency responders to engage in rescue. Subdivision of spaces in a
17 dormitory with building materials that possess inherently high fire
18 resistance and sound limiting or noise dampening properties enhance fire
19 containment performance of wall and floor elements.

20 Additionally, fire resistive construction does not contribute to the
21 fire load or add toxic quantities of smoke and gases in a fire event.

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

1 Fire resistive construction withstands the heat and ravages of fire as
2 well as the impact of water from firefighters' hose streams. Walls and
3 floors that remain structurally intact throughout the fire duration,
4 protect occupants and firefighters from potential structurally weakened
5 or collapsing construction.

6 The legislature also finds that senior citizens are a vital resource
7 and legacy to our society but are highly susceptible to the ravages of
8 fire. Many live in facilities shared by others in like circumstances,
9 that is, in multi-residential facilities. Fire protection of senior
10 citizens relies upon a balanced approach to fire safety that includes
11 early warning detection and alarm, fire control, escape and fire
12 containment via fire resistive walls and floors.

13 Many senior citizens require a longer time to evacuate in a fire emer-
14 gency. Still, informed others cannot be evacuated at all. Containing
15 fire spread with acoustically sound, fire resistive construction
16 provides a critical cornerstone to the safety and well-being of senior
17 citizens. Subdividing a facility with fire resistive construction allows
18 seniors additional time to escape from a fire, provides a temporary area
19 of refuge, effectively contains a fire to its area of origin and allots
20 time for emergency responders to engage in effective rescues. Subdivid-
21 ing living, service and common spaces with building materials that
22 possess inherently high fire resistive and sound limiting or absorption
23 properties tends to also enhance fire performance of the wall and floor
24 elements.

25 The legislature also finds that fire resistive construction does not
26 contribute to the expected fire load or add toxic quantities of smoke
27 and related gases. Fire resistive construction withstands the heat and
28 ravages of fire as well as the impact of water from firefighters' hose
29 streams. Walls and floors that remain structurally intact throughout the
30 fire duration, protect occupants and firefighters from potential struc-
31 turally weakened or collapsing construction.

32 S 3. Article 18-A of the executive law is relettered article 18-B and
33 a new article 18-A is added to read as follows:

34 ARTICLE 18-A

35 BALANCED FIRE PROTECTION

36 SECTION 385. DEFINITIONS.

37 385-A. REGULATIONS.

38 385-B. ENFORCEMENT.

39 385-C. EXEMPTIONS.

40 385-D. CONSTRUCTION WITH OTHER LAWS.

41 S 385. DEFINITIONS. AS USED IN THIS ARTICLE THE FOLLOWING TERMS SHALL
42 HAVE THE FOLLOWING MEANINGS:

43 1. "AUTOMATIC SPRINKLER SYSTEM" MEANS A SPRINKLER SYSTEM, FOR FIRE
44 PROTECTION PURPOSES, THAT IS AN INTEGRATED SYSTEM OF UNDERGROUND AND
45 OVERHEAD PIPING DESIGNED IN ACCORDANCE WITH FIRE PROTECTION ENGINEERING
46 STANDARDS. THIS SYSTEM INCLUDES AN AVAILABLE AND SUITABLE DOMESTIC WATER
47 SUPPLY. THE PORTION OF THE SYSTEM ABOVEGROUND IS A NETWORK OF SPECIALLY
48 AND HYDRAULICALLY DESIGNED PIPING INSTALLED IN A BUILDING, TO WHICH THE
49 AUTOMATIC SPRINKLERS ARE CONNECTED IN A SYSTEMATIC PATTERN. THE SYSTEM
50 IS USUALLY ACTIVATED BY HEAT FROM A FIRE AND DISCHARGES WATER OVER THE
51 DESIGNATED FIRE AREA.

52 2. "BUILDING" MEANS ANY STRUCTURE USED OR INTENDED FOR SUPPORTING OR
53 SHELTERING ANY USE OR OCCUPANCY.

54 3. "BUILDING CODE" MEANS THE PROVISIONS ADOPTED BY A UNIT OF LOCAL
55 GOVERNMENT GOVERNING THE CONSTRUCTION, ALTERATION, MOVEMENT, ENLARGE-
56 MENT, REPLACEMENT, REPAIR, EQUIPMENT, USE AND OCCUPANCY, LOCATION, MAIN-

1 TENANCE, REMOVAL AND DEMOLITION OF BUILDINGS OR STRUCTURES OR ANY
2 APPURTENANCES CONNECTED OR ATTACHED TO A BUILDING OR STRUCTURE.

3 4. "COMBUSTIBLE" MEANS A MATERIAL THAT, IN THE FORM IN WHICH IT IS
4 USED AND UNDER THE CONDITIONS ANTICIPATED, WILL IGNITE AND BURN. THE
5 TERM ALSO MEANS A MATERIAL THAT DOES NOT MEET THE DEFINITION OF NONCOM-
6 BUSTIBLE.

7 5. "DORMITORY" OR "STUDENT HOUSING" MEANS A BUILDING OR SPACE IN A
8 BUILDING IN WHICH GROUP SLEEPING ACCOMMODATIONS ARE PROVIDED FOR MORE
9 THAN SIXTEEN PERSONS WHO ARE NOT MEMBERS OF THE SAME FAMILY IN ONE ROOM
10 OR A SERIES OF CLOSELY ASSOCIATED ROOMS UNDER JOINT OCCUPANCY AND SINGLE
11 MANAGEMENT, WITH OR WITHOUT MEALS, BUT WITHOUT INDIVIDUAL COOKING FACIL-
12 ITIES.

13 6. "EXISTING BUILDING" MEANS A BUILDING ERECTED, OR OFFICIALLY AUTHOR-
14 IZED TO BE CONSTRUCTED BY THE AUTHORITY HAVING JURISDICTION TO APPROVE
15 THE CONSTRUCTION, BEFORE THE EFFECTIVE DATE OF THIS ARTICLE.

16 7. "FIRE COMPARTMENT" MEANS A SPACE WITHIN A BUILDING THAT IS ENCLOSED
17 BY FIRE PARTITIONS ON ALL SIDES, INCLUDING THE TOP AND BOTTOM.

18 8. "FIRE PARTITION" MEANS A TWO HOUR NONCOMBUSTIBLE FIRE RESISTIVE
19 VERTICAL FIRE SEPARATION ASSEMBLY DESIGNED TO RESTRICT THE SPREAD OF
20 FIRE, IN WHICH OPENINGS ARE PROTECTED.

21 9. "FIRE RESISTANCE RATING" MEANS THE PERIOD OF TIME THAT A BUILDING
22 ELEMENT, COMPONENT OR ASSEMBLY MAINTAINS THE ABILITY TO CONFINE A FIRE,
23 WITHSTANDS A HOSE STREAM FOR THE EQUIVALENT TIME PERIOD OF THE FIRE
24 EXPOSURE, AND CONTINUES TO PERFORM A GIVEN STRUCTURAL FUNCTION AS DETER-
25 MINED BY THE TEST METHODS PRESCRIBED IN "ASTM E 119, STANDARD METHOD OF
26 TESTS OF FIRE ENDURANCE OF BUILDING CONSTRUCTION AND MATERIALS."

27 10. "FIRE RESISTIVE CONSTRUCTION" MEANS CONSTRUCTION IN WHICH THE
28 STRUCTURAL ELEMENTS ARE OF STEEL, IRON, CONCRETE OR MASONRY IN ACCORD-
29 ANCE WITH THE STATE BUILDING CONSTRUCTION CODE, THE STATE BUILDING
30 CONSERVATION FIRE PREVENTION CODE OR THE STATE UNIFORM FIRE PREVENTION
31 AND BUILDING CODE ACT.

32 11. "NEW CONSTRUCTION" MEANS A BUILDING OR CONSTRUCTION, ERECTED, OR
33 OFFICIALLY AUTHORIZED TO BE CONSTRUCTED BY THE AUTHORITY HAVING JURIS-
34 DICTION TO APPROVE THE CONSTRUCTION AFTER THE EFFECTIVE DATE OF THIS
35 ARTICLE.

36 12. "NONCOMBUSTIBLE MATERIAL" MEANS A MATERIAL THAT, IN THE FORM IN
37 WHICH IT IS USED AND UNDER THE CONDITIONS ANTICIPATED, WILL NOT IGNITE,
38 BURN, SUPPORT COMBUSTION, OR RELEASE FLAMMABLE VAPORS WHEN SUBJECTED TO
39 FIRE OR HEAT. MATERIALS THAT ARE REPORTED AS PASSING "ASTM E 136, STAN-
40 DARD TEST METHOD FOR BEHAVIOR OF MATERIALS IN A VERTICAL TUBE FURNACE"
41 AT SEVEN HUNDRED DEGREES CELSIUS, ARE CONSIDERED NONCOMBUSTIBLE MATERI-
42 ALS.

43 13. "SENIOR CITIZEN" MEANS A PERSON SIXTY-FIVE YEARS OF AGE OR OVER.

44 14. "SENIOR CITIZEN HOUSING" MEANS (A) A BUILDING OR PORTION THEREOF
45 THAT IS USED FOR LODGING AND BOARDING OF FOUR OR MORE SENIOR CITIZEN
46 RESIDENTS, NOT RELATED BY BLOOD OR MARRIAGE TO THE OWNERS OR OPERATORS,
47 FOR THE PURPOSE OF PROVIDING PERSONAL CARE SERVICES; AND (B) WHICH SHALL
48 HAVE MORE THAN THREE LIVING UNITS.

49 15. "SOUND TRANSMISSION COEFFICIENT (STC)" MEANS THE ACOUSTICAL VALUE
50 ASSIGNED TO A MATERIAL'S ABILITY IN SYSTEM, TO MINIMIZE SOUND TRANS-
51 MISSION BETWEEN TENANT OCCUPANCIES THEREBY CREATING QUIETER ENVIRONS.

52 S 385-A. REGULATIONS. 1. THE STATE FIRE ADMINISTRATOR SHALL TAKE
53 APPROPRIATE STEPS TO ENSURE THAT THE FOLLOWING REQUIREMENTS, SPECIF-
54 ICALLY DESIGNED TO FOSTER FIRE SAFE HOUSING PROVISIONS PROTECTING THE
55 HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF THE STATE, ARE INCORPO-
56 RATED INTO THE STATE BUILDING AND FIRE CODES:

1 (A) ALL NEW CONSTRUCTION HOUSING SENIOR CITIZENS OR STUDENTS SHALL BE
2 OF NONCOMBUSTIBLE FIRE RESISTIVE CONSTRUCTION IN ACCORDANCE WITH THE
3 STATE BUILDING CODE, EXCEPT THAT BUILDINGS PROTECTED WITH AN AUTOMATIC
4 SPRINKLER SYSTEM AND IN COMPLIANCE WITH PARAGRAPH (B) OF THIS SUBDIVI-
5 SION MAY BE OF ANY CONSTRUCTION TYPE ALLOWED BY THE STATE BUILDING CODE.

6 (B) A FIRE PARTITION HAVING A FIRE RATING OF AT LEAST TWO HOURS AND A
7 SOUND TRANSMISSION COEFFICIENT OF AT LEAST FIFTY IS REQUIRED IN
8 CONNECTION WITH ALL OF THE FOLLOWING IN ALL NEW BUILDINGS AND
9 CONSTRUCTION OR PORTIONS THEREOF CONSTITUTING A DORMITORY, STUDENT HOUS-
10 ING OR SENIOR HOUSING:

11 (1) BETWEEN EACH INDIVIDUAL LIVING UNIT, TO FORM FIRE COMPARTMENTS;

12 (2) ALL EXIT CORRIDORS;

13 (3) ALL EXIT STAIRWAYS;

14 (4) OCCUPANCY SEPARATIONS ACCORDING TO THE STATE BUILDING CODE;

15 (5) EXTERIOR LOAD-BEARING WALLS;

16 (6) INTERIOR LOAD-BEARING WALLS; AND

17 (7) PUBLIC AND SERVICE AREA WALLS COMMON TO GUEST ROOMS.

18 (C) OPENINGS IN FIRE PARTITIONS MUST BE PROTECTED IN ACCORDANCE WITH
19 THE STATE BUILDING CODE BUT SHALL BE RATED AT NO LESS THAN NINETY
20 MINUTES OF FIRE PROTECTION.

21 (D) FIRE PARTITIONS SHALL HAVE A MINIMUM SOUND TRANSMISSION COEFFI-
22 CIENT IN EXCESS OF FIFTY.

23 (E) BUILDINGS PROTECTED WITH AN AUTOMATIC SPRINKLER SYSTEM AND IN
24 COMPLIANCE WITH PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION SHALL BE
25 ALLOWED TO BE OF UNLIMITED AREA, AND THEIR HEIGHT MAY BE INCREASED BY UP
26 TO TWENTY-FIVE PERCENT MORE THAN THE HEIGHT OF SIMILAR BUILDINGS THAT
27 ARE NOT PROTECTED WITH AN AUTOMATIC SPRINKLER SYSTEM OR ARE NOT IN
28 COMPLIANCE WITH PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION. ALL FLOOR
29 ASSEMBLIES IN A NEW DORMITORY OR NEW STUDENT HOUSING OR SENIOR CITIZEN
30 HOUSING MUST HAVE A MINIMUM TWO HOUR FIRE RESISTIVE RATING AND BE OF
31 NONCOMBUSTIBLE CONSTRUCTION.

32 2. THE REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION ARE DESIGNED
33 FOR USE THROUGHOUT THE STATE AND HAVE PARTICULAR APPLICATION TO SENIOR
34 CITIZEN HOUSING, DORMITORIES AND STUDENT HOUSING.

35 3. THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO NEW BUILDINGS AND TO
36 CONSTRUCTION BEGUN AFTER THE EFFECTIVE DATE OF THIS ARTICLE RELATED TO
37 ALTERATIONS AND REMODELING THAT REQUIRE A BUILDING PERMIT.

38 S 385-B. ENFORCEMENT. LOCAL AUTHORITIES HAVING JURISDICTION TO ENFORCE
39 BUILDING CODES SHALL ENFORCE THE PROVISIONS OF THIS ARTICLE.

40 S 385-C. EXEMPTIONS. EXISTING BUILDINGS AND AREAS OF EXISTING BUILD-
41 INGS THAT ARE NOT SUBJECT TO REMODELING, ALTERATIONS OR AN INCREASE IN
42 HEIGHT OR FLOOR AREA ARE EXEMPT FROM THE PROVISIONS OF THIS ARTICLE.

43 S 385-D. CONSTRUCTION WITH OTHER LAWS. THE PROVISIONS OF THIS ARTICLE
44 SHALL SUPERSEDE ANY OTHER PROVISION OF A GENERAL, SPECIAL OR LOCAL LAW,
45 ORDINANCE, ADMINISTRATIVE CODE, RULE OR REGULATION INCONSISTENT OR IN
46 CONFLICT THEREWITH; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS ARTI-
47 CLE SHALL NOT SUPERSEDE STATE OR LOCAL REQUIREMENTS FOR SPRINKLERS,
48 EARLY WARNING DETECTION, FIRE ALARM SYSTEMS OR OTHER LIFE SAFETY
49 SYSTEMS.

50 S 4. This act shall take effect on the ninetieth day after it shall
51 have become a law.