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

S. 551 A. 1560

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:

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

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

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

Additionally, fire resistive construction does not contribute to the 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.

LBD03586-01-9

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

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

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

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

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

ARTICLE 18-A

BALANCED FIRE PROTECTION

SECTION 385. DEFINITIONS.
385-A. REGULATIONS.
385-B. ENFORCEMENT.
385-C. EXEMPTIONS.
385-D. CONSTRUCTION WITH OTHER LAWS.

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

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

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

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

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

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

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

6. "EXISTING BUILDING" MEANS A BUILDING ERECTED, OR OFFICIALLY AUTHORIZED TO BE CONSTRUCTED BY THE AUTHORITY HAVING JURISDICTION TO APPROVE THE CONSTRUCTION, BEFORE THE EFFECTIVE DATE OF THIS ARTICLE.

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

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

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

10. "FIRE RESISTIVE CONSTRUCTION" MEANS CONSTRUCTION IN WHICH THE STRUCTURAL ELEMENTS ARE OF STEEL, IRON, CONCRETE OR MASONRY IN ACCORDANCE WITH THE STATE BUILDING CONSTRUCTION CODE, THE STATE BUILDING CONSERVATION FIRE PREVENTION CODE OR THE STATE UNIFORM FIRE PREVENTION AND BUILDING CODE ACT.

11. "NEW CONSTRUCTION" MEANS A BUILDING OR CONSTRUCTION, ERECTED, OR OFFICIALLY AUTHORIZED TO BE CONSTRUCTED BY THE AUTHORITY HAVING JURISDICTION TO APPROVE THE CONSTRUCTION AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

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

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

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

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

S 385-A. REGULATIONS. 1. THE STATE FIRE ADMINISTRATOR SHALL TAKE APPROPRIATE STEPS TO ENSURE THAT THE FOLLOWING REQUIREMENTS, SPECIFICALLY DESIGNED TO FOSTER FIRE SAFE HOUSING PROVISIONS PROTECTING THE HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF THE STATE, ARE INCORPORATED INTO THE STATE BUILDING AND FIRE CODES:

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

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

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

(2) ALL EXIT CORRIDORS;

(3) ALL EXIT STAIRWAYS;

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

(5) EXTERIOR LOAD-BEARING WALLS;

(6) INTERIOR LOAD-BEARING WALLS; AND

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

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

(D) FIRE PARTITIONS SHALL HAVE A MINIMUM SOUND TRANSMISSION COEFFICIENT IN EXCESS OF FIFTY.

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

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

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

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

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

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

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