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

3451

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

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

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

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

Section 1. Section 379 of the executive law, as added by chapter 707 of the laws of 1981, subdivision 1 as amended by chapter 772 of the laws of 1986 and subdivision 5 as added by chapter 622 of the laws of 1986, is amended to read as follows:

S 379. [Incorporation of higher standards by council upon recommendation of local government; local] LOCAL building regulations. 1. Except in the case of factory manufactured homes, intended for use as one or two family dwelling units or multiple dwellings of not more than two stories in height, the legislative body of any local government may duly enact or adopt local laws or ordinances imposing higher or more restrictive standards for construction within the jurisdiction of such local government than are applicable generally to such local government in the uniform code. [Within thirty days of such enactment or adoption, the chief executive officer, or if there be none, the chairman of the legislative body of such local government, shall so notify the council, and shall petition the council for a determination of whether such local laws or ordinances are more stringent than the standards for construction applicable generally to such local government in the uniform code. During the period in which the council is considering such petition, such local laws or ordinances shall remain in full force and effect.

2. If the council finds that such higher or more restrictive standards are reasonably necessary because of special conditions prevailing within

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

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the local government and that such standards conform with accepted engineering and fire prevention practices and the purposes of this article, the council shall adopt such standards, in whole or part. The council shall have the power to limit the term or duration of such standards, impose conditions in connection with the adoption thereof, and to terminate such standards at such times, and in such manner as the council may deem necessary, desirable or proper.

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

[4. Within one hundred twenty days after the effective date of the uniform code, a local government may by resolution duly enacted petition the council for a determination as to whether an existing building and/or fire code in force in said local government is more stringent than the uniform code. During the period in which the council is considering such petition such local code shall remain in full force and effect. If, after review, the council determines that such local code is less stringent than the uniform code the council shall notify the chief executive officer or, if there be none, the chairman of the legislative body of such local government and the uniform code shall, thirty days after the date of notification, apply in such local government. If the council finds that such local code is not less stringent than the uniform code such local code shall continue in full force and effect until the council, upon its own initiative, reviews such local code and determines that it is no longer more stringent, whereupon the council shall notify the chief executive officer or chairman of the legislative body of such local government and thirty days after the date of notification the uniform code shall apply in such local government.

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

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

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

S 3. This act shall take effect immediately.