

4555

2009-2010 Regular Sessions

I N A S S E M B L Y

February 5, 2009

Introduced by M. of A. BRENNAN, LENTOL, ROSENTHAL, LANCMAN, HEVESTI,
MARKEY, COLTON, BING, GOTTFRIED, MAISEL, BENEDETTO, CYMBROWITZ,
WRIGHT, ROBINSON, COOK, CLARK, BROOK-KRASNY, MILLMAN, JACOBS, CAMARA,
PERALTA, GREENE, PERRY -- Multi-Sponsored by -- M. of A. DINOWITZ,
FARRELL, GLICK, V. LOPEZ, NOLAN, PHEFFER -- read once and referred to
the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in
relation to adding civil penalties for failure to certify correction
of immediately hazardous violations that pose a threat of imminent
danger and creating a duty to reinspect and abate hazardous activities
in violation of the New York city building code

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

1 Section 1. Legislative findings. The legislature hereby finds and
2 declares that the purpose of the New York city building code is to
3 ensure construction and building safety as well as to preserve the
4 integrity of the individual neighborhoods in the city of New York.
5 Furthermore, the health and safety of the population living in and
6 around the many construction projects within such a densely populated
7 city is a matter of state concern as pressure mounts to build more and
8 more while completing projects in the shortest time possible.
9 S 2. Chapter 2 of title 28 of the administrative code of the city of
10 New York is amended by adding a new article 217 to read as follows:

11 ARTICLE 217

12 FAILURE TO CERTIFY CORRECTION OF CERTAIN IMMEDIATELY
13 HAZARDOUS VIOLATIONS

14 S 28-217.1 DEPARTMENT PENALTY FOR FAILURE TO CERTIFY CORRECTION. IN
15 ADDITION TO ANY PENALTIES OTHERWISE AUTHORIZED BY LAW PURSUANT TO ARTI-
16 CLE 202 AND THE RULES OF THE DEPARTMENT, WHENEVER ANY PERSON FAILS TO
17 SUBMIT CERTIFICATION OF CORRECTION OF AN IMMEDIATELY HAZARDOUS VIOLATION
18 THAT POSES A THREAT OF IMMINENT DANGER TO PUBLIC SAFETY OR PROPERTY, AS

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

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1 REQUIRED BY AN ORDER ISSUED PURSUANT TO SECTION 28-204.2, A PENALTY
2 SHALL BE PAID TO THE DEPARTMENT IN THE AMOUNT OF NOT LESS THAN ONE THOU-
3 SAND FIVE HUNDRED DOLLARS OR MORE THAN FIVE THOUSAND DOLLARS. NO PERMIT
4 OR CERTIFICATE OF OCCUPANCY SHALL BE ISSUED AND NO STOP WORK ORDER MAY
5 BE RESCINDED AT THE PROPERTY NAMED IN THE ORDER UNTIL SUCH PENALTY IS
6 PAID TO THE DEPARTMENT.

7 S 28-217.2 REINSPECTION. WHERE AN IMMEDIATELY HAZARDOUS CONDITION HAS
8 BEEN IDENTIFIED AS POSING A THREAT OF IMMINENT DANGER TO PUBLIC SAFETY
9 OR PROPERTY AND A VIOLATION HAS BEEN ISSUED, THE COMMISSIONER SHALL
10 RE-INSPECT THE CONDITION THAT GAVE RISE TO THE VIOLATION WITHIN SIXTY
11 DAYS OF THE DATE OF THE NOTICE OF A VIOLATION, UNLESS:

12 1. A CERTIFICATION OF THE CORRECTION OF THE CONDITION HAS BEEN FILED
13 IN THE MANNER AND FORM PRESCRIBED BY THE DEPARTMENT; OR

14 2. THE PERSON TO WHOM THE VIOLATION HAS BEEN DIRECTED HAS OBTAINED AN
15 EXTENSION OF TIME FOR FILING THE CERTIFICATE OF CORRECTION OF THE
16 VIOLATION FROM THE COMMISSIONER IN ACCORDANCE WITH SECTION 28-204.4 AND
17 WITH ANY APPLICABLE RULES OF THE DEPARTMENT, AND SAID EXTENSION OF TIME
18 TO FILE HAS NOT YET EXPIRED; OR

19 3. THE CONDITION HAS BEEN CORRECTED IN THE PRESENCE OF THE COMMISSION-
20 ER.

21 S 28-217.2.1 CONTINUED NONCOMPLIANCE. IF, UPON RE-INSPECTION, THE
22 COMMISSIONER DETERMINES THE CONDITION CONTINUES TO POSE A THREAT OF
23 IMMINENT DANGER TO PUBLIC SAFETY OR PROPERTY, AND THE PERSON AGAINST
24 WHOM THE INITIAL VIOLATION WAS DIRECTED IS NOT IN COMPLIANCE WITH
25 SECTION 28-204.4, THE COMMISSIONER SHALL ISSUE AN APPROPRIATE VIOLATION
26 AND SHALL ISSUE A STOP-WORK ORDER, PURSUANT TO SECTION 28-207.2, OR THE
27 COMMISSIONER SHALL, IF THE COMMISSIONER IS UNABLE TO OBTAIN ACCESS TO
28 THE PREMISES, REQUEST THE CORPORATION COUNSEL TO INSTITUTE LEGAL
29 PROCEEDINGS TO COMPEL CORRECTION OF THE VIOLATION AND ABATE THE CONDI-
30 TION OR TAKE SUCH OTHER ACTION AS IS APPROPRIATE.

31 S 28-217.2.2 INSPECTIONS BY THE COMMISSIONER. THE COMMISSIONER SHALL
32 CONTINUE TO RE-INSPECT ANY CONDITION THAT HAS GIVEN RISE TO AN IMME-
33 DIATELY HAZARDOUS VIOLATION THAT POSES A THREAT OF IMMINENT DANGER TO
34 PUBLIC SAFETY OR PROPERTY EVERY SIXTY DAYS, AND SHALL FOLLOW THE PROCE-
35 DURES DESCRIBED IN ITEMS ONE, TWO AND THREE OF SECTION 28-217.2 UNTIL
36 THE CONDITION HAS BEEN FOUND BY INSPECTION OR CERTIFICATION TO BE
37 CORRECTED OR ABATED.

38 S 28-217.3 FALSE CERTIFICATIONS OF CORRECTION. IT SHALL BE UNLAWFUL TO
39 PREPARE, FILE OR OFFER FOR FILING A CERTIFICATION OF CORRECTION OF AN
40 IMMEDIATELY HAZARDOUS CONDITION, KNOWING THAT SUCH CERTIFICATION
41 CONTAINS A FALSE STATEMENT OR FALSE INFORMATION. ANY PERSON WHO PREPARES
42 SUCH A CERTIFICATE SHALL BE SUBJECT TO PROSECUTION UNDER SECTION 175.05
43 OR 175.10 OF THE PENAL LAW. ANY PERSON WHO FILES SUCH A CERTIFICATE OR
44 OFFERS SUCH A CERTIFICATE FOR FILING SHALL BE SUBJECT TO PROSECUTION
45 UNDER SECTION 175.30 OR 175.35 OF THE PENAL LAW. NOTHING IN THIS SECTION
46 SHALL BE CONSTRUED TO LIMIT, ALTER OR AFFECT THE AUTHORITY CONFERRED BY
47 ANY OTHER PROVISION OF THIS CHAPTER OR OTHER LAW TO BRING CRIMINAL,
48 CIVIL OR ADMINISTRATIVE ACTIONS OR PROCEEDINGS OR OTHER REMEDIES FOR THE
49 PREPARATION, FILING OR OFFERING FOR FILING OF A CERTIFICATION OF
50 CORRECTION OF AN IMMEDIATELY HAZARDOUS CONDITION CONTAINING A FALSE
51 STATEMENT OR FALSE INFORMATION.

52 S 3. This act shall take effect 6 months after it shall have become a
53 law.