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

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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 -- read once and referred to the Committee on Cities -- recommitted to the Committee on Cities in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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.

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

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75-N. ENHANCED PENALTIES WHEN ELDERLY PERSONS ARE TARGETED.
75-O. NO LICENSE ISSUED WHEN.
75-P. REQUIREMENTS TO MAINTAIN LICENSE.
75-Q. APPLICATION; FEES.
75-R. FORM FOR LICENSES.
75-S. PLACE OF BUSINESS AND POSTING OF LICENSE.
75-T. FEES; BIENNIAL RENEWALS; INACTIVE LICENSE.
75-U. ACTION ON APPLICATIONS.
75-V. BOND.
75-W. REVOCATION, SUSPENSION, AND RENEWAL OF LICENSES.
75-X. DEATH OR DISSOCIATION.
75-Y. CIVIL ACTION.
75-Z. VIOLATION; PENALTIES.
76. FORFEITURE OF PROPERTY FOR UNLICENSED ACTIVITY.
76-A. INJUNCTION.
76-B. PAYMENT FOR GOODS AND SERVICES.
76-C. DISCLOSURE; CONTRACTS.
76-D. FALSE STATEMENT.
76-E. DISCIPLINARY ACTION AGAINST LICENSEE.
76-F. APPLICABILITY TO CITIES WITH A POPULATION OF LESS THAN ONE MILLION.

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

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

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

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

1. "BOARD" MEANS THE CONTRACTORS LICENSE BOARD.

2. "CHLOROFLUOROCARBON" OR "CFC" MEANS ANY MEMBER OF THE FAMILY OF SUBSTANCES CONTAINING CARBON, FLUORINE, AND CHLORINE, INCLUDING, WITHOUT LIMITATION, THOSE COMPOUNDS KNOWN AS CFC-11, CFC-12, CFC-13, CFC-14,

CFC-113, CFC-114, CFC-115, CFC-116, CFC-500, CFC-502, AND CFC-503, AND ANY COMBINATION OR MIXTURE CONTAINING ANY OF THESE CHLOROFLUOROCARBON COMPOUNDS.

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

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

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

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

7. "INSPECTOR" MEANS ANY PERSON EMPLOYED BY THE DEPARTMENT TO INVESTIGATE MATTERS RELATING TO ANY PERSON WHO FURNISHES COMMODITIES OR SERVICES FOR WHICH A LICENSE IS REQUIRED FROM THE DEPARTMENT.

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

9. "RME" MEANS RESPONSIBLE MANAGING EMPLOYEE.

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

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

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

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

2. ANY PERSON ACTING AS A RECEIVER, TRUSTEE IN BANKRUPTCY, PERSONAL REPRESENTATIVE, OR ANY OTHER PERSON ACTING UNDER ANY ORDER OR AUTHORIZATION OF ANY COURT;

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

4. ANY PROJECT OR OPERATION FOR WHICH THE AGGREGATE CONTRACT PRICE FOR LABOR, MATERIALS, TAXES, AND ALL OTHER ITEMS IS NOT MORE THAN ONE THOUSAND DOLLARS. THIS EXEMPTION SHALL NOT APPLY IN ANY CASE WHERE A BUILDING PERMIT IS REQUIRED REGARDLESS OF THE AGGREGATE CONTRACT PRICE, NOR WHERE THE UNDERTAKING IS ONLY A PART OF A LARGER OR MAJOR PROJECT OR OPERATION, WHETHER UNDERTAKEN BY THE SAME OR A DIFFERENT CONTRACTOR OR IN WHICH A DIVISION OF THE PROJECT OR OPERATION IS MADE IN CONTRACTS OF

AMOUNTS NOT MORE THAN ONE THOUSAND DOLLARS FOR THE PURPOSE OF EVADING THIS ARTICLE OR OTHERWISE;

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

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

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

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

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

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

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

2. OF THE BOARD MEMBERS:

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

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

3. EACH BOROUGH SHALL BE REPRESENTED ON THE BOARD.

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

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

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

2. ADOPT, AMEND, OR REPEAL SUCH RULES AND REGULATIONS AS THE BOARD MAY DEEM PROPER FULLY TO EFFECTUATE THIS ARTICLE AND CARRY OUT THE PURPOSE THEREOF, WHICH IS THE PROTECTION OF THE GENERAL PUBLIC. ALL RULES AND REGULATIONS SHALL BE APPROVED BY THE MAYOR AND THE COMMISSIONER. THE RULES AND REGULATIONS MAY FORBID ACTS OR PRACTICES DEEMED BY THE BOARD TO BE DETRIMENTAL TO THE ACCOMPLISHMENT OF THE PURPOSE OF THIS ARTICLE. THE RULES AND REGULATIONS MAY REQUIRE CONTRACTORS TO MAKE REPORTS TO THE BOARD CONTAINING ANY ITEMS OF INFORMATION AS WILL BETTER ENABLE THE BOARD TO ENFORCE THIS ARTICLE AND RULES OR REGULATIONS, OR AS WILL BETTER ENABLE THE BOARD FROM TIME TO TIME TO AMEND THE RULES AND REGULATIONS MORE FULLY TO EFFECTUATE THE PURPOSES OF THIS ARTICLE. THE RULES AND REGULATIONS MAY REQUIRE CONTRACTORS TO FURNISH REPORTS TO OWNERS CONTAINING ANY MATTERS OF INFORMATION AS THE BOARD DEEMS NECESSARY TO PROMOTE THE PURPOSE OF THIS ARTICLE. THE ENUMERATION OF SPECIFIC MATTERS WHICH MAY PROPERLY BE MADE THE SUBJECT OF RULES AND REGULATIONS SHALL NOT BE CONSTRUED TO LIMIT THE BOARD'S GENERAL POWER TO MAKE ALL RULES AND REGULATIONS NECESSARY TO FULLY EFFECTUATE THE PURPOSE OF THIS ARTICLE;

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

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

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

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

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

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

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

10. ORDER SUMMARY SUSPENSION OF A LICENSE;

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

12. SUBPOENA WITNESSES AND DOCUMENTS, ADMINISTER OATHS, RECEIVE AFFIDAVITS AND ORAL TESTIMONY, INCLUDING TELEPHONIC COMMUNICATIONS.

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

(A) GENERAL ENGINEERING CONTRACTING;

(B) GENERAL BUILDING CONTRACTING;

(C) SPECIALTY CONTRACTING.

2. A GENERAL ENGINEERING CONTRACTOR IS A CONTRACTOR WHOSE PRINCIPAL CONTRACTING BUSINESS IS IN CONNECTION WITH FIXED WORKS REQUIRING SPECIALIZED ENGINEERING KNOWLEDGE AND SKILL, INCLUDING THE FOLLOWING DIVISIONS OR SUBJECTS: IRRIGATION, DRAINAGE, WATER POWER, WATER SUPPLY, FLOOD CONTROL, INLAND WATERWAYS, HARBORS, DOCKS AND WHARVES, SHIPYARDS AND PORTS, DAMS AND HYDROELECTRIC PROJECTS, LEVEES, RIVER CONTROL AND

RECLAMATION WORKS, RAILROADS, HIGHWAYS, STREETS AND ROADS, TUNNELS, AIRPORTS AND AIRWAYS, SEWERS AND SEWAGE DISPOSAL PLANTS AND SYSTEMS, WASTE REDUCTION PLANTS, BRIDGES, OVERPASSES, UNDERPASSES AND OTHER SIMILAR WORKS, PIPELINES AND OTHER SYSTEMS FOR THE TRANSMISSION OF PETROLEUM AND OTHER LIQUID OR GASEOUS SUBSTANCES, PARKS, PLAYGROUNDS AND OTHER RECREATIONAL WORKS, REFINERIES, CHEMICAL PLANTS AND SIMILAR INDUSTRIAL PLANTS REQUIRING SPECIALIZED ENGINEERING KNOWLEDGE AND SKILL, POWERHOUSES, POWER PLANTS AND OTHER UTILITY PLANTS AND INSTALLATIONS, MINES AND METALLURGICAL PLANTS, LAND LEVELLING AND EARTH-MOVING PROJECTS, EXCAVATING, GRADING, TRENCHING, PAVING AND SURFACING WORK AND CEMENT AND CONCRETE WORKS IN CONNECTION WITH THE ABOVE MENTIONED FIXED WORKS.

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

4. A SPECIALTY CONTRACTOR IS A CONTRACTOR WHOSE OPERATIONS AS SUCH ARE THE PERFORMANCE OF CONSTRUCTION WORK REQUIRING SPECIAL SKILL SUCH AS, BUT NOT LIMITED TO, DRYWALL, PAINTING AND DECORATING, LANDSCAPING, FLOORING, CARPET LAYING BY ANY INSTALLATION METHOD, OR ROOFING WORK, AND OTHERS WHOSE PRINCIPAL CONTRACTING BUSINESS INVOLVES THE USE OF SPECIALIZED BUILDING TRADES OR CRAFTS, BUT SHALL NOT INCLUDE ELECTRICAL CONTRACTORS REGULATED BY CHAPTER THREE OF TITLE TWENTY-SEVEN OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

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

2. A LICENSEE MAY MAKE APPLICATION FOR CLASSIFICATION AND BE CLASSIFIED IN MORE THAN ONE CLASSIFICATION IF THE LICENSEE MEETS THE QUALIFICATIONS PRESCRIBED BY THE BOARD FOR SUCH ADDITIONAL CLASSIFICATION OR CLASSIFICATIONS. FOR QUALIFYING OR CLASSIFYING IN ADDITIONAL CLASSIFICATIONS, THE LICENSEE SHALL PAY THE APPROPRIATE APPLICATION FEE BUT SHALL NOT BE REQUIRED TO PAY ANY ADDITIONAL LICENSE FEE.

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

S 75-G. LICENSES REQUIRED. NO PERSON WITHIN THE PURVIEW OF THIS ARTICLE SHALL ACT, OR ASSUME TO ACT, OR ADVERTISE, 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 CONTRACTORS LICENSE BOARD.

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

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

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

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

"DISCLOSURE STATEMENT

STATE LAW REQUIRES CONSTRUCTION TO BE DONE BY LICENSED CONTRACTORS. YOU HAVE APPLIED FOR A PERMIT UNDER AN EXEMPTION TO THAT LAW. THE EXEMPTION PROVIDED IN THE GENERAL CITY LAW S75-B(7), ALLOWS YOU, AS THE OWNER OR LESSEE OF YOUR PROPERTY, TO ACT AS YOUR OWN GENERAL CONTRACTOR EVEN THOUGH YOU DO NOT HAVE A LICENSE. YOU MUST SUPERVISE THE CONSTRUCTION YOURSELF. YOU MUST ALSO HIRE LICENSED SUBCONTRACTORS. THE BUILDING MUST BE FOR YOUR OWN USE AND OCCUPANCY. IT MAY NOT BE BUILT FOR SALE OR LEASE. IF YOU SELL OR LEASE A BUILDING YOU HAVE BUILT YOURSELF WITHIN ONE YEAR AFTER THE CONSTRUCTION IS COMPLETE, THE LAW WILL PRESUME THAT YOU BUILT IT FOR SALE OR LEASE, WHICH IS A VIOLATION OF THE EXEMPTION, AND YOU MAY BE PROSECUTED FOR THIS. IT IS YOUR RESPONSIBILITY TO MAKE SURE THAT SUBCONTRACTORS HIRED BY YOU HAVE LICENSES REQUIRED BY STATE LAW AND BY COUNTY LICENSING ORDINANCES. ELECTRICAL OR PLUMBING WORK MUST BE PERFORMED BY CONTRACTORS LICENSED UNDER THE LAWS OF THE STATE OF NEW YORK. ANY PERSON WORKING ON YOUR BUILDING WHO IS NOT LICENSED MUST BE YOUR EMPLOYEE WHICH MEANS THAT YOU MUST DEDUCT F.I.C.A. AND WITHHOLDING TAXES AND PROVIDE WORKERS' COMPENSATION FOR THAT EMPLOYEE, ALL AS PRESCRIBED BY LAW. YOUR CONSTRUCTION MUST COMPLY WITH ALL APPLICABLE LAWS, ORDINANCES, BUILDING CODES, AND ZONING REGULATIONS. IF YOU VIOLATE GENERAL CITY LAW S75-B(7) YOU MAY BE FINED $5,000 OR FORTY PERCENT OF THE APPRAISED VALUE OF THE BUILDING AS DETERMINED BY THE NEW YORK CITY DEPARTMENT OF FINANCE TAX APPRAISER, WHICHEVER IS GREATER, FOR THE FIRST OFFENSE; AND $10,000 OR FIFTY PERCENT OF THE APPRAISED VALUE OF THE BUILDING AS DETERMINED BY THE NEW YORK CITY DEPARTMENT OF FINANCE TAX APPRAISER, WHICHEVER IS GREATER FOR ANY SUBSEQUENT OFFENSE."

THE CITY SHALL NOT ISSUE A BUILDING PERMIT TO THE OWNER-APPLICANT UNTIL THE APPLICANT SIGNS A STATEMENT THAT THE APPLICANT HAS READ AND UNDERSTANDS THE DISCLOSURE FORM.

4. A CITY BUILDING INSPECTOR OR OTHER BUILDING OFFICIAL SHALL REPORT TO THE DEPARTMENT OF BUILDINGS THE NAME AND ADDRESS OF ANY PERSON, WHO, 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

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

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

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

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

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

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

7. THE COMMISSIONER MAY APPLY TO THE APPROPRIATE COURT FOR A JUDGMENT TO ENFORCE THE PROVISIONS OF ANY FINAL ORDER ISSUED BY THE COMMISSIONER OR DESIGNATED HEARINGS OFFICER PURSUANT TO THIS SECTION, INCLUDING THE PROVISIONS TO CEASE AND DESIST AND FOR CIVIL PENALTIES IMPOSED. IN ANY PROCEEDING TO ENFORCE THE PROVISIONS OF THE FINAL ORDER OF THE COMMISSIONER OR DESIGNATED HEARINGS OFFICER, THE COMMISSIONER NEED ONLY SHOW THAT NOTICE WAS GIVEN, A HEARING WAS HELD OR THE TIME GRANTED FOR REQUESTING A HEARING HAS RUN WITHOUT SUCH A REQUEST, AND A CERTIFIED COPY OF THE FINAL ORDER OF THE COMMISSIONER OR DESIGNATED HEARINGS OFFICER.

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

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

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

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

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

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

S 75-O. NO LICENSE ISSUED WHEN. 1. NO LICENSE AUTHORIZED BY THIS ARTICLE SHALL BE ISSUED TO:

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) WORKERS' COMPENSATION INSURANCE;

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

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

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

3. THE BOARD SHALL NOT RESTORE THE FORFEITED LICENSE UNTIL SATISFACTORY PROOF OF CONTINUOUS INSURANCE AND BOND COVERAGE ARE SUBMITTED TO THE BOARD AS REQUIRED BY THIS SECTION.

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

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

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

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

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

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

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

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

2. THE LICENSED CONTRACTOR SHALL REPORT ANY CHANGE OF ADDRESS OR TELEPHONE NUMBER TO THE BOARD WITHIN TEN BUSINESS DAYS FROM SUCH CHANGE.

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

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

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

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

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

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

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

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

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

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

3. THE BOARD, IN EXERCISING ITS DISCRETION SHALL TAKE INTO CONSIDERATION THE LICENSEE'S OR APPLICANT'S FINANCIAL CONDITION AND EXPERIENCE IN THE FIELD.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. WILFUL FAILURE TO PAY WHEN DUE A DEBT INCURRED FOR SERVICES OR MATERIALS RENDERED OR PURCHASED IN CONNECTION WITH THE LICENSEE'S OPERATIONS AS A CONTRACTOR WHEN THE LICENSEE HAS THE ABILITY TO PAY OR WHEN THE LICENSEE HAS RECEIVED SUFFICIENT FUNDS THEREFOR AS PAYMENT FOR THE PARTICULAR OPERATION FOR WHICH THE SERVICES OR MATERIALS WERE RENDERED OR PURCHASED;

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

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

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

18. PERFORMING SERVICE ON A RESIDENTIAL OR COMMERCIAL AIR CONDITIONER, UTILIZING CFCS, WITHOUT USING REFRIGERANT RECOVERY AND RECYCLING EQUIPMENT;

19. PERFORMING SERVICE ON ANY AIR CONDITIONER WITHOUT SUCCESSFUL COMPLETION OF AN APPROPRIATE TRAINING COURSE IN THE RECOVERY AND RECYCLING OF CFC AND HCFC REFRIGERANTS, WHICH INCLUDED INSTRUCTION IN THE PROPER USE OF REFRIGERANT RECOVERY AND RECYCLING EQUIPMENT THAT IS 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:

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

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

S 76. FORFEITURE OF PROPERTY FOR UNLICENSED ACTIVITY. 1. IF AN INSPECTOR FINDS THAT A PERSON HAS ACTED IN THE CAPACITY OF, OR ENGAGED IN THE BUSINESS OF A CONTRACTOR WITHIN THIS STATE WITHOUT HAVING A CURRENT LICENSE AS REQUIRED BY THIS ARTICLE TO SO ACT OR ENGAGE, AND THE PERSON IS OR WAS A DEFENDANT OR RESPONDENT IN A SEPARATE VIOLATION NOTICE OR LAWSUIT FILED WITH OR BY THE DEPARTMENT, THE INVESTIGATOR MAY ISSUE A NOTICE OF FORFEITURE OF PROPERTY USED BY THE PERSON IN THE UNLICENSED ACTIVITY, AND THE PROPERTY THAT IS THE SUBJECT OF THE NOTICE OF FORFEITURE SHALL BE TURNED OVER TO THE DEPARTMENT FOR DISPOSITION IN ACCORDANCE WITH THIS ARTICLE.

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

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

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

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

(I) BY PERSONAL SERVICE; OR

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

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

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

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

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

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

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

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

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

8. THE DEPARTMENT SHALL REVIEW THE PETITION FOR REMISSION OF FORFEITURE 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,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S 76-F. APPLICABILITY TO CITIES WITH A POPULATION OF LESS THAN ONE MILLION. ANY CITY WITHIN THE STATE IS HEREBY AUTHORIZED TO REGULATE CONTRACTORS AS SET FORTH IN THIS ARTICLE, PROVIDED THAT THE GOVERNING BOARD OF SUCH MUNICIPALITY, AFTER PUBLIC HEARING, ADOPTS A LOCAL LAW PROVIDING THEREFOR.

S 2. This act shall take effect January 1, 2011.