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

3456

2009-2010 Regular Sessions

I N S E N A T E

March 19, 2009

Introduced by Sen. ESPADA -- (at request of the Department of State) -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the executive law, in relation to the adoption by municipalities of local laws or ordinances imposing higher or more restrictive standards for construction than are applicable generally to municipalities in the 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. Subdivision 1 of section 379 of the executive law, as amended by chapter 772 of the laws of 1986, is amended to read as follows:

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 THE STANDARDS FOR CONSTRUCTION IMPOSED BY 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.] THE STANDARDS FOR CONSTRUCTION IMPOSED BY SUCH LOCAL LAW OR ORDINANCE SHALL NOT BE EFFECTIVE UNTIL SUCH STANDARDS SHALL HAVE BEEN APPROVED BY THE COUNCIL PURSUANT TO SUBDIVISION TWO OF THIS SECTION. IF SO APPROVED, SUCH STANDARDS SHALL BE

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

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SUBJECT TO SUCH LIMITATIONS AS TO TERM OR DURATION AND SUCH OTHER CONDITIONS AS MAY BE SPECIFIED BY THE COUNCIL AND SUCH STANDARDS SHALL BE SUBJECT TO TERMINATION BY THE COUNCIL AS PROVIDED IN SUBDIVISION TWO OF THIS SECTION.

S 2. Subdivision 2 of section 379 of the executive law, as added by chapter 707 of the laws of 1981, is amended to read as follows:

2. If the council finds (A) THAT THE STANDARDS FOR CONSTRUCTION IMPOSED BY A LOCAL LAW OR ORDINANCE DULY ENACTED OR ADOPTED BY A LOCAL GOVERNMENT PURSUANT TO SUBDIVISION ONE OF THIS SECTION OR BY NASSAU COUNTY PURSUANT TO SUBDIVISION FIVE OF THIS SECTION ARE HIGHER AND MORE RESTRICTIVE THAN THE STANDARDS FOR CONSTRUCTION APPLICABLE GENERALLY TO SUCH LOCAL GOVERNMENT OR TO SUCH COUNTY, AS THE CASE MAY BE, UNDER THE UNIFORM CODE, AND (B) that such higher or more restrictive standards are reasonably necessary because of special conditions prevailing within [the] SUCH local government OR WITHIN SUCH COUNTY, AS THE CASE MAY BE, and (C) that such standards conform with accepted engineering and fire prevention practices and the purposes of this article, the council shall [adopt] APPROVE 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] APPROVAL thereof, and to terminate such standards at such times, and in such manner as the council may deem necessary, desirable or proper.

S 3. Subdivision 3 of section 379 of the executive law, as added by chapter 707 of the laws of 1981, is amended to read as follows:

3. 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, EXCEPT AS PROVIDED IN SUBDIVISIONS ONE AND FIVE OF THIS SECTION.

S 4. Subdivision 5 of section 379 of the executive law, as added by chapter 622 of the laws of 1986, is amended to read as follows:

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] WITHIN THIRTY DAYS OF SUCH ENACTMENT OR ADOPTION, 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] THE STANDARDS FOR CONSTRUCTION IMPOSED BY 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.] THE STANDARDS FOR CONSTRUCTION IMPOSED BY SUCH LOCAL LAW OR ORDINANCE SHALL NOT BE EFFECTIVE UNTIL SUCH STANDARDS SHALL HAVE BEEN APPROVED BY THE COUNCIL PURSUANT TO SUBDIVISION TWO OF THIS SECTION. IF SO APPROVED, SUCH STANDARDS SHALL BE SUBJECT TO SUCH LIMITATIONS AS TO TERM OR DURATION AND SUCH OTHER CONDITIONS AS MAY BE SPECIFIED BY THE COUNCIL AND SUCH STANDARDS SHALL BE SUBJECT TO TERMINATION BY THE COUNCIL AS PROVIDED IN SUBDIVISION TWO OF THIS SECTION.

S 5. This act shall take effect immediately.