

1785

2011-2012 Regular Sessions

I N A S S E M B L Y

January 12, 2011

Introduced by M. of A. BRENNAN, MARKEY, ROSENTHAL, HEVESI, BROOK-KRASNY, LANCMAN, LENTOL, MILLMAN, MAISEL, BING, CLARK, COLTON, CAMARA, BENEDETTO, CYMBROWITZ, PHEFFER, GOTTFRIED, ROBINSON, DINOWITZ, JAFFEE -- Multi-Sponsored by -- M. of A. GLICK, JACOBS, V. LOPEZ, PERRY -- 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 enacting the New York city department of buildings community accountability act

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

1 Section 1. Legislative findings. The legislature hereby finds and  
2 declares that the health and safety of the population living in and  
3 around the many construction projects within the densely populated city  
4 of New York is a matter of state concern as pressure mounts to build  
5 more and more while completing projects in the shortest time possible.  
6 Construction is the most dangerous occupation, with death rates four  
7 times the average for other workers and conditions adjacent to  
8 construction sites dangerous to the public.  
9 A comprehensive public reporting system for the tracking of accidents,  
10 vacate orders, safety violations, and enforcement actions of the depart-  
11 ment of buildings is an essential component of assuring greater account-  
12 ability and transparency in assuring compliance with the building code  
13 and the zoning resolution to improve public safety.  
14 S 2. This act shall be known and may be cited as the "New York city  
15 department of buildings community accountability act".  
16 S 3. Section 28-103.18.1 of the administrative code of the city of New  
17 York, as added by local law number 33 of the city of New York for the  
18 year 2007, is amended to read as follows:  
19 S 28-103.18.1 Complaint records. The department shall keep records of  
20 complaints made by any person in reference to any building or other  
21 matter under the jurisdiction of the department. Recorded complaints

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

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1 shall include the name and residence of the complainant, the name of the  
2 person complained of, the date of the entry of the complaint and any  
3 suggested remedies. Except for entries of names and residences of the  
4 complainants, such records shall be made available for public examina-  
5 tion. RECORDS ON ACCIDENTS, UNSAFE BUILDING ORDERS, AND VACATE ORDERS  
6 SHALL BE POSTED ON THE DEPARTMENT'S INFORMATION WEBSITE MAINTAINED BY  
7 THE CITY OF NEW YORK, SUBJECT TO SUCH REGULATIONS AS THE COMMISSIONER  
8 SHALL PRESCRIBE.

9 S 4. The administrative code of the city of New York is amended by  
10 adding a new section 28-103.18.2 to read as follows:

11 S 28-103.18.2 RECORDS OF CONSTRUCTION AND BUILDING ACCIDENTS. THE  
12 DEPARTMENT SHALL MAINTAIN A RECORD OF ALL CONSTRUCTION AND BUILDING  
13 ACCIDENTS RESULTING IN EITHER INJURY OR DEATH TO PERSONS OR DAMAGE TO  
14 PROPERTY ARISING OUT OF VIOLATIONS OF THE BUILDING CODE. SUCH RECORD  
15 SHALL BE POSTED ON THE DEPARTMENT'S INFORMATION WEBSITE MAINTAINED BY  
16 THE CITY OF NEW YORK, SUBJECT TO SUCH REGULATIONS AS THE COMMISSIONER  
17 SHALL PRESCRIBE. THE COMMISSIONER SHALL CAUSE SUCH ACCIDENTS TO BE  
18 INVESTIGATED AND A WRITTEN REPORT PREPARED REGARDING THE CIRCUMSTANCES  
19 OF THE ACCIDENT.

20 S 5. The administrative code of the city of New York is amended by  
21 adding a new section 28-201.5 to read as follows:

22 S 28-201.5 MONTHLY REPORTS TO COMMUNITY BOARDS AND BOROUGH PRESIDENTS.  
23 THE DEPARTMENT SHALL PROVIDE A MONTHLY REPORT ON DEPARTMENT ACTIONS TO  
24 EACH COMMUNITY BOARD, FOR DEPARTMENT ACTIONS WITHIN SUCH BOARD, AND TO  
25 THE BOROUGH PRESIDENTS, FOR ACTIONS IN THE BOROUGH OF EACH BOROUGH PRES-  
26 IDENT. SUCH REPORT SHALL INCLUDE THE STATUS OF ALL VIOLATIONS, BOTH  
27 ENVIRONMENTAL CONTROL BOARD AND DEPARTMENT VIOLATIONS, ISSUED WITHIN THE  
28 RESPECTIVE COMMUNITY BOARD AND BOROUGH. THE REPORT SHALL SHOW ALL  
29 OUTSTANDING VIOLATIONS, VIOLATIONS CORRECTED DURING THE MONTH, ENFORCE-  
30 MENT ACTIONS COMMENCED, AND THE DISPOSITION OF ENFORCEMENT ACTIONS,  
31 WITHIN THE PERIOD. SUCH ENFORCEMENT ACTIONS SHALL INCLUDE COURT ACTIONS,  
32 PADLOCK ORDERS, EMERGENCY REPAIR ORDERS, AND ENVIRONMENTAL CONTROL BOARD  
33 ACTIONS AND ORDERS, INCLUDING FINES AND PENALTIES. THE REPORT SHALL  
34 FURTHER SHOW ALL UNSAFE BUILDING ORDERS, VACATE ORDERS, AND STOP WORK  
35 ORDERS. SUCH REPORT SHALL BE PROVIDED TO THE BOARDS AND THE BOROUGH  
36 PRESIDENTS IN A CLEAR AND CONSISTENT FORMAT TO ENABLE A COMPLETE AND  
37 ACCURATE TRACKING OF DEPARTMENT ACTIONS.

38 S 6. The administrative code of the city of New York is amended by  
39 adding a new section 28-207.6 to read as follows:

40 S 28-207.6 INVESTIGATION AND REPORT; DANGEROUS BUILDING, NUISANCE AND  
41 ORDER TO VACATE. WHENEVER THE DEPARTMENT HAS ISSUED AN ORDER REGARDING  
42 ANY DANGEROUS BUILDING, PLACE, OR THING, OR ANY NUISANCE, OR ANY ORDER  
43 TO VACATE ANY BUILDING, STRUCTURE, PLACE, OR PREMISES, OR FOR ANY SUCH  
44 BUILDING, STRUCTURE, PLACE, OR PREMISES TO BE SEALED AND/OR SECURED, THE  
45 COMMISSIONER SHALL CAUSE THE CIRCUMSTANCES REGARDING SUCH ORDER TO BE  
46 INVESTIGATED, AND A WRITTEN REPORT PREPARED. SUCH REPORT SHALL BE AVAIL-  
47 ABLE FOR PUBLIC EXAMINATION, AND POSTED ON THE DEPARTMENT'S INFORMATION  
48 WEBSITE MAINTAINED BY THE CITY OF NEW YORK, PURSUANT TO SUCH REGULATIONS  
49 AS THE COMMISSIONER MAY PRESCRIBE.

50 S 7. Section 28-118.1 of the administrative code of the city of New  
51 York, as added by local law number 33 of the city of New York for the  
52 year 2007, is amended to read as follows:

53 S 28-118.1 General provisions. No building or open lot shall be used  
54 or occupied without a certificate of occupancy issued by the commission-  
55 er. Issuance of a certificate of occupancy shall not be construed as an

1 approval of a violation of the provisions of this code or of other  
2 applicable laws and rules.

3 NO CERTIFICATE OF OCCUPANCY SHALL BE ISSUED FOR A NEW OR ALTERED  
4 BUILDING UNLESS PAYMENT HAS BEEN MADE OF ALL OUTSTANDING FINES, PENAL-  
5 TIES, AND JUDGMENTS ARISING OUT OF DEPARTMENT VIOLATIONS ASSOCIATED WITH  
6 THE PROPERTY, INCLUDING BUT NOT LIMITED TO VIOLATIONS ISSUED IN  
7 CONNECTION WITH ANY CONSTRUCTION, EXCAVATION OR DEMOLITION WORK.

8 S 8. The administrative code of the city of New York is amended by  
9 adding a new section 28-104.10 to read as follows:

10 S 28-104.10 COMMUNITY BOARD NOTIFICATION OF PLAN APPROVAL. 1. A. WHEN  
11 AN APPLICATION FOR APPROVAL OF PLANS SUBMITTED TO THE DEPARTMENT HAS  
12 BEEN APPROVED FOR A NEW BUILDING, THE DEPARTMENT SHALL NOTIFY THE COMMU-  
13 NITY BOARD AND THE BOROUGH PRESIDENT OF THE BOROUGH WHERE THE NEW BUILD-  
14 ING SHALL BE LOCATED OF THE DOCKET AND ITS NUMBER FOR SUCH PLAN, AND THE  
15 ADDRESS WHERE THE BUILDING IS TO BE BUILT. UPON THE REQUEST OF THE  
16 COMMUNITY BOARD, THE DEPARTMENT SHALL FURNISH, AND PROVIDE A REGULAR  
17 UPDATE, OF THE COMPLETE DOCKET OF THE PROJECT, INCLUDING ALL PLANS AND  
18 DRAWINGS, PERMITS, AMENDMENTS TO THE PLAN, AUDITS, OBJECTIONS, AND SUCH  
19 OTHER MATERIAL AS SHALL COMPRISE THE DOCKET OF SAID PROJECT.

20 B. THE DEPARTMENT SHALL FURNISH THE COMPLETE DOCKET OF THE PROJECT  
21 WITHIN FIVE BUSINESS DAYS OF SAID REQUEST, AND EACH ADDITIONAL DOCUMENT  
22 ADDED TO THE DOCKET WITHIN FIVE DAYS OF SUCH ADDITION.

23 2. A. THE COMMUNITY BOARD IN WHICH ANY NEW BUILDING PROJECT IS  
24 LOCATED, IN CONSULTATION WITH THE BOROUGH PRESIDENT IN THE BOROUGH OF  
25 THE LOCATION OF SUCH PROJECT, MAY REQUEST IN WRITING AND UPON A VOTE OF  
26 THE BOARD, AN AUDIT-REVIEW OF UP TO THIRTY PLANS PER YEAR BY THE DEPART-  
27 MENT, WHICH THE DEPARTMENT SHALL BE OBLIGATED TO CONDUCT. THE DEPARTMENT  
28 SHALL PROVIDE THE BOARD AND THE BOROUGH PRESIDENT THE RESULTS OF SUCH  
29 AUDIT-REVIEW INCLUDING ANY OBJECTIONS TO THE PLAN PROVIDED TO THE APPLI-  
30 CANT. THE DEPARTMENT SHALL FURNISH A PRELIMINARY REPORT TO THE BOARD AND  
31 THE BOROUGH PRESIDENT WITHIN THIRTY DAYS, AND A FINAL REPORT WITHIN  
32 SIXTY DAYS, OF WHETHER THE PLAN COMPLIES WITH THE BUILDING CODE AND THE  
33 ZONING RESOLUTION.

34 B. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT REQUESTS FOR  
35 AUDITS, REVIEWS, OR OTHER ACTIONS BY THE DEPARTMENT, BY COMMUNITY BOARDS  
36 OR BOROUGH PRESIDENTS.

37 3. WHERE THE DEPARTMENT IS AUDITING AND REVIEWING ANY APPROVED PLAN,  
38 ANY NOTICE OF OBJECTIONS TO THE PLAN SHALL BE PUBLISHED ON THE DEPART-  
39 MENT OF BUILDINGS INFORMATION WEBSITE MAINTAINED BY THE CITY OF NEW  
40 YORK.

41 4. WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, THE  
42 DEPARTMENT SHALL PROMULGATE STANDARDS FOR ALLOWING PERMITTED WORK TO  
43 CONTINUE WHEN OBJECTIONS TO APPROVED PLANS BY THE DEPARTMENT OCCUR. THE  
44 ADOPTION OF SUCH STANDARDS SHALL BE SUBJECT TO CHAPTER FORTY-FIVE OF THE  
45 NEW YORK CITY CHARTER.

46 S 9. Section 28-105.1 of the administrative code of the city of New  
47 York, as added by local law number 33 of the city of New York for the  
48 year 2007, is amended to read as follows:

49 S 28-105.1 General. 1. It shall be unlawful to construct, enlarge,  
50 alter, repair, move, demolish, remove or change the use or occupancy of  
51 any building or structure in the city, or to erect, install, alter,  
52 repair, or use or operate any sign or service equipment in or in  
53 connection therewith, or to erect, install, alter, repair, remove,  
54 convert or replace any gas, mechanical, plumbing or fire suppression  
55 system in or in connection therewith or to cause any such work to be  
56 done unless and until a written permit therefore shall have been issued

1 by the commissioner in accordance with the requirements of this code,  
2 subject to such exceptions and exemptions as may be provided in section  
3 28-105.4.

4 2. THE DEPARTMENT SHALL PUBLISH ON ITS WEBSITE BY COMMUNITY BOARD,  
5 NOTICE OF PERMITS GRANTED FOR ANY NEW BUILDING, FOUNDATION AND EARTH-  
6 WORK, ALTERATION, AND ANY DEMOLITION AND REMOVAL, INCLUDING THE ADDRESS  
7 OF THE PROJECT WHERE THE PERMIT HAS BEEN GRANTED. THE DEPARTMENT SHALL  
8 PROVIDE ACCESS TO OR FURNISH A COPY OF THE PERMIT AND OTHER DOCUMENTS  
9 WITHIN THE DOCKET ESTABLISHED FOR THE PROJECT, EITHER ELECTRONICALLY OR  
10 BY OTHER MEANS, UPON REQUEST AND SHALL MAKE SUCH DOCUMENTS AVAILABLE  
11 WITHIN FIVE BUSINESS DAYS OF SUCH REQUEST. THE DEPARTMENT MAY WITHHOLD  
12 PLANS FOR PARTICULAR BUILDINGS AT THE REQUEST OF LAW ENFORCEMENT AGEN-  
13 CIES.

14 S 10. The administrative code of the city of New York is amended by  
15 adding a new section 28-110.3 to read as follows:

16 S 28-110.3 PRESENCE OF SITE SAFETY COORDINATOR REQUIRED. A SITE SAFETY  
17 COORDINATOR SHALL BE PRESENT ON ANY SITE OF CONSTRUCTION OF A NEW BUILD-  
18 ING IN EXCESS OF FIVE STORIES IN HEIGHT, PURSUANT TO DEPARTMENT REGU-  
19 LATIONS.

20 S 11. This act shall take effect on the ninetieth day after it shall  
21 have become a law.