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

6291

I N S E N A T E

January 20, 2012

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to requiring the licensing of persons engaged in the design, construction, operation, inspection, maintenance, alteration, and repair of elevators and other automated people moving devices

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

Section 1. The labor law is amended by adding a new article 32 to read as follows:

ARTICLE 32

ELEVATORS AND OTHER AUTOMATED PEOPLE MOVING CONVEYANCES: LICENSING

SECTION 925. LEGISLATIVE FINDINGS AND DECLARATION.
926. APPLICATION.
927. DEFINITIONS.
928. LICENSING AND PERMIT REQUIREMENTS.
929. LICENSE AND PERMIT PROCEDURE.
930. QUALIFICATIONS, TRAINING AND CONTINUING EDUCATION.
931. REGULATIONS.
932. INVESTIGATIONS AND COMPLAINTS; INJUNCTION.
933. CIVIL PENALTIES; SUSPENSION AND REVOCATION OF LICENSES.
934. ENFORCEMENT.
935. NEW YORK STATE ELEVATOR SAFETY AND STANDARDS BOARD.

S 925. LEGISLATIVE FINDINGS AND DECLARATION. THE LEGISLATURE HEREBY FINDS AND DECLARES THAT THE USE OF UNSAFE AND DEFECTIVE ELEVATORS AND OTHER AUTOMATED PEOPLE MOVING CONVEYANCES EXPOSE EMPLOYEES AND THE PUBLIC TO UNSAFE CONDITIONS AND IMPOSE SUBSTANTIAL PROBABILITY OF SERIOUS INJURY. THE LEGISLATURE FINDS THAT THE IMPROPER AND UNINFORMED MANNER IN WHICH SOME CONTRACTORS AND THEIR EMPLOYEES DESIGN, CONSTRUCT, OPERATE, INSPECT, MAINTAIN, ALTER AND REPAIR SUCH CONVEYANCES CREATES AN UNNECESSARY AND PREVENTABLE HEALTH AND SAFETY RISK TO EMPLOYEES AND THE PUBLIC. THE PROTECTION OF EMPLOYEES AND THE PUBLIC, AS WELL AS THE PREVENTION OF SUCH INJURY, IS IN THE BEST INTEREST OF THE PEOPLE OF THE STATE OF NEW YORK.

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

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THE LEGISLATURE FINDS AND DECLARES IT TO BE ITS PURPOSE AND POLICY TO REDUCE SUCH HAZARDS BY REQUIRING PROPER TRAINING OF PERSONS EMPLOYED TO DESIGN, CONSTRUCT, OPERATE, INSPECT, MAINTAIN, ALTER AND REPAIR ELEVATORS AND OTHER AUTOMATED PEOPLE MOVING CONVEYANCES AND BY REQUIRING THE LICENSING OF CONTRACTORS AND THE CERTIFICATION OF INDIVIDUALS INVOLVED IN ELEVATOR AND OTHER AUTOMATED PEOPLE MOVING CONVEYANCES PROJECTS.

NOTHING IN THIS ARTICLE SHALL CREATE, EXPAND, DIMINISH, LIMIT, IMPAIR OR SUPERSEDE ANY JURISDICTION OVER WORK PARAMETERS A BUILDING TRADE MAY HAVE UNDER LAW, REGULATIONS, CONTRACT, PAST PRACTICE, PRIOR DETERMINATIONS OF ANY COURTS, NATIONAL LABOR RELATIONS BOARD, ARBITRATION OR OTHERWISE. NOTHING HEREIN SHALL BE USED, CONSTRUED OR INTERPRETED FOR THE PURPOSES OF RESOLVING OR SETTLING A WORK JURISDICTIONAL DISPUTE BETWEEN OR AMONG THE VARIOUS CONSTRUCTION TRADES.

S 926. APPLICATION. 1. THE DESIGN, CONSTRUCTION, OPERATION, INSPECTION, TESTING, MAINTENANCE, ALTERATION, AND REPAIR OF THE FOLLOWING EQUIPMENT ARE COVERED BY THIS ARTICLE:

(A) HOISTING AND LOWERING MECHANISMS EQUIPPED WITH A CAR OR PLATFORM WHICH MOVES BETWEEN TWO OR MORE LANDINGS. THIS EQUIPMENT INCLUDES, BUT IS NOT LIMITED TO ELEVATORS, PLATFORM LIFTS, STAIRWAY CHAIR LIFTS, AND PERSONNEL HOISTS WITHIN THE SCOPE OF ANSI A10.4.

(B) POWER DRIVEN STAIRWAYS AND WALKWAYS FOR CARRYING PERSONS BETWEEN LANDINGS. THIS EQUIPMENT INCLUDES, BUT IS NOT LIMITED TO, ESCALATORS AND MOVING WALKS.

(C) HOISTING AND LOWERING MECHANISMS EQUIPPED WITH A CAR, WHICH SERVES TWO OR MORE LANDINGS AND IS RESTRICTED TO THE CARRYING OF MATERIAL BY ITS LIMITED SIZE OR LIMITED ACCESS TO THE CAR. THIS EQUIPMENT INCLUDES, BUT IS NOT LIMITED TO, DUMBWAITERS, MATERIAL LIFTS, AND DUMBWAITERS WITH AUTOMATIC TRANSFER DEVICES.

(D) AUTOMATIC GUIDED TRANSIT VEHICLES ON GUIDEWAYS WITH AN EXCLUSIVE RIGHT OF WAY. THIS EQUIPMENTS INCLUDES, BUT IS NOT LIMITED TO, AUTOMATED PEOPLE MOVERS.

2. THE FOLLOWING EQUIPMENT IS NOT COVERED BY THIS ARTICLE:

(A) MATERIAL HOISTS WITHIN THE SCOPE OF ANSI A10.5;

(B) MANLIFTS WITHIN THE SCOPE OF ASME A90.1;

(C) MOBILE SCAFFOLDS, TOWERS, AND PLATFORMS WITHIN THE SCOPE OF ANSI A92;

(D) POWERED PLATFORMS AND EQUIPMENT FOR EXTERIOR AND INTERIOR MAINTENANCE WITHIN THE SCOPE OF ANSI 120.1;

(E) CONVEYOR AND RELATED EQUIPMENT WITHIN THE SCOPE OF ASME B20.1;

(F) CRANES, DERRICKS, HOISTS, HOOKS, JACKS AND SLINGS WITHIN THE SCOPE OF ASME B30;

(G) INDUSTRIAL TRUCKS WITHIN THE SCOPE OF ASME B56;

(H) PORTABLE EQUIPMENT, EXCEPT FOR PORTABLE ESCALATORS WHICH ARE COVERED BY ANSI A17.1;

(I) TIERING AND PILING MACHINES USED TO MOVE MATERIALS TO AND FROM STORAGE LOCATED AND OPERATING ENTIRELY WITHIN ONE STORY;

(J) EQUIPMENT FOR FEEDING OR POSITIONING MATERIALS INCLUDING, BUT NOT LIMITED TO, MACHINE TOOLS AND PRINTING PRESSES;

(K) SKIP OR FURNACE HOISTS;

(L) WHARF RAMPS;

(M) RAILROAD CAR LIFTS OR DUMPERS; AND

(N) LINE JACKS, FALSE CARS, SHAFTERS, MOVING PLATFORMS AND SIMILAR EQUIPMENT USED FOR INSTALLING AN ELEVATOR BY A CONTRACTOR LICENSED IN THIS STATE.

S 927. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING DEFINITIONS:

1. "ASCE 21" MEANS THE AMERICAN SOCIETY OF CIVIL ENGINEERS AUTOMATED PEOPLE MOVER STANDARDS.

2. "ASME A17.1" MEANS THE SAFETY CODE FOR ELEVATORS AND ESCALATORS, AN AMERICAN NATIONAL STANDARD.

3. "ASME A17.3" MEANS THE SAFETY CODE FOR EXISTING ELEVATORS AND ESCALATORS, AN AMERICAN NATIONAL STANDARD.

4. "ASME A18.1" MEANS THE SAFETY STANDARD FOR PLATFORM LIFTS AND STAIRWAY CHAIRLIFTS, AN AMERICAN NATIONAL STANDARD.

5. "AUTOMATED PEOPLE MOVER" MEANS AN INSTALLATION DEFINED AS AN "AUTOMATED PEOPLE MOVER" IN ASCE 21.

6. "BOARD" MEANS THE NEW YORK STATE ELEVATOR SAFETY AND STANDARDS BOARD ESTABLISHED BY SECTION NINE HUNDRED THIRTY-FIVE OF THIS ARTICLE.

7. "CERTIFICATE OF OPERATION" MEANS A DOCUMENT ISSUED BY THE COMMISSIONER THAT INDICATES THAT THE ELEVATOR OR RELATED CONVEYANCE HAS HAD THE REQUIRED SAFETY INSPECTION AND TESTS AND THAT THE FEES REQUIRED BY THIS ARTICLE HAVE BEEN PAID.

8. "CERTIFICATE OF OPERATION; TEMPORARY" MEANS A DOCUMENT ISSUED BY THE COMMISSIONER WHICH PERMITS THE TEMPORARY USE OF A NON-COMPLIANT ELEVATOR OR RELATED CONVEYANCE BY THE GENERAL PUBLIC FOR A LIMITED TIME, NOT TO EXCEED THIRTY DAYS, WHILE MINOR REPAIRS ARE BEING COMPLETED.

9. "CONVEYANCE" MEANS ANY ELEVATOR, DUMBWAITER, ESCALATOR, MOVING SIDEWALK, PLATFORM LIFTS, STAIRWAY CHAIRLIFTS AND AUTOMATED PEOPLE MOVERS.

10. "DORMANT ELEVATOR, DUMBWAITER, OR ESCALATOR" MEANS AN INSTALLATION PLACED OUT OF SERVICE AS SPECIFIED IN ASME A17.1 AND ASME 18.1.

11. "ELEVATOR" MEANS AN INSTALLATION DEFINED AS AN "ELEVATOR" IN ASME A17.1.

12. "ELEVATOR CONTRACTOR" MEANS THE STATE, A PUBLIC CORPORATION, OR ANY OTHER GOVERNMENTAL AGENCY OR INSTRUMENTALITY OF THE STATE OR A PUBLIC CORPORATION, SELF-EMPLOYED PERSON, COMPANY, UNINCORPORATED ASSOCIATION, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPORATION, OR ANY OTHER ENTITY, OR ANY OWNER OR OPERATOR OF ANY OF THE FOREGOING ENTITIES, WHO POSSESSES AN ELEVATOR CONTRACTOR'S LICENSE IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS NINE HUNDRED TWENTY-EIGHT AND NINE HUNDRED TWENTY-NINE OF THIS ARTICLE AND IS ENGAGED IN THE BUSINESS OF ERECTING, CONSTRUCTING, INSTALLING, ALTERING, SERVICING, REPAIRING, OR MAINTAINING ELEVATORS OR OTHER AUTOMATED PEOPLE MOVING CONVEYANCES COVERED BY THIS ARTICLE.

13. "ELEVATOR HELPER/APPRENTICE" MEANS ANY PERSON WHO WORKS UNDER THE GENERAL DIRECTION OF A LICENSED ELEVATOR MECHANIC.

14. "ELEVATOR INSPECTOR" MEANS ANY PERSON WHO POSSESSES AN ELEVATOR INSPECTOR'S LICENSE IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

15. "ELEVATOR MECHANIC" MEANS ANY PERSON WHO POSSESSES AN ELEVATOR MECHANIC'S LICENSE IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

16. "ESCALATOR" MEANS AN INSTALLATION DEFINED AS AN "ESCALATOR" IN THE ASME A17.1.

17. "EXISTING INSTALLATION" MEANS AN INSTALLATION DEFINED AS AN "INSTALLATION, EXISTING" IN ASME A17.1.

18. "LICENSE" MEANS A WRITTEN LICENSE, DULY ISSUED BY THE COMMISSIONER, AUTHORIZING THE ERECTING, CONSTRUCTING, INSTALLING, ALTERING, SERVICING, REPAIRING, OR MAINTAINING OR PERFORMING INSPECTIONS OF ELEVATORS OR OTHER CONVEYANCES COVERED BY THIS ARTICLE.

19. "LICENSE, ELEVATOR CONTRACTOR'S" MEANS A LICENSE WHICH ENTITLES THE HOLDER THEREOF TO ENGAGE IN THE BUSINESS OF ERECTING, CONSTRUCTING, INSTALLING, ALTERING, SERVICING, REPAIRING OR MAINTAINING CONVEYANCES COVERED BY THIS ARTICLE.

20. "LICENSE, INSPECTOR'S" MEANS A LICENSE WHICH ENTITLES THE HOLDER THEREOF TO ENGAGE IN THE BUSINESS OF INSPECTING CONVEYANCES COVERED BY THIS ARTICLE.

21. "LICENSE, LIMITED ELEVATOR CONTRACTOR'S" MEANS A LICENSE WHICH AUTHORIZES AN ELEVATOR CONTRACTOR WHO EMPLOYES INDIVIDUALS TO CARRY ON A BUSINESS OF ERECTING, CONSTRUCTING, INSTALLING, ALTERING, SERVICING, REPAIRING OR MAINTAINING CONVEYANCES WITHIN ANY BUILDING OR STRUCTURE, INCLUDING, BUT NOT LIMITED, TO PRIVATE RESIDENCES.

22. "LICENSE, ELEVATOR MECHANIC'S" MEANS A LICENSE WHICH ENTITLES THE HOLDER THEREOF TO INSTALL, CONSTRUCT, ALTER, SERVICE, REPAIR, TEST, MAINTAIN, AND PERFORM WORK ON CONVEYANCES OR OTHER AUTOMATED PEOPLE MOVERS COVERED BY THIS ARTICLE.

23. "MATERIAL ALTERATION" MEANS AN "ALTERATION" AS DEFINED IN THE REFERENCED NATIONAL STANDARDS.

24. "MOVING WALK (SIDEWALK)" MEANS AN INSTALLATION AS DEFINED AS A "MOVING WALK" IN THE ASME A17.1.

25. "PERMIT" MEANS A DOCUMENT ISSUED BY THE COMMISSIONER OF LABOR PRIOR TO THE COMMENCEMENT OF WORK THAT INDICATES THAT THE CONVEYANCE IS IN THE PROCESS OF BEING ERECTED, CONSTRUCTED, INSTALLED, OR ALTERED UNDER DEPARTMENT APPROVED PLANS PURSUANT TO THIS ARTICLE.

26. "PERSON" MEANS ANY NATURAL PERSON.

27. "PRIVATE RESIDENCE" MEANS A SEPARATE DWELLING OR A SEPARATE APARTMENT IN A MULTIPLE DWELLING, WHICH IS OCCUPIED BY MEMBERS OF A SINGLE FAMILY UNIT.

28. "REPAIR" MEANS A "REPAIR" AS DEFINED IN THE REFERENCED NATIONAL STANDARDS.

29. "TEMPORARILY DORMANT ELEVATOR, DUMBWAITER, OR ESCALATOR" MEANS AN INSTALLATION WHOSE POWER SUPPLY HAS BEEN DISCONNECTED BY REMOVING FUSES AND PLACING A PADLOCK ON THE MAINLINE DISCONNECT SWITCH IN THE "OFF" POSITION. THE CAR IS PARKED AND THE HOISTWAY DOORS ARE IN THE CLOSED AND LATCHED POSITION. A WIRE SEAL SHALL BE INSTALLED ON THE MAINLINE DISCONNECT SWITCH BY A LICENSED ELEVATOR INSPECTOR. THIS INSTALLATION SHALL NOT BE USED AGAIN UNTIL IT HAS BEEN PUT IN SAFE RUNNING ORDER AND IS IN CONDITION FOR USE. ANNUAL INSPECTIONS SHALL CONTINUE FOR THE DURATION OF THE TEMPORARILY DORMANT STATUS BY A LICENSED ELEVATOR INSPECTOR. "TEMPORARILY DORMANT" STATUS SHALL BE RENEWABLE ON AN ANNUAL BASIS, AND SHALL NOT EXCEED A FIVE-YEAR PERIOD. THE INSPECTOR SHALL FILE A REPORT WITH THE COMMISSIONER DESCRIBING THE CURRENT CONDITIONS. THE WIRE SEAL AND PADLOCK SHALL NOT BE REMOVED FOR ANY PURPOSE WITHOUT PERMISSION FROM THE ELEVATOR INSPECTOR.

S 928. LICENSING AND PERMIT REQUIREMENTS. 1. IT IS UNLAWFUL FOR ANY ELEVATOR CONTRACTOR TO ERECT, CONSTRUCT, ALTER, REPLACE, MAINTAIN, REMOVE OR DISMANTLE ANY CONVEYANCE CONTAINED WITHIN BUILDINGS OR STRUCTURES IN THIS STATE UNLESS SUCH AN ELEVATOR CONTRACTOR HOLDS AN ELEVATOR CONTRACTOR'S LICENSE.

2. IT IS UNLAWFUL FOR ANY PERSON TO WIRE ANY CONVEYANCE, FROM THE MAINLINE FEEDER TERMINALS ON THE CONTROLLER, IN THIS STATE UNLESS SUCH PERSON HAS AN ELEVATOR MECHANIC'S LICENSE AND IS WORKING UNDER THE DIRECT SUPERVISION OF A LICENSED ELEVATOR CONTRACTOR PURSUANT TO THIS ARTICLE. NO OTHER LICENSE SHALL BE REQUIRED FOR THIS WORK. AN ELEVATOR CONTRACTOR'S LICENSE IS NOT REQUIRED FOR THE REMOVAL OR DISMANTLING OF CONVEYANCES WHICH ARE DESTROYED AS A RESULT OF A COMPLETE DEMOLITION OF A SECURED BUILDING OR STRUCTURE OR WHERE THE HOISTWAY OR WELLWAY IS DEMOLISHED BACK TO THE BASIC SUPPORT STRUCTURE WHEREBY NO ACCESS IS PERMITTED THEREIN TO ENDANGER THE SAFETY AND WELFARE OF A PERSON.

3. IT IS UNLAWFUL FOR A PERSON TO INSPECT ANY CONVEYANCE WITHIN BUILDINGS OR STRUCTURES, INCLUDING BUT NOT LIMITED TO PRIVATE RESIDENCES, UNLESS SUCH PERSON HOLDS AN ELEVATOR INSPECTOR'S LICENSE.

4. IT IS UNLAWFUL FOR ANY ELEVATOR CONTRACTOR TO ERECT, CONSTRUCT, INSTALL, OR ALTER CONVEYANCES WITHIN BUILDINGS OR STRUCTURES WITHIN THIS STATE UNLESS A PERMIT THEREFOR HAS BEEN ISSUED BY THE COMMISSIONER BEFORE WORK IS COMMENCED. NO REQUIRED PERMIT SHALL BE ISSUED EXCEPT TO A LICENSED ELEVATOR CONTRACTOR HOLDING A CURRENT ELEVATOR CONTRACTOR'S LICENSE. A COPY OF SUCH PERMIT SHALL BE KEPT AT THE CONSTRUCTION SITE AT ALL TIMES WHILE THE WORK IS IN PROGRESS.

5. ALL NEW CONVEYANCE INSTALLATIONS SHALL BE PERFORMED BY AN ELEVATOR CONTRACTOR LICENSED TO INSTALL SUCH CONVEYANCE. SUBSEQUENT TO INSTALLATION, THE ELEVATOR CONTRACTOR MUST CERTIFY COMPLIANCE WITH THE APPLICABLE SECTIONS OF THIS ARTICLE. PRIOR TO SUCH CONVEYANCES BEING USED, THE PROPERTY OWNER OR LESSEE MUST OBTAIN A CERTIFICATE OF OPERATION FROM THE COMMISSION. A FEE, AS SET FORTH IN THIS ARTICLE, SHALL BE PAID FOR SUCH CERTIFICATE OF OPERATION. IT IS THE RESPONSIBILITY OF THE LICENSED ELEVATOR CONTRACTOR TO COMPLETE AND SUBMIT REGISTRATIONS FOR NEW INSTALLATIONS. A CERTIFICATE OF OPERATION SHALL BE VALID FOR ONE YEAR, EXCEPT FOR CERTIFICATES ISSUED FOR PLATFORM AND STAIRWAY CHAIRLIFTS FOR PRIVATE RESIDENCES, WHICH SHALL BE VALID FOR A PERIOD OF THREE YEARS. CERTIFICATES OF OPERATION MUST BE CLEARLY DISPLAYED ON OR IN EACH CONVEYANCE OR IN THE MACHINE ROOM FOR USE FOR THE BENEFIT OF CODE ENFORCEMENT OFFICERS.

6. THE CERTIFICATE OF OPERATION FEE FOR NEWLY INSTALLED PLATFORM LIFTS AND STAIRWAY CHAIRLIFTS FOR PRIVATE RESIDENCES SHALL BE ISSUED ONLY SUBSEQUENT TO AN INSPECTION BY A LICENSED THIRD PARTY INSPECTION FIRM. THE CERTIFICATE OF OPERATION FEE FOR ALL NEW AND EXISTING PLATFORM AND STAIRWAY CHAIRLIFTS FOR PRIVATE RESIDENCES AND ANY RENEWAL CERTIFICATE FEES ARE HEREBY WAIVED. THE INSPECTION OF PRIVATE RESIDENCE PLATFORM AND STAIRWAY CHAIRLIFTS SHALL BE DONE AT THE REQUEST AND CONSENT OF THE PRIVATE RESIDENCE'S OWNER OR LESSEES. NO PROVISIONS OF THIS ARTICLE SHALL APPLY TO PRIVATE RESIDENCE OWNERS OR LESSEES.

S 929. LICENSE AND PERMIT PROCEDURE. 1. ALL APPLICATIONS FOR ELEVATOR CONTRACTOR'S, ELEVATOR MECHANIC'S, AND ELEVATOR INSPECTOR'S LICENSES AND REQUIRED PERMITS SHALL BE SUBMITTED IN WRITING ON FORMS FURNISHED BY THE COMMISSIONER AND SHALL CONTAIN SUCH INFORMATION AS THE COMMISSIONER MAY REQUIRE.

2. SUCH APPLICATIONS MUST INCLUDE THE FOLLOWING INFORMATION:

(A) THE NAME, RESIDENCE ADDRESS AND BUSINESS ADDRESS OF THE APPLICANT.

(B) THE NUMBER OF YEARS THE APPLICANT HAS ENGAGED IN THE BUSINESS OF INSTALLING, INSPECTING, REPAIRING, MAINTAINING, OR SERVICING CONVEYANCES COVERED BY THIS ARTICLE.

(C) THE APPROXIMATE NUMBER OF PERSONS, IF ANY, TO BE EMPLOYED BY AN ELEVATOR CONTRACTOR APPLICANT AND, IF APPLICABLE, SATISFACTORY EVIDENCE THAT THE APPLICANTS HAVE OR WILL SECURE COMPENSATION AND BENEFITS PURSUANT TO THE WORKERS' COMPENSATION LAW.

(D) EVIDENCE THAT THE APPLICANT IS OR WILL BE COVERED BY GENERAL LIABILITY, PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE.

(E) RECORD OF CRIMINAL CONVICTIONS, IF ANY.

(F) ANY OTHER INFORMATION WHICH THE COMMISSIONER MAY REQUIRE.

3. UPON APPROVAL OF AN APPLICATION BY THE DEPARTMENT, THE COMMISSIONER SHALL ISSUE A LICENSE. SUCH LICENSE SHALL BE VALID FOR TWO YEARS. THE FEES FOR SUCH LICENSE AND RENEWAL THEREOF SHALL BE SET BY THE COMMISSIONER.

4. WHERE ANY MATERIAL ALTERATION, AS DEFINED IN SECTION NINE HUNDRED TWENTY-SEVEN OF THIS ARTICLE, IS MADE, THE DEVICE SHALL CONFORM TO APPLICABLE REQUIREMENTS IN THE APPLICABLE REFERENCED NATIONAL STANDARDS FOR ALTERATION.

5. EACH APPLICATION FOR A PERMIT SHALL BE ACCOMPANIED BY COPIES OF THE SPECIFICATIONS AND ACCURATELY SCALED AND FULLY DIMENSIONED PLANS SHOWING THE LOCATION OF THE INSTALLATION IN RELATION TO THE PLANS AND ELEVATION OF THE BUILDING; THE LOCATION OF THE MACHINERY ROOM AND THE EQUIPMENT TO BE INSTALLED, RELOCATED OR ALTERED; AND ALL STRUCTURAL SUPPORTING MEMBERS THEREOF, INCLUDING FOUNDATIONS, AND SHALL SPECIFY ALL MATERIALS TO BE EMPLOYED AND ALL LOADS TO BE SUPPORTED AND CONVEYED. SUCH PLANS AND SPECIFICATIONS SHALL BE SUFFICIENTLY COMPLETE TO ILLUSTRATE ALL DETAILS OF CONSTRUCTION AND DESIGN. THE REQUIRED FEES SHALL ACCOMPANY EACH PERMIT APPLICATION.

6. UPON APPROVAL OF AN APPLICATION BY THE DEPARTMENT, THE COMMISSIONER SHALL ISSUE A PERMIT. IF THE WORK AUTHORIZED BY SUCH PERMIT IS NOT COMMENCED WITHIN SIX MONTHS OF THE DATE OF ISSUANCE, OR WITHIN SUCH SHORTER PERIOD OF TIME AS THE COMMISSIONER MAY SPECIFY AT THE TIME THE PERMIT IS ISSUED, SUCH PERMIT SHALL EXPIRE. IF AFTER THE WORK HAS BEEN STARTED, WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF SIXTY DAYS, OR SUCH SHORTER PERIOD OF TIME AS THE COMMISSIONER MAY SPECIFY AT THE TIME THE PERMIT IS ISSUED, THE PERMIT SHALL EXPIRE. FOR GOOD CAUSE SHOWN, THE COMMISSIONER MAY ALLOW EXTENSIONS OF THE FOREGOING PERIODS. THE FEES FOR SUCH PERMITS AND SUCH EXTENSIONS SHALL BE SET BY THE COMMISSIONER.

S 930. QUALIFICATIONS, TRAINING AND CONTINUING EDUCATION. 1. NO LICENSE SHALL BE GRANTED TO ANY PERSON WHO HAS NOT PAID THE REQUIRED APPLICATION FEE AND DEMONSTRATED HIS OR HER QUALIFICATIONS AND ABILITIES. APPLICANTS FOR A MECHANIC LICENSE MUST DEMONSTRATE ONE OF THE FOLLOWING QUALIFICATIONS: (A) AN ACCEPTABLE COMBINATION OF DOCUMENTED EXPERIENCE AND EDUCATION CREDITS CONSISTING OF (I) NOT LESS THAN THREE YEARS WORK EXPERIENCE IN THE CONSTRUCTION, MAINTENANCE AND SERVICE REPAIR OF ELEVATORS, AS VERIFIED BY CURRENT AND PREVIOUS EMPLOYERS AND (II) SATISFACTORY COMPLETION OF A WRITTEN EXAMINATION ADMINISTERED BY THE DEPARTMENT ON THE MOST RECENT NATIONAL, STATE, AND LOCAL CONVEYANCES CODES AND STANDARDS; OR

(B) ACCEPTABLE PROOF THAT HE OR SHE HAS WORKED ON ELEVATOR CONSTRUCTION, MAINTENANCE OR REPAIR WITHOUT DIRECT AND IMMEDIATE SUPERVISION IN THIS STATE FOR A PERIOD OF NOT LESS THAN THREE YEARS IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE PROVIDED THAT SUCH APPLICANT PURSUANT TO THIS PARAGRAPH SHALL FILE SUCH APPLICATION WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE; OR

(C) A VALID LICENSE FROM A STATE HAVING STANDARDS SUBSTANTIALLY EQUAL TO THOSE OF THIS STATE MAY BE GRANTED A LICENSE UPON APPLICATION AND WITHOUT EXAMINATION; OR

(D) A CERTIFICATE OF SUCCESSFUL COMPLETION AND SUCCESSFULLY PASSING THE MECHANIC EXAMINATION OF A NATIONALLY RECOGNIZED TRAINING PROGRAM FOR THE ELEVATOR INDUSTRY SUCH AS, BUT NOT LIMITED TO, THE NATIONAL ELEVATOR INDUSTRY EDUCATIONAL PROGRAM OR ITS EQUIVALENT; OR

(E) CERTIFICATE OF SUCCESSFUL COMPLETION OF AN APPRENTICESHIP PROGRAM FOR ELEVATOR MECHANICS, HAVING STANDARDS SUBSTANTIALLY EQUAL TO THOSE OF THIS CHAPTER, AND REGISTERED WITH THE BUREAU OF APPRENTICESHIP AND TRAINING, U.S. DEPARTMENT OF LABOR OR A STATE APPRENTICESHIP COUNCIL.

2. WHENEVER AN EMERGENCY EXISTS, WHICH IMPERILS THE HEALTH, SAFETY OR WELFARE OF AN INDIVIDUAL PLACING AN INDIVIDUAL IN IMMINENT DANGER OF INJURY OR DEATH, A LICENSED ELEVATOR CONTRACTOR SHALL RESPOND AS NECESSARY TO ASSURE THE SAFETY OF THE PUBLIC. WHEN SUCH AN EMERGENCY EXISTS

IN THE STATE DUE TO A DISASTER, ACT OF GOD OR WORK STOPPAGE AND THE NUMBER OF PERSONS IN THE STATE HOLDING LICENSES GRANTED BY THE BOARD IS INSUFFICIENT TO COPE WITH SUCH EMERGENCY, ANY PERSON CERTIFIED BY A LICENSED ELEVATOR CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED EXPERIENCE AND EDUCATION TO PERFORM ELEVATOR WORK WITHOUT DIRECT AND IMMEDIATE SUPERVISION SHALL SEEK AN EMERGENCY ELEVATOR MECHANIC LICENSE FROM THE COMMISSIONER WITHIN FIVE BUSINESS DAYS AFTER COMMENCING WORK REQUIRING A LICENSE. THE COMMISSIONER SHALL ISSUE EMERGENCY ELEVATOR MECHANIC LICENSES TO ADDRESS THE EMERGENCY THAT EXISTS. THE LICENSED ELEVATOR CONTRACTOR SHALL FURNISH PROOF OF COMPETENCY AS THE COMMISSIONER MAY REQUIRE. EACH SUCH LICENSE SHALL RECITE THAT IT IS VALID FOR A PERIOD OF THIRTY DAYS FROM THE DATE THEREOF AND FOR SUCH PARTICULAR ELEVATORS OR GEOGRAPHICAL AREAS AS THE COMMISSIONER MAY DESIGNATE TO ADDRESS THE EMERGENCY SITUATION AND OTHERWISE SHALL ENTITLE THE LICENSEE TO THE RIGHTS AND PRIVILEGES OF AN ELEVATOR MECHANIC LICENSE ISSUED IN THIS ARTICLE. THE COMMISSIONER SHALL RENEW AN EMERGENCY ELEVATOR MECHANIC LICENSE DURING THE EXISTENCE OF AN EMERGENCY AS NEEDED. NO FEE SHALL BE CHARGED FOR ANY EMERGENCY ELEVATOR MECHANIC LICENSE OR RENEWAL THEREOF.

3. A LICENSED ELEVATOR CONTRACTOR SHALL NOTIFY THE COMMISSIONER WHEN THERE ARE NO LICENSED PERSONNEL AVAILABLE TO PERFORM ELEVATOR WORK. THE LICENSED ELEVATOR CONTRACTOR MAY REQUEST THAT THE COMMISSIONER ISSUE TEMPORARY ELEVATOR MECHANIC LICENSES TO PERSONS CERTIFIED BY THE LICENSED ELEVATOR CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED EXPERIENCE AND EDUCATION TO PERFORM ELEVATOR WORK WITHOUT DIRECT AND IMMEDIATE SUPERVISION. ANY PERSON CERTIFIED BY A LICENSED ELEVATOR CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED EXPERIENCE AND EDUCATION TO PERFORM ELEVATOR WORK WITHOUT DIRECT AND IMMEDIATE SUPERVISION SHALL IMMEDIATELY SEEK A TEMPORARY ELEVATOR MECHANIC LICENSE FROM THE COMMISSIONER AND SHALL PAY SUCH FEES AS THE BOARD SHALL DETERMINE. EACH SUCH LICENSE SHALL RECITE THAT IT IS VALID FOR A PERIOD OF THIRTY DAYS FROM THE DATE OF ISSUANCE AND WHILE EMPLOYED BY THE LICENSED ELEVATOR CONTRACTOR THAT CERTIFIED THE INDIVIDUAL AS QUALIFIED. IT SHALL BE RENEWABLE AS LONG AS THE SHORTAGE OF LICENSE HOLDERS SHALL CONTINUE.

4. APPLICANTS FOR AN ELEVATOR CONTRACTOR'S LICENSE MUST DEMONSTRATE TO THE COMMISSIONER THAT SUCH ELEVATOR CONTRACTOR EMPLOYS LICENSED ELEVATOR MECHANICS WHO PERFORM THE WORK DESCRIBED IN SECTION NINE HUNDRED TWENTY-SEVEN OF THIS ARTICLE AND HAVE PROOF OF COMPLIANCE WITH THE INSURANCE REQUIREMENTS SET FORTH IN SUBDIVISION TWO OF SECTION NINE HUNDRED TWENTY-NINE OF THIS ARTICLE.

5. APPLICANTS FOR AN ELEVATOR CONTRACTOR'S LICENSE WHO HOLD A VALID LICENSE FROM A STATE HAVING STANDARDS SUBSTANTIALLY EQUAL TO THOSE OF THIS STATE MAY BE GRANTED AN ELEVATOR CONTRACTOR'S LICENSE UPON PROOF OF COMPLIANCE WITH THE INSURANCE REQUIREMENTS SET FORTH IN PARAGRAPH (D) OF SUBDIVISION TWO OF SECTION NINE HUNDRED TWENTY-NINE OF THIS ARTICLE.

6. ANY APPLICANTS FOR AN ELEVATOR INSPECTOR'S LICENSE MUST DEMONSTRATE TO THE SATISFACTION OF THE COMMISSIONER THAT SUCH APPLICANT MEETS OR EXCEEDS THE CURRENT NATIONAL STANDARDS FOR ELEVATOR INSPECTORS AS SET FORTH IN ASME QEI-1, STANDARDS FOR THE QUALIFICATIONS OF ELEVATOR INSPECTORS. PRIVATE ELEVATOR INSPECTORS SHALL MAINTAIN THE SAME INSURANCE REQUIREMENTS AS AN ELEVATOR CONTRACTOR.

7. (A) THE RENEWAL OF ALL LICENSES GRANTED UNDER THE PROVISIONS OF THIS SUBDIVISION SHALL BE CONDITIONED UPON THE SUBMISSION OF A CERTIFICATE OF COMPLETION OF A COURSE DESIGNED TO ENSURE THE CONTINUING EDUCATION OF LICENSEES ON NEW AND EXISTING NATIONAL, STATE, AND LOCAL CONVEYANCES CODES AND STANDARDS. SUCH COURSE SHALL CONSIST OF NOT LESS THAN

EIGHT HOURS OF INSTRUCTION THAT SHALL BE ATTENDED AND COMPLETED WITHIN ONE YEAR IMMEDIATELY PRECEDING ANY SUCH LICENSE RENEWAL. THE COMMISSIONER SHALL ESTABLISH REQUIREMENTS FOR CONTINUING EDUCATION AND TRAINING PROGRAMS, AND SHALL APPROVE SUCH PROGRAMS, AS WELL AS MAINTAIN A LIST OF APPROVED PROGRAMS WHICH SHALL BE MADE AVAILABLE TO LICENSE APPLICANTS, PERMIT APPLICANTS, RENEWAL APPLICANTS AND OTHER INTERESTED PARTIES UPON REQUEST. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS SETTING FORTH THE CRITERIA FOR APPROVAL OF SUCH PROGRAMS, THE PROCEDURES TO BE FOLLOWED IN APPLYING FOR SUCH APPROVAL, AND OTHER RULES AND REGULATIONS AS THE COMMISSIONER DEEMS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSES OF THIS SECTION.

(B) THE COMMISSIONER SHALL ASSESS A FEE FOR EACH TRAINING PROGRAM COMPLETION CERTIFICATE AND FOR EACH REFRESHER TRAINING PROGRAM COMPLETION CERTIFICATE, PROVIDED, HOWEVER, THAT IN NO EVENT SHALL THE COST OF SUCH CERTIFICATES BE ASSESSED BY THE SPONSOR OF SUCH TRAINING PROGRAM AGAINST THE PARTICIPANTS.

(C) THE STATE COMPTROLLER SHALL ESTABLISH WITHIN THE SPECIAL REVENUE FUND-OTHER AN ELEVATOR AND RELATED CONVEYANCES SAFETY PROGRAM ACCOUNT. ALL FEES ASSESSED AND COLLECTED PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL BE PAID AND DEPOSITED INTO THE ELEVATOR AND RELATED CONVEYANCES SAFETY PROGRAM ACCOUNT ESTABLISHED BY THIS PARAGRAPH FOR THE PURPOSES OF OFFSETTING THE COSTS INCURRED BY THE COMMISSIONER FOR THE ADMINISTRATION OF ELEVATOR AND RELATED CONVEYANCES SAFETY PROGRAMS.

8. THE RENEWAL OF ALL LICENSES GRANTED UNDER THE PROVISIONS OF THIS SECTION SHALL BE CONDITIONED UPON THE SUBMISSION OF A CERTIFICATE OF COMPLETION OF A COURSE DESIGNED TO ENSURE THE CONTINUING EDUCATION OF LICENSEES ON NEW AND EXISTING PROVISIONS OF THE REGULATIONS OF THE ELEVATOR SAFETY AND STANDARDS BOARD. SUCH COURSE SHALL CONSIST OF NOT LESS THAN EIGHT HOURS OF INSTRUCTION THAT SHALL BE ATTENDED AND COMPLETED WITHIN ONE YEAR IMMEDIATELY PRECEDING ANY SUCH LICENSE RENEWAL.

THE COURSES SHALL BE TAUGHT BY INSTRUCTORS THROUGH CONTINUING EDUCATION PROVIDERS THAT MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, ASSOCIATION SEMINARS, AND LABOR TRAINING PROGRAMS. THE ELEVATOR SAFETY AND STANDARDS BOARD SHALL APPROVE THE CONTINUING EDUCATION PROVIDERS. ALL INSTRUCTORS SHALL BE APPROVED BY THE BOARD AND EXEMPT FROM THE REQUIREMENTS OF THE PRECEDING PARAGRAPH WITH REGARD TO THEIR APPLICATION FOR LICENSE RENEWAL PROVIDED THAT SUCH APPLICANT WAS QUALIFIED AS AN INSTRUCTOR AT ANY TIME DURING THE ONE YEAR IMMEDIATELY PRECEDING THE SCHEDULED DATE FOR SUCH RENEWAL.

APPROVED TRAINING PROVIDERS SHALL KEEP UNIFORM RECORDS, FOR A PERIOD OF TEN YEARS, OF ATTENDANCE OF LICENSEES FOLLOWING A FORMAT APPROVED BY THE BOARD AND SUCH RECORDS SHALL BE AVAILABLE FOR INSPECTION BY SAID BOARD AT ITS REQUEST. APPROVED TRAINING PROVIDERS SHALL BE RESPONSIBLE FOR THE SECURITY OF ALL ATTENDANCE RECORDS AND CERTIFICATES OF COMPLETION; PROVIDED, HOWEVER, THAT FALSIFYING OR KNOWINGLY ALLOWING ANOTHER TO FALSIFY SUCH ATTENDANCE RECORDS OR CERTIFICATES OF COMPLETION SHALL CONSTITUTE GROUNDS FOR SUSPENSION OR REVOCATION OF THE APPROVAL REQUIRED UNDER THIS SECTION.

S 931. REGULATIONS. 1. THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AS THE COMMISSIONER DEEMS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSES AND PROVISIONS OF THIS ARTICLE AND COMPLY WITH AT A MINIMUM, THE REQUIREMENTS OF THE CODE; THE SAFETY CODE FOR ELEVATORS AND ESCALATORS, ASME A17.1; THE SAFETY STANDARDS FOR PLATFORM LIFTS AND STAIRWAY CHAIRLIFTS, ASME A18.1; STANDARD FOR THE QUALIFICATION OF

ELEVATOR INSPECTORS, ASME QEI-1; AND AUTOMATED PEOPLE MOVER STANDARDS ASCE 21.

2. WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS ARTICLE, THE OWNER OR LESSEE OF EVERY EXISTING CONVEYANCE SHALL REGISTER WITH THE COMMISSIONER, EACH SUCH ELEVATOR, DUMBWAITER, PLATFORM LIFT AND ESCALATOR OR DEVICE DESCRIBE IN TWENTY-SIX, OWNED AND OPERATED BY THEM, GIVING THE TYPE, RATED LOAD AND SPEED, NAME OF MANUFACTURER, LOCATION AND THE PURPOSE FOR WHICH IT IS USED AND SUCH ADDITIONAL INFORMATION AS THE COMMISSIONER MAY REQUIRE. CONVEYANCES ON WHICH CONSTRUCTION HAS BEGUN SUBSEQUENT TO THE EFFECTIVE DATE OF THIS ARTICLE, SHALL BE REGISTERED AT THE TIME THEY ARE COMPLETED AND PLACED IN SERVICE.

3. IT SHALL BE THE RESPONSIBILITY OF LICENSEES TO ENSURE THAT INSTALLATION, SERVICE OR MAINTENANCE OF CONVEYANCES IS PERFORMED IN COMPLIANCE WITH EXISTING STATE AND LOCAL BUILDING AND MAINTENANCE CODES.

4. THIS ARTICLE SHALL NOT BE CONSTRUED TO RELIEVE OR LESSEN THE RESPONSIBILITY OR LIABILITY OF ANY OWNER OR ELEVATOR CONTRACTOR OWNING, OPERATING, CONTROLLING, MAINTAINING, ERECTING, CONSTRUCTING, INSTALLING, ALTERING, INSPECTING, TESTING OR REPAIRING ANY ELEVATOR OR OTHER RELATED MECHANISMS COVERED BY THIS ARTICLE FOR DAMAGES TO PERSON OR PROPERTY CAUSED BY ANY DEFECT THEREIN, NOR DOES THE STATE ASSUME ANY SUCH LIABILITY OR RESPONSIBILITY THEREFOR, OR ANY LIABILITY TO ANY PERSON, BY REASON OF THE ENACTMENT OF THIS ARTICLE, OR ANY ACTS OR OMISSIONS ARISING UNDER THIS ARTICLE.

S 932. INVESTIGATIONS AND COMPLAINTS; INJUNCTION. 1. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE COMMISSIONER SHALL HAVE THE AUTHORITY TO INSPECT, OR CAUSE TO BE INSPECTED, ONGOING OR COMPLETED CONVEYANCES PROJECTS AND TO CONDUCT AN INVESTIGATION THEREOF UPON THE COMMISSIONER'S OWN INITIATION OR UPON RECEIPT OF A COMPLAINT BY ANY PERSON OR ENTITY.

2. ANY PERSON OR ENTITY MAY MAKE A COMPLAINT REGARDING AN ALLEGED VIOLATION OR DANGER PURSUANT TO THIS ARTICLE BY GIVING WRITTEN NOTICE TO THE COMMISSIONER. SUCH NOTICE SHALL STATE WITH REASONABLE PARTICULARITY THE GROUNDS FOR THE NOTICE AND SHALL BE SIGNED BY THE PERSON MAKING THE REQUEST. SUCH PERSON'S NAME SHALL NOT APPEAR ON ANY COPY OF SUCH NOTICE OR ANY RECORD PUBLISHED, RELEASED, OR MADE AVAILABLE.

3. IF, UPON RECEIPT OF A NOTICE OF VIOLATION OR DANGER, THE COMMISSIONER DETERMINES THAT THERE IS REASONABLE GROUNDS TO BELIEVE THAT SUCH VIOLATION OR DANGER EXISTS, THE COMMISSIONER SHALL CAUSE TO BE MADE AN INVESTIGATION IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE AS SOON AS PRACTICABLE TO DETERMINE IF SUCH VIOLATION OR DANGER EXISTS. IF THE COMMISSIONER DETERMINES THAT THERE ARE NO REASONABLE GROUNDS TO BELIEVE THAT SUCH VIOLATION OR DANGER EXISTS, THE COMMISSIONER SHALL INFORM THE COMPLAINING PERSON OR ENTITY.

4. IF, UPON INVESTIGATION, THE COMMISSIONER DETERMINES THAT SUCH VIOLATION OR DANGER EXISTS, THE COMMISSIONER MAY DELIVER TO SUCH OWNER OR ELEVATOR CONTRACTOR OR ITS AGENT OR REPRESENTATIVE A WRITTEN NOTICE TO CURE OR NOTICE ENJOINING ANY FURTHER WORK ON SUCH INSTALLATION, REPAIR OR MAINTENANCE PROJECT. SUCH NOTICE SHALL SPECIFICALLY ENUMERATE THE DANGERS OR VIOLATIONS OF REGULATIONS WHICH ARE OCCURRING AND SHALL PROHIBIT ANY FURTHER OPERATION OF THE CONVEYANCE OR WORK ON SUCH ELEVATOR INSTALLATION, MAINTENANCE OR REPAIR PROJECT UNTIL SUCH VIOLATIONS CEASE AND THE NOTICE RESCINDED BY THE COMMISSIONER.

5. UPON RECEIPT OF A WRITTEN NOTICE FROM THE ELEVATOR CONTRACTOR, OR ITS AGENT OR REPRESENTATIVE, THAT SUCH VIOLATIONS OR DANGERS HAVE BEEN CORRECTED, THE COMMISSIONER SHALL, WITHIN TEN DAYS, ISSUE A DETERMINATION AS TO WHETHER SUCH NOTICE TO CURE OR NOTICE TO ENJOIN SHALL BE

RESCINDED. ANY ENTITY OR CONTRACTOR WHO MAY BE ADVERSELY AFFECTED BY A NOTICE OR DETERMINATION ISSUED UNDER THIS SECTION MAY CHALLENGE THE VALIDITY OR APPLICABILITY OF SUCH NOTICE OR DETERMINATION BY COMMENCING A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

S 933. CIVIL PENALTIES; SUSPENSION AND REVOCATION OF LICENSES. 1. A LICENSE ISSUED PURSUANT TO THIS ARTICLE MAY BE SUSPENDED OR REVOKED AND A LICENSEE MAY BE SUBJECTED TO A CIVIL PENALTY BY THE COMMISSIONER UPON DETERMINATION THAT ANY ONE OR MORE OF THE FOLLOWING CAUSES EXISTS:

(A) ANY FALSE STATEMENT AS TO A MATERIAL MATTER IN THE APPLICATION.

(B) FRAUD, MISREPRESENTATION, OR BRIBERY IN SECURING A LICENSE.

(C) FAILURE TO NOTIFY THE COMMISSIONER AND THE OWNER OR LESSEE OF A CONVEYANCE OF ANY CONDITION NOT IN COMPLIANCE WITH THIS ARTICLE.

(D) VIOLATION OF ANY PROVISION OF THIS ARTICLE.

2. A PERMIT ISSUED PURSUANT TO THIS ARTICLE MAY BE REVOKED BY THE COMMISSIONER UPON DETERMINATION THAT ANY ONE OR MORE OF THE FOLLOWING CAUSES EXISTS:

(A) ANY FALSE STATEMENTS OR MISREPRESENTATION AS TO A MATERIAL FACT IN THE APPLICATION, PLANS, OR SPECIFICATIONS ON WHICH THE PERMIT WAS BASED.

(B) ANY APPLICATION WHICH BY OMISSION OR MISTAKE FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE.

(C) ANY FAILURE TO PERFORM WORK IN ACCORDANCE WITH THE PROVISIONS OF THE APPLICATION, PLANS OR SPECIFICATIONS OR WITH THE REQUIREMENTS OF THIS ARTICLE OR CONDITIONS OF THE PERMIT.

(D) A FAILURE BY THE OWNER OR ELEVATOR CONTRACTOR TO WHOM THE PERMIT WAS ISSUED TO COMPLY WITH A STOP WORK ORDER.

3. (A) THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY UPON AN OWNER OR ELEVATOR CONTRACTOR OF UP TO ONE THOUSAND FIVE HUNDRED DOLLARS FOR THE INITIAL VIOLATION OF SECTION NINE HUNDRED TWENTY-EIGHT OF THIS ARTICLE AND UP TO TWO THOUSAND FIVE HUNDRED DOLLARS FOR THE SECOND OR SUBSEQUENT VIOLATION OF SUCH SECTION.

(B) IF, AFTER AN INVESTIGATION AND A FORMAL HEARING, THE COMMISSIONER FINDS THAT AN OWNER OR ELEVATOR CONTRACTOR HAS VIOLATED ANY PROVISION OF THIS ARTICLE, OTHER THAN SECTION NINE HUNDRED TWENTY-EIGHT, OR ANY RULE OR REGULATION PROMULGATED PURSUANT TO THIS ARTICLE, THE COMMISSIONER SHALL, BY AN ORDER WHICH SHALL DESCRIBE IN DETAIL THE NATURE OF THE VIOLATION OR VIOLATIONS, IMPOSE ON SUCH CONTRACTOR A CIVIL PENALTY OF NOT MORE THAN THE GREATER OF TWENTY-FIVE PERCENT OF THE MONETARY VALUE OF THE CONTRACT UPON WHICH THE VIOLATION WAS FOUND TO HAVE OCCURRED OR FIVE THOUSAND DOLLARS PER VIOLATION. THE COMMISSIONER SHALL IMPOSE ON ANY CONTRACTOR WHO, HAVING PREVIOUSLY BEEN ASSESSED A CIVIL PENALTY UNDER THIS SECTION, VIOLATES ANY PROVISION OF THIS ARTICLE OR ANY RULE OR REGULATION PROMULGATED PURSUANT TO THIS ARTICLE A CIVIL PENALTY OF NOT MORE THAN THE GREATER OF FIFTY PERCENT OF TH MONETARY VALUE OF THE CONTRACT UPON WHICH THE VIOLATION WAS FOUND TO HAVE OCCURRED OR TWENTY-FIVE THOUSAND DOLLARS PER VIOLATION. EACH DAY A VIOLATION CONTINUES MAY BE CONSIDERED A SEPARATE VIOLATION UNDER THIS SECTION. IN ASSESSING THE AMOUNT OF PENALTY, THE COMMISSIONER SHALL GIVE DUE CONSIDERATION TO THE SIZE OF THE CONTRACTOR'S BUSINESS, THE GOOD FAITH OF THE CONTRACTOR, THE GRAVITY OF THE VIOLATION, AND THE CONTRACTOR'S HISTORY OF PREVIOUS VIOLATIONS.

4. IF, AFTER AN INVESTIGATION AND A FORMAL HEARING, THE COMMISSIONER FINDS THAT A CONTRACTOR HAS VIOLATED ANY PROVISION OF THIS ARTICLE OR ANY RULE OR REGULATION PROMULGATED HEREUNDER WITHIN THREE YEARS OF THE LAST ASSESSMENT OF A CIVIL PENALTY AGAINST THE CONTRACTOR UNDER THIS ARTICLE, OR HAS BEEN FOUND TO HAVE COMMITTED SERIOUS VIOLATIONS OF OTHER

STATE, FEDERAL OR LOCAL LAWS WITH REGARD TO THE ELEVATOR CONTRACTOR'S PROJECT OR HAS OTHERWISE DEMONSTRATED A LACK OF RESPONSIBILITY IN THE CONDUCT OF ANY JOB OF SUCH SERIOUSNESS AS TO WARRANT THE REVOCATION OF THE CONTRACTOR'S LICENSE, THE COMMISSIONER MAY, BY AN ORDER WHICH DESCRIBES IN DETAIL THE NATURE OF THE VIOLATION OR VIOLATIONS, REVOKE THE CONTRACTOR'S LICENSE, WHEREUPON SUCH CONTRACTOR SHALL NOT BE ELIGIBLE TO APPLY FOR A NEW LICENSE FOR A PERIOD OF UP TO TWO YEARS.

5. IF, AFTER AN INVESTIGATION AND A FORMAL HEARING, THE COMMISSIONER FINDS THAT A PERSON OR CONTRACTOR WHO HAS BEEN ISSUED A PERMIT HAS WILLFULLY VIOLATED ANY PROVISION OF THIS ARTICLE, OR ANY RULE OR REGULATION PROMULGATED PURSUANT TO THIS ARTICLE, THE COMMISSIONER MAY, BY ORDER WHICH DESCRIBES IN DETAIL THE NATURE OF THE VIOLATION OR VIOLATIONS, SUSPEND OR REVOKE THE PERMIT OF SUCH PERSON OR CONTRACTOR.

6. ANY ENTITY OR CONTRACTOR WHO MAY BE ADVERSELY AFFECTED BY AN ORDER ISSUED UNDER THIS SECTION MAY CHALLENGE THE VALIDITY OR APPLICABILITY OF SUCH ORDER BY COMMENCING A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. THE COMMISSIONER MAY FILE WITH THE COUNTY CLERK OF THE COUNTY WHERE THE PERSON, EMPLOYER, OR CONTRACTOR RESIDES OR HAS A PLACE OF BUSINESS, THE ORDER CONTAINING THE AMOUNT OF CIVIL PENALTY, UNLESS A PROCEEDING FOR JUDICIAL REVIEW AS PROVIDED IN THIS ARTICLE SHALL THEN BE PENDING OR THE TIME FOR INITIATION OF SUCH PROCEEDING HAS NOT EXPIRED. THE FILING OF SUCH ORDER OR DECISION SHALL HAVE THE FULL FORCE AND EFFECT OF A JUDGMENT DULY DOCKETED IN THE OFFICE OF SUCH CLERK. THE ORDER OR DECISION MAY BE ENFORCED BY AND IN THE NAME OF THE COMMISSIONER IN THE SAME MANNER, AND WITH LIKE EFFECT, AS THAT PRESCRIBED BY THE CIVIL PRACTICE LAW AND RULES FOR THE ENFORCEMENT OF A MONEY JUDGMENT.

S 934. ENFORCEMENT. 1. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PREVENT CITIES FROM ENACTING LOCAL LAWS OR ORDINANCES WHICH IMPOSE STANDARDS OR REQUIREMENTS RELATING TO CONVEYANCE SAFETY THAT ARE MORE STRINGENT THAN THOSE SET FORTH IN THIS ARTICLE OR IN ANY RULE OR REGULATION PROMULGATED PURSUANT TO THIS ARTICLE.

2. THE COMMISSIONER SHALL ENFORCE THE PROVISIONS OF THIS ARTICLE AND THE RULES AND REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS SECTION, AND SECTIONS NINE HUNDRED THIRTY-ONE AND NINE HUNDRED THIRTY-TWO OF THIS ARTICLE, SHALL NOT BE ENFORCED WITH REFERENCE TO ENTITIES OR CONTRACTORS PERFORMING WORK IN A CITY WHICH FILES WITH THE COMMISSIONER A DULY CERTIFIED COPY OF A LOCAL LAW OR ORDINANCE ASSUMING FULL RESPONSIBILITY FOR ENFORCING THE PROVISIONS OF THIS ARTICLE AND THE RULES AND REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE. SUCH CITY SHALL HAVE ALL THE POWERS OF THE COMMISSIONER IN ENFORCING THE PROVISIONS OF THIS ARTICLE AND THE RULES AND REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE, INCLUDING BUT NOT LIMITED TO, THE COLLECTION AND RETENTION OF MONETARY PENALTIES.

3. EACH CITY WHICH ELECTS SUCH LOCAL ENFORCEMENT OPTION SHALL SUBMIT A REPORT TO THE COMMISSIONER ANNUALLY ON OR BEFORE THE FIRST DAY OF JUNE IN THE MANNER IN WHICH THIS ARTICLE AND THE RULES AND REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE HAVE BEEN AND ARE BEING ADMINISTERED AND THE RESULTS OF SUCH ADMINISTRATION UNDER THE JURISDICTION OF SUCH CITY AND SHALL FROM TIME TO TIME SUBMIT TO THE COMMISSIONER SUCH OTHER REPORTS AS TO SUCH OTHER MATTERS AS THE COMMISSIONER MAY REQUIRE.

4. A CITY MAY FILE WITH THE COMMISSIONER A DULY CERTIFIED COPY OF A LOCAL LAW OR ORDINANCE TERMINATING ITS ENFORCEMENT RESPONSIBILITIES, WHICH SHALL BE EFFECTIVE THIRTY DAYS FROM THE FILING THEREOF.

S 935. NEW YORK STATE ELEVATOR SAFETY AND STANDARDS BOARD. 1. AN ELEVATOR SAFETY AND STANDARDS BOARD IS HEREBY CREATED, TO CONSIST OF NINE MEMBERS. THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY SHALL APPOINT THREE MEMBERS EACH. THE BOARD SHALL MEET ON A QUARTERLY BASIS TO ADVISE THE COMMISSIONER OF LABOR ON THE IMPLEMENTATION OF THIS ARTICLE. THE CHAIRPERSON OF THE BOARD SHALL BE DESIGNATED BY THE GOVERNOR FROM AMONG THE PERSONS APPOINTED. THE MEMBERS SHALL BE REPRESENTATIVE OF A MAJOR ELEVATOR MANUFACTURING COMPANY, AN ELEVATOR SERVICING COMPANY, AN ELEVATOR ARCHITECTURAL DESIGNER OR CONSULTANT, THE GENERAL PUBLIC, A BUILDING OWNER OR MANAGER, AN ELEVATOR CONTRACTOR EMPLOYEE LABOR UNION REPRESENTATIVE, AND A FIRE MARSHAL. THE COMMISSIONERS OF HEALTH, LABOR, EDUCATION, AND ECONOMIC DEVELOPMENT OR THEIR DESIGNEES SHALL BE EX-OFFICIO MEMBERS. THE BOARD SHALL PREPARE AN ANNUAL REPORT FOR THE GOVERNOR AND THE LEGISLATURE, COPIES OF WHICH SHALL BE SENT TO THE COMMISSIONERS OF HEALTH, EDUCATION, ECONOMIC DEVELOPMENT, AND LABOR.

2. THE FIRST MEMBER APPOINTED BY THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY SHALL HAVE A TERM OF ONE YEAR; THE SECOND MEMBER APPOINTED BY EACH SHALL HAVE A TERM OF TWO YEARS AND THE REMAINING MEMBERS SHALL HAVE A TERM OF THREE YEARS. EACH OF SUCH APPOINTED MEMBERS SHALL HOLD OFFICE FOR THE TERM FOR WHICH SUCH MEMBER WAS APPOINTED AND UNTIL HIS OR HER SUCCESSOR SHALL HAVE BEEN APPOINTED OR UNTIL HE OR SHE SHALL RESIGN. THE TERM OF OFFICE OF ALL SUCCESSOR MEMBERS SHALL BE THREE YEARS. THE MEMBERS SHALL SERVE WITHOUT SALARY OR COMPENSATION, BUT SHALL BE REIMBURSED FOR NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

3. THE BOARD MAY CONSULT WITH ENGINEERING AUTHORITIES AND ORGANIZATIONS CONCERNED WITH STANDARD SAFETY CODES, RULES AND REGULATIONS GOVERNING THE OPERATION, MAINTENANCE, SERVICING, CONSTRUCTION, ALTERATION, INSTALLATION, AND INSPECTION OF CONVEYANCES AND THE ADEQUATE, REASONABLE, AND NECESSARY QUALIFICATIONS OF ELEVATOR MECHANICS, CONTRACTORS, AND INSPECTORS. THE BOARD MAY BE AUTHORIZED BY THE COMMISSIONER TO RECOMMEND DRAFT LEGISLATION AND AMENDMENTS TO THE LEGISLATURE.

4. THE BOARD SHALL ASSIST THE COMMISSIONER AND THE DEPARTMENT IN ESTABLISHING THE STATE REGULATIONS FOR EQUIPMENT COVERED BY THIS ARTICLE. SUCH REGULATIONS SHALL CONFORM WITH THE MINIMUM REQUIREMENTS OF THE CODE, THE SAFETY CODE FOR ELEVATORS AND ESCALATORS, ASME A17.1; THE SAFETY CODE FOR EXISTING ELEVATORS AND ESCALATORS, ASME A17.3; THE SAFETY STANDARDS FOR PLATFORM LIFTS AND STAIRWAY CHAIRLIFTS, ASME A18.1; STANDARD FOR THE QUALIFICATION OF ELEVATOR INSPECTORS, ASME QEI-1; AND AUTOMATED PEOPLE MOVER STANDARDS, ASCE 21. THE BOARD SHALL ADOPT THE LATEST EDITIONS OF SUCH NATIONAL STANDARDS WITHIN SIX MONTHS OF THEIR EFFECTIVE DATE. ANY MODIFICATIONS TO SUCH NATIONAL STANDARDS, DEEMED NECESSARY BY THE BOARD, MUST BE JUSTIFIED IN WRITING.

5. THE BOARD SHALL DEVELOP AN ENFORCEMENT PROGRAM WHICH WILL ENSURE COMPLIANCE WITH THE REGULATIONS AND REQUIREMENTS PROMULGATED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE. SUCH ENFORCEMENT PROGRAM SHALL INCLUDE THE DEVELOPMENT OF POLICIES FOR:

(A) IDENTIFYING PROPERTY LOCATIONS THAT ARE SUBJECT TO THE ENFORCEMENT PROGRAM;

(B) ISSUING NOTIFICATIONS TO VIOLATING PROPERTY OWNERS AND OPERATORS, RANDOM ON-SITE INSPECTIONS, AND TESTS ON EXISTING INSTALLATIONS;

(C) OBSERVING INSPECTIONS AND TESTING IN ORDER TO ENSURE SATISFACTORY PERFORMANCE BY LICENSED ELEVATOR MECHANICS, INSPECTORS, AND CONTRACTORS; AND

(D) ASSISTING IN DEVELOPMENT OF PUBLIC AWARENESS PROGRAMS.

6. THE BOARD SHALL ASSIST THE COMMISSIONER IN GRANTING EXCEPTIONS AND VARIANCES FROM THE LITERAL REQUIREMENTS OF THE APPLICABLE CODE AND STANDARDS, REGULATIONS, AND LOCAL LEGISLATION, IN CASES WHERE SUCH VARIANCES WOULD NOT JEOPARDIZE THE PUBLIC SAFETY AND WELFARE. THE BOARD SHALL HEAR ALL APPEALS AND VARIANCES.

7. THE BOARD SHALL ASSIST THE COMMISSIONER IN SETTING FEE SCHEDULES FOR LICENSES, PERMITS, AND INSPECTIONS. THE FEES SHALL REFLECT THE ACTUAL COSTS AND EXPENSES TO CONDUCT THE DUTIES AS DESCRIBED IN THIS ARTICLE.

8. THE BOARD SHALL ASSIST THE COMMISSIONER IN ANY AND ALL THINGS NECESSARY OR CONVENIENT TO THE COMMISSIONER'S DUTY TO CARRY OUT THE PURPOSE OF THIS ARTICLE AND EXERCISE THE POWERS GIVEN AND GRANTED IN THIS TITLE.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law, provided, however, that effective immediately, the addition, amendment and/or repeal of any rules or regulations necessary for the implementation of this act on its effective date, and the appointment of the board, are authorized and directed to be established, made and completed on or before such effective date.