

7026

I N S E N A T E

April 24, 2012

Introduced by Sens. BONACIC, 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, 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

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

3 A R T I C L E 3 2

4 ELEVATORS AND OTHER AUTOMATED PEOPLE MOVING CONVEYANCES: LICENSING
5 SECTION 925. LEGISLATIVE FINDINGS AND DECLARATION.

6 926. APPLICATION.

7 927. DEFINITIONS.

8 928. LICENSING AND PERMIT REQUIREMENTS.

9 929. LICENSE AND PERMIT PROCEDURE.

10 930. QUALIFICATIONS, TRAINING AND CONTINUING EDUCATION.

11 931. REGULATIONS.

12 932. INVESTIGATIONS AND COMPLAINTS; INJUNCTION.

13 933. CIVIL PENALTIES; SUSPENSION AND REVOCATION OF LICENSES.

14 934. ENFORCEMENT.

15 935. NEW YORK STATE ELEVATOR SAFETY AND STANDARDS BOARD.

16 S 925. LEGISLATIVE FINDINGS AND DECLARATION. THE LEGISLATURE HEREBY
17 FINDS AND DECLARES THAT THE USE OF UNSAFE AND DEFECTIVE ELEVATORS AND
18 OTHER AUTOMATED PEOPLE MOVING CONVEYANCES EXPOSE EMPLOYEES AND THE
19 PUBLIC TO UNSAFE CONDITIONS AND IMPOSE SUBSTANTIAL PROBABILITY OF SERI-
20 OUS INJURY. THE LEGISLATURE FINDS THAT THE IMPROPER AND UNINFORMED
21 MANNER IN WHICH SOME CONTRACTORS AND THEIR EMPLOYEES DESIGN, CONSTRUCT,
22 INSPECT, MAINTAIN, ALTER AND REPAIR SUCH CONVEYANCES CREATES AN UNNECES-
23 SARY AND PREVENTABLE HEALTH AND SAFETY RISK TO EMPLOYEES AND THE PUBLIC.
24 THE PROTECTION OF EMPLOYEES AND THE PUBLIC, AS WELL AS THE PREVENTION OF
25 SUCH INJURY, IS IN THE BEST INTEREST OF THE PEOPLE OF THE STATE OF NEW
26 YORK.

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

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

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

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

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

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

24 (C) HOISTING AND LOWERING MECHANISMS EQUIPPED WITH A CAR, WHICH SERVES
25 TWO OR MORE LANDINGS AND IS RESTRICTED TO THE CARRYING OF MATERIAL BY
26 ITS LIMITED SIZE OR LIMITED ACCESS TO THE CAR. THIS EQUIPMENT INCLUDES,
27 BUT IS NOT LIMITED TO, DUMBWAITERS, MATERIAL LIFTS, AND DUMBWAITERS WITH
28 AUTOMATIC TRANSFER DEVICES AS DEFINED IN ASME A17.1.

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

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

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

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

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

37 (D) POWERED PLATFORMS AND EQUIPMENT FOR EXTERIOR AND INTERIOR MAINTEN-
38 NANCE WITHIN THE SCOPE OF ANSI 120.1;

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

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

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

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

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

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

49 (K) SKIP OR FURNACE HOISTS;

50 (L) WHARF RAMPS;

51 (M) RAILROAD CAR LIFTS OR DUMPERS; AND

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

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

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

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

5 3. "ASME A17.3" MEANS THE SAFETY CODE FOR EXISTING ELEVATORS AND ESCA-
6 LATORS, AN AMERICAN NATIONAL STANDARD.

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

9 5. "NFPA" MEANS THE NATIONAL FIRE PROTECTION ASSOCIATION.

10 6. "AUTOMATED PEOPLE MOVER" MEANS AN INSTALLATION DEFINED AS AN "AUTO-
11 MATED PEOPLE MOVER" IN ASCE 21.

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

14 8. "CERTIFICATE OF OPERATION" MEANS A DOCUMENT ISSUED BY THE COMMIS-
15 SIONER THAT INDICATES THAT THE ELEVATOR OR RELATED CONVEYANCE HAS HAD
16 THE REQUIRED SAFETY INSPECTION AND TESTS AND THAT THE FEES REQUIRED BY
17 THIS ARTICLE HAVE BEEN PAID.

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

22 10. "CONVEYANCE" MEANS ANY ELEVATOR, DUMBWAITER, ESCALATOR, MOVING
23 SIDEWALK, PLATFORM LIFTS, STAIRWAY CHAIRLIFTS AND AUTOMATED PEOPLE
24 MOVERS.

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

27 12. "ELEVATOR" MEANS AN INSTALLATION DEFINED AS AN "ELEVATOR" IN ASME
28 A17.1.

29 13. "ELEVATOR CONTRACTOR" MEANS THE STATE, A PUBLIC CORPORATION, OR
30 ANY OTHER GOVERNMENTAL AGENCY OR INSTRUMENTALITY OF THE STATE OR A
31 PUBLIC CORPORATION, SELF-EMPLOYED PERSON, COMPANY, UNINCORPORATED ASSO-
32 CIATION, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPORATION, OR
33 ANY OTHER ENTITY, OR ANY OWNER OR OPERATOR OF ANY OF THE FOREGOING ENTI-
34 TIES, WHO POSSESSES AN ELEVATOR CONTRACTOR'S LICENSE IN ACCORDANCE WITH
35 THE PROVISIONS OF SECTIONS NINE HUNDRED TWENTY-EIGHT AND NINE HUNDRED
36 TWENTY-NINE OF THIS ARTICLE AND IS ENGAGED IN THE BUSINESS OF ERECTING,
37 CONSTRUCTING, INSTALLING, ALTERING, SERVICING, REPAIRING, OR MAINTAINING
38 ELEVATORS OR OTHER AUTOMATED PEOPLE MOVING CONVEYANCES COVERED BY THIS
39 ARTICLE.

40 14. "ELEVATOR HELPER/APPRENTICE/ASSISTANT MECHANIC" MEANS ANY PERSON
41 WHO WORKS UNDER THE GENERAL DIRECTION OF A LICENSED ELEVATOR MECHANIC.

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

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

46 17. "ESCALATOR" MEANS AN INSTALLATION DEFINED AS AN "ESCALATOR" IN THE
47 ASME A17.1.

48 18. "EXISTING INSTALLATION" MEANS AN INSTALLATION DEFINED AS AN
49 "INSTALLATION, EXISTING" IN ASME A17.1.

50 19. "LICENSE" MEANS A WRITTEN LICENSE, DULY ISSUED BY THE COMMISSION-
51 ER, AUTHORIZING THE ERECTING, CONSTRUCTING, INSTALLING, ALTERING,
52 SERVICING, REPAIRING, OR MAINTAINING OR PERFORMING INSPECTIONS OF ELEVA-
53 TORS OR OTHER CONVEYANCES COVERED BY THIS ARTICLE.

54 20. "LICENSE, ELEVATOR CONTRACTOR'S" MEANS A LICENSE WHICH ENTITLES
55 THE HOLDER THEREOF TO ENGAGE IN THE BUSINESS OF ERECTING, CONSTRUCTING,

1 INSTALLING, ALTERING, SERVICING, REPAIRING OR MAINTAINING CONVEYANCES
2 COVERED BY THIS ARTICLE.

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

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

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

15 24. "MATERIAL ALTERATION" MEANS AN "ALTERATION" AS DEFINED IN THE
16 REFERENCED NATIONAL STANDARDS.

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

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

23 27. "PERSON" MEANS ANY NATURAL PERSON.

24 28. "PRIVATE RESIDENCE" MEANS A SEPARATE DWELLING OR A SEPARATE APART-
25 MENT IN A MULTIPLE DWELLING, WHICH IS OCCUPIED BY MEMBERS OF A SINGLE
26 FAMILY UNIT.

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

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

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

48 2. IT IS UNLAWFUL FOR ANY PERSON TO WIRE ANY CONVEYANCE, FROM THE
49 MAINLINE FEEDER TERMINALS ON THE CONTROLLER, IN THIS STATE UNLESS SUCH
50 PERSON HAS AN ELEVATOR MECHANIC'S LICENSE AND IS WORKING UNDER THE
51 DIRECT SUPERVISION OF A LICENSED ELEVATOR CONTRACTOR PURSUANT TO THIS
52 ARTICLE. NO OTHER LICENSE SHALL BE REQUIRED FOR THIS WORK, EXCLUDING THE
53 INSTALLATION OF BRANCH CIRCUITS AND WIRING TERMINATIONS FOR MACHINE ROOM
54 AND PIT LIGHTING, RECEPTACLES AND HVAC AS DESCRIBED IN THE NFPA NATIONAL
55 ELECTRIC CODE 620.23 AND 620.24 AS WELL AS FIRE AND HEAT DETECTORS AND
56 ALARMS, MAY BE PERFORMED BY A LICENSED ELECTRICAL CONTRACTOR. ADDI-

1 TIONALLY, WITHIN NEW YORK CITY, THE INSTALLATION OF BRANCH CIRCUITS AND
2 WIRING TERMINATIONS FOR THE CAR FAN, LIGHTS AND RECEPTACLES, AS
3 DESCRIBED IN THE NFPA NATIONAL ELECTRIC CODE 620.22, AND INTERCOMS AND
4 VOICE COMMUNICATIONS AS WELL AS SIGNAL EQUIPMENT OR SYSTEMS, AS DEFINED
5 IN NFPA ARTICLE 620.2, THAT IS NOT DIRECTLY ASSOCIATED WITH THE OPERA-
6 TION OR SAFETY OF ANY CONVEYANCE, MAY BE PERFORMED BY A LICENSED ELEC-
7 TRICAL CONTRACTOR. AN ELEVATOR CONTRACTOR'S LICENSE IS NOT REQUIRED FOR
8 THE REMOVAL OR DISMANTLING OF CONVEYANCES WHICH ARE DESTROYED AS A
9 RESULT OF A COMPLETE DEMOLITION OF A SECURED BUILDING OR STRUCTURE OR
10 WHERE THE HOISTWAY OR WELLWAY IS DEMOLISHED BACK TO THE BASIC SUPPORT
11 STRUCTURE WHEREBY NO ACCESS IS PERMITTED THEREIN TO ENDANGER THE SAFETY
12 AND WELFARE OF A PERSON.

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

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

23 5. ALL NEW CONVEYANCE INSTALLATIONS SHALL BE PERFORMED BY AN ELEVATOR
24 CONTRACTOR LICENSED TO INSTALL SUCH CONVEYANCE. SUBSEQUENT TO INSTALLA-
25 TION, THE ELEVATOR CONTRACTOR MUST CERTIFY COMPLIANCE WITH THE APPLICA-
26 BLE SECTIONS OF THIS ARTICLE. PRIOR TO SUCH CONVEYANCES BEING USED, THE
27 PROPERTY OWNER OR LESSEE MUST OBTAIN A CERTIFICATE OF OPERATION FROM THE
28 COMMISSION. A FEE, AS SET FORTH IN THIS ARTICLE, SHALL BE PAID FOR SUCH
29 CERTIFICATE OF OPERATION. IT IS THE RESPONSIBILITY OF THE LICENSED
30 ELEVATOR CONTRACTOR TO COMPLETE AND SUBMIT REGISTRATIONS FOR NEW INSTAL-
31 LATIONS. A CERTIFICATE OF OPERATION SHALL BE VALID FOR ONE YEAR, EXCEPT
32 FOR CERTIFICATES ISSUED FOR PLATFORM AND STAIRWAY CHAIRLIFTS FOR PRIVATE
33 RESIDENCES, WHICH SHALL BE VALID FOR A PERIOD OF THREE YEARS. CERTIF-
34 ICATES OF OPERATION MUST BE CLEARLY DISPLAYED ON OR IN EACH CONVEYANCE
35 OR IN THE MACHINE ROOM FOR USE FOR THE BENEFIT OF CODE ENFORCEMENT OFFI-
36 CERS.

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

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

51 2. SUCH APPLICATIONS MUST INCLUDE THE FOLLOWING INFORMATION:

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

53 (B) THE NUMBER OF YEARS THE APPLICANT HAS ENGAGED IN THE BUSINESS OF
54 INSTALLING, INSPECTING, REPAIRING, MAINTAINING, OR SERVICING CONVEYANCES
55 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 FOUR 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 WITH DIRECT AND IMMEDIATE SUPERVISION IN THIS STATE FOR A PERIOD OF NOT LESS THAN FOUR 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 CERTIFICATE OF SUCCESSFUL COMPLETION AND SUCCESSFULLY PASSING THE MECHANIC EXAMINATION OF A NATIONALLY RECOGNIZED TRAINING PROGRAM FOR

1 THE ELEVATOR INDUSTRY SUCH AS, BUT NOT LIMITED TO, THE NATIONAL ELEVATOR
2 INDUSTRY EDUCATIONAL PROGRAM OR ITS EQUIVALENT; OR

3 (D) CERTIFICATE OF SUCCESSFUL COMPLETION OF THE JOINT APPRENTICE AND
4 TRAINING COMMITTEE OF THE ELEVATOR INDUSTRY OF LOCAL 3, IBEW, EE DIVI-
5 SION TRAINING PROGRAM OR AN APPRENTICESHIP PROGRAM FOR ELEVATOR MECHAN-
6 ICS, HAVING STANDARDS SUBSTANTIALLY EQUAL TO THOSE OF THIS CHAPTER, AND
7 REGISTERED WITH THE BUREAU OF APPRENTICESHIP AND TRAINING, U.S. DEPART-
8 MENT OF LABOR OR A STATE APPRENTICESHIP COUNCIL.

9 2. WHENEVER AN EMERGENCY EXISTS, WHICH IMPERILS THE HEALTH, SAFETY OR
10 WELFARE OF AN INDIVIDUAL PLACING AN INDIVIDUAL IN IMMINENT DANGER OF
11 INJURY OR DEATH, A LICENSED ELEVATOR CONTRACTOR SHALL RESPOND AS NECES-
12 SARY TO ASSURE THE SAFETY OF THE PUBLIC. WHEN SUCH AN EMERGENCY EXISTS
13 IN THE STATE DUE TO A DISASTER OR ACT OF GOD AND THE NUMBER OF PERSONS
14 IN THE STATE HOLDING LICENSES GRANTED BY THE BOARD IS INSUFFICIENT TO
15 COPE WITH SUCH EMERGENCY, ANY PERSON CERTIFIED BY A LICENSED ELEVATOR
16 CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED EXPERIENCE
17 AND EDUCATION TO PERFORM ELEVATOR WORK WITH DIRECT AND IMMEDIATE SUPER-
18 VISION SHALL SEEK AN EMERGENCY ELEVATOR MECHANIC LICENSE FROM THE
19 COMMISSIONER WITHIN FIVE BUSINESS DAYS AFTER COMMENCING WORK REQUIRING A
20 LICENSE. THE COMMISSIONER SHALL ISSUE EMERGENCY ELEVATOR MECHANIC
21 LICENSES TO ADDRESS THE EMERGENCY THAT EXISTS. THE LICENSED ELEVATOR
22 CONTRACTOR SHALL FURNISH PROOF OF COMPETENCY AS THE COMMISSIONER MAY
23 REQUIRE. EACH SUCH LICENSE SHALL RECITE THAT IT IS VALID FOR A PERIOD OF
24 FIFTEEN DAYS FROM THE DATE THEREOF AND FOR SUCH PARTICULAR ELEVATORS OR
25 GEOGRAPHICAL AREAS AS THE COMMISSIONER MAY DESIGNATE TO ADDRESS THE
26 EMERGENCY SITUATION AND OTHERWISE SHALL ENTITLE THE LICENSEE TO THE
27 RIGHTS AND PRIVILEGES OF AN ELEVATOR MECHANIC LICENSE ISSUED IN THIS
28 ARTICLE. THE COMMISSIONER SHALL RENEW AN EMERGENCY ELEVATOR MECHANIC
29 LICENSE DURING THE EXISTENCE OF AN EMERGENCY AS NEEDED. NO FEE SHALL BE
30 CHARGED FOR ANY EMERGENCY ELEVATOR MECHANIC LICENSE OR RENEWAL THEREOF.

31 3. APPLICANTS FOR AN ELEVATOR CONTRACTOR'S LICENSE MUST DEMONSTRATE TO
32 THE COMMISSIONER THAT SUCH ELEVATOR CONTRACTOR EMPLOYS LICENSED ELEVATOR
33 MECHANICS WHO PERFORM THE WORK DESCRIBED IN SECTION NINE HUNDRED TWEN-
34 TY-SEVEN OF THIS ARTICLE AND HAVE PROOF OF COMPLIANCE WITH THE INSURANCE
35 REQUIREMENTS SET FORTH IN SUBDIVISION TWO OF SECTION NINE HUNDRED TWEN-
36 TY-NINE OF THIS ARTICLE.

37 4. ANY APPLICANTS FOR AN ELEVATOR INSPECTOR'S LICENSE MUST DEMONSTRATE
38 TO THE SATISFACTION OF THE COMMISSIONER THAT SUCH APPLICANT MEETS OR
39 EXCEEDS THE CURRENT NATIONAL STANDARDS FOR ELEVATOR INSPECTORS AS SET
40 FORTH IN ASME QE1-1, STANDARDS FOR THE QUALIFICATIONS OF ELEVATOR
41 INSPECTORS. PRIVATE ELEVATOR INSPECTORS SHALL MAINTAIN THE SAME INSUR-
42 ANCE REQUIREMENTS AS AN ELEVATOR CONTRACTOR.

43 5. (A) THE RENEWAL OF ALL LICENSES GRANTED UNDER THE PROVISIONS OF
44 THIS SUBDIVISION SHALL BE CONDITIONED UPON THE SUBMISSION OF A CERTIF-
45 ICATE OF COMPLETION OF A COURSE DESIGNED TO ENSURE THE CONTINUING EDUCA-
46 TION OF LICENSEES ON NEW AND EXISTING NATIONAL, STATE, AND LOCAL CONVEY-
47 ANCES CODES AND STANDARDS. SUCH COURSE SHALL CONSIST OF NOT LESS THAN
48 EIGHT HOURS OF INSTRUCTION THAT SHALL BE ATTENDED ANNUALLY AND COMPLETED
49 PRECEDING ANY SUCH LICENSE RENEWAL. THE COMMISSIONER SHALL ESTABLISH
50 REQUIREMENTS FOR CONTINUING EDUCATION AND TRAINING PROGRAMS, AND SHALL
51 APPROVE SUCH PROGRAMS, AS WELL AS MAINTAIN A LIST OF APPROVED PROGRAMS
52 WHICH SHALL BE MADE AVAILABLE TO LICENSE APPLICANTS, PERMIT APPLICANTS,
53 RENEWAL APPLICANTS AND OTHER INTERESTED PARTIES UPON REQUEST. THE
54 COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS SETTING FORTH THE
55 CRITERIA FOR APPROVAL OF SUCH PROGRAMS, THE PROCEDURES TO BE FOLLOWED IN
56 APPLYING FOR SUCH APPROVAL, AND OTHER RULES AND REGULATIONS AS THE

1 COMMISSIONER DEEMS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSES OF
2 THIS SECTION.

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

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

15 6. THE RENEWAL OF ALL LICENSES GRANTED UNDER THE PROVISIONS OF THIS
16 SECTION SHALL BE CONDITIONED UPON THE SUBMISSION OF A CERTIFICATE OF
17 COMPLETION OF A COURSE DESIGNED TO ENSURE THE CONTINUING EDUCATION OF
18 LICENSEES ON NEW AND EXISTING PROVISIONS OF THE REGULATIONS OF THE
19 ELEVATOR SAFETY AND STANDARDS BOARD. SUCH COURSE SHALL CONSIST OF NOT
20 LESS THAN EIGHT HOURS OF INSTRUCTION THAT SHALL BE ATTENDED AND
21 COMPLETED ANNUALLY PRECEDING ANY SUCH LICENSE RENEWAL.

22 THE COURSES SHALL BE TAUGHT BY INSTRUCTORS THROUGH CONTINUING EDUCA-
23 TION PROVIDERS THAT MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, ASSOCI-
24 ATION SEMINARS, AND LABOR TRAINING PROGRAMS. THE ELEVATOR SAFETY AND
25 STANDARDS BOARD SHALL APPROVE THE CONTINUING EDUCATION PROVIDERS. ALL
26 INSTRUCTORS SHALL BE APPROVED BY THE BOARD AND EXEMPT FROM THE REQUIRE-
27 MENTS OF THE PRECEDING PARAGRAPH WITH REGARD TO THEIR APPLICATION FOR
28 LICENSE RENEWAL PROVIDED THAT SUCH APPLICANT WAS QUALIFIED AS AN
29 INSTRUCTOR AT ANY TIME DURING THE ONE YEAR IMMEDIATELY PRECEDING THE
30 SCHEDULED DATE FOR SUCH RENEWAL.

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

40 S 931. REGULATIONS. 1. THE COMMISSIONER SHALL PROMULGATE SUCH RULES
41 AND REGULATIONS AS THE COMMISSIONER DEEMS NECESSARY AND PROPER TO EFFEC-
42 TUATE THE PURPOSES AND PROVISIONS OF THIS ARTICLE AND COMPLY WITH AT A
43 MINIMUM, THE REQUIREMENTS OF THE CODE; THE SAFETY CODE FOR ELEVATORS AND
44 ESCALATORS, ASME A17.1; THE SAFETY STANDARDS FOR PLATFORM LIFTS AND
45 STAIRWAY CHAIRLIFTS, ASME A18.1; STANDARD FOR THE QUALIFICATION OF
46 ELEVATOR INSPECTORS, ASME QE1-1; AND AUTOMATED PEOPLE MOVER STANDARDS
47 ASCE 21.

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

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

4 4. THIS ARTICLE SHALL NOT BE CONSTRUED TO RELIEVE OR LESSEN THE
5 RESPONSIBILITY OR LIABILITY OF ANY OWNER OR ELEVATOR CONTRACTOR OWNING,
6 OPERATING, CONTROLLING, MAINTAINING, ERECTING, CONSTRUCTING, INSTALLING,
7 ALTERING, INSPECTING, TESTING OR REPAIRING ANY ELEVATOR OR OTHER RELATED
8 MECHANISMS COVERED BY THIS ARTICLE FOR DAMAGES TO PERSON OR PROPERTY
9 CAUSED BY ANY DEFECT THEREIN, NOR DOES THE STATE ASSUME ANY SUCH LIABIL-
10 ITY OR RESPONSIBILITY THEREFOR, OR ANY LIABILITY TO ANY PERSON, BY
11 REASON OF THE ENACTMENT OF THIS ARTICLE, OR ANY ACTS OR OMISSIONS ARIS-
12 ING UNDER THIS ARTICLE.

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

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

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

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

42 5. UPON RECEIPT OF A WRITTEN NOTICE FROM THE ELEVATOR CONTRACTOR, OR
43 ITS AGENT OR REPRESENTATIVE, THAT SUCH VIOLATIONS OR DANGERS HAVE BEEN
44 CORRECTED, THE COMMISSIONER SHALL, WITHIN TEN DAYS, ISSUE A DETERMI-
45 NATION AS TO WHETHER SUCH NOTICE TO CURE OR NOTICE TO ENJOIN SHALL BE
46 RESCINDED. ANY ENTITY OR CONTRACTOR WHO MAY BE ADVERSELY AFFECTED BY A
47 NOTICE OR DETERMINATION ISSUED UNDER THIS SECTION MAY CHALLENGE THE
48 VALIDITY OR APPLICABILITY OF SUCH NOTICE OR DETERMINATION BY COMMENCING
49 A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW
50 AND RULES.

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

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

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

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

3 (D) VIOLATION OF ANY PROVISION OF THIS ARTICLE.

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

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

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

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

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

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

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

41 4. IF, AFTER AN INVESTIGATION AND A FORMAL HEARING, THE COMMISSIONER
42 FINDS THAT A CONTRACTOR HAS VIOLATED ANY PROVISION OF THIS ARTICLE OR
43 ANY RULE OR REGULATION PROMULGATED HEREUNDER WITHIN THREE YEARS OF THE
44 LAST ASSESSMENT OF A CIVIL PENALTY AGAINST THE CONTRACTOR UNDER THIS
45 ARTICLE, OR HAS BEEN FOUND TO HAVE COMMITTED SERIOUS VIOLATIONS OF OTHER
46 STATE, FEDERAL OR LOCAL LAWS WITH REGARD TO THE ELEVATOR CONTRACTOR'S
47 PROJECT OR HAS OTHERWISE DEMONSTRATED A LACK OF RESPONSIBILITY IN THE
48 CONDUCT OF ANY JOB OF SUCH SERIOUSNESS AS TO WARRANT THE REVOCATION OF
49 THE CONTRACTOR'S LICENSE, THE COMMISSIONER MAY, BY AN ORDER WHICH
50 DESCRIBES IN DETAIL THE NATURE OF THE VIOLATION OR VIOLATIONS, REVOKE
51 THE CONTRACTOR'S LICENSE, WHEREUPON SUCH CONTRACTOR SHALL NOT BE ELIGI-
52 BLE TO APPLY FOR A NEW LICENSE FOR A PERIOD OF UP TO TWO YEARS.

53 5. IF, AFTER AN INVESTIGATION AND A FORMAL HEARING, THE COMMISSIONER
54 FINDS THAT A PERSON OR CONTRACTOR WHO HAS BEEN ISSUED A PERMIT HAS WILL-
55 FULLY VIOLATED ANY PROVISION OF THIS ARTICLE, OR ANY RULE OR REGULATION
56 PROMULGATED PURSUANT TO THIS ARTICLE, THE COMMISSIONER MAY, BY ORDER

1 WHICH DESCRIBES IN DETAIL THE NATURE OF THE VIOLATION OR VIOLATIONS,
2 SUSPEND OR REVOKE THE PERMIT OF SUCH PERSON OR CONTRACTOR.

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

17 S 934. ENFORCEMENT. 1. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO
18 PREVENT CITIES FROM ENACTING LOCAL LAWS OR ORDINANCES WHICH IMPOSE STAN-
19 DARDS OR REQUIREMENTS RELATING TO CONVEYANCE SAFETY THAT ARE MORE STRIN-
20 GENT THAN THOSE SET FORTH IN THIS ARTICLE OR IN ANY RULE OR REGULATION
21 PROMULGATED PURSUANT TO THIS ARTICLE.

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

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

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

45 S 935. NEW YORK STATE ELEVATOR SAFETY AND STANDARDS BOARD. 1. AN
46 ELEVATOR SAFETY AND STANDARDS BOARD IS HEREBY CREATED, TO CONSIST OF
47 NINE MEMBERS. THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND
48 THE SPEAKER OF THE ASSEMBLY SHALL APPOINT THREE MEMBERS EACH. THE BOARD
49 SHALL MEET ON A QUARTERLY BASIS TO ADVISE THE COMMISSIONER OF LABOR ON
50 THE IMPLEMENTATION OF THIS ARTICLE. THE CHAIRPERSON OF THE BOARD SHALL
51 BE DESIGNATED BY THE GOVERNOR FROM AMONG THE PERSONS APPOINTED. THE
52 MEMBERS SHALL BE REPRESENTATIVE OF A MAJOR ELEVATOR MANUFACTURING COMPA-
53 NY, AN ELEVATOR SERVICING COMPANY, AN ELEVATOR ARCHITECTURAL DESIGNER OR
54 CONSULTANT, THE GENERAL PUBLIC, A BUILDING OWNER OR MANAGER, AN ELEVATOR
55 CONTRACTOR EMPLOYEE LABOR UNION REPRESENTATIVE, AN ELEVATOR INSPECTOR,
56 AN ELEVATOR MECHANIC 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 QE1-1; 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

1 PURPOSE OF THIS ARTICLE AND EXERCISE THE POWERS GIVEN AND GRANTED IN
2 THIS TITLE.

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