

8359

2011-2012 Regular Sessions

I N A S S E M B L Y

June 14, 2011

Introduced by M. of A. WRIGHT -- read once and referred 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 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 OPERATE, INSPECT, MAINTAIN, ALTER AND REPAIR SUCH CONVEYANCES CREATES AN
23 UNNECESSARY AND PREVENTABLE HEALTH AND SAFETY RISK TO EMPLOYEES AND THE

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

LBD10727-01-1

1 PUBLIC. THE PROTECTION OF EMPLOYEES AND THE PUBLIC, AS WELL AS THE
2 PREVENTION OF SUCH INJURY, IS IN THE BEST INTEREST OF THE PEOPLE OF THE
3 STATE OF NEW YORK.

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

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

17 S 926. APPLICATION. 1. THE DESIGN, CONSTRUCTION, OPERATION,
18 INSPECTION, TESTING, MAINTENANCE, ALTERATION, AND REPAIR OF THE FOLLOW-
19 ING EQUIPMENT ARE COVERED BY THIS ARTICLE:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (K) SKIP OR FURNACE HOISTS;

53 (L) WHARF RAMPS;

54 (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

1 CONTRACTOR'S LICENSE IS NOT REQUIRED FOR THE REMOVAL OR DISMANTLING OF
2 CONVEYANCES WHICH ARE DESTROYED AS A RESULT OF A COMPLETE DEMOLITION OF
3 A SECURED BUILDING OR STRUCTURE OR WHERE THE HOISTWAY OR WELLWAY IS
4 DEMOLISHED BACK TO THE BASIC SUPPORT STRUCTURE WHEREBY NO ACCESS IS
5 PERMITTED THEREIN TO ENDANGER THE SAFETY AND WELFARE OF A PERSON.

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

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

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

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

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

44 2. SUCH APPLICATIONS MUST INCLUDE THE FOLLOWING INFORMATION:

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

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

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

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

55 (E) RECORD OF CRIMINAL CONVICTIONS, IF ANY.

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

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

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

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

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

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

40 (B) ACCEPTABLE PROOF THAT HE OR SHE HAS WORKED ON ELEVATOR
41 CONSTRUCTION, MAINTENANCE OR REPAIR WITHOUT DIRECT AND IMMEDIATE SUPER-
42 VISION IN THIS STATE FOR A PERIOD OF NOT LESS THAN THREE YEARS IMME-
43 DIATELY PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE PROVIDED THAT SUCH
44 APPLICANT PURSUANT TO THIS PARAGRAPH SHALL FILE SUCH APPLICATION WITHIN
45 ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE; OR

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

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

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

1 2. WHENEVER AN EMERGENCY EXISTS, WHICH IMPERILS THE HEALTH, SAFETY OR
2 WELFARE OF AN INDIVIDUAL PLACING AN INDIVIDUAL IN IMMINENT DANGER OF
3 INJURY OR DEATH, A LICENSED ELEVATOR CONTRACTOR SHALL RESPOND AS NECES-
4 SARY TO ASSURE THE SAFETY OF THE PUBLIC. WHEN SUCH AN EMERGENCY EXISTS
5 IN THE STATE DUE TO A DISASTER, ACT OF GOD OR WORK STOPPAGE AND THE
6 NUMBER OF PERSONS IN THE STATE HOLDING LICENSES GRANTED BY THE BOARD IS
7 INSUFFICIENT TO COPE WITH SUCH EMERGENCY, ANY PERSON CERTIFIED BY A
8 LICENSED ELEVATOR CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION OF DOCU-
9 MENTED EXPERIENCE AND EDUCATION TO PERFORM ELEVATOR WORK WITHOUT DIRECT
10 AND IMMEDIATE SUPERVISION SHALL SEEK AN EMERGENCY ELEVATOR MECHANIC
11 LICENSE FROM THE COMMISSIONER WITHIN FIVE BUSINESS DAYS AFTER COMMENCING
12 WORK REQUIRING A LICENSE. THE COMMISSIONER SHALL ISSUE EMERGENCY ELEVA-
13 TOR MECHANIC LICENSES TO ADDRESS THE EMERGENCY THAT EXISTS. THE LICENSED
14 ELEVATOR CONTRACTOR SHALL FURNISH PROOF OF COMPETENCY AS THE COMMISSION-
15 ER MAY REQUIRE. EACH SUCH LICENSE SHALL RECITE THAT IT IS VALID FOR A
16 PERIOD OF THIRTY DAYS FROM THE DATE THEREOF AND FOR SUCH PARTICULAR
17 ELEVATORS OR GEOGRAPHICAL AREAS AS THE COMMISSIONER MAY DESIGNATE TO
18 ADDRESS THE EMERGENCY SITUATION AND OTHERWISE SHALL ENTITLE THE LICENSEE
19 TO THE RIGHTS AND PRIVILEGES OF AN ELEVATOR MECHANIC LICENSE ISSUED IN
20 THIS ARTICLE. THE COMMISSIONER SHALL RENEW AN EMERGENCY ELEVATOR MECHAN-
21 IC LICENSE DURING THE EXISTENCE OF AN EMERGENCY AS NEEDED. NO FEE SHALL
22 BE CHARGED FOR ANY EMERGENCY ELEVATOR MECHANIC LICENSE OR RENEWAL THERE-
23 OF.

24 3. A LICENSED ELEVATOR CONTRACTOR SHALL NOTIFY THE COMMISSIONER WHEN
25 THERE ARE NO LICENSED PERSONNEL AVAILABLE TO PERFORM ELEVATOR WORK. THE
26 LICENSED ELEVATOR CONTRACTOR MAY REQUEST THAT THE COMMISSIONER ISSUE
27 TEMPORARY ELEVATOR MECHANIC LICENSES TO PERSONS CERTIFIED BY THE
28 LICENSED ELEVATOR CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION OF DOCU-
29 MENTED EXPERIENCE AND EDUCATION TO PERFORM ELEVATOR WORK WITHOUT DIRECT
30 AND IMMEDIATE SUPERVISION. ANY PERSON CERTIFIED BY A LICENSED ELEVATOR
31 CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED EXPERIENCE
32 AND EDUCATION TO PERFORM ELEVATOR WORK WITHOUT DIRECT AND IMMEDIATE
33 SUPERVISION SHALL IMMEDIATELY SEEK A TEMPORARY ELEVATOR MECHANIC LICENSE
34 FROM THE COMMISSIONER AND SHALL PAY SUCH FEES AS THE BOARD SHALL DETER-
35 MINE. EACH SUCH LICENSE SHALL RECITE THAT IT IS VALID FOR A PERIOD OF
36 THIRTY DAYS FROM THE DATE OF ISSUANCE AND WHILE EMPLOYED BY THE LICENSED
37 ELEVATOR CONTRACTOR THAT CERTIFIED THE INDIVIDUAL AS QUALIFIED. IT SHALL
38 BE RENEWABLE AS LONG AS THE SHORTAGE OF LICENSE HOLDERS SHALL CONTINUE.

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

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

50 6. ANY APPLICANTS FOR AN ELEVATOR INSPECTOR'S LICENSE MUST DEMONSTRATE
51 TO THE SATISFACTION OF THE COMMISSIONER THAT SUCH APPLICANT MEETS OR
52 EXCEEDS THE CURRENT NATIONAL STANDARDS FOR ELEVATOR INSPECTORS AS SET
53 FORTH IN ASME QE1-1, STANDARDS FOR THE QUALIFICATIONS OF ELEVATOR
54 INSPECTORS. PRIVATE ELEVATOR INSPECTORS SHALL MAINTAIN THE SAME INSUR-
55 ANCE REQUIREMENTS AS AN ELEVATOR CONTRACTOR.

1 7. (A) THE RENEWAL OF ALL LICENSES GRANTED UNDER THE PROVISIONS OF
2 THIS SUBDIVISION SHALL BE CONDITIONED UPON THE SUBMISSION OF A CERTIF-
3 ICATE OF COMPLETION OF A COURSE DESIGNED TO ENSURE THE CONTINUING EDUCA-
4 TION OF LICENSEES ON NEW AND EXISTING NATIONAL, STATE, AND LOCAL CONVEY-
5 ANCES CODES AND STANDARDS. SUCH COURSE SHALL CONSIST OF NOT LESS THAN
6 EIGHT HOURS OF INSTRUCTION THAT SHALL BE ATTENDED AND COMPLETED WITHIN
7 ONE YEAR IMMEDIATELY PRECEDING ANY SUCH LICENSE RENEWAL. THE COMMISSION-
8 ER SHALL ESTABLISH REQUIREMENTS FOR CONTINUING EDUCATION AND TRAINING
9 PROGRAMS, AND SHALL APPROVE SUCH PROGRAMS, AS WELL AS MAINTAIN A LIST OF
10 APPROVED PROGRAMS WHICH SHALL BE MADE AVAILABLE TO LICENSE APPLICANTS,
11 PERMIT APPLICANTS, RENEWAL APPLICANTS AND OTHER INTERESTED PARTIES UPON
12 REQUEST. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS SETTING
13 FORTH THE CRITERIA FOR APPROVAL OF SUCH PROGRAMS, THE PROCEDURES TO BE
14 FOLLOWED IN APPLYING FOR SUCH APPROVAL, AND OTHER RULES AND REGULATIONS
15 AS THE COMMISSIONER DEEMS NECESSARY AND PROPER TO EFFECTUATE THE
16 PURPOSES OF THIS SECTION.

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

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

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

37 THE COURSES SHALL BE TAUGHT BY INSTRUCTORS THROUGH CONTINUING EDUCA-
38 TION PROVIDERS THAT MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, ASSOCI-
39 ATION SEMINARS, AND LABOR TRAINING PROGRAMS. THE ELEVATOR SAFETY AND
40 STANDARDS BOARD SHALL APPROVE THE CONTINUING EDUCATION PROVIDERS. ALL
41 INSTRUCTORS SHALL BE APPROVED BY THE BOARD AND EXEMPT FROM THE REQUIRE-
42 MENTS OF THE PRECEDING PARAGRAPH WITH REGARD TO THEIR APPLICATION FOR
43 LICENSE RENEWAL PROVIDED THAT SUCH APPLICANT WAS QUALIFIED AS AN
44 INSTRUCTOR AT ANY TIME DURING THE ONE YEAR IMMEDIATELY PRECEDING THE
45 SCHEDULED DATE FOR SUCH RENEWAL.

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

55 S 931. REGULATIONS. 1. THE COMMISSIONER SHALL PROMULGATE SUCH RULES
56 AND REGULATIONS AS THE COMMISSIONER DEEMS NECESSARY AND PROPER TO EFFEC-

1 TUATE THE PURPOSES AND PROVISIONS OF THIS ARTICLE AND COMPLY WITH AT A
2 MINIMUM, THE REQUIREMENTS OF THE CODE; THE SAFETY CODE FOR ELEVATORS AND
3 ESCALATORS, ASME A17.1; THE SAFETY STANDARDS FOR PLATFORM LIFTS AND
4 STAIRWAY CHAIRLIFTS, ASME A18.1; STANDARD FOR THE QUALIFICATION OF
5 ELEVATOR INSPECTORS, ASME QEI-1; AND AUTOMATED PEOPLE MOVER STANDARDS
6 ASCE 21.

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

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

19 4. THIS ARTICLE SHALL NOT BE CONSTRUED TO RELIEVE OR LESSEN THE
20 RESPONSIBILITY OR LIABILITY OF ANY OWNER OR ELEVATOR CONTRACTOR OWNING,
21 OPERATING, CONTROLLING, MAINTAINING, ERECTING, CONSTRUCTING, INSTALLING,
22 ALTERING, INSPECTING, TESTING OR REPAIRING ANY ELEVATOR OR OTHER RELATED
23 MECHANISMS COVERED BY THIS ARTICLE FOR DAMAGES TO PERSON OR PROPERTY
24 CAUSED BY ANY DEFECT THEREIN, NOR DOES THE STATE ASSUME ANY SUCH LIABIL-
25 ITY OR RESPONSIBILITY THEREFOR, OR ANY LIABILITY TO ANY PERSON, BY
26 REASON OF THE ENACTMENT OF THIS ARTICLE, OR ANY ACTS OR OMISSIONS ARIS-
27 ING UNDER THIS ARTICLE.

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

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

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

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

1 5. UPON RECEIPT OF A WRITTEN NOTICE FROM THE ELEVATOR CONTRACTOR, OR
2 ITS AGENT OR REPRESENTATIVE, THAT SUCH VIOLATIONS OR DANGERS HAVE BEEN
3 CORRECTED, THE COMMISSIONER SHALL, WITHIN TEN DAYS, ISSUE A DETERMI-
4 NATION AS TO WHETHER SUCH NOTICE TO CURE OR NOTICE TO ENJOIN SHALL BE
5 RESCINDED. ANY ENTITY OR CONTRACTOR WHO MAY BE ADVERSELY AFFECTED BY A
6 NOTICE OR DETERMINATION ISSUED UNDER THIS SECTION MAY CHALLENGE THE
7 VALIDITY OR APPLICABILITY OF SUCH NOTICE OR DETERMINATION BY COMMENCING
8 A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW
9 AND RULES.

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

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

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

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

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

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

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

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

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

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

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

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

1 4. IF, AFTER AN INVESTIGATION AND A FORMAL HEARING, THE COMMISSIONER
2 FINDS THAT A CONTRACTOR HAS VIOLATED ANY PROVISION OF THIS ARTICLE OR
3 ANY RULE OR REGULATION PROMULGATED HEREUNDER WITHIN THREE YEARS OF THE
4 LAST ASSESSMENT OF A CIVIL PENALTY AGAINST THE CONTRACTOR UNDER THIS
5 ARTICLE, OR HAS BEEN FOUND TO HAVE COMMITTED SERIOUS VIOLATIONS OF OTHER
6 STATE, FEDERAL OR LOCAL LAWS WITH REGARD TO THE ELEVATOR CONTRACTOR'S
7 PROJECT OR HAS OTHERWISE DEMONSTRATED A LACK OF RESPONSIBILITY IN THE
8 CONDUCT OF ANY JOB OF SUCH SERIOUSNESS AS TO WARRANT THE REVOCATION OF
9 THE CONTRACTOR'S LICENSE, THE COMMISSIONER MAY, BY AN ORDER WHICH
10 DESCRIBES IN DETAIL THE NATURE OF THE VIOLATION OR VIOLATIONS, REVOKE
11 THE CONTRACTOR'S LICENSE, WHEREUPON SUCH CONTRACTOR SHALL NOT BE ELIGI-
12 BLE TO APPLY FOR A NEW LICENSE FOR A PERIOD OF UP TO TWO YEARS.

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

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

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

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

51 3. EACH CITY WHICH ELECTS SUCH LOCAL ENFORCEMENT OPTION SHALL SUBMIT A
52 REPORT TO THE COMMISSIONER ANNUALLY ON OR BEFORE THE FIRST DAY OF JUNE
53 IN THE MANNER IN WHICH THIS ARTICLE AND THE RULES AND REGULATIONS
54 PROMULGATED PURSUANT TO THIS ARTICLE HAVE BEEN AND ARE BEING ADMINIS-
55 TERED AND THE RESULTS OF SUCH ADMINISTRATION UNDER THE JURISDICTION OF

1 SUCH CITY AND SHALL FROM TIME TO TIME SUBMIT TO THE COMMISSIONER SUCH
2 OTHER REPORTS AS TO SUCH OTHER MATTERS AS THE COMMISSIONER MAY REQUIRE.

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

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

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

32 3. THE BOARD MAY CONSULT WITH ENGINEERING AUTHORITIES AND ORGANIZA-
33 TIONS CONCERNED WITH STANDARD SAFETY CODES, RULES AND REGULATIONS
34 GOVERNING THE OPERATION, MAINTENANCE, SERVICING, CONSTRUCTION, ALTER-
35 ATION, INSTALLATION, AND INSPECTION OF CONVEYANCES AND THE ADEQUATE,
36 REASONABLE, AND NECESSARY QUALIFICATIONS OF ELEVATOR MECHANICS, CONTRAC-
37 TORS, AND INSPECTORS. THE BOARD MAY BE AUTHORIZED BY THE COMMISSIONER TO
38 RECOMMEND DRAFT LEGISLATION AND AMENDMENTS TO THE LEGISLATURE.

39 4. THE BOARD SHALL ASSIST THE COMMISSIONER AND THE DEPARTMENT IN
40 ESTABLISHING THE STATE REGULATIONS FOR EQUIPMENT COVERED BY THIS ARTI-
41 CLE. SUCH REGULATIONS SHALL CONFORM WITH THE MINIMUM REQUIREMENTS OF THE
42 CODE, THE SAFETY CODE FOR ELEVATORS AND ESCALATORS, ASME A17.1; THE
43 SAFETY CODE FOR EXISTING ELEVATORS AND ESCALATORS, ASME A17.3; THE SAFE-
44 TY STANDARDS FOR PLATFORM LIFTS AND STAIRWAY CHAIRLIFTS, ASME A18.1;
45 STANDARD FOR THE QUALIFICATION OF ELEVATOR INSPECTORS, ASME QE1-1; AND
46 AUTOMATED PEOPLE MOVER STANDARDS, ASCE 21. THE BOARD SHALL ADOPT THE
47 LATEST EDITIONS OF SUCH NATIONAL STANDARDS WITHIN SIX MONTHS OF THEIR
48 EFFECTIVE DATE. ANY MODIFICATIONS TO SUCH NATIONAL STANDARDS, DEEMED
49 NECESSARY BY THE BOARD, MUST BE JUSTIFIED IN WRITING.

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

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

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

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

6 (D) ASSISTING IN DEVELOPMENT OF PUBLIC AWARENESS PROGRAMS.

7 6. THE BOARD SHALL ASSIST THE COMMISSIONER IN GRANTING EXCEPTIONS AND
8 VARIANCES FROM THE LITERAL REQUIREMENTS OF THE APPLICABLE CODE AND STAN-
9 DARDS, REGULATIONS, AND LOCAL LEGISLATION, IN CASES WHERE SUCH VARIANCES
10 WOULD NOT JEOPARDIZE THE PUBLIC SAFETY AND WELFARE. THE BOARD SHALL HEAR
11 ALL APPEALS AND VARIANCES.

12 7. THE BOARD SHALL ASSIST THE COMMISSIONER IN SETTING FEE SCHEDULES
13 FOR LICENSES, PERMITS, AND INSPECTIONS. THE FEES SHALL REFLECT THE ACTU-
14 AL COSTS AND EXPENSES TO CONDUCT THE DUTIES AS DESCRIBED IN THIS ARTI-
15 CLE.

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

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