

7026--A

I N S E N A T E

April 24, 2012

Introduced by Sens. BONACIC, KRUEGER, ADAMS, ADDABBO, AVELLA, BRESLIN, CARLUCCI, DILAN, DUANE, FLANAGAN, FUSCHILLO, GIANARIS, GOLDEN, GRISANTI, HASSELL-THOMPSON, HUNTLEY, KENNEDY, KLEIN, LANZA, MARTINS, MAZIARZ, MONTGOMERY, OPPENHEIMER, PARKER, PERALTA, RIVERA, SAVINO, SERRANO, SQUADRON, STAVISKY, STEWART-COUSINS, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law and the state finance 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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

3 ARTICLE 32

4 ELEVATORS AND OTHER CONVEYANCES; LICENSING
5 SECTION 925. LEGISLATIVE FINDINGS AND DECLARATION.

6 926. APPLICATION.

7 927. DEFINITIONS.

8 928. LICENSING, PERMIT, REGISTRATION AND COMPLIANCE REQUIRE-
9 MENTS.

10 929. LICENSE AND PERMIT PROCEDURE.

11 930. QUALIFICATIONS, TRAINING AND CONTINUING EDUCATION.

12 931. POWERS OF THE COMMISSIONER.

13 932. NEW YORK STATE ELEVATOR SAFETY AND STANDARDS BOARD.

14 S 925. LEGISLATIVE FINDINGS AND DECLARATION. THE LEGISLATURE HEREBY
15 FINDS THAT THE USE OF UNSAFE AND DEFECTIVE ELEVATORS AND OTHER AUTOMATED
16 PEOPLE MOVING CONVEYANCES MAY EXPOSE THE PUBLIC TO UNSAFE CONDITIONS AND
17 INCREASE THE RISK OF INJURY. THE LEGISLATURE FINDS THAT IMPROPER DESIGN,
18 CONSTRUCTION, MAINTENANCE AND REPAIR OF SUCH CONVEYANCES IS PREVENTABLE
19 BY REQUIRING PROPER TRAINING OF PERSONS EMPLOYED TO PERFORM WORK ON

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

LBD10727-11-2

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 IS INTENDED TO CREATE, EXPAND, DIMINISH, LIMIT, IMPAIR, OR SUPERSEDE ANY RIGHTS UNDER CURRENT LAW, RULE, OR REGULATION, OR RESULTING FROM A DETERMINATION OF A COURT OR THE NATIONAL LABOR RELATIONS BOARD WITH REGARD TO BUILDING TRADES AND THE WORK OF SUCH BUILDING TRADE. NOR IS IT INTENDED TO ABROGATE ANY RIGHTS OR DUTIES UNDER ANY CONTRACT WITH REGARD TO BUILDING TRADES AND THE WORK OF SUCH BUILDING TRADE.

S 926. APPLICATION. 1. THE DESIGN, CONSTRUCTION, ERECTION, INSTALLATION, INSPECTION, TESTING, MAINTENANCE, ALTERATION, SERVICE, 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 AND STAIRWAY CHAIR LIFTS;

(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 AS DEFINED IN SECTION NINE HUNDRED TWENTY-SEVEN OF THIS ARTICLE; AND

(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;

(B) MANLIFTS;

(C) MOBILE SCAFFOLDS, TOWERS, AND PLATFORMS;

(D) POWERED PLATFORMS AND EQUIPMENT FOR EXTERIOR AND INTERIOR MAINTENANCE;

(E) CONVEYOR AND RELATED EQUIPMENT;

(F) CRANES, DERRICKS, HOISTS, HOOKS, JACKS AND SLINGS;

(G) INDUSTRIAL TRUCKS;

(H) PORTABLE EQUIPMENT, EXCEPT FOR PORTABLE ESCALATORS;

(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;

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

3. THE LICENSING, PERMITTING AND CERTIFICATION PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO THE OWNERS OR LESSEES OF PRIVATE RESIDENCES WHO DESIGN, ERECT, CONSTRUCT, INSTALL, ALTER, REPAIR, SERVICE OR MAINTAIN CONVEYANCES THAT ARE LOCATED OR WILL BE LOCATED IN SUCH OWNER OR LESSEE'S PRIVATE RESIDENCE. HOWEVER, ANY PERSON HIRED TO DESIGN, ERECT, CONSTRUCT, INSTALL, ALTER, REPAIR, SERVICE, MAINTAIN, OR PERFORM ANY

1 OTHER WORK RELATED TO SUCH CONVEYANCES MUST COMPLY WITH THE PROVISIONS
2 OF THIS ARTICLE.

3 4. NO LICENSE SHALL BE REQUIRED FOR THE REMOVAL OR DISMANTLING OF
4 CONVEYANCES.

5 5. THE PROVISIONS OF THIS ARTICLE AND THE RULES ADOPTED PURSUANT THER-
6 ETO SHALL BE THE MINIMUM STANDARD REQUIRED AND SHALL SUPERSEDE ANY
7 SPECIAL LAW OR LOCAL ORDINANCE INCONSISTENT THEREWITH, AND NO LOCAL
8 ORDINANCE INCONSISTENT THEREWITH SHALL BE ADOPTED, BUT NOTHING HEREIN
9 CONTAINED SHALL PREVENT THE ENACTMENT BY LOCAL LAW OR ORDINANCE OF ADDI-
10 TIONAL REQUIREMENTS AND RESTRICTIONS.

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

13 1. "AUTOMATED PEOPLE MOVER" MEANS A GUIDED TRANSIT MODE WITH FULLY
14 AUTOMATED OPERATION, FEATURING VEHICLES THAT OPERATE ON GUIDEWAYS WITH
15 EXCLUSIVE RIGHT-OF-WAY.

16 2. "BOARD" MEANS THE NEW YORK STATE ELEVATOR SAFETY AND STANDARDS
17 BOARD ESTABLISHED BY SECTION NINE HUNDRED THIRTY-TWO OF THIS ARTICLE.

18 3. "CERTIFICATE OF OPERATION" MEANS A DOCUMENT ISSUED BY THE COMMIS-
19 SIONER THAT INDICATES THAT THE ELEVATOR OR RELATED CONVEYANCE HAS HAD
20 THE REQUIRED SAFETY INSPECTION AND TESTS AND THAT THE FEES REQUIRED BY
21 THIS ARTICLE HAVE BEEN PAID.

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

26 5. "CONVEYANCE" MEANS ANY ELEVATOR, DUMBWAITER, ESCALATOR, MOVING
27 SIDEWALK, PLATFORM LIFTS, STAIRWAY CHAIRLIFTS AND AUTOMATED PEOPLE
28 MOVERS.

29 6. "DORMANT ELEVATOR, DUMBWAITER, OR ESCALATOR" MEANS AN INSTALLATION
30 PLACED OUT OF SERVICE UNDER THE FOLLOWING CIRCUMSTANCES: (A) WHEN AN
31 INSTALLATION'S POWER HAS BEEN DISCONNECTED AND (I) WHEN AN ELECTRIC
32 ELEVATOR, DUMBWAITER, OR MATERIAL LIFT WHOSE SUSPENSION ROPES HAVE BEEN
33 REMOVED, WHOSE CAR AND COUNTERWEIGHT REST AT THE BOTTOM OF THE HOISTWAY,
34 AND WHOSE HOISTWAY DOORS HAVE BEEN PERMANENTLY BARRICADED OR SEALED IN
35 THE CLOSED POSITION ON THE HOISTWAY SIDE; OR (II) A HYDRAULIC ELEVATOR,
36 DUMBWAITER, OR MATERIAL LIFT WHOSE CAR RESTS AT THE BOTTOM OF THE HOIST-
37 WAY AND WHOSE DOORS ARE PERMANENTLY BARRICADED OR SEALED; OR (III) AN
38 ESCALATOR OR MOVING WALK WHOSE ENTRANCES HAVE BEEN PERMANENTLY BARRICAD-
39 ED; OR (B) AS DETERMINED BY STATE OR LOCAL LAW, CODE, RULE, OR REGU-
40 LATIONS.

41 7. "ELEVATOR" MEANS A HOISTING AND LOWERING MECHANISM, EQUIPPED WITH A
42 CAR, THAT MOVES WITHIN GUIDES AND SERVES TWO OR MORE LANDINGS.

43 8. "ELEVATOR CONTRACTOR" MEANS, A PUBLIC CORPORATION, OR INSTRUMENTAL-
44 ITY OF A PUBLIC CORPORATION, SELF-EMPLOYED PERSON, COMPANY, UNINCORPO-
45 RATED ASSOCIATION, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPO-
46 RATION, OR ANY OTHER ENTITY, OR ANY OWNER OR OPERATOR OF ANY OF THE
47 FOREGOING ENTITIES, WHO POSSESSES AN ELEVATOR CONTRACTOR'S LICENSE IN
48 ACCORDANCE WITH THE PROVISIONS OF SECTIONS NINE HUNDRED TWENTY-EIGHT AND
49 NINE HUNDRED TWENTY-NINE OF THIS ARTICLE AND IS ENGAGED IN THE BUSINESS
50 OF DESIGNING, ERECTING, CONSTRUCTING, INSTALLING, ALTERING, REPAIRING,
51 SERVICING OR MAINTAINING ELEVATORS OR OTHER AUTOMATED PEOPLE MOVING
52 CONVEYANCES COVERED BY THIS ARTICLE.

53 9. "ELEVATOR HELPER/APPRENTICE/ASSISTANT MECHANIC" MEANS ANY PERSON
54 WHO WORKS UNDER THE GENERAL DIRECTION OF A LICENSED ELEVATOR MECHANIC.

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

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

12. "ESCALATOR" MEANS POWER-DRIVEN, INCLINED, CONTINUOUS STAIRWAY USED FOR RAISING OR LOWERING PASSENGERS.

13. "EXISTING INSTALLATION" MEANS AN INSTALLATION THAT HAS BEEN COMPLETED OR IS UNDER CONSTRUCTION PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE.

14. "LICENSE" MEANS A LICENSE DULY ISSUED BY THE COMMISSIONER, AUTHORIZING THE DESIGN, ERECTION, CONSTRUCTION, INSTALLATION, ALTERATION, REPAIR, SERVICE, MAINTENANCE, OR INSPECTION OF ELEVATORS OR OTHER CONVEYANCES COVERED BY THIS ARTICLE.

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

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

17. "ELEVATOR MECHANIC'S LICENSE" 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.

18. "MOVING WALK/SIDEWALK" MEANS A TYPE OF PASSENGER-CARRYING DEVICE ON WHICH PASSENGERS STAND OR WALK, AND IN WHICH THE PASSENGER-CARRYING SURFACE REMAINS PARALLEL TO ITS DIRECTION OF MOTION AND IS UNINTERRUPTED.

19. "PERMIT" MEANS A DOCUMENT ISSUED BY THE COMMISSIONER PRIOR TO THE COMMENCEMENT OF WORK THAT PERMITS A CONVEYANCE TO BE ERECTED, CONSTRUCTED, INSTALLED, OR ALTERED UNDER PLANS APPROVED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE.

20. "PERSON" MEANS ANY NATURAL PERSON.

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

22. "REPAIR" MEANS RECONDITIONING OR RENEWAL OF PARTS, COMPONENTS, AND/OR SUBSYSTEMS NECESSARY TO KEEP EQUIPMENT IN COMPLIANCE WITH APPLICABLE CODE REQUIREMENTS.

23. "ALTERATION" MEANS ANY CHANGE TO EQUIPMENT, INCLUDING ITS PARTS, COMPONENTS, AND/OR SUBSYSTEMS, OTHER THAN MAINTENANCE, REPAIR, OR REPLACEMENT.

24. "DESIGN" MEANS THE ACT OR PROCESS OF PLANNING THE REPAIR, ALTERATION OR CONSTRUCTION OF ANY CONVEYANCE.

25. "CONSTRUCTION" MEANS THE ACT OR PROCESS OF CONSTRUCTING ANY CONVEYANCE.

26. "INSPECTION" MEANS A CRITICAL EXAMINATION, OBSERVATION OR EVALUATION OF QUALITY AND CODE COMPLIANCE OF ANY CONVEYANCE.

27. "TESTING" MEANS A PROCESS OR TRIAL OF OPERATION OF ANY CONVEYANCE.

28. "MAINTENANCE" MEANS A PROCESS OF ROUTINE EXAMINATION, LUBRICATION, CLEANING, AND ADJUSTMENT OF PARTS, COMPONENTS, AND/OR SUBSYSTEMS FOR THE PURPOSE OF ENSURING PERFORMANCE IN ACCORDANCE WITH ANY APPLICABLE CODE REQUIREMENTS.

29. "SERVICE OR SERVICING" MEANS A SERVICE CALL OR OTHER UNSCHEDULED VISIT, NOT INCLUDING ROUTINE MAINTENANCE OR A REPAIR, FROM A LICENSED ELEVATOR MECHANIC TO TROUBLESHOOT, ADJUST OR REPAIR AN IMPROPERLY FUNCTIONING OR AN OTHERWISE SHUT DOWN CONVEYANCE.

1 30. "TEMPORARILY DORMANT ELEVATOR, DUMBWAITER, OR ESCALATOR" MEANS AN
2 INSTALLATION TEMPORARILY PLACED OUT OF SERVICE UNDER THE FOLLOWING
3 CIRCUMSTANCES: (A) (I) WHEN SUCH INSTALLATION'S POWER SUPPLY HAS BEEN
4 DISCONNECTED; AND (II) THE CAR IS PARKED AND ANY DOORS ARE CLOSED AND
5 LATCHED; AND (III) A WIRE SEAL IS INSTALLED ON THE MAINLINE DISCONNECT
6 SWITCH BY A LICENSED ELEVATOR INSPECTOR; OR (B) AS DETERMINED BY STATE
7 OR LOCAL LAW, CODE, RULE, OR REGULATION.

8 31. "ERECT" MEANS TO VERTICALLY CONSTRUCT OR CONNECT ANY CONVEYANCE OR
9 PART OR SYSTEM THEREOF.

10 32. "INSTALLATION" INSTALL MEANS TO PLACE OR FIX ANY CONVEYANCE OR
11 PART OR SYSTEM THEREOF, IN POSITION FOR OPERATION.

12 TEMPORARILY DORMANT INSTALLATIONS SHALL NOT BE USED UNTIL SUCH INSTAL-
13 LATION HAS BEEN RESTORED TO A SAFE RUNNING ORDER AND IS IN CONDITION
14 SUITABLE FOR USE IN ACCORDANCE WITH ALL APPLICABLE LAWS, CODES, RULES
15 AND REGULATIONS. SUCH TEMPORARILY DORMANT INSTALLATION SHALL BE SUBJECT
16 TO CONTINUED INSPECTIONS FOR THE DURATION OF THE "TEMPORARILY DORMANT"
17 STATUS BY A LICENSED ELEVATOR INSPECTOR. SUCH INSPECTOR SHALL FILE A
18 REPORT WITH THE COMMISSIONER DESCRIBING THE CONDITIONS OF SUCH TEMPORAR-
19 ILY DORMANT INSTALLATION. THE REPORT SHALL BE FILED ANNUALLY OR MORE OR
20 LESS FREQUENT AS DETERMINED BY THE COMMISSIONER. "TEMPORARILY DORMANT"
21 STATUS SHALL BE RENEWABLE ON AN ANNUAL BASIS, BUT SHALL NOT EXCEED A
22 FIVE-YEAR PERIOD.

23 NO PERSON SHALL REMOVE THE WIRE SEAL AND PADLOCK FOR ANY PURPOSE WITH-
24 OUT THE EXPRESS PERMISSION OF THE ELEVATOR INSPECTOR.

25 S 928. LICENSING, PERMIT, REGISTRATION AND COMPLIANCE REQUIREMENTS. 1.
26 EXCEPT AS OTHERWISE PROVIDED FOR IN SUBDIVISIONS THREE AND FOUR OF
27 SECTION NINE HUNDRED TWENTY-SIX OF THIS ARTICLE, IT SHALL BE A VIOLATION
28 OF THIS ARTICLE FOR ANY ELEVATOR CONTRACTOR TO DESIGN, ERECT, CONSTRUCT,
29 INSTALL, ALTER, REPLACE, SERVICE, OR MAINTAIN, ANY CONVEYANCE CONTAINED
30 WITHIN BUILDINGS OR STRUCTURES IN THIS STATE UNLESS SUCH ELEVATOR
31 CONTRACTOR HOLDS AN ELEVATOR CONTRACTOR'S LICENSE.

32 2. EXCEPT AS OTHERWISE PROVIDED FOR IN SUBDIVISIONS THREE AND FOUR OF
33 SECTION NINE HUNDRED TWENTY-SIX OF THIS ARTICLE, IT SHALL BE A VIOLATION
34 OF THIS ARTICLE FOR ANY PERSON TO WIRE ANY CONVEYANCE, FROM THE MAINLINE
35 FEEDER TERMINALS ON THE CONTROLLER, IN THIS STATE UNLESS SUCH PERSON HAS
36 AN ELEVATOR MECHANIC'S LICENSE AND IS WORKING UNDER THE DIRECT SUPER-
37 VISION OF A LICENSED ELEVATOR CONTRACTOR PURSUANT TO THIS ARTICLE. NO
38 OTHER LICENSE SHALL BE REQUIRED FOR THIS WORK, EXCLUDING THE INSTALLA-
39 TION OF BRANCH CIRCUITS AND WIRING TERMINATIONS FOR MACHINE ROOM AND PIT
40 LIGHTING, RECEPTACLES AND HVAC AS DESCRIBED IN THE NFPA NATIONAL ELEC-
41 TRIC CODE 620.23 AND 620.24 AS WELL AS FIRE AND HEAT DETECTORS AND
42 ALARMS, MAY BE PERFORMED BY A LICENSED ELECTRICAL CONTRACTOR. ADDI-
43 TIONALLY, WITHIN NEW YORK CITY, THE INSTALLATION OF BRANCH CIRCUITS AND
44 WIRING TERMINATIONS FOR THE CAR FAN, LIGHTS AND RECEPTACLES, AS
45 DESCRIBED IN THE NFPA NATIONAL ELECTRIC CODE 620.22, AND INTERCOMS AND
46 VOICE COMMUNICATIONS AS WELL AS SIGNAL EQUIPMENT OR SYSTEMS, AS DEFINED
47 IN NFPA ARTICLE 620.2, THAT IS NOT DIRECTLY ASSOCIATED WITH THE OPERA-
48 TION OR SAFETY OF ANY CONVEYANCE, MAY BE PERFORMED BY A LICENSED ELEC-
49 TRICAL CONTRACTOR.

50 3. EXCEPT AS OTHERWISE PROVIDED FOR IN SUBDIVISION THREE OF SECTION
51 NINE HUNDRED TWENTY-SIX OF THIS ARTICLE, IT SHALL BE A VIOLATION OF THIS
52 ARTICLE FOR ANY PERSON TO INSPECT OR TEST ANY CONVEYANCE WITHIN BUILD-
53 INGS OR STRUCTURES UNLESS SUCH PERSON HOLDS AN ELEVATOR INSPECTOR'S
54 LICENSE.

55 4. EXCEPT AS OTHERWISE PROVIDED FOR IN SUBDIVISIONS THREE AND FOUR OF
56 SECTION NINE HUNDRED TWENTY-SIX OF THIS ARTICLE, IT SHALL BE A VIOLATION

1 OF THIS ARTICLE FOR ANY ELEVATOR CONTRACTOR TO ERECT, CONSTRUCT,
2 INSTALL, OR ALTER CONVEYANCES WITHIN BUILDINGS OR STRUCTURES WITHIN THIS
3 STATE UNLESS A PERMIT THEREFOR HAS BEEN ISSUED BY THE COMMISSIONER
4 BEFORE WORK IS COMMENCED. NO PERMIT SHALL BE ISSUED EXCEPT TO A PERSON
5 HOLDING A VALID ELEVATOR CONTRACTOR'S LICENSE. A COPY OF SUCH PERMIT
6 SHALL BE KEPT AT THE CONSTRUCTION SITE AT ALL TIMES WHILE THE WORK IS IN
7 PROGRESS.

8 5. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION THREE OF SECTION NINE
9 HUNDRED TWENTY-SIX OF THIS ARTICLE, ALL NEW CONVEYANCE INSTALLATIONS
10 SHALL BE PERFORMED BY AN ELEVATOR CONTRACTOR LICENSED TO INSTALL SUCH
11 CONVEYANCE. SUBSEQUENT TO INSTALLATION, THE ELEVATOR CONTRACTOR MUST
12 CERTIFY COMPLIANCE TO THE COMMISSIONER WITH THE APPLICABLE SECTIONS OF
13 THIS ARTICLE AS WELL AS ANY OTHER APPLICABLE LAW, RULE, REGULATION OR
14 CODE. PRIOR TO SUCH CONVEYANCES BEING USED, THE PROPERTY OWNER OR
15 LESSEE MUST OBTAIN A CERTIFICATE OF OPERATION FROM THE COMMISSIONER. A
16 FEE, AS SET FORTH IN THIS ARTICLE, SHALL BE PAID FOR SUCH CERTIFICATE OF
17 OPERATION, HOWEVER, NO SUCH FEE SHALL BE REQUIRED FOR CONVEYANCES IN
18 PRIVATE RESIDENCES. IT IS THE RESPONSIBILITY OF THE LICENSED ELEVATOR
19 CONTRACTOR TO COMPLETE AND SUBMIT REGISTRATIONS FOR NEW INSTALLATIONS.
20 A CERTIFICATE OF OPERATION SHALL BE VALID FOR ONE YEAR, EXCEPT FOR
21 CERTIFICATES ISSUED FOR PLATFORM AND STAIRWAY CHAIRLIFTS FOR PRIVATE
22 RESIDENCES, WHICH SHALL BE VALID FOR A PERIOD OF THREE YEARS. CERTIF-
23 ICATES OF OPERATION MUST BE CLEARLY AND CONSPICUOUSLY DISPLAYED ON, IN
24 OR AROUND EACH CONVEYANCE AND BE ACCESSIBLE TO THE STATE OR LOCALITY
25 INSPECTING OR ENFORCING ANY APPLICABLE LAW, RULE, REGULATION OR CODE.

26 6. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION THREE OF SECTION NINE
27 HUNDRED TWENTY-SIX OF THIS ARTICLE, THE CERTIFICATE OF OPERATION FOR
28 NEWLY INSTALLED PLATFORM LIFTS AND STAIRWAY CHAIRLIFTS FOR PRIVATE RESI-
29 DENCES SHALL BE ISSUED ONLY SUBSEQUENT TO AN INSPECTION BY A LICENSED
30 THIRD PARTY INSPECTION FIRM. THE CERTIFICATE OF OPERATION FEE FOR ALL
31 NEW AND EXISTING PLATFORM AND STAIRWAY CHAIRLIFTS FOR PRIVATE RESIDENCES
32 AND ANY RENEWAL CERTIFICATE FEES ARE HEREBY WAIVED. THE INSPECTION OF
33 PRIVATE RESIDENCE PLATFORM AND STAIRWAY CHAIRLIFTS SHALL BE DONE AT THE
34 REQUEST AND CONSENT OF THE PRIVATE RESIDENCE'S OWNER OR LESSEES.

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

38 S 929. LICENSE AND PERMIT PROCEDURE. ALL APPLICATIONS FOR ELEVATOR
39 CONTRACTOR'S, ELEVATOR MECHANIC'S, AND ELEVATOR INSPECTOR'S LICENSES AND
40 REQUIRED PERMITS SHALL BE SUBMITTED TO THE DEPARTMENT IN WRITING ON
41 FORMS FURNISHED BY THE COMMISSIONER AND SHALL CONTAIN THE INFORMATION
42 SET FORTH IN THIS SECTION AS WELL AS ANY ADDITIONAL INFORMATION THAT THE
43 COMMISSIONER MAY REQUIRE. THE COMMISSIONER SHALL ALSO SET FEES FOR
44 LICENSING AND PERMITTING UNDER THIS SECTION.

45 1. APPLICATIONS FOR LICENSES. EVERY APPLICATION FOR A LICENSE UNDER
46 THIS ARTICLE SHALL INCLUDE THE FOLLOWING:

- 47 (A) THE NAME, RESIDENCE ADDRESS AND BUSINESS ADDRESS OF THE APPLICANT;
- 48 (B) THE NUMBER OF YEARS THE APPLICANT HAS ENGAGED IN THE BUSINESS OR
49 PRACTICE OF DESIGNING, CONSTRUCTING, ERECTING, INSTALLING, INSPECTING,
50 TESTING, REPAIRING, ALTERING, MAINTAINING, OR SERVICING CONVEYANCES
51 COVERED BY THIS ARTICLE;
- 52 (C) THE APPROXIMATE NUMBER OF PERSONS, IF ANY, TO BE EMPLOYED BY THE
53 APPLICANT FOR AN ELEVATOR CONTRACTOR'S LICENSE;
- 54 (D) EVIDENCE THAT THE APPLICANT IS OR WILL BE COVERED BY GENERAL
55 LIABILITY, PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE; AND
- 56 (E) ANY OTHER INFORMATION WHICH THE COMMISSIONER MAY REQUIRE.

1 UPON APPROVAL OF AN APPLICATION FOR A LICENSE THE COMMISSIONER SHALL
2 ISSUE SUCH LICENSE WHICH SHALL BE VALID FOR TWO YEARS. THE FEES FOR SUCH
3 LICENSE AND RENEWAL THEREOF SHALL BE SET BY THE COMMISSIONER. ANY DENIAL
4 FOR SUCH APPLICATION SHALL SET FORTH THE REASONS THEREFOR.

5 2. APPLICATION FOR PERMITS. EVERY APPLICATION FOR A PERMIT UNDER THIS
6 ARTICLE SHALL INCLUDE THE FOLLOWING:

7 (A) COPIES OF THE SPECIFICATIONS AND ACCURATELY SCALED AND FULLY
8 DIMENSIONED PLANS SHOWING THE LOCATION OF THE INSTALLATION IN RELATION
9 TO THE PLANS AND ELEVATION OF THE BUILDING;

10 (B) THE LOCATION OF THE MACHINERY ROOM AND THE EQUIPMENT TO BE
11 INSTALLED, RELOCATED OR ALTERED;

12 (C) ALL STRUCTURAL SUPPORTING MEMBERS THEREOF, INCLUDING FOUNDATIONS;

13 (D) A LIST OF ALL MATERIALS TO BE EMPLOYED AND ALL LOADS TO BE
14 SUPPORTED AND CONVEYED;

15 (E) ANY OTHER INFORMATION THAT THE COMMISSIONER MAY REQUIRE TO ENSURE
16 THAT SUCH PLANS AND SPECIFICATIONS ARE SUFFICIENTLY COMPLETE AND ILLUS-
17 TRATE ALL DETAILS OF CONSTRUCTION AND DESIGN; AND

18 (F) ANY REQUIRED PERMITTING FEES, WHICH ARE SUBJECT TO RETURN UPON
19 DENIAL OF A PERMIT APPLICATION.

20 UPON APPROVAL OF AN APPLICATION FOR A PERMIT THE COMMISSIONER SHALL
21 ISSUE SUCH PERMIT. SUCH PERMIT SHALL STATE THE TIME BY WHICH THE WORK
22 SHALL COMMENCE AND ALSO WHEN SUCH PERMIT EXPIRES. IF AFTER THE WORK HAS
23 BEEN STARTED, WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF SIXTY DAYS,
24 OR SUCH SHORTER PERIOD OF TIME AS THE COMMISSIONER MAY SPECIFY AT THE
25 TIME THE PERMIT IS ISSUED, THE PERMIT SHALL EXPIRE. UPON EXPIRATION OF
26 A PERMIT FOR WHICH WORK HAS NOT BEEN COMPLETED, THE COMMISSIONER MAY
27 EXTEND SUCH PERMIT.

28 3. LICENSING AND PERMITTING EXEMPTIONS. WHENEVER AN EMERGENCY EXISTS
29 IN THIS STATE DUE TO A DISASTER OR ACT OF GOD, WHICH IMPERILS THE
30 HEALTH, SAFETY OR WELFARE OF AN INDIVIDUAL OR INDIVIDUALS AND PLACING
31 SUCH INDIVIDUAL OR INDIVIDUALS IN IMMINENT DANGER OF INJURY OR DEATH AND
32 THE NUMBER OF PERSONS IN THE STATE HOLDING LICENSES GRANTED BY THE BOARD
33 IS INSUFFICIENT TO COPE WITH SUCH EMERGENCY, ANY PERSON CERTIFIED BY A
34 LICENSED ELEVATOR CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION OF DOCU-
35 MENTED EXPERIENCE AND EDUCATION TO PERFORM ELEVATOR WORK WITH DIRECT AND
36 IMMEDIATE SUPERVISION SHALL SEEK AN EMERGENCY ELEVATOR MECHANIC'S
37 LICENSE FROM THE COMMISSIONER WITHIN FIVE BUSINESS DAYS AFTER COMMENCING
38 WORK REQUIRING A LICENSE. THE COMMISSIONER SHALL ISSUE EMERGENCY ELEVA-
39 TOR MECHANIC'S LICENSES TO ADDRESS THE EMERGENCY THAT EXISTS. THE
40 LICENSED ELEVATOR CONTRACTOR SHALL FURNISH PROOF OF COMPETENCY AS THE
41 COMMISSIONER MAY REQUIRE. EACH SUCH LICENSE SHALL RECITE THAT IT IS
42 VALID FOR A PERIOD OF FIFTEEN DAYS FROM THE DATE THEREOF AND FOR SUCH
43 PARTICULAR ELEVATORS OR GEOGRAPHICAL AREAS AS THE COMMISSIONER MAY
44 DESIGNATE TO ADDRESS THE EMERGENCY SITUATION AND OTHERWISE SHALL ENTITLE
45 THE LICENSEE TO THE RIGHTS AND PRIVILEGES OF AN ELEVATOR MECHANIC'S
46 LICENSE ISSUED IN THIS ARTICLE. THE COMMISSIONER SHALL RENEW AN EMER-
47 GENCY ELEVATOR MECHANIC'S LICENSE DURING THE EXISTENCE OF AN EMERGENCY
48 AS NEEDED. NO FEE SHALL BE CHARGED FOR ANY EMERGENCY ELEVATOR MECHANIC'S
49 LICENSE OR RENEWAL THEREOF.

50 S 930. QUALIFICATIONS, TRAINING AND CONTINUING EDUCATION. 1. NO
51 LICENSE SHALL BE GRANTED TO ANY PERSON WHO HAS NOT PAID THE REQUIRED
52 APPLICATION FEE AND DEMONSTRATED HIS OR HER QUALIFICATIONS AND ABILI-
53 TIES. APPLICANTS FOR A MECHANIC'S LICENSE MUST DEMONSTRATE ONE OF THE
54 FOLLOWING QUALIFICATIONS: (A) AN ACCEPTABLE COMBINATION OF DOCUMENTED
55 EXPERIENCE AND EDUCATION CREDITS CONSISTING OF (I) NOT LESS THAN FOUR
56 YEARS WORK EXPERIENCE IN THE CONSTRUCTION, MAINTENANCE AND SERVICE

1 REPAIR OF ELEVATORS, AS VERIFIED BY CURRENT AND PREVIOUS EMPLOYERS AND
2 (II) SATISFACTORY COMPLETION OF A WRITTEN EXAMINATION, ADMINISTERED BY
3 THE COMMISSIONER, ON THE MOST RECENT NATIONAL, STATE, AND LOCAL CONVEY-
4 ANCES CODES AND STANDARDS; OR

5 (B) ACCEPTABLE PROOF THAT HE OR SHE HAS WORKED ON ELEVATOR
6 CONSTRUCTION, MAINTENANCE OR REPAIR WITH DIRECT AND IMMEDIATE SUPER-
7 VISION IN THIS STATE FOR A PERIOD OF NOT LESS THAN FOUR YEARS IMMEDIATE-
8 LY PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE, PROVIDED THAT SUCH
9 APPLICANT SHALL FILE SUCH APPLICATION WITHIN ONE YEAR OF THE EFFECTIVE
10 DATE OF THIS ARTICLE; OR

11 (C) A CERTIFICATE OF SUCCESSFUL COMPLETION AND SUCCESSFULLY PASSING
12 THE MECHANIC EXAMINATION OF A NATIONALLY RECOGNIZED TRAINING PROGRAM FOR
13 THE ELEVATOR INDUSTRY INCLUDING, BUT NOT LIMITED TO, THE NATIONAL ELEVA-
14 TOR INDUSTRY EDUCATIONAL PROGRAM OR ITS EQUIVALENT; OR

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

21 2. APPLICANTS FOR AN ELEVATOR CONTRACTOR'S LICENSE MUST DEMONSTRATE TO
22 THE COMMISSIONER THAT SUCH ELEVATOR CONTRACTOR EMPLOYS LICENSED ELEVATOR
23 MECHANICS WHO PERFORM THE WORK DESCRIBED IN SECTION NINE HUNDRED TWEN-
24 TY-SIX OF THIS ARTICLE AND HAVE PROOF OF COMPLIANCE WITH THE INSURANCE
25 REQUIREMENTS SET FORTH IN PARAGRAPH D OF SUBDIVISION ONE OF SECTION NINE
26 HUNDRED TWENTY-NINE OF THIS ARTICLE.

27 3. ANY APPLICANTS FOR AN ELEVATOR INSPECTOR'S LICENSE MUST DEMONSTRATE
28 TO THE SATISFACTION OF THE COMMISSIONER THAT SUCH APPLICANT MEETS OR
29 EXCEEDS APPLICABLE NATIONAL STANDARDS. PRIVATE ELEVATOR INSPECTORS SHALL
30 MAINTAIN THE SAME INSURANCE REQUIREMENTS AS AN ELEVATOR CONTRACTOR.

31 4. (A) THE RENEWAL OF ALL LICENSES GRANTED UNDER THE PROVISIONS OF
32 THIS SUBDIVISION SHALL BE CONDITIONED UPON THE SUBMISSION OF A CERTIF-
33 ICATE OF COMPLETION OF A COURSE DESIGNED TO ENSURE THE CONTINUING EDUCA-
34 TION OF LICENSEES ON NEW AND EXISTING NATIONAL, STATE, AND LOCAL CONVEY-
35 ANCES CODES AND STANDARDS. SUCH COURSE SHALL CONSIST OF NOT LESS THAN
36 EIGHT HOURS OF INSTRUCTION THAT SHALL BE ATTENDED ANNUALLY AND COMPLETED
37 PRECEDING ANY SUCH LICENSE RENEWAL. THE COMMISSIONER SHALL ESTABLISH
38 REQUIREMENTS FOR CONTINUING EDUCATION AND TRAINING PROGRAMS, AND SHALL
39 APPROVE SUCH PROGRAMS, AS WELL AS MAINTAIN A LIST OF APPROVED PROGRAMS
40 WHICH SHALL BE MADE AVAILABLE TO LICENSE APPLICANTS, PERMIT APPLICANTS,
41 RENEWAL APPLICANTS AND OTHER INTERESTED PARTIES UPON REQUEST. THE
42 COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS SETTING FORTH THE
43 CRITERIA FOR APPROVAL OF SUCH PROGRAMS, THE PROCEDURES TO BE FOLLOWED IN
44 APPLYING FOR SUCH APPROVAL, AND OTHER RULES AND REGULATIONS AS THE
45 COMMISSIONER DEEMS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSES OF
46 THIS SECTION.

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

52 5. THE RENEWAL OF ALL LICENSES GRANTED UNDER THE PROVISIONS OF THIS
53 SECTION SHALL BE CONDITIONED UPON THE SUBMISSION OF A CERTIFICATE OF
54 COMPLETION OF A COURSE DESIGNED TO ENSURE THE CONTINUING EDUCATION OF
55 LICENSEES ON NEW AND EXISTING REGULATIONS OF THE DEPARTMENT. SUCH COURSE

1 SHALL CONSIST OF NOT LESS THAN EIGHT HOURS OF INSTRUCTION THAT SHALL BE
2 ATTENDED AND COMPLETED ANNUALLY PRIOR TO ANY SUCH LICENSE RENEWAL.

3 THE COURSES SHALL BE TAUGHT BY INSTRUCTORS THROUGH CONTINUING EDUCA-
4 TION PROVIDERS THAT MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, ASSOCI-
5 ATION SEMINARS, AND LABOR TRAINING PROGRAMS. THE COMMISSIONER SHALL
6 APPROVE THE CONTINUING EDUCATION PROVIDERS. ALL INSTRUCTORS SHALL BE
7 EXEMPT FROM THE REQUIREMENTS OF THE PRECEDING PARAGRAPH WITH REGARD TO
8 THEIR APPLICATION FOR LICENSE RENEWAL PROVIDED THAT SUCH APPLICANT WAS
9 QUALIFIED AS AN INSTRUCTOR AT ANY TIME DURING THE ONE YEAR IMMEDIATELY
10 PRECEDING THE SCHEDULED DATE FOR SUCH RENEWAL.

11 APPROVED TRAINING PROVIDERS SHALL KEEP UNIFORM RECORDS, FOR A PERIOD
12 OF SIX YEARS, OF ATTENDANCE OF LICENSEES FOLLOWING A FORMAT APPROVED BY
13 THE COMMISSIONER AND SUCH RECORDS SHALL BE AVAILABLE FOR INSPECTION BY
14 THE COMMISSIONER AT HIS OR HER REQUEST. APPROVED TRAINING PROVIDERS
15 SHALL BE RESPONSIBLE FOR THE SECURITY OF ALL ATTENDANCE RECORDS AND
16 CERTIFICATES OF COMPLETION; PROVIDED, HOWEVER, THAT FALSIFYING OR KNOW-
17 INGLY ALLOWING ANOTHER TO FALSIFY SUCH ATTENDANCE RECORDS OR CERTIF-
18 ICATES OF COMPLETION SHALL CONSTITUTE GROUNDS FOR SUSPENSION OR REVOCATION
19 OF THE APPROVAL REQUIRED UNDER THIS SECTION.

20 S 931. POWERS OF THE COMMISSIONER. 1. THE COMMISSIONER SHALL HAVE THE
21 AUTHORITY TO INSPECT, OR CAUSE TO BE INSPECTED, ONGOING OR COMPLETED
22 CONVEYANCES PROJECTS AND TO CONDUCT AN INVESTIGATION THEREOF UPON THE
23 COMMISSIONER'S OWN INITIATION OR UPON RECEIPT OF A COMPLAINT BY ANY
24 PERSON OR ENTITY. HOWEVER, NOTHING IN THIS SUBDIVISION SHALL PERMIT THE
25 COMMISSIONER TO ENTER A PRIVATE RESIDENCE.

26 2. IF, UPON RECEIPT OF A COMPLAINT ALLEGING A VIOLATION OF THIS ARTI-
27 CLE, THE COMMISSIONER REASONABLE BELIEVES THAT SUCH VIOLATION EXISTS, HE
28 OR SHE SHALL INVESTIGATE AS SOON AS PRACTICABLE TO DETERMINE IF SUCH
29 VIOLATION EXISTS. IF THE COMMISSIONER DETERMINES THAT NO VIOLATION OR
30 DANGER EXISTS, THE COMMISSIONER SHALL INFORM THE COMPLAINING PERSON OR
31 ENTITY.

32 3. IF, UPON INVESTIGATION, THE COMMISSIONER DETERMINES THAT THE
33 ALLEGED VIOLATION EXISTS, THE COMMISSIONER MAY DELIVER TO SUCH OWNER OR
34 ELEVATOR CONTRACTOR OR HIS OR HER AGENT OR REPRESENTATIVE A WRITTEN
35 ORDER TO CURE SUCH VIOLATION AND MAY ORDER THAT THEIR PERMIT TO WORK ON
36 SUCH INSTALLATION, REPAIR OR MAINTENANCE PROJECT SHALL BE SUSPENDED
37 UNTIL SUCH VIOLATION IS CURED. SUCH ORDER SHALL SPECIFICALLY ENUMERATE
38 THE VIOLATIONS WHICH CONSTITUTE THE BASIS OF THE ORDER TO CURE OR ORDER
39 OF SUSPENSION AND SHALL SPECIFY THE CORRECTIVE ACTION TO BE TAKEN. THE
40 COMMISSIONER MAY ALLOW THE PERMIT TO TOLL DURING THE TIME OF SUCH ORDER.

41 4. UPON RECEIPT OF A WRITTEN NOTICE FROM THE ELEVATOR CONTRACTOR, OR
42 HIS OR HER AGENT OR REPRESENTATIVE, THAT SUCH VIOLATION HAS BEEN
43 CORRECTED, THE COMMISSIONER SHALL, WITHIN TEN DAYS, ISSUE A DETERMI-
44 NATION AS TO WHETHER SUCH ORDER TO CURE HAS BEEN SATISFIED AND SUCH
45 ORDER OF SUSPENSION, IF ANY, SHALL BE LIFTED. IF THE COMMISSIONER DETER-
46 MINES THAT THE ORDER TO CURE HAS NOT BEEN SATISFIED HE OR SHE MAY
47 CONTINUE SUCH ORDER FOR A REASONABLE PERIOD OF TIME UPON THE CONSENT OF
48 THE CONTRACTOR, OR HIS OR HER AGENT OR REPRESENTATIVE. IF THE COMMIS-
49 SIONER DOES NOT CONTINUE THE ORDER, OR IF THE CONTRACTOR, OR HIS OR HER
50 AGENT OR REPRESENTATIVE DOES NOT CONSENT TO SUCH CONTINUATION, THE
51 CONTRACTOR SHALL HAVE THE RIGHT TO A HEARING TO DETERMINE IF SUCH ORDER
52 SHALL BE LIFTED. ANY ENTITY OR CONTRACTOR WHO MAY BE ADVERSELY AFFECTED
53 BY A NOTICE, SUSPENSION, OR DETERMINATION ISSUED UNDER THIS SECTION MAY
54 COMMENCE A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL
55 PRACTICE LAW AND RULES.

1 5. THE COMMISSIONER MAY, AFTER A NOTICE AND HEARING, SUSPEND OR REVOKE
2 A LICENSE ISSUED UNDER THIS ARTICLE BASED ON ANY OF THE FOLLOWING
3 VIOLATIONS:

4 (A) ANY FALSE STATEMENT AS TO A MATERIAL MATTER IN THE APPLICATION;
5 (B) FRAUD, OR MISREPRESENTATION, IN SECURING A LICENSE;
6 (C) FAILURE TO NOTIFY THE COMMISSIONER AND THE OWNER OR LESSEE OF A
7 CONVEYANCE OF ANY CONDITION NOT IN COMPLIANCE WITH THIS ARTICLE;
8 (D) A VIOLATION OF SECTION NINE HUNDRED TWENTY-EIGHT OF THIS ARTICLE;
9 OR

10 (E) A FINDING BY THE COMMISSIONER THAT A CONTRACTOR HAS VIOLATED THIS
11 ARTICLE OR ANY RULE OR REGULATION PROMULGATED THEREUNDER TWICE WITHIN A
12 PERIOD OF THREE YEARS, OR THAT A CONTRACTOR HAS VIOLATED A PROVISION OF
13 THIS ARTICLE AND SUCH VIOLATION RESULTED IN A SERIOUS THREAT TO THE
14 HEALTH OR SAFETY OF AN INDIVIDUAL OR INDIVIDUALS. THE COMMISSIONER MAY,
15 IN ADDITION TO ORDERING THAT SUCH CONTRACTOR'S LICENSE BE REVOKED, BAR
16 SUCH INDIVIDUAL FROM BEING ELIGIBLE TO REAPPLY FOR SUCH LICENSE FOR A
17 PERIOD NOT TO EXCEED TWO YEARS.

18 6. THE COMMISSIONER MAY, AFTER NOTICE AND HEARING, REVOKE A PERMIT
19 ISSUED UNDER THIS ARTICLE BASED ON ANY OF THE FOLLOWING VIOLATIONS:

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

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

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

27 (D) A FAILURE BY THE OWNER OR ELEVATOR CONTRACTOR TO WHOM THE PERMIT
28 WAS ISSUED TO COMPLY WITH AN ORDER ISSUED PURSUANT TO SUBDIVISION FOUR
29 OF THIS SECTION; OR

30 (E) A FINDING BY THE COMMISSIONER THAT AN INDIVIDUAL OR CONTRACTOR WHO
31 HAS BEEN ISSUED A PERMIT HAS VIOLATED ANY PROVISION UNDER SECTION NINE
32 HUNDRED TWENTY-EIGHT OF THIS ARTICLE.

33 7. (A) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, IF THE
34 COMMISSIONER FINDS, AFTER NOTICE AND HEARING, THAT AN INDIVIDUAL HAS
35 VIOLATED ANY PROVISION OF THIS ARTICLE, HE OR SHE MAY IMPOSE A CIVIL
36 PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH SUCH VIOLATION. UPON
37 A SECOND OR SUBSEQUENT VIOLATION WITHIN THREE YEARS OF THE DETERMINATION
38 OF A PRIOR VIOLATION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT TO
39 EXCEED TWO THOUSAND DOLLARS.

40 (B) THE PENALTY PROVIDED FOR IN PARAGRAPH (A) OF THIS SUBDIVISION MAY
41 BE INCREASED TO AN AMOUNT NOT TO EXCEED FIVE THOUSAND DOLLARS IF THE
42 VIOLATION RESULTED IN A SERIOUS THREAT TO THE HEALTH OR SAFETY OF AN
43 INDIVIDUAL OR INDIVIDUALS.

44 8. ANY ENTITY OR CONTRACTOR WHO MAY BE ADVERSELY AFFECTED BY AN ORDER
45 ISSUED UNDER THIS SECTION MAY COMMENCE A PROCEEDING PURSUANT TO ARTICLE
46 SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

47 9. THE COMMISSIONER MAY BRING AN ACTION IN A COURT OF COMPETENT JURIS-
48 DICTION TO ENJOIN ANY CONDUCT THAT VIOLATES THE PROVISIONS OF THIS ARTI-
49 CLE.

50 10. THE COMMISSIONER MAY PROMULGATE RULES AND REGULATIONS NECESSARY TO
51 CARRY OUT AND EFFECTUATE THE PROVISIONS OF THIS ARTICLE.

52 S 932. NEW YORK STATE ELEVATOR SAFETY AND STANDARDS BOARD. 1. AN
53 ELEVATOR SAFETY AND STANDARDS BOARD IS HEREBY CREATED, TO CONSIST OF
54 NINE MEMBERS. THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND
55 THE SPEAKER OF THE ASSEMBLY SHALL EACH APPOINT THREE MEMBERS. THE GOVER-
56 NOR'S APPOINTEES SHALL BE COMPRISED OF A REPRESENTATIVE OF A MAJOR

1 ELEVATOR MANUFACTURING COMPANY, A MEMBER OF THE GENERAL PUBLIC AND A
2 BUILDING OWNER, MANAGER OR REPRESENTATIVE; THE TEMPORARY PRESIDENT OF
3 THE SENATE'S APPOINTEES SHALL BE COMPRISED OF AN ELEVATOR SERVICING
4 COMPANY, AN ELEVATOR ARCHITECTURAL DESIGNER OR CONSULTANT, AND AN ELEVA-
5 TOR INSPECTOR; THE SPEAKER OF THE ASSEMBLY'S APPOINTEES SHALL BE
6 COMPRISED OF AN ELEVATOR CONTRACTOR EMPLOYEE LABOR UNION, AN ELEVATOR
7 MECHANIC, AND A FIRE MARSHAL. THE COMMISSIONERS OF HEALTH, LABOR, EDUCA-
8 TION, AND ECONOMIC DEVELOPMENT OR THEIR DESIGNEES SHALL BE EX-OFFICIO
9 MEMBERS. THE BOARD SHALL MEET ON AN AS NEEDED BASIS TO ADVISE THE
10 COMMISSIONER ON THE IMPLEMENTATION OF THIS ARTICLE. THE BOARD SHALL
11 ELECT A CHAIRPERSON TO SERVE FOR THE TERM OF THEIR APPOINTMENT TO THE
12 BOARD. THE BOARD SHALL PREPARE AN ANNUAL REPORT FOR THE GOVERNOR AND
13 THE LEGISLATURE, COPIES OF WHICH SHALL BE SENT TO THE COMMISSIONERS OF
14 HEALTH, EDUCATION, ECONOMIC DEVELOPMENT, AND LABOR.

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

25 3. THE BOARD MAY CONSULT WITH ENGINEERING AUTHORITIES AND ORGANIZA-
26 TIONS CONCERNED WITH STANDARD SAFETY CODES, RULES AND REGULATIONS
27 GOVERNING THE OPERATION, MAINTENANCE, SERVICING, CONSTRUCTION, ALTER-
28 ATION, INSTALLATION, AND INSPECTION OF CONVEYANCES AND THE ADEQUATE,
29 REASONABLE, AND NECESSARY QUALIFICATIONS OF ELEVATOR MECHANICS, CONTRAC-
30 TORS, AND INSPECTORS.

31 4. THE DUTIES OF THE BOARD ARE AS FOLLOWS:

32 (A) ASSIST THE COMMISSIONER AND THE DEPARTMENT IN ESTABLISHING THE
33 STATE REGULATIONS FOR EQUIPMENT COVERED BY THIS ARTICLE;

34 (B) DEVELOP RECOMMENDATIONS FOR AN ENFORCEMENT PROGRAM WHICH WILL
35 ENSURE COMPLIANCE WITH THE REGULATIONS AND REQUIREMENTS PROMULGATED BY
36 THE COMMISSIONER PURSUANT TO THIS ARTICLE;

37 (C) ASSIST THE COMMISSIONER IN GRANTING EXCEPTIONS AND VARIANCES FROM
38 THE LITERAL REQUIREMENTS OF THE APPLICABLE CODE AND STANDARDS, REGU-
39 LATIONS, AND LOCAL LEGISLATION, IN CASES WHERE SUCH VARIANCES WOULD NOT
40 JEOPARDIZE THE PUBLIC SAFETY AND WELFARE;

41 (D) ASSIST THE COMMISSIONER IN SETTING FEE SCHEDULES FOR LICENSES,
42 PERMITS, AND INSPECTIONS. THE FEES SHALL REFLECT THE ACTUAL COSTS AND
43 EXPENSES TO CONDUCT THE DUTIES AS DESCRIBED IN THIS ARTICLE; AND

44 (E) ASSIST THE COMMISSIONER IN ANY AND ALL THINGS NECESSARY OR CONVEN-
45 IENT TO THE COMMISSIONER'S DUTY TO CARRY OUT THE PURPOSES OF THIS ARTI-
46 CLE.

47 S 2. The state finance law is amended by adding a new section 97-1111
48 to read as follows:

49 S 97-LLLL. ELEVATOR AND RELATED CONVEYANCES SAFETY PROGRAM ACCOUNT.
50 1. THERE IS HEREBY ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER
51 THE ELEVATOR AND RELATED CONVEYANCES SAFETY PROGRAM ACCOUNT.

52 2. SUCH FUND SHALL CONSIST OF MONEYS COLLECTED PURSUANT TO THE
53 PROVISIONS OF ARTICLE THIRTY-TWO OF THE LABOR LAW.

54 3. MONEYS OF THE FUND SHALL BE AVAILABLE TO THE COMMISSIONER OF LABOR
55 FOR PURPOSES OF OFFSETTING THE COSTS INCURRED BY THE COMMISSIONER OF
56 LABOR FOR THE ADMINISTRATION OF ARTICLE THIRTY-TWO OF THE LABOR LAW,

1 INCLUDING THE ADMINISTRATION OF ELEVATOR AND RELATED CONVEYANCES SAFETY
2 PROGRAMS, THE ADMINISTRATION OF LICENSES AND PERMITS, AND THE ADMINIS-
3 TRATION OF CERTIFICATES OF OPERATION AS SET FORTH IN SUCH ARTICLE THIR-
4 TY-TWO.

5 4. THE MONEYS SHALL BE PAID OUT OF THE FUND ON THE AUDIT AND WARRANT
6 OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER
7 OR HIS OR HER DESIGNEE.

8 5. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL OR SPECIAL LAW, NO
9 MONEYS SHALL BE AVAILABLE FROM THE FUND UNTIL A CERTIFICATE OF ALLO-
10 CATION AND A SCHEDULE OF AMOUNTS TO BE AVAILABLE THEREFOR SHALL HAVE
11 BEEN ISSUED BY THE DIRECTOR OF THE BUDGET, AND A COPY OF SUCH CERTIF-
12 ICATE FILED WITH THE COMPTROLLER. SUCH CERTIFICATE MAY BE AMENDED FROM
13 TIME TO TIME BY THE DIRECTOR OF THE BUDGET AND A COPY OF EACH SUCH
14 AMENDMENT SHALL BE FILED WITH THE COMPTROLLER.

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