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

7565

I N S E N A T E

May 15, 2014

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the executive law, in relation to the adoption by local governments of higher or more restrictive standards for construction

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

Section 1. Section 379 of the executive law, as added by chapter 707 of the laws of 1981, subdivision 1 as amended by chapter 772 of the laws of 1986 and subdivision 5 as added by chapter 622 of the laws of 1986, is amended to read as follows:

S 379. [Incorporation] APPROVAL of higher standards by council upon [recommendation] PETITION of local government; local building regulations. 1. [Except in the case of factory manufactured homes, intended for use as one or two family dwelling units or multiple dwellings of not more than two stories in height, the] THE legislative body of any local government may [duly enact or] adopt [local laws or ordinances imposing] STANDARDS FOR CONSTRUCTION THAT ARE HIGHER OR MORE RESTRICTIVE THAN THOSE APPLICABLE GENERALLY IN THE UNIFORM CODE BY ENACTING OR ADOPTING A LOCAL LAW OR ORDINANCE AFTER OBTAINING THE APPROVAL OF THE COUNCIL. A LOCAL GOVERNMENT THAT PROPOSES TO ADOPT higher or more restrictive standards for construction within the jurisdiction of such local government than are applicable generally to such local government in the uniform code[. Within thirty days of such enactment or adoption, the chief executive officer, or if there be none, the chairman of the legislative body of such local government, shall so notify the council, and] shall petition the council for a determination of whether OR NOT such local [laws or ordinances are] STANDARDS WOULD BE more stringent than the standards for construction applicable generally [to such local government] in the uniform code. During the period in which the council is considering such petition, [such local laws or ordinances shall remain in full force and] NO SUCH LOCAL STANDARDS SHALL TAKE effect. NO LOCAL GOVERNMENT MAY ENACT OR ADOPT HIGHER OR MORE RESTRICTIVE STANDARDS FOR THE CONSTRUCTION OF FACTORY MANUFACTURED HOMES INTENDED FOR USE AS ONE OR TWO FAMILY

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

LBD15277-01-4

DWELLING UNITS OR MULTIPLE DWELLINGS OF NOT MORE THAN TWO STORIES IN HEIGHT.

2. [If] WITHIN ONE HUNDRED EIGHTY DAYS FROM RECEIPT OF A COMPLETE PETITION, THE COUNCIL SHALL DETERMINE WHETHER OR NOT A PROPOSED LOCAL STANDARD IS APPROPRIATE AND SHALL NOTIFY THE LOCAL GOVERNMENT WHETHER THE STANDARD WILL BE APPROVED OR REJECTED IN WHOLE OR IN PART. BEFORE APPROVING A LOCAL STANDARD WHICH IS THE SUBJECT OF A PETITION, the council [finds] MUST FIND that [such] THE STANDARD CONFORMS WITH ACCEPTED ENGINEERING AND FIRE PREVENTION PRACTICES AND THE PURPOSES OF THIS ARTICLE, IS higher or more restrictive [standards are] THAN THOSE EXISTING IN THE UNIFORM CODE, AND IS reasonably necessary because of special conditions prevailing within the local government [and that such standards conform with accepted engineering and fire prevention practices and the purposes of this article, the council shall adopt such standards, in whole or part], BUT DOES NOT MERIT PROPOSAL AS AN AMENDMENT TO THE UNIFORM CODE. The council shall have the power to limit the term or duration of such standards, impose conditions in connection with the adoption thereof, and [to] terminate such standards at such times[,] and in such manner as the council may deem necessary, desirable or proper. UPON RECEIPT OF THE COUNCIL'S APPROVAL OF A PROPOSED HIGHER OR MORE RESTRICTIVE LOCAL STANDARD, A LOCAL GOVERNMENT IS AUTHORIZED TO ADOPT BY LOCAL LAW OR ORDINANCE SUCH STANDARD. IF THE COUNCIL FAILS TO RENDER A DETERMINATION ON A COMPLETE PETITION WITHIN ONE HUNDRED EIGHTY DAYS OF RECEIPT, THE REQUESTING LOCAL GOVERNMENT MAY ADOPT A LOCAL LAW OR ORDINANCE IMPOSING THE PROPOSED STANDARD OR STANDARDS, IN WHOLE OR IN PART, TO THE EXTENT THAT SUCH WERE CONTAINED IN THE PETITION ORIGINALLY SUBMITTED TO THE COUNCIL. THE COUNCIL SHALL REVIEW ALL LOCAL STANDARDS EVERY THREE YEARS TO ENSURE THAT EACH STANDARD IS NECESSARY AND APPROPRIATE IN LIGHT OF ANY CHANGES TO THE UNIFORM CODE THAT HAVE BEEN ADOPTED SINCE THE STANDARD WAS ADOPTED. IF THE COUNCIL FINDS THAT ANY STANDARD IS NO LONGER NECESSARY AND APPROPRIATE, THE COUNCIL SHALL DIRECT MODIFICATION OR REPEAL OF SUCH STANDARD.

3. Nothing in this article shall be construed to prohibit any municipality from adopting or enacting any building regulations relating to any matter as to which the uniform fire prevention and building code does not provide, but no municipality shall have the power to supersede, void, repeal or make more or less restrictive any provisions of this article or of rules or regulations made pursuant hereto, EXCEPT AS PROVIDED IN SUBDIVISIONS ONE AND TWO OF THIS SECTION.

4. Within one hundred twenty days after the effective date of the uniform code, a local government may by resolution duly enacted petition the council for a determination as to whether OR NOT an existing building and/or fire code in force in said local government is more stringent than the uniform code. During the period in which the council is considering such petition, such local code shall remain in full force and effect. If, after review, the council determines that such local code is less stringent than the uniform code, the council shall notify the chief executive officer or, if there be none, the [chairman] CHAIRPERSON of the legislative body of such local government, and the uniform code shall, thirty days after the date of notification, apply in such local government. If the council finds that such local code is not less stringent than the uniform code, such local code shall continue in full force and effect until the council, upon its own initiative, reviews such local code and determines that it is no longer more stringent, whereupon the council shall notify the chief executive officer or [chairman] CHAIRPERSON of the legislative body of such local government, and, thir-

ty days after the date of notification, the uniform code shall apply in such local government.

5. Notwithstanding the provisions of subdivision one of this section, the legislative body of Nassau county may have duly enacted or adopted or may duly enact or adopt local laws or ordinances imposing higher or more restrictive standards for construction within the jurisdiction of the county than are applicable generally to the county in the uniform code. The chief executive officer, or if there be none, the [chairman] CHAIRPERSON of the legislative body of the county, shall notify the council, and shall petition the council for a determination of whether OR NOT such preexisting local laws or ordinances[, or within thirty days of such enactment or adoption of such local laws or ordinances,] are more stringent than the standards for construction applicable generally to such county in the uniform code. During the period in which the council is considering such petition, such local laws or ordinances shall remain in full force and effect.

6. THE LEGISLATIVE BODY OF THE COUNTY OF NASSAU MAY ADOPT STANDARDS FOR CONSTRUCTION THAT ARE HIGHER OR MORE RESTRICTIVE THAN ARE THE STANDARDS THAT ARE APPLICABLE GENERALLY TO THE COUNTY IN THE UNIFORM CODE BY FIRST OBTAINING THE APPROVAL OF THE COUNCIL. THE CHIEF EXECUTIVE OFFICER, OR IF THERE BE NONE, THE CHAIRPERSON OF THE LEGISLATIVE BODY OF THE COUNTY, SHALL PETITION THE COUNCIL FOR A DETERMINATION OF WHETHER OR NOT LOCAL STANDARDS WHICH THE COUNTY LEGISLATIVE BODY PROPOSES TO ADOPT WOULD BE MORE STRINGENT THAN STANDARDS APPLICABLE GENERALLY IN THE UNIFORM CODE. DURING THE PERIOD IN WHICH THE COUNCIL IS CONSIDERING A PETITION OF THE COUNTY, NO SUCH LOCAL STANDARDS SHALL TAKE EFFECT. BEFORE APPROVING A LOCAL STANDARD PROPOSED FOR ADOPTION BY THE COUNTY LEGISLATIVE BODY, THE COUNCIL MUST FIND THAT THE STANDARD CONFORMS WITH ACCEPTED ENGINEERING AND FIRE PREVENTION PRACTICES AND THE PURPOSES OF THIS ARTICLE, IS HIGHER OR MORE RESTRICTIVE THAN THOSE EXISTING IN THE UNIFORM CODE, AND IS REASONABLY NECESSARY BECAUSE OF SPECIAL CONDITIONS PREVAILING WITHIN THE COUNTY. THE COUNCIL SHALL HAVE THE POWER TO LIMIT THE TERM OR DURATION OF SUCH STANDARD, IMPOSE CONDITIONS IN CONNECTION WITH THE ADOPTION THEREOF, AND TERMINATE THE STANDARD AT SUCH TIMES AND IN SUCH MANNER AS THE COUNCIL MAY DEEM NECESSARY, DESIRABLE OR PROPER. UPON RECEIPT OF THE COUNCIL'S APPROVAL OF A PROPOSED HIGHER OR MORE RESTRICTIVE LOCAL STANDARD, THE LEGISLATIVE BODY OF THE COUNTY OF NASSAU MAY ADOPT BY LOCAL LAW OR ORDINANCE SUCH STANDARD. IF THE COUNCIL FAILS TO RENDER A DETERMINATION ON A COMPLETE PETITION WITHIN ONE HUNDRED EIGHTY DAYS OF RECEIPT, THE LEGISLATIVE BODY MAY ADOPT A LOCAL LAW OR ORDINANCE IMPOSING THE PROPOSED STANDARD OR STANDARDS, IN WHOLE OR IN PART, TO THE EXTENT THAT SUCH WERE CONTAINED IN THE PETITION ORIGINALLY SUBMITTED TO THE COUNCIL. THE COUNCIL SHALL REVIEW ALL LOCAL STANDARDS ADOPTED BY THE COUNTY LEGISLATIVE BODY EVERY THREE YEARS TO ENSURE THAT EACH STANDARD IS NECESSARY AND APPROPRIATE IN LIGHT OF ANY CHANGES TO THE UNIFORM CODE THAT HAVE BEEN ADOPTED SUBSEQUENT TO ADOPTION OF THE LOCAL STANDARD. IF THE COUNCIL FINDS THAT ANY STANDARD IS NO LONGER NECESSARY AND APPROPRIATE, THE COUNCIL SHALL DIRECT MODIFICATION OR REPEAL OF SUCH STANDARD.

S 2. This act shall take effect immediately.