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I N A S S E M B L Y

January 12, 2015

Introduced by M. of A. WRIGHT, MILLER, BENEDETTO, ORTIZ, MOYA, COLTON, GALEF, MARKEY, QUART, SIMANOWITZ, RAMOS, ROZIC, MOSLEY, SKOUFIS, GUNTHER, AUBRY, DILAN, GOTTFRIED, MAYER, BRONSON, JAFFEE, DAVILA, KAVANAGH, TITUS, CRESPO, TITONE, ABINANTI, STECK, HARRIS, RAIA, ROSENTHAL, THIELE, GOLDFEDER, MONTESANO, PEOPLES-STOKES, BICHOTTE, LINARES, MALLIOTAKIS, WALKER, SCHIMEL, CERETTO, BLAKE, O'DONNELL, GJONAJ, ZEBROWSKI, SANTABARBARA, SEAWRIGHT, PICHARDO, JOYNER, MURRAY, LUPINACCI, SIMOTAS, RUSSELL, LALOR, JEAN-PIERRE, CAHILL, WALTER, KIM, HIKIND, WEPRIN, FAHY, FINCH, McDONOUGH, PALUMBO, HUNTER, ABBATE, HYNDMAN, SALADINO, WOERNER -- Multi-Sponsored by -- M. of A. ARROYO, BRAUNSTEIN, BUCHWALD, COOK, CROUCH, CURRAN, CUSICK, DenDEKKER, DINOWITZ, ENGLEBRIGHT, FARRELL, GIGLIO, GLICK, GOODELL, GRAF, HAWLEY, HEVESI, HOOPER, LENTOL, LUPARDO, MAGEE, MAGNARELLI, McDONALD, NOLAN, PERRY, PRETLOW, RA, RODRIGUEZ, RYAN, SEPULVEDA, SIMON, TENNEY -- read once and referred to the Committee on Labor -- ordered to a third reading -- recommitted to the Committee on Labor in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- again amended on third reading, ordered reprinted, retaining its place on the order of third reading

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 33 to read
2 as follows:

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

LBD02916-07-6

ARTICLE 33

ELEVATORS AND OTHER CONVEYANCES; LICENSING

SECTION 950. LEGISLATIVE FINDINGS AND DECLARATION.

951. APPLICATION.

952. DEFINITIONS.

953. LICENSING, PERMIT, REGISTRATION AND COMPLIANCE REQUIREMENTS.

954. LICENSE AND PERMIT PROCEDURE.

955. QUALIFICATIONS, TRAINING AND CONTINUING EDUCATION.

956. POWERS OF THE COMMISSIONER.

957. NEW YORK STATE ELEVATOR SAFETY AND STANDARDS BOARD.

958. EXEMPT PERSONS.

S 950. LEGISLATIVE FINDINGS AND DECLARATION. THE LEGISLATURE HEREBY FINDS THAT THE USE OF UNSAFE AND DEFECTIVE ELEVATORS AND OTHER AUTOMATED PEOPLE MOVING CONVEYANCES MAY EXPOSE THE PUBLIC TO UNSAFE CONDITIONS AND INCREASE THE RISK OF INJURY. THE LEGISLATURE FINDS THAT IMPROPER DESIGN, CONSTRUCTION, MAINTENANCE AND REPAIR OF SUCH CONVEYANCES IS PREVENTABLE BY REQUIRING PROPER TRAINING OF PERSONS EMPLOYED TO PERFORM WORK ON 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 951. 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 FIFTY-TWO 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;

1 (H) PORTABLE EQUIPMENT, EXCEPT FOR PORTABLE ESCALATORS;

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

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

6 (K) SKIP OR FURNACE HOISTS;

7 (L) WHARF RAMPS;

8 (M) RAILROAD CAR LIFTS OR DUMPERS;

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

12 3. THE LICENSING, PERMITTING AND CERTIFICATION PROVISIONS OF THIS
13 ARTICLE SHALL NOT APPLY TO THE OWNERS OR LESSEES OF PRIVATE RESIDENCES
14 WHO DESIGN, ERECT, CONSTRUCT, INSTALL, ALTER, REPAIR, SERVICE OR MAIN-
15 TAIN CONVEYANCES THAT ARE LOCATED OR WILL BE LOCATED IN SUCH OWNER OR
16 LESSEE'S PRIVATE RESIDENCE. HOWEVER, ANY PERSON HIRED TO DESIGN, ERECT,
17 CONSTRUCT, INSTALL, ALTER, REPAIR, SERVICE, MAINTAIN, OR PERFORM ANY
18 OTHER WORK RELATED TO SUCH CONVEYANCES MUST COMPLY WITH THE PROVISIONS
19 OF THIS ARTICLE.

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

22 5. THE PROVISIONS OF THIS ARTICLE AND THE RULES ADOPTED PURSUANT THER-
23 ETO SHALL BE THE MINIMUM STANDARD REQUIRED AND SHALL SUPERSEDE ANY
24 SPECIAL LAW OR LOCAL ORDINANCE INCONSISTENT THEREWITH, AND NO LOCAL
25 ORDINANCE INCONSISTENT THEREWITH SHALL BE ADOPTED, BUT NOTHING HEREIN
26 CONTAINED SHALL PREVENT THE ENACTMENT BY LOCAL LAW OR ORDINANCE OF ADDI-
27 TIONAL REQUIREMENTS AND RESTRICTIONS.

28 S 952. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL
29 HAVE THE FOLLOWING DEFINITIONS:

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

33 2. "BOARD" MEANS THE NEW YORK STATE ELEVATOR SAFETY AND STANDARDS
34 BOARD ESTABLISHED BY SECTION NINE HUNDRED FIFTY-SEVEN OF THIS ARTICLE.

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

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

43 5. "CONVEYANCE" MEANS ANY ELEVATOR, DUMBWAITER, ESCALATOR, MOVING
44 SIDEWALK, PLATFORM LIFTS, STAIRWAY CHAIRLIFTS AND AUTOMATED PEOPLE
45 MOVERS.

46 6. "DORMANT ELEVATOR, DUMBWAITER, OR ESCALATOR" MEANS AN INSTALLATION
47 PLACED OUT OF SERVICE UNDER THE FOLLOWING CIRCUMSTANCES: (A) WHEN AN
48 INSTALLATION'S POWER HAS BEEN DISCONNECTED AND (I) WHEN AN ELECTRIC
49 ELEVATOR, DUMBWAITER, OR MATERIAL LIFT WHOSE SUSPENSION ROPES HAVE BEEN
50 REMOVED, WHOSE CAR AND COUNTERWEIGHT REST AT THE BOTTOM OF THE HOISTWAY,
51 AND WHOSE HOISTWAY DOORS HAVE BEEN PERMANENTLY BARRICADED OR SEALED IN
52 THE CLOSED POSITION ON THE HOISTWAY SIDE; OR (II) A HYDRAULIC ELEVATOR,
53 DUMBWAITER, OR MATERIAL LIFT WHOSE CAR RESTS AT THE BOTTOM OF THE HOIST-
54 WAY AND WHOSE DOORS ARE PERMANENTLY BARRICADED OR SEALED; OR (III) AN
55 ESCALATOR OR MOVING WALK WHOSE ENTRANCES HAVE BEEN PERMANENTLY BARRICAD-

1 ED; OR (B) AS DETERMINED BY STATE OR LOCAL LAW, CODE, RULE, OR REGU-
2 LATIONS.

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

5 8. "ELEVATOR CONTRACTOR" MEANS, A PUBLIC CORPORATION, OR INSTRUMENTAL-
6 ITY OF A PUBLIC CORPORATION, SELF-EMPLOYED PERSON, COMPANY, UNINCORPO-
7 RATED ASSOCIATION, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPO-
8 RATION, OR ANY OTHER ENTITY, OR ANY OWNER OR OPERATOR OF ANY OF THE
9 FOREGOING ENTITIES, WHO POSSESSES AN ELEVATOR CONTRACTOR'S LICENSE IN
10 ACCORDANCE WITH THE PROVISIONS OF SECTIONS NINE HUNDRED FIFTY-THREE AND
11 NINE HUNDRED FIFTY-FOUR OF THIS ARTICLE AND IS ENGAGED IN THE BUSINESS
12 OF DESIGNING, ERECTING, CONSTRUCTING, INSTALLING, ALTERING, REPAIRING,
13 SERVICING OR MAINTAINING ELEVATORS OR OTHER AUTOMATED PEOPLE MOVING
14 CONVEYANCES COVERED BY THIS ARTICLE.

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

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

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

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

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

26 14. "LICENSE" MEANS A LICENSE DULY ISSUED BY THE COMMISSIONER, AUTHOR-
27 IZING THE DESIGN, ERECTION, CONSTRUCTION, INSTALLATION, ALTERATION,
28 REPAIR, SERVICE, MAINTENANCE, OR INSPECTION OF ELEVATORS OR OTHER
29 CONVEYANCES COVERED BY THIS ARTICLE.

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

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

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

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

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

49 20. "PERSON" MEANS ANY NATURAL PERSON.

50 21. "PRIVATE RESIDENCE" MEANS A SEPARATE DWELLING OR A SEPARATE APART-
51 MENT IN A MULTIPLE DWELLING, WHICH IS OCCUPIED BY MEMBERS OF A SINGLE
52 FAMILY UNIT.

53 22. "REPAIR" MEANS RECONDITIONING OR RENEWAL OF PARTS, COMPONENTS,
54 AND/OR SUBSYSTEMS NECESSARY TO KEEP EQUIPMENT IN COMPLIANCE WITH APPLI-
55 CABLE CODE REQUIREMENTS.

1 23. "ALTERATION" MEANS ANY CHANGE TO EQUIPMENT, INCLUDING ITS PARTS,
2 COMPONENTS, AND/OR SUBSYSTEMS, OTHER THAN MAINTENANCE, REPAIR, OR
3 REPLACEMENT, BUT SHALL NOT INCLUDE THE PROFESSIONAL SERVICES OF ENGI-
4 NEERING OR ARCHITECTURE AS DEFINED IN SECTIONS SEVENTY-TWO HUNDRED ONE
5 AND SEVENTY-THREE HUNDRED ONE OF THE EDUCATION LAW.

6 24. "DESIGN" MEANS THE ACT OR PROCESS OF PLANNING THE REPAIR, ALTER-
7 ATION OR CONSTRUCTION OF ANY CONVEYANCE, BUT SHALL NOT INCLUDE THE
8 PROFESSIONAL SERVICES OF ENGINEERING OR ARCHITECTURE AS DEFINED IN
9 SECTIONS SEVENTY-TWO HUNDRED ONE AND SEVENTY-THREE HUNDRED ONE OF THE
10 EDUCATION LAW.

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

13 26. "INSPECTION" MEANS A CRITICAL EXAMINATION, OBSERVATION OR EVALU-
14 ATION OF QUALITY AND CODE COMPLIANCE OF ANY CONVEYANCE.

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

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

20 29. "SERVICE OR SERVICING" MEANS A SERVICE CALL OR OTHER UNSCHEDULED
21 VISIT, NOT INCLUDING ROUTINE MAINTENANCE OR A REPAIR, FROM A LICENSED
22 ELEVATOR MECHANIC TO TROUBLESHOOT, ADJUST OR REPAIR AN IMPROPERLY FUNC-
23 TIONING OR AN OTHERWISE SHUT DOWN CONVEYANCE.

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

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

33 32. "INSTALLATION" MEANS TO PLACE OR FIX ANY CONVEYANCE OR PART OR
34 SYSTEM THEREOF, IN POSITION FOR OPERATION.

35 TEMPORARILY DORMANT INSTALLATIONS SHALL NOT BE USED UNTIL SUCH INSTAL-
36 LATION HAS BEEN RESTORED TO A SAFE RUNNING ORDER AND IS IN CONDITION
37 SUITABLE FOR USE IN ACCORDANCE WITH ALL APPLICABLE LAWS, CODES, RULES
38 AND REGULATIONS. SUCH TEMPORARILY DORMANT INSTALLATION SHALL BE SUBJECT
39 TO CONTINUED INSPECTIONS FOR THE DURATION OF THE "TEMPORARILY DORMANT"
40 STATUS BY A LICENSED ELEVATOR INSPECTOR. SUCH INSPECTOR SHALL FILE A
41 REPORT WITH THE COMMISSIONER DESCRIBING THE CONDITIONS OF SUCH TEMPORAR-
42 ILY DORMANT INSTALLATION. THE REPORT SHALL BE FILED ANNUALLY OR MORE OR
43 LESS FREQUENT AS DETERMINED BY THE COMMISSIONER. "TEMPORARILY DORMANT"
44 STATUS SHALL BE RENEWABLE ON AN ANNUAL BASIS, BUT SHALL NOT EXCEED A
45 FIVE-YEAR PERIOD.

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

48 S 953. LICENSING, PERMIT, REGISTRATION AND COMPLIANCE REQUIREMENTS. 1.
49 EXCEPT AS OTHERWISE PROVIDED FOR IN SUBDIVISIONS THREE AND FOUR OF
50 SECTION NINE HUNDRED FIFTY-ONE OF THIS ARTICLE, IT SHALL BE A VIOLATION
51 OF THIS ARTICLE FOR ANY ELEVATOR CONTRACTOR TO DESIGN, ERECT, CONSTRUCT,
52 INSTALL, ALTER, REPLACE, SERVICE, OR MAINTAIN, ANY CONVEYANCE CONTAINED
53 WITHIN BUILDINGS OR STRUCTURES IN THIS STATE UNLESS SUCH ELEVATOR
54 CONTRACTOR HOLDS AN ELEVATOR CONTRACTOR'S LICENSE.

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

1 OF THIS ARTICLE FOR ANY PERSON TO WIRE ANY CONVEYANCE, FROM THE MAINLINE
2 FEEDER TERMINALS ON THE CONTROLLER, IN THIS STATE UNLESS SUCH PERSON HAS
3 AN ELEVATOR MECHANIC'S LICENSE AND IS WORKING UNDER THE DIRECT SUPER-
4 VISION OF A LICENSED ELEVATOR CONTRACTOR PURSUANT TO THIS ARTICLE. NO
5 OTHER LICENSE SHALL BE REQUIRED FOR THIS WORK, EXCLUDING THE INSTALLA-
6 TION OF BRANCH CIRCUITS AND WIRING TERMINATIONS FOR MACHINE ROOM AND PIT
7 LIGHTING, RECEPTACLES AND HVAC AS DESCRIBED IN THE NFPA NATIONAL ELEC-
8 TRIC CODE 620.23 AND 620.24 AS WELL AS FIRE AND HEAT DETECTORS AND
9 ALARMS, MAY BE PERFORMED BY A LICENSED ELECTRICAL CONTRACTOR. ADDI-
10 TIONALLY, WITHIN NEW YORK CITY, THE INSTALLATION OF BRANCH CIRCUITS AND
11 WIRING TERMINATIONS FOR THE CAR FAN, LIGHTS AND RECEPTACLES, AS
12 DESCRIBED IN THE NFPA NATIONAL ELECTRIC CODE 620.22, AND INTERCOMS AND
13 VOICE COMMUNICATIONS AS WELL AS SIGNAL EQUIPMENT OR SYSTEMS, AS DEFINED
14 IN NFPA ARTICLE 620.2, THAT IS NOT DIRECTLY ASSOCIATED WITH THE OPERA-
15 TION OR SAFETY OF ANY CONVEYANCE, MAY BE PERFORMED BY A LICENSED ELEC-
16 TRICAL CONTRACTOR.

17 3. EXCEPT AS OTHERWISE PROVIDED FOR IN SUBDIVISION THREE OF SECTION
18 NINE HUNDRED FIFTY-ONE OF THIS ARTICLE, IT SHALL BE A VIOLATION OF THIS
19 ARTICLE FOR ANY PERSON TO INSPECT OR TEST ANY CONVEYANCE WITHIN BUILD-
20 INGS OR STRUCTURES UNLESS SUCH PERSON HOLDS AN ELEVATOR INSPECTOR'S
21 LICENSE.

22 4. EXCEPT AS OTHERWISE PROVIDED FOR IN SUBDIVISIONS THREE AND FOUR OF
23 SECTION NINE HUNDRED FIFTY-ONE OF THIS ARTICLE, IT SHALL BE A VIOLATION
24 OF THIS ARTICLE FOR ANY ELEVATOR CONTRACTOR TO ERECT, CONSTRUCT,
25 INSTALL, OR ALTER CONVEYANCES WITHIN BUILDINGS OR STRUCTURES WITHIN THIS
26 STATE UNLESS A PERMIT THEREFOR HAS BEEN ISSUED BY THE COMMISSIONER
27 BEFORE WORK IS COMMENCED. NO PERMIT SHALL BE ISSUED EXCEPT TO A PERSON
28 HOLDING A VALID ELEVATOR CONTRACTOR'S LICENSE. A COPY OF SUCH PERMIT
29 SHALL BE KEPT AT THE CONSTRUCTION SITE AT ALL TIMES WHILE THE WORK IS IN
30 PROGRESS.

31 5. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION THREE OF SECTION NINE
32 HUNDRED FIFTY-ONE OF THIS ARTICLE, ALL NEW CONVEYANCE INSTALLATIONS
33 SHALL BE PERFORMED BY AN ELEVATOR CONTRACTOR LICENSED TO INSTALL SUCH
34 CONVEYANCE. SUBSEQUENT TO INSTALLATION, THE ELEVATOR CONTRACTOR MUST
35 CERTIFY COMPLIANCE TO THE COMMISSIONER WITH THE APPLICABLE SECTIONS OF
36 THIS ARTICLE AS WELL AS ANY OTHER APPLICABLE LAW, RULE, REGULATION OR
37 CODE. PRIOR TO SUCH CONVEYANCES BEING USED, THE PROPERTY OWNER OR
38 LESSEE MUST OBTAIN A CERTIFICATE OF OPERATION FROM THE COMMISSIONER. A
39 FEE, AS SET FORTH IN THIS ARTICLE, SHALL BE PAID FOR SUCH CERTIFICATE OF
40 OPERATION, HOWEVER, NO SUCH FEE SHALL BE REQUIRED FOR CONVEYANCES IN
41 PRIVATE RESIDENCES. IT IS THE RESPONSIBILITY OF THE LICENSED ELEVATOR
42 CONTRACTOR TO COMPLETE AND SUBMIT REGISTRATIONS FOR NEW INSTALLATIONS.
43 A CERTIFICATE OF OPERATION SHALL BE VALID FOR ONE YEAR, EXCEPT FOR
44 CERTIFICATES ISSUED FOR PLATFORM AND STAIRWAY CHAIRLIFTS FOR PRIVATE
45 RESIDENCES, WHICH SHALL BE VALID FOR A PERIOD OF THREE YEARS. CERTIF-
46 ICATES OF OPERATION MUST BE CLEARLY AND CONSPICUOUSLY DISPLAYED ON, IN
47 OR AROUND EACH CONVEYANCE AND BE ACCESSIBLE TO THE STATE OR LOCALITY
48 INSPECTING OR ENFORCING ANY APPLICABLE LAW, RULE, REGULATION OR CODE.

49 6. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION THREE OF SECTION NINE
50 HUNDRED FIFTY-ONE OF THIS ARTICLE, THE CERTIFICATE OF OPERATION FOR
51 NEWLY INSTALLED PLATFORM LIFTS AND STAIRWAY CHAIRLIFTS FOR PRIVATE RESI-
52 DENCES SHALL BE ISSUED ONLY SUBSEQUENT TO AN INSPECTION BY A LICENSED
53 THIRD PARTY INSPECTION FIRM. THE CERTIFICATE OF OPERATION FEE FOR ALL
54 NEW AND EXISTING PLATFORM AND STAIRWAY CHAIRLIFTS FOR PRIVATE RESIDENCES
55 AND ANY RENEWAL CERTIFICATE FEES ARE HEREBY WAIVED. THE INSPECTION OF

1 PRIVATE RESIDENCE PLATFORM AND STAIRWAY CHAIRLIFTS SHALL BE DONE AT THE
2 REQUEST AND CONSENT OF THE PRIVATE RESIDENCE'S OWNER OR LESSEES.

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

6 S 954. LICENSE AND PERMIT PROCEDURE. ALL APPLICATIONS FOR ELEVATOR
7 CONTRACTOR'S, ELEVATOR MECHANIC'S, AND ELEVATOR INSPECTOR'S LICENSES AND
8 REQUIRED PERMITS SHALL BE SUBMITTED TO THE DEPARTMENT IN WRITING ON
9 FORMS FURNISHED BY THE COMMISSIONER AND SHALL CONTAIN THE INFORMATION
10 SET FORTH IN THIS SECTION AS WELL AS ANY ADDITIONAL INFORMATION THAT THE
11 COMMISSIONER MAY REQUIRE. THE COMMISSIONER SHALL ALSO SET FEES FOR
12 LICENSING AND PERMITTING UNDER THIS SECTION.

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

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

16 (B) THE NUMBER OF YEARS THE APPLICANT HAS ENGAGED IN THE BUSINESS OR
17 PRACTICE OF DESIGNING, CONSTRUCTING, ERECTING, INSTALLING, INSPECTING,
18 TESTING, REPAIRING, ALTERING, MAINTAINING, OR SERVICING CONVEYANCES
19 COVERED BY THIS ARTICLE;

20 (C) THE APPROXIMATE NUMBER OF PERSONS, IF ANY, TO BE EMPLOYED BY THE
21 APPLICANT FOR AN ELEVATOR CONTRACTOR'S LICENSE;

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

24 (E) ANY OTHER INFORMATION WHICH THE COMMISSIONER MAY REQUIRE.

25 UPON APPROVAL OF AN APPLICATION FOR A LICENSE THE COMMISSIONER SHALL
26 ISSUE SUCH LICENSE WHICH SHALL BE VALID FOR TWO YEARS. THE FEES FOR SUCH
27 LICENSE AND RENEWAL THEREOF SHALL BE SET BY THE COMMISSIONER. ANY DENIAL
28 FOR SUCH APPLICATION SHALL SET FORTH THE REASONS THEREFOR.

29 2. APPLICATION FOR PERMITS. EVERY APPLICATION FOR A PERMIT UNDER THIS
30 ARTICLE SHALL INCLUDE PLANS AND SPECIFICATIONS STAMPED AND SIGNED BY A
31 PROFESSIONAL ENGINEER AND/OR AN ARCHITECT LICENSED PURSUANT TO ARTICLE
32 ONE HUNDRED FORTY-FIVE AND/OR ARTICLE ONE HUNDRED FORTY-SEVEN OF THE
33 EDUCATION LAW. EVERY APPLICATION FOR A PERMIT UNDER THIS ARTICLE SHALL
34 INCLUDE THE FOLLOWING:

35 (A) COPIES OF THE SPECIFICATIONS AND ACCURATELY SCALED AND FULLY
36 DIMENSIONED PLANS SHOWING THE LOCATION OF THE INSTALLATION IN RELATION
37 TO THE PLANS AND ELEVATION OF THE BUILDING;

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

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

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

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

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

48 UPON APPROVAL OF AN APPLICATION FOR A PERMIT THE COMMISSIONER SHALL
49 ISSUE SUCH PERMIT. SUCH PERMIT SHALL STATE THE TIME BY WHICH THE WORK
50 SHALL COMMENCE AND ALSO WHEN SUCH PERMIT EXPIRES. IF AFTER THE WORK HAS
51 BEEN STARTED, WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF SIXTY DAYS,
52 OR SUCH SHORTER PERIOD OF TIME AS THE COMMISSIONER MAY SPECIFY AT THE
53 TIME THE PERMIT IS ISSUED, THE PERMIT SHALL EXPIRE. UPON EXPIRATION OF
54 A PERMIT FOR WHICH WORK HAS NOT BEEN COMPLETED, THE COMMISSIONER MAY
55 EXTEND SUCH PERMIT.

1 3. LICENSING AND PERMITTING EXEMPTIONS. WHENEVER AN EMERGENCY EXISTS
2 IN THIS STATE DUE TO A DISASTER OR ACT OF GOD, WHICH IMPERILS THE
3 HEALTH, SAFETY OR WELFARE OF AN INDIVIDUAL OR INDIVIDUALS AND PLACING
4 SUCH INDIVIDUAL OR INDIVIDUALS IN IMMINENT DANGER OF INJURY OR DEATH AND
5 THE NUMBER OF PERSONS IN THE STATE HOLDING LICENSES GRANTED BY THE BOARD
6 IS INSUFFICIENT TO COPE WITH SUCH EMERGENCY, ANY PERSON CERTIFIED BY A
7 LICENSED ELEVATOR CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION OF DOCU-
8 MENTED EXPERIENCE AND EDUCATION TO PERFORM ELEVATOR WORK WITH DIRECT AND
9 IMMEDIATE SUPERVISION SHALL SEEK AN EMERGENCY ELEVATOR MECHANIC'S
10 LICENSE FROM THE COMMISSIONER WITHIN FIVE BUSINESS DAYS AFTER COMMENCING
11 WORK REQUIRING A LICENSE. THE COMMISSIONER SHALL ISSUE EMERGENCY ELEVA-
12 TOR MECHANIC'S LICENSES TO ADDRESS THE EMERGENCY THAT EXISTS. THE
13 LICENSED ELEVATOR CONTRACTOR SHALL FURNISH PROOF OF COMPETENCY AS THE
14 COMMISSIONER MAY REQUIRE. EACH SUCH LICENSE SHALL RECITE THAT IT IS
15 VALID FOR A PERIOD OF FIFTEEN DAYS FROM THE DATE THEREOF AND FOR SUCH
16 PARTICULAR ELEVATORS OR GEOGRAPHICAL AREAS AS THE COMMISSIONER MAY
17 DESIGNATE TO ADDRESS THE EMERGENCY SITUATION AND OTHERWISE SHALL ENTITLE
18 THE LICENSEE TO THE RIGHTS AND PRIVILEGES OF AN ELEVATOR MECHANIC'S
19 LICENSE ISSUED IN THIS ARTICLE. THE COMMISSIONER SHALL RENEW AN EMER-
20 GENY ELEVATOR MECHANIC'S LICENSE DURING THE EXISTENCE OF AN EMERGENCY
21 AS NEEDED. NO FEE SHALL BE CHARGED FOR ANY EMERGENCY ELEVATOR MECHANIC'S
22 LICENSE OR RENEWAL THEREOF.

23 S 955. QUALIFICATIONS, TRAINING AND CONTINUING EDUCATION. 1. NO
24 LICENSE SHALL BE GRANTED TO ANY PERSON WHO HAS NOT PAID THE REQUIRED
25 APPLICATION FEE AND DEMONSTRATED HIS OR HER QUALIFICATIONS AND ABILI-
26 TIES. APPLICANTS FOR A MECHANIC'S LICENSE MUST DEMONSTRATE ONE OF THE
27 FOLLOWING QUALIFICATIONS: (A) AN ACCEPTABLE COMBINATION OF DOCUMENTED
28 EXPERIENCE AND EDUCATION CREDITS CONSISTING OF (I) NOT LESS THAN FOUR
29 YEARS WORK EXPERIENCE IN THE CONSTRUCTION, MAINTENANCE AND SERVICE
30 REPAIR OF ELEVATORS, AS VERIFIED BY CURRENT AND PREVIOUS EMPLOYERS AND
31 (II) SATISFACTORY COMPLETION OF A WRITTEN EXAMINATION, ADMINISTERED BY
32 THE COMMISSIONER, ON THE MOST RECENT NATIONAL, STATE, AND LOCAL CONVEY-
33 ANCES CODES AND STANDARDS; OR

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

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

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

50 (E) THE COMMISSIONER SHALL UPON APPLICATION AND WITHOUT EXAMINATION,
51 ISSUE A LICENSE TO ANY PERSON OVER THE AGE OF EIGHTEEN YEARS WHO HAS
52 BEEN DULY LICENSED BY ANY OTHER STATE OF THE UNITED STATES TO ENGAGE IN
53 THE BUSINESS OF CONSTRUCTION, OPERATION, INSPECTION, MAINTENANCE, ALTER-
54 ATION AND REPAIR OF ELEVATORS AS VERIFIED BY CURRENT AND PREVIOUS
55 EMPLOYERS, UPON COMPLIANCE WITH STANDARDS AND REQUIREMENTS NOT LOWER, IN
56 THE JUDGEMENT OF THE COMMISSIONER THAN THOSE OF THIS STATE, PROVIDED,

1 HOWEVER, THAT SUCH STATE EXTENDS THE SAME RECIPROCITY TO THE LICENSEES
2 OF THIS STATE. SUCH APPLICATION SHALL BE ACCOMPANIED BY THE REQUIRED
3 LICENSE FEE.

4 2. APPLICANTS FOR AN ELEVATOR CONTRACTOR'S LICENSE MUST DEMONSTRATE TO
5 THE COMMISSIONER THAT SUCH ELEVATOR CONTRACTOR EMPLOYS LICENSED ELEVATOR
6 MECHANICS WHO PERFORM THE WORK DESCRIBED IN SECTION NINE HUNDRED FIFTY-
7 ONE OF THIS ARTICLE AND HAVE PROOF OF COMPLIANCE WITH THE INSURANCE
8 REQUIREMENTS SET FORTH IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION
9 NINE HUNDRED FIFTY-FOUR OF THIS ARTICLE.

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

14 4. (A) THE RENEWAL OF ALL LICENSES GRANTED UNDER THE PROVISIONS OF
15 THIS SUBDIVISION SHALL BE CONDITIONED UPON THE SUBMISSION OF A CERTIF-
16 ICATE OF COMPLETION OF A COURSE DESIGNED TO ENSURE THE CONTINUING EDUCA-
17 TION OF LICENSEES ON NEW AND EXISTING NATIONAL, STATE, AND LOCAL CONVEY-
18 ANCES CODES AND STANDARDS. SUCH COURSE SHALL CONSIST OF NOT LESS THAN
19 EIGHT HOURS OF INSTRUCTION THAT SHALL BE ATTENDED ANNUALLY AND COMPLETED
20 PRECEDING ANY SUCH LICENSE RENEWAL. THE COMMISSIONER SHALL ESTABLISH
21 REQUIREMENTS FOR CONTINUING EDUCATION AND TRAINING PROGRAMS, AND SHALL
22 APPROVE SUCH PROGRAMS, AS WELL AS MAINTAIN A LIST OF APPROVED PROGRAMS
23 WHICH SHALL BE MADE AVAILABLE TO LICENSE APPLICANTS, PERMIT APPLICANTS,
24 RENEWAL APPLICANTS AND OTHER INTERESTED PARTIES UPON REQUEST. THE
25 COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS SETTING FORTH THE
26 CRITERIA FOR APPROVAL OF SUCH PROGRAMS, THE PROCEDURES TO BE FOLLOWED IN
27 APPLYING FOR SUCH APPROVAL, AND OTHER RULES AND REGULATIONS AS THE
28 COMMISSIONER DEEMS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSES OF
29 THIS SECTION.

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

35 5. THE RENEWAL OF ALL LICENSES GRANTED UNDER THE PROVISIONS OF THIS
36 SECTION SHALL BE CONDITIONED UPON THE SUBMISSION OF A CERTIFICATE OF
37 COMPLETION OF A COURSE DESIGNED TO ENSURE THE CONTINUING EDUCATION OF
38 LICENSEES ON NEW AND EXISTING REGULATIONS OF THE DEPARTMENT. SUCH COURSE
39 SHALL CONSIST OF NOT LESS THAN EIGHT HOURS OF INSTRUCTION THAT SHALL BE
40 ATTENDED AND COMPLETED ANNUALLY PRIOR TO ANY SUCH LICENSE RENEWAL.

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

49 APPROVED TRAINING PROVIDERS SHALL KEEP UNIFORM RECORDS, FOR A PERIOD
50 OF SIX YEARS, OF ATTENDANCE OF LICENSEES FOLLOWING A FORMAT APPROVED BY
51 THE COMMISSIONER AND SUCH RECORDS SHALL BE AVAILABLE FOR INSPECTION BY
52 THE COMMISSIONER AT HIS OR HER REQUEST. APPROVED TRAINING PROVIDERS
53 SHALL BE RESPONSIBLE FOR THE SECURITY OF ALL ATTENDANCE RECORDS AND
54 CERTIFICATES OF COMPLETION; PROVIDED, HOWEVER, THAT FALSIFYING OR KNOW-
55 INGLY ALLOWING ANOTHER TO FALSIFY SUCH ATTENDANCE RECORDS OR CERTIF-

1 ICATES OF COMPLETION SHALL CONSTITUTE GROUNDS FOR SUSPENSION OR REVOCA-
2 TION OF THE APPROVAL REQUIRED UNDER THIS SECTION.

3 S 956. POWERS OF THE COMMISSIONER. 1. THE COMMISSIONER SHALL HAVE THE
4 AUTHORITY TO INSPECT, OR CAUSE TO BE INSPECTED, ONGOING OR COMPLETED
5 CONVEYANCES PROJECTS AND TO CONDUCT AN INVESTIGATION THEREOF UPON THE
6 COMMISSIONER'S OWN INITIATION OR UPON RECEIPT OF A COMPLAINT BY ANY
7 PERSON OR ENTITY. HOWEVER, NOTHING IN THIS SUBDIVISION SHALL PERMIT THE
8 COMMISSIONER TO ENTER A PRIVATE RESIDENCE.

9 2. IF, UPON RECEIPT OF A COMPLAINT ALLEGING A VIOLATION OF THIS ARTI-
10 CLE, THE COMMISSIONER REASONABLE BELIEVES THAT SUCH VIOLATION EXISTS, HE
11 OR SHE SHALL INVESTIGATE AS SOON AS PRACTICABLE TO DETERMINE IF SUCH
12 VIOLATION EXISTS. IF THE COMMISSIONER DETERMINES THAT NO VIOLATION OR
13 DANGER EXISTS, THE COMMISSIONER SHALL INFORM THE COMPLAINING PERSON OR
14 ENTITY.

15 3. IF, UPON INVESTIGATION, THE COMMISSIONER DETERMINES THAT THE
16 ALLEGED VIOLATION EXISTS, THE COMMISSIONER MAY DELIVER TO SUCH OWNER OR
17 ELEVATOR CONTRACTOR OR HIS OR HER AGENT OR REPRESENTATIVE A WRITTEN
18 ORDER TO CURE SUCH VIOLATION AND MAY ORDER THAT THEIR PERMIT TO WORK ON
19 SUCH INSTALLATION, REPAIR OR MAINTENANCE PROJECT SHALL BE SUSPENDED
20 UNTIL SUCH VIOLATION IS CURED. SUCH ORDER SHALL SPECIFICALLY ENUMERATE
21 THE VIOLATIONS WHICH CONSTITUTE THE BASIS OF THE ORDER TO CURE OR ORDER
22 OF SUSPENSION AND SHALL SPECIFY THE CORRECTIVE ACTION TO BE TAKEN. THE
23 COMMISSIONER MAY ALLOW THE PERMIT TO TOLL DURING THE TIME OF SUCH ORDER.

24 4. UPON RECEIPT OF A WRITTEN NOTICE FROM THE ELEVATOR CONTRACTOR, OR
25 HIS OR HER AGENT OR REPRESENTATIVE, THAT SUCH VIOLATION HAS BEEN
26 CORRECTED, THE COMMISSIONER SHALL, WITHIN TEN DAYS, ISSUE A DETERMI-
27 NATION AS TO WHETHER SUCH ORDER TO CURE HAS BEEN SATISFIED AND SUCH
28 ORDER OF SUSPENSION, IF ANY, SHALL BE LIFTED. IF THE COMMISSIONER DETER-
29 MINES THAT THE ORDER TO CURE HAS NOT BEEN SATISFIED HE OR SHE MAY
30 CONTINUE SUCH ORDER FOR A REASONABLE PERIOD OF TIME UPON THE CONSENT OF
31 THE CONTRACTOR, OR HIS OR HER AGENT OR REPRESENTATIVE. IF THE COMMIS-
32 SIONER DOES NOT CONTINUE THE ORDER, OR IF THE CONTRACTOR, OR HIS OR HER
33 AGENT OR REPRESENTATIVE DOES NOT CONSENT TO SUCH CONTINUATION, THE
34 CONTRACTOR SHALL HAVE THE RIGHT TO A HEARING TO DETERMINE IF SUCH ORDER
35 SHALL BE LIFTED. ANY ENTITY OR CONTRACTOR WHO MAY BE ADVERSELY AFFECTED
36 BY A NOTICE, SUSPENSION, OR DETERMINATION ISSUED UNDER THIS SECTION MAY
37 COMMENCE A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL
38 PRACTICE LAW AND RULES.

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

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

43 (B) FRAUD, OR MISREPRESENTATION, IN SECURING A LICENSE;

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

46 (D) A VIOLATION OF SECTION NINE HUNDRED FIFTY-THREE OF THIS ARTICLE;
47 OR

48 (E) A FINDING BY THE COMMISSIONER THAT A CONTRACTOR HAS VIOLATED THIS
49 ARTICLE OR ANY RULE OR REGULATION PROMULGATED THEREUNDER TWICE WITHIN A
50 PERIOD OF THREE YEARS, OR THAT A CONTRACTOR HAS VIOLATED A PROVISION OF
51 THIS ARTICLE AND SUCH VIOLATION RESULTED IN A SERIOUS THREAT TO THE
52 HEALTH OR SAFETY OF AN INDIVIDUAL OR INDIVIDUALS. THE COMMISSIONER MAY,
53 IN ADDITION TO ORDERING THAT SUCH CONTRACTOR'S LICENSE BE REVOKED, BAR
54 SUCH INDIVIDUAL FROM BEING ELIGIBLE TO REAPPLY FOR SUCH LICENSE FOR A
55 PERIOD NOT TO EXCEED TWO YEARS.

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

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

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

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

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

13 (E) A FINDING BY THE COMMISSIONER THAT AN INDIVIDUAL OR CONTRACTOR WHO
14 HAS BEEN ISSUED A PERMIT HAS VIOLATED ANY PROVISION UNDER SECTION NINE
15 HUNDRED FIFTY-THREE OF THIS ARTICLE.

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

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

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

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

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

35 S 957. NEW YORK STATE ELEVATOR SAFETY AND STANDARDS BOARD. 1. AN
36 ELEVATOR SAFETY AND STANDARDS BOARD IS HEREBY CREATED, TO CONSIST OF
37 NINE MEMBERS. THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND
38 THE SPEAKER OF THE ASSEMBLY SHALL EACH APPOINT THREE MEMBERS. THE GOVER-
39 NOR'S APPOINTEES SHALL BE COMPRISED OF A REPRESENTATIVE OF A MAJOR
40 ELEVATOR MANUFACTURING COMPANY, A MEMBER OF THE GENERAL PUBLIC AND A
41 BUILDING OWNER, MANAGER OR REPRESENTATIVE; THE TEMPORARY PRESIDENT OF
42 THE SENATE'S APPOINTEES SHALL BE COMPRISED OF AN ELEVATOR SERVICING
43 COMPANY, AN ELEVATOR ARCHITECTURAL DESIGNER OR CONSULTANT, AND AN ELEVA-
44 TOR INSPECTOR; THE SPEAKER OF THE ASSEMBLY'S APPOINTEES SHALL BE
45 COMPRISED OF AN ELEVATOR CONTRACTOR EMPLOYEE LABOR UNION, AN ELEVATOR
46 MECHANIC, AND A FIRE MARSHAL. THE COMMISSIONERS OF HEALTH, LABOR, EDUCA-
47 TION, AND ECONOMIC DEVELOPMENT OR THEIR DESIGNEES SHALL BE EX-OFFICIO
48 MEMBERS. THE BOARD SHALL MEET ON AN AS NEEDED BASIS TO ADVISE THE
49 COMMISSIONER ON THE IMPLEMENTATION OF THIS ARTICLE. THE BOARD SHALL
50 ELECT A CHAIRPERSON TO SERVE FOR THE TERM OF THEIR APPOINTMENT TO THE
51 BOARD. THE BOARD SHALL PREPARE AN ANNUAL REPORT FOR THE GOVERNOR AND
52 THE LEGISLATURE, COPIES OF WHICH SHALL BE SENT TO THE COMMISSIONERS OF
53 HEALTH, EDUCATION, ECONOMIC DEVELOPMENT, AND LABOR.

54 2. THE FIRST MEMBER APPOINTED BY THE GOVERNOR, THE TEMPORARY PRESIDENT
55 OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY SHALL HAVE A TERM OF ONE
56 YEAR; THE SECOND MEMBER APPOINTED BY EACH SHALL HAVE A TERM OF TWO YEARS

1 AND THE REMAINING MEMBERS SHALL HAVE A TERM OF THREE YEARS. EACH OF SUCH
2 APPOINTED MEMBERS SHALL HOLD OFFICE FOR THE TERM FOR WHICH SUCH MEMBER
3 WAS APPOINTED AND UNTIL HIS OR HER SUCCESSOR SHALL HAVE BEEN APPOINTED
4 OR UNTIL HE OR SHE SHALL RESIGN. THE TERM OF OFFICE OF ALL SUCCESSOR
5 MEMBERS SHALL BE THREE YEARS. THE MEMBERS SHALL SERVE WITHOUT SALARY OR
6 COMPENSATION, BUT SHALL BE REIMBURSED FOR NECESSARY EXPENSES INCURRED IN
7 THE PERFORMANCE OF THEIR DUTIES.

8 3. THE BOARD MAY CONSULT WITH ENGINEERING AUTHORITIES AND ORGANIZA-
9 TIONS CONCERNED WITH STANDARD SAFETY CODES, RULES AND REGULATIONS
10 GOVERNING THE OPERATION, MAINTENANCE, SERVICING, CONSTRUCTION, ALTER-
11 ATION, INSTALLATION, AND INSPECTION OF CONVEYANCES AND THE ADEQUATE,
12 REASONABLE, AND NECESSARY QUALIFICATIONS OF ELEVATOR MECHANICS, CONTRAC-
13 TORS, AND INSPECTORS.

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

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

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

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

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

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

30 S 958. EXEMPT PERSONS. THIS ARTICLE SHALL NOT BE CONSTRUED TO APPLY TO
31 THE PRACTICE, CONDUCT, ACTIVITIES, OR SERVICES BY A PERSON LICENSED TO
32 PRACTICE ARCHITECTURE WITHIN THIS STATE PURSUANT TO ARTICLE ONE HUNDRED
33 FORTY-SEVEN OF THE EDUCATION LAW OR ENGINEERING WITHIN THIS STATE PURSU-
34 ANT TO ARTICLE ONE HUNDRED FORTY-FIVE OF THE EDUCATION LAW.

35 S 2. The state finance law is amended by adding a new section 97-pppp
36 to read as follows:

37 S 97-PPPP. ELEVATOR AND RELATED CONVEYANCES SAFETY PROGRAM ACCOUNT.

38 1. THERE IS HEREBY ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER
39 THE ELEVATOR AND RELATED CONVEYANCES SAFETY PROGRAM ACCOUNT.

40 2. SUCH FUND SHALL CONSIST OF MONEYS COLLECTED PURSUANT TO THE
41 PROVISIONS OF ARTICLE THIRTY-THREE OF THE LABOR LAW.

42 3. MONEYS OF THE FUND SHALL BE AVAILABLE TO THE COMMISSIONER OF LABOR
43 FOR PURPOSES OF OFFSETTING THE COSTS INCURRED BY THE COMMISSIONER OF
44 LABOR FOR THE ADMINISTRATION OF ARTICLE THIRTY-THREE OF THE LABOR LAW,
45 INCLUDING THE ADMINISTRATION OF ELEVATOR AND RELATED CONVEYANCES SAFETY
46 PROGRAMS, THE ADMINISTRATION OF LICENSES AND PERMITS, AND THE ADMINIS-
47 TRATION OF CERTIFICATES OF OPERATION AS SET FORTH IN SUCH ARTICLE THIR-
48 TY-THREE.

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

52 5. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL OR SPECIAL LAW, NO
53 MONEYS SHALL BE AVAILABLE FROM THE FUND UNTIL A CERTIFICATE OF ALLO-
54 CATION AND A SCHEDULE OF AMOUNTS TO BE AVAILABLE THEREFOR SHALL HAVE
55 BEEN ISSUED BY THE DIRECTOR OF THE BUDGET, AND A COPY OF SUCH CERTIF-
56 ICATE FILED WITH THE COMPTROLLER. SUCH CERTIFICATE MAY BE AMENDED FROM

1 TIME TO TIME BY THE DIRECTOR OF THE BUDGET AND A COPY OF EACH SUCH
2 AMENDMENT SHALL BE FILED WITH THE COMPTROLLER.

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