

2865

2015-2016 Regular Sessions

I N A S S E M B L Y

January 20, 2015

Introduced by M. of A. ZEBROWSKI, JAFFEE, O'DONNELL, STECK, GOTTFRIED, COOK, GALEF, MARKEY, THIELE, PAULIN, SEPULVEDA, KEARNS -- Multi-Sponsored by -- M. of A. ARROYO, DINOWITZ, RIVERA, SCHIMEL -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to expanding remedies for violations of New York state uniform fire prevention and building code

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

1 Section 1. Section 382 of the executive law, as added by chapter 707
2 of the laws of 1981, subdivision 2 as amended by chapter 135 of the laws
3 of 1997, is amended to read as follows:
4 S 382. Remedies. 1. In addition to and not in limitation of any power
5 otherwise granted by law, every local government and its authorized
6 agents shall have the power to order in writing the remedying of any
7 condition found to exist in, on or about any building in violation of
8 the uniform fire prevention and building code and to issue appearance
9 tickets for violations of the uniform code.
10 2. Any person, having been served, either personally or by registered
11 or certified mail, with an order to remedy any condition, OTHER THAN A
12 CONDITION THAT IS DEEMED AN IMMINENT THREAT TO THE SAFETY AND WELFARE OF
13 THE BUILDING'S OCCUPANTS, found to exist in, on, or about any building
14 in violation of the uniform fire prevention and building code, who shall
15 fail to comply with such order within the time fixed by the regulations
16 promulgated by the secretary pursuant to subdivision one of section
17 three hundred eighty-one of this article, such time period to be stated
18 in the order, and any owner, builder, architect, tenant, contractor,
19 subcontractor, construction superintendent or their agents or any other
20 person taking part or assisting in the construction of any building who
21 shall knowingly violate any of the applicable provisions of the uniform
22 code or any lawful order of a local government, a county or the secre-
23 tary made thereunder regarding standards for construction, maintenance,

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

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1 or fire protection equipment and systems, shall be punishable by a fine
2 of not more than one thousand dollars per day of violation, or imprison-
3 ment not exceeding one year, or both.

4 3. ANY PERSON, HAVING BEEN SERVED, EITHER PERSONALLY OR BY REGISTERED
5 OR CERTIFIED MAIL, WITH AN ORDER TO REMEDY A CONDITION THAT IS AN IMMI-
6 NENT THREAT TO THE SAFETY AND WELFARE OF THE BUILDING'S OCCUPANTS AS
7 DETERMINED BY THE LOCAL GOVERNMENT AND ITS AUTHORIZED AGENTS, FOUND TO
8 EXIST IN, ON, OR ABOUT ANY BUILDING IN VIOLATION OF THE UNIFORM FIRE
9 PREVENTION AND BUILDING CODE, WHO SHALL FAIL TO COMPLY WITH SUCH ORDER
10 WITHIN THE TIME FIXED BY THE REGULATIONS PROMULGATED BY THE SECRETARY
11 PURSUANT TO SUBDIVISION ONE OF SECTION THREE HUNDRED EIGHTY-ONE OF THIS
12 ARTICLE, SUCH TIME PERIOD TO BE STATED IN THE ORDER, AND ANY OWNER,
13 BUILDER, ARCHITECT, TENANT, CONTRACTOR, SUBCONTRACTOR, CONSTRUCTION
14 SUPERINTENDENT OR THEIR AGENTS OR ANY OTHER PERSON TAKING PART OR
15 ASSISTING IN THE CONSTRUCTION OF ANY BUILDING WHO SHALL KNOWINGLY
16 VIOLATE ANY OF THE APPLICABLE PROVISIONS OF THE UNIFORM CODE OR ANY
17 LAWFUL ORDER OF A LOCAL GOVERNMENT, A COUNTY OR THE SECRETARY MADE THERE-
18 UNDER REGARDING STANDARDS FOR CONSTRUCTION, MAINTENANCE, OR FIRE
19 PROTECTION EQUIPMENT AND SYSTEMS, SHALL BE PUNISHABLE BY A FINE OF NO
20 LESS THAN ONE THOUSAND DOLLARS AND NO MORE THAN FIVE THOUSAND DOLLARS
21 PER DAY OF VIOLATION OR IMPRISONMENT NOT EXCEEDING ONE YEAR, OR BOTH,
22 FOR THE FIRST OCCURRENCE OF A VIOLATION FOR ANY BUILDING OWNED BY SUCH
23 PERSON. A PERSON'S SECOND VIOLATION RELATED TO ANY PROPERTY OWNED BY
24 SUCH PERSON FOR A CONDITION THAT IS DEEMED AN IMMINENT THREAT TO THE
25 SAFETY AND WELFARE OF THE BUILDING'S OCCUPANTS, SHALL BE PUNISHABLE BY A
26 FINE NO LESS THAN FIVE THOUSAND DOLLARS AND NO MORE THAN TEN THOUSAND
27 DOLLARS PER DAY OF VIOLATION OR IMPRISONMENT NOT EXCEEDING ONE YEAR, OR
28 BOTH. A PERSON'S THIRD VIOLATION RELATED TO ANY PROPERTY OWNED BY SUCH
29 PERSON FOR A CONDITION THAT IS DEEMED AN IMMINENT THREAT TO THE SAFETY
30 AND WELFARE OF THE BUILDING'S OCCUPANTS, SHALL BE PUNISHABLE BY A FINE
31 NO LESS THAN TEN THOUSAND DOLLARS PER DAY OF VIOLATION OR IMPRISONMENT
32 NOT EXCEEDING ONE YEAR, OR BOTH.

33 4. Where the construction or use of a building is in violation of any
34 provision of the uniform code or any lawful order obtained thereunder, a
35 justice of the supreme court at a special term in the judicial district
36 in which the building is located, may order the removal of the building
37 or an abatement of the condition in violation of such provisions. An
38 application for such relief may be made by the secretary, an appropriate
39 municipal officer, or any other person aggrieved by the violation.

40 S 2. This act shall take effect on the first of January next succeed-
41 ing the date on which it shall have become a law.