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

1189

2015-2016 Regular Sessions

I N S E N A T E

January 9, 2015

Introduced by Sen. CARLUCCI -- 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 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:

Section 1. Section 382 of the executive law, as added by chapter 707 of the laws of 1981, subdivision 2 as amended by chapter 135 of the laws of 1997, is amended to read as follows:

S 382. Remedies. 1. In addition to and not in limitation of any power otherwise granted by law, every local government and its authorized agents shall have the power to order in writing the remedying of any condition found to exist in, on or about any building in violation of the uniform fire prevention and building code and to issue appearance tickets for violations of the uniform code.

2. Any person, having been served, either personally or by registered or certified mail, with an order to remedy any condition, OTHER THAN A CONDITION THAT IS DEEMED AN IMMINENT THREAT TO THE SAFETY AND WELFARE OF THE BUILDING'S OCCUPANTS, found to exist in, on, or about any building in violation of the uniform fire prevention and building code, who shall fail to comply with such order within the time fixed by the regulations promulgated by the secretary pursuant to subdivision one of section three hundred eighty-one of this article, such time period to be stated in the order, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction of any building who shall knowingly violate any of the applicable provisions of the uniform code or any lawful order of a local government, a county or the secretary made thereunder regarding standards for construction, maintenance, or fire protection equipment and systems, shall be punishable by a fine

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

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of not more than one thousand dollars per day of violation, or imprisonment not exceeding one year, or both.

3. ANY PERSON, HAVING BEEN SERVED, EITHER PERSONALLY OR BY REGISTERED OR CERTIFIED MAIL, WITH AN ORDER TO REMEDY A CONDITION THAT IS AN IMMINENT THREAT TO THE SAFETY AND WELFARE OF THE BUILDING'S OCCUPANTS AS DETERMINED BY THE LOCAL GOVERNMENT AND ITS AUTHORIZED AGENTS, FOUND TO EXIST IN, ON, OR ABOUT ANY BUILDING IN VIOLATION OF THE UNIFORM FIRE PREVENTION AND BUILDING CODE, WHO SHALL FAIL TO COMPLY WITH SUCH ORDER WITHIN THE TIME FIXED BY THE REGULATIONS PROMULGATED BY THE SECRETARY PURSUANT TO SUBDIVISION ONE OF SECTION THREE HUNDRED EIGHTY-ONE OF THIS ARTICLE, SUCH TIME PERIOD TO BE STATED IN THE ORDER, AND ANY OWNER, BUILDER, ARCHITECT, TENANT, CONTRACTOR, SUBCONTRACTOR, CONSTRUCTION SUPERINTENDENT OR THEIR AGENTS OR ANY OTHER PERSON TAKING PART OR ASSISTING IN THE CONSTRUCTION OF ANY BUILDING WHO SHALL KNOWINGLY VIOLATE ANY OF THE APPLICABLE PROVISIONS OF THE UNIFORM CODE OR ANY LAWFUL ORDER OF A LOCAL GOVERNMENT, A COUNTY OR THE SECRETARY MADE THEREUNDER REGARDING STANDARDS FOR CONSTRUCTION, MAINTENANCE, OR FIRE PROTECTION EQUIPMENT AND SYSTEMS, SHALL BE PUNISHABLE BY A FINE OF NO LESS THAN ONE THOUSAND DOLLARS AND NO MORE THAN FIVE THOUSAND DOLLARS PER DAY OF VIOLATION OR IMPRISONMENT NOT EXCEEDING ONE YEAR, OR BOTH, FOR THE FIRST OCCURRENCE OF A VIOLATION FOR ANY BUILDING OWNED BY SUCH PERSON. A PERSON'S SECOND VIOLATION RELATED TO ANY PROPERTY OWNED BY SUCH PERSON FOR A CONDITION THAT IS DEEMED AN IMMINENT THREAT TO THE SAFETY AND WELFARE OF THE BUILDING'S OCCUPANTS, SHALL BE PUNISHABLE BY A FINE NO LESS THAN FIVE THOUSAND DOLLARS AND NO MORE THAN TEN THOUSAND DOLLARS PER DAY OF VIOLATION OR IMPRISONMENT NOT EXCEEDING ONE YEAR, OR BOTH. A PERSON'S THIRD VIOLATION RELATED TO ANY PROPERTY OWNED BY SUCH PERSON FOR A CONDITION THAT IS DEEMED AN IMMINENT THREAT TO THE SAFETY AND WELFARE OF THE BUILDING'S OCCUPANTS, SHALL BE PUNISHABLE BY A FINE NO LESS THAN TEN THOUSAND DOLLARS PER DAY OF VIOLATION OR IMPRISONMENT NOT EXCEEDING ONE YEAR, OR BOTH.

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

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.