

# STATE OF NEW YORK

5528

2017-2018 Regular Sessions

## IN ASSEMBLY

February 10, 2017

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to failure to obtain a building permit or certificate of occupancy for a dwelling

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The penal law is amended by adding three new sections  
2 270.11, 270.12, and 270.13 to read as follows:

3 § 270.11 Definitions.

4 As used in sections 270.12 and 270.13 of this article, the following  
5 terms shall have the following definitions.

6 1. The terms "altered" and "alteration" shall mean any change in the  
7 structural parts of a building or any change that impedes a person's  
8 egress from a building during a fire or emergency evacuation.

9 2. The term "dwelling" shall mean any one to four family dwelling  
10 located in a city with a population of one million or more which is  
11 occupied in whole or in part as the home, residence or sleeping place of  
12 one or more human beings.

13 3. The term "illegally altered" shall mean a dwelling with alterations  
14 that violate the building code, or local law or regulation.

15 4. The term "local law or regulation" shall mean the administrative  
16 code of the city of New York or regulation that has been promulgated  
17 thereunder.

18 § 270.12 Failure to obtain a building permit or certificate of occupancy  
19 for a dwelling in the second degree.

20 A person is guilty of failure to obtain a building permit or certifi-  
21 cate of occupancy for a dwelling in the second degree when:

22 1. Being the owner of the dwelling, he or she (a) failed to obtain a  
23 building permit pursuant to the building code or a local law or regu-  
24 lation requiring permits for alterations prior to engaging in or author-  
25 izing alterations to such dwelling, (b) such dwelling was illegally

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

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1 altered with authorization of the owner, (c) a person suffered physical  
2 injury in or around such dwelling, and (d) one or more of such alter-  
3 ations were the direct or indirect cause of such physical injury; or

4 2. Being the owner of the dwelling, he or she (a) altered or author-  
5 ized alteration of a dwelling, (b) failed to obtain a certificate of  
6 occupancy prior to allowing occupation of such altered dwelling pursuant  
7 to the building code or a local law or regulation requiring a certif-  
8 icate of occupancy prior to its use or occupancy, (c) such dwelling was  
9 illegally altered with authorization of the owner, (d) a person suffered  
10 physical injury in or around such multiple dwelling, and (e) one or more  
11 of such alterations were the direct or indirect cause of such physical  
12 injury.

13 Failure to obtain a building permit or certificate of occupancy for a  
14 dwelling in the second degree is a class D felony.

15 § 270.13 Failure to obtain a building permit or certificate of occupancy  
16 for a dwelling in the first degree.

17 A person is guilty of failure to obtain a building permit or certif-  
18 icate of occupancy for a dwelling in the first degree when:

19 1. Being the owner of the dwelling, he or she (a) failed to obtain a  
20 building permit pursuant to the building code or a local law or regu-  
21 lation requiring permits for alterations prior to engaging in alter-  
22 ations to such dwelling, (b) such dwelling was illegally altered with  
23 authorization of the owner, (c) a person suffered serious physical inju-  
24 ry in or around such dwelling, and (d) one or more of such illegal  
25 alterations were the direct or indirect cause of such serious physical  
26 injury; or

27 2. Being the owner of the dwelling, he or she (a) altered a dwelling,  
28 (b) failed to obtain a certificate of occupancy prior to allowing occu-  
29 pation of such altered dwelling pursuant to the building code or a local  
30 law or regulation requiring a certificate of occupancy prior to its use  
31 or occupancy, (c) such dwelling was illegally altered with authorization  
32 of the owner, (d) a person suffered serious physical injury in or around  
33 such dwelling, and (e) one or more of such illegal alterations were the  
34 direct or indirect cause of such serious physical injury.

35 Failure to obtain a building permit or certificate of occupancy for a  
36 dwelling in the first degree is a class C felony.

37 § 2. This act shall take effect on the sixtieth day after it shall  
38 have become a law.