STATE OF NEW YORK

9592

IN ASSEMBLY

January 27, 2020

Introduced by M. of A. ZEBROWSKI -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to enforcing fire prevention and building codes and appointing an oversight officer and their duties

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

Section 1. Subdivision 2 of section 381 of the executive law, as amended by chapter 560 of the laws of 2010, is amended to read as follows:

2. Except as may be provided in regulations of the secretary pursuant to subdivision one of this section, every local government shall administer and enforce the uniform fire prevention and building code and the state energy conservation construction code on and after the first day of January, nineteen hundred eighty-four, provided, however, that a local government may enact a local law prior to the first day of July in any year providing that it will not enforce such codes on and after the first day of [~~January~~] **April** next succeeding. In such event the county in which said local government is situated shall administer and enforce such codes within such local government from and after the first day of [~~January~~] **April** next succeeding the effective date of such local law, in accordance with the provisions of paragraph b of subdivision five of this section unless the county shall have enacted a local law providing that it will not enforce such codes within that county. In such event the secretary in the place and stead of the local government shall, directly or by contract, administer and enforce the uniform code and the state energy conservation construction code **in such local government on and after the first day of April next succeeding. In the event that a county enacts a local law prior to the first day of October in any year providing that it will not enforce such codes, the secretary, in the place and stead of the local government, shall, directly or by contract, administer and enforce such codes from and after the first day of April next succeeding**. A local government or a county may repeal a local law which provides that it will not enforce such codes and shall thereafter

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

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administer and enforce such codes as provided above. Two or more local governments may provide for joint administration and enforcement of the uniform code, the state energy conservation construction code, or both, by agreement pursuant to article five-G of the general municipal law. Any local government may enter into agreement with the county in which such local government is situated to administer and enforce the uniform code, the state energy conservation construction code, or both, within such local government. Local governments or counties may charge fees to defray the costs of administration and enforcement.

§ 2. Subdivision 4 of section 381 of the executive law, as added by chapter 707 of the laws of 1981, is amended to read as follows:

4. If the secretary determines that a local government has failed to administer and enforce the uniform fire prevention and building code in accordance with the minimum standards promulgated pursuant to subdivision one of this section, the secretary shall take any of the following actions, either individually or in combination in any sequence:

a. The secretary may issue an order compelling compliance by such local government with the standards for administration and enforcement of the uniform code.

b. **The secretary may appoint, and at his or her pleasure remove, any person deemed qualified by the secretary as an oversight officer, who shall have the power and authority to do any or all of the following, at the discretion of the oversight officer and at the expense of such local government: (i) observe and report on compliance with the minimum standards by the local government; (ii) direct all or any part of the code enforcement activities of the local government's code enforcement personnel; (iii) hire, contract for, or otherwise obtain the services of qualified third parties to review building permit applications and plans and specifications submitted therewith, conduct construction inspections and periodic fire safety and property maintenance inspections, and perform other code enforcement activities within the local government; (iv) issue notices of violation, appearance tickets, orders to remedy, and other instruments related to code violations within the local government, or direct the local government to do so, and refer such violations to counsel for the local government or the district attorney for the county in which the local government is located for appropriate prosecution; and (v) take any other steps deemed by the oversight officer to be necessary or appropriate to ensure that the uniform code is administered and enforced within such local government in a due and proper manner.**

c. The secretary may ask the attorney general to institute in the name of the secretary an action or proceeding seeking appropriate legal or equitable relief to require such local government to administer and enforce the uniform code.

[~~c. the~~]**d. The** secretary may designate the county in which such local government is located to administer and enforce the uniform code in such local government. In the case of such designation, the provisions of subdivision five of this section shall apply.

[~~d.~~] **e.** The secretary may, in the place and stead of the local government, administer and enforce the uniform code in accordance with the minimum standards promulgated pursuant to subdivision one of this section. In such event, the provisions of subdivision five of this section shall apply.

§ 3. The opening paragraph of subdivision 5 of section 381 of the executive law, as added by chapter 707 of the laws of 1981, is amended to read as follows:

Where the secretary has designated a county to administer and enforce the uniform fire prevention and building code within a local government or has assumed authority for administration and enforcement pursuant to subdivision two or paragraph [~~d~~] **e** of subdivision four of this section:

§ 4. This act shall take effect immediately.