STATE OF NEW YORK

3674--A

Cal. No. 672

2019-2020 Regular Sessions

IN SENATE

February 12, 2019

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

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

§ 270.11 Definitions.

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

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

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

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

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

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

A person is guilty of failure to obtain a building permit or certificate of occupancy for a dwelling in the second degree when:

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

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1. Being the owner of the dwelling, he or she (a) failed to obtain a building permit pursuant to the building code or a local law or regulation requiring permits for alterations prior to engaging in or authorizing alterations to such dwelling, (b) such dwelling was illegally altered with authorization of the owner, (c) a person suffered physical injury in or around such dwelling, and (d) one or more of such alterations were the direct or indirect cause of such physical injury; or

2. Being the owner of the dwelling, he or she (a) altered or authorized alteration of a dwelling, (b) failed to obtain a certificate of occupancy prior to allowing occupation of such altered dwelling pursuant to the building code or a local law or regulation requiring a certificate of occupancy prior to its use or occupancy, (c) such dwelling was illegally altered with authorization of the owner, (d) a person suffered physical injury in or around such multiple dwelling, and (e) one or more of such alterations were the direct or indirect cause of such physical injury.

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

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

A person is guilty of failure to obtain a building permit or certificate of occupancy for a dwelling in the first degree when:

1. Being the owner of the dwelling, he or she (a) failed to obtain a building permit pursuant to the building code or a local law or regulation requiring permits for alterations prior to engaging in alterations to such dwelling, (b) such dwelling was illegally altered with authorization of the owner, (c) a person suffered serious physical injury in or around such dwelling, and (d) one or more of such illegal alterations were the direct or indirect cause of such serious physical injury; or

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

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

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