STATE OF NEW YORK

392

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

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 conducting investigations into the administration and enforcement of the New York state uniform fire prevention and building code and the New York state energy conservation construction code

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

Section 1. Subdivisions 3 and 4 of section 381 of the executive law, as added by chapter 707 of the laws of 1981, are amended to read as follows:

3. **a.** On and after the first day of July, nineteen hundred eighty-five, the secretary shall have power to investigate and conduct hearings relative to whether administration and enforcement of the uniform fire prevention and building code complies with the minimum standards promulgated pursuant to subdivision one of this section. At least ten days written notice of any such hearing shall be provided to the elective or appointive chief executive officer or, if there be none, the chairman of the legislative body of the local government or county whose administration and enforcement of the uniform code is at issue.

b. If the secretary receives from any county, official notice, in the form of a resolution, approved by a majority vote by the county legislature, board of supervisors, or board of legislatures and then approved by the county executive, where the county has a county executive, which explains the basis of the request, that a local government within the county is not providing administration and enforcement of the uniform fire prevention and building code that complies with the minimum standards promulgated pursuant to subdivision one of this section, the secretary shall investigate and may conduct hearings in accordance with the provisions of this subdivision. The secretary shall not begin an inves-

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

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tigation into a local government under this paragraph unless the local government received a copy of the official notice and has had one month to respond to the official notice and submit such response to the secretary.

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 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~~] 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. 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.

e. If the secretary finds that the local government is incapable of or unwilling to administer and enforce the uniform code pursuant to the minimum standards and the secretary's investigation of such local government was initiated by an official notice from the county in which such local government is located, and if the county has requested that the secretary designate the county to administer and enforce the uniform code in such local government, the secretary shall designate the county in which such local government is located to administer and enforce the uniform code in such local government unless the secretary finds that the county would be incapable of assuming the responsibilities.

§ 2. Subdivision 5 of section 381 of the executive law is amended by adding a new paragraph e to read as follows:

e. After at least eighteen months from such designation, the local government may petition the secretary to reassume authority for uniform fire prevention and building code enforcement. To reassume authority for uniform fire prevention and building code enforcement, the local government shall demonstrate to the satisfaction of the secretary that the conditions which led to its prior failure to provide administration and enforcement of the uniform fire prevention and building code that complies with the minimum standards promulgated pursuant to subdivision one of this section are no longer present and that it will be able to properly administer and enforce the code.

§ 3. This act shall take effect immediately.