

# STATE OF NEW YORK

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392

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 2021

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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:

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

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

13 b. If the secretary receives from any county, official notice, in the  
14 form of a resolution, approved by a majority vote by the county legisla-  
15 ture, board of supervisors, or board of legislatures and then approved  
16 by the county executive, where the county has a county executive, which  
17 explains the basis of the request, that a local government within the  
18 county is not providing administration and enforcement of the uniform  
19 fire prevention and building code that complies with the minimum stand-  
20 ards promulgated pursuant to subdivision one of this section, the secre-  
21 tary shall investigate and may conduct hearings in accordance with the  
22 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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1 igation into a local government under this paragraph unless the local  
2 government received a copy of the official notice and has had one month  
3 to respond to the official notice and submit such response to the secre-  
4 tary.

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

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

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

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

21 d. The secretary may, in the place and stead of the local government,  
22 administer and enforce the uniform code in accordance with the minimum  
23 standards promulgated pursuant to subdivision one of this section. In  
24 such event, the provisions of subdivision five of this section shall  
25 apply.

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

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

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

48 § 3. This act shall take effect immediately.