

STATE OF NEW YORK

9440

IN SENATE

May 27, 2022

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the executive law, in relation to ensuring proper administration and enforcement of the uniform fire prevention and building code and the state energy conservation construction code; and to amend the energy law, in relation to making conforming technical changes

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

- 1 Section 1. Section 372 of the executive law, as amended by chapter 309
2 of the laws of 1996, subdivision 3 as amended by chapter 159 of the laws
3 of 2007 and subdivision 19 as added by chapter 119 of the laws of 2001,
4 is amended to read as follows:
5 § 372. Definitions. As used in this article, the following terms shall
6 have the meaning ascribed to them, unless the context otherwise
7 requires:
8 1. "Administrator" means the state fire administrator established
9 pursuant to article six-C of this chapter.
10 2. "Applicable code enforcement program" means the program established
11 by a local government or county pursuant to the regulations promulgated
12 pursuant to subdivision one of section three hundred eighty-one of this
13 article, or, where so provided in subdivision two of section three
14 hundred eighty-one of this article, the secretary's code enforcement
15 program, or, where so provided in subdivision seven of section three
16 hundred eighty-one of this article the default code enforcement program.
17 3. "Areas of public assembly" means all buildings or portions of
18 buildings used for gathering together fifty or more persons for amuse-
19 ment, athletic, civic, dining, educational, entertainment, patriotic,
20 political, recreational, religious, social, or similar purposes, the
21 entire fire area of which they are a part, and the means of egress ther-
22 efrom.
23 [~~3.~~] 4. "Building" means a combination of any materials, whether port-
24 able or fixed, having a roof, to form a structure affording shelter for
25 persons, animals or property. The word "building" shall be construed

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

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1 when used herein as though followed by the words "or part or parts ther-
2 eof" unless the context clearly requires a different meaning. The term
3 "building" shall also mean "factory manufactured home" and "mobile
4 home". The term "building" shall not include a "temporary greenhouse".

5 ~~[4-]~~ 5. "Construction" means the construction, reconstruction, alter-
6 ation, conversion, repair, installation of equipment or use of build-
7 ings, and requirements or standards relating to or affecting materials
8 used in connection therewith, including provisions for safety and sani-
9 tary conditions.

10 ~~[5-]~~ 6. "Council" means the state fire prevention and building code
11 council created by this article.

12 ~~[6-]~~ 7. "Default code enforcement program" means the code enforcement
13 program established by the rules and regulations promulgated pursuant to
14 subdivision seven of section three hundred eighty-one of this article.

15 8. "Department" means the department of state.

16 ~~[7-]~~ 9. "Equipment" means plumbing, heating, electrical, ventilating,
17 air conditioning, refrigerating equipment, elevators, dumb waiters,
18 escalators and other mechanical additions or installations.

19 ~~[8-]~~ 10. "Factory manufactured home" means a structure designed prima-
20 rily for residential occupancy constructed by a method or system of
21 construction whereby the structure or its components are wholly or in
22 substantial part manufactured in manufacturing facilities, intended or
23 designed for permanent installation, or assembly and permanent installa-
24 tion, on a building site.

25 ~~[9-]~~ 11. "Fire area" means the floor area of a story of a building
26 within exterior walls, party walls, fire walls, or any combination ther-
27 eof.

28 ~~[10-]~~ 12. "Fire protection equipment and systems" means apparatus,
29 assemblies, or systems, either portable or fixed, for use to detect,
30 prevent, control, or extinguish fire.

31 ~~[11-]~~ 13. "Local government" means a village, town (outside the area
32 of any incorporated village) or city.

33 ~~[12-]~~ 14. "Means of egress" means a continuous unobstructed way of
34 exit from any point in a building or structure to a public way. A means
35 of egress comprises the vertical and horizontal ways of travel and
36 includes intervening room spaces, doorways, hallways, corridors,
37 passageways, balconies, ramps, stairs, enclosures, lobbies, escalators,
38 horizontal exits, courts, and yards.

39 ~~[13-]~~ 15. "Mobile home" means a moveable or portable unit designed and
40 constructed to be towed on its own chassis, comprised of frame and
41 wheels, connected to utilities, and designed and constructed without a
42 permanent foundation for year-round living. A unit may contain parts
43 that may be folded, collapsed or telescoped when being towed and
44 expanded later to provide additional cubic capacity as well as two or
45 more separately towable components designed to be joined into one inte-
46 gral unit capable of being again separated into the components for
47 repeated towing. "Mobile home" shall mean units designed to be used
48 exclusively for residential purposes, excluding travel trailers.

49 ~~[14-]~~ 16. "Office" means the office of fire prevention and control
50 created pursuant to article six-C of this chapter.

51 ~~[15-]~~ 17. "Permit or certificate of occupancy provision" shall mean
52 any provision in the applicable code enforcement program that: (a)
53 prohibits performance of any work that must conform with the uniform
54 code and/or state energy code unless a building permit, construction
55 permit, demolition permit, or similar permit has been issued, has not
56 been suspended or revoked, and has not expired; (b) prohibits the

1 continuation of work after a stop work order has been issued; (c)
2 prohibits the conduct of any activity or the use of any category of
3 building specified in the rules and regulations promulgated pursuant to
4 subdivision one of section three hundred eighty-one of this article
5 unless an operating permit has been issued, has not been suspended or
6 revoked, and has not expired; or (d) prohibits the use or occupancy of a
7 building or the change of any use or occupancy of a building unless a
8 certificate of occupancy, certificate of completion, or similar certifi-
9 cate has been issued, has not been suspended or revoked, and has not
10 expired.

11 18. "Required features" means the features required by the rules and
12 regulations promulgated pursuant to subdivision one of section three
13 hundred eighty-one to be included in a code enforcement program.

14 19. "Secretary" means the secretary of state.

15 ~~[16.]~~ 20. "Secretary's code enforcement program" means those rules and
16 regulations promulgated pursuant to subdivision one of section three
17 hundred eighty-one of this article that are applicable in situations in
18 which the secretary administers and enforces the uniform code in the
19 place and stead of the local government or county.

20 21. "State agency" means any department, bureau, commission, board,
21 public authority or other agency of the state, including any public
22 benefit corporation any member of whose board is appointed by the gover-
23 nor.

24 ~~[17.]~~ 22. "Temporary greenhouse" means specialized agricultural equip-
25 ment having a framework covered with demountable polyurethane materials
26 or materials of polyurethane nature and lacking a permanent and contin-
27 uous foundation, which is specifically designed, constructed and used
28 for the culture and propagation of horticultural commodities. A "tempo-
29 rary greenhouse" may include, but is not limited to, the use of heating
30 devices, water and electrical utilities, and supporting poles embedded
31 in non-continuous concrete. In no instance will a temporary greenhouse
32 be used for the retail sale of any farm or non-farm products.

33 ~~[18. "Uniform code" or "code" means the New York state uniform fire~~
34 ~~prevention and building code promulgated pursuant to section three~~
35 ~~hundred seventy-seven of this article.~~

36 ~~19.]~~ 23. "Truss type construction" means a fabricated structure of
37 wood or steel, made up of a series of members connected at their ends to
38 form a series of triangles to span a distance greater than would be
39 possible with any of the individual members on their own.

40 24. "Uniform code" or "code" means the New York state uniform fire
41 prevention and building code promulgated pursuant to section three
42 hundred seventy-seven of this article.

43 § 2. Subdivisions 2, 3, 4 and 5 of section 381 of the executive law,
44 subdivision 2 as amended by chapter 560 of the laws of 2010 and subdivi-
45 sions 3, 4 and 5 as added by chapter 707 of the laws of 1981, are
46 amended, subdivision 6 is renumbered subdivision 8 and two new subdivi-
47 sions 6 and 7 are added to read as follows:

48 2. Except as may be provided in regulations of the secretary pursuant
49 to subdivision one of this section, and subject to the provisions relat-
50 ing to cities with a population of over one million as set forth in
51 paragraph c of subdivision one of section three hundred eighty-three of
52 this article, every local government shall administer and enforce the
53 uniform fire prevention and building code and the state energy conserva-
54 tion construction code on and after the first day of January, nineteen
55 hundred eighty-four, provided, however, that a local government may
56 enact a local law prior to the first day of July in any year providing

1 that it will not enforce such codes on and after the first day of [~~Janu-~~
2 ~~ary~~] April next succeeding. In such event the county in which said local
3 government is situated shall administer and enforce such codes within
4 such local government from and after the first day of [~~January~~] April
5 next succeeding the effective date of such local law, in accordance with
6 the provisions of paragraph b of subdivision five of this section unless
7 the county shall have previously enacted a local law providing that it
8 will not enforce such codes within that county. In such event the secre-
9 tary in the place and stead of the local government shall, directly or
10 by [~~contract~~] using the services of any contractors or other third-party
11 providers as the secretary may deem to be qualified, administer and
12 enforce the uniform code and the state energy conservation construction
13 code within such local government on and after the first day of April
14 next succeeding. A county that is responsible for administering and
15 enforcing such codes within a local government pursuant to the foregoing
16 provisions of this subdivision may enact a local law prior to the first
17 day of October in any year providing that it will not enforce such codes
18 within such local government on and after the first day of April next
19 succeeding. In such event, the secretary, in the place and stead of such
20 local government, shall, directly or by using the services of any
21 contractors or other third-party providers as the secretary may deem to
22 be qualified, administer and enforce such codes in such local government
23 from and after the first day of April next succeeding. A local govern-
24 ment that adopts a local law providing that it will not enforce such
25 codes on and after the first day of April next succeeding shall promptly
26 notify the county in which such local government is located and the
27 secretary of the adoption of such local law. A county that adopts a
28 local law providing that it will not enforce such codes on and after the
29 first day of April next succeeding shall promptly notify each local
30 government in which such county is administering and enforcing such
31 codes and the secretary of the adoption of such local law. A local
32 government or a county may repeal a local law which provides that it
33 will not enforce such codes and shall thereafter administer and enforce
34 such codes as provided above. Two or more local governments may provide
35 for joint administration and enforcement of the uniform code, the state
36 energy conservation construction code, or both, by agreement pursuant to
37 article five-G of the general municipal law. Any local government may
38 enter into agreement with the county in which such local government is
39 situated to administer and enforce the uniform code, the state energy
40 conservation construction code, or both, within such local government.
41 Local governments or counties ~~that administer and enforce the uniform~~
42 ~~code, the state energy conservation construction code, or both,~~ may
43 charge ~~and collect~~ fees to defray the costs of administration and
44 enforcement. ~~Where the secretary is responsible for administration and~~
45 ~~enforcement of the uniform code and state energy conservation~~
46 ~~construction code within a local government pursuant to this subdivision~~
47 ~~or pursuant to paragraph e of subdivision four of this section, (a) the~~
48 ~~secretary shall administer and enforce the codes in accordance with the~~
49 ~~provisions of the secretary's code enforcement program; (b) such rules~~
50 ~~and regulations shall be deemed to be the applicable code enforcement~~
51 ~~program for the purposes of section three hundred eighty-two of this~~
52 ~~article; and (c) the secretary may charge and collect fees to defray the~~
53 ~~costs of administration and enforcement.~~

54 3. On and after the first day of July, nineteen hundred eighty-five,
55 the secretary shall have power to investigate [~~and conduct hearings~~
56 ~~relative to~~] whether administration and enforcement of the uniform fire

1 prevention and building code and the state energy conservation
2 construction code complies with the minimum standards promulgated pursu-
3 ant to subdivision one of this section. In connection with any such
4 investigation, the secretary shall have the power to issue subpoenas
5 compelling the testimony of witnesses, the production of documents, or
6 both, and the power, at the secretary's discretion, to conduct one or
7 more hearings. At least ten days written notice of any such hearing
8 shall be provided to the elective or appointive chief executive officer
9 or, if there be none, the chairman of the legislative body of the local
10 government or county whose administration and enforcement of the uniform
11 code and state energy conservation construction code is at issue.

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

18 a. The secretary may issue an order compelling compliance by such
19 local government with the minimum standards [~~for administration and~~
20 ~~enforcement of the uniform code~~] promulgated pursuant to subdivision one
21 of this section.

22 b. The secretary may appoint and remove any person deemed qualified by
23 the secretary as an oversight officer, who shall have the power and
24 authority to do any of the following, at the discretion of the oversight
25 officer:

26 (i) observe, review records and report on compliance by such local
27 government with the minimum standards promulgated pursuant to subdivi-
28 sion one of this section;

29 (ii) direct all or any part of the code enforcement activities of the
30 local government's code enforcement personnel; and

31 (iii) take any other steps deemed by the oversight officer to be
32 necessary or appropriate to ensure that the uniform code and state ener-
33 gy conservation construction code are administered and enforced within
34 such local government in a due and proper manner and in compliance with
35 the minimum standards promulgated pursuant to subdivision one of this
36 section. Any person who is appointed as an oversight officer pursuant
37 to this paragraph shall be deemed to be a state officer under section
38 two of the public officers law.

39 c. The secretary may ask the attorney general to institute in the name
40 of the secretary an action or proceeding seeking appropriate legal or
41 equitable relief to require such local government to administer and
42 enforce the uniform code and state energy conservation construction code
43 in a due and proper manner and in compliance with the minimum standards
44 promulgated pursuant to subdivision one of this section, including but
45 not limited to requiring such local government to take specific remedial
46 actions, such as establishing and enforcing an effective code enforce-
47 ment program, conducting fire safety and property maintenance
48 inspections, increasing the frequency of fire safety and property main-
49 tenance inspections, and taking enforcement actions that are timely and
50 responsive to circumstances associated with the property in question
51 when violations are identified.

52 [~~e. the~~] d. The secretary may designate the county in which such local
53 government is located, or any other local government that adjoins or is
54 reasonably proximate to such local government, to administer and enforce
55 the uniform code and state energy conservation construction code in such
56 local government. Designation of an adjoining or reasonably proximate

1 local government shall be subject to the consent of the supervisor or
2 mayor, as applicable, of such local government. In the case of such
3 designation, the provisions of subdivision five of this section shall
4 apply.

5 [~~d~~] e. The secretary may, in the place and stead of the local govern-
6 ment, directly or by using the services of any contractors or other
7 third-party providers as the secretary may deem to be qualified, admin-
8 ister and enforce the uniform code and state energy conservation
9 construction code in such local government in accordance with the [~~mini-~~
10 ~~mum standards promulgated pursuant to subdivision one of this section~~]
11 secretary's code enforcement program. In such event, the provisions of
12 subdivision five of this section shall apply.

13 f. The secretary may designate the county in which such local govern-
14 ment is located, any other local government that adjoins or is reason-
15 ably proximate to such local government, or the department of state to
16 perform within such local government such types and classes of code
17 enforcement activities, such as permit application review and approval,
18 construction inspections, and fire safety and property maintenance
19 inspections, as the secretary may specify. Designation of an adjoining
20 or reasonably proximate local government shall be subject to the consent
21 of the supervisor or mayor, as applicable, of such local government. In
22 the case of such designation, the provisions of subdivision six of this
23 section shall apply.

24 g. The secretary may order a local government to cease prosecution of
25 violations of the uniform code and order that such violations be prose-
26 cuted pursuant to section seven hundred of the county law.

27 5. Where the secretary has designated a county or adjoining or reason-
28 ably proximate local government to administer and enforce the uniform
29 fire prevention and building code and state energy conservation
30 construction code within a local government pursuant to paragraph d of
31 subdivision four of this section, or has assumed authority for adminis-
32 tration and enforcement of the uniform fire prevention and building code
33 and state energy conservation construction code within a local govern-
34 ment pursuant to [~~subdivision two or~~] paragraph [~~d~~] e of subdivision
35 four of this section:

36 a. [~~Such~~] The local government [~~or county government~~] that is not
37 administering or enforcing the uniform code and state energy conserva-
38 tion construction code in accordance with minimum standards shall not
39 administer and enforce the uniform code or state energy conservation
40 construction code, and shall not charge or collect fees for such admin-
41 istration and enforcement.

42 b. [~~Such~~] The designated county or local government or the secretary
43 shall administer and enforce the uniform code within [~~such~~] the local
44 government whose administration and enforcement of the uniform code and
45 state energy conservation construction code has not met the minimum
46 standards from and after the date of such designation or assumption.
47 Such administration and enforcement shall apply the minimum standards
48 promulgated by the secretary pursuant to subdivision one of this
49 section. Notwithstanding any other provisions of law, such designated
50 county or local government or the secretary shall have full power to
51 administer and enforce the uniform code [~~in accordance with such~~] and
52 state energy conservation construction code in the local government
53 whose administration and enforcement of the uniform code and state ener-
54 gy conservation construction code has not met the minimum standards,
55 including the power to charge and collect fees for such administration
56 and enforcement.

1 c. The secretary shall designate the local government [~~or county~~
2 ~~government~~] whose administration and enforcement of the uniform code and
3 state energy conservation construction code did not meet the minimum
4 standards to resume administration and enforcement of the uniform code
5 when the secretary is satisfied that such local government [~~or county~~]
6 will provide such administration and enforcement in compliance with the
7 minimum standards promulgated pursuant to subdivision one of this
8 section.

9 d. The provisions of subdivisions three and four of this section shall
10 apply to counties [~~which have been designated to administer and enforce~~
11 ~~the uniform code in such local government~~] that are responsible for
12 administration and enforcement of the uniform code and state energy
13 conservation construction code within a local government pursuant to
14 subdivision two of this section, to counties that have been designated
15 to administer and enforce the uniform code and state energy conservation
16 construction code within a local government pursuant to paragraph d of
17 subdivision four of this section, and to local governments that have
18 been designated to administer and enforce the uniform code and state
19 energy conservation construction code within another local government
20 pursuant to paragraph d of subdivision four of this section. Where the
21 provisions of subdivisions three and four of this section are applicable
22 to a county, references in those subdivisions to a local government
23 whose administration and enforcement of the uniform code and state ener-
24 gy conservation construction code have been determined by the secretary
25 to have not met the minimum standards shall be construed as references
26 to such county.

27 6. Where the secretary has designated a county, another local govern-
28 ment, or the department to perform specified types and classes of code
29 enforcement activities within a local government pursuant to paragraph f
30 of subdivision four of this section:

31 a. The local government whose administration and enforcement of the
32 uniform code and state energy conservation construction code has not met
33 the minimum standards shall not perform the types and classes of code
34 enforcement activities specified in such designation and shall accept
35 performance of such types and classes of code enforcement activities by
36 the designee;

37 b. The local government whose administration and enforcement of the
38 uniform code and state energy conservation construction code has not met
39 the minimum standards shall reimburse the designee for any reasonable
40 costs and expenses incurred by the designee in performing the designated
41 types and classes of code enforcement activities; and

42 c. The secretary shall designate the local government whose adminis-
43 tration and enforcement of the uniform code and state energy conserva-
44 tion construction code has not met the minimum standards to resume
45 performance of the designated types and classes of code enforcement
46 activities when the secretary is satisfied that such local government
47 will perform such activities in a due and proper manner and will other-
48 wise provide administration and enforcement of the uniform code and
49 state energy conservation construction code in compliance with the mini-
50 imum standards promulgated pursuant to subdivision one of this section.

51 7. a. The secretary is authorized to promulgate, and to amend from
52 time to time, rules and regulations establishing a default code enforce-
53 ment program. Such default code enforcement program shall include
54 provisions establishing the required features and such other provisions
55 as the secretary may deem to be appropriate for inclusion in a code
56 enforcement program. Such default code enforcement program shall also

1 establish fees to be charged by any local government or county that
2 administers and enforces the uniform code and/or energy code in accord-
3 ance with the provisions of the default code enforcement program.

4 b. Any local government or county responsible for administration and
5 enforcement of the uniform code and/or state energy code within a local
6 government that has not established its own code enforcement program
7 shall administer and enforce the uniform code and/or energy code in
8 accordance with the provisions of the default code enforcement program.

9 c. Any local government or county that administers and enforces the
10 uniform code and/or energy code in accordance with the provisions of the
11 default code enforcement program pursuant to paragraph b of this subdivi-
12 vision shall, through its chief executive officer, have full power and
13 authority to designate the public officer or agency authorized to issue
14 an appearance ticket, and a public officer who, by virtue of office,
15 title or position, is authorized or required to enforce the provisions
16 of the uniform code and the state energy conservation construction code
17 and the provisions of the default code enforcement program as fully and
18 with the same force and effect as such local government or county would
19 have to enforce provisions established by a local law, ordinance, or
20 regulation enacted or adopted by such local government or county. The
21 designation authorized by this paragraph shall not take effect until it
22 has been filed with the department of state, and must be maintained on
23 the website of such local government or county unless and until such
24 local government or county passes a local law delegating the enforcement
25 authority referenced in this paragraph.

26 d. Where a local government or county is administering and enforcing
27 the uniform code and/or energy code in accordance with the provisions of
28 the default code enforcement program pursuant to paragraph b of this
29 subdivision, the default code enforcement program shall be deemed the
30 applicable code enforcement program for the purposes of section three
31 hundred eighty-two of this article.

32 § 3. Section 382 of the executive law, as added by chapter 707 of the
33 laws of 1981, subdivision 2 as amended by chapter 571 of the laws of
34 2021, subdivision 3 as amended by chapter 507 of the laws of 2021 and
35 subdivision 4 as amended by chapter 47 of the laws of 2021, is amended
36 to read as follows:

37 § 382. Remedies. 1. In addition to and not in limitation of any power
38 otherwise granted by law, every local government and its authorized
39 agents shall have the power to order in writing the remedying of any
40 condition found to exist in, on or about any building in violation of
41 the uniform fire prevention and building code and to issue appearance
42 tickets for violations of the uniform code.

43 2. Failure to comply with the uniform fire prevention and building
44 code, permit or certificate of occupancy provision of the code enforce-
45 ment program, or order. Any person or entity, having been served, either
46 personally or by registered or certified mail, with an order to remedy
47 any condition found to exist in, on, or about any building in violation
48 of the uniform fire prevention and building code, who shall fail to
49 comply with such order within the time fixed by the regulations promul-
50 gated by the secretary pursuant to subdivision one of section three
51 hundred eighty-one of this article, such time period to be stated in the
52 order, and any owner, builder, architect, tenant, contractor, subcon-
53 tractor, construction superintendent or their agents or any other person
54 taking part or assisting in the construction of any building who shall
55 knowingly violate (i) any of the applicable provisions of the uniform
56 code, (ii) any permit or certificate of occupancy provision of the

1 applicable code enforcement program, or (iii) any lawful order of a
2 local government, a county or the secretary made [~~thereunder~~] under the
3 uniform code or under the applicable code enforcement program regarding
4 standards for construction, maintenance, or fire protection equipment
5 and systems, shall be guilty of an unclassified misdemeanor. Such
6 offense shall be punishable by a fine of not more than one thousand
7 dollars per day of violation, or imprisonment not exceeding one year, or
8 both for the first one hundred eighty days, and for the following one
9 hundred eighty days shall be punishable by a fine of no less than twenty-
10 ty-five dollars and not more than one thousand dollars per day of
11 violation or imprisonment not exceeding one year, or both and thereafter
12 shall be punishable by a fine of no less than fifty dollars and not more
13 than one thousand dollars per day of violation or imprisonment not
14 exceeding one year, or both.

15 3. Where the construction or use of a building is in violation of (i)
16 any provision of the uniform code [~~or any lawful order obtained there-~~
17 ~~under~~], (ii) any permit or certificate of occupancy provision of the
18 applicable code enforcement program, or (iii) any provision of any
19 lawful order made under this article, under the uniform code, or under
20 the applicable code enforcement program, a justice of the supreme court,
21 New York city civil court, a city court, district court or county court
22 may order the removal of the building or an abatement of the condition
23 in violation of such provisions. Where a person or entity, having been
24 served with any lawful order made under this article, under the uniform
25 code, or under the applicable code enforcement program, shall fail to
26 comply with such order, a justice of the supreme court, New York city
27 civil court, a city court, district court or county court may order
28 compliance with such order. An application for such relief may be made
29 by the secretary, an appropriate municipal officer, or any other person
30 aggrieved by the violation.

31 4. In addition to any other applicable remedy or penalty, where a
32 building has been altered in violation of any provision of the uniform
33 code or any lawful order obtained [~~thereunder~~] under this article, under
34 the uniform code, or under the applicable code enforcement program, and
35 such alteration impedes a person's egress from such building during a
36 fire or other emergency evacuation, the owner of such building, and any
37 builder, architect, contractor, subcontractor or construction super-
38 intendent, or agent thereof who has knowledge of such alteration, or
39 owner who reasonably should have had knowledge of such alteration based
40 on either an inspection or repair of a leased premises with consent from
41 the tenant, shall be subject to a civil penalty of up to seven thousand
42 five hundred dollars.

43 5. (a) Notwithstanding any other provision of law, all fines imposed
44 and collected for any violation of this section shall be paid at least
45 monthly into the treasury of the local government in which such
46 violation occurred, unless: (i) the county is administering and enforc-
47 ing the uniform fire prevention and building code and state energy
48 conservation construction code in such local government as provided by
49 subdivision two or four of section three hundred eighty-one of this
50 article, in which case such fines and penalties collected in cases aris-
51 ing out of the violation of this section shall be paid at least monthly
52 into the treasury of the county, (ii) an adjoining or reasonably proximi-
53 mate local government is administering and enforcing the uniform fire
54 prevention and building code and state energy conservation construction
55 code in such local government as provided by subdivision four of section
56 three hundred eighty-one of this article, in which case such fines and

1 penalties collected in cases arising out of the violation of this
2 section shall be paid at least monthly into the treasury of such adjoin-
3 ing or reasonably proximate local government, or (iii) the secretary is
4 administering and enforcing the uniform fire prevention and building
5 code and state energy conservation construction code in such local
6 government as provided by subdivision two or four of section three
7 hundred eighty-one of this article, in which case such fines and penal-
8 ties collected in cases arising out of the violation of this section
9 shall be paid at least monthly into the general fund established by
10 section seventy-two of the state finance law. Where two or more local
11 governments have provided for joint administration and enforcement of
12 the uniform code, the state energy conservation construction code, or
13 both, by agreement pursuant to article five-G of the general municipal
14 law, such local governments may provide in such agreement for a differ-
15 ent distribution of such fines.

16 (b) The civil penalties provided in subdivision four of this section
17 may be recovered in an appropriate action or proceeding commenced by the
18 local government, county, or state agency responsible for administration
19 and enforcement of the uniform code with respect to the building that
20 was altered in violation of any provision of the uniform code or any
21 lawful order obtained under this article, under the uniform code, or
22 under the applicable code enforcement program, and shall be payable to
23 the treasury of such local government, the treasury of such county, or
24 the general fund of the state of New York, as applicable.

25 § 4. Subdivision 14 of section 11-102 of the energy law, as amended by
26 chapter 560 of the laws of 2010, is amended to read as follows:

27 14. "Residential building." Any building which is designed or is to be
28 used primarily as a dwelling or household as defined by the state fire
29 prevention and building code council, including any factory manufactured
30 home as defined in subdivision [~~eight~~] ten of section three hundred
31 seventy-two of the executive law and any mobile home as defined in
32 subdivision [~~thirteen~~] fifteen of section three hundred seventy-two of
33 the executive law.

34 § 5. This act shall take effect immediately.