

STATE OF NEW YORK

5620--A

2023-2024 Regular Sessions

IN ASSEMBLY

March 17, 2023

Introduced by M. of A. ZEBROWSKI -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Section 372 of the executive law, as amended by chapter 309 of the laws of 1996, subdivision 3 as amended by chapter 159 of the laws of 2007 and subdivision 19 as added by chapter 119 of the laws of 2001, is amended to read as follows:

§ 372. Definitions. As used in this article, the following terms shall have the meaning ascribed to them, unless the context otherwise requires:

1. "Administrator" means the state fire administrator established pursuant to article six-C of this chapter.

2. "Applicable code enforcement program" means the program established by a local government or county pursuant to the regulations promulgated pursuant to subdivision one of section three hundred eighty-one of this article, or, where so provided in subdivision two of section three hundred eighty-one of this article, the secretary's code enforcement program, or, where so provided in subdivision seven of section three hundred eighty-one of this article the default code enforcement program.

3. "Areas of public assembly" means all buildings or portions of buildings used for gathering together fifty or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social, or similar purposes, the

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

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1 entire fire area of which they are a part, and the means of egress therefrom.

2
3 ~~[3-]~~ 4. "Building" means a combination of any materials, whether portable or fixed, having a roof, to form a structure affording shelter for persons, animals or property. The word "building" shall be construed when used herein as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. The term "building" shall also mean "factory manufactured home" and "mobile home". The term "building" shall not include a "temporary greenhouse".

10 ~~[4-]~~ 5. "Construction" means the construction, reconstruction, alteration, conversion, repair, installation of equipment or use of buildings, and requirements or standards relating to or affecting materials used in connection therewith, including provisions for safety and sanitary conditions.

15 ~~[5-]~~ 6. "Council" means the state fire prevention and building code council created by this article.

17 ~~[6-]~~ 7. "Default code enforcement program" means the code enforcement program established by the rules and regulations promulgated pursuant to subdivision seven of section three hundred eighty-one of this article.

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

21 ~~[7-]~~ 9. "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, refrigerating equipment, elevators, dumb waiters, escalators and other mechanical additions or installations.

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

30 ~~[9-]~~ 11. "Fire area" means the floor area of a story of a building within exterior walls, party walls, fire walls, or any combination thereof.

33 ~~[10-]~~ 12. "Fire protection equipment and systems" means apparatus, assemblies, or systems, either portable or fixed, for use to detect, prevent, control, or extinguish fire.

36 ~~[11-]~~ 13. "Local government" means a village, town (outside the area of any incorporated village) or city.

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

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

54 ~~[14-]~~ 16. "Office" means the office of fire prevention and control created pursuant to article six-C of this chapter.

~~15-~~ 17. "Permit or certificate of occupancy provision" shall mean any provision in the applicable code enforcement program that: (a) prohibits performance of any work that must conform with the uniform code and/or state energy code unless a building permit, construction permit, demolition permit, or similar permit has been issued, has not been suspended or revoked, and has not expired; (b) prohibits the continuation of work after a stop work order has been issued; (c) prohibits the conduct of any activity or the use of any category of building specified in the rules and regulations promulgated pursuant to subdivision one of section three hundred eighty-one of this article unless an operating permit has been issued, has not been suspended or revoked, and has not expired; or (d) prohibits the use or occupancy of a building or the change of any use or occupancy of a building unless a certificate of occupancy, certificate of completion, or similar certificate has been issued, has not been suspended or revoked, and has not expired.

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

19. "Secretary" means the secretary of state.

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

21. "State agency" means any department, bureau, commission, board, public authority or other agency of the state, including any public benefit corporation any member of whose board is appointed by the governor.

~~17-~~ 22. "Temporary greenhouse" means specialized agricultural equipment having a framework covered with demountable polyurethane materials or materials of polyurethane nature and lacking a permanent and continuous foundation, which is specifically designed, constructed and used for the culture and propagation of horticultural commodities. A "temporary greenhouse" may include, but is not limited to, the use of heating devices, water and electrical utilities, and supporting poles embedded in non-continuous concrete. In no instance will a temporary greenhouse be used for the retail sale of any farm or non-farm products.

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

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

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

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

2. Except as may be provided in regulations of the secretary pursuant to subdivision one of this section, and subject to the provisions relat-

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

1 and regulations shall be deemed to be the applicable code enforcement
2 program for the purposes of section three hundred eighty-two of this
3 article; and (c) the secretary may charge and collect fees to defray the
4 costs of administration and enforcement.

5 3. On and after the first day of July, nineteen hundred eighty-five,
6 the secretary shall have power to investigate [~~and conduct hearings~~
7 ~~relative to~~] whether administration and enforcement of the uniform fire
8 prevention and building code and the state energy conservation
9 construction code complies with the minimum standards promulgated pursu-
10 ant to subdivision one of this section. In connection with any such
11 investigation, the secretary shall have the power to issue subpoenas
12 compelling the testimony of witnesses, the production of documents, or
13 both, and the power, at the secretary's discretion, to conduct one or
14 more hearings. At least ten days written notice of any such hearing
15 shall be provided to the elective or appointive chief executive officer
16 or, if there be none, the chairman of the legislative body of the local
17 government or county whose administration and enforcement of the uniform
18 code and state energy conservation construction code is at issue.

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

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

29 b. The secretary may appoint and remove any person deemed qualified by
30 the secretary as an oversight officer, who shall have the power and
31 authority to do any of the following, at the discretion of the oversight
32 officer:

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

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

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

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

1 responsive to circumstances associated with the property in question
2 when violations are identified.

3 ~~[e, the]~~ d. The secretary may designate the county in which such local
4 government is located, or any other local government that adjoins or is
5 reasonably proximate to such local government, to administer and enforce
6 the uniform code and state energy conservation construction code in such
7 local government. Designation of an adjoining or reasonably proximate
8 local government shall be subject to the consent of the supervisor or
9 mayor, as applicable, of such local government. In the case of such
10 designation, the provisions of subdivision five of this section shall
11 apply.

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

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

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

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

43 a. ~~[Such]~~ The local government [or county government] that is not
44 administering or enforcing the uniform code and state energy conserva-
45 tion construction code in accordance with minimum standards shall not
46 administer and enforce the uniform code or state energy conservation
47 construction code, and shall not charge or collect fees for such admin-
48 istration and enforcement.

49 b. ~~[Such]~~ The designated county or local government or the secretary
50 shall administer and enforce the uniform code within ~~[such]~~ the local
51 government whose administration and enforcement of the uniform code and
52 state energy conservation construction code has not met the minimum
53 standards from and after the date of such designation or assumption.
54 Such administration and enforcement shall apply the minimum standards
55 promulgated by the secretary pursuant to subdivision one of this
56 section. Notwithstanding any other provisions of law, such designated

1 county or local government or the secretary shall have full power to
2 administer and enforce the uniform code [~~in accordance with such~~] and
3 state energy conservation construction code in the local government
4 whose administration and enforcement of the uniform code and state ener-
5 gy conservation construction code has not met the minimum standards,
6 including the power to charge and collect fees for such administration
7 and enforcement.

8 c. The secretary shall designate the local government [~~or county~~
9 ~~government~~] whose administration and enforcement of the uniform code and
10 state energy conservation construction code did not meet the minimum
11 standards to resume administration and enforcement of the uniform code
12 when the secretary is satisfied that such local government [~~or county~~]
13 will provide such administration and enforcement in compliance with the
14 minimum standards promulgated pursuant to subdivision one of this
15 section.

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

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

38 a. The local government whose administration and enforcement of the
39 uniform code and state energy conservation construction code has not met
40 the minimum standards shall not perform the types and classes of code
41 enforcement activities specified in such designation and shall accept
42 performance of such types and classes of code enforcement activities by
43 the designee;

44 b. The local government whose administration and enforcement of the
45 uniform code and state energy conservation construction code has not met
46 the minimum standards shall reimburse the designee for any reasonable
47 costs and expenses incurred by the designee in performing the designated
48 types and classes of code enforcement activities; and

49 c. The secretary shall designate the local government whose adminis-
50 tration and enforcement of the uniform code and state energy conserva-
51 tion construction code has not met the minimum standards to resume
52 performance of the designated types and classes of code enforcement
53 activities when the secretary is satisfied that such local government
54 will perform such activities in a due and proper manner and will other-
55 wise provide administration and enforcement of the uniform code and

1 state energy conservation construction code in compliance with the mini-
2 mum standards promulgated pursuant to subdivision one of this section.

3 7. a. The secretary is authorized to promulgate, and to amend from
4 time to time, rules and regulations establishing a default code enforce-
5 ment program. Such default code enforcement program shall include
6 provisions establishing the required features and such other provisions
7 as the secretary may deem to be appropriate for inclusion in a code
8 enforcement program. Such default code enforcement program shall also
9 establish fees to be charged by any local government or county that
10 administers and enforces the uniform code and/or energy code in accord-
11 ance with the provisions of the default code enforcement program.

12 b. Any local government or county responsible for administration and
13 enforcement of the uniform code and/or state energy code within a local
14 government that has not established its own code enforcement program
15 shall administer and enforce the uniform code and/or energy code in
16 accordance with the provisions of the default code enforcement program.

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

34 d. Where a local government or county is administering and enforcing
35 the uniform code and/or energy code in accordance with the provisions of
36 the default code enforcement program pursuant to paragraph b of this
37 subdivision, the default code enforcement program shall be deemed the
38 applicable code enforcement program for the purposes of section three
39 hundred eighty-two of this article.

40 § 3. Section 382 of the executive law, as added by chapter 707 of the
41 laws of 1981, subdivision 2 as amended by chapter 571 of the laws of
42 2021, subdivision 3 as amended by chapter 507 of the laws of 2021 and
43 subdivision 4 as amended by chapter 47 of the laws of 2021, is amended
44 to read as follows:

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

51 2. Failure to comply with the uniform fire prevention and building
52 code, permit or certificate of occupancy provision of the code enforce-
53 ment program, or order. Any person or entity, having been served, either
54 personally or by registered or certified mail, with an order to remedy
55 any condition found to exist in, on, or about any building in violation
56 of the uniform fire prevention and building code, who shall fail to

1 comply with such order within the time fixed by the regulations promul-
2 gated by the secretary pursuant to subdivision one of section three
3 hundred eighty-one of this article, such time period to be stated in the
4 order, and any owner, builder, architect, tenant, contractor, subcon-
5 tractor, construction superintendent or their agents or any other person
6 taking part or assisting in the construction of any building who shall
7 knowingly violate (i) any of the applicable provisions of the uniform
8 code, (ii) any permit or certificate of occupancy provision of the
9 applicable code enforcement program, or (iii) any lawful order of a
10 local government, a county or the secretary made [thereunder] under the
11 uniform code or under the applicable code enforcement program regarding
12 standards for construction, maintenance, or fire protection equipment
13 and systems, shall be punishable by a fine of not more than one thousand
14 dollars per day of violation, or imprisonment not exceeding one year, or
15 both for the first one hundred eighty days, and for the following one
16 hundred eighty days shall be punishable by a fine of no less than twen-
17 ty-five dollars and not more than one thousand dollars per day of
18 violation or imprisonment not exceeding one year, or both and thereafter
19 shall be punishable by a fine of no less than fifty dollars and not more
20 than one thousand dollars per day of violation or imprisonment not
21 exceeding one year, or both.

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

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

50 5. (a) Notwithstanding any other provision of law, all fines imposed
51 and collected for any violation of this section shall be paid at least
52 monthly into the treasury of the local government in which such
53 violation occurred, unless: (i) the county is administering and enforc-
54 ing the uniform fire prevention and building code and state energy
55 conservation construction code in such local government as provided by
56 subdivision two or four of section three hundred eighty-one of this

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

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

32 § 4. Subdivision 15 of section 11-102 of the energy law, as amended by
33 chapter 560 of the laws of 2010 and renumbered by chapter 374 of the
34 laws of 2022, is amended to read as follows:

35 15. "Residential building." Any building which is designed or is to be
36 used primarily as a dwelling or household as defined by the state fire
37 prevention and building code council, including any factory manufactured
38 home as defined in subdivision [~~eight~~] ten of section three hundred
39 seventy-two of the executive law and any mobile home as defined in
40 subdivision [~~thirteen~~] fifteen of section three hundred seventy-two of
41 the executive law.

42 § 5. This act shall take effect immediately.