

STATE OF NEW YORK

5620

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

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 there-
22 from.

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

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1 ~~[3-]~~ 4. "Building" means a combination of any materials, whether port-
2 able or fixed, having a roof, to form a structure affording shelter for
3 persons, animals or property. The word "building" shall be construed
4 when used herein as though followed by the words "or part or parts ther-
5 eof" unless the context clearly requires a different meaning. The term
6 "building" shall also mean "factory manufactured home" and "mobile
7 home". The term "building" shall not include a "temporary greenhouse".

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

13 ~~[5-]~~ 6. "Council" means the state fire prevention and building code
14 council created by this article.

15 ~~[6-]~~ 7. "Default code enforcement program" means the code enforcement
16 program established by the rules and regulations promulgated pursuant to
17 subdivision seven of section three hundred eighty-one of this article.

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

19 ~~[7-]~~ 9. "Equipment" means plumbing, heating, electrical, ventilating,
20 air conditioning, refrigerating equipment, elevators, dumb waiters,
21 escalators and other mechanical additions or installations.

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

28 ~~[9-]~~ 11. "Fire area" means the floor area of a story of a building
29 within exterior walls, party walls, fire walls, or any combination ther-
30 eof.

31 ~~[10-]~~ 12. "Fire protection equipment and systems" means apparatus,
32 assemblies, or systems, either portable or fixed, for use to detect,
33 prevent, control, or extinguish fire.

34 ~~[11-]~~ 13. "Local government" means a village, town (outside the area
35 of any incorporated village) or city.

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

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

52 ~~[14-]~~ 16. "Office" means the office of fire prevention and control
53 created pursuant to article six-C of this chapter.

54 ~~[15-]~~ 17. "Permit or certificate of occupancy provision" shall mean
55 any provision in the applicable code enforcement program that: (a)
56 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 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 relating to cities with a population of over one million as set forth in paragraph c of subdivision one of section three hundred eighty-three of this article, every local government shall administer and enforce the uniform fire prevention and building code and the state energy conserva-

tion construction code on and after the first day of January, nineteen hundred eighty-four, provided, however, that a local government may enact a local law prior to the first day of July in any year providing that it will not enforce such codes on and after the first day of ~~[January]~~ April next succeeding. In such event the county in which said local government is situated shall administer and enforce such codes within such local government from and after the first day of ~~[January]~~ April next succeeding the effective date of such local law, in accordance with the provisions of paragraph b of subdivision five of this section unless the county shall have previously enacted a local law providing that it will not enforce such codes within that county. In such event the secretary in the place and stead of the local government shall, directly or by ~~[contract]~~ using the services of any contractors or other third-party providers as the secretary may deem to be qualified, administer and enforce the uniform code and the state energy conservation construction code within such local government on and after the first day of April next succeeding. A county that is responsible for administering and enforcing such codes within a local government pursuant to the foregoing provisions of this subdivision may enact a local law prior to the first day of October in any year providing that it will not enforce such codes within such local government on and after the first day of April next succeeding. In such event, the secretary, in the place and stead of such local government, shall, directly or by using the services of any contractors or other third-party providers as the secretary may deem to be qualified, administer and enforce such codes in such local government from and after the first day of April next succeeding. A local government that adopts a local law providing that it will not enforce such codes on and after the first day of April next succeeding shall promptly notify the county in which such local government is located and the secretary of the adoption of such local law. A county that adopts a local law providing that it will not enforce such codes on and after the first day of April next succeeding shall promptly notify each local government in which such county is administering and enforcing such codes and the secretary of the adoption of such local law. A local government or a county may repeal a local law which provides that it will not enforce such codes and shall thereafter administer and enforce such codes as provided above. Two or more local governments may provide for joint administration and enforcement of the uniform code, the state energy conservation construction code, or both, by agreement pursuant to article five-G of the general municipal law. Any local government may enter into agreement with the county in which such local government is situated to administer and enforce the uniform code, the state energy conservation construction code, or both, within such local government. Local governments or counties that administer and enforce the uniform code, the state energy conservation construction code, or both, may charge and collect fees to defray the costs of administration and enforcement. Where the secretary is responsible for administration and enforcement of the uniform code and state energy conservation construction code within a local government pursuant to this subdivision or pursuant to paragraph e of subdivision four of this section, (a) the secretary shall administer and enforce the codes in accordance with the provisions of the secretary's code enforcement program; (b) such rules and regulations shall be deemed to be the applicable code enforcement program for the purposes of section three hundred eighty-two of this article; and (c) the secretary may charge and collect fees to defray the costs of administration and enforcement.

3. 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 and the state energy conservation construction code complies with the minimum standards promulgated pursuant to subdivision one of this section. In connection with any such investigation, the secretary shall have the power to issue subpoenas compelling the testimony of witnesses, the production of documents, or both, and the power, at the secretary's discretion, to conduct one or more hearings. 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 and state energy conservation construction code is at issue.

4. If the secretary determines that a local government has failed to administer and enforce the uniform fire prevention and building code and/or the state energy conservation construction 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 minimum standards ~~[for administration and enforcement of the uniform code]~~ promulgated pursuant to subdivision one of this section.

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

(i) observe, review records and report on compliance by such local government with the minimum standards promulgated pursuant to subdivision one of this section;

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

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

c. 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 and state energy conservation construction code in a due and proper manner and in compliance with the minimum standards promulgated pursuant to subdivision one of this section, including but not limited to requiring such local government to take specific remedial actions, such as establishing and enforcing an effective code enforcement program, conducting fire safety and property maintenance inspections, increasing the frequency of fire safety and property maintenance inspections, and taking enforcement actions that are timely and responsive to circumstances associated with the property in question when violations are identified.

~~[e, the]~~ d. The secretary may designate the county in which such local government is located, or any other local government that adjoins or is

1 reasonably proximate to such local government, to administer and enforce
2 the uniform code and state energy conservation construction code in such
3 local government. Designation of an adjoining or reasonably proximate
4 local government shall be subject to the consent of the supervisor or
5 mayor, as applicable, of such local government. In the case of such
6 designation, the provisions of subdivision five of this section shall
7 apply.

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

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

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

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

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

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

1 gy conservation construction code has not met the minimum standards,
2 including the power to charge and collect fees for such administration
3 and enforcement.

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

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

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

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

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

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

54 7. a. The secretary is authorized to promulgate, and to amend from
55 time to time, rules and regulations establishing a default code enforce-
56 ment program. Such default code enforcement program shall include

1 provisions establishing the required features and such other provisions
2 as the secretary may deem to be appropriate for inclusion in a code
3 enforcement program. Such default code enforcement program shall also
4 establish fees to be charged by any local government or county that
5 administers and enforces the uniform code and/or energy code in accord-
6 ance with the provisions of the default code enforcement program.

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

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

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

35 § 3. Section 382 of the executive law, as added by chapter 707 of the
36 laws of 1981, subdivision 2 as amended by chapter 571 of the laws of
37 2021, subdivision 3 as amended by chapter 507 of the laws of 2021 and
38 subdivision 4 as amended by chapter 47 of the laws of 2021, is amended
39 to read as follows:

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

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

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

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

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

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

prevention and building code and state energy conservation construction code in such local government as provided by subdivision four of section three hundred eighty-one of this article, in which case such fines and penalties collected in cases arising out of the violation of this section shall be paid at least monthly into the treasury of such adjoining or reasonably proximate local government, or (iii) the secretary is administering and enforcing the uniform fire prevention and building code and state energy conservation construction code in such local government as provided by subdivision two or four of section three hundred eighty-one of this article, in which case such fines and penalties collected in cases arising out of the violation of this section shall be paid at least monthly into the general fund established by section seventy-two of the state finance law. Where two or more local governments have provided for joint administration and enforcement of the uniform code, the state energy conservation construction code, or both, by agreement pursuant to article five-G of the general municipal law, such local governments may provide in such agreement for a different distribution of such fines.

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

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

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

§ 5. This act shall take effect immediately.