

# STATE OF NEW YORK

1232

2023-2024 Regular Sessions

## IN SENATE

January 10, 2023

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the canal law, in relation to requiring corporations to provide written notice to the municipality in which the canal is located and properties adjacent to such canal prior to commencing work along such canal

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

1 Section 1. Section 42 of the canal law, as amended by chapter 335 of  
2 the laws of 2001, is amended to read as follows:

3 § 42. Removal of encroachments, trees and vegetation. 1. The corpo-  
4 ration is authorized to cause to be removed from canal property any  
5 building, part of a building or structure erected, placed, maintained or  
6 otherwise occupying such canal property, if, in its opinion, the removal  
7 is necessary for the improvement, use, maintenance, control, management,  
8 repair or operation of the canal system. It shall be the duty of any  
9 person owning or maintaining such a building, part of a building or  
10 structure to remove the same within thirty days from the service by the  
11 corporation upon said person of a notice ordering its removal. Upon the  
12 failure of the person so ordered to remove the building, part of a  
13 building or structure, the corporation may, without liability on the  
14 part of the state or the corporation, take whatever action it may deem  
15 necessary to cause the removal. Service of the order of removal must be  
16 personal if the person to be served can be found within the state. If  
17 the corporation shall not be able to serve such notice or cause the same  
18 to be served on the said person within the state after making a reason-  
19 able effort so to do, service may be made by attaching such notice to  
20 the said building, part of a building or structure.

21 2. The corporation shall provide written notice to any municipality in  
22 which any work along a canal shall be done, as well as any and all prop-  
23 erties adjacent to such canal, no less than ninety days and no more than

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

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1 one hundred twenty days prior to the start date of such work. Work  
2 requiring notice shall include but not be limited to the clearing of  
3 trees and vegetation. If such work stated in the written notice to the  
4 municipality and adjacent properties has not started within ninety to  
5 one hundred twenty days from the date of such written notice being sent,  
6 the corporation may issue a notice of extension to such municipality and  
7 adjacent properties with the updated date upon which work shall begin.  
8 Such updated date shall be no further out than an additional thirty days  
9 from the originally anticipated start date. If such work fails to  
10 commence within such thirty-day extension, the corporation shall issue a  
11 new notification of such work to the municipality and adjacent proper-  
12 ties no less than ninety days and no more than one hundred twenty days  
13 prior to the new start date of such work.

14 3. The corporation shall hold a public hearing between thirty and  
15 forty-five days prior to the scheduled commencement of any work occur-  
16 ring along any canal in the municipality in which the work is scheduled  
17 to take place. Such public hearing shall be noticed to residents of  
18 such municipality in a way that is designed to properly notice such  
19 community. Such notice shall include the time, place, and location of  
20 such meeting as well as the proposed scope of work and the specific  
21 location of the work to be undertaken. Methods of notice to a community  
22 include but are not limited to coverage on the local news and written  
23 notice in the local paper.

24 4. The corporation shall be exempted from the notification and public  
25 hearing requirements under this section if there is an emergency situ-  
26 ation that could result in an immediate failure of canal dams or embank-  
27 ments, or to address flooding that would jeopardize lives and property.  
28 Removal of danger trees shall be included in emergency situations. For  
29 purposes of this subdivision "danger tree" shall mean any tree that, due  
30 to location and condition, poses an imminent threat of falling and  
31 damaging the canal.

32 § 2. This act shall take effect on the ninetieth day after it shall  
33 have become a law.