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:

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

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

2. The corporation shall provide written notice to any municipality in which any work along a canal shall be done, as well as any and all properties 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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one hundred twenty days prior to the start date of such work. Work requiring notice shall include but not be limited to the clearing of trees and vegetation. If such work stated in the written notice to the municipality and adjacent properties has not started within ninety to one hundred twenty days from the date of such written notice being sent, the corporation may issue a notice of extension to such municipality and adjacent properties with the updated date upon which work shall begin. Such updated date shall be no further out than an additional thirty days from the originally anticipated start date. If such work fails to commence within such thirty-day extension, the corporation shall issue a new notification of such work to the municipality and adjacent properties no less than ninety days and no more than one hundred twenty days prior to the new start date of such work.

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

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

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