

Niagara Frontier Building Officials Association

2022-2024 Officers

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Report of NYSBOC Board of Delegates 9:30 am, June 7, 2024 at the Marriott Albany, 189 Wolf Rd, Albany NY. Rod Cameron represented NFBOA, Dave Metzger and Mike Fields were unable to attend this meeting.

This was president Sal Pennelle's second meeting and all of the other board members were in attendance. Sal provided a report detailing his activities during the last 3 months. An issue with the president's budget was discussed later under the ways and means committee as the budgeted amount did not provide adequate funding for attendance at the ICC conference this fall in Long Beach California.

1st VP Valerie Scott reported on her activities in association with the recently redesigned NYSBOC website. She will be reaching out to the chapters in order to obtain updated mailing lists. Please access <http://www.nysboc.org> for more information.

2nd VP Mark LaFavor reported on the plans for this year's ABM meeting to be held in Corning NY. Note that rooms are available now for reservation for the conference. He also reported on planning for the 2025 ABM that will be hosted by Capital District in conjunction with their educational conference.

Past president Marty Mosely was absent, Historian Steve McDaniel was present and provided some information on Marty's activities on behalf of the organization.

Treasurer Doug Scarson provided the Treasurer's report (handout provided). There was discussion regarding placing \$90,000 in a CD at 5% as a previous CD had matured, a motion was made to do so. There was also discussion of obtaining an insurance policy to protect the organizations funding.

Secretary Alan Gustafson asked to waive the reading of the March delegates meeting and the draft minutes were approved without amendments. Secretary Alan Gustafson reminded the delegates to have their chapters reports and dues be submitted ASAP for those that have not done so already, most chapters have complied.

John Addario reported on NYS Div. of Bldg. Standards and codes activities. The replacement for the SLMS system is out to bid and should be ready in the fall, this will be a stand alone program for Code Enforcers and may not contain historical data. The department is also in the process of studying 3 to 6 story residential buildings since the budget bill required them to do so for affordability reasons, the report isn't due until 2026 so the process is using department resources that they were prefer not to need to do.

The latest in-service on-line class schedule is available and anyone registered with the department should have received an email containing the information. They are working to provide in person basic training.

Kevin Durr-Clark reported on the next Codes Council meeting, There are notable changes to the upcoming NYS codes, see their site for the latest information.

Under the bylaws committee the status of the St Lawrence chapter was discussed as they are currently in violation of the by-laws. Adirondack Chapter is working with them to get them back in compliance. They are a very small chapter in a very rural area which has many challenges for code enforcement personnel.

The ways and means committee reviewed a handout of the president's budget which was set last year, before Sal became president. The projection indicated that the budgeted amount is approximately half of what is needed this year. Most of the added spending is due to attendance at

the ICC conference in Long Beach. There was much discussion of the costs associated with the president attending various other meetings that was resolved amicably.

The emergency management committee reported on a meeting with Dept. of State regarding CEDAR, a full report will be completed by the ABM in September.

The new fundraising committee reported on plans to have a raffle to help raise funds for the organization. They are planning on selling 300 \$100 tickets with 3 prizes of half the money raised with the organization getting the other half, hopefully \$15,000. This was approved to be available by the ABM.

The Code Official/Public Safety Committee reported on efforts to secure peace officer status for Code Enforcers as incidents have been increasing and getting more dangerous. Body armor for code enforcers has recently been approved. They are also pursuing raising attacks on code enforcers to felony level.

The legislative Code update committee reported on Lobby day which they felt went really well. See attached multi page report. (NYSBOC Legislation Report 2024.pdf)

The Building Official Peer support committee reported on their activities that are very much like our local code consensus committee meetings in that it is a forum to discuss issues important to those in codes enforcement. They are planning on arranging some meetings, possibly some in person and some remote via zoom.

Steve McDaniels and Dotty Mazarella reported on ICC activities, ICC's hunt for a new CEO, Steve's running for Secretary/Treasurer of ICC at Long Beach and many other issues. Dotty said that ICC is planning on putting more emphasis on providing training programs. Steve is also working on a voting guide for the code hearings.

Under old business there was a motion passed for of support for Steve McDaniels for the ICC office.

Under new business there was:

discussion of the selection of delegates meetings and venue procedures.

A proposal to study how dues are structured to see if there are ways to make it more affordable but still have sufficient funds to pay for all of the groups activities. It was decided to continue to explore possibilities and see if the raffle idea works out.

Audio/Video equipment was discussed but nothing was done at this time.

The meeting was adjourned at 1:05.

Respectfully submitted by Rod Cameron

TO: NYSBOC Delegates

FROM: NYSBOC Legislative Committee

SUBJECT: 6/7/24 NYSBOC Delegate's Meeting Legislative Committee Report

On May 20, 2024, the NYSBOC Legislative Committee held their annual lobby day at the Capitol in Albany.

Members in attendance:

- President Sal Pennelle
- Legislative Chairman & Past President Marty Mosley
- ICC BOD & NYSBOC Historian Steve McDaniel
- Central NYSBOC President & NYSBOC Delegate Ed Cusato
- Delegate Lawrence Chiulli
- Dottie Mazzarella - ICC

We met with the following Members and/or their staff:

- Senator Shelley Mayer, (D) Westchester
- Senator Patrick Gallivan, (R) Erie
- Senator Leroy Comrie, (D) Queens
- Senator James Tedisco, (R) Saratoga, Schenectady
- Senator Brian Kavanagh, (D) New York
- Senator Pamela Hemling, (R) Livingston, Monroe, Ontario, Wayne
- Senator Mario Mattera, (R) Suffolk
- Senator Andrew Lanza, (R) Richmond
- Senator Thomas O'Mara, (R) Allegany, Chemung, Schuyler, Seneca, Steuben, Tioga, Yates
- Senator James Skoufis, (D) Orange
- Senator Rachel May, (D) Cayuga, Onondaga
- Assemblyman John McDonald, III, Albany, Rensselaer, Saratoga
- Assemblywoman Pamula Hunter, Onondaga
- Assemblyman Michael Durso, (R) Nassau, Suffolk
- Assemblyman Philip Palmesano, (R) Chemung, Seneca, Schuyler, Steuben, Yates
- Assemblyman Anna Kelles, (D) Cortland, Thompkins
- Assemblyman Fred Thiele, Jr, (D) Suffolk

Our largest message was expressing opposition to legislating the codes and distributed an attachment highlighting 23 bills NYSBOC is opposing for that reason.

Other bills we distributed Memos in Opposition, which are attached to this letter:

- S.1736-E / A.3780-E Senator Krueger / Assemblywoman Fahy
Requires electric vehicle charging stations and electric vehicle ready parking spaces in certain new construction – **Passed Senate/3rd Reading in Assembly**
- S.562A / A.920A Senator Kavanagh / Assemblywoman Gallagher

Enacts the "all-electric building act"; provides that the state energy conservation construction code shall prohibit infrastructure, building systems, or equipment used for the combustion of fossil fuels in new construction statewide no later than December 31, 2023, if the building is less than seven stories and July 1, 2027, if the building is seven stories or more.

Senate Housing Committee/Assembly Energy Committee

- S.668 / A.3111 Senator May / Assemblywoman Kelles
Relates to low- or moderate-income housing developments; allows local zoning boards of appeals to approve affordable housing developments; provides for appeals process to the division of housing and community renewal; creates a state zoning board of appeals within the division to hear such appeals; directs the division to conduct a study to integrate low-income housing tax credit applications with the zoning application process under this act.

Senate Housing Committee /Assembly Housing Committee

- S.1059 / A.5311 Senator May / Assemblyman Zebrowski
Requires the secretary of state to offer code enforcement training programs for code enforcement personnel to be completed online, with flexible options for when such training programs may be completed. **Passed Both Houses**

We will be working with the Governor's Office asking for a veto. Farm structures are not regulated by building code

- S.3372A /A.5620 Senator Skoufis / Assemblyman Zebrowski
(Assembly Bill has not been amended so they are currently not companion bills)
This bill would strengthen the State's oversight authority over local governments' enforcement and administration of the Uniform Code and the state Energy Conservation and Construction Code.

Senate 3rd Reading/Assembly Gov't Ops Committee

- S.162 / A.5700 Senator Holyman-Sigal / Assemblywoman Kelles
Limits the authority of cities, villages and towns to impose certain zoning requirements.

Senate Cities Committee /Assembly Local Gov't Committee

- S.1939 / A.6305 Senator Baily / Assemblyman Zebrowski
Increases the state code enforcement powers of the secretary of state by establishing a state code enforcement office headed by an ombudsperson.

Senate Finance/Assembly Gov Ops Committee

- S.3354/A.5618 Senator Kavanagh / Assemblywoman Zebrowski
Relates to conducting investigations into the administration and enforcement of the New York state uniform fire prevention and building code and the New York state energy conservation construction code. **Passed Senate/Assembly Gov't Ops Committee**

Other bills we distributed Memos in Support:

- S.2986 /A.4430 Senator Kavanagh / Assemblyman Zebrowski
Provides state assistance to local governments for the enforcement of state fire prevention and building codes using monies paid into the code enforcement account.

Senate Finance Committee /Assembly Insurance Committee

- S.3531A / A.5249A Senator Skoufis / Assemblywoman Hunter
Directs the State Fire Prevention and Building Code Council to update the Uniform Fire Prevention and Building Code and the Energy Conservation Construction Code within 18 months of publication by national model code organizations.

Passed Senate/Assembly Gov't Ops Committee

- S.1165 / A.6265 Senator Oberacker / Assemblyman Angelino
Elevates assault of a code enforcement official to a class D felony of assault in the second degree
Senate Codes Committee / Assembly Codes Committee

- S.1218-B / A.1080-B Senator Comrie / Assemblywoman Woerner
Relates to the appointment for agricultural representation on the state fire prevention and building code council
Passed Both Houses
We will be working with the Governor's Office asking for a veto. Farm structures are not regulated by building code
- S.7731 / A.9888-C Senator Gallivan / Assemblyman McDonald
Relates to swimming pool enclosures. o authorize the New York State fire prevention and building code council to align the current New York State statutory provisions governing swimming pool enclosure gates with language from the International Swimming Pool and Spa Code and the American Society for Testing and Materials (1STM) Code
On Senate Active List for 6/4/24 / Passed Assembly

Non-Legislative Issues:

NYSERDA's Cost Justification regulations and methodology they are using for Determining the Cost-Effectiveness of an Update to the New York State Energy Code. We are reaching out to NYSERDA for an update on the status of deliberations.



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Memorandum in Opposition
S.1736-D / A.3780-D
Senator Krueger / Assemblywoman Fahy

Requires electric vehicle charging stations and electric vehicle ready parking spaces in certain new construction

On behalf of our client, the New York State Building Officials Conference, Inc. (NYSBOC), I am writing to express opposition to S.1736-D / A.3780-D which would require new construction that includes dedicated off-street parking to provide electric vehicle charging stations and electric vehicle ready parking spaces.

NYSBOC is a statewide membership association comprised of code enforcement officials throughout the state dedicated to promoting public safety through the enforcement of building and fire codes in new and existing structures.

While we appreciate the idea of encouraging the abundant use of electric vehicles while also making sure there is adequate charging for those vehicles, the statutory responsibility for developing and maintaining the Uniform Fire Prevention and Building Code (Uniform Code) and the State Energy Conservation Construction Code (Energy Code) lies with the State Fire Prevention and Building Code Council (Code Council). This issue is currently being reviewed by the Code Council as they are in the process of reviewing the 2024 International Codes and the 2023 National Electrical Code (NEC) which included provisions for EV charging requirements.

Additional concerns with this legislation for your consideration:

- “Multiple lines” identifies that a branch circuit be provided not less than 208/240-volt. This would typically be identified when the manufacture of the electrical vehicle charging station is identified. If technology improves and therefore does not require and the branch circuit to be 208/240 volt, the voltage cannot be reduced without amending the law. Voltages should depend on the manufacture and the NEC. They should not be placed into law.
- The Codes of New York already include calculation methods for determining the number of spaces for certain types of uses, furthering our point as to why code language should not be legislated.
- Requirements for the installation of EV charging stations and EV ready parking spaces under this subdivision may be met by installing multiple EV charging stations or EV ready parking spaces on a single branch circuit (lines 27-32 on page 4). One must verify that the electrical load calculations can handle the multiple charging stations on one branch circuit. If this is not calculated correctly, a hazardous condition can occur putting the occupants of the building and the individuals using the EV charging stations at risk.
- The definitions of many words in this legislation conflict with existing New York Codes which will lead to confusion by designers, builders, and code enforcement professionals.

For these reasons NYSBOC strongly opposes this legislation. We would be happy to discuss our concerns with this legislation in more detail.



NYSBOC

New York State Building Officials Conference

www.nysboc.org email - info@nysboc.org

MEMORANDUM IN OPPOSITION

S.1059 / A.5311

Senator May / Assemblyman Zebrowski

Requires the secretary of state to offer code enforcement training programs for code enforcement personnel to be completed online, with flexible options for when such training programs may be completed.

The proposed bill language provides for approved code enforcement training to be completed online to allow for flexibility. Currently part 1208 of title 19 NYCRR establishes minimum timelines associated with the basic training program. If the timelines are not adhered to the code enforcement officer cannot become certified to practice in NYS, therefore certain flexibilities would not be able to be accomplished while still adhering to part 1208, as identified above. In addition, if the state were to only offer online training, that would be a disservice to the code enforcement officials.

Questions are regularly asked of the presenters verbally that cannot be asked though a chat function due to the complexity of the question. During these in person trainings there is an educational experience that occurs outside of the "class room" between fellow attendees, the trainers, and the Department of State Building Standards and Codes staff. These conversations sometimes provide very valuable knowledge when a local code enforcement official may need advice on how to handle a situation or how to find a specific section of code. These conversations are lost if training is only offered online.

Code enforcement professionals in NYS strongly oppose this legislation due to the items listed above, the concern that this would remove a certain quality of training while implementing more quantity of training, therefore we will oppose the passage of A.5311/S.1059.

New York State Building Officials Conference, Inc. (NYSBOC), represents building officials across New York State. Their mission is to expand the knowledge of the role and responsibilities of the building official through mutual exchange of experiences in the field of inspection and construction in housing and public safety; to properly interpret and enforce the various building codes and ordinances; and to make recommendations, based on experience, to the State's Building Codes Departments and Divisions

Contact:

Marty Moseley, Chairman of Legislative Committee and Immediate Past President
New York State Building Official Conference, Inc.
6 Leander Rd.
Rochester NY, 14612
607-273-1783



NYSBOC

New York State Building Officials Conference

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MEMORANDUM IN OPPOSITION

S.3354/A.5618

Senator Kavanagh / Assemblywoman Zebrowski

Relates to conducting investigations into the administration and enforcement of the New York state uniform fire prevention and building code and the New York state energy conservation construction code

The members of the New York State Building Officials Conference, Inc. (NYSBOC), through its legislative committee, have completed a review of the S.3354/A.5618. We offer our specific concerns with the legislation below.

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This bill allows counties to opt in on the code enforcement program in local governments. However, counties do not have the authority to review code enforcement programs in the State of New York. In order for a county to form a resolution stating that a local government is not providing administration and enforcement of the Code in accordance with Section 381(1), that county would have to review each and every feature in that local government.

Section 381 (2) specifically mandates that every local government shall be responsible for the administration and enforcement of the code. Article 18 of the Executive Law does not grant any authority over administration and enforcement of the code to counties unless a local government opts out of enforcement under Section 381 (2). Article 18 would have to change to require counties to be responsible for the administration and enforcement of the code in order for this to occur, and counties do not have the staff nor capacity to currently do so.

In addition, regarding the bill language authorizing the Secretary to investigate, administer, and enforce the Code, section 381 (3) of the Executive Law already authorizes the Secretary to conduct investigations regardless of whom it is from, and section 381 (4) (c) of the Executive Law already gives the power to the Secretary to designate the county to administer and enforce the code. The proposed language is unnecessary and leads to some confusion.

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Marty Moseley, Chairman of Legislative Committee and Immediate Past President
New York State Building Official Conference, Inc.
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NYSBOC opposes legislation that legislates the code.

For this reason, NYSBOC opposes the following bills:

A.342 Burdick/S.3334 Mayer

**A.420 Rosenthal/S.1673 Addabbo
A.470 Rosenthal/S.4980 Murray
A.626A Otis/S.828A Mayer
A.839 Dinowitz/S.2580 Parker
A.920 Gallagher/S.562A Kavanagh
A.1625 Simon/S.763 Krueger
A.3780C Fahy/S.1736C Krueger
A.6291A Burdick/S.264A Stewart-Cousins
A.8118A Gunther/S.3369 Skoufis
A.8483 Burdick/S.8028 Stewart-Cousins
A.9767 Shrestha/S.8676 Stern
A.9681 Brown K/No Same As
A.10229 Brown K/No Same As**

New York Code Development Process

The statutory responsibility for developing and maintaining the Uniform Fire Prevention and Building Code (Uniform Code) and the State Energy Conservation Construction Code (Energy Code) lies with the State Fire Prevention and Building Code Council (Code Council). If the Code Council decides to amend either code, it commences a process for rule making set forth in the State Administrative Procedure Act (SAPA). The Code Development Unit serves as Secretariat to the Code Council, administers statutory functions, and evaluates proposed changes to the codes.

Zoning or land use ordinances are not covered by the Uniform Code, that authority falls within the auspices of each local government.

Since 2002, the NYS Uniform Fire Prevention and Building Code (Uniform Code) and the Energy Conservation and Construction Code (Energy Code) are based on the International Codes (I-Codes).

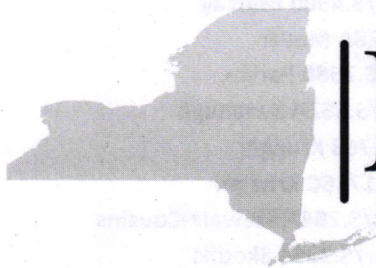
International Code Council Code Development Process

The I-Codes are revised and updated every three years by a national consensus process that strikes a balance between the latest technology and new building products and installation techniques, economics and cost of construction ensuring public and first responder safety since anyone can participate in the process. <https://www.iccsafe.org/products-and-services/i-codes/code-development/>

The electronic model code development process is known as cdpACCESS. cdpACCESS allows every NY (or any) jurisdiction to remotely (therefore no travel needed) participate in proposing code changes and voting on code proposals online. This process is completely transparent and allows participation in the process by anyone with interest, however, the final vote is reserved for those responsible for the enforcement and administration of the codes. Thankfully NYS Code Enforcement Officials (CEO) at the state and local level actively participate in the code development process. Accordingly, New York jurisdictions can provide expertise and participate in the development of the future I-Codes in advance of the Code Council's review.

If the Code Council continues to keep current with the adoption of the codes, state legislation to amend code provisions is not warranted. The code adoption process is regulatory, if the legislature passes legislation to amend the codes, then those provisions are then statutory and therefore mandatory; even if a safer, more economical, or improved building method is created; New York, would be required to enforce outdated requirements. This would put New York at a national disadvantage with respect to safety and economic stability.

New York State Building Officials Conference, Inc. (NYSBOC), represents building officials across New York State. Their mission is to expand the knowledge of the role and responsibilities of the building official through mutual exchange of experiences in the field of inspection and construction in housing and public safety; to properly interpret and enforce the various building codes and ordinances; and to make recommendations, based on experience, to the State's Building Codes Departments and Divisions. Contact: Legislative Chairman Marty Mosley 607-273-1783



NYSBOC

New York State Building Officials Conference

www.nysboc.org email - info@nysboc.org

MEMORANDUM IN OPPOSITION

S.3372 / A.5620

Senator Skoufis / Assemblyman Zebrowski

This bill would strengthen the State's oversight authority over local governments' enforcement and administration of the Uniform Code and the state Energy Conservation and Construction Code.

We believe that there are certain portions of the proposed amendments that will be difficult to enforce for a local municipality or a county that has assumed the code enforcement activities of another municipality. This proposed amendment does not take into consideration if a County fails to provide for proper enforcement of the New York State Uniform Code and only addresses local municipalities. It allows for an oversight officer to direct the local municipality code enforcement professionals on activities but fails to define what code enforcement activities are. The proposal also includes actions to proceed, at the request of the Secretary of State to the Attorney General to institute an action, to have more timely enforcement actions and increases the frequency of the fire safety inspections (FSI) or property maintenance inspections (PMI). However, it fails to define what is timely and how one can increase the FSI and PMI when those timelines are already established pursuant to title 19 Part 1203 of NYCRR. These proposed amendments also provide increased authority to the Secretary of State, where it may have a negative impact on the local municipality.

Further, the proposed amendment does not allow for a county, who fails to provide for the proper enforcement of the Uniform Code, to be provided to another local municipality or a neighboring county. Costs are proposed to be reimbursed to a designee, which assumes the code enforcement activities of the local municipality, but what are consequences to the local municipality which is not providing financial resources and how does one ensure that they will be provided? In addition, fines imposed and collected are required to be paid monthly but if the fines are not paid monthly how will the collection of the fines be accomplished?

Code enforcement professionals in NYS oppose the legislation due to these proposed amendments (S.3372/A.5620) not being able to be enforced easily and effectively

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MEMORANDUM IN SUPPORT

S.2986 /A.4430

Senator Kavanagh / Assemblyman Zebrowski

Provides for state assistance to local governments for the enforcement of state fire prevention and building codes using monies paid into the code enforcement account.

Chapter 707 of the Laws of 1981 directed the creation of a statewide building and fire prevention code. Within that law, included a provision for an annual funding stream to municipalities for the enforcement of such codes. In 1992, these funds were diverted to the General Fund and state assistance for local code enforcement activities ceased. The justification for this surcharge initially was based upon the principle that proper code enforcement directly impacts life safety and property loss. Approximately \$10 to \$20 million is being annually collected yet is diverted to the General Fund instead of code enforcement as intended in the Law. Therefore, local governments (cities, towns, and villages) only received this revenue from March of 1982 until 1992.

This bill would ensure that the money intended for localities to enforce and administer the code is provided and will help make homes and businesses in the state safer and more habitable.

Code enforcement professionals in NYS strongly support legislation which will improve the safety of building inhabitants as well as the structures themselves and therefore will advocate the passage of S.3531A/A.5249A.

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MEMORANDUM IN OPPOSITION

S.562A / A.920A

Senator Kavanagh / Assemblywoman Gallagher

Enacts the "all-electric building act"; provides that the state energy conservation construction code shall prohibit infrastructure, building systems, or equipment used for the combustion of fossil fuels in new construction statewide no later than December 31, 2023 if the building is less than seven stories and July 1, 2027 if the building is seven stories or more.

The "all electric building act" as currently proposed would require a building to have sufficient capacity for a "retrofit", which would be problematic with the existing New York State (NYS) Uniform Code, as currently adopted. The all-electric building would only allow for electricity to be utilized for heating, whereas the current edition of the NYS Uniform Code allows for any approved fuel type. This law would create a conflict with the NYS Uniform Code if enacted by the end of 2023. There is a reference to an "exemptions or waivers" that can be utilized to not have an all-electric building, but currently the only way to deviate from the NYS Uniform Code is variance granted by a NYS Regional Variance Board. It is unclear how the "exemptions or waivers" process would work, who would be the entity that would approve such deviations, and the parameters are not identified to show what is a "sufficient basis to determine physical or technical infeasibility" for a project to be awarded the exemption or waiver.

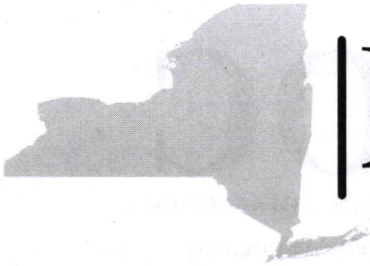
Additionally, who will be providing information for the reporting sections to show that the electricity cost does not exceed six percent of the residential customers' income? Electricity is served based on the home it is being served to and is not offered at a reduced cost to those residential customers that make less than others.

Code enforcement professionals in NYS strongly oppose this legislation due to the conflict it would provide to the currently adopted NYS Uniform Code because of open questions as identified above, therefore we will oppose the passage of A.920A/S.562A.

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MEMORANDUM IN OPPOSITION

S.0162 / A.5700

Senator Holyman-Sigal / Assemblywoman Kelles

Limits the authority of cities, villages and towns to impose certain zoning requirements.

The proposed bill language identifies that there a local municipality cannot establish a minimum lot size of more than one thousand two square feet (five thousand square feet in a town). This lot size would be contradictory to established regulations by the local health departments when an onsite water water treatment system is installed, and certain distances are required from such a system. If a lot is one thousand two hundred square feet (or five thousand square feet) and two families are allowed on that lot, how is going to be accomplished while still ensuring that the public health and safety is being provided to occupants as required in the NYS Uniform Code. Based on the proposed lot size and no off street parking being provided, how would the fire apparatus access road be kept free, as required in the NYS Fire Code, so emergency responders can access the site when an emergency occurs.

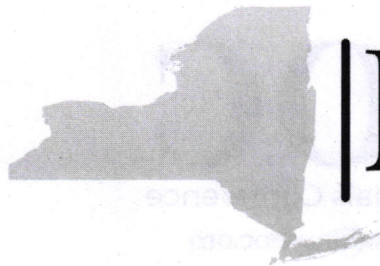
The bill language also identifies that there shall not be a limitation on height, setbacks, or floor area ratios, where the uniform code does enact certain systems that would be required if a three-story two-family house was constructed and where fire rated construction would occur in the event that the building is closer than 5 feet to the property line. The NYS Uniform Code Also provides for minimum floor areas, which would appear to contradict language identifying that the floor area ratios cannot be limited. In the event that there is a more restrictive local standard, as approved by the NYS Code Council, this law would not allow that law to be applied.

Code enforcement professionals in NYS strongly oppose this legislation due to the conflict it would provide to the currently adopted NYS Uniform Code and because of open questions as identified above, therefore we will oppose the passage of A.5700/S0162.

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MEMORANDUM IN SUPPORT

S.3531A / A.5249A

Senator Skoufis / Assemblywoman Hunter

Directs the State Fire Prevention and Building Code Council to update the Uniform Fire Prevention and Building Code and the Energy Conservation Construction Code within 18 months of publication by national model code organizations.

Jurisdictions that utilize the most current edition of the national model codes ensure the highest standards for safety, energy efficiency and sustainability, economic incentive, and long-term resiliency of their built environment as they reference the most current construction and fire safety standards that address the design, installation, testing, inspection and maintenance of critical building construction components and fire and life safety systems.

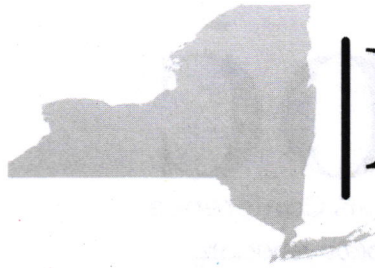
Updated codes are critical to any rebuilding following natural disasters or any new building projects, as the most current codes will ensure up to date building construction requirements are in place to ensure the safety and resiliency of all new buildings.

Code enforcement professionals in NYS strongly support legislation which will improve the safety of building inhabitants as well as the structures themselves and therefore will advocate the passage of S.3531A/A.5249A.

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MEMORANDUM IN OPPOSITION

S.668 / A.3111

Senator May / Assemblywoman Kelles

Relates to low or moderate income housing developments; allows local zoning boards of appeals to approve affordable housing developments; provides for an appeals process to the division of housing and community renewal; creates a state zoning board of appeals within the division to hear such appeals; directs the division to conduct a study to integrate low income housing tax credit applications with the zoning application process under this act.

The proposed bill language provides for several definitions that would contradict what occurs in the local municipality. For instance, a "local board" should not include an officer that enforces the construction of buildings or has the power to enforce municipal building laws. It is also confusing when there is a reference to local "building laws", are these more restrictive local standards as approved by the New York State Code Council? If so, would the "State zoning board of appeals" be allowed to grant variances on a more restrictive local standard and how would such a board evaluate if the more restrictive local standard should be awarded the variance; would this be based on what mitigation techniques are provided to systems that are being requested to not be installed?

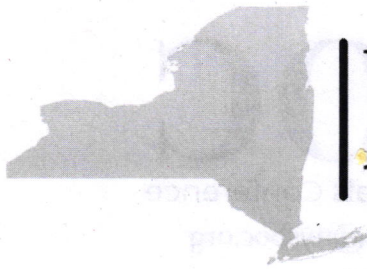
In addition, local zoning boards are a quasi-judicial board and are independent from other boards in the municipality. The proposed language seems to now require interaction and recommendations be provided from other boards prior to the local zoning board rendering a decision. This is contradictory to how the local zoning board of appeals has been viewed in court cases that have been decided, such as but not limited to Gilbert v. Stevens. A State Zoning Board of appeals would circumvent the authority of the local municipality zoning board of appeals and not allow for the municipal home rule (Article IX of the State Constitution) to be upheld.

Code enforcement professionals in NYS strongly oppose this legislation due to the confusion this law would provide to more restrictive local standards, "local buildings laws", and several other questions pertaining to this proposal, therefore we will oppose the passage of A.3111/S.668.

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MEMORANDUM IN OPPOSITION

S.1939 / A.6305

Senator Baily / Assemblyman Zebrowski

Increases the state code enforcement powers of the secretary of state by establishing a state code enforcement office headed by an ombudsperson.

The proposed modified bill language allows for the Secretary of State to insert an oversight official for a period of up to one year, with extensions as approved by the Secretary of State. There is no limitation on the total amount of time that this oversight official would be installed in the local municipality, nor does the proposed bill language provide for why the oversight official would be inserted in the local municipality. By definition, a local municipality should include a county, as counties do enforce the uniform code and could be subject to failing to enforce the NYS Uniform Code too. The oversight official also can direct the local government staff to comply with all directives issued by the oversight official, which give the oversight official complete authority in all matters and could be problematic if the directives are not applying the NYS Uniform Code correctly or if there are local municipal laws that are to be enforced by the same department. How would this be handled by the oversight official and how would enforcement take place on more restrictive local standards? To provide for complete control seems to be contrary to the authority that has been provided to the local municipality established in NYS executive law 381.

Additionally, an ombudsman office is allocated in the Department of State. If NYS provided and reimbursed monies to local municipalities, similar to state finance law 54G, this would provide monies to the local government to improve their local code enforcement program instead of the state taxpayers provided additional funds for an ombudsman office to be created. The ombudsman also is to identify and resolve complaints related to code enforcement actions or inactions, or if there are significant complaints that have been made to the Secretary of State about the local code enforcement program. There is no definition of what significant complaints are, how an investigation is to occur, and when an ombudsman is to be appointed.

Code enforcement professionals in NYS strongly oppose this legislation due to the lack of clarity provided to how this program would be executed, open questions as identified above, the legal process of how this program could be executed, as well as many other questions pertaining to the proposed bill language and therefore, we will strongly oppose the passage of A.6305/S.1939.

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