

Calling For The Full Repeal Of The New York State Scaffold Law Or Necessary Reform To Include A Pure Standard Of Comparative Negligence, Supporting The Passage Of A3209/S543

Referred to: The Laws and Rules, Governmental Services Committee (Chairman Roberts and Legislators Belfiglio, Donaldson, R. Parete and Rodriguez)

Chairman Kenneth J. Ronk, Jr. offers the following:

WHEREAS, New York Labor Law §240 and §241, commonly known as the “Scaffold Law,” outlines liability for injuries caused by an employee’s fall from a height; and

WHEREAS, the laws impose strict liability on employers and owners of buildings if a worker falls from any height; and

WHEREAS, the law was first imposed in 1885 at a time when worker safety was largely neglected in New York State and at a time when modern safety equipment and scaffolding techniques did not exist; and

WHEREAS, the New York State Legislature failed to implement any positive reform to the New York Scaffold Law in 2015; and

WHEREAS, the Scaffold Law has caused a dramatic increase in construction costs due to increased insurance required for employers in the construction business, causing New York State to have the highest general liability insurance costs in the nation; and

WHEREAS, the Scaffold Law is a boon to personal injury lawyers as half of the 30 largest law suits in the state stem from Scaffold Law issues, and while scaffold related injuries have decreased in the past 20 years the number of Scaffold Law claims has increased 500%; and

WHEREAS, New York is the only state in the country to impose a construction law like the Scaffold Law that imposes strict liability on the employer; further it is one of a very few laws that mandate strict liability in the State of New York; and

WHEREAS, the increase in costs in New York drives away investment in our infrastructure when developers and contractors can get better rates in neighboring states; and

WHEREAS, not only does the law drive away out-of-state investment in infrastructure but the lost investment to other states also serves to decrease the number of new construction jobs created every year, making it more difficult for many of New York’s skilled laborers to find appropriate employment; and

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WHEREAS, this negligence standard under the Scaffold Law would not ban recovery for an injured worker due to their own negligence, but would allow the employer to bring issues with employee culpability to mitigate the damages in cases where the worker's actions contributed to his or her injury; and

WHEREAS, federal regulations have been enacted that attempt to protect workers from injury due to falls by requiring certain precautions to be in place for people working at a height above the ground and allows an outlet for workers concerned about their safety to engage federal review of any worksite for compliance with these regulations; and

WHEREAS, Assembly Bill 3209 and Senate Bill 543 have been introduced to impose comparative liability standards for work place accidents involving falls from height; now, therefore be it

RESOLVED, the Ulster County Legislature is in support of Scaffold Law reform as set forth in A3209 and S543, as well as meaningful protection of construction workers; and, be it further

RESOLVED, the Ulster County Legislature further supports the full repeal of the Scaffold Law or, at the minimum, modifications to include a pure standard of comparative negligence; and, be it further

RESOLVED, that the Clerk of the Ulster County Legislature shall forward copies of this resolution to Governor Andrew Cuomo, Assembly and Senate Majority and Minority Leaders, all Ulster County elected Assemblymen and Senators including Senate Judiciary Committee Chairman Senator John J. Bonacic, Assembly Judiciary Committee Chair Assemblywoman Helene E. Weinstein, and the New York State Association of Counties,

and moves its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES: 13 NOES: 9

(Noes: Legislators Allen, Bartels, Berky, Briggs, Delaune, Donaldson, Greene, Heppner and Rodriguez)

(Absent: Legislator Loughran)

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Passed Committee: Laws and Rules, Governmental Services on April 18, 2016

FINANCIAL IMPACT:
NONE

STATE OF NEW YORK

ss:

COUNTY OF ULSTER

I, the undersigned Clerk of the Legislature of the County of Ulster, hereby certify that the foregoing resolution is the original resolution adopted by the Ulster County Legislature on the 19th Day of April in the year Two Thousand and Sixteen, and said resolution shall remain on file in the office of said clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Ulster this 20th Day of April in the year Two Thousand and Sixteen.

|s| Victoria A. Fabella
Victoria A. Fabella, Clerk
Ulster County Legislature