

**A RESOLUTION TO BE SUBMITTED BY  
LEGISLATOR LORIGO, RATH & HARDWICK**

**Re: Supporting Necessary Reforms to New York Labor Law §240 and §241**

**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, even heights as small as one foot, and is injured; and**

**WHEREAS, as such, a worker’s own culpability is not considered when determining damages in such a claim; and**

**WHEREAS, as a result, if a worker is injured while blatantly ignoring training standards, an employer’s instructions or even common sense, the owner of a structure could be found entirely liable for the full extent of the worker’s injuries; and**

**WHEREAS, further, an employer or owner of a building where a worker returns from lunch intoxicated and injures himself falling from a height could be found entirely liable for the full extent of the worker’s injuries; and**

**WHEREAS, such a law discourages personal responsibility and unnecessarily increases the cost of construction projects, discouraging investment in the infrastructure; and**

**WHEREAS, New York State Assembly Bill 379 and New York Senate Bill 2285 would exempt owners of farms and owners of multiple dwellings from being subject to this law in certain instances; and**

**WHEREAS, New York State Assembly Bill 1556 would grant counties a local option to require contractors working on projects within their respective jurisdictions to comply with the regulations and standards set forth by the United States Department of Labor Occupational Safety and Health Organization and applicable state regulations and sets forth a contributory negligence standard for employees; and**

**WHEREAS, these much needed reforms promote personal responsibility and will encourage investment in the infrastructure.**

**NOW, THEREFORE, BE IT**

**RESOLVED, that the Erie County Legislature hereby supports passage and implementation of New York State Assembly Bill 379 and New York Senate Bill 2285; and be it further**

**RESOLVED, that the Erie County Legislature hereby supports passage and implementation of New York State Assembly Bill 1556 and any companion bill introduced in the New York State Senate; and be it further**

**RESOLVED, that a certified copy of this resolution be forwarded to Governor Andrew Cuomo, Assembly Speaker Sheldon Silver, Senate Majority Leaders Dean Skelos and Jeffrey Klein and the local delegation to the New York State Legislature.**

**Fiscal Impact: None.**

## S T A T E O F N E W Y O R K

379

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. HAWLEY, KOLB, CROUCH -- Multi-Sponsored by -- M. of A. BARCLAY, GIGLIO, OAKS -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to the use of scaffolding and other devices for use by employees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 240 of the labor law, as amended  
2 by chapter 241 of the laws of 1981, is amended to read as follows:

3 1. All contractors and owners and their agents, except OWNERS OF  
4 FARMS, owners of one and two-family dwellings AND OWNERS OF MULTIPLE  
5 DWELLINGS who contract for but do not direct or control the work, in the  
6 erection, demolition, repairing, altering, painting, cleaning or point-  
7 ing of a building or structure shall furnish or erect, or cause to be  
8 furnished or erected for the performance of such labor, scaffolding,  
9 hoists, stays, ladders, slings, hangers, blocks, pulleys, braces, irons,  
10 ropes, and other devices which shall be so constructed, placed and oper-  
11 ated as to give proper protection to a person so employed.

12 No liability pursuant to this subdivision for the failure to provide  
13 protection to a person so employed shall be imposed on professional  
14 engineers as provided for in article one hundred forty-five of the  
15 education law, architects as provided for in article one hundred forty-  
16 seven of such law or landscape architects as provided for in article one  
17 hundred forty-eight of such law who do not direct or control the work  
18 for activities other than planning and design. This exception shall not  
19 diminish or extinguish any liability of professional engineers or archi-  
20 tects or landscape architects arising under the common law or any other  
21 provision of law.

22 S 2. The opening paragraph of section 241 of the labor law, as amended  
23 by chapter 670 of the laws of 1980, is amended to read as follows:

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

LBD00227-01-3

A. 379

2

1 All contractors and owners and their agents, except OWNERS OF FARMS,  
2 owners of one and two-family dwellings AND OWNERS OF MULTIPLE DWELLINGS  
3 who contract for but do not direct or control the work, when construct-  
4 ing or demolishing buildings or doing any excavating in connection ther-  
5 ewith, shall comply with the following requirements:

6 S 3. This act shall take effect immediately.

## STATE OF NEW YORK

2285

2013-2014 Regular Sessions

IN SENATE

January 15, 2013

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

AN ACT to amend the labor law, in relation to the use of scaffolding and other devices for use by employees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 240 of the labor law, as amended  
2 by chapter 241 of the laws of 1981, is amended to read as follows:

3 1. All contractors and owners and their agents, except OWNERS OF  
4 FARMS, owners of one and two-family dwellings AND OWNERS OF MULTIPLE  
5 DWELLINGS who contract for but do not direct or control the work, in the  
6 erection, demolition, repairing, altering, painting, cleaning or point-  
7 ing of a building or structure shall furnish or erect, or cause to be  
8 furnished or erected for the performance of such labor, scaffolding,  
9 hoists, stays, ladders, slings, hangers, blocks, pulleys, braces, irons,  
10 ropes, and other devices which shall be so constructed, placed and oper-  
11 ated as to give proper protection to a person so employed.

12 No liability pursuant to this subdivision for the failure to provide  
13 protection to a person so employed shall be imposed on professional  
14 engineers as provided for in article one hundred forty-five of the  
15 education law, architects as provided for in article one hundred forty-  
16 seven of such law or landscape architects as provided for in article one  
17 hundred forty-eight of such law who do not direct or control the work  
18 for activities other than planning and design. This exception shall not  
19 diminish or extinguish any liability of professional engineers or archi-  
20 tects or landscape architects arising under the common law or any other  
21 provision of law.

22 S 2. The opening paragraph of section 241 of the labor law, as amended  
23 by chapter 670 of the laws of 1980, is amended to read as follows:

24 All contractors and owners and their agents, except OWNERS OF FARMS,  
25 owners of one and two-family dwellings AND OWNERS OF MULTIPLE DWELLINGS

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

LBD00227-01-3

S. 2285

2

1 who contract for but do not direct or control the work, when construct-  
2 ing or demolishing buildings or doing any excavating in connection ther-  
3 ewith, shall comply with the following requirements:

4 S 3. This act shall take effect immediately.

## S T A T E O F N E W Y O R K

1556

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KOLB, REILICH, GIGLIO, CORWIN -- Multi-Sponsored  
by -- M. of A. BARCLAY, CROUCH, DUPREY, GOODELL, HAWLEY, JORDAN,  
P. LOPEZ, TENNEY, THIELE, WALTER -- read once and referred to the  
Committee on Labor

AN ACT to amend the labor law, in relation to enacting the "scaffold  
reform act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "scaffold  
2 reform act".  
3 S 2. The labor law is amended by adding a new section 241-c to read as  
4 follows:  
5 S 241-C. COUNTIES GRANTED LOCAL OPTION. 1. COUNTIES SHALL BE GRANTED  
6 A LOCAL OPTION TO REQUIRE CONTRACTORS WORKING ON PROJECTS WITHIN THEIR  
7 RESPECTIVE JURISDICTIONS TO COMPLY WITH THE REGULATIONS AND STANDARDS  
8 SET FORTH BY THE UNITED STATES DEPARTMENT OF LABOR OCCUPATIONAL SAFETY  
9 AND HEALTH ADMINISTRATION AND APPLICABLE STATE REGULATIONS, INSTEAD OF  
10 THE REQUIREMENTS OF SECTIONS TWO HUNDRED FORTY, TWO HUNDRED FORTY-ONE  
11 AND TWO HUNDRED FORTY-ONE-A OF THIS ARTICLE.  
12 2. CONTRACTORS AND EMPLOYEES IN SUCH COUNTIES THAT OPT NOT TO FOLLOW  
13 SUCH PROVISIONS OF SECTIONS TWO HUNDRED FORTY, TWO HUNDRED FORTY-ONE AND  
14 TWO HUNDRED FORTY-ONE-A OF THIS ARTICLE SHALL BE SUBJECT TO A CONTRIB-  
15 UTORY NEGLIGENCE STANDARD THAT HOLD EMPLOYEES RESPONSIBLE FOR THEIR  
16 CULPABLE CONDUCT. SUCH CONDUCT SHALL INCLUDE, BUT NOT BE LIMITED TO:  
17 (A) ANY EMPLOYEE WHO FAILS TO FOLLOW SAFETY INSTRUCTIONS OR SAFE WORK  
18 PRACTICES PROVIDED IN ACCORDANCE WITH APPROVED TRAINING COURSES, INCLUD-  
19 ING, BUT NOT LIMITED TO, COURSES PROVIDED BY THE UNITED STATES DEPART-  
20 MENT OF LABOR OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION OR BY THE  
21 DEPARTMENT;

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

LBD00894-01-3

A. 1556

2

1 (B) ANY EMPLOYEE WHO FAILS TO USE SAFETY DEVICES FURNISHED ON THE JOB  
2 SITE; OR  
3 (C) ANY EMPLOYEE WHO WAS INJURED WHILE IMPAIRED BY THE USE OF ALCOHOL  
4 OR DRUGS OR WHILE COMMITTING A CRIME.  
5 3. THE COMMISSIONER SHALL PROMULGATE ANY RULES AND REGULATIONS NECES-  
6 SARY FOR THE IMPLEMENTATION OF THIS SECTION TO AUTHORIZE COUNTIES TO  
7 EXERCISE THIS LOCAL OPTION. THE PROCESS FOR THE IMPLEMENTATION OF SUCH  
8 RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, CONSULTA-  
9 TIONS WITH BUSINESSES AND LABOR, MANDATORY PUBLIC HEARINGS AND APPROVAL  
10 BY THE COUNTY GOVERNING BODY.  
11 S 3. This act shall take effect on the ninetieth day after it shall  
12 have become a law.