



NEW YORK STATE BUILDERS ASSOCIATION, INC.

Philip A. LaRocque
EXECUTIVE VICE PRESIDENT

Thomas Di Benedetto
PRESIDENT

June 4, 2010

MEMORANDUM IN OPPOSITION

S.6912-A (Foley)
A.10288-A (Englebright)

This memorandum is submitted in opposition to the subject legislation. This bill amends the New York State Energy Law to update the state energy conservation construction code. It is our strong belief that this bill is unnecessary and will cause undue stress on New York's already troubled residential construction industry during these trying economic times. This conclusion comes after analysis of the amendment, the very recent adoption in New York State of the 2009 International Energy Conservation Code (IECC), and voluntary above code programs in New York State such as the New York ENERGY STAR Homes Program.

This amendment would essentially make ENERGY STAR mandated throughout the state and would increase builder's cost, further pricing a percentage of homebuyers out of the already slow marketplace.

The legislation calls for all new low-rise residential buildings to undergo a Home Energy Rating System (HERS) rating that requires minimum scores on the HERS rating scale. Specifically it calls for all new homes to meet a score of 84 on the HERS scale and homes that are 6,000SF or larger to achieve a score of 87 or greater. These scores are obtained by performing a Blower Door test on the structure by qualified individuals certified by RESNET or the Building Performance Institute (BPI) to perform such work. These tests usually cost around \$1,000 a structure.

New York State ENERGY STAR for homes program's 2008/2009 Technical Specifications currently requires that certified ENERGY STAR Homes meet the same minimum HERS rating thresholds. A score between 84 and 86.9 qualifies builders for a Tier 1 Incentive and a score of 87 qualifies builders for a Tier 2 Incentive. This ranges from (\$750 to \$1,000 respectively under NYSERDA's current program guidelines).

Since the program's inception an overwhelming 17,000 new homes in New York State have achieved ENERGY STAR status. Currently, over 30% of all new homes are being constructed to ENERGY STAR standards. Thanks to the strong work of the New York State Builders Association this voluntary program has been a great success in New York. It is still currently evolving, and in 2011 the third version of the technical specifications will be released, further pushing the envelope to an even greater amount of energy savings in order to qualify.

This program's increasing market presence and higher thresholds will bring the state to new levels in overall energy savings. Ten out of the thirteen towns in Long Island have now adopted ENERGY STAR mandates for new construction and will be faced with the enormous task of ramping up to the Version 3 requirements, which will require substantial training and funding to achieve. This is one of the serious problems when mandating a program that was developed and intended to be a voluntary incentive based program. The EPA, the originator of the ENERGY STAR program, does not support a mandated ENERGY STAR program.

The recent adoption of the 2009 IECC by New York State will help increase participation in the ENERGY STAR Program and achieve higher levels of energy savings in homes, similar to the current ENERGY STAR 08/09 Specifications.

While NYSBA understands the importance of energy efficiency, there are several obstacles in the path of required testing on all new residential homes. There first would be the current lack of qualified Home Energy Raters throughout New York State. Combine that with the increased cost for the builder, along with the waiting time required for the rater to schedule and complete testing, it does not seem prudent to make this immediately effective when the volunteer program is effectively bringing the market in that direction.

Further, the 90% code compliance regarding the 2009 IECC, that was a prerequisite commitment made by governors across the country in order to receive ARRA funding for state energy programs is a goal to be achieved by the year 2017. At the current rate of participation in voluntary above-code programs and the increases expected in the IECC over the next few years, New York should well exceed these goals by that time.

NYSBA finds it unnecessary to amend the State Energy Law, when it can clearly be shown that New York is on a path to increased energy savings through the recent adoption by New York State of the 2009 IECC and other programs. Now is not the time to put increased burden on an already troubled residential construction industry and home buyers. We have always believed that the best way to promote and encourage energy efficiency is through market incentives, and the 17,000 ENERGY STAR homes certainly backs that up.

Based on the foregoing, it is respectfully requested that this bill be defeated.

Sincerely,



Philip A. LaRocque
Executive Vice President
New York State Builders Association