New York State Green Building Construction Act
Public Buildings Law Article 4-C

In 2008, the Legislature passed Assembly Bill Number 2005-C, and Governor Paterson signed into law a bill that created a new Article 13 in the Energy Law (Chapter 565 of the Laws of 2008). The intent of the bill was to require new construction and substantial reconstruction of buildings owned by the State agencies and other State entities comply with “green” building standards to be established by the Department of Environmental Conservation (DEC). After the bill was presented to the Governor, it was determined DEC lacked the resources to implement the bill and that certain technical changes would improve implementation. Accordingly, the Legislature agreed to pass a negotiated chapter amended and on the basis of such commitment, Governor Paterson signed into law A. 2005-C.

In 2009, the Legislature passed Assembly Bill Number 7246-B (Assemblywoman Lupardo) (Same as Senate 5779 by Senator Thompson) which retroactively repealed the new Energy Law Article 13, and added a new Article 4-C to the Public Buildings Law, establishing the State Green Building Construction Act.

What does the State Green Building Construction Act require?

This Act requires that the construction and substantial renovation of State buildings comply with “green” building standards established by the Office of General Services.

When was it adopted and when do the new “green” building requirements take effect?

Chapter 380 of the Laws of 2009 was signed by Governor Paterson on August 26, 2009. While the act takes effect immediately, the agency green building construction requirements take effect on the 365th day after it becomes law. Thus, the new green building requirements take effect on August 26, 2010.

What kinds of construction does the State Green Building Construction Act apply?

The green building construction requirements apply to the construction of new buildings and the substantial renovation of existing buildings.

What kinds of buildings does the State Green Building Construction Act apply?

It applies to all buildings or structures owned by the state or an agency. This definition includes conditioned and non-conditioned buildings and structures.

What governmental entities are subject to the requirements?
The green building construction requirements apply to every state department, state agency and state public authority.

How will the green building construction requirements be established?

The Office of General Services, in conjunction with a number of other entities, is required to promulgate rules and regulations, in accordance with the State Administrative Procedures Act, establishing the construction requirements and necessary procedures. The Office of General Services may consult the green construction requirements adopted by other organizations, such as the US Green Building Council’s LEED program or Green Building Initiative’s Green Globes rating system. The Office of General Services invites your comments and suggestions about the green building construction requirements to be established for buildings and structures owned by the state or an agency.

Are there any exemptions from the green building construction requirements?

Yes. The Act provides for five exemptions from application: (1) when compliance with the requirements would alter the documented historic character of the building; (2) when compliance would not be cost-effective over the useful life of a substantial renovation; (3) when compliance would be inconsistent with or violate federal or state law; (4) when compliance is not appropriate in accordance with the regulations; and (5) when the design or planning process has already been substantially commenced when the regulations take effect. However, even if the exemption is applicable, with one exception, the green building construction requirements and procedures are required to be integrated into the design and construction of the project to the maximum extent practicable.

What is the one exception?

The obligation to comply with the green building construction requirements and procedures to the maximum extent practicable, does not apply if the design or planning process for new construction or substantial renovation has been “substantially commenced” by the effective date of the regulations. The effective date is August 26, 2010 (365 days after the act became law).

What is the definition of “substantially commenced”?

While the Act does not define the phrase, it requires the Office of General Services to develop a definition of “substantially commenced” as part of the required regulations.

Does the Act establish any other requirements?
Yes. The Act also requires each state department, state agency and state public authority to prepare an annual building performance report. This report is due by June 30th of each year.

Where can I submit my ideas and suggestions about the green building construction requirements?

Your ideas and suggestions about the green building construction requirements can be submitted to the following address:

New York State Office of General Services  
Legal Services  
41st floor, Corning Tower  
Empire State Plaza  
Albany, New York 12242

or via electronic mail to LegalServicesWeb@ogs.state.ny.us