

## **Bill to Amend Section 904 of the Labor Law**

**TITLE OF BILL:**

An act to amend the Labor Law, in relation to asbestos project notification fees.

**PURPOSE:**

To amend Section 904, item 2 of the Labor Law with regard to asbestos project notification fees for non-friable asbestos projects.

**SUMMARY OF PROVISIONS:**

This bill would amend Section 904 of the Labor Law to provide that the asbestos notification fees for non-friable material in square feet be changed from the current structure of: (note: square footage fees for friable material would stay the same)

Project Size/Square Feet	Fee
160-259	\$200
260-499	400
500-999	1,000
1000 or more	2,000

To the following :

Project Size/Square Feet (Friable)	Fee
160-259	\$200
260-499	400
500-999	1,000
1000 or more	2,000

Project Size/Square Feet (Non-friable/RACM)	Fee
160-259	\$50
260-499	75
500-999	100
1,000-1,999	200
2,000-2,999	500
3,000-3,999	800
4,000-4,999	1,000
5,000-5,999	2,000
6,000-6,999	3,000
7,000-7,999	4,000
8,000-8,999	5,000
9,000-9,999	6,000
10,000 or more	8,000

With regards to notifications for engineer condemned buildings, the square footage shall be determined by the footprint of the building.

#### JUSTIFICATION:

Two years ago as a means of raising income the Legislature arbitrarily doubled the notification fees across the board. From 2009 to 2010 notification fees almost doubled from \$6,606,700. to \$12,223,750., while the budget for the Asbestos Control Bureau remained fairly stable, from \$3,315,044. to \$3,462,574. Prior to increasing the fees, they were out of line and never provided a fair or balanced approach for asbestos projects. The largest number of reported projects are non-friable (reported in square feet), in 2010, just non-friable projects alone accounted for 57.6%.

It should be noted that the largest amount of asbestos in residential homes is non-friable and very few homes have friable material that even meets the notification levels. Currently, a very small percentage of asbestos project notifications are received from projects involving owner occupied one or two family structures. While most roofing contractors have asbestos licenses for doing commercial asbestos roof replacements very few residential roofs are ever notified or surveyed for asbestos prior to removal. Demolition and redevelopment projects funded by the public sector are the one area where these notifications occur. These notifications are paid for by the public.

Another problem has occurred with disaster areas. Hurricane Irene and Tropical Storm Lee devastated the Catskill, Adirondack and Southern Tier regions and made a large number of homes declared condemned. As a result under the Asbestos Code Rule 56 the maximum fees of Lineal Feet (\$2,000.) and Square Feet (\$2,000.) have to be paid to be able to demolish the homes. The Asbestos Control Bureau (ACB) was asked to provide an exemption for these homeowners who have lost everything only to be saddled with an additional cost of up to \$4,000. to have their homes demolished. The ACB refused. If the homeowners walk away the government will have to assume these responsibilities.

On the commercial, industrial, development end of the asbestos abatement industry when an abatement contractor is contacted to quote a removal project of 1,000 square feet of non-friable floor tile, not a big area – approximately 30 feet by 33 feet, he is quoted anywhere from \$4,000. to \$6,000. for something that two men in a couple of hours can scrape up and throw in a dumpster, because a notification fee of \$2,000 is required. The choice has become all too familiar as the law has encouraged people to break it. When a homeowner replacing an asbestos roof or floor tile has to pay the same notification fee as a 100,000 square foot asbestos roofing or floor tile project for a warehouse something is inherently wrong. The new notification fees would bring a large amount of projects, ones that people wouldn't notify because of the unreasonable notification fees, now into the legal structure of the Code Rule 56.

Regarding notifications for engineer condemned buildings, many cities and municipalities have had literally hundreds of condemned buildings demolished and scheduled for demolition. In addition New York has suffered many disasters, as mentioned above, where people have had their homes and businesses condemned and had

to pay the maximum lineal and square footage notification fees, \$4000 total. The fee structure for square footage, because of inaccessibility , has been determined by the Asbestos Control Bureau to be the maximum amount, that is, 1,000 square feet or more. However, many times , they have taken into account not just the square footage of the footprint but the walls and ceilings as well. Because of the new fee structure going up to 10,000 square feet or more, the square footage for notification should be determined by the footprint of the building only.

#### FISCAL IMPLICATIONS:

An analysis of all non-friable notifications from April 1, 2010 to March 31, 2011 by the Professional Abatement Contractors of New York (PACNY) showed that the proposed new fee structure at the minimum would remain revenue neutral. The new fee structure for the period 4-1-10 to 3-31-11 , non-friable alone would be \$11,399,024. compared to total notification fees (friable and non-friable) income in fiscal year 2010 of \$12,223,750. This does not take into account the increase in residential, commercial and industrial notifications due to a lowering of fees at the lower square footage end. The increase in notification fees at the higher end square footage would still remain a very small percentage of the project cost.