



The Honorable Andrew Cuomo  
Governor, New York State  
Executive Chamber  
The State Capital  
Albany, NY 12224

December 14, 2020

*Dear Governor Cuomo:*

*On behalf of the Association for a Better Long Island (“ABLI”) and Long Island Builders Institute (“LIBI”), we respectfully request that you amend sections 240/241 of the Labor Law, commonly known as “scaffold law,” replacing the current standard of “absolute liability” with a standard of “comparative negligence.” Further, we respectfully request that you include this urgent reform of this law within your 2021-2022 Executive Budget.*

*In these unprecedented times, it is more important than ever that New York State makes every effort to stretch existing dollars to allow us to continue the robust infrastructure programs as well as privately funded economic development projects within the current financial constraints caused by the COVID-19 pandemic. One of the most important and impactful ways in which the state can assist its current capital plan projects immediately is to reduce the significantly excessive cost of insurance by reforming the over 100-year-old sections 240/241 of the Labor Law.*

*While much has been made of the fact that New York State is the only state in the country with this type of law, we want to bring to your attention the fact that New York State’s accident rate is significantly higher than a number of states which do not have such a law. The supporters of the law insist that any reform of the law will cause additional injuries to construction workers and if that is the case then New York should have a much lower rate of injuries today than other states which do not have such a law. Clearly current statistics do not uphold this position. With regard to construction fatalities, according to the Bureau of Labor Statistics, New York State is 35th with a rate of 10.5 deaths per 100,000 construction workers, far behind 34 other states including both New Jersey and California. With regard to injuries New York State is 10th per 100,000 construction workers, behind both Massachusetts and Connecticut and Ohio. Thus, since New York State is the only state with a scaffold law and if the scaffold law was designed to protect our construction workers from both injuries and deaths, it would stand to reason that New York should have the lowest number of injuries and deaths compared to states which do not have such scaffold laws. Obviously, from the statistics this is not the case.*



*Second, New York State has the highest insurance rates in the county with regard to both construction and contractor insurance. This is caused because almost all of the insurance companies which are admitted to engage in business in New York State do not sell such construction or contractor insurance. Therefore, with so few insurance companies selling such insurance, our insurance rates are 40% higher than comparable rates in New Jersey. Of all of the insurance companies which are admitted to practice in New York State, only 1-2 of such admitted companies sell construction liability insurance and there are no admitted companies which sell contractor liability insurance. Thus, non-admitted companies, which are not subject to regulation by the NYS Department of Financial Services, come into our state and sell such insurance, for without them there would be no insurance sold for these purposes. In addition, all of these insurance contracts contain multiple exclusions from insurance coverage, which often leads the construction company to have to purchase multiple policies so as to ensure that they have the coverage necessary. Millions and millions of dollars are being wasted for both private and public projects, simply because admitted insurance companies in New York State realize that it is impossible to make the necessary rate of return and will not sell such insurance policies, even in a state where they are an admitted carrier. These companies are telling us all that New York State and its laws and regulations prohibit them from selling such insurance and thus all of our construction companies are left to a system which is not regulated by the agency in our state which is supposed to do so.*

*Now is the time for New York State to stretch existing dollars to allow us to continue the robust public infrastructure programs as well as privately funded economic development projects within the current financial constraints caused by the COVID-19 pandemic. To do so, **ABLI & LIBI respectfully requests that New York State amend sections 240/241 of the Labor Law, commonly known as “scaffold law,” replacing the current standard of “absolute liability” with a standard of “comparative negligence” and include this urgent reform within your 2021-2022 Executive Budget.***

Sincerely,

Mitchell Pally  
Chief Executive Officer  
Long Island Builders Institute

Kyle Strober  
Executive Director  
Association for a Better Long Island

Cc: NYS Legislative Delegation