

**TORT REFORM IN THE CITY:  
A DISCUSSION OF RECENT AMENDMENTS TO  
THE NEW YORK CITY ADMINISTRATIVE CODE REGARDING  
SIDEWALK LIABILITY AND INSURANCE PROCUREMENT**

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## INTRODUCTION

On July 16, 2003, Mayor Michael Bloomberg of the city of New York signed into law two pieces of legislation which amended the New York City Administrative Code. With his signature, the Mayor began to fulfill his long desired goal to enact tort reform in New York City.<sup>1</sup>

The first change amended Section 7-210 of the Administrative Code with respect to the liability of property owners for injuries caused by defects or unsafe conditions on sidewalks abutting their property. The significant impact of this amendment is that it effectively eliminated the city as a potential defendant (and pocket) in most sidewalk slip and fall cases and imposed an affirmative duty on the affected property owners to maintain their abutting sidewalks “in a reasonably safe condition.”

The second change amended Section 7-211 of the Administrative Code with respect to the procurement of liability insurance by property owners for injuries caused by defects or unsafe conditions on sidewalks abutting their property. The key requirement of this section is that property owners are now required to obtain liability insurance which may or may not be a new cost borne by those falling within this section’s purview.

The final change to the Administrative Code was to Section 7-212 which dealt with situations in which the abutting property owner failed to procure the liability insurance required by Section 7-211 and judgments against them go unsatisfied.

The enactment of this legislation was a victory for the Mayor who had frequently called for tort reform while running for the mayoralty and since coming to office in 2002. The impetus to enact tort reform to shield the city from tort liability for sidewalk accidents was in part because the city has been paying out massive amounts in settlements and judgments in recent years. With the city in a difficult fiscal period, every additional dollar of tax revenue that could be retained by the city for services has become crucial. In 2002 the City paid out over \$500 million in resolving personal injury, contract and property

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<sup>1</sup> See Frank Lombardi, *End crazy suits, Mike Says*, New York Daily News, January 4, 2003 (stating: “On his weekly WABC radio show, the mayor blasted as ‘unconscionable’ a recent \$308,000 award won by a Bronx woman who sued the city when she slipped on snow on the sidewalk outside her building in 1995. . . . ‘Everybody thinks that if it’s the city’s money, it’s nobody’s money,’ he said. ‘I’m telling you, if it’s the city’s money, it’s everybody’s money.’”).

damage suits brought against the City.<sup>2</sup> For slip and fall accidents, the city has paid over \$189 million in judgments in the past three years.<sup>3</sup> It is projected that these revisions to the Administrative Code could save the city \$40 million a year,<sup>4</sup> and that this money can go towards city services instead.<sup>5</sup> However, one New York City attorney was quoted in the New York Times in an article on this legislation as stating that despite these new laws being “legally sound and logical, . . . their provisions are unwieldily and leave lots of gaps that courts and lawyers are going to have to deal with over the next few years.”<sup>6</sup>

As this report will note, there are several open questions as to these amendments as well as uncertainty as to the impact these amendments will have on property owners and insurers. Notwithstanding the hopeful fiscal savings to the city, this report will discuss these new code sections as to their impact upon private landowners, co-operatives and businesses in the city of New York, as well as on the insurance carriers that will now be insuring these parties.

## **DISCUSSION**

### **Background**

Prior to this legislation being enacted, the city could be held civilly liable for damages

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<sup>2</sup> Lisa L. Colangelo, *Injury lawsuits hurt city - \$525M worth*, New York Daily News, July 2, 2003.

<sup>3</sup> See July 16, 2003 Mayor Bloomberg Press Release, “Mayor Michael R. Bloomberg signs Tort Reform Legislation: Remarks by Mayor Bloomberg at a Public Hearing on Local Law.” A copy of this press release is included within Appendix A.

<sup>4</sup> William Murphy, Dan Janison and Curtis L. Taylor, *It's Official: City Budget Crisis Over*, N.Y. Newsday, June 27, 2003.

<sup>5</sup> See November 12, 2002 Press Release of the New York City Law Department, Office of the Corporation Counsel, *Corporation Counsel Michael A. Cardozo Addresses Key Tort Reform Legislation Today Before City Council*, stating:

“The City’s tort payouts are larger than the budgets of most City agencies,” Bloomberg said. “In fact, they are bigger than the budget of most municipalities in New York. In 1978, the City paid out \$21 million in tort payouts. In 2001, the number had skyrocketed to more than half a billion dollars. This money could be far better spent on social issues including better schools, new teachers, more firefighters and police officers, and improving our infrastructure, especially as the City faces a fiscal crisis.”

“This crisis is real,” Corporation Counsel Michael A. Cardozo said. “More than 14,000 claims are filed against the City each year and 9,000 lawsuits are commenced. The City also has 47,000 pending tort lawsuits.” He also noted that the “sidewalk judgments and settlements pay on average \$60 million dollars each year.”

<sup>6</sup> Jay Romano, *YOUR HOME; Sidewalk Liability Hits Home*, N.Y. Times, October 5, 2003.

if it had been notified of a sidewalk defect or unsafe condition within 15 days before an accident to a pedestrian and did not fix it. This notice requirement was almost always met due to the work done by the Big Apple Pothole and Sidewalk Protection Committee, Inc. This organization, established by New York trial lawyers in 1980, would canvass the city and prepare maps indicating sidewalk hazards. These maps would then be filed with the Department of Transportation to serve as prior written notice of the defective conditions noted thereon. Courts have ruled that these maps, filed with the city, constitute sufficient prior notice in order to impose liability on the city.<sup>7</sup>

Because the city was effectively on notice of all sidewalk defects within the 5 boroughs, the city was a potential pocket for plaintiffs to seek recovery from in virtually every sidewalk accident. As such, the presence of the abutting property owner as a defendant in a slip and fall suit, while important, was not crucial as the city was there as a potential source for either settlement or payment of a judgment.

Mayor Bloomberg upon signing these tort reform pieces of legislation into law commented that this legislation would not only save the city money but would place the duty upon property owners to maintain safer sidewalks, which, he hoped, would mean fewer injuries.<sup>8</sup> Notwithstanding this optimistic outlook for safer sidewalks, property owners will

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<sup>7</sup> Although the Mayor's proposal did not get anywhere in the City Council, it should be noted that Mayor Bloomberg also sought passage of legislation amending the law with respect to "notice". As stated in the November 12, 2002 press release of the New York City Law Department:

The Mayor's package of reforms includes several critical elements . . . :

\* \* \* \*

**Prior Notice of "Big Apple Map" Amendment** - - This amendment would ensure that New York City receives fair prior written notice for sidewalk and roadway defects. Current law requires that the City have 15 days' prior written notice before liability can be imposed on the City if an accident occurs. However, a company created by trial lawyers, the Big Apple Pothole and Sidewalk Corporation, has created a way to manipulate the law. It contracts with a map company, Sanborn, to produce "squiggles" on maps that are supposed to indicate defects. Sanborn pays surveyors to walk the streets, many of whom mark at will. Sanborn's employees have acknowledged that Big Apple has no idea if they receive training or know what constitutes a defect. They have testified that Big Apple does not inspect Sanborn's work. The maps offer no insight into whether a defect is a serious hazard or if it should be repaired promptly. Rather, the sole purpose of Big Apple is to satisfy the legal technical requirement of prior written notice. The City received about 5,200 maps with more than 700,000 "squiggles" last year. Big Apple knows it is impossible for the City to inspect all these conditions. Mayor Bloomberg's proposed amendment to the prior written notice law would require an individual to file a detailed report, including the specific location, nature, size and severity of a defect. False reporting would be a crime. This amendment would significantly advance public safety by giving the City meaningful notice about hazards. It would enable the City to make rational, fact-based decisions as to which defects are critical to fix and how to best allocate precious resources.

<sup>8</sup> See Appendix Section A for Mayor Bloomberg's complete remarks.

now be, for all intents and purposes, the only potential defendant for pedestrians injured on sidewalks.

The significance of Section 7-210 is in one sense profound given the fact that under the previous law a property owner did not have a general legal obligation to maintain the sidewalk abutting their property “in a reasonably safe condition. On September 8, 2003, the Appellate Division, Second Department stated the previous law as to sidewalk liability as follows:

It is the well-settled general rule that a landowner will not be liable to a pedestrian injured by a defect in a public sidewalk abutting the landowner’s premises unless the landowner created the defective condition, or caused the defect to occur because of some special use, or unless a statute or ordinance placed the obligation to maintain the sidewalk upon the landowner and expressly made the landowner liable for injuries occasioned by the failure to perform that duty.<sup>9</sup>

Additionally, prior to these Administrative Code sections becoming effective in September, 2003, the Court of Appeals observed that ordinances regarding a property owner’s responsibility to remove snow from their sidewalks

[d]oes not relieve the municipality of its obligation to maintain sidewalks in a reasonably safe condition and, where property owners fail to comply with the ordinance within a reasonable time, the municipality must either enforce the ordinance or undertake the necessary work itself. Evidence of a municipality’s reliance on property owners to perform this duty and of its efforts to enforce the ordinance within a reasonable time is relevant in determining whether the municipality breached its duty.<sup>10</sup>

Now, with the enactment of Section 7-210, the duty to maintain the sidewalk in a reasonably safe condition lies entirely upon the affected property owner in the first instance, as well as the potential liability for non-action.

**I. ADMINISTRATIVE CODE AMENDMENT WITH RESPECT TO THE LIABILITY OF PROPERTY OWNERS FOR INJURIES CAUSED BY UNSAFE CONDITIONS ON SIDEWALKS**

Section 7-210 of the New York City Administrative Code places the affirmative duty

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<sup>9</sup> Vrabel v. City of New York, 764 N.Y.S.2d 111, 113 (2d Dep’t 2003) (citations omitted).

<sup>10</sup> Garricks v. City of New York, 2003 WL 22413501.

to maintain sidewalks abutting a building on that building's owner.<sup>11</sup> This section states in subsection (a) therein that:

It shall be the duty of the owner of real property abutting any sidewalk, including, but not limited to, the intersection quadrant for corner property, to maintain such sidewalk in a reasonably safe condition.

Prior to the enactment of this section, the concrete between the curb and the front of most commercial and multifamily residential building's in the city was essentially the city's responsibility to maintain, as well as the city's source of potential liability.<sup>12</sup> "While property owners - - including co-op corporations and condominium associations - - have long been responsible for keeping the sidewalk in front of their buildings in good repair, the ultimate liability for injuries sustained in "slip and fall" cases has always rested with the city."<sup>13</sup>

Section 7-210 changes this. Subsection (b) thereof makes the abutting property owner solely liable for injuries which previously would have permitted the city to be named as a defendant with liability exposure.<sup>14</sup> Section 7-210(b) states as follows:

Notwithstanding any other provision of law, the owner of real property abutting any sidewalk, including, but not limited to, the intersection quadrant for corner property, shall be liable for any injury to property or personal injury, including death, proximately caused by the failure of such owner to maintain such sidewalk in a reasonably safe condition. Failure to maintain such sidewalk in a reasonably safe condition shall include, but not be limited to, the negligent failure to install, construct, reconstruct, repave, repair or replace defective sidewalk flags and the negligent failure to remove snow, ice, dirt or other material from the sidewalk. . . .

Significantly, the requirements of Section 7-210 do not apply to all property owners as the last sentence of Section 7-210(b) excludes certain residential property owners from the statute's scope. The final sentence of 7-210(b) states:

This subdivision shall not apply to one-, two- or three-family residential real property that is (i) in whole or in part, owner occupied, and (ii) used exclusively for residential purposes.

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<sup>11</sup> For the complete text of this amendment, see Appendix Section B.

<sup>12</sup> Jay Romano, *YOUR HOME; Sidewalk Liability Hits Home*, N.Y. Times, October 5, 2003.

<sup>13</sup> Id.

<sup>14</sup> See Romano (stating "The new laws . . . put the responsibility for the sidewalks in the hands of those who are in the best position to take care of them: the owners").

Finally, so that there can be no mistake, subsection (c) of Section 7-210 unequivocally states the city's new exclusion from liability in suits to which it previously could have been named as a defendant and had liability assessed against it. Subsection (c) states:

Notwithstanding any other provision of law, **the city shall not be liable** for any injury to property or personal injury, including death, proximately caused by the failure to maintain sidewalks (other than sidewalks abutting one-, two- or three-family residential real property that is (i) in whole or in part, owner occupied, and (ii) used exclusively for residential purposes) in a reasonably safe condition. This subdivision shall not be construed to apply to the liability of the city as a property owner pursuant to subdivision b of this section.

(Emphasis added).

Subdivision (d) of this section notes that nothing within Section 7-210 will affect the procedural mechanisms (*e.g.*, “any other law or rule”), “governing the manner in which an action or proceeding against the city is commenced, including any provisions requiring prior notice to the city of defective conditions.” The import of this subsection is essentially that the work of the Big Apple Pothole and Sidewalk Protection Committee, Inc., is still going to be needed to give notice to the city of defects (*e.g.*, in front of City owned property as well as private residences), and that the notice of claim requirement (*e.g.*, General Municipal Law § 50-e) are still pre-requisites for the maintenance of a civil action against the city for slip and fall accidents on sidewalks.

## **II. ADMINISTRATIVE CODE AMENDMENT WITH RESPECT TO THE PROCUREMENT OF LIABILITY INSURANCE FOR INJURIES CAUSED BY UNSAFE CONDITIONS ON SIDEWALKS**

As the city would no longer be a potential defendant in most slip and fall accidents, the New York City Council also passed, and Mayor Bloomberg signed, legislation amending another section to the Administrative Code that would require property owners to procure liability insurance. This will effectively provide a “pocket” for injured pedestrians to pursue and eliminating the potential that property owners will be found by plaintiffs to be “judgment proof.”<sup>15</sup>

Section 7-211 of the Administrative Code, entitled, “Personal injury and property damage liability insurance,” states as follows:

An owner of real property, other than a public corporation as defined in section sixty-six of the general construction law or a state or

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<sup>15</sup> For the complete text of this amendment, see Appendix Section C.

federal agency or instrumentality, to which subdivision b of section 7-210 of this code applies, shall be required to have a policy of personal injury and property damage liability insurance for such property for liability for any injury to property or personal injury, including death, proximately caused by the failure of such owner to maintain the sidewalk abutting such property in a reasonably safe condition. The city shall not be liable for any injury to property or personal injury, including death, as a result of the failure of an owner to comply with this section.

This section states therein that to those to which the aforementioned Section 7-210 applies, such property owners “shall be required to have a policy of personal injury and property damage liability insurance for such property for liability for any injury to property or personal injury, including death, proximately caused by the failure of such owner to maintain the sidewalk abutting such property in a reasonably safe condition.”

Although most commercial property owners already possessed liability insurance prior to the enactment of this legislation, this new section now makes the procurement of such insurance mandatory by law. It should be noted that this is not unprecedented as the procurement of various types of automobile insurance are already mandated by statute.

### **III. ADMINISTRATIVE CODE AMENDMENT WITH RESPECT TO SITUATIONS WHERE THE ABUTTING PROPERTY OWNER DID NOT PROCURE THE REQUIRED LIABILITY INSURANCE AND THERE IS A JUDGMENT OUTSTANDING**

Finally, because it is possible that the affected property owners impacted by the foregoing Administrative Code sections might not procure the now required liability insurance, the City Council passed legislation pertaining to the situation where a tort victim recovers a judgment, yet, because the property owner did not procure the requisite liability insurance, the defendant is essentially “judgment proof.” In this case, the provisions of Section 7-212 can be invoked to allow the city’s corporation counsel, in the discretion of the comptroller in consultation with the corporation counsel, to make payments to the plaintiff.

Section 7-212, entitled, “Authority to make payments for personal injury, including death, where abutting property owner liable pursuant to section 7-210 is uninsured,” primarily addresses the procedure as to when and how the city can step in and compensate an injured plaintiff when the defendant is judgment proof. It states as follows:

- a. Where a judgment for personal injury, including death, obtained against an abutting property owner pursuant to section 7-210 of this code is unsatisfied for a period of at least one year following entry of such judgment in the office of the county clerk of the county in which such property is situated and the judgment debtor has been determined by

the comptroller after investigation to have no policy of liability insurance or other assets to satisfy such judgment, the comptroller, after consultation with the corporation counsel, is hereby authorized and empowered to make a payment for such personal injury, including death.

- b. Any such payment shall be made in the discretion of the comptroller and shall not be made as a matter of right. The amount of such payment shall not exceed uncompensated medical expenses. Payment may be in a single payment, or may be made in periodic payments. No such payment or periodic payments shall exceed fifty thousand dollars in total with respect to any unsatisfied judgment and the total of all such payments for all judgments in any fiscal year shall not exceed four million dollars.
- c. Petitions for a payment under this section shall be presented to the comptroller not less than one or more than three years following entry of such judgment in the office of the county clerk of the county in which such property is located. Each petition shall include evidence demonstrating (i) that efforts to collect the judgment have been pursued, and (ii) that the judgment debtor has no policy of liability insurance or other assets to satisfy the judgment.
- d. Before the comptroller shall make such payment, he or she shall require the petitioner to execute an assignment of the judgment to the city. After assignment the city shall be entitled to enforce the judgment. To the extent that the city collects money on the judgment in excess of the payment to payments made to a petitioner pursuant to this section, such excess amount shall be paid to the petitioner after deducting the city's expenses.
- e. No payment shall be made under this section it is determined that the unsatisfied judgment was obtained by fraud, or by collusion of the plaintiff and of any defendant in the action.
- f. The comptroller shall, by rule, establish procedures for the presentation of petitions for payment pursuant to the provisions of subdivision c of this section, for the review of such petitions by that office and with respect to such other matters as are necessary to implement the provisions of this section.

## **CONCLUSION**

What will the impact of these amendments to the New York City Administrative Code be? Although only time will tell, quite simply, property owners in New York City are now

going to be the “prime target” of plaintiffs in slip and fall cases.<sup>16</sup> Because the city will no longer be a potential pocket for plaintiffs in most sidewalk cases, the money plaintiffs will seek to recover will now likely come from the insurers of property owners and buildings. As such, this will ultimately mean higher premiums on insureds and eventually higher monthly maintenance charges for residents of co-operatives, for instance.<sup>17</sup>

One criticism of the amendments discussed herein, particularly to Section 7-211, is that this section does not specify how much liability insurance coverage must be procured or what the penalty would be on a building owner who does not comply.<sup>18</sup>

Another eventual fallout from this legislation, besides from likely higher premiums and maintenance charges, is that because building owners will likely always be named as defendants in slip and fall suits, “managing agents, superintendents, doormen and board members are all going to end up being witnesses in litigation,” which also will mean more costs to a defense and lost employee-hours in productivity due to time missed due to having to participate in litigation (*e.g.*, attendance at depositions and possibly even trial).<sup>19</sup>

In the end, only time and the reporting of court decisions and claims to insurers will clarify the scope and impact of these new Administrative Code sections on insured defendants and their insurers.

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<sup>16</sup> See Romano (stating, “Property owners are now going to be the prime target of most slip-and-fall litigations in the city. . . . this is going to have an economic impact on the owners, and it’s not going to be a positive one”).

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Id.

## **APPENDIX**

### **SECTION A**

#### **FOR IMMEDIATE RELEASE**

July 16, 2003

No. 200

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## **MAYOR MICHAEL R. BLOOMBERG SIGNS TORT REFORM LEGISLATION**

### ***REMARKS BY MAYOR BLOOMBERG AT A PUBLIC HEARING ON LOCAL LAW***

“The last bill before me is Introductory Number 193, sponsored at my request by Council Members Liu, Addabbo, Reyna, Stewart, Gerson, Moskowitz, Gonzalez, Sears and the Public Advocate Gotbaum. This legislation transfers liability from the City to the owners of real property for the owners’ failure to maintain sidewalks adjacent to their property in a reasonably safe condition. However, the provisions of this bill imposing liability on the owners of the real property would not apply to one-, two- or three- family homes that are owner occupied and used exclusively for residential purposes.

“New York City has 12,750 miles of sidewalks. Laid end to end they would stretch halfway around the world. It would cost the City billions of dollars to hire sidewalk repair crews to repair all sidewalk defects and keep the sidewalks perfectly free of defects. Under current law, property owners are required to keep their sidewalks in good repair and free of snow and ice. However, if they fail to comply with this statutory duty and someone is injured as a result, they don’t get sued, the City does. This legislation transfers liability for sidewalk accidents from the City to the property owners who already have the duty to keep the sidewalks in good repair.

“In the past three years, the City has paid over \$189 million in judgments as a result of actions brought for damages caused by sidewalk defects and falls on snow and ice. Such suits are the most common type of litigation brought against the City. For over twenty years

the City has been trying to change this law, today we are finally successful. This legislation will save the City up to \$40 million a year and help us weather our fiscal crisis. I would like to thank Corporation Counsel, Michael Cardozo, and the City Council, for their leadership on this historic piece of legislation. This bill will not only save the City millions of dollars but will also encourage property owners to keep the sidewalks in good repair, which will mean safer sidewalks and fewer injuries.

“Part of what makes the City an inviting target for tort lawyers is the fact that the City has ‘deep pockets’— it has the ability to satisfy the judgments obtained against it. Much of the opposition to tort reform can be attributed to a concern that others may not have such ‘deep pockets.’ The City should not be liable for another person’s negligence. However, to assure that our citizens who are injured as a result of defective sidewalks will in fact be appropriately compensated, I am also signing another bill that is before me today, Introductory Number 522, sponsored at my request by Council Members Liu, Gonzalez, Reyna and Sears.

“This bill will require property owners, other than the City, certain governmental entities and owners of one-, two- or three family homes, to have a policy of personal injury and property damage liability insurance to cover their liability for sidewalk accidents. The City will not be liable for the failure of an owner to maintain such insurance.

“Most property owners already have liability insurance. On the slim chance that a property is not covered by insurance, this bill also authorizes the City Comptroller, after consultation with the Corporation Counsel, to make payments for uncompensated medical expenses to persons who are injured in sidewalk accidents and who obtained a judgment against a property owner, but were unable to collect on the judgment because the property owner had no liability insurance and other assets. These payments for uncompensated medical expenses would be made in the discretion of the Comptroller, but would be subject to limits with respect to any particular judgment or any particular fiscal year. In this way, Introductory Numbers 193 and 522 strike a reasonable and compassionate balance between the principle that the City should not be liable for the wrongs of another and the principle that persons injured by the wrongs of another should receive compensation. I hope that the passage of both bills will serve as a catalyst for tort reform in Albany.”

## **SECTION B**

Section 1. The administrative code of the city of New York is amended by adding a new section 7-210 to read as follows:

§ 7-210 Liability of real property owner for failure to maintain sidewalk in a reasonably safe condition. a. It shall be the duty of the owner of real property abutting any sidewalk, including, but not limited to, the intersection quadrant for corner property, to maintain such sidewalk in a reasonably safe condition.

b. Notwithstanding any other provision of law, the owner of real property abutting any sidewalk, including, but not limited to, the intersection quadrant for corner property, shall be liable for any injury to property or personal injury, including death, proximately caused by the failure of such owner to maintain such sidewalk in a reasonably safe condition. Failure to maintain such sidewalk in a reasonably safe condition shall include, but not be limited to, the negligent failure to install, construct, reconstruct, repave, repair or replace defective sidewalk flags and the negligent failure to remove snow, ice, dirt or other material from the sidewalk. This subdivision shall not apply to one-, two- or three-family residential real property that is (i) in whole or in part, owner occupied, and (ii) used exclusively for residential purposes.

c. Notwithstanding any other provision of law, the city shall not be liable for any injury to property or personal injury, including death, proximately caused by the failure to maintain sidewalks (other than sidewalks abutting one-, two- or three-family residential real property that is (i) in whole or in part, owner occupied, and (ii) used exclusively for residential purposes) in a reasonably safe condition. This subdivision shall not be construed to apply to the liability of the city as a property owner pursuant to subdivision b of this section.

d. Nothing in this section shall in any way affect the provisions of this chapter or of any other law or rule governing the manner in which an action or proceeding against the city is commenced, including any provisions requiring prior notice to the city of defective conditions.

§ 2. This local law shall take effect on the sixtieth day after it shall have become a law and

shall apply to accidents occurring on or after such effective date.

### **SECTION C**

Section 1. The administrative code of the city of New York is amended by adding a new section 7-211 to read as follows:

§7-211 Personal injury and property damage liability insurance. An owner of real property, other than a public corporation as defined in section sixty-six of the general construction law or a state or federal agency or instrumentality, to which subdivision b of section 7-210 of this code applies, shall be required to have a policy of personal injury and property damage liability insurance for such property for liability for any injury to property or personal injury, including death, proximately caused by the failure of such owner to maintain the sidewalk abutting such property in a reasonably safe condition. The city shall not be liable for any injury to property or personal injury, including death, as a result of the failure of an owner to comply with this section.

§ 2. The administrative code of the city of New York is amended by adding a new section 7-212 to read as follows:

§ 7-212 Authority to make payments for personal injury, including death, where abutting property owner liable pursuant to section 7-210 is uninsured. a. Where a judgment for personal injury, including death, obtained against an abutting property owner pursuant to section 7-210 of this code is unsatisfied for a period of at least one year following entry of such judgment in the office of the county clerk of the county in which such property is situated and the judgment debtor has been determined by the comptroller after investigation to have no policy of liability insurance or other assets to satisfy such judgment, the comptroller, after consultation with the corporation counsel, is hereby authorized and empowered to make a payment for such personal injury, including death.

b. Any such payment shall be made in the discretion of the comptroller and shall not be made as a matter of right. The amount of such payment shall not exceed uncompensated medical expenses. Payment may be in a single payment, or may be made in periodic payments. No such payment or periodic payments shall exceed fifty thousand dollars in total with respect to any unsatisfied judgment and the total of all such payments for all judgments in any fiscal year shall not exceed four million dollars.

c. Petitions for a payment under this section shall be presented to the comptroller not less than one or more than three years following entry of such judgment in the office of the county clerk of the county in which such property is located. Each petition shall include evidence demonstrating (i) that efforts to collect the judgment have been pursued, and (ii) that the judgment debtor has no policy of liability insurance or other assets to satisfy the judgment.

d. Before the comptroller shall make such payment, he or she shall require the petitioner to execute an assignment of the judgment to the city. After assignment the city shall be entitled to enforce the judgment. To the extent that the city collects money on the judgment in excess of the payment or payments made to a petitioner pursuant to this section, such excess amount shall be paid to the petitioner after deducting the city's expenses.

e. No payment shall be made under this section if it is determined that the unsatisfied judgment was obtained by fraud, or by collusion of the plaintiff and of any defendant in the action.

f. The comptroller shall, by rule, establish procedures for the presentation of petitions for payment pursuant to the provisions of subdivision c of this section, for the review of such petitions by that office and with respect to such other matters as are necessary to implement the provisions of this section.

§ 3. This local law shall take effect on the sixtieth day after it shall have become a law and shall apply to accidents occurring on or after such effective date.