

1 **2021 NYSAC Fall Seminar**
2 **Standing Committee on Public Employee Relations**
3 **Resolution #3**

4 **Resolution Calling for the Full Repeal of the New York State Scaffold Law or**
5 **Reform to Include a Pure Standard of Comparative Negligence**

6 **WHEREAS**, New York Labor Law §240 and §241, commonly known as the “Scaffold
7 Law,” outlines liability for injuries caused by an employee’s fall from a height; and

8 **WHEREAS**, the laws impose strict liability on employers and owners of buildings if a
9 worker falls from any height; and

10 **WHEREAS**, the law was first imposed in 1885 at a time when worker safety was largely
11 neglected in New York State and at a time when modern safety equipment and
12 scaffolding techniques did not exist; and

13 **WHEREAS**, the Scaffold Law has caused a dramatic increase in construction costs due
14 to higher insurance rates required for employers in the construction business, causing
15 New York State to have the highest general liability insurance costs in the nation; and

16 **WHEREAS**, the Scaffold Law is a boon to personal injury lawyers, as half of the 30
17 largest lawsuits in the state stem from Scaffold Law issues, and while scaffold related
18 injuries have decreased in the past 20 years the number of Scaffold Law claims has
19 increased 500 percent; and

20 **WHEREAS**, New York is the only state in the country to impose a construction law like
21 the Scaffold Law that imposes strict liability on the employer; further, it is one of a very
22 few laws that mandate strict liability in the State of New York; and

23 **WHEREAS**, the increase in costs in New York drives away investment in our
24 infrastructure when developers and contractors can get better rates in neighboring
25 states; and

26 **WHEREAS**, not only does the law drive away out-of-state investment in infrastructure,
27 but the lost investment to other states also serves to decrease the number of new
28 construction jobs created every year, making it more difficult for many of New York’s
29 skilled laborers to find appropriate employment; and

30 **WHEREAS**, this negligence standard under the Scaffold Law would not ban recovery
31 for an injured worker due to their own negligence, but would allow the employer to
32 bring issues with employee culpability to mitigate the damages in cases where the
33 worker’s actions contributed to his or her injury; and

34 **WHEREAS**, federal regulations have been enacted that attempt to protect workers
35 from injury due to falls by requiring certain precautions to be in place for people
36 working at a height above the ground and allows an outlet for workers concerned about

1 their safety to engage federal review of any worksite for compliance with these
2 regulations.

3 **NOW, THEREFORE, BE IT RESOLVED**, that New York State of Association of
4 Counties (NYSAC) is in support of Scaffold Law reform as well as meaningful protection
5 of construction workers; and

6 **BE IT FURTHER RESOLVED**, that NYSAC supports the full repeal of the Scaffold
7 Law or its modification to include a pure standard of comparative negligence; and

8 **BE IT FURTHER RESOLVED**, that copies of this resolution be sent to the counties
9 of New York State encouraging member counties to enact similar resolutions; and

10 **BE IT FURTHER RESOLVED**, that the New York State Association of Counties shall
11 forward copies of this resolution to Governor Kathy Hochul, the New York State
12 Legislature and all others deemed necessary and proper.