



## **New York Department of Buildings announces new interim Certificate of Occupancy - by Carlos Duque**

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A new, streamlined type of Certificate of Occupancy is coming to the New York Department of Buildings.

Effective April 9th, 2021, based on a new bill passed in December, the Interim Certificate of Occupancy (ICO) can be used in place of a traditional Temporary Certificate of Occupancy (TCO) in certain cases to allow partial occupancy of buildings before full completion of construction work on other areas of the such building.

### TCO vs. ICO

The two COs are similar in function—they certify safe occupancy of a building or parts of a building prior to the completion of all of the construction work.

But unlike the traditional TCO, which requires building owners to submit renewal forms every 90 days in order to stay in effect, an ICO has an option that may require no renewals, and stays in effect for completed areas concerned until the final Certificate of Occupancy is issued.

Not to mention, the ICO approval process has been deliberately designed with fewer bureaucratic hurdles while maintaining safety standards for occupants.

This provides major peace of mind for building owners in these already uncertain times. Building owners won't have to worry about wrangling inspection sign-offs and fees every three months or risk having to halt. On the flip side, occupants won't have to choose between waiting to move in to their new space or risking a lapsed TCO that forces them to leave the premises.

In the larger real estate landscape, this also opens up more housing in New York City, since occupants will feel more comfortable moving in before final construction is complete. This is by

design: According to the DOB in its press release on the new bill, the main purpose of the Interim Certificate of Occupancy is to be a boost for housing and businesses, particularly small businesses.

### What's Required?

In order to first qualify for an ICO for a specific portion of your building, all of the following conditions must be met:

- The building must be of noncombustible construction and protected with an automatic sprinkler system.
- Proper means of egress must be provided.
- There can be no outstanding objections that affect the occupancy of the proposed portion of the building.
- The portion of the building must be deemed safe for occupancy upon inspection, without reliance on temporary measures.

Even with less red tape, an ICO will still require comprehensive DOB inspections. According to Intro. 2033, which introduced the new CO into law, an interim certificate of occupancy can only be issued “after an inspection by the commissioner determines that the floor or floors of the building conform substantially to the approved construction documents and to the provisions of this code and other applicable laws and rules.”

In addition, the following types of projects do not fall under the jurisdiction of this new law, and thus cannot qualify for an ICO:

- Residential buildings with fewer than eight stories or four dwelling units,
- Non-residential buildings with fewer than five stories,
- Mixed-use buildings with fewer than four dwelling units, or
- Parking structures.

As part of the new bill, building owners will also have to post a copy of all partial and temporary certificates of occupancy, including the ICO, in accordance with section 28-118.19 of the Administrative Code.

### Moving Forward

As New York moves forward and gets back to business in 2021, we're glad to see the DOB is recognizing what is needed to help that transition along and making it easier on New Yorkers to find

some stability while not compromising on safety.

If you need help determining if your building qualifies for an Interim Certificate of Occupancy, or need any further assistance, we welcome you to reach out to Outsource Consultants.

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