

# Quick Facts

*"[The Scaffold Law] imposes liability even on contractors and owners who had nothing to do with the plaintiff's accident"*

*- Court of Appeals Judge Robert Smith<sup>1</sup>*

## WHAT IS IT?

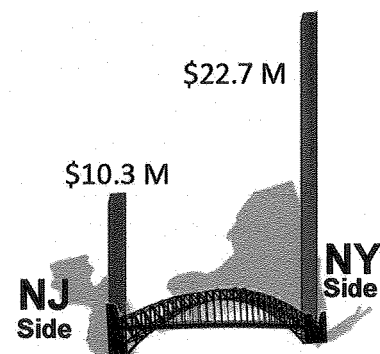
The Scaffold Law, (Labor Law 240/241) was first enacted in the late 19th century. It holds property owners, employers, and contractors **ABSOLUTELY LIABLE** for 'gravity related' injuries that happen on the job. That means there is virtually no defense from a lawsuit, even if the worker's gross negligence contributed to the accident. Even parties that had no supervisory control over the work are held liable. New York is the only state that still keeps this law on the books.<sup>2</sup>

## THE SCAFFOLD LAW COSTS

### TAXPAYERS:

- The Scaffold Law costs taxpayers \$785 million annually.<sup>3</sup>
- Local governments pay higher costs for capital projects, whether the work is done directly or through private contractors. For example, liability costs on one joint NY-NJ bridge projects are more than double on the NY side. (see graph at right)
- More than half of the top 30 highest settlements resulted from Scaffold Law claims, and of those, 25% were against public entities.<sup>4</sup>
- The Scaffold Law is estimated to add \$200 – \$400 million in additional costs to the construction of the new Tappan Zee Bridge.<sup>5</sup>

Average Incurred Claim Costs  
NY-NJ Joint Bridge Projects



Source: Port Authority of NY and NJ

## THE SCAFFOLD LAW HURTS SCHOOLS:

- The New York School Boards Association estimates the Scaffold Law costs schools \$200M annually.
- In 2013, the New York School Construction Authority (SCA) was nearly unable to get insurance for its \$2 billion capital program, despite an excellent safety record. The new insurance costs are \$240M for 2014, nearly triple that of the previous year, and no guarantee of coverage after 2014.<sup>6</sup>
- The SCA's increased insurance costs are equivalent to 8-10 new schools over a 3 year period.<sup>7</sup> Currently, there is a shortage of nearly 50,000 pre-K seats in NYC.<sup>8</sup>
- Higher insurance costs for the SCA jeopardize the future of their Owner-Controlled Insurance Program, which provides insurance to over 800 M/WBE firms. Without this program, hundreds of M/WBEs may be put out of business.
- The highest Scaffold Law settlement in 2012, \$15 million, was against a school district (*Jamindar v. Uniondale Union Free School District*).<sup>9</sup>

# THE SCAFFOLD LAW INCREASES CONSTRUCTION COSTS:

- The number of Scaffold Law cases has increased 500% since 1990, even though the rate of injury has decreased.<sup>10</sup>
- New York's general liability insurance costs, the highest in the nation for construction, are directly correlated to the Scaffold Law,<sup>11</sup> and the number of carriers that write general liability policies in New York is declining.<sup>12</sup>
- The Scaffold Law costs the private sector an estimated \$1.49 billion annually.<sup>13</sup>
- When the Trial Lawyers tried to reinstate the Scaffold Law in IL after it was repealed, labor unions refused to back the effort because they did not want to hurt the industry.<sup>14</sup>

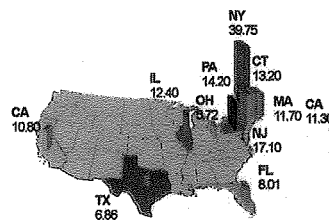
# THE SCAFFOLD LAW HURTS WORKERS:

- The Scaffold Law is associated with an estimated 677 additional construction injuries each year.<sup>15</sup>
- Reforming the Scaffold Law would create over 27,000 jobs in the construction industry.<sup>16</sup>

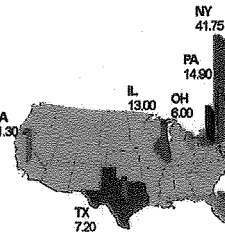
## NEW YORK'S INSURANCE CRISIS

Scaffold Law lawsuits have driven insurance losses through the roof, resulting in higher premiums, more coverage exemptions, and fewer carriers in the market. These maps show NY costs versus other states.

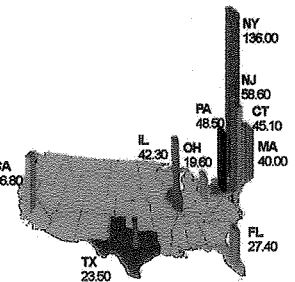
ISO Base Loss Costs, 2012  
Concrete Construction



ISO Base Loss Costs, 2012  
Structural Metal Construction



ISO Base Loss Costs, 2012  
Bridge/Elevated Highway Construction



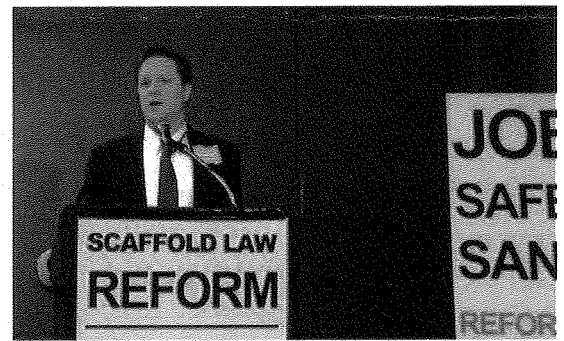
### Sources:

- <sup>1</sup> Judge Smith, Robert. Opinion in *Dahar v. Holland Ladder & Manufacturing Company*, No. 23, NYLJ 1202543033849, at \*1 (Court. of Appeals., Decided February 21, 2012)
- <sup>2</sup> Hattery, M, Geddes, R, and Kay, M. "The Costs of Labor Law 240 on New York's Economy and Public Infrastructure." Rockefeller Institute of Government. 2013.
- <sup>3</sup> *ibid.*
- <sup>4</sup> "Top New York Settlements 2012." *ALM VerdictSearch*.
- <sup>5</sup> Chaban, Matt. "Builders, Insurers Stepping up Effort to Dismantle Scaffold Law." *Crain's New York Business*. 17 March, 2013
- <sup>6</sup> Gieger, Dan. "School Construction Authority Hit With Huge Bill." *Crain's New York*.
- <sup>7</sup> Office of NYC Public Advocate Bill de Blasio. "The Pre-K Crunch: How NYC Parents Struggle to Find Pre-Kindergarten Slots." 2013.
- <sup>8</sup> Gieger, Dan. "School Construction Authority Hit With Huge Bill." *Crain's New York*.
- <sup>9</sup> "Top New York Settlements 2012." *ALM VerdictSearch*.
- <sup>10</sup> Google Scholar search of NYS Labor Law 240 citations.
- <sup>11</sup> Geddes, Richard. "Memo: Labor Law 240 and Loss Costs." Cornell University. 2014.
- <sup>12</sup> Green, Meg. "Mass Withdrawal of Construction Liability Writers in NY Traced Back to Scaffold Law." *AM Best*. 03 October, 2012.
- <sup>13</sup> Hattery, M, Geddes, R, and Kay, M. "The Costs of Labor Law 240 on New York's Economy and Public Infrastructure." Rockefeller Institute of Government. 2013.
- <sup>14</sup> Roder, David. "Labor Leader: Scaffold Law More Important to Lawyers than Unions." *Chicago Sun-Times*. 20 December 2002.
- <sup>15</sup> Hattery, M, Geddes, R, and Kay, M. "The Costs of Labor Law 240 on New York's Economy and Public Infrastructure." Rockefeller Institute of Government. 2013.
- <sup>16</sup> *ibid.*

# SCAFFOLD LAW REFORM

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## DAY AT THE CAPITOL



## FEBRUARY 10, 2015

*On Tuesday, February 10th, advocates from across the state will meet at the state capitol in Albany to urge elected officials to reform the antiquated Scaffold Law.*

**TIME:** 8:30 AM -2:00 PM

**LOCATION:** Meeting Room 4, Empire State Plaza

**COST:** Free, guests welcome

**TO REGISTER:** [www.scaffoldlaw.org](http://www.scaffoldlaw.org)

## WWW.SCAFFOLDLAW.ORG