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**COMMITTEE ON ENVIRONMENTAL LAW
COMMITTEE ON INTERNATIONAL ENVIRONMENTAL LAW**

Intro 108-A

A bill to amend the administrative code of the City of New York, in relation to city contracts involving the purchase of wood products and materials.

THIS BILL IS APPROVED

The “Good Wood” bill, Intro 108-A, is presently before the New York City Council. The bill provides that city contractors which provide city agencies with wood products to be used as building materials or as furniture shall also provide certificates demonstrating that the products’ forest origin has been certified through an eligible forest certification program. “Eligible” forest certification programs are those operated by independent, third-party organizations that develop and apply standards for the assessment and certification of forest management, accredit certifiers, and award certifications to those forests that are managed in an environmentally sound and socially responsible manner. Only those programs which require “chain-of-custody” certification for wood products are eligible programs. The bill also requires city agencies to maximize the use of other “environmentally preferable building material” such as reclaimed wood products, biobased materials, or recycled plastic and other recycled materials.

Forests are of immense ecological, cultural, aesthetic, and economic importance. They are a major reservoir of biodiversity, containing more than half of the earth’s animal and plant species. Forests are also home and the living resource for numerous groups of indigenous people and traditional societies who depend on the forests for their livelihood and the survival of their cultures. Forests also regulate and stabilize the climate, counterbalance global warming, purify water, protect watersheds and drinking water, provide flood control and prevent droughts, conserve topsoil, buffer storm impacts, and sustain fisheries.

Despite the ecological, cultural, and economic importance of forests, destruction of forest ecosystems continues at an alarming rate. The World Resources Institute estimates that 33.8 million acres of tropical forest are lost each year. About half of the earth’s temperate and tropical rain forest has been lost. These destructive processes are destroying countless plant and animal species, depleting biodiversity, disrupting local and global ecological processes, and destroying cultures and the way of life of traditional peoples. Illegal logging is pervasive in third world countries. The World Bank estimates that between \$10 to 15 billion are lost to countries each year because of illegal logging. President Bush has recognized the problems posed by illegal logging, and directed “the Secretary of State to develop a new initiative to help

developing countries stop illegal logging, a practice that destroys biodiversity and releases millions of tons of greenhouse gases into the atmosphere.”

Intro 108-A addresses these problems by calling for the use of environmentally preferable building material, and limiting City purchases of wood products to those that meet specified generic certification standards for sustainable forestry. At present, of four certification programs that operate in North America, only that of the Forest Stewardship Council (FSC) meets the bill’s requirements. FSC was founded in 1993 by a diverse group of representatives from environmental and conservation groups, the timber industry, the forestry profession, indigenous peoples’ organizations, community forestry groups and forest product certification organizations from 25 countries. FSC accredited certifiers have certified 467 Forest management companies, who between them manage 78,188,891 acres of forests in 56 countries around the world. These forest management certificates cover temperate, boreal and tropical forests, publicly and privately owned land, and natural and plantation forests. Of these, 108 forest management companies are in the United States and Canada, covering a total of 11,904,379 acres; more than 700,000 acres are in New York State. FSC accredited certifiers have certified 2,283 companies for Chain of Custody enabling them to manufacture or distribute FSC certified wood products. Of these 508 Chain of Custody certificates have been awarded to United States and Canadian companies handling certified products, 15 of which are New York State companies.

FSC standards call on logging operations to consider, for example, alternatives to herbicides and pesticides, as well as alternatives to the conversion of “natural forests”— which the group defines as forests that retain “many of the principal characteristics and key elements of native ecosystems” – into monocultured tree plantations. The group’s third-party certifiers conduct on-the-ground inspections of logging sites, sometimes using their own regional standards, which are at least as rigorous as the FSC’s worldwide standards. Before certifiers give their seal of approval, they spend two to three days inspecting the applicant’s woods. Afterward, they spend several months doing follow-up work to ensure that the forests continue to meet their criteria. Periodic audits are also required.

The bill provides exceptions to the procurement of environmentally preferable building materials when no person qualified to do business with the City is capable of providing sufficient wood products to meet particular contract requirements; when the contract is necessary to respond to an emergency that endangers public health and safety and no contractor capable of responding is immediately available; when the City agency determines there is not a sufficient supply of certified wood products and completion of the contract will result in substantial delay; and where inclusion of the certified wood product requirement results in a cost increase of more than 15%, taking into account the long-term maintenance costs when determining cost differentials between recycled plastic lumber and wood. Agencies are required by the bill to report annually on its use of environmentally preferable building materials, and must specify the reasons why any contract did not require such materials.

While State Finance Law § 165(2) prohibits the governmental purchase of tropical hardwoods or tropical hardwood products under certain circumstances, the statute exempts “hardwoods purchased from a sustained, managed forest.” State Finance Law, § 165(2)(b)(i).

Intro 108-A also implements this statutory exemption by providing meaningful standards and procedures necessary to determine whether a particular product meets the exemption.

The bill does not run afoul of the requirement that the City purchase building materials and furniture from the “lowest responsible bidder.” General Municipal Law § 103 (purchase contracts more than \$10,000). Under this bill, any contracts would be for environmentally preferable building material –a specification of a particular product – not for building materials in general. Consequently, while the City would have to accept the lowest responsible bid for the environmentally preferred materials, it should not have to substitute building materials that are not environmentally preferable even though such materials may be less expensive.

Intro 108-A is laudatory and reasonable, and will provide an important impetus to the sustainable forestry initiative, as well as a welcome recognition of the benefits of using building materials, such as recycled products and plastics, that have lower environmental impacts. The Committee on Environmental Law and Committee on International Environmental Law of the Association of the Bar of the City of New York endorse the bill.

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