



## Memorandum in Support

### COMMITTEE ON ANIMALS AND THE LAW

Animals #25-A

March 28, 2024

S. 7098-A

By: Senator Holyman-Sigal

A. 7808-A

By: M. of A. Kelles

Senate Committee: Investigations and  
Government  
Operations

Assembly Committee: Governmental Operations

Effective Date: Immediately

**AN ACT** to amend the public buildings law, in relation to directing the commissioner of general services to incorporate practices and strategies to reduce bird fatality resulting from collisions with certain state-owned buildings, and for other purposes

**LAW & SECTIONS REFERRED TO:** Adds new section 148 of the Public Buildings Law to be known as the Feathered Live Also Count (FLACO) Act.

#### **THE COMMITTEE ON ANIMALS AND THE LAW SUPPORTS THIS LEGISLATION**

This bill amends the Public Buildings Law by adding new § 148 which mandates that the Commissioner of General Services (“Commissioner”) “incorporate features, practices and strategies to reduce bird fatalities resulting from collisions” into all buildings encompassed by the bill. Such buildings are “state-owned buildings,” and to the extent practicable, “state-leased buildings”<sup>1</sup> which are constructed or acquired, or for which for which more than fifty percent of the facade is substantially altered, after the bill’s effective date. All buildings on or eligible to be on the National Register for Historic Places are excluded.

This Bill is most important and timely.<sup>2</sup> On February 23, 2024, the urgency of making skies safer for birds was brought home to all New Yorkers when Flaco, the Eurasian eagle-owl that had been released from its enclosure in the Central Park Zoo one year and 21 days earlier, was found deceased, laying on the ground at the base of a building on the Upper West Side of Manhattan.<sup>3</sup>

<sup>1</sup> The bill defines state-owned building and state-leased building in Public Buildings Law §147(1)(a) and (1)(b) respectively of the proposed Bird Safe Building Act, now renamed the Feathered Lives Also Count Act..

<sup>2</sup> A recent New York Times article begins: “The Eurasian eagle-owl was one of an estimated billion birds that will die in the United States this year after crashing into buildings.” Tully, Tracy, New York Times, February 26, 2024 found at :

[https://www.nytimes.com/2024/02/26/nyregion/bird-strikes-flaco-owl.html?unlocked\\_article\\_code=1.YU0.RfK1.WfGgXinATG42&smid=em-share](https://www.nytimes.com/2024/02/26/nyregion/bird-strikes-flaco-owl.html?unlocked_article_code=1.YU0.RfK1.WfGgXinATG42&smid=em-share)

last visited March 1, 2024. That same article quotes the Audubon Society in New York City as putting the number of bird deaths annually in New York City at approximately 250,000.

<sup>3</sup> *Id.*

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Flaco gained a loyal and substantial following while he flew around New York City, as Mayor Adams acknowledged, “We were saddened to hear about the passing of our neighbor Flaco, who captivated New Yorkers and reminded us of the beautiful wilderness that exists in our bustling urban landscape.”<sup>4</sup> Although the results of testing for toxins have not been received, the Wildlife Conservation Society, which operates the Central Park Zoo and performed the necropsy on Flaco, stated that its initial necropsy findings indicate that Flaco died from injuries consistent with “acute traumatic injury.”<sup>5</sup> The Committee on Animals and the Law urges the Legislature to pass this bill forthwith.

The bill requires the Commissioner to consult with the Department of Environmental Conservation (“DEC”) to develop a design<sup>6</sup> to reduce bird fatalities resulting from collisions with covered buildings, both during all construction phases and during the maintenance of such buildings. It also mandates the development of best practices for reducing building collision-caused bird fatalities and the consideration of and participation with citizens’ science-based efforts that document bird collisions in the state. The “best practices” are to include several listed factors, including the elimination of non-essential lighting, use of bird-safe film or other after-market products and/or architectural design elements to reduce bird collisions with buildings, use of bird-friendly glass in new construction or substantial building alterations, and the placement of landscaping and green roofs on buildings.

The loss of birds has become a significant area of concern in recent years, and statistics set forth in a June 2023 report of the Yale Bird-Friendly Building Initiative ([www.bird-friendly.yale.edu](http://www.bird-friendly.yale.edu))<sup>7</sup> are staggering:

Nearly one out of every three breeding birds in North America has quietly disappeared since 1970, a loss of nearly three billion individual birds. Building collisions are among the leading direct causes of this massive decline with up to one billion birds killed by window collisions every year in the United States alone. That may represent as much as 2 to 10 percent of the country’s entire bird population, and recent studies indicate that even one billion may be an undercount.<sup>8</sup>

Similarly, a recent *New York Times* article reported that a study of more than 500 species of birds conducted by a collaborative team of researchers - from universities, government agencies and nonprofit

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<sup>4</sup> Hutchinson, Bill, “An Outpouring Of Tears, Heartbreak As Fans Flock To NYC’s Central Park Memorial For Flaco The Owl” February 25, 2024 found at <https://abcnews.go.com/US/outpouring-tears-heartbreak-flaco-owl-memorial-nyc-central-park/story?id=107526866>, last visited March 1, 2024.

<sup>5</sup> *Id.*

<sup>6</sup> The design guide developed must updated every five years and be disseminated to all state agencies with leasing authority for buildings, and the Commissioner must annually certify to the Governor and the Senate that the mandated design is being used.

<sup>7</sup> The Yale Bird-Friendly Building Initiative is a collaboration of the Law, Ethics & Animals (LEAP) at Yale Law School, the Yale Peabody Museum of Natural History, the Yale Office of Sustainability, and American Bird Conservancy. This report was led by the Law, Ethics & Animals Program at Yale Law School in consultation with American Bird Conservancy.

<sup>8</sup> Meredith Barges and Viveca Morris, “Building Safer Cities for Birds – How Cities Are Leading the Way on Bird-Friendly Building Policy,” Yale Bird-Friendly Building Initiative, August 2023. This report was generated by the Law, Ethics & Animals Program at Yale Law School in consultation with American Bird Conservancy and can be found at [https://law.yale.edu/sites/default/files/documents/pdf/building\\_safer\\_cities\\_for\\_birds.pdf](https://law.yale.edu/sites/default/files/documents/pdf/building_safer_cities_for_birds.pdf) (last visited 12/31/2023).

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organizations - concluded that the bird population in the United States and Canada had dropped by twenty-nine percent since 1970, equating to a loss of 2.9 billion birds.<sup>9</sup> Kenneth V. Rosenberg, a conservation scientist at Cornell University and the American Bird Conservancy, responded to this study by saying, "We were stunned by the result -- it's just staggering," and the president and CEO of the National Audubon Society, David Yarnold, was quoted as calling the findings "a full-blown crisis." The National Audubon Society itself declared a "Bird Emergency."<sup>10</sup>

Relating the loss of birds to building collisions, a 2023 American Bird Conservancy report cited Smithsonian research reporting that collisions likely kill between 365 million and 1 billion birds annually in the United States, with a median estimate of 599 million.<sup>11</sup> Since 1980, nineteen localities, including New York City, four states and Washington, D.C. have taken affirmative action aimed at making birds' environments safer.<sup>12</sup> New York City's Local Law 15 of 2020 became effective on January 1, 2021, directing the development of the Bird Friendly Building Design and Construction Requirements Guidance Document, which is posted on the NYC Department of Buildings website.<sup>13</sup>

Birds fly into transparent building glass because they cannot see it. Many measures aimed at correcting that problem, including eliminating non-essential night lighting, may actually save money, while other measures such as adding decals or films to windows have little to no cost to implement.<sup>14</sup> There are dramatic, documented positive effects of using more bird-friendly glass in New York City's Jacob Javits Convention Center ("JJCC"). The state upgraded the JJCC to increase energy efficiency almost twenty years ago, and the modifications included using fritted glass (containing dots which birds do see but humans do not), which made glass more effective at insulation and solar gain retention. The JJCC reported that use of that glass resulted in a 90 percent reduction of bird collisions in addition to a 26 percent annual energy savings.<sup>15</sup>

The Legislators of New York State should be commended for seeing the need to take action and help prevent building collision bird deaths.

For the foregoing reasons, the Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation.

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<sup>9</sup> Zimmer, C. (2019, September 20). "An Ecological 'Crisis' as 2.9 Billion Birds Vanish." *New York Times*, A1(L).

<https://link.gale.com/apps/doc/A600134944/SPJ.SP02?u=falopacplus&sid=bookmark-SPJ.SP02&xid=d67cc30e> (last visited 12/21/2023).

<sup>10</sup> <https://www.audubon.org/news/audubon-declares-bird-emergency-demands-immediate-action-after-scientists-reveal> (last visited 12/31/2023).

<sup>11</sup> Christine Sheppard, Ph.D., and Bryan Lenz, Ph.D., March 06, 2019, "Birds Flying Into Windows? Truths About Birds & Glass Collisions from ABC Experts." <https://abcbirds.org/blog/truth-about-birds-and-glass-collisions> (last visited 12/31/2023).

<sup>12</sup> Meredith Barges and Viveca Morris, "Building Safer Cities for Birds – How Cities Are Leading the Way on Bird-Friendly Building Policy," Yale Bird-Friendly Building Initiative, August 2023, at 3.

<sup>13</sup> This documents can be found at [https://www.nyc.gov/assets/buildings/bldgs\\_bulletins/bird\\_friendly\\_guidance\\_document.pdf](https://www.nyc.gov/assets/buildings/bldgs_bulletins/bird_friendly_guidance_document.pdf) (Last visited 1/1/2024.)

<sup>14</sup> "Preventing birds from crashing into windows can be an easy and inexpensive problem to solve." Meredith Barges and Viveca Morris, "Building Safer Cities for Birds – How Cities Are Leading the Way on Bird-Friendly Building Policy," Yale Bird-Friendly Building Initiative, August 2023, at 2.

<sup>15</sup> Javits Center, "More than 1,100 Bird Sightings and 17 Bird Species Observed on the Javits Center's Green Roof in 2015," press release, April 26, 2016, found at [javits-center-green-roof-study-4-26-16.pdf](http://javits-center-green-roof-study-4-26-16.pdf) ([javitscenter.com](http://javitscenter.com)) (last visited 1/1/2024.).

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