

# ASSEMBLY, No. 3895

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MARCH 7, 2011

**Sponsored by:**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblyman JOHN F. AMODEO**

**District 2 (Atlantic)**

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**Assemblyman JOHN S. WISNIEWSKI**

**District 19 (Middlesex)**

**SYNOPSIS**

Requires periodic inspection of exterior walls of certain buildings.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/24/2011)

1 AN ACT requiring the periodic inspection of certain buildings and  
2 supplementing chapter 27D of Title 52 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. As used in this act:

8 “Affected building” means a building, whether residential or  
9 commercial, that is six or more stories in height; or has an item  
10 affixed to an exterior building wall that is in excess of 60 feet in  
11 height.

12 “Building exterior” means all of the exterior walls of a building,  
13 or any part thereof, and shall also include, but shall not be limited  
14 to, any balcony, fire escape, chimney, hanging air conditioner,  
15 marquee, canopy, sign, flagpole, fire escape and window washing  
16 and exterior maintenance system which may be attached to any  
17 portion of the exterior walls of the building.

18 “Building wall” means an exterior wall of an affected building  
19 and any item affixed thereto.

20 “Commissioner” means the Commissioner of Community  
21 Affairs.

22 “Department” means the Department of Community Affairs.

23 “Professional” means a licensed professional engineer  
24 experienced in the practice of structural engineering or a licensed  
25 registered architect knowledgeable in the design, construction, and  
26 inspection of building facades.

27 “Safe” means the condition of a building exterior, or any part  
28 thereof, that does not require repair or maintenance to sustain the  
29 structural integrity of the exterior of the building.

30 “Safe with a repair and maintenance program” means the  
31 condition of a building wall, or any part thereof, that the  
32 professional performing an inspection does not consider unsafe at  
33 the time of inspection, but requires repairs or maintenance within a  
34 time frame designated by the professional in order to prevent its  
35 deterioration into an unsafe condition.

36 “Unsafe” means the condition of a building wall, or any part  
37 thereof, that has no visible means of structural support and that is  
38 dangerous to persons or property and requires immediate remedial  
39 action to protect the public health, safety and welfare. In addition,  
40 any condition of a building wall that was reported as “safe with a  
41 repair and maintenance program” in a previous report and that has  
42 not been corrected by the time of the current inspection, shall be  
43 deemed an unsafe condition.

44

45 2. a. The Department of Community Affairs shall establish a  
46 program for the maintenance and inspection of building exteriors  
47 sufficient to implement the provisions of P.L. , c. (C. )  
48 (pending before the Legislature as this bill). The commissioner

1 shall, pursuant to the “Administrative Procedure Act,” P.L. 1968,  
 2 c.410 (C.52:14B-1 et seq.), promulgate rules and regulations to  
 3 effectuate the provisions of this bill not later than the first day of  
 4 the third month next following the enactment of P.L. , c. (C. )  
 5 (pending before the Legislature as this bill), and shall model those  
 6 rules and regulations pertaining to the maintenance of building  
 7 exteriors and the professional inspection required in subsection b. of  
 8 this section after the provisions set forth in the standards  
 9 promulgated by ASTM International designated as “E2270-05  
 10 Standard Practice for Periodic Inspection of Building Facades for  
 11 Unsafe Conditions.”

12 b. Every owner of an affected building shall maintain the  
 13 building’s exterior walls, and any appurtenances thereto, in a safe  
 14 condition. The owner of an affected building shall provide for the  
 15 inspection of the building exterior by a professional, and for the  
 16 professional’s preparation and filing of an inspection report with the  
 17 Department of Community Affairs, on the owner’s behalf as  
 18 provided in P.L. , c. (C. ) (pending before the Legislature  
 19 as this bill), and in rules and regulations adopted pursuant thereto.

20 c. The initial inspection of an affected building shall be  
 21 conducted under the following schedule:

Construction date:	Report to be completed by:
Undetermined	June 30, 2012
Prior to, and including, 1950	June 30, 2012
1951-1970	June 30, 2013
1971-1980	June 30, 2014
1981-1990	June 30, 2015
1991-2005	June 30, 2016

23  
 24 d. The owner of an affected building shall provide for the  
 25 inspection of the building and the filing of an inspection report at  
 26 least once during every subsequent five-year period.

27 e. The commissioner shall establish a procedure that allows an  
 28 owner to request, and the department to grant, a waiver from an  
 29 inspection requirement whenever an a building wall of an affected  
 30 building is substantially restored. The owner shall submit with the  
 31 waiver application such information as the commissioner has  
 32 determined shall be necessary to enable the commissioner to  
 33 evaluate the request. The commissioner shall grant the waiver if the  
 34 evidence provided by the owner of the affected building  
 35 demonstrates that the recent facade restoration obviates the need to  
 36 do an inspection until the next inspection cycle.

37  
 38 3. The inspection required in section 2 of P.L. , c. (C. )  
 39 (pending before the Legislature as this bill) shall be conducted by,  
 40 or under the supervision of, the professional and performed to the  
 41 best of the professional’s knowledge and belief, in accordance with

1 rules and regulations promulgated by the commissioner as required  
2 in section 2 of P.L. , c. (C. ) (pending before the  
3 Legislature as this bill).

4 Upon discovery of any unsafe condition, the professional shall  
5 immediately notify the owner of the building by electronic mail or  
6 by fax; and shall within 12 hours of discovery, notify the  
7 department in writing and in an electronic format determined by the  
8 department. Any condition of a building wall that was reported as  
9 “safe with a repair and maintenance program” in a previous report  
10 and that has not been corrected by the time of the current  
11 inspection, shall be deemed an unsafe condition

12 The professional may order any inspections or additional tests  
13 that the professional deems to be necessary in order to support the  
14 findings of the inspection and to determine the cause of any defect  
15 in the building exterior. Any such inspection or test that require the  
16 removal of any portion of a building’s exterior shall be performed  
17 only after any required permit has been obtained by the professional  
18 on behalf of the owner.

19

20 4. The professional shall submit to the owner of the affected  
21 building a written report about the result of the inspection,  
22 certifying that the inspection was performed and completed in  
23 accordance with the provisions of P.L. , c. (C. ) (pending  
24 before the Legislature as this bill), and detailing all conditions not  
25 classified as safe. The department may impose a processing fee that  
26 shall be paid to the department upon the submission of the summary  
27 of the written report. If the report identifies an unsafe condition,  
28 the professional, not later than 24 hours after completion of the  
29 report, shall file a copy of the report with the department in writing  
30 and in an electronic format determined by the department.

31 An inspection report shall include the name and license number  
32 of the professional who performed the inspection and prepared the  
33 report, and shall be signed and dated by the professional. The  
34 report shall include the following information about an affected  
35 building:

36 a. the address of the affected building, and its location from the  
37 nearest intersection;

38 b. the name, mailing address, and telephone number of the  
39 owner of the affected building and of the owner’s agent, if any;

40 c. a description of the building, including number of stories,  
41 height, plan dimensions, usage, age and type of exterior wall  
42 construction, and system of water management;

43 d. a brief history of any settlements, repairs, or revisions to  
44 exterior enclosures, if available;

45 e. the date of the start and completion of the inspection, a  
46 detailed description of the procedures used in making the  
47 inspection, and extent and location of all physical inspections  
48 performed;

- 1 f. a report of all conditions of the affected building, including
- 2 but not limited to significant deterioration and movement observed
- 3 as well as a statement concerning the apparent water-tightness of
- 4 the exterior surfaces, and the deleterious effect of exterior
- 5 appurtenances, including exterior fixtures, flagpoles, signs,
- 6 parapets, copings, guard rails, window frames, hardware and lights,
- 7 window guards, window air conditioners, flower boxes, and similar
- 8 items. The report shall classify each such condition as safe, unsafe,
- 9 or safe with a repair and maintenance program;
- 10 g. the probable causes of the reported conditions;
- 11 h. the status of the exterior maintenance;
- 12 i. with respect to any conditions listed in the previously filed
- 13 report, whether those conditions have been repaired or maintained
- 14 as recommended in that report;
- 15 j. recommendations for repairs or maintenance, if appropriate,
- 16 to the affected building, including the recommended time frame for
- 17 the repairs or maintenance to be performed;
- 18 k. the classification of the building as either safe, unsafe, or
- 19 safe with a repair and maintenance program;
- 20 l. photographs or sketches documenting the location of any
- 21 conditions that are either unsafe or safe with a repair and
- 22 maintenance program;
- 23 m. a statement by the professional indicating which repairs or
- 24 maintenance require the obtaining of work permits prior to their
- 25 commencement;
- 26 n. a statement signed by the owner or agent of the building,
- 27 acknowledging receipt of a copy of the report and acknowledging
- 28 any required repairs or maintenance to be performed on the affected
- 29 building and the recommended time frame for performing such
- 30 repairs or maintenance;
- 31 o. the certification of the professional that the physical
- 32 inspection was performed in accordance with applicable rules and
- 33 regulations and within the appropriate professional stand of care.
- 34 p. the professional's seal and signature; and
- 35 q. any other matters that the department may require.
- 36 The professional may submit an amended report containing
- 37 additional or revised information concerning the condition of an
- 38 affected building not later than 30 days following the date of the
- 39 submission of the report to the department. The amended report
- 40 shall clearly indicate any change from the initial report and the
- 41 reasons for the change.
- 42
- 43 5. Not later than 24 hours after being notified by a professional
- 44 of an unsafe condition at an affected building, the owner of the
- 45 affected building shall take actions necessary and appropriate to
- 46 protect the public or ensure public safety, including but not limited
- 47 to erecting sidewalk sheds, fences, or safety netting.

1 Not later than 10 days after the receipt or filing of a report  
2 identifying an unsafe condition, the owner of an affected building  
3 shall commence work to correct the condition and work shall  
4 continue without interruption until the unsafe condition has been  
5 corrected, unless there has been an unforeseen delay. Not later than  
6 seven days after an unsafe condition at an affected building has  
7 been corrected, the professional shall re-inspect the affected  
8 building and file with the department an amended report stating the  
9 condition of the building.

10  
11 6. The owner of an affected building shall ensure that any  
12 conditions described in the report as “safe with a repair and  
13 maintenance program” are repaired, and the actions identified by  
14 the professional are completed within the time frame designated by  
15 the professional or by the time necessary to prevent a condition  
16 from becoming an unsafe condition, whichever is sooner.

17  
18 7. a. The department may grant an extension of time not to  
19 exceed 90 days to begin the repairs required to mitigate an unsafe  
20 condition or to repair a “safe with a repair and maintenance  
21 program” condition, after the receipt and review of an initial  
22 extension application submitted by the professional which includes:  
23 proof that the premises have been made safe by means of a shed,  
24 fence, or other appropriate measures; a copy of the contract  
25 indicating the scope of work necessary to remedy the unsafe  
26 condition; or the estimate by the professional of the length of time  
27 required for repairs, and a notarized affidavit by the owner of the  
28 building or its agent that work will be completed within such time.

29 b. A further extension of time will be considered by the  
30 department only upon receipt and review of an application for an  
31 additional extension of time which details that one of the following  
32 criteria has been met: the work has been substantially completed,  
33 but there has been an unforeseen delay outside of the control of the  
34 professional or the persons performing the work; unforeseen  
35 circumstances affecting the ability of the contractor to perform the  
36 work, including, but not limited to, a fire at the affected building, or  
37 the collapse of the affected building, have occurred; or the nature of  
38 hazard requires more than 90 days to remove.

39 c. In the event that a owner does not make required repairs or  
40 does not take corrective actions as required in sections 5 and 6 of  
41 P.L. , c. (C. ) (pending before the Legislature as  
42 this bill), the department may enforce the provisions of  
43 P.L. , c. (C. ) (pending before the Legislature as  
44 this bill) through the imposition of fines, stop work orders, or any  
45 other authorized enforcement actions permitted under the “State  
46 Uniform Construction Code Act,” P.L.1975, c. 217 (C. 52:27D-119  
47 et seq.). The department may impose a fine pursuant to this  
48 subsection in the amount of \$2,500 for each day that the required

1 repairs have not been made or the required corrective actions have  
2 not been taken.

3  
4 8. The owner of the affected building may appeal in writing the  
5 findings set forth in the professional's initial or amended report to  
6 the department within 30 days of the receipt of the report, on such  
7 form or in such manner as may be required by the commissioner,  
8 and shall include as part of the appeal documents a report from  
9 another professional concerning the condition of the affected  
10 building's facade and appurtenances thereto. The filing of an  
11 appeal shall stay the requirement for making repairs to the affected  
12 building, but not the requirement to take actions necessary to  
13 protect the public safety.

14 After consideration of an appeal, the commissioner shall either  
15 grant the appeal, deny the appeal, or grant the appeal with proposed  
16 modifications to the professional's findings as the department  
17 deems appropriate.

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19 9. This act shall take effect on the first day of the fourth month  
20 next following enactment, except that subsection a. of section 2  
21 shall take effect immediately.

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#### STATEMENT

25

26 This bill would require the Department of Community Affairs to  
27 create a maintenance code for and to oversee the private inspection  
28 on a five-year basis of the exterior building walls of certain  
29 buildings, whether residential or commercial, that are six or more  
30 stories in height; or that have an item affixed to an exterior building  
31 wall that is in excess of 60 feet in height. The bill would require  
32 the owner of each such building to retain a professional engineer to  
33 conduct periodic inspections of exterior building walls, and to  
34 prepare and file a report on the inspection periodically with the  
35 Department of Community Affairs. The bill would also require that  
36 any necessary repairs to an unsafe building wall, or a building wall  
37 in need of maintenance, be made in order to protect the public or to  
38 ensure public safety.

39 The provisions of this bill are similar to a program recently  
40 adopted in Philadelphia to require the periodic inspection of the  
41 exterior walls and appurtenances of tall buildings, and the repair  
42 and maintenance of conditions discovered through these  
43 inspections.