

ASSEMBLY, No. 4788

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED DECEMBER 10, 2018

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblyman CLINTON CALABRESE

District 36 (Bergen and Passaic)

Co-Sponsored by:

Assemblywoman Pinkin

SYNOPSIS

Establishes expedited construction inspection program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/14/2019)

1 AN ACT establishing a program for expedited inspections under the
2 construction code, and supplementing and amending P.L.1975,
3 c.217.

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

7
8 1. (New section) a. (1) The commissioner, in consultation with
9 the code advisory board, shall promulgate rules and regulations
10 establishing standards, procedures, and other requirements for an
11 optional program providing expedited inspections of construction
12 undertaken pursuant to a construction permit.

13 (2) The expedited inspection program shall provide that:

14 (a) a municipal governing body may participate in the program
15 by requiring its enforcing agency to conduct expedited inspections;

16 (b) an owner of a project located in a municipality that is not
17 requiring its enforcing agency to conduct expedited inspections may
18 select a private inspection agency to conduct expedited inspections;

19 (c) a business entity shall not conduct expedited inspections
20 unless licensed and authorized to do so by the department;

21 (d) an owner may opt to participate in the expedited inspection
22 program at the time of submission of an application for a
23 construction permit pursuant to section 12 of P.L.1975, c.217
24 (C.52:27D-130);

25 (e) an owner participating in the expedited inspection program
26 shall pay a premium in addition to all otherwise applicable fees; and

27 (f) each expedited inspection shall be completed within two
28 calendar days of an owner's request for an inspection.

29 b. (1) A municipal governing body, in consultation with the
30 construction official of its enforcing agency, shall determine
31 whether the enforcing agency shall conduct expedited inspections or
32 whether an owner may retain a private inspection agency to conduct
33 expedited inspections. Regardless of whether expedited inspections
34 are conducted by an enforcing agency or a private inspection
35 agency, the enforcing agency shall retain the power and
36 responsibility over issuance of the certificate of occupancy under
37 section 15 of P.L.1975, c.217 (C.52:27D-133).

38 (a) An enforcing agency that conducts expedited inspections may
39 conduct those inspections outside of the hours specified in section
40 14 of P.L.1975, c.217 (C.52:27D-132).

41 (b) The enforcing agency shall observe the progress of a
42 construction project receiving expedited inspections by a private
43 inspection agency and shall retain jurisdiction over the project in
44 order to be responsive to inquiries from the general public and from
45 special interests, to the needs of the owner and the private

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 inspection agency, and to the obligations and requirements imposed
2 by the code.

3 (2) An owner applying to participate in the expedited inspection
4 program shall submit payment of all applicable fees, together with
5 an expedited inspection premium fee of \$200 per inspection, to the
6 enforcing agency together with the application for a construction
7 permit. If the enforcing agency does not conduct expedited
8 inspections, at the time of submission of an application for a
9 construction permit, the owner shall identify the private inspection
10 agency the owner has selected to conduct expedited inspections.
11 The enforcing agency shall deliver payment of the expedited
12 inspection premium fee to the private inspection agency selected to
13 conduct expedited inspections.

14 c. (1) The department shall establish a program for the licensure
15 and authorization of business entities as private inspection agencies
16 for the purpose of contracting with owners to conduct expedited
17 inspections. No business entity shall conduct expedited inspections
18 under a construction permit or enter into any contract to do so
19 without first receiving the licensure and authorization of the
20 department. The department may impose and collect fees from
21 applicants for licensure and authorization under this section.

22 (2) Licensure and authorization of a business entity as a private
23 inspection agency shall include, but not be limited to, consideration
24 of the qualifications of the management and technical personnel of
25 the business entity, the fiscal integrity of the business entity, and
26 the ability of the business entity to perform expedited inspections
27 within the requisite time frames in a manner sufficient to ensure
28 that the construction is performed in accordance with the conditions
29 of the construction permit and the requirements of the code.

30 (3) A private inspection agency shall not employ a person as an
31 officer or inspectors unless the person is certified by the department
32 in the appropriate subcode.

33 (4) A private inspection agency shall be subject to the orders and
34 directives of the municipal construction official and the department
35 in matters relating to the enforcement of the code.

36 (5) A private inspection agency shall maintain records of all
37 inspections and any other information that may be required by the
38 municipal construction official or the department. These records
39 shall be open to department audit and shall not be destroyed or
40 removed from the offices of the private inspection agency without
41 the permission of the department.

42 (6) A private inspection agency shall not directly collect fees
43 from the owner, or any agent or employee of the owner. The
44 enforcing agency shall be the sole agent for the collection and
45 delivery of an expedited inspection premium fee to a private
46 inspection agency.

47 d. (1) Except as otherwise provided in this section, a private
48 inspection agency that has contracted to perform expedited

1 inspections for a project shall carry out its obligations under the
2 contract and applicable provisions of law until full completion of
3 the project, as evidenced by the enforcing agency's issuance of a
4 certificate of occupancy.

5 (2) A private inspection agency conducting expedited inspections
6 shall have all of the powers, and shall be subject to all of the
7 requirements, applicable to an enforcing agency with regard to
8 conducting inspections under P.L.1975, c.217 (C.52:27D-119 et
9 seq.), however, the private inspection agency shall be obligated to
10 conduct inspections in an expedited timeframe.

11 (3) A private inspection agency conducting expedited inspections
12 shall:

13 (a) maintain all inspection records applicable to each
14 construction permit;

15 (b) maintain an adequate number of certified staff to conduct
16 expedited inspections for all classes of structure consistent with the
17 private inspection agency's licensure and certification;

18 (c) provide adequate supervision of employees and ensure that an
19 employee is properly licensed and certified before conducting an
20 inspection;

21 (d) carry insurance as may be required by the department; and

22 (e) prepare and submit all required reports to the department and
23 the enforcing agency.

24 e. An owner and a private inspection agency may agree to the
25 performance of expedited inspections outside of the hours specified
26 in section 14 of P.L.1975, c.217 (C.52:27D-132).

27

28 2. Section 6 of P.L.1975, c.217 (C.52:27D-124) is amended to
29 read as follows:

30 6. The commissioner shall have all the powers necessary or
31 convenient to effectuate the purposes of this act, including, but not
32 limited to, the following powers in addition to all others granted by
33 this act:

34 a. To adopt, amend and repeal, after consultation with the code
35 advisory board, rules: (1) relating to the administration and
36 enforcement of this act and (2) the qualifications or licensing, or
37 both, of all persons employed by enforcing agencies of the State to
38 enforce this act or the code, except that, plumbing inspectors shall
39 be subject to the rules adopted by the commissioner only insofar as
40 such rules are compatible with such rules and regulations, regarding
41 health and plumbing for public and private buildings, as may be
42 promulgated by the Public Health Council in accordance with Title
43 26 of the Revised Statutes.

44 b. To enter into agreements with federal and State of New
45 Jersey agencies, after consultation with the code advisory board, to
46 provide insofar as practicable (1) single-agency review of
47 construction plans and inspection of construction and (2)
48 intergovernmental acceptance of such review and inspection to

1 avoid unnecessary duplication of effort and fees. The commissioner
2 shall have the power to enter into such agreements although the
3 federal standards are not identical with State standards; provided
4 that the same basic objectives are met. The commissioner shall
5 have the power through such agreements to bind the State of New
6 Jersey and all governmental entities deriving authority therefrom.

7 c. To take testimony and hold hearings relating to any aspect of
8 or matter relating to the administration or enforcement of this act,
9 including but not limited to prospective interpretation of the code so
10 as to resolve inconsistent or conflicting code interpretations, and, in
11 connection therewith, issue subpoena to compel the attendance of
12 witnesses and the production of evidence. The commissioner may
13 designate one or more hearing examiners to hold public hearings
14 and report on such hearings to the commissioner.

15 d. To encourage, support or conduct, after consultation with the
16 code advisory board, educational and training programs for
17 employees, agents and inspectors of enforcing agencies, either
18 through the Department of Community Affairs or in cooperation
19 with other departments of State government, enforcing agencies,
20 educational institutions, or associations of code officials.

21 e. To study the effect of this act and the code to ascertain their
22 effect upon the cost of building construction and maintenance, and
23 the effectiveness of their provisions for insuring the health, safety,
24 and welfare of the people of the State of New Jersey.

25 f. To make, establish and amend, after consultation with the
26 code advisory board, such rules as may be necessary, desirable or
27 proper to carry out his powers and duties under this act.

28 g. To adopt, amend, and repeal rules and regulations providing
29 for the charging of and setting the amount of fees for the following
30 code enforcement services, licenses or approvals performed or
31 issued by the department, pursuant to the "State Uniform
32 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.):

33 (1) Plan review, construction permits, certificates of occupancy,
34 demolition permits, moving of building permits, elevator permits
35 and sign permits; and

36 (2) Review of applications for and the issuance of licenses
37 certifying an individual's qualifications to act as a construction code
38 official, subcode official or assistant under this act.

39 (3) (Deleted by amendment, P.L.1983, c.338).

40 h. To adopt, amend and repeal rules and regulations providing
41 for the charging of and setting the amount of construction permit
42 surcharge fees to be collected by the enforcing agency and remitted
43 to the department to support those activities which may be
44 undertaken with moneys credited to the Uniform Construction Code
45 Revolving Fund.

46 i. To adopt, amend and repeal rules and regulations providing
47 for:

1 (1) Setting the amount of and the charging of fees to be paid to
2 the department by a ~~private agency~~ business entity for the review
3 of applications for and the issuance of approvals authorizing a
4 ~~private agency~~ business entity to act as a private inspection
5 agency, an on-site inspection and plan review agency, or an in-plant
6 inspection agency;

7 (2) (Deleted by amendment, P.L.2005, c.212).

8 (3) (Deleted by amendment, P.L.2005, c.212).

9 j. To enforce and administer the provisions of the "State
10 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119
11 et seq.) and the code promulgated thereunder, and to prosecute or
12 cause to be prosecuted violators of the provisions of that act or the
13 code promulgated thereunder in administrative hearings and in civil
14 proceedings in State and local courts.

15 k. To monitor the compliance of local enforcing agencies with
16 the provisions of the "State Uniform Construction Code Act,"
17 P.L.1975, c.217 (C.52:27D-119 et seq.), to order corrective action
18 as may be necessary where a local enforcing agency is found to be
19 failing to carry out its responsibilities under that act, to supplant or
20 replace the local enforcing agency for a specific project, and to
21 order it dissolved and replaced by the department where the local
22 enforcing agency repeatedly or habitually fails to enforce the
23 provisions of the "State Uniform Construction Code Act."

24 l. To adopt, amend, and repeal rules and regulations
25 implementing the provisions of P.L.1999, c.15, P.L.2003, c.44, and
26 section 1 of P.L.2015, c.146 (C.52:27D-123f) concerning the
27 installation and maintenance of carbon monoxide sensors.
28 (cf: P.L.2015, c.146, s.2)
29

30 3. This act shall take effect in the first day of the fourth month
31 next following the date of enactment, however, the commissioner
32 shall immediately commence the process of promulgating rules and
33 regulations.
34
35

36 STATEMENT
37

38 This bill establishes an alternate expedited inspection process
39 under the State Uniform Construction Code Act. Under the bill, an
40 applicant for a construction permit may opt to pay a premium fee to
41 have inspections under the permit performed on an expedited basis,
42 within two days of a request for an inspection. The premium fee
43 would be \$200 per inspection. The applicant would make this
44 option at the time of submitting an application. A municipality may
45 offer expedited inspections by its construction code enforcing
46 agency. If a municipality does not offer in-house expedited
47 inspections, a construction permit applicant may retain any properly
48 licensed private inspection agency to perform expedited

1 inspections. Because the local enforcing agency would retain
2 supervisory control over the construction project, and retain the
3 obligation and authority to issue the certificate of occupancy upon
4 completion of the project, the bill provides for a bifurcation of the
5 construction permit fees. Under the bill, a local enforcing agency
6 would retain the generally applicable fees and the private inspection
7 agency would receive the expedited inspection premium fee. The
8 bill requires and empowers the Department of Community Affairs
9 to develop and implement rules and regulations establishing
10 program details, which would include a licensure program for
11 businesses that want to privately perform expedited inspections.