

ASSEMBLY, No. 3577

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

SYNOPSIS

Requires DCA to adopt a Statewide solar installation subcode.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the installation of solar energy systems and
2 amending P.L.1975, c.217.

3

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

6

7 1. Section 5 of P.L.1975, c.217 (C.52:27D-123) is amended to
8 read as follows:

9 5. a. The commissioner shall after public hearing pursuant to
10 section 4 of the "Administrative Procedure Act," P.L.1968, c.410
11 (C.52:14B-4) adopt a State Uniform Construction Code for the
12 purpose of regulating the structural design, construction,
13 maintenance, and use of buildings or structures to be erected and
14 alteration, renovation, rehabilitation, repair, maintenance, removal,
15 or demolition of buildings or structures already erected. Prior to the
16 adoption of said code, the commissioner shall consult with the code
17 advisory board and other departments, divisions, bureaus, boards,
18 councils, or other agencies of State Government heretofore
19 authorized to establish or administer construction regulations.

20 Such prior consultations with departments, divisions, bureaus,
21 boards, councils, or other agencies of State Government shall
22 include but not be limited to consultation with the Commissioner of
23 Health and the Public Health Council prior to adoption of a
24 plumbing subcode pursuant to paragraph b. of this section. Said
25 code shall include any code, rule, or regulation incorporated therein
26 by reference.

27 b. The code shall be divided into subcodes which may be
28 adopted individually by the commissioner as the commissioner may
29 from time to time consider appropriate. These subcodes shall
30 include but not be limited to a building code, a plumbing code, an
31 electrical code, an energy code, a fire prevention code, a
32 manufactured or mobile home code, a solar installation code, and a
33 mechanical code.

34 These subcodes, except for the energy subcode and the solar
35 installation code, shall be adoptions of the model codes of the
36 Building Officials and Code Administrators International, Inc., the
37 National Electrical Code, and the National Standard Plumbing
38 Code, provided that for good reasons, the commissioner may adopt
39 as a subcode, a model code or standard of some other nationally
40 recognized organization upon a finding that such model code or
41 standard promotes the purposes of P.L.1975, c.217 (C.52:27D-119
42 et seq.). The initial adoption of a model code or standard as a
43 subcode shall constitute adoption of subsequent edition year
44 publications of the model code or standard of such other nationally

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 recognized organization, except as provided for in paragraphs (1)
2 through (4) of this subsection. Adoption of publications shall not
3 occur more frequently than once every three years; provided,
4 however, that a revision or amendment may be adopted at any time
5 in the event that the commissioner finds that there exists an
6 imminent peril to the public health, safety, or welfare.

7 The energy subcode shall be based upon the model codes cited
8 under this subsection or the International Energy Conservation
9 Code. It may be amended or supplemented by the commissioner
10 once before 2012 without regard to intervals between the adoption
11 of the energy subcode in effect on the effective date of P.L.2009,
12 c.106 (C.52:27D-122.2 et al.) and subsequent year revisions of that
13 subcode. In amending or supplementing the energy subcode, the
14 commissioner shall rely upon 10-year energy price projections
15 provided by an institution of higher education within one year
16 following the effective date of P.L.2009, c.106 (C.52:27D-122.2 et
17 al.), and thereafter at three-year intervals. In developing the energy
18 price projections, the institution of higher education shall consult
19 with the Board of Public Utilities. The commissioner shall be
20 authorized to amend the energy subcode to establish enhanced
21 energy conservation construction requirements, the added cost of
22 each of which may reasonably be recovered through energy
23 conservation over a period of not more than seven years. Such
24 requirements shall include provisions to ensure that, in all parts of
25 the State the anticipated energy savings shall be similarly
26 proportionate to the additional costs of energy subcode compliance.

27 Within 90 days of the effective date of P.L. , c (pending
28 before the Legislature as this bill), the commissioner shall
29 undertake and complete a review of the Oregon Solar Installation
30 Specialty Code and, in consultation with the code advisory board
31 and the Board of Public Utilities, propose a New Jersey Solar
32 Installation Code based upon the Oregon Solar Installation
33 Specialty Code. The commissioner shall adopt, pursuant to the
34 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
35 seq.), and within 150 days following the effective date of P.L. ,
36 c. pending before the Legislature as this bill), a New Jersey Solar
37 Installation Code based upon the Oregon Solar Installation
38 Specialty Code.

39 (1) Except as otherwise provided in this subsection, the edition
40 of a model code or standard in effect as a subcode as of July 1, 1995
41 shall continue in effect regardless of any publication of a
42 subsequent edition of that model code or standard. Prior to
43 establishing the effective date for any subsequent revision or
44 amendment of any model code or standard adopted as a subcode,
45 the commissioner shall review, in consultation with the code
46 advisory board, the text of the revised or amended model code or
47 standard and determine whether the amended or revised provisions
48 of the model code are essential to carry out the intent and purpose

1 of P.L.1975, c.217 (C.52:27D-119 et seq.) as viewed in contrast to
2 the corresponding provisions of the subcode then currently in effect.

3 (2) In the event that the commissioner, pursuant to paragraph (1)
4 of this subsection, determines that any amended or revised
5 provision of a model code is essential to carry out the intent and
6 purpose of this act as viewed in contrast to any corresponding
7 provision of the subcode then currently in effect, the commissioner
8 may then adopt that provision of the amended or revised model
9 code.

10 (3) The commissioner, in consultation with the code advisory
11 board, shall have the authority to review any model code or
12 standard currently in effect as a subcode of the State Uniform
13 Construction Code and compare it with previously adopted editions
14 of the same model code or standard in order to determine if the
15 subcode currently in effect is at least as consistent with the intent
16 and purpose of this act as were previously adopted editions of the
17 same model code or standard.

18 (4) In the event that the commissioner, after consultation with
19 the code advisory board, determines pursuant to this subsection that
20 a provision of a model code or standard currently in effect as a
21 subcode of the State Uniform Construction Code is less consistent
22 with the intent and purpose of P.L.1975, c.217 (C.52:27D-119 et
23 seq.) than was the corresponding provision of a previously adopted
24 edition of the same model code or standard, the commissioner may
25 delete the provision in effect and substitute in its place the
26 corresponding provision of the previously adopted edition of the
27 same model code or standard determined to be more consistent with
28 the intent and purpose of P.L.1975, c.217 (C.52:27D-119 et seq.).

29 (5) The commissioner shall be authorized to adopt a barrier free
30 subcode or to supplement or revise any model code adopted
31 hereunder, for the purpose of insuring that adequate and sufficient
32 features are available in buildings or structures so as to make them
33 accessible to and usable by persons with physical disabilities.
34 Multi-family residential buildings with four or more dwelling units
35 in a single structure shall be constructed in accordance with the
36 barrier free subcode; for the purposes of this subsection the term
37 "multi-family residential buildings with four or more dwelling units
38 in a single structure" shall not include buildings constructed as
39 townhouses, which are single dwelling units with two or more
40 stories of living space, exclusive of basement or attic, with most or
41 all of the sleeping areas on one story and with most of the
42 remaining habitable space, such as kitchen, living, and dining areas,
43 on another story, and with an independent entrance at or near grade
44 level.

45 c. Any municipality through its construction official, and any
46 State agency or political subdivision of the State, may submit an
47 application recommending to the commissioner that a State
48 sponsored code change proposal be adopted. Such application shall

1 contain such technical justification and shall be submitted in
2 accordance with such rules of procedure as the commissioner may
3 deem appropriate, except that whenever the State Board of
4 Education shall determine that enhancements to the code are
5 essential to the maintenance of a thorough and efficient system of
6 education, the enhancements shall be made part of the code;
7 provided that the amendments do not result in standards that fall
8 below the adopted subcodes. The Commissioner of Education shall
9 consult with the Commissioner of Community Affairs prior to
10 publishing the intent of the State Board to adopt any amendments to
11 the Uniform Construction Code. Upon adoption of any amendments
12 by the State Board of Education they shall be transmitted forthwith
13 to the Commissioner of Community Affairs who shall publish and
14 incorporate the amendments as part of the Uniform Construction
15 Code and the amendments shall be enforceable as if they had been
16 adopted by the commissioner.

17 At least 45 days prior to the final date for the submission of
18 amendments or code change proposals to the National Model Code
19 Adoption Agency, the code of which has been adopted as a subcode
20 under P.L.1975, c.217 (C.52:27D-119 et seq.), the commissioner
21 shall hold a public hearing in accordance with the "Administrative
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), at which
23 testimony on any application recommending a State sponsored code
24 change proposal will be heard.

25 The commissioner shall maintain a file of such applications,
26 which shall be made available to the public upon request and upon
27 payment of a fee to cover the cost of copying and mailing.

28 After public hearing, the code advisory board shall review any
29 such applications and testimony and shall within 20 days of such
30 hearing present its own recommendations to the commissioner.

31 The commissioner may adopt, reject, or return such
32 recommendations to the code advisory board for further
33 deliberation. If adopted, any such proposal shall be presented to the
34 subsequent meeting of the National Model Code Agency by the
35 commissioner or by persons designated by the commissioner as a
36 State sponsored code change proposal. Nothing herein, however,
37 shall limit the right of any municipality, the department, or any
38 other person from presenting amendments to the National Model
39 Code Agency on its own initiative.

40 The commissioner may adopt further rules and regulations
41 pursuant to this subsection and may modify the procedures herein
42 described when a model code change hearing has been scheduled so
43 as not to permit adequate time to meet such procedures.

44 d. (Deleted by amendment, P.L.1983, c.496.)
45 (cf: P.L.2017, c.131, s.191)

46

47 2. This act shall take effect immediately.

STATEMENT

This bill would require the Commissioner of Community Affairs to review the Oregon Solar Installation Specialty Code and, in consultation with the code advisory board and the Board of Public Utilities, propose a New Jersey Solar Installation Code based upon the Oregon code. The bill requires the commissioner to propose a New Jersey Solar Installation Code based upon the Oregon code within 90 days after this bill takes effect, and to adopt a New Jersey Solar Installation Specialty Code within 150 days after this bill takes effect. The sponsor believes that adoption of a New Jersey Solar Installation Code will reduce the “soft costs” of permitting and installing solar photovoltaic systems.

The Oregon Solar Installation Specialty Code includes:

- a prescriptive pathway to expedite permitting for solar installations that meet certain requirements,
- minimum structural requirements for the installation of photovoltaic components and support systems, and
- guidance for how local code enforcing agencies should process building permit applications and determine permit fees.

The Oregon solar code has substantially standardized the technical requirements that apply to building permits for solar projects in Oregon. Oregon’s solar code goes beyond the typical state code structure by prescribing requirements about the manner in which local jurisdictions process permits and the fees they can charge for inspecting solar installations.