

ASSEMBLY, No. 5838

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 3, 2021

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

SYNOPSIS

Establishes expedited construction plan review program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing a program for expedited plan review 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
9 with the code advisory board, shall promulgate rules and
10 regulations establishing standards, procedures, and other
11 requirements for an optional program providing expedited local
12 enforcing agency plan review.

13 (2) The local enforcing agency plan review program shall
14 provide that:

15 (a) a municipal governing body may participate in the program
16 by requiring its enforcing agency to conduct expedited plan
17 reviews;

18 (b) an owner of a project located in a municipality that is not
19 requiring its enforcing agency to conduct expedited plan reviews
20 may select a private plan review agency to conduct expedited plan
21 reviews;

22 (c) a business entity shall not conduct expedited plan reviews
23 unless licensed and authorized to do so by the department;

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

28 (e) an owner participating in the expedited plan review program
29 shall pay a premium in addition to all otherwise applicable fees; and

30 (f) plans submitted for expedited plan review, which plans
31 conform with the code, and with the requirements of other
32 applicable laws and ordinances, shall be reviewed and either
33 approved, in whole or in part, or denied within ten calendar days of
34 the date of their submission.

35 b. (1) A municipal governing body, in consultation with the
36 construction official of its enforcing agency, shall determine
37 whether the enforcing agency shall conduct expedited plan reviews
38 or whether an owner may retain a private plan review agency to
39 conduct expedited plan reviews. Regardless of whether expedited
40 plan reviews are conducted by an enforcing agency or a private plan
41 review agency, the enforcing agency shall retain the power and
42 responsibility over issuance of the certificate of occupancy under
43 section 15 of P.L.1975, c.217 (C.52:27D-133).

44 (2) The enforcing agency shall observe the progress of a
45 construction project receiving expedited plan reviews by a 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 plan review agency and shall retain jurisdiction over the project in
2 order to be responsive to inquiries from the general public and from
3 special interests, to the needs of the owner and the private plan
4 review agency, and to the obligations and requirements imposed by
5 the code.

6 (3) An owner applying to participate in the expedited plan
7 review program shall submit payment of all applicable fees,
8 together with an expedited plan review premium fee of \$500 for
9 each required plan review subcode area, to the enforcing agency
10 together with the application for a construction permit. If the
11 enforcing agency does not conduct expedited plan reviews, at the
12 time of submission of an application for a construction permit, the
13 owner shall identify the private plan review agency the owner has
14 selected to conduct expedited plan reviews. The enforcing agency
15 shall deliver payment of the expedited plan review premium fee to
16 the private plan review agency selected to conduct the expedited
17 plan review.

18 c. (1) The department shall establish a program for the
19 licensure and authorization of business entities as private plan
20 review agencies for the purpose of authorizing business entities to
21 contract with owners to conduct expedited plan reviews. No
22 business entity shall conduct expedited plan reviews or enter into
23 any contract to do so without first receiving the licensure and
24 authorization of the department. The department may impose and
25 collect fees from applicants for licensure and authorization under
26 this section.

27 (2) Licensure and authorization of a business entity as a private
28 plan review agency shall include, but not be limited to,
29 consideration of the qualifications of the management and technical
30 personnel of the business entity, the fiscal integrity of the business
31 entity, and the ability of the business entity to perform expedited
32 plan reviews within the requisite time frames in a manner sufficient
33 to ensure that the plan review is performed in accordance with the
34 code and with the requirements of other applicable laws and
35 ordinances.

36 (3) (a) The department may require a private plan review
37 agency to employ a sufficient number of personnel certified to
38 perform plan reviews under each subcode.

39 (b) The department may establish classes of license for private
40 plan review agencies based upon the number and type of subcode
41 certifications maintained by officers and employees of an agency.

42 (4) A private plan review agency shall not refer a plan review to
43 a plan reviewer unless the person is certified by the department in
44 the appropriate subcode.

45 (5) A private plan review agency shall be subject to the orders
46 and directives of the municipal construction official and the
47 department in matters relating to the enforcement of the code.

1 (6) A private plan review agency shall maintain records of all
2 plan reviews and any other information that may be required by the
3 municipal construction official or the department. These records
4 shall be open to department audit and shall not be destroyed or
5 removed from the offices of the private plan review agency without
6 the permission of the department.

7 (7) A private plan review agency shall not directly collect fees
8 from the owner, or any agent or employee of the owner. The
9 enforcing agency shall be the sole agent for the collection and
10 delivery of an expedited plan review premium fee to a private plan
11 review agency.

12 d. (1) Except as otherwise provided in this section, a private
13 plan review agency that has contracted to perform expedited plan
14 reviews for a project shall carry out its obligations under the
15 contract and applicable provisions of law until full completion of
16 the project, as evidenced by the enforcing agency's issuance of a
17 certificate of occupancy.

18 (2) A private plan review agency conducting expedited plan
19 reviews shall have all of the powers, and shall be subject to all of
20 the requirements, applicable to an enforcing agency with regard to
21 conducting plan reviews under P.L.1975, c.217 (C.52:27D-119 et
22 seq.), however, the private plan review agency shall be obligated to
23 conduct plan reviews in an expedited timeframe.

24 (3) A private plan review agency conducting expedited plan
25 reviews shall:

26 (a) maintain all plan review records applicable to each
27 construction permit;

28 (b) maintain an adequate number of certified staff to conduct
29 expedited plan reviews for all classes of structure consistent with
30 the private plan review agency's licensure and certification;

31 (c) provide adequate supervision of employees and ensure that
32 an employee is properly licensed and certified before conducting a
33 plan review;

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

35 (e) prepare and submit all required reports to the department and
36 the enforcing agency.

37

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

40 6. The commissioner shall have all the powers necessary or
41 convenient to effectuate the purposes of this act, including, but not
42 limited to, the following powers in addition to all others granted by
43 this act:

44 a. To adopt, amend and repeal, after consultation with the code
45 advisory board, rules: (1) relating to the administration and
46 enforcement of this act and (2) the qualifications or licensing, or
47 both, of all persons employed by enforcing agencies of the State to
48 enforce this act or the code, except that, plumbing inspectors shall

1 be subject to the rules adopted by the commissioner only insofar as
2 such rules are compatible with such rules and regulations, regarding
3 health and plumbing for public and private buildings, as may be
4 promulgated by the Public Health Council in accordance with Title
5 26 of the Revised Statutes.

6 b. To enter into agreements with federal and State of New
7 Jersey agencies, after consultation with the code advisory board, to
8 provide insofar as practicable (1) single-agency review of
9 construction plans and inspection of construction and (2)
10 intergovernmental acceptance of such review and inspection to
11 avoid unnecessary duplication of effort and fees. The commissioner
12 shall have the power to enter into such agreements although the
13 federal standards are not identical with State standards; provided
14 that the same basic objectives are met. The commissioner shall
15 have the power through such agreements to bind the State of New
16 Jersey and all governmental entities deriving authority therefrom.

17 c. To take testimony and hold hearings relating to any aspect of
18 or matter relating to the administration or enforcement of this act,
19 including but not limited to prospective interpretation of the code so
20 as to resolve inconsistent or conflicting code interpretations, and, in
21 connection therewith, issue **【subpena】 subpoena** to compel the
22 attendance of witnesses and the production of evidence. The
23 commissioner may designate one or more hearing examiners to hold
24 public hearings and report on such hearings to the commissioner.

25 d. To encourage, support or conduct, after consultation with the
26 code advisory board, educational and training programs for
27 employees, agents and inspectors of enforcing agencies, either
28 through the Department of Community Affairs or in cooperation
29 with other departments of State government, enforcing agencies,
30 educational institutions, or associations of code officials.

31 e. To study the effect of this act and the code to ascertain their
32 effect upon the cost of building construction and maintenance, and
33 the effectiveness of their provisions for insuring the health, safety,
34 and welfare of the people of the State of New Jersey.

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

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

43 (1) Plan review, construction permits, certificates of occupancy,
44 demolition permits, moving of building permits, elevator permits
45 and sign permits; and

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

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

2 h. To adopt, amend and repeal rules and regulations providing
3 for the charging of and setting the amount of construction permit
4 surcharge fees to be collected by the enforcing agency and remitted
5 to the department to support those activities which may be
6 undertaken with moneys credited to the Uniform Construction Code
7 Revolving Fund.

8 i. To adopt, amend and repeal rules and regulations providing
9 for:

10 (1) Setting the amount of and the charging of fees to be paid to
11 the department by a ~~private agency~~ business entity for the review
12 of applications for and the issuance of approvals authorizing a
13 ~~private agency~~ business entity to act as a private plan review
14 agency, an on-site inspection and plan review agency, or an in-plant
15 inspection agency;

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

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

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

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

33 l. To adopt, amend, and repeal rules and regulations
34 implementing the provisions of P.L.1999, c.15, P.L.2003, c.44, and
35 section 1 of P.L.2015, c.146 (C.52:27D-123f) concerning the
36 installation and maintenance of carbon monoxide sensors.

37 (cf: P.L.2015, c.146, s.2)

38

39 3. This act shall take effect in the first day of the fourth month
40 next following the date of enactment, however, the commissioner
41 shall immediately commence the process of promulgating rules and
42 regulations.

43

44

45 STATEMENT

46

47 This bill establishes an alternate expedited plan review process
48 under the State Uniform Construction Code Act. Under the bill, an

1 applicant for a construction permit may opt to pay a premium fee to
2 have review and approval of the plans and specifications submitted
3 together with the application for the permit performed on an
4 expedited basis, within ten calendar days of the date of submission
5 of the permit application. The premium fee would be \$500 for each
6 required plan review subcode area. The applicant would make this
7 option at the time of submitting a permit application. A
8 municipality may offer expedited plan reviews by its construction
9 code enforcing agency. If a municipality does not offer in-house
10 expedited plan reviews, a construction permit applicant may retain
11 any properly licensed private plan review agency to perform an
12 expedited plan review. Because the local enforcing agency would
13 retain supervisory control over the construction project, and retain
14 the obligation and authority to issue the certificate of occupancy
15 upon completion of the project, the bill provides for a bifurcation of
16 the construction permit fees. Under the bill, a local enforcing
17 agency would retain the generally applicable fees and the private
18 plan review agency would receive the expedited plan review
19 premium fee. The bill requires and empowers the Department of
20 Community Affairs to develop and implement rules and regulations
21 establishing program details, which would include a licensure
22 program for businesses that want to privately perform expedited
23 plan reviews.