

SENATE, No. 333

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

SYNOPSIS

Requires DCA to authorize municipalities to impose highly-enhanced energy conservation construction requirements.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** promoting energy efficient construction and amending
2 P.L.2009, c.106 and 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 1 of P.L.2009, c.106 (C.52:27D-122.2) is amended
8 to read as follows:

9 1. The Legislature hereby finds and declares:

10 a. It is the public policy of this State to encourage and facilitate
11 the construction of energy-efficient buildings which are designed
12 and built to reduce overall energy demand.

13 b. While energy-efficient buildings may cost more to construct,
14 the payback period to recoup the added investment is only a few
15 years.

16 c. Energy savings can be most fully realized when incorporated
17 into new construction from the beginning.

18 d. It is therefore necessary and appropriate that the
19 Commissioner of Community Affairs, in consultation with the
20 Board of Public Utilities, adopt energy-efficient building codes that
21 may exceed the requirements of national model codes; and which
22 authorize each municipality to require new buildings within its
23 jurisdiction to comply with enhanced energy conservation
24 construction requirements that exceed those generally applicable
25 within New Jersey, but which are consistent with energy efficiency
26 standards adopted by a jurisdiction outside of New Jersey.

27 (cf: P.L.2009, c.106, s.1)

28

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

31 5. a. The commissioner shall after public hearing pursuant to
32 section 4 of the "Administrative Procedure Act," P.L.1968, c.410
33 (C.52:14B-4) adopt a State Uniform Construction Code for the
34 purpose of regulating the structural design, construction,
35 maintenance, and use of buildings or structures to be erected and
36 alteration, renovation, rehabilitation, repair, maintenance, removal,
37 or demolition of buildings or structures already erected. Prior to the
38 adoption of said code, the commissioner shall consult with the code
39 advisory board and other departments, divisions, bureaus, boards,
40 councils, or other agencies of State Government heretofore
41 authorized to establish or administer construction regulations.

42 Such prior consultations with departments, divisions, bureaus,
43 boards, councils, or other agencies of State Government shall
44 include but not be limited to consultation with the Commissioner of
45 Health and the Public Health Council prior to adoption of a

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 plumbing subcode pursuant to paragraph b. of this section. Said
2 code shall include any code, rule, or regulation incorporated therein
3 by reference.

4 b. The code shall be divided into subcodes which may be
5 adopted individually by the commissioner as the commissioner may
6 from time to time consider appropriate. These subcodes shall
7 include but not be limited to a building code, a plumbing code, an
8 electrical code, an energy code, a fire prevention code, a
9 manufactured or mobile home code, and a mechanical code.

10 These subcodes, except for the energy subcode, shall be
11 adoptions of the model codes of the Building Officials and Code
12 Administrators International, Inc., the National Electrical Code, and
13 the National Standard Plumbing Code, provided that for good
14 reasons, the commissioner may adopt as a subcode, a model code or
15 standard of some other nationally recognized organization upon a
16 finding that such model code or standard promotes the purposes of
17 P.L.1975, c.217 (C.52:27D-119 et seq.). The initial adoption of a
18 model code or standard as a subcode shall constitute adoption of
19 subsequent edition year publications of the model code or standard
20 of such other nationally recognized organization, except as provided
21 for in paragraphs (1) through (4) of this subsection. Adoption of
22 publications shall not occur more frequently than once every three
23 years; provided, however, that a revision or amendment may be
24 adopted at any time in the event that the commissioner finds that
25 there exists an imminent peril to the public health, safety, or
26 welfare.

27 The energy subcode shall be based upon the model codes cited
28 under this subsection or the International Energy Conservation
29 Code. It may be amended or supplemented by the commissioner
30 once before 2012 without regard to intervals between the adoption
31 of the energy subcode in effect on the effective date of P.L.2009,
32 c.106 (C.52:27D-122.2 et al.) and subsequent year revisions of that
33 subcode. In amending or supplementing the energy subcode, the
34 commissioner shall rely upon 10-year energy price projections
35 provided by an institution of higher education within one year
36 following the effective date of P.L.2009, c.106 (C.52:27D-
37 122.2 et al.), and thereafter at three-year intervals. In developing
38 the energy price projections, the institution of higher education
39 shall consult with the Board of Public Utilities. The commissioner
40 shall be authorized to amend the energy subcode to establish
41 enhanced energy conservation construction requirements, the added
42 cost of each of which may reasonably be recovered through energy
43 conservation over a period of not more than seven years. Such
44 requirements shall include provisions to ensure that, in all parts of
45 the State the anticipated energy savings shall be similarly
46 proportionate to the additional costs of energy subcode compliance.

1 Within 90 days of the effective date of P.L. , c (pending
2 before the Legislature as this bill), the commissioner shall
3 undertake and complete a comprehensive review of energy
4 efficiency standards for new construction of residential and
5 commercial buildings that have been adopted by, and are applicable
6 within, jurisdictions outside of New Jersey and, in consultation with
7 the code advisory board and the Board of Public Utilities, propose a
8 supplement to the energy subcode that authorizes each municipality
9 to impose upon new construction of residential buildings,
10 commercial buildings, or both residential and commercial buildings
11 within its jurisdiction, alternate, highly-enhanced energy
12 conservation construction requirements that exceed the enhanced
13 energy conservation construction requirements generally applicable
14 to new construction within New Jersey pursuant to this subsection,
15 but which are consistent with energy efficiency standards adopted
16 by a jurisdiction outside of New Jersey. The commissioner shall
17 adopt the supplement to the energy subcode provided for in this
18 paragraph within 150 days of the effective date of
19 P.L. , c (pending before the Legislature as this bill).
20 Each subsequent readoption, amendment, revision, or supplement of
21 the energy subcode undertaken after the effective date
22 of P.L. , c (pending before the Legislature as this bill), shall
23 include a comprehensive review of energy efficiency standards for
24 new construction of residential and commercial buildings adopted
25 by, and applicable within, jurisdictions outside of New Jersey at
26 that time, and shall authorize each municipality to impose upon new
27 construction of residential buildings, commercial buildings, or both
28 residential and commercial buildings within its jurisdiction,
29 alternate, highly-enhanced energy conservation construction
30 requirements that exceed those generally applicable to new
31 construction within New Jersey, but which are consistent with
32 energy efficiency standards adopted by a jurisdiction outside of
33 New Jersey.

34 (1) Except as otherwise provided in this subsection, the edition
35 of a model code or standard in effect as a subcode as of July 1, 1995
36 shall continue in effect regardless of any publication of a
37 subsequent edition of that model code or standard. Prior to
38 establishing the effective date for any subsequent revision or
39 amendment of any model code or standard adopted as a subcode,
40 the commissioner shall review, in consultation with the code
41 advisory board, the text of the revised or amended model code or
42 standard and determine whether the amended or revised provisions
43 of the model code are essential to carry out the intent and purpose
44 of P.L.1975, c.217 (C.52:27D-119 et seq.) as viewed in contrast to
45 the corresponding provisions of the subcode then currently in effect.

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

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

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

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

44 c. Any municipality through its construction official, and any
45 State agency or political subdivision of the State, may submit an
46 application recommending to the commissioner that a State
47 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 3. This act shall take effect immediately.

STATEMENT

This bill would require the Commissioner of Community Affairs to undertake and complete a comprehensive review of energy efficiency standards for new construction that have been adopted by jurisdictions outside of New Jersey, and authorize each New Jersey municipality to require new buildings being constructed within its jurisdiction to be built in accordance with enhanced energy conservation construction standards that exceed the energy conservation construction standards generally applicable within New Jersey, if the standards are consistent with energy efficiency standards adopted by a jurisdiction outside of New Jersey. The bill directs the commissioner to consult with the code advisory board and the Board of Public Utilities in developing the proposed supplement to the energy subcode.

The bill would require the commissioner to complete the comprehensive review and propose a supplement to the energy subcode authorizing municipalities to adopt enhanced energy conservation construction requirements that exceed the standards generally applicable in New Jersey within 90 days of the effective date of this bill. The bill requires the commissioner to adopt the supplement to the energy subcode within 150 days of the effective date of the bill.

The bill provides that in the future, each time the State readopts, amends, revises, or supplements the energy subcode, the commissioner must conduct a comprehensive review of energy efficiency construction standards then in place within jurisdictions outside of New Jersey, and authorize each New Jersey municipality to adopt those energy conservation construction standards for new construction within its jurisdiction.

While New Jersey has long had a statewide Uniform Construction Code, other states allow municipalities to impose standards for new buildings that exceed their state code requirements. This bill would allow municipalities interested in developing in accordance with energy efficiency standards that exceed New Jersey's statewide standards to require new construction to comply with higher accepted standards. The bill would allow a municipality to impose heightened energy efficiency standards on new construction of residential buildings, commercial buildings, or both residential and commercial buildings within its jurisdiction.