

SENATE, No. 1998

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 5, 2020

Sponsored by:
Senator VIN GOPAL
District 11 (Monmouth)

SYNOPSIS

Clarifies proper authority to administer and enforce State construction code.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT clarifying the proper authority to administer and enforce
2 the State construction code and amending P.L.1975, c.217.

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

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7 1. Section 11 of P.L.1975, c.217 (C.52:27D-129) is amended to
8 read as follows:

9 11. **State buildings and buildings of interstate agencies;**
10 outdoor advertising signs on public property.】 a. (1)
11 Notwithstanding any other provision of P.L.1975, c.217 (C.52:27D-
12 119 et seq.) **【,】** :

13 (a) the Department of Community Affairs shall have authority
14 to administer and enforce the code in regard to buildings and
15 structures owned by the State, and **【any of】** its departments,
16 divisions, bureaus, boards, councils, authorities or other agencies **【;**
17 provided, however, that the Division of Building and Construction
18 in the Department of the Treasury shall have authority to conduct
19 field inspections for the purpose of enforcing the code in buildings
20 built under its supervision. The Division of Building and
21 Construction shall be authorized to review plans and undertake
22 construction if the Department of Community Affairs cannot
23 approve plans within the 20-day period provided for in P.L.1975,
24 c.217**】**;

25 (b) the local enforcing agency of a municipality shall have
26 authority to administer and enforce the code with regard to
27 buildings and structures owned by the municipality;

28 (c) the authority to administer and enforce the code with regard
29 to buildings and structures owned by the federal government shall
30 be determined under federal law and agreements entered into
31 pursuant to subsection b. of section 6 of P.L.1975, c.217
32 (C.52:27D-124);

33 (d) the authority to administer and enforce the code with regard
34 to a building or structure owned by a public entity and leased to
35 either a private entity or to another public entity, or owned by a
36 private entity and leased to a public entity, shall be determined on
37 the basis of which entity has the responsibility to maintain the
38 building or structure, and has the authority to undertake a
39 construction project at the building or structure.

40 (2) (a) If a public entity is the lessee of a building or structure
41 but has neither the responsibility to maintain the building or
42 structure nor the authority to undertake a construction project at the
43 building or structure, the determination of the appropriate authority
44 to administer and enforce the code with regard to the building or
45 structure shall be based upon the status of the owner of the building
46 or structure.

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 **(b) If a public entity is the lessee of a building or structure**
2 **owned by a private entity but the public entity exerts substantial**
3 **control over the building or structure, the determination of the**
4 **appropriate authority to administer and enforce the code with regard**
5 **to the building or structure shall be based upon the status of the**
6 **lessee of the building or structure.**

7 **(c) If a public entity owns a building or structure, leases the**
8 **building or structure to a private entity, and provides the private**
9 **entity the responsibility to maintain the building or structure and the**
10 **authority to undertake a construction project at the building or**
11 **structure, the determination of the appropriate authority to**
12 **administer and enforce the code with regard to the building or**
13 **structure shall be based upon the status of the lessee.**

14 **(d) If a building or structure is owned by one entity and the land**
15 **on which it is constructed is owned by another entity, the**
16 **determination of the appropriate authority to administer and enforce**
17 **the code with regard to the building or structure shall be based upon**
18 **the status of the owner of the building or structure, not the owner of**
19 **the land.**

20 **(3) In an emergency or cost savings situation, the commissioner**
21 **may delegate, by rule, the authority to conduct field inspections for**
22 **the purpose of enforcing the code. [The Division of Building and**
23 **Construction and any] A public or private agency [which receives**
24 **such a delegation] delegated to conduct field inspections pursuant**
25 **to this section** shall carry out **[any review or inspection]** **its**
26 responsibilities with persons certified by the Commissioner of
27 Community Affairs pursuant to the provisions of P.L.1975, c.217.

28 **(4) The Department of Community Affairs shall have ultimate**
29 **responsibility for insuring that all buildings conform to the**
30 **requirements of the code.**

31 b. Construction, alteration, renovation, rehabilitation, repair,
32 removal or demolition of any building or structure situated wholly
33 within New Jersey by or for an agency created by an interstate
34 compact to which the State of New Jersey is a party shall be subject
35 to the provisions of the code; provided that such interstate agency
36 shall have exclusive authority to administer and enforce the code in
37 regard to such buildings and structures.

38 c. Notwithstanding any other provision of law, rule or
39 regulation to the contrary, except for signs which advertise or
40 otherwise identify activities performed on the property on which the
41 sign is located, the Department of Community Affairs shall be the
42 sole enforcing agency with regard to outdoor advertising signs
43 which exceed 32 square feet in area on any face and which are
44 located on land owned or controlled by any public entity, including
45 but not limited to any State, county or local department, agency,
46 board, commission, authority or instrumentality.

47 (cf: P.L.2004, c.42, s.10)

1 2. This act shall take effect immediately.

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STATEMENT

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6 This bill would clarify the proper authority to administer and
7 enforce the State construction code under various circumstances.
8 Because of confusion over which entity is the appropriate authority
9 to issue permits and conduct inspections of a building or structure
10 that is either owned by a governmental entity and leased to a private
11 entity or to another governmental entity, or owned by a private
12 entity and leased to a governmental entity, the Department of
13 Community Affairs issued Bulletin 93-2. This bill would codify
14 Bulletin 93-2.

15 Under the bill, the local enforcing agency of a municipality has
16 the authority to administer and enforce the code with regard to
17 buildings and structures owned by the municipality. The authority
18 to administer and enforce the code with regard to buildings and
19 structures owned by the federal government are determined under
20 federal law and agreements entered into between the Commissioner
21 of Community Affairs and federal government agencies.

22 As a general matter, the bill provides that the proper authority to
23 administer and enforce the code if a building or structure
24 undergoing construction is owned by a public entity and leased to
25 either a private entity or to another public entity, or owned by a
26 private entity and leased to a public entity, is determined on the
27 basis of whether the public entity retains the responsibility to
28 maintain the building or structure and the authority to undertake a
29 construction project at the building or structure.

30 The bill specifically addresses four possible circumstances
31 involving leased buildings and structures:

32 1. If a public entity is the lessee of a building or structure but
33 has neither the responsibility to maintain the building or structure
34 nor the authority to undertake a construction project at the building
35 or structure, the determination of the appropriate authority to
36 administer and enforce the code with regard to the building or
37 structure is based upon the status of the owner of the building or
38 structure.

39 2. If a public entity is the lessee of a building or structure
40 owned by a private entity but the public entity exerts substantial
41 control over the building or structure, the determination of the
42 appropriate authority to administer and enforce the code with regard
43 to the building or structure is based upon the status of the lessee of
44 the building or structure.

45 3. If a public entity owns a building or structure, leases the
46 building or structure to a private entity, and provides the private
47 entity the responsibility to maintain the building or structure and the
48 authority to undertake a construction project at the building or

1 structure, the determination of the appropriate authority to
2 administer and enforce the code with regard to the building or
3 structure is based upon the status of the lessee.

4 4. If a building or structure is owned by one entity and the land
5 on which it is constructed is owned by another entity, the
6 determination of the appropriate authority to administer and enforce
7 the code with regard to the building or structure is based upon the
8 status of the owner of the building or structure, not the owner of the
9 land.