

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 573

STATE OF NEW JERSEY
220th LEGISLATURE

ADOPTED OCTOBER 20, 2022

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SYNOPSIS

Provides for expedited construction inspections.

CURRENT VERSION OF TEXT

As reported by the Assembly Community Development and Affairs
Committee on December 5, 2022, with amendments.

(Sponsorship Updated As Of: 12/19/2022)

1 AN ACT concerning inspections under the construction code and
2 amending P.L.1975, c.217 and P.L.1999, c.440.

3

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

6

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

9 6. The commissioner shall have all the powers necessary or
10 convenient to effectuate the purposes of **[this act]** P.L.1975, c.217
11 (C.52:27D-119 et seq.), including, but not limited to, the following
12 powers in addition to all others granted by **[this act]** P.L.1975,
13 c.217 (C.52:27D-119 et seq.):

14 a. To adopt, amend and repeal, after consultation with the code
15 advisory board, rules: (1) relating to the administration and
16 enforcement of **[this act]** P.L.1975, c.217 (C.52:27D-119 et
17 seq.) and (2) the qualifications or licensing, or both, of all persons
18 employed by enforcing agencies of the State to enforce **[this**
19 **act]** P.L.1975, c.217 (C.52:27D-119 et seq.) or the code, except
20 that, plumbing inspectors shall be subject to the rules adopted by
21 the commissioner only insofar as such rules are compatible with
22 such rules and regulations, regarding health and plumbing for
23 public and private buildings, as may be promulgated by the Public
24 Health Council in accordance with Title 26 of the Revised Statutes.

25 b. To enter into agreements with federal and State of New Jersey
26 agencies, after consultation with the code advisory board, to
27 provide insofar as practicable (1) single-agency review of
28 construction plans and inspection of construction and (2)
29 intergovernmental acceptance of such review and inspection to
30 avoid unnecessary duplication of effort and fees. The commissioner
31 shall have the power to enter into such agreements although the
32 federal standards are not identical with State standards; provided
33 that the same basic objectives are met. The commissioner shall
34 have the power through such agreements to bind the State of New
35 Jersey and all governmental entities deriving authority therefrom.

36 c. To take testimony and hold hearings relating to any aspect of
37 or matter relating to the administration or enforcement of **[this**
38 **act]** P.L.1975, c.217 (C.52:27D-119 et seq.), including but not
39 limited to prospective interpretation of the code so as to resolve
40 inconsistent or conflicting code interpretations, and, in connection
41 therewith, issue **[subpena]** subpoenas to compel the attendance of
42 witnesses and the production of evidence. The commissioner may
43 designate one or more hearing examiners to hold public hearings
44 and report on such hearings to the commissioner.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACD committee amendments adopted December 5, 2022.

1 d. To encourage, support or conduct, after consultation with the
2 code advisory board, educational and training programs for
3 employees, agents and inspectors of enforcing agencies, either
4 through the Department of Community Affairs or in cooperation
5 with other departments of State government, enforcing agencies,
6 educational institutions, or associations of code officials.

7 e. To study the effect of **[this act]** P.L.1975, c.217 (C.52:27D-
8 119 et seq.) and the code to ascertain their effect upon the cost of
9 building construction and maintenance, and the effectiveness of
10 their provisions for insuring the health, safety, and welfare of the
11 people of the State of New Jersey.

12 f. To make, establish and amend, after consultation with the
13 code advisory board, such rules as may be necessary, desirable or
14 proper to carry out his powers and duties under **[this act]** P.L.1975,
15 c.217 (C.52:27D-119 et seq.).

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

21 (1) Plan review, construction permits, certificates of occupancy,
22 demolition permits, moving of building permits, elevator permits
23 and sign permits; and

24 (2) Review of applications for and the issuance of licenses
25 certifying an individual's qualifications to act as a construction code
26 official, subcode official or assistant under **[this act]** P.L.1975,
27 c.217 (C.52:27D-119 et seq.).

28 (3) (Deleted by amendment, P.L.1983, c.338) **['.]'**

29 h. To adopt, amend and repeal rules and regulations providing
30 for the charging of and setting the amount of construction permit
31 surcharge fees to be collected by the enforcing agency and remitted
32 to the department to support those activities which may be
33 undertaken with moneys credited to the Uniform Construction Code
34 Revolving Fund.

35 i. To adopt, amend and repeal rules and regulations providing
36 for:

37 (1) Setting the amount of and the charging of fees to be paid to
38 the department by a private agency for the review of applications
39 for and the issuance of approvals authorizing a private agency to act
40 as an on-site inspection and plan review agency, a private on-site
41 inspection agency, including a supplemental private on-site
42 inspection agency, or an in-plant inspection agency;

43 (2) (Deleted by amendment, P.L.2005, c.212) **['.]'**

44 (3) (Deleted by amendment, P.L.2005, c.212) **['.]'**

45 j. To enforce and administer the provisions of the "State
46 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119
47 et seq.) and the code promulgated thereunder, and to prosecute or

1 cause to be prosecuted violators of the provisions of that act or the
2 code promulgated thereunder in administrative hearings and in civil
3 proceedings in State and local courts.

4 k. To monitor the compliance of local enforcing agencies with
5 the provisions of the "State Uniform Construction Code Act,"
6 P.L.1975, c.217 (C.52:27D-119 et seq.), to order corrective action ,
7 or issue penalties, as may be necessary where a local enforcing
8 agency is found to be failing to carry out its responsibilities under
9 that act, to supplant or replace the local enforcing agency for a
10 specific project, and to order it dissolved and replaced by the
11 department where the local enforcing agency repeatedly or
12 habitually fails to enforce the provisions of the "State Uniform
13 Construction Code Act." This shall include the power to compel an
14 enforcing agency to ¹, within 15 business days,¹ notify the
15 department of any instance where the enforcing agency is unable to
16 meet a deadline or other obligation imposed by law or regulation,
17 and the power to order corrective action or issue penalties as may
18 be necessary where an enforcing agency is unable to meet its
19 obligations under P.L.1975, c.217 (C.52:27D-119 et seq.).

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

25
26 2. Section 14 of P.L.1975, c.217 (C.52:27D-132) is amended to
27 read as follows:

28 14. a. The enforcing agency shall periodically inspect all
29 construction undertaken pursuant to a construction permit issued by
30 it to **insure** ensure that the construction or alteration is performed
31 in accordance with the conditions of the construction permit and
32 consistent with the requirements of the code and any ordinance
33 implementing said code.

34 b. The owner of any premises upon which a building or structure
35 is being constructed shall be deemed to have consented to the
36 inspection by the enforcing agency and the department, of the entire
37 premises and of any and all construction being performed on it until
38 a certificate of occupancy has been issued. An inspector, or team of
39 inspectors, on presentation of proper credentials, shall have the
40 right to enter and inspect such premises, and any and all
41 construction thereon, for purposes of ensuring compliance with the
42 provisions of the applicable construction permit, the code, and other
43 applicable laws and regulations. All inspection pursuant to **this**
44 **act** P.L.1975, c.217 (C.52:27D-119 et seq.) shall be between the
45 hours of 9 a.m. and 5 p.m. on business days or at another time that
46 has been agreed upon by the owner and the relevant inspecting
47 entity, whether the enforcing agency, department, or private on-site
48 inspection agency, or when construction is actually being

1 undertaken, provided, however, that inspections may be conducted
2 at other times if the enforcing agency has reasonable cause to
3 believe that an immediate danger to life, limb or property exists, or
4 if permission is given by an owner, or **his** the owner's agent,
5 architect, engineer or builder. No person shall accompany an
6 inspector or team of inspectors on any inspection pursuant to **this**
7 **act** P.L.1975, c.217 (C.52:27D-119 et seq.), unless **his** the
8 person's presence is necessary for the enforcement of **this**
9 **act** P.L.1975, c.217 (C.52:27D-119 et seq.), or the code, or unless
10 consent is given by an owner or **his** the owner's agent, architect,
11 engineer or builder.

12 c. If the construction of a structure or building is being
13 undertaken contrary to the provisions of a construction permit, **this**
14 **act** P.L.1975, c.217 (C.52:27D-119 et seq.), the code, or other
15 applicable laws or ordinances, the enforcing agency may issue a
16 stop construction order in writing which shall state the conditions
17 upon which construction may be resumed and which shall be given
18 to the owner or the holder of the construction permit or to the
19 person performing the construction. If the person doing the
20 construction is not known, or cannot be located with reasonable
21 effort, the notice may be delivered to the person in charge of, or
22 apparently in charge of, the construction. No person shall continue,
23 or cause or allow to be continued, the construction of a building or
24 structure in violation of a stop construction order, except with the
25 permission of the enforcing agency to abate a dangerous condition
26 or remove a violation, or except by court order. If an order to stop
27 construction is not obeyed, the enforcing agency may apply to the
28 appropriate court as otherwise established by law for an order
29 enjoining the violation of the stop construction order. The remedy
30 for violation of such an order provided in this subsection shall be in
31 addition to, and not in limitation of, any other remedies provided by
32 law or ordinance.

33 d. When an inspector or team of inspectors finds a violation of
34 the provisions of a construction permit, the code, or other applicable
35 laws and regulations at an owner-occupied single-family residence,
36 and issues a notice of violation and an order to terminate the
37 violation, the enforcing agency shall require the same inspector or
38 team of inspectors who found the violation to undertake any
39 subsequent reinspection thereof at the premises. When the same
40 inspector or team of inspectors cannot be assigned to undertake the
41 reinspection, the enforcing agency may assign an available
42 inspector provided the scope of the reinspection shall be limited to
43 the violation for which the reinspection is required. The
44 requirements of this subsection shall not apply to violations of the
45 plumbing or electrical subcodes, or to fire safety code violations, or
46 to any violation of any other subcode that the Department of
47 Community Affairs determines to be a health or safety

1 violation. Nothing in this subsection shall be construed to infringe
2 upon the right of a property owner to request a different inspector,
3 team of inspectors, or supervisor, to perform any required
4 reinspection.

5 e. The owner, agent, or other responsible person in charge of
6 work shall notify the enforcing agency when the work is ready for
7 any required inspection under the code. This notice shall be given
8 in writing at least 24 hours prior to the date and time requested for
9 the inspection. The enforcing agency shall perform an inspection
10 within three business days of the date for which the inspection is
11 requested. The owner, agent, or other responsible person in charge
12 of work may provide oral notice for inspections of minor work
13 projects, as defined by the code.

14 (1) The owner, agent, or other responsible person in charge of
15 work shall be present and prepared at the time of any inspection that
16 has been scheduled upon the owner, agent, or other responsible
17 person's request. A failure by the owner, agent, or other
18 responsible person in charge of work to be present and prepared for
19 '[such]' inspection shall be considered a failed inspection.

20 (2) If the enforcing agency is unable to perform a requested
21 inspection within three business days of the date for which the
22 inspection is requested, the enforcing agency shall inform the
23 owner, agent, or other responsible person in charge of work in
24 writing within 24 hours of receiving the request, at which time the
25 enforcing agency and the owner, agent, or other responsible person
26 in charge of work may agree to a different date and time for
27 inspection. The enforcing agency shall commit the agreed upon
28 inspection date to writing and provide a copy to the owner, agent, or
29 other responsible person in charge of work.

30 (3) If the enforcing agency is unable to perform the requested
31 inspection within three business days of the date for which the
32 inspection is requested and the enforcing agency and the owner,
33 agent, or responsible person in charge of work are unable to come
34 to an agreement pursuant to paragraph (2) of this subsection, the
35 owner, agent, or other responsible person in charge of work may
36 choose to contract with a private on-site inspection agency
37 authorized by the department to conduct on-site inspections
38 pursuant to paragraph i. of section 6 of P.L.1975, c.217 (C.52:27D-
39 124) to perform the '[required] requested' inspection or
40 inspections.

41 (a) The owner, agent, or other responsible person in charge of
42 work shall notify the enforcing agency in writing of any choice to
43 utilize an authorized private on-site inspection agency to conduct
44 the '[required] requested' inspection or inspections.

45 (b) The owner, agent, or other responsible person in charge of
46 work may elect to utilize the private on-site inspection agency to
47 conduct all '[required] subsequent associated' inspections '[on

1 associated blocks and lots¹. In the event of a project with multiple
2 units in one building, this ¹authorization provision¹ shall apply to
3 ¹all units encompassed in the project¹ the specific unit or units
4 affected by the inspection delay¹.

5 (c) The use of a private on-site inspection agency by an owner,
6 agent, or other responsible person for on-site inspections shall be
7 subject to the conflict-of-interest provisions in the code. In addition
8 to those requirements, no private on-site inspection agency shall
9 perform an inspection for any owner, agent, or other responsible
10 person in charge of work, if an owner, agent, or other responsible
11 person is currently employed by or affiliated with any individual
12 affiliated with the private on-site inspection agency or has
13 employed or was associated with an individual affiliated with the
14 private on-site inspection agency within a timeframe established by
15 the commissioner by regulation.

16 (d) The enforcing agency shall, if warranted, provide a fee
17 reconciliation to the owner for an inspection completed by a private
18 on-site inspection agency as a result of a missed inspection. The
19 enforcing agency shall perform the reconciliation at the conclusion
20 of the project. This reconciliation shall be based on the fees
21 ¹already paid less administrative costs for the enforcing agency and
22 shall not exceed the amount already paid for the project, nor shall it
23 exceed the amount¹ that the enforcing agency is authorized to
24 impose for inspections, and shall take into account the
25 administrative costs of the enforcing agency.

26 ¹(4) If the owner, agent, or other responsible person in charge of
27 work believes an enforcing agency has demonstrated a repeated
28 inability to conduct inspections for a construction project within the
29 timelines required by this section, as established by the
30 commissioner by regulation, the owner, agent, or other responsible
31 person in charge of work may notify the department in writing to
32 request authorization to utilize an authorized private on-site
33 inspection agency. Within 15 business days of receiving a
34 notification under this paragraph, the department shall determine
35 whether the enforcing agency has demonstrated repeated inability,
36 and, if the department determines, shall authorize the owner, agent,
37 or other responsible person in charge of work to utilize an
38 authorized private on-site inspection agency for all or a portion of
39 the necessary inspections for the remainder of the project.¹

40 f. Each enforcing agency shall establish a process for ensuring
41 inspections are performed within three business days of a requested
42 inspection date, as required by subsection e. of this section.
43 Authorized processes include, but are not limited to, the use of
44 supplemental shared services agreements with other municipalities
45 or enforcing agencies or the use of contracted private on-site
46 inspection agencies, including supplemental private on-site
47 inspection agencies¹[.]¹.

1 g. ¹["In accordance with the "Administrative Procedure Act,"
2 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall adopt
3 rules and regulations to effectuate the provisions of P.L. _____,
4 c. (C. _____) (pending before the Legislature as this bill), including
5 rules which provide for: the use of supplemental shared services
6 agreements, the authorization of private on-site inspection agencies
7 by the department to conduct on-site inspections, and the use of
8 private on-site inspection agencies by municipalities and enforcing
9 agencies. In addition to the activity described in subparagraph (b)
10 of paragraph (3) of subsection e. of this section, the rules and
11 regulations shall allow an enforcing agency to:

12 (1) enter into supplemental shared service agreements or
13 contracts with a supplemental private on-site inspection agency to
14 conduct on-site inspections for the purpose of meeting all required
15 inspection timeframes;

16 (2) enter into agreements with private on-site inspection
17 agencies to conduct on-site inspections on a project-specific basis;
18 and

19 (3) authorize the owner, agent, or other authorized person in
20 charge of work to directly contract with an authorized private on-
21 site inspection agency to perform all inspections on a project-
22 specific basis.

23 h.]¹ (1) At timeframes established by the commissioner by
24 regulation, adopted in accordance with the "Administrative
25 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the
26 municipal construction official shall submit an annual report
27 detailing compliance with the code. The report shall include, at a
28 minimum information related to the staffing, staff titles, and
29 expenses of the enforcing agency, in addition to any other
30 information required by the commissioner. The annual report shall
31 take into account projected work and agency resource needs for the
32 next budget year.

33 (2) A municipality that enters into a contract for supplemental
34 services ¹["utilized"] pursuant to subsection f. of this section shall
35 provide a copy of the contract to the department upon entering into
36 the contract.

37 (3) The information required by paragraphs (1) and (2) of this
38 subsection, in addition to the inspection log, the municipal monthly
39 activity reports, and the fee schedule shall be maintained by the
40 municipal construction official or enforcing agency, and the
41 municipal construction official or enforcing agency shall make the
42 information and documents described in this paragraph available to
43 the department upon request.

44 (4) The department may utilize the information provided
45 pursuant to this subsection to determine appropriate staffing levels
46 for the enforcing agency. If the department determines that an
47 enforcing agency has not maintained appropriate staffing levels, the

1 department may require the municipality to take corrective actions
2 to ensure that the enforcing agency's staffing needs are met.

3 (5) The department may take corrective action, including the
4 issuance of penalties, pursuant to subsection k. of section 6 of
5 P.L.1975, c.217 (C.52:27D-124), if ¹[a] an¹ enforcing agency fails
6 to maintain or provide the information required by this subsection
7 or maintain appropriate staffing levels, as determined by the
8 department pursuant to paragraph (4) of this subsection.

9 ¹[i.] h.¹ If an enforcing agency is unable to meet its obligations
10 under P.L.1975, c.217 (C.52:27D-119 et seq.), the enforcing agency
11 shall promptly notify the department ¹within 15 business days¹.
12 The department may take corrective action, including the issuance
13 of penalties, pursuant to subsection k. of section 6 of P.L.1975,
14 c.217 (C.52:27D-124) if an enforcing agency fails to meet its
15 obligations under P.L.1975, c.217 (C.52:27D-119 et seq.).

16 (cf: P.L.2007, c.149, s.1)

17

18 3. Section 1 of P.L.1999, c.440 (C.40A:11-4.1) is amended to
19 read as follows:

20 1. Notwithstanding the provisions of any law, rule, or
21 regulation to the contrary, competitive contracting may be used by
22 local contracting units in lieu of public bidding for procurement of
23 specialized goods and services the price of which exceeds the bid
24 threshold, for the following purposes:

25 a. The purchase or licensing of proprietary computer software
26 designed for contracting unit purposes, which may include
27 hardware intended for use with the proprietary software. This
28 subsection shall not be utilized for the purpose of acquiring general
29 purpose computer hardware or software;

30 b. The hiring of a for-profit entity or a not-for-profit entity
31 incorporated under Title 15A of the New Jersey Statutes for the
32 purpose of:

33 (1) the operation and management of a wastewater treatment
34 system, a stormwater management system, or a water supply or
35 distribution facility of the type described in subsection (37) of
36 section 15 of P.L.1971, c.198 (C.40A:11-15), provided that
37 competitive contracting shall not be used as a means of awarding
38 contracts pursuant to P.L.1985, c.37 (C.58:26-1 et al.) and
39 P.L.1985, c.72 (C.58:27-1 et al.);

40 (2) the operation, management or administration of recreation or
41 social service facilities or programs, which shall not include the
42 administration of benefits under the Work First New Jersey
43 program established pursuant to P.L.1997, c.38 (C.44:10-55 et
44 seq.), or under General Assistance;

45 (3) the operation, management or administration of data
46 processing services; or

- 1 (4) the operation and management of a county hospital pursuant
2 to the "Local Hospital Authority Law," P.L.2006, c.46 (C.30:9-
3 23.15 et al.);
- 4 c. (Deleted by amendment, P.L.2009, c.4)¹**[.]**¹
- 5 d. Homemaker--home health services;
- 6 e. Laboratory testing services;
- 7 f. Emergency medical services;
- 8 g. Contracted food services;
- 9 h. Performance of patient care services by contracted medical
10 staff at county hospitals, correctional facilities and long-term care
11 facilities;
- 12 i. At the option of the governing body of the contracting unit,
13 any good or service that is exempt from bidding pursuant to section
14 5 of P.L.1971, c.198 (C.40A:11-5);
- 15 j. Concessions;
- 16 k. The operation, management or administration of other
17 services, with the approval of the Director of the Division of Local
18 Government Services;
- 19 l. Maintenance, custodial, and groundskeeping services;
- 20 m. Consulting services;
- 21 n. Emergency medical billing services;
- 22 o. Property appraisal services;
- 23 p. Reassessment or revaluation services;
- 24 q. Grant writing services;
- 25 r. Animal control services ;
- 26 s. Private on-site inspection agency services, as may be
27 authorized by rules and regulations adopted by the Department of
28 Community Affairs.

29 Any purpose included herein shall not be considered by a
30 contracting unit as an extraordinary unspecifiable service pursuant
31 to subparagraph (ii) of paragraph (a) of subsection (1) of section 5
32 of P.L.1971, c.198 (C.40A:11-5).

33 As used in this section, "stormwater management system" means
34 the same as that term is defined in section 3 of P.L.2019, c.42
35 (C.40A:26B-3).

36 (cf: P.L.2019, c.42, s.21)

37

38 ¹4. (New section) In accordance with the "Administrative
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the
40 commissioner shall propose within six months and adopt within
41 nine months rules and regulations to effectuate the provisions of
42 P.L. , c. (C.) (pending before the Legislature as this bill),
43 including rules that provide for: the use of supplemental shared
44 services agreements; the authorization of private on-site inspection
45 agencies by the department to conduct on-site inspections; and the
46 use of private on-site inspection agencies by municipalities and
47 enforcing agencies. In addition to the activity described in
48 subparagraph (b) of paragraph (3) of subsection e. of section 14 of

