

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 573

STATE OF NEW JERSEY

DATED: OCTOBER 20, 2022

The Assembly Commerce and Economic Development Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 573.

This Assembly Committee Substitute would modify certain standards for inspection processes under the "State Uniform Construction Code Act."

Under the bill, the owner, agent, or other responsible person in charge of work is required to notify an enforcing agency, in writing, when the work is ready for a required inspection under the Uniform Construction Code ("code"), at least 24 hours prior to the date and time the inspection is requested. The enforcing agency is then required to perform an inspection within three business days of the date for which the inspection is requested. The bill further specifies that the owner, agent, or other responsible person in charge of work may provide oral notice for inspections of minor work projects.

The bill requires the owner, agent, or other responsible person in charge of work to be present and prepared at the time of any scheduled inspection, and specifies that absence at the time of inspection is to be considered a failed inspection. The bill requires an enforcing agency to inform, in writing, the owner, agent, or other responsible person in charge of work if the enforcing agency is unable to meet the required timeframe. The enforcing agency and the owner, agent, or other responsible person in charge of work may agree to a date and time for a required inspection. The bill requires the enforcing agency to commit the agreed upon inspection date to writing and provide a copy of the written documentation to the owner, agent, or other responsible person in charge of work. The bill specifies that if the enforcing agency is unable to meet the required timeframe and the local enforcing agency and the owner, agent, or other responsible person in charge of work are unable to agree to a different inspection date, the owner, agent, or other responsible person in charge of work may contract with a private on-site inspection agency, authorized by the Department of Community Affairs ("DCA") to conduct on-site inspections, to perform the required inspection or inspections. The bill specifies that this includes a supplemental private on-site inspection agency.

If the owner, agent, or other responsible person elects to utilize an authorized private on-site inspection agency, the bill requires that the owner, agent, or other responsible person notify the enforcing agency in writing of the decision. The bill specifies that the owner, agent, or other responsible person in charge of work may elect to utilize the private on-site inspection agency to conduct all inspections on associated blocks and lots, and all units encompassed in the project. The bill also establishes certain conflict-of-interest requirements. If the enforcing agency is required to provide any fee reconciliation to the owner as a result of an inspection being completed by a private on-site inspection agency, the bill requires that enforcing agency to perform the reconciliation at the conclusion of the project.

The bill requires an enforcing agency to establish a process for ensuring inspections are performed within three business days of a requested inspection date, and specifies authorization of the use of supplemental shared services agreements or the use of contracted private on-site inspection agencies, including supplemental private on-site inspection agencies.

The bill requires the Commissioner of Community Affairs ("commissioner") to adopt rules and regulations to effectuate the provisions of the bill, including rules which provide for: the use of supplemental shared services agreements, the authorization of private on-site inspection agency by the DCA to conduct on-site inspections, and the use of private on-site inspection agencies by municipalities and enforcing agencies. The bill requires that the rules and regulations allow an enforcing agency to:

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

(2) enter into agreements with private on-site inspection agencies to conduct on-site inspections on a project-specific basis.

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

The bill requires municipal construction officials to submit an annual report detailing compliance with the code. The report is required to include, at a minimum information related to the staffing, staff titles, and expenses of the enforcing agency, in addition to any other information required by the commissioner. The annual report is also required to take into account projected work and agency resource needs for the next budget year. The bill requires a municipality that enters into a contract for supplemental services to provide a copy of the contract to DCA upon entering into the contract. The bill requires that the municipal construction official or enforcing agency maintain the above information, in addition to the inspection log, municipal monthly

activity reports, and the fee schedule and make that information and documents available to DCA upon request.

The bill specifies that DCA may utilize the information to determine appropriate staffing levels for the enforcing agency, and if DCA determines that an enforcing agency has not maintained appropriate staffing levels, DCA may require the municipality to take corrective actions to ensure that the enforcing agency's staffing needs are met. DCA may also take corrective action, including the issuance of penalties, if a local enforcing agency fails to maintain or provide the information or maintain appropriate staffing levels.

The bill specifically allows the commissioner to compel an enforcing agency to notify DCA of any instance where the enforcing agency is unable to meet a deadline or other obligation, and to order corrective action or issue penalties as necessary where an enforcing agency is unable to meet its obligations under the "State Uniform Construction Code Act." The bill also requires an enforcing agency that is unable to meet its obligations under the "State Uniform Construction Code Act," to promptly notify DCA, and allows DCA to take corrective action, including the issuance of penalties, if an enforcing agency fails to meet its obligations.

The bill further permits inspections to be conducted at times other than between the hours of 9 a.m. and 5 p.m. on business days, if agreed upon by the owner and the relevant inspecting entity, whether the enforcing agency, department, or private on-site inspection agency. Additionally, the bill allows local contracting units to utilize competitive contracting for the purpose of private on-site inspection agency services, as may be authorized by rules and regulations adopted by DCA.