

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 573

STATE OF NEW JERSEY
220th LEGISLATURE

ADOPTED OCTOBER 20, 2022

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblyman CLINTON CALABRESE

District 36 (Bergen and Passaic)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Co-Sponsored by:

Assemblymen DiMaio, McClellan, Simonsen, Wirths, Space,

Assemblywoman Timberlake, Assemblyman Benson, Assemblywoman

Reynolds-Jackson, Assemblyman Moriarty, Assemblywoman Piperno,

Assemblymen Catalano, Auth and Assemblywoman Carter

SYNOPSIS

Provides for expedited construction inspections.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Commerce and Economic
Development Committee.



(Sponsorship Updated As Of: 10/24/2022)

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, c.217
13 (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 seq.) and
17 (2) the qualifications or licensing, or both, of all persons employed by
18 enforcing agencies of the State to enforce **[this act]** P.L.1975, c.217
19 (C.52:27D-119 et seq.) or the code, except that, plumbing inspectors
20 shall be subject to the rules adopted by the commissioner only insofar
21 as such rules are compatible with such rules and regulations, regarding
22 health and plumbing for public and private buildings, as may be
23 promulgated by the Public Health Council in accordance with Title 26
24 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 provide
27 insofar as practicable (1) single-agency review of construction plans
28 and inspection of construction and (2) intergovernmental acceptance of
29 such review and inspection to avoid unnecessary duplication of effort
30 and fees. The commissioner shall have the power to enter into such
31 agreements although the federal standards are not identical with State
32 standards; provided that the same basic objectives are met. The
33 commissioner shall have the power through such agreements to bind
34 the State of New Jersey and all governmental entities deriving
35 authority therefrom.

36 c. To take testimony and hold hearings relating to any aspect of or
37 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 limited
39 to prospective interpretation of the code so as to resolve inconsistent or
40 conflicting code interpretations, and, in connection therewith, issue
41 **[subpena]** subpoenas to compel the attendance of witnesses and the
42 production of evidence. The commissioner may designate one or more
43 hearing examiners to hold public hearings and report on such hearings
44 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.

- 1 d. To encourage, support or conduct, after consultation with the
2 code advisory board, educational and training programs for employees,
3 agents and inspectors of enforcing agencies, either through the
4 Department of Community Affairs or in cooperation with other
5 departments of State government, enforcing agencies, educational
6 institutions, or associations of code officials.
- 7 e. To study the effect of **【this act】** P.L.1975, c.217 (C.52:27D-119
8 et seq.) and the code to ascertain their effect upon the cost of building
9 construction and maintenance, and the effectiveness of their provisions
10 for insuring the health, safety, and welfare of the people of the State of
11 New Jersey.
- 12 f. To make, establish and amend, after consultation with the code
13 advisory board, such rules as may be necessary, desirable or proper to
14 carry out his powers and duties under **【this act】** P.L.1975, c.217
15 (C.52:27D-119 et seq.).
- 16 g. To adopt, amend, and repeal rules and regulations providing for
17 the charging of and setting the amount of fees for the following code
18 enforcement services, licenses or approvals performed or issued by the
19 department, pursuant to the "State Uniform Construction Code Act,"
20 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 and
23 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, c.217
27 (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 for
30 the charging of and setting the amount of construction permit
31 surcharge fees to be collected by the enforcing agency and remitted to
32 the department to support those activities which may be undertaken
33 with moneys credited to the Uniform Construction Code Revolving
34 Fund.
- 35 i. To adopt, amend and repeal rules and regulations providing for:
- 36 (1) Setting the amount of and the charging of fees to be paid to the
37 department by a private agency for the review of applications for and
38 the issuance of approvals authorizing a private agency to act as an on-
39 site inspection and plan review agency, a private on-site inspection
40 agency, including a supplemental private on-site inspection agency, or
41 an in-plant inspection agency;
- 42 (2) (Deleted by amendment, P.L.2005, c.212).
- 43 (3) (Deleted by amendment, P.L.2005, c.212).
- 44 j. To enforce and administer the provisions of the "State Uniform
45 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and
46 the code promulgated thereunder, and to prosecute or cause to be
47 prosecuted violators of the provisions of that act or the code

1 promulgated thereunder in administrative hearings and in civil
2 proceedings in State and local courts.

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

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

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

23

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

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

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

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

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

31 d. When an inspector or team of inspectors finds a violation of
32 the provisions of a construction permit, the code, or other applicable
33 laws and regulations at an owner-occupied single-family residence,
34 and issues a notice of violation and an order to terminate the
35 violation, the enforcing agency shall require the same inspector or
36 team of inspectors who found the violation to undertake any
37 subsequent reinspection thereof at the premises. When the same
38 inspector or team of inspectors cannot be assigned to undertake the
39 reinspection, the enforcing agency may assign an available
40 inspector provided the scope of the reinspection shall be limited to
41 the violation for which the reinspection is required. The
42 requirements of this subsection shall not apply to violations of the
43 plumbing or electrical subcodes, or to fire safety code violations, or
44 to any violation of any other subcode that the Department of
45 Community Affairs determines to be a health or safety
46 violation. Nothing in this subsection shall be construed to infringe
47 upon the right of a property owner to request a different inspector,

1 team of inspectors, or supervisor, to perform any required
2 reinspection.

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

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

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

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

38 (a) The owner, agent, or other responsible person in charge of
39 work shall notify the enforcing agency in writing of any choice to
40 utilize an authorized private on-site inspection agency to conduct
41 the required inspection or inspections.

42 (b) The owner, agent, or other responsible person in charge of
43 work may elect to utilize the private on-site inspection agency to
44 conduct all required inspections on associated blocks and lots. In
45 the event of a project with multiple units in one building, this
46 authorization shall apply to all units encompassed in the project.

47 (c) The use of a private on-site inspection agency by an owner,
48 agent, or other responsible person for on-site inspections shall be

1 subject to the conflict-of-interest provisions in the code. In addition
2 to those requirements, no private on-site inspection agency shall
3 perform an inspection for any owner, agent, or other responsible
4 person in charge of work, if an owner, agent, or other responsible
5 person is currently employed by or affiliated with any individual
6 affiliated with the private on-site inspection agency or has
7 employed or was associated with an individual affiliated with the
8 private on-site inspection agency within a timeframe established by
9 the commissioner by regulation.

10 (d) The enforcing agency shall, if warranted, provide a fee
11 reconciliation to the owner for an inspection completed by a private
12 on-site inspection agency as a result of a missed inspection. The
13 enforcing agency shall perform the reconciliation at the conclusion
14 of the project. This reconciliation shall be based on the fees that the
15 enforcing agency is authorized to impose for inspections, and shall
16 take into account the administrative costs of the enforcing agency.

17 f. Each enforcing agency shall establish a process for ensuring
18 inspections are performed within three business days of a requested
19 inspection date, as required by subsection e. of this section.
20 Authorized processes include, but are not limited to, the use of
21 supplemental shared services agreements with other municipalities
22 or enforcing agencies or the use of contracted private on-site
23 inspection agencies, including supplemental private on-site
24 inspection agencies..

25 g. In accordance with the "Administrative Procedure Act,"
26 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall adopt
27 rules and regulations to effectuate the provisions of P.L. _____,
28 c. (C. _____) (pending before the Legislature as this bill), including
29 rules which provide for: the use of supplemental shared services
30 agreements, the authorization of private on-site inspection agencies
31 by the department to conduct on-site inspections, and the use of
32 private on-site inspection agencies by municipalities and enforcing
33 agencies. In addition to the activity described in subparagraph (b)
34 of paragraph (3) of subsection e. of this section, the rules and
35 regulations shall allow an enforcing agency to:

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

40 (2) enter into agreements with private on-site inspection
41 agencies to conduct on-site inspections on a project-specific basis;
42 and

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

47 h. (1) At timeframes established by the commissioner by
48 regulation, adopted in accordance with the "Administrative

1 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the
2 municipal construction official shall submit an annual report
3 detailing compliance with the code. The report shall include, at a
4 minimum information related to the staffing, staff titles, and
5 expenses of the enforcing agency, in addition to any other
6 information required by the commissioner. The annual report shall
7 take into account projected work and agency resource needs for the
8 next budget year.

9 (2) A municipality that enters into a contract for supplemental
10 services utilized pursuant to subsection f. of this section shall
11 provide a copy of the contract to the department upon entering into
12 the contract.

13 (3) The information required by paragraphs (1) and (2) of this
14 subsection, in addition to the inspection log, the municipal monthly
15 activity reports, and the fee schedule shall be maintained by the
16 municipal construction official or enforcing agency, and the
17 municipal construction official or enforcing agency shall make the
18 information and documents described in this paragraph available to
19 the department upon request.

20 (4) The department may utilize the information provided
21 pursuant to this subsection to determine appropriate staffing levels
22 for the enforcing agency. If the department determines that an
23 enforcing agency has not maintained appropriate staffing levels, the
24 department may require the municipality to take corrective actions
25 to ensure that the enforcing agency's staffing needs are met.

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

32 i. If an enforcing agency is unable to meet its obligations under
33 P.L.1975, c.217 (C.52:27D-119 et seq.), the enforcing agency shall
34 promptly notify the department. The department may take
35 corrective action, including the issuance of penalties, pursuant to
36 subsection k. of section 6 of P.L.1975, c.217 (C.52:27D-124) if an
37 enforcing agency fails to meet its obligations under P.L.1975, c.217
38 (C.52:27D-119 et seq.).

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

40

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

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

- 1 a. The purchase or licensing of proprietary computer software
2 designed for contracting unit purposes, which may include hardware
3 intended for use with the proprietary software. This subsection shall
4 not be utilized for the purpose of acquiring general purpose computer
5 hardware or software;
- 6 b. The hiring of a for-profit entity or a not-for-profit entity
7 incorporated under Title 15A of the New Jersey Statutes for the
8 purpose of:
- 9 (1) the operation and management of a wastewater treatment
10 system, a stormwater management system, or a water supply or
11 distribution facility of the type described in subsection (37) of section
12 15 of P.L.1971, c.198 (C.40A:11-15), provided that competitive
13 contracting shall not be used as a means of awarding contracts
14 pursuant to P.L.1985, c.37 (C.58:26-1 et al.) and P.L.1985, c.72
15 (C.58:27-1 et al.);
- 16 (2) the operation, management or administration of recreation or
17 social service facilities or programs, which shall not include the
18 administration of benefits under the Work First New Jersey program
19 established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), or under
20 General Assistance;
- 21 (3) the operation, management or administration of data processing
22 services; or
- 23 (4) the operation and management of a county hospital pursuant to
24 the "Local Hospital Authority Law," P.L.2006, c.46 (C.30:9-23.15 et
25 al.);
- 26 c. (Deleted by amendment, P.L.2009, c.4).
- 27 d. Homemaker--home health services;
- 28 e. Laboratory testing services;
- 29 f. Emergency medical services;
- 30 g. Contracted food services;
- 31 h. Performance of patient care services by contracted medical
32 staff at county hospitals, correctional facilities and long-term care
33 facilities;
- 34 i. At the option of the governing body of the contracting unit, any
35 good or service that is exempt from bidding pursuant to section 5 of
36 P.L.1971, c.198 (C.40A:11-5);
- 37 j. Concessions;
- 38 k. The operation, management or administration of other services,
39 with the approval of the Director of the Division of Local Government
40 Services;
- 41 l. Maintenance, custodial, and groundskeeping services;
- 42 m. Consulting services;
- 43 n. Emergency medical billing services;
- 44 o. Property appraisal services;
- 45 p. Reassessment or revaluation services;
- 46 q. Grant writing services;
- 47 r. Animal control services ;

1 s. Private on-site inspection agency services, as may be
2 authorized by rules and regulations adopted by the Department of
3 Community Affairs.

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

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

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

12

13 4. This act shall take effect on the first day of the fourth month
14 next following the date of enactment, however, the commissioner
15 shall immediately commence the process of promulgating rules and
16 regulations to effectuate the provisions of this act.