

ASSEMBLY, No. 1440

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblyman JAMES J. KENNEDY

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Establishes “Zero Energy Construction Act”; requires all new residential and commercial developments to be zero energy ready; requires developers to offer zero energy construction.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning zero energy construction, supplementing and
2 amending P.L.1975, c.217, and amending P.L.2009, c.106.

3

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

6

7 1. P.L. , c. (C.) (pending before the Legislature as this
8 bill) shall be known and may be cited as the “Zero Energy
9 Construction Act.”

10

11 2. As used in P.L. , c. (C.) (pending before the
12 Legislature as this bill):

13 “Developer” means any person who constructs or offers to
14 construct a new residential or commercial building.

15 “Owner” means any person who acquires a legal or equitable
16 interest in a new residential or commercial building.

17 “Prospective owner” means any person who contemplates
18 acquiring a legal or equitable interest in a new residential or
19 commercial building.

20 “Zero energy building” means an energy-efficient building
21 where, on a source energy basis, the actual annual delivered energy
22 is less than or equal to the on-site renewable exported energy.

23 “Zero energy ready building” means a building that would be a
24 zero energy building if equipped with a renewable energy system.

25

26 3. On and after January 1, 2025, an enforcing agency shall not
27 issue a construction permit for a new residential or commercial
28 building unless the permit requires the building to be constructed as
29 a zero energy ready building.

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31 4. a. A developer of a building subject to the provisions of
32 section 3 of P.L. , c. (C.) (pending before the Legislature
33 as this bill) shall offer to construct the building as a zero energy
34 building when a prospective owner enters into negotiations with the
35 developer to purchase a new building.

36 b. Prior to entering into a contract of sale for a building
37 subject to the provisions of section 3 of P.L. , c. (C.)
38 (pending before the Legislature as this bill), a developer shall:

39 (1) disclose that a prospective owner may have the building be
40 constructed as a zero energy building, and upon request by the
41 prospective owner, disclose the total projected cost of constructing
42 the building as such that will be charged to the owner by the
43 developer; and

44 (2) unless construction of the building as a zero energy building
45 is included in the sale of the building at no cost to the prospective

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 owner, inform the prospective owner of the availability on the
2 Internet website of the Department of Community Affairs of
3 general information on the environmental benefits of, and potential
4 energy cost savings associated with, zero energy buildings, and any
5 applicable credits, rebates, or other incentives that may be available
6 to the prospective owner for purchasing a zero energy building.

7 c. Every contract of sale for a building subject to the provisions
8 of section 3 of P.L. , c. (C.) (pending before the
9 Legislature as this bill), shall include a notification by the developer
10 to the prospective owner of the offer to construct the building as a
11 zero energy building.

12 d. The commissioner, in consultation with the Department of
13 Environmental Protection and the Board of Public Utilities, shall
14 compile, and make available on the Internet website of the
15 Department of Community Affairs, information for prospective
16 owners and developers concerning the environmental benefits of,
17 and potential energy cost savings associated with, zero energy
18 buildings, and any applicable credits, rebates, or other incentives
19 that may be available to the prospective owner for purchasing a zero
20 energy building.

21
22 5. The commissioner, in consultation with the Department of
23 Environmental Protection and the Board of Public Utilities, shall
24 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
25 c.410 (C.52:14B-1 et seq.), rules and regulations necessary to
26 effectuate the purposes of P.L. , c. (C.) (pending before the
27 Legislature as this bill) and shall revise the code and energy
28 subcode accordingly.

29
30 6. Section 1 of P.L.2009, c.106 (C.52:27D-122.2) is amended
31 to read as follows:

32 1. The Legislature hereby finds and declares:

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

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

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

41 d. It is therefore necessary and appropriate that the
42 Commissioner of Community Affairs, in consultation with the
43 Board of Public Utilities, adopt energy-efficient building codes that
44 may exceed the requirements of national model codes.

45 e. Further, in light of the serious threats posed by climate
46 change, it is necessary and appropriate that the Commissioner of
47 Community Affairs, in consultation with the Department of
48 Environmental Protection and the Board of Public Utilities, adopt

1 enhanced energy conservation construction requirements and revise
2 these energy-efficient building codes to require that new residential
3 and commercial buildings be constructed as zero energy ready
4 buildings in accordance with the provisions of P.L. , c. (C.)
5 (pending before the Legislature as this bill).
6 (cf: P.L.2009, c.106, s.1)

7
8 7. Section 5 of P.L.1975, c.217 (C.52:27D-123) is amended to
9 read as follows:

10 5. a. The commissioner shall after public hearing pursuant to
11 section 4 of the "Administrative Procedure Act," P.L.1968, c.410
12 (C.52:14B-4) adopt a State Uniform Construction Code for the
13 purpose of regulating the structural design, construction,
14 maintenance, and use of buildings or structures to be erected and
15 alteration, renovation, rehabilitation, repair, maintenance, removal,
16 or demolition of buildings or structures already erected. Prior to the
17 adoption of said code, the commissioner shall consult with the code
18 advisory board and other departments, divisions, bureaus, boards,
19 councils, or other agencies of State Government heretofore
20 authorized to establish or administer construction regulations.

21 Such prior consultations with departments, divisions, bureaus,
22 boards, councils, or other agencies of State Government shall
23 include but not be limited to consultation with the Commissioner of
24 Health and the Public Health Council prior to adoption of a
25 plumbing subcode pursuant to paragraph b. of this section. Said
26 code shall include any code, rule, or regulation incorporated therein
27 by reference.

28 b. The code shall be divided into subcodes which may be
29 adopted individually by the commissioner as the commissioner may
30 from time to time consider appropriate. These subcodes shall
31 include but not be limited to a building code, a plumbing code, an
32 electrical code, an energy code, a fire prevention code, a
33 manufactured or mobile home code, and a mechanical code.

34 These subcodes, except for the energy subcode, shall be
35 adoptions of the model codes of the Building Officials and Code
36 Administrators International, Inc., the National Electrical Code, and
37 the National Standard Plumbing Code, provided that for good
38 reasons, the commissioner may adopt as a subcode, a model code or
39 standard of some other nationally recognized organization upon a
40 finding that such model code or standard promotes the purposes of
41 P.L.1975, c.217 (C.52:27D-119 et seq.). The initial adoption of a
42 model code or standard as a subcode shall constitute adoption of
43 subsequent edition year publications of the model code or standard
44 of such other nationally recognized organization, except as provided
45 for in paragraphs (1) through (4) of this subsection. Adoption of
46 publications shall not occur more frequently than once every three
47 years; provided, however, that a revision or amendment may be
48 adopted at any time in the event that the commissioner finds that

1 there exists an imminent peril to the public health, safety, or
2 welfare.

3 The energy subcode shall be based upon the model codes cited
4 under this subsection or the International Energy Conservation
5 Code; provided, however, that the energy subcode shall be revised
6 as necessary to comply with the requirements of
7 P.L. , c. (C.) (pending before the Legislature as this bill).
8 It may be amended or supplemented by the commissioner once
9 before 2012 without regard to intervals between the adoption of the
10 energy subcode in effect on the effective date of P.L.2009, c.106
11 (C.52:27D-122.2 et al.) and subsequent year revisions of that
12 subcode. In amending or supplementing the energy subcode, the
13 commissioner shall rely upon 10-year energy price projections
14 provided by an institution of higher education within one year
15 following the effective date of P.L.2009, c.106 (C.52:27D-122.2 et
16 al.), and thereafter at three-year intervals. In developing the energy
17 price projections, the institution of higher education shall consult
18 with the Board of Public Utilities. The commissioner shall be
19 authorized to amend the energy subcode to establish enhanced
20 energy conservation construction requirements, the added cost of
21 each of which may reasonably be recovered through energy
22 conservation over a period of not more than seven years. Such
23 requirements shall include provisions to ensure that, in all parts of
24 the State the anticipated energy savings shall be similarly
25 proportionate to the additional costs of energy subcode compliance.

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

38 (2) In the event that the commissioner, pursuant to paragraph (1)
39 of this subsection, determines that any amended or revised
40 provision of a model code is essential to carry out the intent and
41 purpose of this act as viewed in contrast to any corresponding
42 provision of the subcode then currently in effect, the commissioner
43 may then adopt that provision of the amended or revised model
44 code.

45 (3) The commissioner, in consultation with the code advisory
46 board, shall have the authority to review any model code or
47 standard currently in effect as a subcode of the State Uniform
48 Construction Code and compare it with previously adopted editions

1 of the same model code or standard in order to determine if the
2 subcode currently in effect is at least as consistent with the intent
3 and purpose of this act as were previously adopted editions of the
4 same model code or standard.

5 (4) In the event that the commissioner, after consultation with
6 the code advisory board, determines pursuant to this subsection that
7 a provision of a model code or standard currently in effect as a
8 subcode of the State Uniform Construction Code is less consistent
9 with the intent and purpose of P.L.1975, c.217 (C.52:27D-119 et
10 seq.) than was the corresponding provision of a previously adopted
11 edition of the same model code or standard, the commissioner may
12 delete the provision in effect and substitute in its place the
13 corresponding provision of the previously adopted edition of the
14 same model code or standard determined to be more consistent with
15 the intent and purpose of P.L.1975, c.217 (C.52:27D-119 et seq.).

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

32 c. Any municipality through its construction official, and any
33 State agency or political subdivision of the State, may submit an
34 application recommending to the commissioner that a State
35 sponsored code change proposal be adopted. Such application shall
36 contain such technical justification and shall be submitted in
37 accordance with such rules of procedure as the commissioner may
38 deem appropriate, except that whenever the State Board of
39 Education shall determine that enhancements to the code are
40 essential to the maintenance of a thorough and efficient system of
41 education, the enhancements shall be made part of the code;
42 provided that the amendments do not result in standards that fall
43 below the adopted subcodes. The Commissioner of Education shall
44 consult with the Commissioner of Community Affairs prior to
45 publishing the intent of the State Board to adopt any amendments to
46 the Uniform Construction Code. Upon adoption of any amendments
47 by the State Board of Education they shall be transmitted forthwith
48 to the Commissioner of Community Affairs who shall publish and

1 incorporate the amendments as part of the Uniform Construction
2 Code and the amendments shall be enforceable as if they had been
3 adopted by the commissioner.

4 At least 45 days prior to the final date for the submission of
5 amendments or code change proposals to the National Model Code
6 Adoption Agency, the code of which has been adopted as a subcode
7 under P.L.1975, c.217 (C.52:27D-119 et seq.), the commissioner
8 shall hold a public hearing in accordance with the "Administrative
9 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), at which
10 testimony on any application recommending a State sponsored code
11 change proposal will be heard.

12 The commissioner shall maintain a file of such applications,
13 which shall be made available to the public upon request and upon
14 payment of a fee to cover the cost of copying and mailing.

15 After public hearing, the code advisory board shall review any
16 such applications and testimony and shall within 20 days of such
17 hearing present its own recommendations to the commissioner.

18 The commissioner may adopt, reject, or return such
19 recommendations to the code advisory board for further
20 deliberation. If adopted, any such proposal shall be presented to the
21 subsequent meeting of the National Model Code Agency by the
22 commissioner or by persons designated by the commissioner as a
23 State sponsored code change proposal. Nothing herein, however,
24 shall limit the right of any municipality, the department, or any
25 other person from presenting amendments to the National Model
26 Code Agency on its own initiative.

27 The commissioner may adopt further rules and regulations
28 pursuant to this subsection and may modify the procedures herein
29 described when a model code change hearing has been scheduled so
30 as not to permit adequate time to meet such procedures.

31 d. (Deleted by amendment, P.L.1983, c.496.)
32 (cf: P.L.2017, c.131, s.191)

33
34 8. This act shall take effect immediately, but shall remain
35 inoperative until January 1, 2025, except that the Commissioner of
36 Community Affairs, the Department of Environmental Protection,
37 and the Board of Public Utilities, shall take any anticipatory
38 administrative action in advance as shall be necessary for the
39 implementation of this act.

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42 STATEMENT

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44 This bill would establish the "Zero Energy Construction Act,"
45 which would, beginning on January 1, 2025, require all new
46 residential and commercial developments to be zero energy ready
47 and require developers to offer zero energy construction to
48 prospective owners. Zero energy buildings consume only as much

1 energy as can be produced onsite through renewable resources, and
2 zero energy ready buildings are buildings capable of reaching this
3 level of energy consumption with the addition of renewable
4 resources. Requiring new developments to be constructed as zero
5 energy ready will reduce both the consumption of energy that
6 contributes to climate change as well as the long-term energy costs
7 of home and business owners.

8 The bill requires the Commissioner of Community Affairs, in
9 consultation with the Department of Environmental Protection and
10 the Board of Public Utilities, to compile, and make available on the
11 Internet website of the Department of Community Affairs,
12 information for prospective owners and developers concerning the
13 environmental benefits of, and potential energy cost savings
14 associated with, zero energy buildings, and any applicable credits,
15 rebates, or other incentives that may be available to the prospective
16 owner for purchasing a zero energy building. The bill also requires
17 the Commissioner of Community Affairs, in consultation with the
18 Department of Environmental Protection and the Board of Public
19 Utilities, to adopt rules and regulations necessary to effectuate the
20 purposes of the bill and to revise the State Uniform Construction
21 Code and the energy subcode accordingly.

22 While the construction requirements of the bill would be
23 inoperative until January 1, 2025, the bill authorizes the
24 Commissioner of Community Affairs, the Department of
25 Environmental Protection, and the Board of Public Utilities, to take
26 any anticipatory administrative action in advance as is necessary for
27 the implementation of the bill.