

ASSEMBLY, No. 3894

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 27, 2024

Sponsored by:

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

SYNOPSIS

Amends certain fire safety statutes to update licensure and equipment requirements and liability, fee, and penalty provisions.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/13/2024)

A3894 MURPHY, QUIJANO

2

1 AN ACT concerning fire safety by making changes to certain
2 licensure requirements, equipment requirements, penalties, and
3 fees and amending P.L.1991, c.92 and P.L.1983, c.383.

4

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

7

8 1. Section 1 of P.L.1991, c.92 (C.52:27D-198.1) is amended to
9 read as follows:

10 1. A structure used or intended for use for residential purposes
11 by not more than two households shall have a smoke-sensitive
12 alarm device on each level of the structure and outside each
13 separate sleeping area in the immediate vicinity of the bedrooms
14 and located on or near the ceiling in accordance with **[National Fire**
15 **Protection Association Standard No. 74-1984 for the installation,**
16 **maintenance, and use of household fire warning equipment. The**
17 **installation of battery operated smoke-sensitive alarm devices shall**
18 **be accepted as meeting the requirements of this section]** regulations
19 established by the Commissioner of Community Affairs. The
20 smoke-sensitive device shall be tested and listed by a product
21 certification agency recognized by the **[Bureau]** Division of Fire
22 Safety.

23 **[Each structure, other than a seasonal rental unit, shall also be**
24 **equipped with at least one portable fire extinguisher in conformance**
25 **with rules and regulations promulgated by the Commissioner of**
26 **Community Affairs pursuant to the "Administrative Procedure Act,"**
27 **P.L.1968, c.410 (C.52:14B-1 et seq.). For the purposes of this**
28 **section, "portable fire extinguisher" means an operable portable**
29 **device, carried and operated by hand, containing an extinguishing**
30 **agent that can be expelled under pressure for the purpose of**
31 **suppressing or extinguishing fire, and which is: (1) rated for**
32 **residential use consisting of an ABC type; (2) no larger than a 10**
33 **pound rated extinguisher; and (3) mounted within 10 feet of the**
34 **kitchen area, unless otherwise permitted by the enforcing agency.**
35 **"Seasonal rental unit" means a dwelling unit rented for a term of not**
36 **more than 125 consecutive days for residential purposes by a person**
37 **having a permanent residence elsewhere, but shall not include use**
38 **or rental of living quarters by migrant, temporary or seasonal**
39 **workers in connection with any work or place where work is being**
40 **performed.]**

41 This section shall not be enforced except pursuant to sections 2
42 and 3 of P.L.1991, c.92 (C.52:27D-198.2 and C.52:27D-198.3).
43 (cf: P.L.2005, c.71, s.1)

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 2. Section 2 of P.L.1991, c.92 (C.52:27D-198.2) is amended to
2 read as follows:

3 2. a. In any case where a change of occupancy of any building
4 subject to the requirements of section 1 of P.L.1991, c.92
5 (C.52:27D-198.1) is subject to a municipal ordinance requiring the
6 issuance of a certificate of occupancy, certificate of inspection, or
7 other documentary certification of compliance with laws and
8 regulations relating to safety, healthfulness, and upkeep of the
9 premises, no such certificate shall issue until the municipal officer
10 or agency responsible for its issuance has determined that the
11 building is equipped with an alarm device or devices **【and a**
12 **portable fire extinguisher】** as required by section 1 of P.L.1991,
13 c.92 (C.52:27D-198.1).

14 b. In the case of change of occupancy of any building subject
15 to the requirements of section 1 of P.L.1991, c.92 (C.52:27D-198.1)
16 to which the provisions of subsection a. of this section do not apply,
17 no owner shall sell, lease, or otherwise permit occupancy for
18 residential purposes of that building without first obtaining from the
19 relevant enforcement agency under the "Uniform Fire Safety Act,"
20 P.L.1983, c.383 (C.52:27D-192 et seq.) a certificate evidencing
21 compliance with the requirements of P.L.1991, c.92
22 (C.52:27D-198.1 et seq.). The local governing body having
23 jurisdiction over the said enforcing agency or, where the **【Bureau】**
24 **Division** of Fire Safety is the enforcing agency, the Commissioner
25 of Community Affairs shall establish a fee which covers the cost of
26 inspection and of issuance of the certificate.

27 (cf: P.L.2005, c.71, s.2)

28

29 3. Section 3 of P.L.1991, c.92 (C.52:27D-198.3) is amended to
30 read as follows:

31 3. An owner who sells, leases, rents, or otherwise permits to be
32 occupied for residential purposes any premises subject to the
33 provisions of P.L.1991, c.92 (C.52:27D-198.1 et seq.) when the
34 premises do not comply with the requirements of section 1 of
35 P.L.1991, c.92 (C.52:27D-198.1), or without complying with the
36 inspection and certification requirements of section 2 of P.L.1991,
37 c.92 (C.52:27D-198.2), shall be subject to a fine of not more than
38 **【\$500.00 in the case of a violation for an alarm device, or a fine of**
39 **not more than \$100 in the case of a violation for a portable fire**
40 **extinguisher】** \$500, which may be collected and enforced by the
41 local enforcing agency as defined in subsection g. of section 5 of
42 P.L.1983, c.383 (C.52:27D-196) by summary proceedings pursuant
43 to the "Penalty Enforcement Law of 1999," P.L.1999, c.274
44 (C.2A:58-10 et seq.).

45 (cf: P.L.2005, c.71, s.3)

46

47 4. Section 12 of P.L.1983, c.383 (C.52:27D-203) is amended to
48 read as follows:

1 12. a. Each enforcing agency in this State shall enforce **[this**
2 **act]** the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192
3 et seq.) in all buildings, structures, and premises within its
4 jurisdiction, except owner-occupied buildings used exclusively for
5 dwelling purposes and containing fewer than three dwelling units,
6 subject to the control and supervision of the commissioner and in
7 accordance with regulations promulgated by the commissioner. The
8 commissioner shall consult with and advise all local enforcement
9 agencies enforcing the provision of **[this act]** P.L.1983, c.383
10 (C.52:27D-192 et seq.), and each local enforcement agency shall
11 provide the commissioner with reports, data, and information
12 required by the commissioner. To cover the cost to the
13 municipality of conducting inspections under **[this act]** P.L.1983,
14 c.383 (C.52:27D-192 et seq.), the municipality may, by ordinance,
15 establish fees, which shall be paid into the treasury of the
16 municipality to which the local enforcing agency is responsible, and
17 which shall be appropriated by the municipality to the local
18 enforcing agency to pay the cost of enforcing **[this act]** P.L.1983,
19 c.383 (C.52:27D-192 et seq.).

20 b. A local enforcing agency consisting of or employing at least
21 one paid fire inspector who is **[certified]** licensed pursuant to
22 subsection c. of this section may elect to inspect high-rise structures
23 and life hazard uses within its jurisdiction, in lieu of inspection by
24 the commissioner. That election shall be made by resolution of the
25 governing body having jurisdiction over the local enforcing agency.
26 If an appropriate resolution has not been received by the
27 commissioner on or before the effective date of **[this act]** P.L.1983,
28 c.383 (C.52:27D-192 et seq.), the department shall perform all
29 inspections under this subsection until such time as the governing
30 body shall adopt and send to the commissioner an appropriate
31 resolution. A local enforcing agency that elects to inspect high-rise
32 structures and life hazard uses may issue the certificates of
33 inspection required to be issued pursuant to section 14 of **[this act]**
34 P.L.1983, c.383 (C.52:27D-192 et seq.) and may inspect buildings
35 and premises other than high-rise structures and life hazard uses in
36 order to secure compliance with **[this act]** P.L.1983, c.383
37 (C.52:27D-192 et seq.).

38 c. The commissioner shall **[certify]** license fire inspectors and
39 fire officials under **[this act]** P.L.1983, c.383 (C.52:27D-192 et
40 seq.) in accordance with **[such]** standards as **[he]** the
41 commissioner shall establish by regulation **[**; provided that a fire
42 inspector certificate shall be issued by the commissioner to any
43 person who: on the effective date of this act is, and for at least one
44 year prior to the effective date of this act has been, serving as a fire
45 inspector in the fire service; or shall have, within two years of the
46 effective date of this act, successfully completed an educational
47 program such as the basic fire prevention code course offered by the

1 Building Officials and Code Administrators International or a
2 recognized equivalent, a fire prevention course offered by an
3 institution of higher education or recognized fire school which has
4 been approved by the commissioner¹. As a condition of licensure,
5 a person shall:

6 (1) submit an application to the Division of Fire Safety with the
7 required fee;

8 (2) successfully complete an educational program adopted by
9 the Division of Fire Safety's Office of Training, Certification, and
10 Licensing;

11 (3) meet prerequisite criteria established by regulation; and

12 (4) pass the State written and practical exams.

13 d. A licensed fire inspector and fire official shall conduct fire
14 inspections authorized by P.L.1983, c.383 (C.52:27D-192 et seq.)
15 and established by regulation in non-life-hazard and life-hazard use
16 groups.

17 e. Fire inspector and fire official certifications approved by the
18 Office of Training and Certification prior to the effective date of
19 P.L. , c. (pending before the Legislature as this bill) shall be
20 considered equivalent to licenses established pursuant to P.L. ,
21 c. (pending before the Legislature as this bill).

22 (cf: P.L.1983, c.383, s.12)

23

24 5. Section 19 of P.L.1983, c.383 (C.52:27D-210) is amended to
25 read as follows:

26 19. a. No person shall:

27 (1) Obstruct, hinder, delay, or interfere by force or otherwise
28 with the commissioner or any local enforcing agency in the exercise
29 of any power or the discharge of any function or duty under the
30 provisions of **[this act]** the "Uniform Fire Safety Act," P.L.1983,
31 c.383 (C.52:27D-192 et seq.);

32 (2) Prepare, utter, or render any false statement, report,
33 document, plans, or specification permitted or required under the
34 provisions of **[this act]** P.L.1983, c.383 (C.52:27D-192 et seq.);

35 (3) Render ineffective or inoperative, or fail to properly
36 maintain, any protective equipment or system installed, or intended
37 to be installed, in a building or structure;

38 (4) Refuse or fail to comply with a lawful ruling, action, order,
39 or notice of the commissioner or a local enforcing agency; or

40 (5) Violate, or cause to be violated, any of the provisions of
41 **[this act]** P.L.1983, c.383 (C.52:27D-192 et seq.).

42 b. (1) A person who violates or causes to be violated a
43 provision of subsection a. of this section shall be liable to a penalty
44 of not more than \$5,000 for each violation. If a violation of
45 subsection a. of this section is of a continuing nature, each day
46 during which the violation remains unabated after the date fixed in
47 an order or notice for the correction or termination of the continuing
48 violation shall constitute an additional and separate violation,

1 except while an appeal from the order is pending in connection with
2 any property except for those properties which are certified by the
3 fire code official to be unoccupied. For the purposes of this section,
4 a building may not be certified to be unoccupied unless it has been
5 unoccupied for a period of not less than six months.

6 (2) If an owner or operator has been given notice **[of the**
7 **existence of]** that the owner or operator is required to abate a
8 violation of [the act] P.L.1983, c.383 (C.52:27D-192 et seq.) and
9 fails to abate the violation, **[he]** the owner or operator shall be
10 liable to an additional penalty of not more than \$50,000. If a
11 violation is of a continuing nature, each day during which the
12 violation remains unabated shall not constitute an additional and
13 separate violation for the purposes of the penalty in this paragraph.
14 Continuing liability for unabated violations of record and unpaid
15 fees or penalties following a change of ownership or tenancy shall
16 be determined in accordance with subsections f. and g. of this
17 section.

18 (3) An additional \$150,000 or the actual cost, whichever is
19 greater, may be imposed as a penalty for the expense to the
20 municipality or fire district of suppressing any fire, directly or
21 indirectly, resulting from the unabated violation and for any other
22 actual expenses, including attorney fees, incurred by the
23 municipality for the enforcement of the violation.

24 (4) Upon the 121st day subsequent to its filing, an appeal to a
25 county, municipal, or joint construction board of appeals, a
26 departmental appeal, or an appeal to a court of competent
27 jurisdiction shall not automatically stay any order, including orders
28 to pay a penalty imposed pursuant to P.L.1983, c.383
29 (C.52:27D-192 et seq.), or prevent the seeking of an order in a court
30 of competent jurisdiction to enjoin the violation of any order of an
31 enforcing agency in connection with any property which is found by
32 the fire code official to be unoccupied.

33 Any party filing an appeal with a court of competent jurisdiction
34 regarding violations assessed against property which has been
35 certified as unoccupied pursuant to this section shall file a motion
36 upon the initiation of the appeal requesting expedited consideration
37 of the appeal on the ground that acceleration is warranted because
38 the subject of the appeal involves matters of public safety. In the
39 event the appeal is granted, the court shall grant the motion to
40 expedite.

41 c. The commissioner or a local enforcing agency may levy and
42 collect penalties in the amounts set forth in this section, but not in
43 excess of the maximum amounts that the commissioner shall
44 establish by regulation for different types of violations. If the
45 administrative penalty order has not been satisfied by the 30th day
46 after its issuance, the penalty may be sued for, and recovered by and
47 in the name of the commissioner or the enforcing agency, as the
48 case may be, in a civil action by a summary proceeding under "The

1 Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
2 seq.) in the Superior Court or municipal court. All moneys
3 recovered in the form of penalties by a municipality shall be paid
4 into the treasury of the municipality and shall be appropriated for
5 the enforcement of **【the act】** P.L.1983, c.383 (C.52:27D-192 et
6 seq.); except that the additional penalty paid by an owner or
7 operator to a municipality under paragraph (2) or (3) of subsection
8 b. of this section shall be placed in a special municipal trust fund to
9 be applied to the municipality's or fire district's cost of firefighter
10 training and new equipment. A person who fails to pay
11 immediately a money judgment rendered against **【him】** them
12 pursuant to this subsection may be sentenced to imprisonment by
13 the court for a period not exceeding six months, unless the
14 judgment is sooner paid.

15 d. A person shall be deemed to have violated or caused to have
16 violated a provision of subsection a. of this section if an officer,
17 agent, or employee under **【his】** the person's control and with **【his】**
18 the person's knowledge has violated or caused to have violated any
19 of the provisions of subsection a. of this section.

20 e. Upon request of the owner or purchaser of a building or
21 structure, the enforcing agency having jurisdiction over the building
22 or structure shall issue a certificate either enumerating the
23 violations indicated by its records to be unabated and the penalties
24 or fees indicated to be unpaid, or stating that its records indicate
25 that no violations remain unabated and no penalties or fees remain
26 unpaid.

27 f. A **【person】** new owner who purchases a property without
28 having obtained a certificate stating that there are no unabated
29 violations of record and no unpaid fees or penalties shall be deemed
30 to have notice of all existing violations of record and shall be liable
31 for the payment of all unpaid fees or penalties. The department
32 shall issue requests for payment of unpaid fees or penalties within
33 five years of the purchase date.

34 g. (1) Except as provided in paragraph (2) of this subsection, a
35 new operator taking control of an existing tenant business shall
36 assume liability for the payment of all existing unpaid fees and
37 penalties assessed for that business. The department shall issue
38 requests for payment of unpaid fees or penalties within a period of
39 five years from the date of the change in operator; provided,
40 however, a new operator who was a principal in, or agent of, the
41 business previously occupying the property or who is related to a
42 principal in, or agent of, that business by blood, adoption, or
43 marriage shall assume existing liability for the payment of all
44 unpaid fees and penalties indefinitely.

45 (2) A new operator who occupies all or part of the property with
46 a business not previously situated on the property shall not assume
47 liability for the payment of unpaid fees and penalties.

48 h. As used in this section:

1 "Operator" means a person or persons in the position of a tenant
2 or lessee who conducts business from and is in actual physical
3 possession or occupancy of all or part of the property.

4 "Owner" means a property owner, or the owner's agent or
5 representative, whose name appears on the title in the public
6 records.

7 (cf: P.L1999, c.401, s.2)

8

9 6. Section 20 of P.L.1983, c.383 (C.52:27D-211) is amended to
10 read as follows:

11 20. a. Notices, rules, decisions, and orders required or permitted
12 to be issued and served pursuant to **[this act]** the "Uniform Fire
13 Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) shall be served
14 as follows:

15 (1) On the owner and operator by one or more of the following
16 methods:

17 (a) By **[certified]** mail to the person designated as owner or
18 agent on the certificate of registration **[,]** in the municipal tax
19 records **[,]** or in the records of the Secretary of State **;** however, if
20 the certified mailing is returned, the original letter shall be remailed
21 to the last known address of the person by ordinary mail **]** and to
22 the operator.

23 (b) By serving the document on the Secretary of State, who shall
24 be deemed the owner's agent for service of process; **[except]**
25 provided that reasonable efforts have first been made to serve the
26 owner **[or his]** , or the owner's agent, and the operator by
27 **[certified]** mail and that a copy of the document is posted in a
28 conspicuous location on the premises. "Conspicuous location" shall
29 include the walls of the front vestibule or any common foyer or
30 hallway immediately inside the main front entrance.

31 (c) By personal delivery of the document to the owner and to
32 the operator.

33 (d) By leaving the document at the office or dwelling unit of the
34 owner and of the operator with a person 14 years of age or older.

35 (e) By electronic service to the owner and operator provided
36 that a delivery receipt is obtained.

37 (2) On any other person by one or more of the following
38 methods:

39 (a) By **[certified]** mail to the person at **[his]** the person's last
40 known address **;** however, if the certified mailing is returned, the
41 original letter shall be remailed to the last known address of the
42 person by ordinary mail **]**.

43 (b) By personal delivery of the document to the person.

44 (c) By leaving the document at the office or dwelling unit of the
45 person with a person 14 years of age or older.

46 b. The date of personal service or the third day after mailing
47 shall be considered the date of service.

1 c. As used in this section:

2 "Operator" means a person or persons in the position of a tenant
3 or lessee who conducts business from and is in actual physical
4 possession or occupancy of all or part of the property.

5 "Owner" means a property owner, or the owner's agent or
6 representative, whose name appears on the title in the public
7 records.

8 (cf: P.L.1983, c.383, s.20)

9

10 7. This act shall take effect immediately.

11

12

13

STATEMENT

14

15 This bill amends existing law concerning fire safety.
16 Specifically, this bill provides that smoke-sensitive alarm devices
17 are to meet requirements established by the Commissioner of
18 Community Affairs and eliminates the requirement for portable fire
19 extinguishers in certain structures. The bill also provides that, as a
20 condition of licensure of fire inspectors and fire officials, a person
21 is to submit an application to the Division of Fire Safety with the
22 required fee; successfully complete an educational program adopted
23 by the Division of Fire Safety's Office of Training, Certification,
24 and Licensing; meet prerequisite criteria established by regulation;
25 and pass the State written and practical exams. The bill provides
26 that licensed fire inspectors and fire officials are to conduct fire
27 inspections authorized by the "Uniform Fire Safety Act" and
28 established by regulation in non-life-hazard and life-hazard use
29 groups. Fire inspector and fire official certifications approved by
30 the Office of Training and Certification prior to the effective date of
31 the bill are to be considered equivalent to licenses established
32 pursuant to law.

33 The bill provides that if an owner or operator has been given
34 notice to abate a violation of the "Uniform Fire Safety Act," any
35 continuing liability for unabated violations of record and unpaid
36 fees or penalties following a change of ownership or tenancy are to
37 be determined in accordance with the provisions of the bill. A new
38 owner who purchases a property without having obtained a
39 certificate stating that there are no unabated violations of record and
40 no unpaid fees or penalties is to be deemed to have notice of all
41 existing violations of record and is to be liable for the payment of
42 all unpaid fees or penalties. The DCA is to issue requests for
43 payment of unpaid fees or penalties within five years of the
44 purchase date.

45 Except as provided in the bill, a new operator taking control of
46 an existing tenant business is to assume liability for the payment of
47 all existing unpaid fees and penalties assessed for that business.
48 The DCA is to issue requests for payment of unpaid fees or

1 penalties within a period of five years from the date of the change
2 in operator; provided, however, a new operator who was a principal
3 in, or agent of, the business previously occupying the property or
4 who is related to a principal in, or agent of, that business by blood,
5 adoption, or marriage is to assume existing liability for the payment
6 of all unpaid fees and penalties indefinitely. A new operator who
7 occupies all or part of the property with a business not previously
8 situated on the property is not to assume liability for the payment of
9 unpaid fees and penalties.

10 The bill provides that notice of rules, decisions, and orders
11 concerning the "Uniform Fire Safety Act" are to be served to
12 owners, operators, or other persons by certain methods enumerated
13 in the bill, including electronic methods provided a delivery receipt
14 is obtained.