

SENATE, No. 702

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Co-Sponsored by:

Senators Buono, Weinberg and Turner

SYNOPSIS

Authorizes enhancement of State Uniform Construction Code's energy subcode based on anticipated energy savings; provides down payment assistance to certain purchasers of homes meeting enhanced energy subcode requirements.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT promoting energy efficiency in buildings and amending
2 and supplementing P.L.1975, c.217 and amending P.L.1977,
3 c.146.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) The Legislature hereby finds and declares:

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

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

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

17 d. It is therefore necessary and appropriate that the
18 Commissioner of Community Affairs, in consultation with the
19 Board of Public Utilities, adopt energy-efficient building codes that
20 may exceed the requirements of national model codes.
21

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

24 5. a. The commissioner shall after public hearing pursuant to
25 section 4 of the "Administrative Procedure Act," P.L.1968, c.410
26 (C.52:14B-4) adopt a State Uniform Construction Code for the
27 purpose of regulating the structural design, construction,
28 maintenance and use of buildings or structures to be erected and
29 alteration, renovation, rehabilitation, repair, maintenance, removal
30 or demolition of buildings or structures already erected. Prior to the
31 adoption of said code, the commissioner shall consult with the code
32 advisory board and other departments, divisions, bureaus, boards,
33 councils or other agencies of State Government heretofore
34 authorized to establish or administer construction regulations.

35 Such prior consultations with departments, divisions, bureaus,
36 boards, councils, or other agencies of State Government shall
37 include but not be limited to consultation with the Commissioner of
38 Health and Senior Services and the Public Health Council prior to
39 adoption of a plumbing subcode pursuant to paragraph b. of this
40 section. Said code shall include any code, rule or regulation
41 incorporated therein by reference.

42 b. The code shall be divided into subcodes which may be
43 adopted individually by the commissioner as he may from time to

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 time consider appropriate. These subcodes shall include but not be
2 limited to a building code, a plumbing code, an electrical code, an
3 energy code, a fire prevention code, a manufactured or mobile home
4 code and mechanical code.

5 These subcodes, except for the energy subcode, shall be
6 adoptions of the model codes of the Building Officials and Code
7 Administrators International, Inc., the National Electrical Code, and
8 the National Standard Plumbing Code, provided that for good
9 reasons, the commissioner may adopt as a subcode a model code or
10 standard of some other nationally recognized organization upon a
11 finding that such model code or standard promotes the purposes of
12 this act. The initial adoption of a model code or standard as a
13 subcode shall constitute adoption of subsequent edition year
14 publications of the model code or standard organization, except as
15 provided for in paragraphs (1) through (4) of this subsection.
16 Adoption of publications shall not occur more frequently than once
17 every three years; provided, however, that a revision or amendment
18 may be adopted at any time in the event that the commissioner finds
19 that there exists an imminent peril to the public health, safety or
20 welfare.

21 The energy subcode may be based upon the model codes cited
22 under this subsection, but may be amended or supplemented by the
23 commissioner at any time without regard to intervals between the
24 initial adoption of the energy subcode and subsequent year revisions
25 of that subcode. In amending or supplementing the energy subcode,
26 the commissioner shall rely upon 10-year energy price projections
27 provided by the Board of Public Utilities at three year intervals
28 pursuant to subsection y. of section 9 of P.L.1977, c.146 (C.52:27F-
29 11). The commissioner shall be authorized to amend the energy
30 subcode to establish enhanced energy conservation construction
31 requirements, the added cost of which may reasonably be expected
32 to be recovered through energy conservation over a period of not
33 more than seven years. Such requirements shall include provisions
34 to ensure that, in all parts of the State the anticipated energy savings
35 shall be similarly proportionate to the additional costs of energy
36 subcode compliance.

37 (1) Except as otherwise provided in this subsection, the edition
38 of a model code or standard in effect as a subcode as of July 1, 1995
39 shall continue in effect regardless of any publication of a
40 subsequent edition of that model code or standard. Prior to
41 establishing the effective date for any subsequent revision or
42 amendment of any model code or standard adopted as a subcode,
43 the commissioner shall review, in consultation with the code
44 advisory board, the text of the revised or amended model code or
45 standard and determine whether the amended or revised provisions
46 of the model code are essential to carry out the intent and purpose

1 of this act as viewed in contrast to the corresponding provisions of
2 the subcode then currently in effect.

3 (2) In the event that the commissioner, pursuant to paragraph (1)
4 of this subsection, determines that any amended or revised
5 provision of a model code is essential to carry out the intent and
6 purpose of this act as viewed in contrast to any corresponding
7 provision of the subcode then currently in effect, the commissioner
8 may then adopt that provision of the amended or revised model
9 code.

10 (3) The commissioner, in consultation with the code advisory
11 board, shall have the authority to review any model code or
12 standard currently in effect as a subcode of the State Uniform
13 Construction Code and compare it with previously adopted editions
14 of the same model code or standard in order to determine if the
15 subcode currently in effect is at least as consistent with the intent
16 and purpose of this act as were previously adopted editions of the
17 same model code or standard.

18 (4) In the event that the commissioner, after consultation with
19 the code advisory board, determines pursuant to this subsection that
20 a provision of a model code or standard currently in effect as a
21 subcode of the State Uniform Construction Code is less consistent
22 with the intent and purpose of this act than was the corresponding
23 provision of a previously adopted edition of the same model code or
24 standard, the commissioner may delete the provision in effect and
25 substitute in its place the corresponding provision of the previously
26 adopted edition of the same model code or standard determined to
27 be more consistent with the intent and purpose of this act.

28 (5) The commissioner shall be authorized to adopt a barrier free
29 subcode or to supplement or revise any model code adopted
30 hereunder, for the purpose of insuring that adequate and sufficient
31 features are available in buildings or structures so as to make them
32 accessible to and usable by the physically handicapped. Multi-
33 family residential buildings with four or more dwelling units in a
34 single structure shall be constructed in accordance with the barrier
35 free subcode; for the purposes of this subsection the term "multi-
36 family residential buildings with four or more dwelling units in a
37 single structure" shall not include buildings constructed as
38 townhouses, which are single dwelling units with two or more
39 stories of living space, exclusive of basement or attic, with most or
40 all of the sleeping areas on one story and with most of the
41 remaining habitable space, such as kitchen, living and dining areas,
42 on another story, and with an independent entrance at or near grade
43 level.

44 c. Any municipality through its construction official, and any
45 State agency or political subdivision of the State may submit an
46 application recommending to the commissioner that a State
47 sponsored code change proposal be adopted. Such application shall

1 contain such technical justification and shall be submitted in
2 accordance with such rules of procedure as the commissioner may
3 deem appropriate, except that whenever the State Board of
4 Education shall determine that enhancements to the code are
5 essential to the maintenance of a thorough and efficient system of
6 education, the enhancements shall be made part of the code;
7 provided that the amendments do not result in standards that fall
8 below the adopted subcodes. The Commissioner of the Department
9 of Education shall consult with the Commissioner of the
10 Department of Community Affairs prior to publishing the intent of
11 the State Board to adopt any amendments to the Uniform
12 Construction Code. Upon adoption of any amendments by the State
13 Board of Education they shall be transmitted forthwith to the
14 Commissioner of the Department of Community Affairs who shall
15 publish and incorporate the amendments as part of the Uniform
16 Construction Code and the amendments shall be enforceable as if
17 they had been adopted by the commissioner.

18 At least 45 days prior to the final date for the submission of
19 amendments or code change proposals to the National Model Code
20 Adoption Agency, the code of which has been adopted as a subcode
21 under this act, the commissioner shall hold a public hearing in
22 accordance with the "Administrative Procedure Act," P.L.1968,
23 c.410 (C.52:14B-1 et seq.), at which testimony on any application
24 recommending a State sponsored code change proposal will be
25 heard.

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

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

32 The commissioner may adopt, reject or return such
33 recommendations to the code advisory board for further
34 deliberation. If adopted, any such proposal shall be presented to the
35 subsequent meeting of the National Model Code Agency by the
36 commissioner or by persons designated by the commissioner as a
37 State sponsored code change proposal. Nothing herein, however,
38 shall limit the right of any municipality, the department, or any
39 other person from presenting amendments to the National Model
40 Code Agency on its own initiative.

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

45 d. (Deleted by amendment, P.L.1983, c.496.)
46 (cf: P.L.2003, c.72, s.2)

1 3. Section 9 of P.L.1977, c.146 (C.52:27F-11) is amended to
2 read as follows:

3 9. The **【commissioner】** Board of Public Utilities shall **【,** on
4 behalf of the department**】** through the Division of Energy Planning
5 and Conservation:

6 a. **【Manage the department as】** Be the central repository
7 within the State Government for the collection of energy
8 information;

9 b. Collect and analyze data relating to present and future
10 demands and resources for all forms of energy;

11 c. Have authority to require all persons, firms, corporations or
12 other entities engaged in the production, processing, distribution,
13 transmission or storage of energy in any form or in the use of steam
14 in quantities greater than 50,000 pounds per hour to submit reports
15 setting forth such information as shall be required to carry out the
16 provisions of this act;

17 d. Have authority to require any person to submit information
18 necessary for determining the impact of any construction or
19 development project on the energy and fuel resources of this State;

20 e. Charge other State Government departments and agencies
21 involved in energy-related activities **【,** including the Board of
22 Public Utilities,**】** with specific information gathering goals and
23 require that said goals be fulfilled;

24 f. Establish an energy information system which will provide
25 all data necessary to insure a fair and equitable distribution of
26 available energy, to permit a more efficient and effective use of
27 available energy, and to provide the basis for long-term planning
28 related to energy needs;

29 g. Design, implement, and enforce a program for the
30 conservation of energy in commercial, industrial, and residential
31 facilities, which program shall provide for the evaluation of energy
32 systems as they relate to lighting, heating, refrigeration, air-
33 conditioning, building design and operation, elective cogeneration
34 and process steam production associated with cogeneration
35 facilities, and appliance manufacturing and operation; and may
36 include, but shall not be limited to, the requiring of an annual
37 inspection and adjustment, if necessary, of oil-fired heating systems
38 in residential, commercial and industrial buildings so as to bring
39 such systems into conformity with efficiency standards therefor
40 prescribed by **【the department】** law; the setting of lighting
41 efficiency standards for public buildings; the establishment of
42 mandatory thermostat settings and the use of seven-day, day-night
43 thermostats in public buildings; the development of standards for
44 efficient boiler operation; consider the establishment of
45 cogeneration facilities to simultaneously produce electricity and
46 steam to conserve fuel; and, the preparation of a plan to insure the
47 phased retrofitting of existing gas furnaces with electric ignition

1 systems and to require that new gas ranges and dryers be equipped
2 with electric ignition systems, and new gas furnaces with electric
3 ignition systems and automatic vent-dampers. The program for the
4 conservation of energy in new home construction shall include a
5 provision for down payment assistance to purchasers of new homes
6 meeting the enhanced energy subcode requirements adopted
7 pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123). The
8 down payment assistance portion of the program shall be designed
9 in consultation with the Department of Community Affairs and the
10 New Jersey Housing and Mortgage Finance Agency. The assistance
11 shall be limited to those purchasers whose household income does
12 not exceed 110 percent of county median income, as adjusted for
13 household size. The total down payment to be made by the
14 purchaser, including the amount of the down payment assistance,
15 shall not exceed 20 percent of the purchase price of the new home.
16 The down payment assistance shall not exceed the lesser of (1) the
17 additional cost of construction required in order to make a building,
18 which otherwise would conform to the current edition of the
19 International Energy Code, also conform to the enhanced energy
20 conservation construction requirements established by the
21 Commissioner of Community Affairs pursuant to section 5 of
22 P.L.1975, c.217 (C.52:27D-123) or (2) the additional down payment
23 required in order to qualify the purchaser or purchasers for
24 mortgage financing without the requirement of private mortgage
25 insurance;

26 h. Conduct and supervise a State-wide program of education
27 including the preparation and distribution of information relating to
28 energy conservation;

29 i. Monitor prices charged for energy within the State, evaluate
30 policies governing the establishment of rates and prices for energy,
31 and make recommendations for necessary changes in such policies
32 to other concerned Federal and State agencies, **[including the Board**
33 **of Public Utilities,]** and to the Legislature;

34 j. Have authority to conduct and supervise research projects
35 and programs for the purpose of increasing the efficiency of energy
36 use, developing new sources of energy, evaluating energy
37 conservation measures, and meeting other goals consistent with the
38 intent of this act;

39 k. Have authority to distribute and expend funds made
40 available for the purpose of research projects and programs;

41 l. Have authority to enter into interstate compacts in order to
42 carry out energy research and planning with other states or the
43 Federal Government where appropriate;

44 m. Have authority to apply for, accept, and expand grants-in-aid
45 and assistance from private and public sources for energy programs;
46 notwithstanding any other law to the contrary, the **[commissioner]**
47 President of the Board of Public Utilities is designated as the State

- 1 official to apply for, receive, and expend Federal and other funding
2 made available to the State for the purposes of this act;
- 3 n. Require the annual submission of energy utilization reports
4 and conservation plans by State Government departments and
5 agencies, **[including the Board of Public Utilities,]** evaluate said
6 plans and the progress of the departments and agencies in meeting
7 these plans, and order changes in the plans or improvement in
8 meeting the goals of the plans;
- 9 o. Carry out all duties given **[him]** to the Board of Public
10 Utilities under other sections of this act or any other acts;
- 11 p. Have authority to conduct hearings and investigations in
12 order to carry out the purposes of this act and to issue **[subpenas]**
13 subpoenas in furtherance of such power. **[Said]** Such power to
14 conduct investigations shall include, but not be limited to, the
15 authority to enter without delay and at reasonable times the
16 premises of any energy industry in order to obtain or verify any
17 information necessary for carrying out the purposes of this act;
- 18 q. Have authority to adopt, amend or repeal, pursuant to the
19 "Administrative Procedure Act" (C.52:14B-1 et seq.) such rules and
20 regulations necessary and proper to carry out the purposes of this
21 act;
- 22 r. Administer such Federal energy regulations as are applicable
23 to the states, including, but not limited to, the mandatory petroleum
24 allocation regulations and State energy conservation plans.
- 25 s. Have authority to sue and be sued;
- 26 t. Have authority to acquire by purchase, grant, contract or
27 eminent domain title to real property for the purpose of
28 demonstrating facilities which improve the efficiency of energy use,
29 conserve energy or generate energy in new and efficient ways;
- 30 u. Have authority to construct and operate, on an experimental
31 or demonstration basis, facilities which improve the efficiency of
32 energy use, conserve energy or generate power in new and efficient
33 ways;
- 34 v. Have authority to contract with any other public agency or
35 corporation incorporated under the laws of this or any other state
36 for the performance of any function under this act;
- 37 w. Determine the effect of energy and fuel shortages upon
38 consumers, and formulate proposals designed to encourage the
39 lowest possible cost of energy and fuels consumed in the State
40 consistent with the conservation and efficient use of energy;
- 41 x. Keep complete and accurate minutes of all hearings held
42 before the **[commissioner]** Board of Public Utilities or any member
43 of the Division of Energy Planning and Conservation pursuant to
44 the provisions of this act. All such minutes shall be retained in a
45 permanent record and shall be available for public inspection at all
46 times during the office hours of the **[department]** board; and

1 y. At intervals of every three years, submit a report to the
2 Department of Community Affairs on the projected cost of energy,
3 to be used by that department when analyzing the cost and payback
4 of energy conservation measures and requirements being considered
5 for inclusion in the energy subcode of the State Uniform
6 Construction Code.

7 (cf: P.L.1978, c.80, s.2)

8

9 4. This act shall take effect immediately.

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11

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STATEMENT

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14 This bill would promote energy efficiency and conservation in
15 buildings by authorizing the Commissioner of Community Affairs
16 (“commissioner”) to amend the Uniform Construction Code’s
17 energy subcode to establish enhanced energy-saving construction
18 requirements, the added cost of which may reasonably be expected
19 to be recovered through energy conservation over a period of not
20 more than seven years. Such requirements are to include provisions
21 to ensure that, in all parts of the State the anticipated energy savings
22 shall be similarly proportionate to the additional costs of energy
23 subcode compliance. The commissioner would be authorized to
24 adopt only those enhanced requirements, the additional cost of
25 which will be offset in less than seven years by a resulting reduction
26 in energy consumption.

27 The energy subcode may be based upon the model codes
28 required by law, but may be amended or supplemented by the
29 commissioner at any time, in accordance with 10-year energy price
30 projections provided at three year intervals by the Board of Public
31 Utilities (“board”) between the initial adoption of that subcode and
32 subsequent year revisions of the model subcode.

33 This bill requires the board, through its residential facilities
34 energy conservation program, and in consultation with the
35 Department of Community Affairs and the New Jersey Housing and
36 Mortgage Finance Agency, to assist certain homebuyers by
37 providing down payment funding assistance for the purchase of new
38 homes which have increased costs that may be attributed to the
39 enhanced energy conservation construction requirements.