ASSEMBLY, No. 2137

STATE OF NEW JERSEY

222nd LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2026 SESSION

Sponsored by:
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SYNOPSIS

Permits owners, agents, or other persons to elect to contract with private on-site inspection agencies to complete inspections under the construction code; provides for charging of separate inspection fee.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT related to inspections under the construction code, by providing for inspection fees and permitting certain persons to contract with private on-site inspection agencies for inspection services, and amending P.L.1979, c.121 and P.L.1975, c.217.

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

1. Section 3 of P.L.1979, c.121 (C.52:27D-126a) is amended to read as follows:

3. Where the appointing authority of any municipality shall appoint an enforcing agency and construction board of appeals pursuant to section 8 of P.L.1975, c.217 (C.52:27D-126), the municipal governing body by ordinance, in accordance with standards established by the commissioner, shall set enforcing agency fees for plan review, construction permit, <u>inspection,</u> certificate of occupancy, demolition permit, moving of building permit, elevator permit<u>,</u> and sign permit, provided, however, that such fees shall not exceed the annual costs for the operation of the enforcing agency. For the three-year period commencing with an enforcing agency's initial participation in the "Electronic Permit Processing Review System," developed and implemented pursuant to section 1 of P.L.2021, c.70 (C.52:27D-124.4), the municipal governing body may impose, and the enforcing agency may collect, construction permit surcharge fees to defray the enforcing agency's startup costs related to offering electronic plan review and scheduling. Surcharge fees shall be established in accordance with standards established by the commissioner.

(cf: P.L.2021, c.70, s.3)

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

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

b. The owner of any premises upon which a building or structure is being constructed shall be deemed to have consented to the inspection by the enforcing agency and the department, of the entire premises and of any and all construction being performed on it until a certificate of occupancy has been issued. An inspector, or team of inspectors, on presentation of proper credentials, shall have the right to enter and inspect such premises, and any and all

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 <u>thus</u> is new matter.

construction thereon, for purposes of ensuring compliance with the provisions of the applicable construction permit, the code, and other applicable laws and regulations. All [inspection] inspections pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.) shall be between the hours of 9 a.m. and 5 p.m. on business days or at another time that has been agreed upon by the owner and the relevant inspecting entity, whether the enforcing agency, department, or private on-site inspection agency, or when construction is actually being undertaken, provided, however, that inspections may be conducted at other times if the enforcing agency has reasonable cause to believe that an immediate danger to life, limb or property exists, or if permission is given by an owner, or the owner's agent, architect, engineer or builder. No person shall accompany an inspector or team of inspectors on any inspection pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.), unless the person's presence is necessary for the enforcement of P.L.1975, c.217 (C.52:27D-119 et seq.), or the code, or unless consent is given by an owner or the owner's agent, architect, engineer or builder.

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

d. When an inspector or team of inspectors finds a violation of the provisions of a construction permit, the code, or other applicable laws and regulations at an owner-occupied single-family residence, and issues a notice of violation and an order to terminate the violation, the enforcing agency shall require the same inspector or team of inspectors who found the violation to undertake any subsequent reinspection thereof at the premises. When the same inspector or team of inspectors cannot be assigned to undertake the

reinspection, the enforcing agency may assign an available inspector provided the scope of the reinspection shall be limited to the violation for which the reinspection is required. The requirements of this subsection shall not apply to violations of the plumbing or electrical subcodes, or to fire safety code violations, or to any violation of any other subcode that the Department of Community Affairs determines to be a health or safety violation. Nothing in this subsection shall be construed to infringe upon the right of a property owner to request a different inspector, team of inspectors, or supervisor, to perform any required reinspection.

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

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

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

(3) If the <u>owner, agent, or other responsible person in charge of work independently elects, for any reason, to contract with a private on-site inspection agency authorized by the department to conduct on-site inspections pursuant to subsection i. of section 6 of P.L.1975, c.217 (C.52:27D-124) to perform the requested inspection or if the</u> enforcing agency is unable to perform the requested inspection within three business days of the date for which the inspection is requested and the enforcing agency and the owner, agent, or responsible person in charge of work are unable to come to an agreement pursuant to paragraph (2) of this subsection, the owner, agent, or other responsible person in charge of work may [choose to] contract with a private on-site inspection agency authorized by the department to conduct on-site inspections

pursuant to paragraph i. of section 6 of P.L.1975, c.217 (C.52:27D-124) to perform the requested inspection or inspections.

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

(b) The owner, agent, or other responsible person in charge of work may elect to utilize the private on-site inspection agency to conduct all subsequent associated inspections. In the event of a project with multiple units in one building, this provision shall apply to the specific unit or units affected by the inspection delay.

(c) The use of a private on-site inspection agency by an owner, agent, or other responsible person for on-site inspections shall be subject to the conflict-of-interest provisions in the code. In addition to those requirements, no private on-site inspection agency shall perform an inspection for any owner, agent, or other responsible person in charge of work, if an owner, agent, or other responsible person is currently employed by or affiliated with any individual affiliated with the private on-site inspection agency or has employed or was associated with an individual affiliated with the private on-site inspection agency within a timeframe established by the commissioner by regulation.

(d) The enforcing agency shall, if warranted, provide a fee reconciliation to the owner for an inspection completed by a private on-site inspection agency as a result of a missed inspection. The enforcing agency shall perform the reconciliation at the conclusion of the project. This reconciliation shall be based on the fees already paid less administrative costs for the enforcing agency and shall not exceed the amount already paid for the project, nor shall it exceed the amount that the enforcing agency is authorized to impose for inspections, and shall take into account the administrative costs of the enforcing agency.

(4) **[**If the owner, agent, or other responsible person in charge of work believes an enforcing agency has demonstrated a repeated inability to conduct inspections for a construction project within the timelines required by this section, as established by the commissioner by regulation, the owner, agent, or other responsible person in charge of work may notify the department in writing to request authorization to utilize an authorized private on-site inspection agency. Within 15 business days of receiving a notification under this paragraph, the department shall determine whether the enforcing agency has demonstrated repeated inability, and, if the department determines, shall authorize the owner, agent, or other responsible person in charge of work to utilize an authorized private on-site inspection agency for all or a portion of the necessary inspections for the remainder of the project.**]** <u>(Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)</u>

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

g. (1) At timeframes established by the commissioner by regulation, adopted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the municipal construction official shall submit an annual report detailing compliance with the code. The report shall 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 shall take into account projected work and agency resource needs for the next budget year.

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

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

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

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

h. If an enforcing agency is unable to meet its obligations under P.L.1975, c.217 (C.52:27D-119 et seq.), the enforcing agency shall promptly notify the department within 15 business days. The department may take corrective action, including the issuance of penalties, pursuant to subsection k. of section 6 of P.L.1975, c.217 (C.52:27D-124) if an enforcing agency fails to meet its obligations

under P.L.1975, c.217 (C.52:27D-119 et seq.).
(cf: P.L.2022, c.139, s.2)

3. This act shall take effect immediately.

STATEMENT

This bill would modify certain inspection processes under the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), to provide for charging of separate inspection fees and allow the owner, agent, or other responsible person in charge of construction work to independently elect, for any reason, to contract with an authorized private on-site inspection agency to perform a requested inspection.

Current law only allows owners, agents, or responsible persons to choose to contract with a private on-site inspection agency under certain circumstances if a local enforcing agency is unable to complete a requested inspection within three business days of the date for which the inspection is requested, and with the authorization of the Department of Community Affairs.

Since the bill allows an owner, agent, or other responsible person to elect to contract with an authorized private on-site inspection agency for any reason, the bill eliminates a provision that specifically authorized an owner, agent, or other responsible person to do so under limited circumstances when an enforcing agency has demonstrated a repeated inability to conduct timely inspections for a construction project.