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SENATE, No. 2771

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED MARCH 10, 2011

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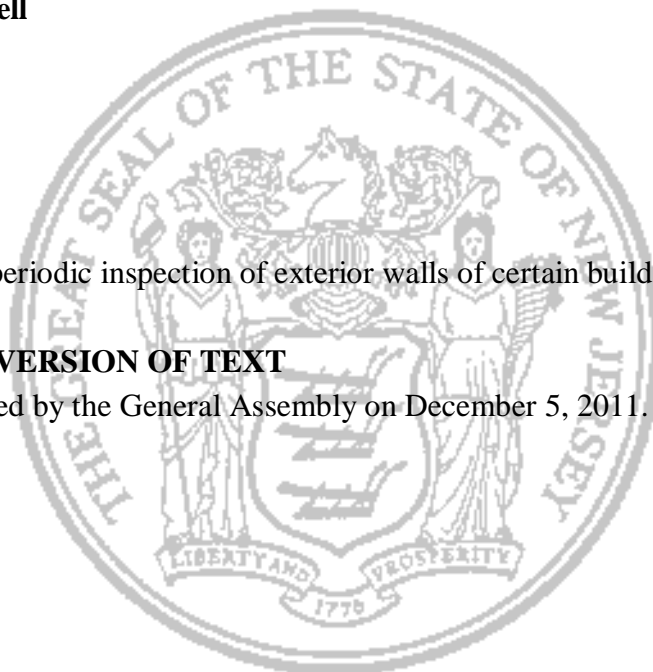
**Senators Greenstein, Whelan, Assemblymen Moriarty, Giblin, Greenwald,
Assemblywoman Lampitt, Assemblymen DeAngelo, Singleton, Burzichelli
and O'Donnell**

SYNOPSIS

Requires periodic inspection of exterior walls of certain buildings.

CURRENT VERSION OF TEXT

As amended by the General Assembly on December 5, 2011.



(Sponsorship Updated As Of: 12/16/2011)

1 AN ACT requiring the periodic inspection of certain buildings ¹,
2 amending P.L.1976, c.76¹ and supplementing chapter 27D of
3 Title 52 of the Revised Statutes.

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

7
8 1. (New section) As used in this act:

9 “Affected building” means a building, whether residential or
10 commercial, that is six or more stories in height ²or 75 feet,
11 whichever is less²; or has an item affixed to an exterior building
12 wall that is in excess of 60 feet in height.

13 “Building exterior” means all of the exterior walls of a building,
14 or any part thereof, and shall also include, but shall not be limited
15 to, any balcony, fire escape, chimney, hanging air conditioner,
16 marquee, canopy, sign, flagpole, fire escape and window washing
17 and exterior maintenance system which may be attached to any
18 portion of the exterior walls of the building.

19 “Building wall” means an exterior wall of an affected building
20 and any item affixed thereto.

21 “Commissioner” means the Commissioner of Community
22 Affairs.

23 “Department” means the Department of Community Affairs.

24 ²“Enforcing agency” means the municipal construction official
25 and subcode officials defined in section 3 of P.L.1975, c.217
26 (C.52:27d-121).²

27 “Professional” means a licensed professional engineer
28 experienced in the practice of structural engineering or a licensed
29 registered architect knowledgeable in the design, construction, and
30 inspection of building facades.

31 “Safe” means the condition of a building exterior, or any part
32 thereof, that does not require repair or maintenance to sustain the
33 structural integrity of the exterior of the building.

34 “Safe with a repair and maintenance program” means the
35 condition of a building wall, or any part thereof, that the
36 professional performing an inspection does not consider unsafe at
37 the time of inspection, but requires repairs or maintenance within a
38 time frame designated by the professional in order to prevent its
39 deterioration into an unsafe condition.

40 “Unsafe” means the condition of a building wall, or any part
41 thereof, that has no visible means of structural support and that is
42 dangerous to persons or property and requires immediate remedial
43 action to protect the public health, safety and welfare. In addition,

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCU committee amendments adopted May 12, 2011.

²Assembly floor amendments adopted December 5, 2011.

1 any condition of a building wall that was reported as “safe with a
2 repair and maintenance program” in a previous report and that has
3 not been corrected by the time of the current inspection, shall be
4 deemed an unsafe condition.

5
6 2. (New section) a. The Department of Community Affairs
7 shall establish a program for the maintenance and inspection of
8 building exteriors ²by professionals, which program shall require
9 that enforcing agencies shall oversee the maintenance and
10 inspection of building exteriors, and shall maintain any required
11 reports concerning the maintenance and inspection of building
12 exteriors² sufficient to implement the provisions of
13 P.L. , c. (C.) (pending before the Legislature as this bill).
14 The commissioner shall, pursuant to the “Administrative Procedure
15 Act,” P.L. 1968, c.410 (C.52:14B-1 et seq.), promulgate rules and
16 regulations to effectuate the provisions of this ²[bill] act² not later
17 than the first day of the third month next following the enactment of
18 P.L. , c. (C.) (pending before the Legislature as this bill),
19 and shall model those rules and regulations pertaining to the
20 maintenance of building exteriors and the inspection required in
21 subsection b. of this section after the provisions set forth in the
22 standards promulgated by ASTM International designated as
23 “E2270-05 Standard Practice for Periodic Inspection of Building
24 Facades for Unsafe Conditions.”

25 b. Every owner of an affected building shall maintain the
26 building’s exterior walls, and any appurtenances thereto, in a safe
27 condition. The owner of an affected building shall provide for the
28 inspection of the building exterior by a professional, and for the
29 professional’s preparation and filing of an inspection report with the
30 ²[Department of Community Affairs] enforcing agency², on the
31 owner’s behalf as provided in P.L. , c. (C.) (pending before
32 the Legislature as this bill), and in rules and regulations adopted
33 pursuant thereto.

34 c. The initial inspection of an affected building shall be
35 conducted under the following schedule:
36

Construction date:	Report to be completed by:
Undetermined	² [June 30, 2012] <u>January 1, 2013</u> ²
Prior to, and including, 1950	² [June 30, 2012] <u>January 1, 2013</u> ²
1951-1970	² [June 30, 2013] <u>January 1, 2014</u> ²
1971-1980	² [June 30, 2014] <u>January 1, 2015</u> ²
1981-1990	² [June 30, 2015] <u>January 1, 2016</u> ²
1991- ² [2005] <u>2012</u> ²	² [June 30, 2016] <u>January 1, 2017</u> ²

37
38 d. The owner of an affected building shall provide for the
39 inspection of the building^{2, 2} and the filing of an inspection report

1 ²with the enforcing agency² at least once during every subsequent
2 five-year period.

3 e. The commissioner shall establish a procedure that allows an
4 owner ²of an affected building² to request, and the ²**[department]**
5 enforcing agency² to grant, a waiver from an inspection requirement
6 whenever ²**[an]**² a building wall of an affected building is
7 substantially restored. The owner shall submit with the waiver
8 application such information as the commissioner has determined
9 shall be necessary to enable the ²**[commissioner]** enforcing agency²
10 to evaluate the request. The ²**[commissioner]** enforcing agency²
11 shall grant the waiver if the evidence provided by the owner of the
12 affected building demonstrates that the recent facade restoration
13 obviates the need to do an inspection until the next inspection cycle.
14

15 3. (New section) The inspection required in section 2 of
16 P.L. , c. (C.) (pending before the Legislature as this bill)
17 shall be conducted by, or under the supervision of, the professional
18 and performed to the best of the professional's knowledge and
19 belief, in accordance with rules and regulations promulgated by the
20 commissioner as required in section 2 of P.L. , c. (C.)
21 (pending before the Legislature as this bill).

22 Upon discovery of any unsafe condition, the professional shall
23 immediately notify the owner of the building by electronic mail or
24 by fax; and shall within 12 hours of discovery, notify the
25 ²**[department]** enforcing agency² in writing and in an electronic
26 format determined by the department. Any condition of a building
27 wall that was reported as "safe with a repair and maintenance
28 program" in a previous report and that has not been corrected by the
29 time of the current inspection, shall be deemed an unsafe
30 condition^{2,2}

31 The professional may order any inspections or additional tests
32 that the professional deems to be necessary in order to support the
33 findings of the inspection and to determine the cause of any defect
34 in the building exterior. Any such inspection or test that ²**[require]**
35 requires² the removal of any portion of a building's exterior shall be
36 performed only after any required permit has been obtained by the
37 professional on behalf of the owner.
38

39 4. (New section) The professional shall submit to the owner of
40 the affected building a written report about the result of the
41 inspection, certifying that the inspection was performed and
42 completed in accordance with the provisions of P.L. , c. (C.)
43 (pending before the Legislature as this bill), and detailing all
44 conditions not classified as safe. The department may impose a
45 processing fee that shall be paid to the ²**[department]** enforcing
46 agency by the owner of the affected building² upon the submission
47 of the summary of the written report. If the report identifies an

1 unsafe condition, the professional, not later than 24 hours after
2 completion of the report, shall file a copy of the report with the
3 ²~~department~~ enforcing agency² in writing and in an electronic
4 format determined by the department.

5 An inspection report shall include the name and license number
6 of the professional who performed the inspection and prepared the
7 report, and shall be signed and dated by the professional. The
8 report shall include the following information about an affected
9 building:

10 a. the address of the affected building, and its location from the
11 nearest intersection;

12 b. the name, mailing address, and telephone number of the
13 owner of the affected building and of the owner's agent, if any;

14 c. a description of the building, including number of stories,
15 height, plan dimensions, usage, age and type of exterior wall
16 construction, and system of water management;

17 d. a brief history of any settlements, repairs, or revisions to
18 exterior enclosures, if available;

19 e. the date of the start and completion of the inspection, a
20 detailed description of the procedures used in making the
21 inspection, and extent and location of all physical inspections
22 performed;

23 f. a report of all conditions of the affected building, including
24 but not limited to significant deterioration and movement observed
25 as well as a statement concerning the apparent water-tightness of
26 the exterior surfaces, and the deleterious effect of exterior
27 appurtenances, including exterior fixtures, flagpoles, signs,
28 parapets, copings, guard rails, window frames, hardware and lights,
29 window guards, window air conditioners, flower boxes, and similar
30 items. The report shall classify each such condition as safe, unsafe,
31 or safe with a repair and maintenance program;

32 g. the probable causes of the reported conditions;

33 h. the status of the exterior maintenance;

34 i. with respect to any conditions listed in the previously filed
35 report, whether those conditions have been repaired or maintained
36 as recommended in that report;

37 j. recommendations for repairs or maintenance, if appropriate,
38 to the affected building, including the recommended time frame for
39 the repairs or maintenance to be performed;

40 k. the classification of the building as either safe, unsafe, or
41 safe with a repair and maintenance program;

42 l. photographs or sketches documenting the location of any
43 conditions that are either unsafe or safe with a repair and
44 maintenance program;

45 m. a statement by the professional indicating which repairs or
46 maintenance require the obtaining of work permits prior to their
47 commencement;

- 1 n. a statement signed by the owner or agent of the building,
2 acknowledging receipt of a copy of the report and acknowledging
3 any required repairs or maintenance to be performed on the affected
4 building and the recommended time frame for performing such
5 repairs or maintenance;
6 o. the certification of the professional that the physical
7 inspection was performed in accordance with applicable rules and
8 regulations and within the appropriate professional stand of care.
9 p. the professional's seal and signature; and
10 q. any other matters that the department may require.

11 The professional may submit an amended report containing
12 additional or revised information concerning the condition of an
13 affected building not later than 30 days following the date of the
14 submission of the report to the department. The amended report
15 shall clearly indicate any change from the initial report and the
16 reasons for the change.

17

18 5. (New section) Not later than 24 hours after being notified
19 by a professional of an unsafe condition at an affected building, the
20 owner of the affected building shall take actions necessary and
21 appropriate to protect the public or ensure public safety, including
22 but not limited to erecting sidewalk sheds, fences, or safety netting.

23 Not later than ¹[10] 30¹ days after the receipt or filing of a
24 report identifying an unsafe condition, the owner of an affected
25 building shall commence work to correct the condition and work
26 shall continue without interruption until the unsafe condition has
27 been corrected, unless there has been an unforeseen delay. Not later
28 than seven days after an unsafe condition at an affected building has
29 been corrected, the professional shall re-inspect the affected
30 building and file with the ²[department] enforcing agency² an
31 amended report stating the condition of the building.

32

33 6. (New section) The owner of an affected building shall
34 ensure that any conditions described in the report as "safe with a
35 repair and maintenance program" are repaired, and the actions
36 identified by the professional are completed within the time frame
37 designated by the professional or by the time necessary to prevent a
38 condition from becoming an unsafe condition, whichever is sooner.

39

40 7. (New section) a. The ²[department] enforcing agency² may
41 grant ²to the owner of an affected building² an extension of time not
42 to exceed 90 days to begin the repairs required to mitigate an unsafe
43 condition or to repair a "safe with a repair and maintenance
44 program" condition, after the receipt and review of an initial
45 extension application submitted by the professional which includes:
46 proof that the premises have been made safe by means of a shed,
47 fence, or other appropriate measures; a copy of the contract
48 indicating the scope of work necessary to remedy the unsafe

1 condition; or the estimate by the professional of the length of time
2 required for repairs, and a notarized affidavit by the owner of the
3 building or its agent that work will be completed within such time.

4 b. A further extension of time will be considered by the
5 department only upon receipt and review of an application for an
6 additional extension of time which details that one of the following
7 criteria has been met: the work has been substantially completed,
8 but there has been an unforeseen delay outside of the control of the
9 professional or the persons performing the work; unforeseen
10 circumstances affecting the ability of the contractor to perform the
11 work, including, but not limited to, a fire at the affected building, or
12 the collapse of the affected building, have occurred; or the nature of
13 hazard requires more than 90 days to remove.

14 c. In the event that ²[a] an² owner does not make required
15 repairs or does not take corrective actions as required in sections 5
16 and 6 of P.L. , c. (C.) (pending before the Legislature as
17 this bill), the ²[department] enforcing agency² may enforce the
18 provisions of P.L. , c. (C.) (pending before the
19 Legislature as this bill) through the imposition of fines, stop work
20 orders, or any other authorized enforcement actions permitted under
21 the “State Uniform Construction Code Act,” P.L.1975, c. 217
22 (C.52:27D-119 et seq.). The ²[department] enforcing agency² may
23 impose a fine pursuant to this subsection in the amount of \$2,500
24 for each day that the required repairs have not been made or the
25 required corrective actions have not been taken.

26

27 8. (New section) The owner of the affected building may
28 appeal in writing the findings set forth in the professional’s initial
29 or amended report to the ²[department] county construction board
30 of appeals² within 30 days of the receipt of the report, on such form
31 or in such manner as may be required by the commissioner, and
32 shall include as part of the appeal documents a report from another
33 professional concerning the condition of the affected building’s
34 facade and appurtenances thereto. The filing of an appeal shall stay
35 the requirement for making repairs to the affected building, but not
36 the requirement to take actions necessary to protect the public
37 safety.

38 After consideration of an appeal, the ²[commissioner] county
39 construction board of appeals² shall either grant the appeal, deny
40 the appeal, or grant the appeal with proposed modifications to the
41 professional’s as the ²[department] county construction board of
42 appeals² deems appropriate.

43 ²The department may impose an appeal processing fee that shall
44 be paid by the owner of the affected building to the county
45 construction board of appeals upon the submission of the appeal.²

1 9. Section 7 of P.L.1976, c.76 (C.55:13A-7) is amended to
2 read as follows:

3 7. The commissioner shall issue and promulgate, in the manner
4 specified in section 8 of P.L.1967, c.76 (C.55:13A-8), such
5 regulations as the commissioner may deem necessary to assure that
6 any hotel or multiple dwelling will be maintained in such manner as
7 is consistent with, and will protect, the health, safety and welfare of
8 the occupants or intended occupants thereof, or of the public
9 generally.

10 Any such regulations issued and promulgated by the
11 commissioner pursuant to this section shall provide standards and
12 specifications for such maintenance materials, methods and
13 techniques, fire warning and extinguisher systems, elevator
14 systems, emergency egresses, and such other protective equipment
15 as the commissioner shall deem reasonably necessary to the health,
16 safety and welfare of the occupants or intended occupants of any
17 units of dwelling space in any hotel or multiple dwelling, including
18 but not limited to:

- 19 (a) Structural adequacy ratings;
- 20 (b) Methods of egress, including fire escapes, outside fireproof
21 stairways, independent stairways, and handrails, railings, brackets,
22 braces and landing platforms thereon, additional stairways, and
23 treads, winders, and risers thereof, entrances and ramps;
- 24 (c) Bulkheads and scuttles, partitions, walls, ceilings and floors;
- 25 (d) Garbage and refuse collection and disposal, cleaning and
26 janitorial services, repairs, and extermination services;
- 27 (e) Electrical wiring and outlets, and paints and the composition
28 thereof;
- 29 (f) Doors, and the manner of opening thereof;
- 30 (g) Transoms, windows, shafts and beams;
- 31 (h) Chimneys, flues and central heating units;
- 32 (i) Roofing and siding materials;
- 33 (j) Lots, yards, courts and garages, including the size and
34 location thereof;
- 35 (k) Intakes, open ducts, offsets and recesses;
- 36 (l) Windows, including the size and height thereof;
- 37 (m) Rooms, including the area and height thereof, and the
38 permissible number of occupants thereof;
- 39 (n) Stairwells, skylights and alcoves;
- 40 (o) Public halls, including the lighting and ventilation thereof;
- 41 (p) Accessory passages to rooms;
- 42 (q) Cellars, drainage and air space;
- 43 (r) Water-closets, bathrooms and sinks;
- 44 (s) Water connections, including the provision of drinking and
45 hot and cold running water;
- 46 (t) Sewer connections, privies, cesspools, and private sewers;
- 47 (u) Rain water and drainage conductors;
- 48 (v) Entrances and ramps; and

1 (w) Presence of lead-based paint hazards in multiple dwellings
2 and in single-family and two-family dwellings, exclusive of owner-
3 occupied dwelling units, subject to P.L.2003, c.311 (C.52:27D-
4 437.1 et al.). In a common interest community, any inspection fee
5 for and violation found within a unit which is solely related to this
6 subsection shall be the responsibility of the unit owner and not the
7 homeowners' association, unless the association is the owner of the
8 unit.

9 Following the effective date of P.L. , c. (c.) (pending
10 before the Legislature as this bill), no inspection of an exterior
11 building façade shall be conducted pursuant to P.L.1967, c.76
12 (C.55:13A-1 et seq.), but instead shall be conducted pursuant to
13 section 2 of P.L. , c. (C.) (pending before the Legislature as
14 this bill).¹

15 (cf: P.L.2007, c.251, s.5)

16

17 ¹**[9.] 10.** This act shall take effect on the first day of the fourth
18 month next following enactment, except that subsection a. of
19 section 2 shall take effect immediately.