

ASSEMBLY, No. 1708

STATE OF NEW JERSEY

INTRODUCED MARCH 11, 1996

By Assemblyman KRAMER

1 AN ACT concerning the adoption of building construction codes,
2 supplementing and amending P.L.1975, c.217.

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

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7 1. (New section) The Legislature finds and declares that:

8 a. One of the specified purposes of the "State Uniform
9 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), was
10 the elimination of restrictive and unnecessary construction regulations
11 that tend to unnecessarily increase construction costs.

12 b. While the overall effect of the statutory requirement that the
13 subcodes of the State Uniform Construction Code be adoptions of the
14 model codes or standards of nationally recognized organizations,
15 including all amendments or revisions to such codes or standards, has
16 been consistent with the intent and purpose of the "State Uniform
17 Construction Code Act," there have been exceptional instances in
18 which the amendment or revision of an adopted code or standard has
19 included changes that are not consistent with that intent and purpose.

20 c. It is therefore necessary and appropriate that the Commissioner
21 of Community Affairs be given the authority to exclude from the
22 adoption of any revision or amendment of an adopted model code or
23 standard any provision the adoption of which would be inconsistent
24 with the intent and purpose of the act.

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

28 5. a. The commissioner shall after public hearing pursuant to
29 section 4 of the "Administrative Procedure Act," P.L.1968, c.410
30 (C.52:14B-4) adopt a State Uniform Construction Code for the
31 purpose of regulating the structural design, construction, maintenance
32 and use of buildings or structures to be erected and alteration,
33 renovation, rehabilitation, repair, maintenance, removal or demolition
34 of buildings or structures already erected. Prior to the adoption of

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 said code, the commissioner shall consult with the code advisory board
2 and other departments, divisions, bureaus, boards, councils or other
3 agencies of State Government heretofore authorized to establish or
4 administer construction regulations.

5 Such prior consultations with departments, divisions, bureaus,
6 boards, councils, or other agencies of State Government shall include
7 but not be limited to consultation with the Commissioner of Health
8 and the Public Health Council prior to adoption of a plumbing subcode
9 pursuant to paragraph b. of this section. Said code shall include any
10 code, rule or regulation incorporated therein by reference.

11 b. The code shall be divided into subcodes which may be adopted
12 individually by the commissioner as he may from time to time consider
13 appropriate. [Said] These subcodes shall include but not be limited to
14 a building code, a plumbing code, an electrical code, an energy code,
15 a fire prevention code, a manufactured or mobile home code and
16 mechanical code.

17 These subcodes shall be adoptions of the model codes of the
18 Building Officials and Code Administrators International, Inc., the
19 National Electrical Code, and the National Standard Plumbing Code,
20 provided that for good reasons, the commissioner may adopt as a
21 subcode a model code or standard of some other nationally recognized
22 organization upon a finding that such model code or standard
23 promotes the purposes of this act. The initial adoption of a model
24 code or standard as a subcode shall constitute adoption of subsequent
25 edition year publications of the model code or standard organization,
26 except as provided for in paragraphs (1) and (2) of this subsection.
27 Adoption of publications shall not occur more frequently than once
28 every three years; provided, however, that a revision or amendment
29 may be adopted at any time in the event that the commissioner finds
30 that there exists an imminent peril to the public health, safety or
31 welfare.

32 (1) Prior to establishing the effective date for any subsequent
33 revision or amendment of any model code or standard adopted as a
34 subcode, the commissioner shall review, in consultation with the code
35 advisory board, the text of the revised or amended model code or
36 standard and determine whether the amended or revised provisions of
37 the model code are at least as consistent with the intent and purpose
38 of this act as are the corresponding provisions of the subcode then
39 currently in effect.

40 (2) In the event that the commissioner, pursuant to paragraph (1)
41 of this subsection, determines that any amended or revised provision
42 of a model code is less consistent with the intent and purpose of this
43 act than is the corresponding provision of the subcode then currently
44 in effect, the commissioner may exclude that provision from the
45 adoption of the amended or revised model code and retain, in its place,
46 the corresponding provision then currently in effect.

1 The commissioner shall be authorized to adopt a barrier free
2 subcode or to supplement or revise any model code adopted
3 hereunder, for the purpose of insuring that adequate and sufficient
4 features are available in buildings or structures so as to make them
5 accessible to and usable by the physically handicapped.

6 c. Any municipality through its construction official, and any State
7 agency or political subdivision of the State may submit an application
8 recommending to the commissioner that a State sponsored code
9 change proposal be adopted. Such application shall contain such
10 technical justification and shall be submitted in accordance with such
11 rules of procedure as the commissioner may deem appropriate, except
12 that whenever the State Board of Education shall determine that
13 enhancements to the code are essential to the maintenance of a
14 thorough and efficient system of education, the enhancements shall be
15 made part of the code; provided that the amendments do not result in
16 standards that fall below the adopted subcodes. The Commissioner of
17 the Department of Education shall consult with the Commissioner of
18 the Department of Community Affairs prior to publishing the intent of
19 the State Board to adopt any amendments to the Uniform Construction
20 Code. Upon adoption of any amendments by the State Board of
21 Education they shall be transmitted forthwith to the Commissioner of
22 the Department of Community Affairs who shall publish and
23 incorporate the amendments as part of the Uniform Construction Code
24 and the amendments shall be enforceable as if they had been adopted
25 by the commissioner.

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

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

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

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

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

5 d. (Deleted by amendment, P.L.1983, c.496.)

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

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

24 (cf: P.L.1993, c.306, s.1)

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26 3. This act shall take effect on the first day of the third month
27 following enactment.

30 STATEMENT

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32 The bill grants the Commissioner of Community Affairs flexibility
33 in adoption of national model codes and standards as subcodes of the
34 State Uniform Construction Code. Under current law, the
35 commissioner is not given an opportunity to refuse to accept revisions
36 or amendments to previously adopted subcode requirements. In a few
37 instances, this has resulted in the adoption of revised editions of codes
38 that contain requirements that are unduly restrictive and unnecessary.

39 This bill would give the commissioner, prior to the adoption of any
40 amendment or revision of an adopted subcode and in consultation with
41 the code advisory board, the authority to retain the subcode provision
42 currently in effect if the adoption of the revised code would be
43 inconsistent with the intent of the "State Uniform Construction Code
44 Act," P.L. 1975, c. 217 (C.52:27D-119 et seq.).

45 The bill also gives the commissioner the authority, in consultation
46 with the code advisory board, to review the provisions of the current

1 subcodes, and if portions are deemed inconsistent with the purposes
2 of the "State Uniform Construction Code Act," to replace them with
3 those prior subcodes which are more consistent with statutory intent.

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8 Permits flexibility of DCA commissioner in adopting national model
9 construction code provisions.