

# ASSEMBLY, No. 5895

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 14, 2021

**Sponsored by:**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**SYNOPSIS**

Concerns construction code enforcing agency fee revenue.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning enforcing agency fees under the “State Uniform  
2 Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et  
3 seq.), and amending P.L.1979, c.121.

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

7  
8 1. Section 3 of P.L.1979, c.121 (C.52:27D-126a) is amended to  
9 read as follows:

10 3. a. Where the appointing authority of any municipality shall  
11 appoint an enforcing agency and construction board of appeals  
12 pursuant to section 8 of P.L.1975, c.217 (C.52:27D-126), the  
13 municipal governing body by ordinance, in accordance with  
14 standards established by the commissioner, shall set enforcing  
15 agency fees for plan review, construction permit, certificate of  
16 occupancy, demolition permit, moving of building permit, elevator  
17 permit and sign permit, provided, however, that such fees shall not  
18 exceed the annual costs for the operation of the enforcing agency.

19 For the three year period commencing with an enforcing  
20 agency’s initial participation in the “Electronic Permit Processing  
21 Review System,” developed and implemented pursuant to section 1  
22 of P.L.2021, c.70 (C.52:27D-124.4 et al), the municipal governing  
23 body may impose, and the enforcing agency may collect,  
24 construction permit surcharge fees to defray the enforcing agency’s  
25 startup costs related to offering electronic plan review and  
26 scheduling. Surcharge fees shall be established in accordance with  
27 standards established by the commissioner.

28 b. In any fiscal year in which the total amount of fees collected  
29 by an enforcing agency exceeds, by 12 percent or more, the costs of  
30 operating the enforcing agency, as described in subsection (c) of  
31 N.J.A.C.5:23-4.17 on the effective date of  
32 P.L. , c. (C. ) (pending before the Legislature as this  
33 bill) and as appropriated in the adopted municipal budget, the  
34 amount of fees collected in excess of 112 percent of the total cost  
35 shall lapse to the municipality’s current fund balance, provided that  
36 all enforcing agency fees, and all enforcing agency operations,  
37 procedures, and inspections, fully comply with all of the provisions  
38 of P.L.1975, c.217 (C.52:27D-119 et seq.).

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

40  
41 2. This act shall take effect immediately.

42  
43  
44 STATEMENT

45  
46 This bill would amend the “State Uniform Construction Code

**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 Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) to require the transfer  
2 of excess municipal enforcing agency fees from the municipal  
3 enforcing agency to the municipality’s surplus.

4 The bill would require that in any fiscal year in which the total  
5 amount of fees collected by an enforcing agency exceeds, by 12  
6 percent or more, the total cost to the municipality of operating the  
7 enforcing agency, as appropriated in the adopted municipal budget,  
8 the amount of fees collected in excess of 112 percent of the total  
9 cost would lapse to the municipality’s current fund balance,  
10 provided that all enforcing agency fees, and all enforcing agency  
11 operations, procedures, and inspections, fully comply with all of the  
12 provisions of P.L.1975, c.217 (C.52:27D-119 et seq.).

13 The provisions of the bill address an issue that often occurs when  
14 large-scale development projects are undertaken in municipalities.

15 Municipalities often generate fee revenue under the “State  
16 Uniform Construction Code Act” that exceeds the amount budgeted  
17 to operate the municipal code enforcement office when large scale  
18 construction occurs in association with the redevelopment of  
19 blighted properties, and the development of affordable housing  
20 developments, mass transit, government facilities, or  
21 transformations of former retail malls and corporate headquarters.  
22 In these circumstances, the amounts generated through these fees  
23 reflect the large scale volume of a project, and the individual fees  
24 should not be characterized as excessive. The municipal code  
25 enforcement office is able to fully operate, perform its functions,  
26 and meet all the statutory requirements of the “State Uniform  
27 Construction Code Act” by utilizing a portion of the excess funds to  
28 compensate existing staff for increased hours worked, as well as to  
29 hire additional staff or third-party inspection professionals. These  
30 excess fee revenues are essentially “one-time,” non-recurring  
31 revenues that disappear once the project generating them is  
32 completed.

33 Allowing a significant portion of those excess revenues to be  
34 transferred to the municipal fund balance would allow those  
35 revenues to be used for broader municipal purposes that would  
36 benefit municipal residents and construction permit applicants alike,  
37 including applicants for large-scale development projects from  
38 which the excess fee revenue is derived.