

[Second Reprint]

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 amended by the General Assembly on June 21, 2021.



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**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)¹

40
41 ¹1. Section 3 of P.L.1979, c.121 (C.52:27D-126a) is amended to
42 read as follows:

43 3. a. Where the appointing authority of any municipality shall
44 appoint an enforcing agency and construction board of appeals

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:

¹Assembly AAP committee amendments adopted June 16, 2021.

²Assembly floor amendments adopted June 21, 2021.

1 pursuant to section 8 of P.L.1975, c.217 (C.52:27D-126), the
2 municipal governing body by ordinance, in accordance with
3 standards established by the commissioner, shall set enforcing
4 agency fees for plan review, construction permit, certificate of
5 occupancy, demolition permit, moving of building permit, elevator
6 permit and sign permit, provided, however, that such fees shall not
7 exceed the annual costs for the operation of the enforcing agency.
8 For the three-year period commencing with an enforcing agency's
9 initial participation in the "Electronic Permit Processing Review
10 System," developed and implemented pursuant to section 1 of
11 P.L.2021, c.70 (C.52:27D-124.4), the municipal governing body
12 may impose, and the enforcing agency may collect, construction
13 permit surcharge fees to defray the enforcing agency's startup costs
14 related to offering electronic plan review and scheduling.
15 Surcharge fees shall be established in accordance with standards
16 established by the commissioner.

17 b. Notwithstanding the provisions of subsection a. of this
18 section, in any fiscal year in which ²enforcing agency fees collected
19 from a project that is either providing affordable housing or
20 occurring in an area in need of redevelopment, as defined in section
21 3 of P.L.1992, c.79 (C.40A:12A--3), causes² the total amount of
22 fees collected by an enforcing agency ²[exceeds,] to exceed² by 12
23 percent or more, the total cost of operating the enforcing agency,
24 including indirect overhead expenses, as appropriated in the
25 adopted municipal budget, the amount of fees collected in excess of
26 112 percent of the total cost, including indirect overhead expenses,
27 shall lapse to the municipality's current fund balance, provided that
28 ²enforcing agency fees were not increased by more than two percent
29 in either the prior or current fiscal year and² all enforcing agency
30 fees, and all enforcing agency operations, procedures, and
31 inspections, fully comply with all of the provisions of P.L.1975,
32 c.217 (C.52:27D-119 et seq.).

33 c. In any fiscal year in which either the total amount of fees
34 collected by an enforcing agency is less than the total costs of
35 operating the enforcing agency, or the total appropriation in the
36 adopted municipal budget for the enforcing agency is less than the
37 total cost of operating the enforcing agency, the shortfall shall be
38 satisfied by funds from either the municipality's general fund or
39 current fund balance, so as to fully comply with all of the
40 provisions of P.L.1975, c.217 (C.52:27D-119 et seq.).¹

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

42
43 2. This act shall take effect immediately.