

**SENATE, No. 3868**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED JUNE 3, 2021

**Sponsored by:**  
**Senator PAUL A. SARLO**  
**District 36 (Bergen 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.217 (C.52:27D-126),  
13 the 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 b. In any fiscal year in which the total amount of fees collected  
20 by an enforcing agency exceeds, by 12 percent or more, the costs of  
21 operating the enforcing agency, as described in subsection (c) of  
22 N.J.A.C.5:23-4.17 on the effective date of  
23 P.L. , c. (C. ) (pending before the Legislature as this  
24 bill) and as appropriated in the adopted municipal budget, the  
25 amount of fees collected in excess of 112 percent of the total cost  
26 shall lapse to the municipality’s current fund balance, provided that  
27 all enforcing agency fees, and all enforcing agency operations,  
28 procedures, and inspections, fully comply with all of the provisions  
29 of P.L.1975, c.217 (C.52:27D-119 et seq.).  
30 (cf: P.L.1979, c.121, s.3)

31  
32 2. This act shall take effect immediately.

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35 STATEMENT

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37 This bill would amend the “State Uniform Construction Code  
38 Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) to require the transfer  
39 of excess municipal enforcing agency fees from the municipal  
40 enforcing agency to the municipality’s surplus.

41 The bill would require that in any fiscal year in which the total  
42 amount of fees collected by an enforcing agency exceeds, by 12  
43 percent or more, the total cost of operating the enforcing agency, as  
44 described in subsection (c) of N.J.A.C.5:23-4.17 on the effective  
45 date of the bill and as appropriated in the adopted municipal budget,

**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 the amount of fees collected in excess of 112 percent of the total  
2 cost would lapse to the municipality's current fund balance,  
3 provided that all enforcing agency fees, and all enforcing agency  
4 operations, procedures, and inspections, fully comply with all of the  
5 provisions of P.L.1975, c.217 (C.52:27D-119 et seq.).

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

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

26 Allowing a significant portion of those excess revenues to be  
27 transferred to the municipal fund balance would allow those  
28 revenues to be used for broader municipal purposes that would  
29 benefit municipal residents and construction permit applicants alike,  
30 including applicants for large-scale development projects from  
31 which the excess fee revenue is derived.