

[First Reprint]

SENATE, No. 3868

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 3, 2021

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

SYNOPSIS

Concerns construction code enforcing agency fee revenue.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 17, 2021, with amendments.



(Sponsorship Updated As Of: 6/24/2021)

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
 9 to 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)]¹

31
 32 ¹1. Section 3 of P.L.1979, c.121 (C.52:27D-126a) is amended to
 33 read as follows:

34 3. a. Where the appointing authority of any municipality shall
 35 appoint an enforcing agency and construction board of appeals
 36 pursuant to section 8 of P.L.1975, c.217 (C.52:27D-126), the
 37 municipal governing body by ordinance, in accordance with
 38 standards established by the commissioner, shall set enforcing
 39 agency fees for plan review, construction permit, certificate of
 40 occupancy, demolition permit, moving of building permit, elevator
 41 permit and sign permit, provided, however, that such fees shall not
 42 exceed the annual costs for the operation of the enforcing agency.
 43 For the three-year period commencing with an enforcing agency's
 44 initial participation in the "Electronic Permit Processing Review
 45 System," developed and implemented pursuant to section 1 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 17, 2021.

1 P.L.2021, c.70 (C.52:27D-124.4), the municipal governing body
2 may impose, and the enforcing agency may collect, construction
3 permit surcharge fees to defray the enforcing agency's startup costs
4 related to offering electronic plan review and scheduling.
5 Surcharge fees shall be established in accordance with standards
6 established by the commissioner.

7 b. Notwithstanding the provisions of subsection a. of this
8 section, in any fiscal year in which enforcing agency fees collected
9 from a project that is either providing affordable housing or
10 occurring in an area in need of redevelopment, as defined in section
11 3 of P.L.1992, C.79 (C.40A:12A-3), causes the total amount of fees
12 collected by an enforcing agency to exceed by 12 percent or more,
13 the total cost of operating the enforcing agency, including indirect
14 overhead expenses, as appropriated in the adopted municipal
15 budget, the amount of fees collected in excess of 112 percent of the
16 total cost, including indirect overhead expenses, shall lapse to the
17 municipality's current fund balance, provided that enforcing agency
18 fees were not increased by more than two percent in either the prior
19 or current fiscal year and all enforcing agency fees, and all
20 enforcing agency operations, procedures, and inspections, fully
21 comply with all of the provisions of P.L.1975, c.217 (C.52:27D-119
22 et seq.).

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

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

32
33 2. This act shall take effect immediately.