

# SENATE, No. 3884

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 10, 2021

**Sponsored by:**

**Senator JAMES BEACH**

**District 6 (Burlington and Camden)**

### **SYNOPSIS**

Establishes “Zero Energy Construction Act”; requires all new residential and commercial developments to be zero energy ready; requires developers to offer zero energy construction.

### **CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning zero energy construction, supplementing and  
2 amending P.L.1975, c.217, and amending P.L.2009, c.106.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. P.L. , c. (C. ) (pending before the Legislature as this  
8 bill) shall be known and may be cited as the “Zero Energy  
9 Construction Act.”

10

11 2. As used in P.L. , c. (C. ) (pending before the  
12 Legislature as this bill):

13 “Developer” means any person who constructs or offers to  
14 construct a new residential or commercial building.

15 “Owner” means any person who acquires a legal or equitable  
16 interest in a new residential or commercial building.

17 “Prospective owner” means any person who contemplates  
18 acquiring a legal or equitable interest in a new residential or  
19 commercial building.

20 “Zero energy building” means an energy-efficient building  
21 where, on a source energy basis, the actual annual delivered energy  
22 is less than or equal to the on-site renewable exported energy.

23 “Zero energy ready building” means a building that would be a  
24 zero energy building if equipped with a renewable energy system.

25

26 3. On and after January 1, 2025, an enforcing agency shall not  
27 issue a construction permit for a new residential or commercial  
28 building unless the permit requires the building to be constructed as  
29 a zero energy ready building.

30

31 4. a. A developer of a building subject to the provisions of  
32 section 3 of P.L. , c. (C. ) (pending before the Legislature  
33 as this bill) shall offer to construct the building as a zero energy  
34 building when a prospective owner enters into negotiations with the  
35 developer to purchase a new building.

36 b. Prior to entering into a contract of sale for a building subject  
37 to the provisions of section 3 of P.L. , c. (C. ) (pending  
38 before the Legislature as this bill), a developer shall:

39 (1) disclose that a prospective owner may have the building be  
40 constructed as a zero energy building, and upon request by the  
41 prospective owner, disclose the total projected cost of constructing  
42 the building as such that will be charged to the owner by the  
43 developer; and

44 (2) unless construction of the building as a zero energy building  
45 is included in the sale of the building at no cost to the prospective

**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 owner, inform the prospective owner of the availability on the  
2 Internet website of the Department of Community Affairs of  
3 general information on the environmental benefits of, and potential  
4 energy cost savings associated with, zero energy buildings, and any  
5 applicable credits, rebates, or other incentives that may be available  
6 to the prospective owner for purchasing a zero energy building.

7 c. Every contract of sale for a building subject to the provisions  
8 of section 3 of P.L. , c. (C. ) (pending before the  
9 Legislature as this bill), shall include a notification by the developer  
10 to the prospective owner of the offer to construct the building as a  
11 zero energy building.

12 d. The commissioner, in consultation with the Department of  
13 Environmental Protection and the Board of Public Utilities, shall  
14 compile, and make available on the Internet website of the  
15 Department of Community Affairs, information for prospective  
16 owners and developers concerning the environmental benefits of,  
17 and potential energy cost savings associated with, zero energy  
18 buildings, and any applicable credits, rebates, or other incentives  
19 that may be available to the prospective owner for purchasing a zero  
20 energy building.

21  
22 5. The commissioner, in consultation with the Department of  
23 Environmental Protection and the Board of Public Utilities, shall  
24 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
25 c.410 (C.52:14B-1 et seq.), rules and regulations necessary to  
26 effectuate the purposes of P.L. , c. (C. ) (pending before the  
27 Legislature as this bill) and shall revise the code and energy  
28 subcode accordingly.

29  
30 6. Section 1 of P.L.2009, c.106 (C.52:27D-122.2) is amended  
31 to read as follows:

32 1. The Legislature hereby finds and declares:

33 a. It is the public policy of this State to encourage and facilitate  
34 the construction of energy-efficient buildings which are designed  
35 and built to reduce overall energy demand.

36 b. While energy-efficient buildings may cost more to construct,  
37 the payback period to recoup the added investment is only a few  
38 years.

39 c. Energy savings can be most fully realized when incorporated  
40 into new construction from the beginning.

41 d. It is therefore necessary and appropriate that the  
42 Commissioner of Community Affairs, in consultation with the  
43 Board of Public Utilities, adopt energy-efficient building codes that  
44 may exceed the requirements of national model codes.

45 e. Further, in light of the serious threats posed by climate  
46 change, it is necessary and appropriate that the Commissioner of  
47 Community Affairs, in consultation with the Department of  
48 Environmental Protection and the Board of Public Utilities, adopt

1 enhanced energy conservation construction requirements and revise  
2 these energy-efficient building codes to require that new residential  
3 and commercial buildings be constructed as zero energy ready  
4 buildings in accordance with the provisions of P.L. , c. (C. )  
5 (pending before the Legislature as this bill).

6 (cf: P.L.2009, c.106, s.1)

7  
8 7. Section 5 of P.L.1975, c.217 (C.52:27D-123) is amended to  
9 read as follows:

10 5. a. The commissioner shall after public hearing pursuant to  
11 section 4 of the "Administrative Procedure Act," P.L.1968, c.410  
12 (C.52:14B-4) adopt a State Uniform Construction Code for the  
13 purpose of regulating the structural design, construction,  
14 maintenance, and use of buildings or structures to be erected and  
15 alteration, renovation, rehabilitation, repair, maintenance, removal,  
16 or demolition of buildings or structures already erected. Prior to the  
17 adoption of said code, the commissioner shall consult with the code  
18 advisory board and other departments, divisions, bureaus, boards,  
19 councils, or other agencies of State Government heretofore  
20 authorized to establish or administer construction regulations.

21 Such prior consultations with departments, divisions, bureaus,  
22 boards, councils, or other agencies of State Government shall  
23 include but not be limited to consultation with the Commissioner of  
24 Health and the Public Health Council prior to adoption of a  
25 plumbing subcode pursuant to paragraph b. of this section. Said  
26 code shall include any code, rule, or regulation incorporated therein  
27 by reference.

28 b. The code shall be divided into subcodes which may be  
29 adopted individually by the commissioner as the commissioner may  
30 from time to time consider appropriate. These subcodes shall  
31 include but not be limited to a building code, a plumbing code, an  
32 electrical code, an energy code, a fire prevention code, a  
33 manufactured or mobile home code, and a mechanical code.

34 These subcodes, except for the energy subcode, shall be  
35 adoptions of the model codes of the Building Officials and Code  
36 Administrators International, Inc., the National Electrical Code, and  
37 the National Standard Plumbing Code, provided that for good  
38 reasons, the commissioner may adopt as a subcode, a model code or  
39 standard of some other nationally recognized organization upon a  
40 finding that such model code or standard promotes the purposes of  
41 P.L.1975, c.217 (C.52:27D-119 et seq.). The initial adoption of a  
42 model code or standard as a subcode shall constitute adoption of  
43 subsequent edition year publications of the model code or standard  
44 of such other nationally recognized organization, except as provided  
45 for in paragraphs (1) through (4) of this subsection. Adoption of  
46 publications shall not occur more frequently than once every three  
47 years; provided, however, that a revision or amendment may be  
48 adopted at any time in the event that the commissioner finds that

1 there exists an imminent peril to the public health, safety, or  
2 welfare.

3 The energy subcode shall be based upon the model codes cited  
4 under this subsection or the International Energy Conservation  
5 Code; provided, however, that the energy subcode shall be revised  
6 as necessary to comply with the requirements of  
7 P.L. , c. (C. ) (pending before the Legislature as this bill).  
8 It may be amended or supplemented by the commissioner once  
9 before 2012 without regard to intervals between the adoption of the  
10 energy subcode in effect on the effective date of P.L.2009, c.106  
11 (C.52:27D-122.2 et al.) and subsequent year revisions of that  
12 subcode. In amending or supplementing the energy subcode, the  
13 commissioner shall rely upon 10-year energy price projections  
14 provided by an institution of higher education within one year  
15 following the effective date of P.L.2009, c.106 (C.52:27D-122.2 et  
16 al.), and thereafter at three-year intervals. In developing the energy  
17 price projections, the institution of higher education shall consult  
18 with the Board of Public Utilities. The commissioner shall be  
19 authorized to amend the energy subcode to establish enhanced  
20 energy conservation construction requirements, the added cost of  
21 each of which may reasonably be recovered through energy  
22 conservation over a period of not more than seven years. Such  
23 requirements shall include provisions to ensure that, in all parts of  
24 the State the anticipated energy savings shall be similarly  
25 proportionate to the additional costs of energy subcode compliance.

26 (1) Except as otherwise provided in this subsection, the edition  
27 of a model code or standard in effect as a subcode as of July 1, 1995  
28 shall continue in effect regardless of any publication of a  
29 subsequent edition of that model code or standard. Prior to  
30 establishing the effective date for any subsequent revision or  
31 amendment of any model code or standard adopted as a subcode,  
32 the commissioner shall review, in consultation with the code  
33 advisory board, the text of the revised or amended model code or  
34 standard and determine whether the amended or revised provisions  
35 of the model code are essential to carry out the intent and purpose  
36 of P.L.1975, c.217 (C.52:27D-119 et seq.) as viewed in contrast to  
37 the corresponding provisions of the subcode then currently in effect.

38 (2) In the event that the commissioner, pursuant to paragraph (1)  
39 of this subsection, determines that any amended or revised  
40 provision of a model code is essential to carry out the intent and  
41 purpose of this act as viewed in contrast to any corresponding  
42 provision of the subcode then currently in effect, the commissioner  
43 may then adopt that provision of the amended or revised model  
44 code.

45 (3) The commissioner, in consultation with the code advisory  
46 board, shall have the authority to review any model code or  
47 standard currently in effect as a subcode of the State Uniform  
48 Construction Code and compare it with previously adopted editions

1 of the same model code or standard in order to determine if the  
2 subcode currently in effect is at least as consistent with the intent  
3 and purpose of this act as were previously adopted editions of the  
4 same model code or standard.

5 (4) In the event that the commissioner, after consultation with  
6 the code advisory board, determines pursuant to this subsection that  
7 a provision of a model code or standard currently in effect as a  
8 subcode of the State Uniform Construction Code is less consistent  
9 with the intent and purpose of P.L.1975, c.217 (C.52:27D-  
10 119 et seq.) than was the corresponding provision of a previously  
11 adopted edition of the same model code or standard, the  
12 commissioner may delete the provision in effect and substitute in its  
13 place the corresponding provision of the previously adopted edition  
14 of the same model code or standard determined to be more  
15 consistent with the intent and purpose of P.L.1975, c.217  
16 (C.52:27D-119 et seq.).

17 (5) The commissioner shall be authorized to adopt a barrier free  
18 subcode or to supplement or revise any model code adopted  
19 hereunder, for the purpose of insuring that adequate and sufficient  
20 features are available in buildings or structures so as to make them  
21 accessible to and usable by persons with physical disabilities.  
22 Multi-family residential buildings with four or more dwelling units  
23 in a single structure shall be constructed in accordance with the  
24 barrier free subcode; for the purposes of this subsection the term  
25 "multi-family residential buildings with four or more dwelling units  
26 in a single structure" shall not include buildings constructed as  
27 townhouses, which are single dwelling units with two or more  
28 stories of living space, exclusive of basement or attic, with most or  
29 all of the sleeping areas on one story and with most of the  
30 remaining habitable space, such as kitchen, living, and dining areas,  
31 on another story, and with an independent entrance at or near grade  
32 level.

33 c. Any municipality through its construction official, and any  
34 State agency or political subdivision of the State, may submit an  
35 application recommending to the commissioner that a State  
36 sponsored code change proposal be adopted. Such application shall  
37 contain such technical justification and shall be submitted in  
38 accordance with such rules of procedure as the commissioner may  
39 deem appropriate, except that whenever the State Board of  
40 Education shall determine that enhancements to the code are  
41 essential to the maintenance of a thorough and efficient system of  
42 education, the enhancements shall be made part of the code;  
43 provided that the amendments do not result in standards that fall  
44 below the adopted subcodes. The Commissioner of Education shall  
45 consult with the Commissioner of Community Affairs prior to  
46 publishing the intent of the State Board to adopt any amendments to  
47 the Uniform Construction Code. Upon adoption of any amendments  
48 by the State Board of Education they shall be transmitted forthwith

1 to the Commissioner of Community Affairs who shall publish and  
2 incorporate the amendments as part of the Uniform Construction  
3 Code and the amendments shall be enforceable as if they had been  
4 adopted by the commissioner.

5 At least 45 days prior to the final date for the submission of  
6 amendments or code change proposals to the National Model Code  
7 Adoption Agency, the code of which has been adopted as a subcode  
8 under P.L.1975, c.217 (C.52:27D-119 et seq.), the commissioner  
9 shall hold a public hearing in accordance with the "Administrative  
10 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), at which  
11 testimony on any application recommending a State sponsored code  
12 change proposal will be heard.

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

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

19 The commissioner may adopt, reject, or return such  
20 recommendations to the code advisory board for further  
21 deliberation. If adopted, any such proposal shall be presented to the  
22 subsequent meeting of the National Model Code Agency by the  
23 commissioner or by persons designated by the commissioner as a  
24 State sponsored code change proposal. Nothing herein, however,  
25 shall limit the right of any municipality, the department, or any  
26 other person from presenting amendments to the National Model  
27 Code Agency on its own initiative.

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

32 d. (Deleted by amendment, P.L.1983, c.496.)  
33 (cf: P.L.2017, c.131, s.191)  
34

35 8. This act shall take effect immediately, but shall remain  
36 inoperative until January 1, 2025, except that the Commissioner of  
37 Community Affairs, the Department of Environmental Protection,  
38 and the Board of Public Utilities, shall take any anticipatory  
39 administrative action in advance as shall be necessary for the  
40 implementation of this act.  
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#### 43 STATEMENT 44

45 This bill would establish the "Zero Energy Construction Act,"  
46 which would, beginning on January 1, 2025, require all new  
47 residential and commercial developments to be zero energy ready  
48 and require developers to offer zero energy construction to

1 prospective owners. Zero energy buildings consume only as much  
2 energy as can be produced onsite through renewable resources, and  
3 zero energy ready buildings are buildings capable of reaching this  
4 level of energy consumption with the addition of renewable  
5 resources. Requiring new developments to be constructed as zero  
6 energy ready will reduce both the consumption of energy that  
7 contributes to climate change as well as the long-term energy costs  
8 of home and business owners.

9 The bill requires the Commissioner of Community Affairs, in  
10 consultation with the Department of Environmental Protection and  
11 the Board of Public Utilities, to compile, and make available on the  
12 Internet website of the Department of Community Affairs,  
13 information for prospective owners and developers concerning the  
14 environmental benefits of, and potential energy cost savings  
15 associated with, zero energy buildings, and any applicable credits,  
16 rebates, or other incentives that may be available to the prospective  
17 owner for purchasing a zero energy building. The bill also requires  
18 the Commissioner of Community Affairs, in consultation with the  
19 Department of Environmental Protection and the Board of Public  
20 Utilities, to adopt rules and regulations necessary to effectuate the  
21 purposes of the bill and to revise the State Uniform Construction  
22 Code and the energy subcode accordingly.

23 While the construction requirements of the bill would be  
24 inoperative until January 1, 2025, the bill authorizes the  
25 Commissioner of Community Affairs, the Department of  
26 Environmental Protection, and the Board of Public Utilities, to take  
27 any anticipatory administrative action in advance as is necessary for  
28 the implementation of the bill.