

New Jersey Statutes Annotated [Currentness](#)

Title 52. State Government, Departments and Officers

Subtitle 3. Executive and Administrative Departments, Officers and Employees ([Refs & Annos](#))

▣ [Chapter 27D](#). Department of Community Affairs ([Refs & Annos](#))

→ State Uniform Construction Code Act ([Refs & Annos](#))

→ **52:27D-119. Short title**

This act shall be known, and may be cited and referred to, as the “State Uniform Construction Code Act.”

#### **52:27D-120. Purpose**

It is the intent and purpose of this act:

- a. To encourage innovation and economy in construction and to provide requirements for construction and construction materials consistent with nationally recognized standards.
- b. To formulate such requirements, to the extent practicable, in terms of performance objectives, so as to make adequate performance for the use intended as the test of acceptability.
- c. To permit to the fullest extent feasible the use of modern technical methods, devices and improvements, including premanufactured systems, consistent with reasonable requirements for the health, safety, and welfare of occupants or users of buildings and structures.
- d. To eliminate restrictive, obsolete, conflicting and unnecessary construction regulations that tend to unnecessarily increase construction costs or retard the use of new materials, products or methods of construction, or provide preferential treatment to types or classes of materials or products or methods of construction.
- e. To insure adequate maintenance of buildings and structures throughout the State and to adequately protect the health, safety and welfare of the people.
- f. To eliminate unnecessary duplication of effort and fees in the review of construction plans and the inspection of construction.

#### **52:27D-121. Definitions**

As used in this act:

“Building” means a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind.

“Business day” means any day of the year, exclusive of Saturdays, Sundays, and legal holidays.

“Certificate of occupancy” means the certificate provided for in section 15 of this act, [FN1] indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the State Uniform Construction Code [FN2] and any ordinance implementing said code.

“Commissioner” means the Commissioner of Community Affairs.

“Code” means the State Uniform Construction Code.

“Commercial farm building” means any building located on a commercial farm which produces not less than \$2,500 worth of agricultural or horticultural products annually, which building's main use or intended use is related to the production of agricultural or horticultural products produced on that farm. A building shall not be regarded as a commercial farm building if more than 1,200 square feet of its floor space is used for purposes other than its main use. A greenhouse constructed in conjunction with the odor control bio-filter of a solid waste or sludge composting facility, which greenhouse produces not less than \$2,500 worth of agricultural or horticultural products in addition to its function as a cover for the bio-filter, shall be considered a commercial farm building for the purposes of this act, provided, however, that the greenhouse is not intended for human occupancy.

“Construction” means the construction, erection, reconstruction, alteration, conversion, demolition, removal, repair or equipping of buildings or structures.

“Construction board of appeals” means the board provided for in section 9 of this act. [FN3]

“Department” means the Department of Community Affairs.

“Enforcing agency” means the municipal construction official and subcode officials provided for in section 8 of this act [FN4] and assistants thereto.

“Equipment” means plumbing, heating, electrical, ventilating, air conditioning, refrigerating and fire preven-

tion equipment, and elevators, dumbwaiters, escalators, boilers, pressure vessels and other mechanical facilities or installations.

“Hearing examiner” means a person appointed by the commissioner to conduct hearings, summarize evidence, and make findings of fact.

“Maintenance” means the replacement or mending of existing work with equivalent materials or the provision of additional work or material for the purpose of the safety, healthfulness, and upkeep of the structure and the adherence to such other standards of upkeep as are required in the interest of public safety, health and welfare.

“Manufactured home” or “mobile home” means a unit of housing which:

(1) Consists of one or more transportable sections which are substantially constructed off site and, if more than one section, are joined together on site;

(2) Is built on a permanent chassis;

(3) Is designed to be used, when connected to utilities, as a dwelling on a permanent or nonpermanent foundation; and

(4) Is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary of the United States Department of Housing and Urban Development pursuant to the “National Manufactured Housing Construction and Safety Standards Act of 1974,” [Pub.L.93-383 \(42 U.S.C. s. 5401 et seq.\)](#) and the standards promulgated by the commissioner pursuant to P.L.1975, c. 217 ([C.52:27D-119 et seq.](#)).

“Municipality” means any city, borough, town, township or village.

“Outdoor advertising sign” means a sign required to be permitted pursuant to [P.L.1991. c.413 \(C.27:5-5 et seq.\)](#).

“Owner” means the owner or owners in fee of the property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, firm or corporation, directly or indirectly in control of a building, structure, or real property and shall include any subdivision thereof of the State.

“Premanufactured system” means an assembly of materials or products that is intended to comprise all or part of a building or structure and that is assembled off site by a repetitive process under circumstances intended to

insure uniformity of quality and material content.

“Public school facility” means any building, or any part thereof, of a school, under college grade, owned and operated by a local, regional, or county school district.

“State sponsored code change proposal” means any proposed amendment or code change adopted by the commissioner in accordance with subsection c. of section 5 of this act [FN5] for the purpose of presenting such proposed amendment or code change at any of the periodic code change hearings held by the National Model Code Adoption Agencies, the codes of which have been adopted as subcodes under this act.

“Stop construction order” means the order provided for in section 14 of this act. [FN6]

“State Uniform Construction Code” means the code provided for in section 5 of this act, or any portion thereof, and any modification of or amendment thereto.

“Structure” means a combination of materials to form a construction for occupancy, use, or ornamentation, whether installed on, above, or below the surface of a parcel of land; provided the word “structure” shall be construed when used herein as though followed by the words “or part or parts thereof and all equipment therein” unless the context clearly requires a different meaning.

[FN1] N.J.S.A. § 52:27D-133.

[FN2] N.J.S.A. § 52:27D-119 et seq.

[FN3] N.J.S.A. § 52:27D-127.

[FN4] N.J.S.A. § 52:27D-126.

[FN5] N.J.S.A. § 52:27D-123.

[FN6] N.J.S.A. § 52:27D-132.

#### **52:27D-122. Legislative findings**

It is hereby found and declared:

a. That a multiplicity of construction codes currently exists in this State and some of these codes contain needless restrictions which limit the use of certain materials, techniques or products without any benefits to the public. Moreover, the variation of construction standards caused by the multiplicity of codes slows the process of construction and increases the costs of construction.

b. That the way to insure uniform, modern construction standards and regulations throughout the State of New Jersey which will lower the cost of housing and other construction without any detriment to the public health, safety and welfare is to adopt a uniform State construction code.

c. That the need of new construction in the State can be met in part by the use of premanufactured systems which are fabricated in the geographical region of the United States of which New Jersey is a part and that a uniform construction code should include standards to permit the use of such systems.

d. That the model codes of the Building Officials and Code Administrators International, Inc., the National Electrical Code and the National Standard Plumbing Code, or modification thereof, are construction codes which have been widely adopted in this State and in the geographical region of the United States of which New Jersey is a part and adoption of these nationally recognized codes pursuant to this act will insure that the State has a uniform, modern construction code which will insure health, safe, and sanitary construction but also less expensive construction for the citizens of this State.

#### **52:27D-122.1. Legislative findings and declaration; adoption of building construction codes**

The Legislature finds and declares that:

a. One of the specified purposes of the “State Uniform Construction Code Act,” P.L.1975, c. 217 ([C. 52:27D-119 et seq.](#)), was the elimination of restrictive and unnecessary construction regulations that tend to unnecessarily increase construction costs.

b. While the overall effect of the statutory requirement that the subcodes of the State Uniform Construction Code be adoptions of the model codes or standards of nationally recognized organizations, including all amendments or revisions to such codes or standards, has been consistent with the intent and purpose of the “State Uniform Construction Code Act,” there have been exceptional instances in which the amendment or revision of an adopted code or standard has included changes that are not consistent with that intent and purpose.

c. It is therefore necessary and appropriate that the Commissioner of Community Affairs be given the authority to limit the adoption of later revisions to the model code to include only those standards in effect on July 1, 1995, and any later revisions or amendments of model codes which would not be inconsistent with the intent and purpose of the act.

#### **52:27D-123. Adoption of a state uniform construction code**

a. The commissioner shall after public hearing pursuant to section 4 of the “Administrative Procedure Act,”

P.L.1968, c. 410 (C.52:14B-4) adopt a State Uniform Construction Code for the purpose of regulating the structural design, construction, maintenance and use of buildings or structures to be erected and alteration, renovation, rehabilitation, repair, maintenance, removal or demolition of buildings or structures already erected. Prior to the adoption of said code, the commissioner shall consult with the code advisory board and other departments, divisions, bureaus, boards, councils or other agencies of State Government heretofore authorized to establish or administer construction regulations.

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

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

These subcodes shall be adoptions of the model codes of the Building Officials and Code Administrators International, Inc., the National Electrical Code, and the National Standard Plumbing Code, provided that for good reasons, the commissioner may adopt as a subcode a model code or standard of some other nationally recognized organization upon a finding that such model code or standard promotes the purposes of this act. The initial adoption of a model code or standard as a subcode shall constitute adoption of subsequent edition year publications of the model code or standard organization, except as provided for in paragraphs (1) through (4) of this subsection. Adoption of publications shall not occur more frequently than once every three years; provided, however, that a revision or amendment may be adopted at any time in the event that the commissioner finds that there exists an imminent peril to the public health, safety or welfare.

(1) Except as otherwise provided in this subsection, the edition of a model code or standard in effect as a subcode as of July 1, 1995 shall continue in effect regardless of any publication of a subsequent edition of that model code or standard. Prior to establishing the effective date for any subsequent revision or amendment of any model code or standard adopted as a subcode, the commissioner shall review, in consultation with the code advisory board, the text of the revised or amended model code or standard and determine whether the amended or revised provisions of the model code are essential to carry out the intent and purpose of this act as viewed in contrast to the corresponding provisions of the subcode then currently in effect.

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

(3) The commissioner, in consultation with the code advisory board, shall have the authority to review any model code or standard currently in effect as a subcode of the State Uniform Construction Code and compare it with previously adopted editions of the same model code or standard in order to determine if the subcode currently in effect is at least as consistent with the intent and purpose of this act as were previously adopted editions of the same model code or standard.

(4) In the event that the commissioner, after consultation with the code advisory board, determines pursuant to this subsection that a provision of a model code or standard currently in effect as a subcode of the State Uniform Construction Code is less consistent with the intent and purpose of this act than was the corresponding provision of a previously adopted edition of the same model code or standard, the commissioner may delete the provision in effect and substitute in its place the corresponding provision of the previously adopted edition of the same model code or standard determined to be more consistent with the intent and purpose of this act.

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

c. Any municipality through its construction official, and any State agency or political subdivision of the State may submit an application recommending to the commissioner that a State sponsored code change proposal be adopted. Such application shall contain such technical justification and shall be submitted in accordance with such rules of procedure as the commissioner may deem appropriate, except that whenever the State Board of Education shall determine that enhancements to the code are essential to the maintenance of a thorough and efficient system of education, the enhancements shall be made part of the code; provided that the amendments do not result in standards that fall below the adopted subcodes. The Commissioner of the Department of Education shall consult with the Commissioner of the Department of Community Affairs prior to publishing the intent of the State Board to adopt any amendments to the Uniform Construction Code. Upon adoption of any amendments by the State Board of Education they shall be transmitted forthwith to the Commissioner of the Department of Community Affairs who shall publish and incorporate the amendments as part of the Uniform Construction Code and the amendments shall be enforceable as if they had been adopted by the commissioner.

At least 45 days prior to the final date for the submission of amendments or code change proposals to the National Model Code Adoption Agency, the code of which has been adopted as a subcode under this act, the commissioner shall hold a public hearing in accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), at which testimony on any application recommending a State sponsored code change

proposal will be heard.

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

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

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

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

d. (Deleted by amendment, P.L.1983, c. 496.)

#### **52:27D-123a. Radon hazard code standards; application to school or residential buildings; contents; immunity from liability of contractor**

The Commissioner of Community Affairs shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), a radon hazard code, or may propose amendments to revise the appropriate model code adopted pursuant to the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.), for the purpose of establishing adequate and appropriate standards to ensure that schools and residential buildings within tier one areas, as defined by the Department of Environmental Protection pursuant to P.L.1985, c. 408 (C.26:2D-59 et seq.), are constructed in a manner that minimizes radon gas and radon progeny entry and facilitates any subsequent remediation that might prove necessary. In preparing the radon hazard code standards, the commissioner shall employ a guideline of four picocuries per liter or such other action level standard as the Department of Environmental Protection may establish subsequent to the effective date of this act.

The department shall include in the radon hazard code standards such testing requirements as may prove reliable, practical and economical to identify sites where a proposed school or residential building will require construction in a manner that minimizes radon gas and radon progeny entry and facilitates any subsequent remediation. If a feasible predictive test method is developed, then the standards adopted pursuant to the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.), shall be revised to include such

further changes in construction standards as may be necessary to prevent the entry of radon gas and radon progeny into new schools or residential buildings.

No person who constructs a school or residential building in compliance with these standards anywhere within the State shall thereafter be held liable for the presence of radon gas or radon progeny in the school or residential building, or for any losses or damage to persons or property resulting therefrom.

**52:27D-123b. Construction permit for new school or residential building in tier one area; conditions for issuance**

No construction permit shall be issued for the construction of any new school or residential building in a tier one area, except after submission to the construction official of documentation sufficient to establish that the construction will be in accordance with the radon hazard code standards adopted pursuant to section 1 of this act. [FN1]

[FN1] N.J.S.A. § 52:27D-123a.

**52:27D-123c. Certificate of occupancy for new school or residential building; issuance on verification of compliance with radon hazard code standards**

No certificate of occupancy shall be issued for any newly constructed school or residential building required to be constructed in accordance with radon hazard code standards as provided in section 2 of this act, [FN1] except upon verification by the construction official that the school or residential building conforms to the radon hazard code standards.

[FN1] N.J.S.A. § 52:27D-123b.

**52:27D-123d. Investigation of methods of testing building sites to predict presence of radon hazards**

The Department of Community Affairs, in consultation with the Department of Environmental Protection, the National Institute of Standards and Technology, the National Association of Homebuilders Research Center and the United States Environmental Protection Agency, shall investigate methods of testing building sites for the purpose of predicting the presence of radon hazards in buildings to be constructed thereon.

**52:27D-123e. Training of construction officials**

The Department of Community Affairs shall take such actions as are necessary to train construction officials in the implementation of this act.

### **52:27D-123.1. Applicability over law or regulation to contrary**

Any law or regulation to the contrary notwithstanding, the structure, design, construction, maintenance and use of all buildings or structures to be erected and the alteration, renovation, rehabilitation, repair, maintenance, removal, or demolition of all buildings or structures already erected shall be regulated pursuant to the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C. 52:27D-119 et seq.).

### **52:27D-123.2. Construction code criteria for commercial farm buildings; promulgation; incorporation into uniform construction code; considerations**

a. Notwithstanding any other provision of P.L.1975, c. 217 (C. 52:27D-119 et seq.), the Commissioner of the Department of Community Affairs and the Secretary of Agriculture shall, within 270 days of the effective date of this amendatory and supplementary act, jointly promulgate, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C. 52:14B-1 et seq.), separate construction code criteria for commercial farm buildings. The Commissioner shall, upon adoption, incorporate these criteria into the State Uniform Construction Code. [FN1]

b. The Secretary of Agriculture shall, in consultation with the Commissioner of Community Affairs and all other interested and affected parties, prepare the criteria to be proposed for adoption pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C. 52:14B-1 et seq.). The Secretary may, in his discretion, make use of the services of Rutgers, The State University to prepare the proposed criteria.

c. The Commissioner and the Secretary shall, to the greatest extent possible, ensure that the criteria provide no impediment to the orderly development of the State's agricultural and horticultural enterprises. They shall pay particular attention to establishing separate height, area, fire protection and construction type requirements which are more suitable to agricultural and horticultural uses than those which are presently incorporated in the State Uniform Construction Code.

d. The Commissioner and the Secretary shall ensure that, to the greatest extent possible, criteria are completely eliminated for structures and buildings which are not intended for human occupancy, such as storage bins, silos and the like.

[FN1] N.J.S.A. § 52:27D-119 et seq.

### **52:27D-123.3. Use of commercial farm building constituting high hazard; segregation from main use by fire resistance-rated construction**

Any use of a commercial farm building, other than its main use, which constitutes a high hazard because it involves the generation, processing or storage of corrosive, highly toxic, flammable or explosive materials shall be segregated from the main use by fire resistance-rated construction.

**52:27D-123.4. Temporary use as place of public assembly; permit; fee**

A commercial farm building may be used temporarily as a place of public assembly if a permit for such use has been issued by the local fire official pursuant to the code adopted pursuant to the “Uniform Fire Safety Act,” P.L.1983, c. 383 (C. 52:27D-192 et seq.). The fee for the issuing of the permit and any inspection required in connection with the issuance shall not exceed \$75.00.

**52:27D-123.5. Commissioner to develop building code specifically for cost-effective school construction**

The Commissioner of the Department of Community Affairs, in consultation with the State Board of Education, is directed to develop a building code specifically designed to foster cost-effective school building construction, while ensuring through its provisions that necessary health and safety requirements are met. The code shall be designed for use throughout the State and shall supplement the State Uniform Construction Code, P.L.1975, c. 217 (C. 52:27D-119 et seq.). The commissioner may promulgate this code as a separate document from the State Uniform Construction Code, or may, if the commissioner finds it feasible and useful, incorporate its provisions directly into, and make them an integral part of, that code.

**52:27D-123.6. School building code not to require certain standards to be met for approval of plans**

The code adopted by the Commissioner of Community Affairs pursuant to section 2 of this act [FN1] shall not require as a condition for approval of plans and specifications for the erection, alteration, improvement or repair of a public school facility:

- a. refurbishment of a school facility based upon an automatic threshold, involving percentage increases in square footage or the relative costs of the building addition, beyond that necessary to meet the requirements of the appropriate building code which directly impact on the health and safety of students; or
- b. refurbishment of a newly reopened school facility beyond that necessary to meet the requirements of the appropriate building code which directly impact on the health and safety of the students.

[FN1] N.J.S.A. § 52:27D-123.5.

**52:27D-123.7. Legislative findings and declaration**

The Legislature hereby finds, determines and declares:

- a. There is an urgent need to improve the housing conditions of low and moderate income individuals and families, many of whom live in substandard housing, particularly in the older cities of the State; and

- b. There are large numbers of older residential buildings in the State, both occupied and vacant, which are in urgent need of rehabilitation and which must be rehabilitated if the State's citizens are to be housed in decent, sound, and sanitary conditions; and
- c. The application of those building code requirements currently in force to housing rehabilitation has led to the imposition of costly and time-consuming requirements which result in a significant reduction in the amount of rehabilitation activity taking place; and
- d. Extensive research has been conducted, in New Jersey and elsewhere, which can serve as a sound basis for the development and adoption of a building code specifically designed to foster cost-effective housing rehabilitation while ensuring that necessary health and safety requirements are met; and
- e. Furthermore, in addition to the need for prudent modification of code provisions applicable to rehabilitation of older housing structures, it appears that complaints have from time to time been made that the scope and rigidity of the existing State Uniform Construction Code, as currently adopted and applied, may make excessively stringent and onerous requirements that burden the provision of affordable housing with expenses without any commensurate benefit to the public health, safety and welfare.

**52:27D-123.8. Commissioner to establish building code for rehabilitation of existing structures**

- a. The Commissioner of Community Affairs is hereby directed to develop a building code specifically designed to foster cost-effective housing rehabilitation, while ensuring through its provisions that necessary health and safety requirements are met. The code shall be designed for use throughout the State but shall have particular application to the older cities of the State, and the housing types characteristic of those cities. The code shall supplement the State Uniform Construction Code, adopted pursuant to P.L.1975, c. 217 ([C. 52:27D-119 et seq.](#)). The commissioner may promulgate this code as a separate document from the State Uniform Construction Code, or may, if he finds it feasible and useful, incorporate its provisions directly into, and make them an integral part of, that code.
- b. In developing the code, the commissioner is directed to investigate any model codes, such as Chapter 34, "Existing Structures," of the "BOCA National Building Code/1993" and experiences of other code enforcement jurisdictions, to consult with individuals and organizations experienced in the rehabilitation of low and moderate income housing in New Jersey's urban areas, and conduct research as may be relevant to the purposes of this act.
- c. The commissioner is further directed to undertake a study of the desirability of authorizing a procedure under which, in adopting the provisions of the standard or model codes upon which the State Uniform Construction Code is based, discretion may be accorded to the commissioner to modify, amplify or otherwise depart from any such provisions, without exceeding any of them in stringency, for the purpose of accommodating

this State's construction code to the needs of the State and its various regions, particularly with respect to encouraging the provision of housing affordable to persons and families of low and moderate income.

d. The commissioner shall, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C. 52:14B-1 et seq.), promulgate the code prescribed in subsection a. of this section within six months of the effective date of this act; or, if he finds it impracticable to do so, shall make a written report to the Legislature setting forth the grounds of the impracticability and making such recommendations for further legislative action as he may deem likely to remove those grounds. Within the same period of time the commissioner shall also make his report and recommendations to the Legislature on the study directed by subsection c. of this section.

### **52:27D-123.9. Definitions**

For the purposes of this act:

“Governmental Entity” means the State, its agencies and instrumentalities, a county or municipality, or any agency or instrumentality thereof, a school district, or any other similar public entity or agency, but not the federal government or its agencies and instrumentalities.

“Nonprofit entity” means a person or entity which operates a playground open to the public or open to users of a facility operated by the person or entity, and which is an exempt organization pursuant to section 9 of P.L.1966, c. 30 (C.54:32B-9), the “Sales and Use Tax Act,” but not a governmental entity or the federal government or its agencies and instrumentalities.

“Private entity” means any person or entity which operates a playground open to the public or open to users of a facility operated by the person or entity, but not a governmental entity, a nonprofit entity or the federal government or its agencies and instrumentalities.

“Playground” means an improved area designed, equipped, and set aside for play of six or more children which is not intended for use as an athletic playing field or athletic court, and shall include any play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures.

“Supervision” means all general and specific supervision necessary to protect children from unreasonable risk of harm from site hazards, the acts of other children, or the use of the playground in a way that was not intended by the designer or manager of the playground. This act shall not expand or reduce existing standards of care to which a playground operator is held.

### **52:27D-123.10. Rules and regulations**

The Department of Community Affairs in consultation with the Department of Education shall promulgate rules and regulations for the design, installation, inspection and maintenance regarding all playgrounds operated by any governmental entity, nonprofit entity or private entity. Those regulations shall meet any standard of care imposed by law on playground operators, and shall be those guidelines and criteria which are contained in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission or any successor. The rules and regulations shall include special provisions for playgrounds appropriate for children within the range of ages in day care settings. The department shall not be responsible for enforcement of any rules or regulations promulgated by this act, unless the department is otherwise responsible for enforcement pursuant to P.L.1975, c. 217 ([C.52:27D-119 et seq.](#)).

#### **52:27D-123.11. Governmental, private and nonprofit entities; playground safety**

a. All governmental entities operating playgrounds shall upgrade their playgrounds by replacement or improvement as necessary to satisfy the rules and regulations promulgated pursuant to this act to the extent State funds are made available specifically for that purpose through State bonds or other means, or within five years for surfacing and eight years for all other elements whichever comes first, after the effective date of those rules and regulations promulgated pursuant to [P.L.1999, c. 50 \(C.52:27D-123.9 et seq.\)](#).

All private entities shall upgrade their playgrounds by replacement or improvement as necessary to satisfy the rules and regulations promulgated pursuant to this act within five years for surfacing, and within eight years for all other elements, following the effective date of those rules and regulations promulgated pursuant to [P.L.1999, c. 50 \(C.52:27D-123.9 et seq.\)](#).

All nonprofit entities shall upgrade the surfacing of their playgrounds by replacement or improvement as necessary to satisfy the rules and regulations promulgated pursuant to this act, on or before five years following the effective date of those rules and regulations promulgated pursuant to [P.L.1999, c. 50 \(C.52:27D-123.9 et seq.\)](#), and shall upgrade all other elements of their playgrounds to satisfy the rules and regulations promulgated pursuant to this act, no later than 15 years following the effective date of those rules and regulations promulgated pursuant to [P.L.1999, c. 50 \(C.52:27D-123.9 et seq.\)](#), but shall upgrade playground equipment prior to that date if the equipment is replaced or reconstructed. This section shall not affect the liability or absence of liability of playground operators.

b. All newly constructed playgrounds built by a governmental entity, a nonprofit entity, or a private entity more than six months after the effective date of the rules and regulations promulgated pursuant to this act shall conform to the requirements of those rules and regulations.

#### **52:27D-123.12. State funding**

a. Except in connection with the upgrading of a playground as provided in subsection a. of section 3 of

P.L.1999, c. 50 (C.52:27D-123.11), after the effective date of the rules and regulations promulgated pursuant to this act, no State funding shall be available for the planning, development, or redevelopment of any playground, unless the playground, after completion of the State-funded project, will conform to the applicable rules and regulations promulgated pursuant to this act. If, however, State funds have been appropriated to, or allocated for, a playground project prior to the effective date of the regulations but the regulations become effective prior to the completion of the project, that funding shall be maintained, as long as the playground is altered to conform to the rules and regulations to the extent the alterations can be made without adding more than 15% to the project cost.

b. After the date by which an entity is required to conform its playground to satisfy the rules and regulations promulgated pursuant to this act, no State funding shall be available for the construction, operation, maintenance, or supervision of the playground unless the playground conforms to the applicable regulations adopted pursuant to this act.

#### **52:27D-123.13. Automatic lawn sprinkler systems; automatic rain sensor device**

An automatic lawn sprinkler system installed after the effective date of P.L.2000, c. 107 (C.52:27D-123.13) shall be equipped with an automatic rain sensor device or switch that will override the irrigation cycle of the automatic lawn sprinkler system when adequate rainfall has occurred.

#### **52:27D-123.14. Modification of code pertaining to elevators; accommodation of hospital carts**

Notwithstanding any other law or regulation to the contrary, the commissioner shall modify, within 180 days of the effective date of this act, the code pertaining to elevators to require that an elevator, when installed in any newly-constructed multiple dwelling for which a construction permit is issued subsequent to the effective date of the regulations promulgated to effectuate P.L.2001, c. 263 (C.52:27D-123.14), be of adequate dimensions to accommodate an ambulance cart that is 24 inches by 76 inches in the horizontal open position.

#### **52:27D-123.15. Adaptability requirement; design standards**

a. Any new construction for which an application for a construction permit has not been declared complete by the enforcing agency before the effective date of P.L.2005, c. 350 (C.52:27D-311a et al.) and for which credit is sought pursuant to P.L.1985, c. 222 (C.52:27D-301 et al.) on or after the effective date of P.L.2005, c. 350 (C.52:27D-311a et al.) shall be adaptable; however, elevators shall not be required in any building or within any dwelling unit for the purposes of P.L.2005, c. 350 (C.52:27D-311a et al.). In buildings without elevator service, only ground floor dwelling units shall be required to be constructed to conform with the technical design standards of the barrier free subcode in order to be credited pursuant to P.L.1985, c. 222 (C.52:27D-301 et al.).

b. Notwithstanding the exemption for townhouse dwelling units in the barrier free subcode, the first floor of all townhouse dwelling units and of all other multifloor dwelling units for which credit is sought pursuant to P. L. 1985, c. 222 (C.52:27D-301 et al.) on or after the effective date of P.L.2005, c. 350 (C.52:27D-311a et al.) and for which an application for a construction permit has not been declared complete by the enforcing agency pursuant to P.L.2005, c. 350 (C.52:27D-311a et al.), shall be subject to the technical design standards of the barrier free subcode and shall include the following features:

- (1) an adaptable entrance to the dwelling unit;
- (2) an adaptable full service bathroom on the first floor;
- (3) an adaptable kitchen on the first floor;
- (4) an accessible interior route of travel; and
- (5) an adaptable room with a door or a casing where a door can be installed which may be used as a bedroom on the first floor.

c. (1) Full compliance with the requirements of this section shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Full compliance shall be considered site impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.

(2) If full compliance with this section would be site impracticable, compliance with this section for any portion of the dwelling shall be required to the extent that it is not site impracticable.

d. In the case of a unit or units which are constructed with an adaptable entrance pursuant to subsection c. of this section, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed. Additionally, the builder of the unit or units shall deposit sufficient funds to adapt 10 percent of the affordable units in the project which have not been constructed with accessible entrances with the municipality in which the units are located, for deposit into the municipal affordable housing trust fund. These funds shall be available for the use of the municipality for the purpose of making the adaptable entrance of any such affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

For the purposes of this section:

“Adaptable,” as used with regard to an entrance, means that the plans for the unit include a feasible building

plan to adapt the entrance so as to make the unit accessible.

“Disabled person” means “disabled person” as defined in section 4 of P.L.1985, c. 222 ([C.52:27D-304](#)).

“Ground floor” means the first floor with a dwelling unit or portion of a dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.

“Site impracticable” means having the characteristic of “site impracticability” as set forth in [section 100.205 \(a\) of title 24, Code of Federal Regulations](#).

#### **52:27D-124. Powers of the commissioner**

The commissioner shall have all the powers necessary or convenient to effectuate the purposes of this act, including, but not limited to, the following powers in addition to all others granted by this act:

a. To adopt, amend and repeal, after consultation with the code advisory board, rules: (1) relating to the administration and enforcement of this act and (2) the qualifications or licensing, or both, of all persons employed by enforcing agencies of the State to enforce this act or the code, except that, plumbing inspectors shall be subject to the rules adopted by the commissioner only insofar as such rules are compatible with such rules and regulations, regarding health and plumbing for public and private buildings, as may be promulgated by the Public Health Council in accordance with Title 26 of the Revised Statutes.

b. To enter into agreements with federal and State of New Jersey agencies, after consultation with the code advisory board, to provide insofar as practicable (1) single-agency review of construction plans and inspection of construction and (2) intergovernmental acceptance of such review and inspection to avoid unnecessary duplication of effort and fees. The commissioner shall have the power to enter into such agreements although the federal standards are not identical with State standards; provided that the same basic objectives are met. The commissioner shall have the power through such agreements to bind the State of New Jersey and all governmental entities deriving authority therefrom.

c. To take testimony and hold hearings relating to any aspect of or matter relating to the administration or enforcement of this act, including but not limited to prospective interpretation of the code so as to resolve inconsistent or conflicting code interpretations, and, in connection therewith, issue subpoena to compel the attendance of witnesses and the production of evidence. The commissioner may designate one or more hearing examiners to hold public hearings and report on such hearings to the commissioner.

d. To encourage, support or conduct, after consultation with the code advisory board, educational and training programs for employees, agents and inspectors of enforcing agencies, either through the Department of Com-

munity Affairs or in cooperation with other departments of State government, enforcing agencies, educational institutions, or associations of code officials.

e. To study the effect of this act and the code to ascertain their effect upon the cost of building construction and maintenance, and the effectiveness of their provisions for insuring the health, safety, and welfare of the people of the State of New Jersey.

f. To make, establish and amend, after consultation with the code advisory board, such rules as may be necessary, desirable or proper to carry out his powers and duties under this act.

g. To adopt, amend, and repeal rules and regulations providing for the charging of and setting the amount of fees for the following code enforcement services, licenses or approvals performed or issued by the department, pursuant to the "State Uniform Construction Code Act:"

(1) Plan review, construction permits, certificates of occupancy, demolition permits, moving of building permits, elevator permits and sign permits; and

(2) Review of applications for and the issuance of licenses certifying an individual's qualifications to act as a construction code official, subcode official or assistant under this act.

(3) (Deleted by amendment, P.L.1983, c. 338).

h. To adopt, amend and repeal rules and regulations providing for the charging of and setting the amount of construction permit surcharge fees to be collected by the enforcing agency and remitted to the department to support those activities which may be undertaken with moneys credited to the Uniform Construction Code Revolving Fund.

i. To adopt, amend and repeal rules and regulations providing for:

(1) Setting the amount of and the charging of fees to be paid to the department by a private agency for the review of applications for and the issuance of approvals authorizing a private agency to act as an on-site inspection and plan review agency or an in-plant inspection agency;

(2) (Deleted by amendment, [P.L.2005, c. 212](#)).

(3) (Deleted by amendment, [P.L.2005, c. 212](#)).

j. To enforce and administer the provisions of the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.) and the code promulgated thereunder, and to prosecute or cause to be prosecuted violators of the provisions of that act or the code promulgated thereunder in administrative hearings and in civil proceedings in State and local courts.

k. To monitor the compliance of local enforcing agencies with the provisions of the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.), to order corrective action as may be necessary where a local enforcing agency is found to be failing to carry out its responsibilities under that act, to supplant or replace the local enforcing agency for a specific project, and to order it dissolved and replaced by the department where the local enforcing agency repeatedly or habitually fails to enforce the provisions of the “State Uniform Construction Code Act.”

l. To adopt, amend and repeal rules and regulations implementing the provisions of P.L.1999, c. 15 and P.L.2003, c. 44 concerning the installation and maintenance of carbon monoxide sensors.

#### **52:27D-124a. Federal manufactured home safety and construction standards; administration and enforcement; reports**

In accordance with the provisions of subsection b. of section 6 of P.L.1975, c. 217 (C. 52:27D-124 b.) and with this act, the commissioner is authorized to administer and enforce federal manufactured home safety and construction standards pursuant to the “National Manufactured Home Construction and Safety Standards Act of 1974,” Title VI of Pub.L. 93-383 (42 U.S.C. § 5401 et seq.) and is empowered to do all things necessary to comply with that act and any regulations promulgated by the Secretary of the United States Department of Housing and Urban Development pursuant thereto. The commissioner shall make such reports to the secretary in such form and containing such information as the secretary may from time to time require.

#### **52:27D-124b. Standards where no federal standard established; enforcement**

Whenever the commissioner shall deem it necessary to establish standards concerning any manufactured or mobile home construction or safety issue with respect to which no federal standard has been established, such standards shall be those of a nationally recognized code or standards writing organization, and the commissioner shall have all of the powers of enforcement provided under the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C. 52:27D-119 et seq.).

#### **52:27D-124c. Inspection of factory, warehouse, or place of sale; monitoring inspection fee**

The commissioner, by his authorized representatives, may enter, at reasonable times, any factory, warehouse or establishment in which manufactured homes are manufactured, stored or held for sale, for the purpose of ascertaining whether the requirements of the federal manufactured home construction and safety standards and

the regulations of the commissioner have been and are being met.

The commissioner shall establish a monitoring inspection fee in an amount established by the secretary, to be paid to the secretary by each manufacturer for each manufactured home manufactured in New Jersey.

**52:27D-124d. Manufacturers, distributors and dealers; records, reports and provision of information; inspection**

Each manufacturer, distributor, and dealer of manufactured homes shall establish and maintain such records, make such reports, and provide such information as the secretary may require to determine whether the manufacturer, distributor or dealer has acted or is acting in compliance with the “National Manufactured Home Construction and Safety Standards Act of 1974” [FN1] and shall, upon request of a person duly designated by the secretary, permit such person to inspect appropriate books, papers, records and documents relevant to determining whether the manufacturer, distributor or dealer has acted or is acting in compliance with that act.

[FN1] 42 U.S.C.A. § 5401 et seq.

**52:27D-124e. Violations; penalties; enforcement**

a. Any person who violates any of the provisions of this section shall be liable for a civil penalty not to exceed \$1,000.00 for each violation; to be payable to the commissioner. Each violation shall constitute a separate violation with respect to each manufactured home, except that the maximum penalty shall not exceed \$1,000,000.00 for any related series of violations occurring within 1 year from the date of the first violation. Any person purposely or knowingly violating the provisions of this section in any manner which threatens the health or safety of any purchaser, shall be guilty of a crime of the fourth degree and shall, in addition to a civil penalty, be subject to a fine not to exceed \$1,000.00 or imprisonment for a term not to exceed 1 year, or both. No person shall:

- (1) Manufacture for sale, lease, sell, offer for sale, or lease, or introduce or deliver, or import into this State, any manufactured home manufactured on or after the effective date of any applicable federal manufactured home construction and safety standard which does not comply with such standard.
- (2) Fail or refuse to permit access to or copying of records, or entry or inspection to ascertain compliance with federal standards as required by section 3 of this act [FN1] or to make reports or provide information as required by section 4 of this act, [FN2] or any rules or regulations adopted by the commissioner pursuant thereto.
- (3) Fail to furnish notification of any defect as required by Pub.L. 93-383, § 615 (42 U.S.C. § 5414).

(4) Fail to issue a certification required by [Pub.L. 93-383](#), § 616 ([42 U.S.C. § 5415](#)); or issue such a certification if such person in the exercise of due care had reason to know that such certification is false or misleading in a material respect.

(5) Fail to establish and maintain such records, make such reports, and provide such information as the commissioner may reasonably require to enable him to determine whether there is compliance with the “National Manufactured Home Construction and Safety Standards Act of 1974”, [\[FN3\]](#) or fail to permit, upon request of a person duly authorized by the commissioner, inspection of appropriate books, papers, records and documents relative to determining whether a manufacturer, distributor or dealer has acted or is acting in compliance with the “National Manufactured Home Construction and Safety Standards Act of 1974.”

(6) Issue a certification pursuant to [Pub.L. 95-128](#), § 902(a) ([42 U.S.C. § 5403\(h\)](#)), if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect.

b. When a civil penalty levied by the commissioner pursuant to subsection a. of this section, has not been satisfied within 30 days of its levy, the penalty may be sued for, and recovered by and in the name of the commissioner, by a summary proceeding under “the penalty enforcement law” ([N.J.S. 2A:58-1 et seq.](#)) in the Superior Court.

c. Paragraph (1) of subsection a. hereof shall not apply to the sale or the offer for sale of any manufactured or mobile home after the first good faith purchase for purposes other than resale, or to any person who establishes that he did not have reason to know, in the exercise of due care, that the manufactured or mobile home is not in conformity with applicable federal standards, or to any person who holds a certificate issued by the manufacturer or importer of the manufactured or mobile home to the effect that the manufactured or mobile home conforms to all applicable federal standards, unless the person knows that the home does not so conform.

[\[FN1\]](#) [N.J.S.A. § 52:27D-124c.](#)

[\[FN2\]](#) [N.J.S.A. § 52:27D-124d.](#)

[\[FN3\]](#) [42 U.S.C.A. § 5401 et seq.](#)

#### **[52:27D-124f. Rules and regulations](#)**

The commissioner may adopt such rules and regulations as he may deem necessary or appropriate in order to implement the provisions of this act.

#### **[52:27D-124g. Person aggrieved by ruling, action, order or notice; right to hearing](#)**

Any person aggrieved by any ruling, action, order, or notice of the commissioner pursuant to this act shall be entitled to a hearing pursuant to the “Administrative Procedure Act” (P.L.1968, c. 410, [C. 52:14B-1 et seq.](#)). The application for the hearing must be filed within 15 days of the receipt by the applicant thereof of notice of the ruling, action, order or notice complained of.

#### **52:27D-124.1. Uniform construction code revolving fund**

There is established in the Department of Community Affairs, a nonlapsing, revolving fund to be known as the Uniform Construction Code Revolving Fund. All surcharge fees levied on new construction pursuant to section 6 of P.L.1975, c. 217, [\[FN1\]](#) such moneys as may be appropriated by the State or Federal Government for inclusion in the fund, and such revenues as may be generated by departmental training, educational and instruction activities related to code enforcement shall be deposited in the fund.

Moneys appropriated from the fund shall be used to prepare and administer examinations to determine the eligibility of persons seeking to be employed by an enforcing agency, to establish and administer courses for the training of code, and subcode officials and assistants, and to reimburse in whole or in part, such persons as deemed eligible by the department, who have paid tuition for such training courses, and to disseminate information concerning the code and code rules and regulations, and changes made therein.

[\[FN1\]](#) N.J.S.A. § 52:27D-124.

#### **52:27D-124.2. Functions, powers and duties of department of energy relating to energy subcode of State Uniform Construction Code; transfer to department of community affairs**

All of the functions, powers and duties heretofore exercised by the Department of Energy and the commissioner thereof pursuant to P.L.1977, c. 146 ([C. 52:27F-1 et seq.](#)) relating to the adoption, amendment and repeal of the energy subcode of the State Uniform Construction Code pursuant to P.L.1975, c. 217 ([C. 52:27D-119 et seq.](#)) and P.L.1977, c. 256 ([C. 54:4-3.113 et seq.](#)) are hereby transferred to and vested in the Department of Community Affairs and the commissioner thereof.

#### **52:27D-124.3. Private agency proposal to provide inspection or plan review services subject to “Local Public Contracts Law”; other requirements**

A proposal by a private agency to provide inspection or plan review services to a municipality to administer the provisions of the “State Uniform Construction Code Act,” P.L.1975, c. 217 ([C.52:27D-119 et seq.](#)) shall be submitted in accordance with and shall be subject to the bidding and other provisions of the “Local Public Contracts Law,” P.L.1971, c. 198 ([C.40A:11-1 et seq.](#)). A municipality shall require as part of the bid specifications that a private agency submit a bid or proposal in terms of a percentage of the costs charged by the department when it serves as a local enforcement agency pursuant to section 10 of P.L.1975, c. 217 ([C.52:27D-128](#)). A municipality may include in the fee charged by it for work done by private agencies an

amount sufficient to cover a proportionate share of administrative costs incurred by the local enforcing agency in connection with inspections performed by private agencies.

#### **52:27D-125. Code advisory board**

a. To assist and advise the commissioner in the administration of this act there is hereby created in the Department of Community Affairs a code advisory board to consist of 15 citizens to be appointed by the commissioner for a term of 4 years. The board shall consist of: one architect registered in the State of New Jersey; two professional engineers licensed by the State of New Jersey, one of whom shall be a mechanical engineer and one of whom shall be a structural engineer; one municipal building official; one member of the building industry in the State of New Jersey; one public health official in the State of New Jersey; one licensed plumbing inspector in the State of New Jersey; one licensed electrical inspector in the State of New Jersey; one fire prevention inspector in the State of New Jersey and six members of the public, two of whom shall be experienced in representing consumers and one of whom shall be a representative of the handicapped who shall serve as chairman of the subcode committee on the handicapped. The initial appointment of the representative of the handicapped shall be used to fill the first vacancy among the public members of the code advisory board occurring on or after the effective date of this amendatory and supplementary act. Of the 13 members first appointed the commissioner shall designate the appointees' terms so that three shall be appointed for terms of 1 year, three for terms of 2 years, three for terms of 3 years and four for terms of 4 years, and that the two additional members first appointed by the commissioner pursuant to this amendatory act shall be appointed for 2 years and 3 years respectively with such terms to be computed from February 4, 1976. Thereafter, members of the code advisory board shall be appointed for terms of 4 years.

b. Code advisory board members shall serve without compensation but shall be entitled to reimbursement for expenses incurred in performance of their duties. Vacancies on the advisory board shall be filled for the unexpired term. Members may be removed by the commissioner for cause.

c. The code advisory board shall appoint a committee for each subcode and, should a subcode therefor not be adopted, for supplements to or revisions of the barrier free design provisions of any model code adopted pursuant to section 5 of this act. Each such committee shall consist of one member of the code advisory board, who shall be chairman, and at least four citizens who are experienced and knowledgeable in matters related to the particular subcode. Each committee shall advise and assist the code advisory board in the performance of its responsibilities under this act for the subcode in question. Committee members shall serve without compensation and at the pleasure of the code advisory board.

#### **52:27D-126. Administration and enforcement**

a. The appointing authority of any municipality shall appoint a construction official and any necessary subcode officials to administer and enforce the code. The appointing authority may, by resolution or order as appropriate, set the total number of weekly hours of operation of the construction official's office and the total

number of weekly work hours of the construction official, commensurate with the compensation paid to the construction official. The appointing authority shall not set the specific work hours of the construction official. The appointing authority shall also appoint a construction board of appeals to hear and decide appeals from decisions made by said construction official and subcode officials, in the administration and enforcement of the code. Nothing herein, however, shall prevent a municipality from accepting inspections as to compliance with the code or any subcode thereof made by an inspection authority approved by the State of New Jersey pursuant to law.

b. To establish tenure rights or any other right or protection provided by the “State Uniform Construction Code Act” or Title 11A, Civil Service, of the New Jersey Statutes, or any pension law or retirement system, the job title “construction official” shall be equivalent to that job title which, prior to the adoption of the State Uniform Construction Code as provided in section 5 of the “State Uniform Construction Code Act,” [FN1] entailed the chief administrative responsibility to enforce all construction codes which had been adopted by the municipal governing body, the enforcement of which was not the responsibility of an authorized private inspection agency; and the job title “subcode official” shall be equivalent to that job title which, prior to the adoption of the State Uniform Construction Code, entailed subordinate administrative responsibility to enforce one or more of the following construction codes: building, plumbing, electrical or fire code.

Any person, in a municipality operating under Title 11A, Civil Service, of the New Jersey Statutes, who, prior to the adoption of the State Uniform Construction Code, held the equivalent of the job title “construction” official or “subcode” official, but who no longer holds his position as a result of a determination that his old job title was not equivalent to that of “construction” official or “subcode” official, shall be offered reappointment as a construction official or subcode official, as the case may be, and shall be granted permanent classified status in such position. Tenure shall continue for (1) any construction official or subcode official who is serving under tenure as otherwise provided by law on the effective date of this act or within one year thereafter, or (2) any person certified pursuant to subsection c. of this section and who subsequently gains such tenure.

A construction official or subcode official appointed in a municipality operating under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, who, at the time of adoption of the State Uniform Construction Code, January 1, 1977, or prior to January 1, 1981, had permanent classified status or was employed as a construction official or subcode official or in another position in the unclassified service, shall be included in the classified service without civil service examination in his respective title of construction official or subcode official. Any individual employed by a municipality, who, in his employment with the municipality between January 1, 1977 and prior to January 1, 1981, was charged with the chief administrative responsibility to enforce all existing municipal construction codes, shall be deemed as appointed to the position of construction official for the purposes of this act. Any individual employed by a municipality, who, in his employment with the municipality between January 1, 1977 and prior to January 1, 1981, was charged with chief responsibility to enforce the municipal building, plumbing, fire, or electrical code, shall be deemed as appointed to the position of subcode official for the purposes of this act. No person, on or after January 1, 1981, shall be appointed as construction or subcode official in a municipality operating under Title 11A, Civil Service, of the New Jersey Statutes without having passed an examination administered by the Civil Service Commission certifying

the merit and fitness of the person to hold such position; provided that, whenever a noncivil service municipality adopts the provisions of that Title, construction code officials and subcode officials of such municipality appointed prior to the filing of the petition for the adoption of civil service, shall attain permanent status in the classified service without examination. Any construction or subcode official appointed after January 1, 1981 on a provisional basis in a municipality which has adopted the provisions of Title 11A, Civil Service, of the New Jersey Statutes, may not be removed from office except for just cause after a fair and impartial hearing has been held at the local level, with no further appeal to the Civil Service Commission; provided, however, that such a construction or subcode official may be removed to permit the appointment of a person certified for appointment by the Civil Service Commission.

A construction official or subcode official in a noncivil service municipality shall be appointed for a term of four years and shall, upon appointment to a second consecutive term or on or after the commencement of a fifth consecutive year of service, including years of service in an equivalent job title held prior to the adoption of the State Uniform Construction Code, be granted tenure and shall not be removed from office except for just cause after a fair and impartial hearing.

A construction or subcode official, to be eligible for appointment in civil service or noncivil service municipalities, shall be certified by the State of New Jersey in accordance with subsection c. of this section and shall have had at least three years' experience in construction, design or supervision as a licensed engineer or registered architect; or five years' experience in construction, design, or supervision as an architect or engineer with a bachelor's degree from an accredited institution of higher education; or 10 years' experience in construction, design or supervision as a journeyman in a trade or as a contractor. A subcode official shall, pursuant to any subcode which he administers, pass upon:

(1) matters relative to the mode, manner of construction or materials to be used in the erection or alteration of buildings or structures, except as to any such matter foreclosed by State approval pursuant to this act, and (2) actual execution of the approved plans and the installation of the materials approved by the State. The construction official in each municipality shall be the chief administrator of the "enforcing agency." He shall have the power to overrule a determination of a subcode official based on an interpretation of a substantive provision of the subcode which such subcode official administers, only if the construction official is qualified to act pursuant to this act as a subcode official for such subcode. He may serve as subcode official for any subcode which he is qualified under this act to administer. A subcode official or municipal engineer may serve as a construction official if otherwise qualified under the provisions of this act. The municipal enforcing agency shall require compliance with the provisions of the code, of all rules lawfully adopted and promulgated thereunder and of laws relating to the construction, alteration, repair, removal, demolition and integral equipment and location, occupancy and maintenance of buildings and structures, except as may be otherwise provided for.

Two or more municipalities may provide by ordinance, subject to regulations established by the commissioner, for the joint appointment of a construction official and subcode official for the purpose of enforcing the provisions of the code in the same manner.

c. No person shall act as a construction official or subcode official for any municipality unless the commissioner determines that said person is so qualified, except for the following:

(1) a municipal construction official or subcode official holding office under permanent civil service status, or tenure as otherwise provided by law on the effective date of this act or within one year thereafter and (2) a municipal construction official or subcode official holding office without such permanent civil service status or tenure on the effective date of this act or within one year thereafter; provided said construction official or subcode official not having such permanent civil service status or tenure shall be certified in accordance with this act within four years of the effective date thereof; provided further that a person holding on the effective date of this act a valid plumbing inspector's license from the Department of Health and Senior Services pursuant to Title 26 of the Revised Statutes may serve as a plumbing subcode official and a person holding on the effective date of this act a valid electrical inspector's license from the Board of Public Utilities pursuant to Title 48 of the Revised Statutes may serve as an electrical subcode official. The commissioner, after consultation with the code advisory board, may authorize the preparation and conducting of oral, written and practical examinations to determine if a person is qualified by this act to be eligible to be a construction official or subcode official or, in the alternative, may accept successful completion of programs of training as proof of qualification within the meaning of this act. Upon a determination of qualification the commissioner shall issue or cause to be issued a certificate to the construction official or subcode official or trainee stating that he is so certified. The commissioner, after consultation with the code advisory board, may establish classes of certification that will recognize the varying complexities of code enforcement in the municipalities within the State. The commissioner shall, after consultation with the code advisory board, provide for educational programs designed to train and assist construction officials and subcode officials in carrying out their responsibilities.

Whenever the commissioner is required by the terms of this subsection to consult with the code advisory board and the matter in question concerns plumbing subcode officials, the commissioner shall also consult with the Public Health Council and Commissioner of Health and Senior Services.

d. The commissioner, after consultation with the code advisory board, may periodically require that each construction official and subcode official demonstrate a working knowledge of innovations in construction technology and materials, recent changes in and additions to the relevant portions of the State Uniform Construction Code, and current standards of professional ethics and legal responsibility; or, in the alternative, the commissioner, after consultation with the code advisory board, may accept successful completion of appropriate programs of training as proof of such working knowledge.

[FN1] N.J.S.A. § 52:27D-123.

#### **52:27D-126a. Enforcing agency fees**

Where the appointing authority of any municipality shall appoint an enforcing agency and construction board of appeals pursuant to section 8 of P.L. 1975, c. 217, [FN1] the municipal governing body by ordinance, in accordance with standards established by the commissioner, shall set enforcing agency fees for plan review,

construction permit, certificate of occupancy, demolition permit, moving of building permit, elevator permit and sign permit, provided, however, that such fees shall not exceed the annual costs for the operation of the enforcing agency.

[FN1] N.J.S.A. § 52:27D-126.

#### **52:27D-126b. Municipality; waiver of enforcing agency fees; ordinance**

Notwithstanding the provisions of section 3 of P.L.1979, c. 121 (C. 52:27D-126a), or any standard adopted pursuant thereto, to the contrary, a municipal governing body may provide in its ordinance for a waiver of enforcing agency fees for construction contracted for or conducted by the municipality within its boundaries.

#### **52:27D-126c. Erection or alteration of public buildings; prohibition of fees**

No county, municipality, or any agency or instrumentality thereof shall be required to pay any municipal fee or charge in order to secure a construction permit for the erection or alteration of any public building or part thereof from the municipality wherein the building may be located. No erection or alteration of any public building or part thereof by a county, municipality, school board, or any agency or instrumentality thereof shall be subject to any fee, including any surcharge or training fee, imposed by any department or agency of State government pursuant to any law, or rule or regulation, except that nothing contained in this section shall be interpreted as preventing the imposition of a fee upon a board of education by either the Department of Education for plan review or by a municipality for the review of plans submitted to it pursuant to the provisions of section 12 of P.L.1975, c. 217 (C.52:27D-130).

#### **52:27D-126d. Waiver of enforcing agency fees for nonprofit corporations rehabilitating or constructing housing units**

Notwithstanding the provisions of section 3 of P.L.1979, c. 121 (C. 52:27D-126a), any municipality may, by ordinance, provide for a waiver of enforcing agency fees for any corporation which is (1) organized pursuant to the "New Jersey Nonprofit Corporation Act," N.J.S. 15A:1-1 et seq. and (2) actively engaged in constructing or rehabilitating housing units for occupancy by low or moderate income households.

For the purposes of this act, "low income household" means a household in which the gross household income is equal to 50% or less of the median gross household income for households of the same size within the region in which the housing is located. "Moderate income household" means a household in which the gross household income is equal to more than 50% but less than 80% of the median gross household income for households of the same size within the region in which the housing is located.

**52:27D-126e. Waiver of construction permit surcharge or enforcing agency fee for construction to promote accessibility by handicapped to existing structure or facilities therein**

Notwithstanding the provisions of the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C. 52:27D-119 et seq.), or any rules, regulations or standards adopted pursuant thereto, to the contrary, the governing body of any municipality which has appointed an enforcing agency pursuant to the provisions of section 8 of P.L.1975, c. 217 (C. 52:27D-126) may, by ordinance, provide that no person shall be charged a construction permit surcharge fee or enforcing agency fee for any construction, reconstruction, alteration or improvement designed and undertaken solely to promote accessibility by disabled persons to an existing public or private structure or any of the facilities contained therein.

The ordinance may further provide that a disabled person, or a parent or sibling of a disabled person, shall not be required to pay any municipal fee or charge in order to secure a construction permit for any construction, reconstruction, alteration or improvement which promotes accessibility to his own living unit.

For the purposes of this section, “disabled person” means a person who has the total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness, and shall include, but not be limited to, any resident of this State who is disabled pursuant to the federal Social Security Act (42 U.S.C. § 416), or the federal Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.), or is rated as having a 60% disability or higher pursuant to any federal law administered by the United States Veterans' Act. For purposes of this paragraph “blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

**52:27D-126f. Elevators; testing and inspection; qualified elevator device inspectors**

a. As used in this section:

“Elevator device” means a hoisting and lowering device equipped with a car or platform which moves in guides for the transportation of individuals or freight in a substantially vertical direction through successive floors or levels of a building or structure. The term includes, without limitation, elevators, dumbwaiters, wheelchair lifts, manlifts, stairway chairlifts and any device within the scope of ASME A17.1 (Safety Code for Elevators and Escalators) or ASME A90.1 (Safety Standard for Belt Manlifts), except escalators and moving walks. It shall not include any conveyor devices that are process equipment.

“Qualified elevator device inspection firm” means any entity, whether a sole proprietorship, partnership, association or corporation, that is engaged in the business of inspecting, testing, installing, maintaining or repairing elevator devices, or the business of inspecting and testing elevator devices, is registered for those purposes with the Department of Community Affairs, and employs at least one qualified elevator device inspector.

“Qualified elevator device inspector” means any person who is employed by a qualified elevator device inspection firm and who is licensed by the Department of Community Affairs to conduct the routine, periodic and acceptance inspections and tests of elevator devices required pursuant to the provisions of the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.).

b. No elevator devices which, under the provisions of the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.), are subject to routine, periodic and acceptance inspections and tests by the local enforcing agency or the Department of Community Affairs shall be subject to such inspections and tests, nor shall the owner of the structure be charged any fees therefor, if those elevator devices are subjected to acceptance testing and are routinely and periodically inspected and tested by a qualified elevator device inspection firm, and the owner has registered each such elevator device with the Department of Community Affairs and has indicated in the registration application form, or in a supplement to that form, the identity of the qualified elevator device inspection firm that has been given responsibility for inspection and testing of the elevator device.

The inspections and tests, including the frequency thereof, conducted by a qualified elevator device inspector shall be in accordance with such rules and regulations as the Commissioner of Community Affairs may prescribe pursuant to the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.) and subsection e. of this section. Acceptance testing and the five-year test shall be witnessed by the local enforcing agency or the Department of Community Affairs in accordance with such rules and regulations as the Commissioner of Community Affairs may prescribe pursuant to the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.) and subsection e. of this section. No qualified elevator device inspector shall act in that capacity when his work on the elevator device is the work being inspected.

c. If, upon inspection or test, a qualified elevator device inspector shall find that an elevator device is in a dangerous condition, or if there is an immediate hazard to persons riding on or using any such device, the inspector shall immediately prohibit any further use of the device and shall so notify in writing the owner and the local enforcing agency or Department of Community Affairs, as the case may be. The device shall remain out of service until such time as the inspector shall certify in writing that the dangerous condition or immediate hazard has been removed or corrected and that the device is safe for public use. If the local enforcing agency or the department shall determine, in response to a complaint or otherwise, that an elevator device is in a dangerous condition or that there is an immediate hazard to persons riding on or using that device, the local enforcing agency or the department may require the owner of the elevator device to make such repairs as may be necessary, or take other corrective action, within such time as the local enforcing agency or the department, as the case may be, shall prescribe.

d. Any qualified elevator device inspector or qualified elevator device inspection firm violating the provisions of this section shall be subject to a penalty in accordance with section 20 of P.L.1975, c. 217 (C.52:27D-138) and shall also be subject to suspension or revocation by the Department of Community Affairs of licensure or registration as a qualified elevator device inspector or qualified elevator device inspection firm, as the case may be.

e. The Commissioner of Community Affairs, in accordance with the provisions of the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), shall promulgate rules and regulations to effectuate the purposes of this act. The rules and regulations shall provide for, but not be limited to, the qualifications for licensing of qualified elevator device inspectors, the registration of qualified elevator device inspection firms, the manner and form of licensure and registration, the fee for each such license or registration, the manner in which test results pursuant to this act are to be recorded, and minimum liability insurance requirements for qualified elevator device inspection firms, for which proof thereof shall be provided by the firms to the department. License and registration fees shall be designed to cover, but not exceed, the actual costs the department shall incur in administering the provisions of this act.

f. The Department of Community Affairs shall conduct a review and perform an analysis of the impact on the safety record of elevator devices in this State as a result of the implementation of this section. The review and analysis shall be performed biennially. A written report of the results of the review and analysis shall be submitted to the Governor and the Legislature, with the first report submitted within 48 months following the effective date of P.L.1997, c.336 (C.52:27D-126f).

#### **52:27D-126.1. Fire prevention subcode officials; appointment; qualifications; removal**

a. In any municipality the body or official, or the successor of said body or official, which appointed the persons serving as fire prevention officials on the effective date of the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C. 52:27D-119 et seq.) shall appoint the person to serve in each position for a fire prevention subcode official which a municipality creates; provided that any person who has served in the same municipality for at least 6 months as a fire inspection officer on the effective date of the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C. 52:27D-119 et seq.) shall be deemed to qualify as a fire prevention subcode official. Notwithstanding the provisions of this section, any fire prevention subcode official is subject to any qualification requirements established by the commissioner pursuant to section 8 of the “State Uniform Construction Code Act,” P.L.1975, c. 217. [FN1]

b. Whenever a municipality creates full-time or part-time fire prevention subcode official positions, it shall order the body or official or successor or designee of said body or official which appointed the persons serving as fire prevention officials in the municipality on the effective date of the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C. 52:27D-119 et seq.) to appoint the necessary number of full-time or part-time fire prevention subcode officials pursuant to subsection 1 a. of this act. Except as provided in subsections a., b., and d. of this section, fire prevention subcode officials are subject to the administration and enforcement jurisdiction of municipal construction officials provided under the State Uniform Construction Code, P.L.1975, c. 217 (C. 52:27D-119 et seq.).

c. Notwithstanding any experience requirements in section 8 of the “State Uniform Construction Code Act,” P.L.1975, c. 217, a fire prevention subcode official appointed pursuant to said section and to this act shall have had at least 3 years experience as a fire prevention or firefighting official.

d. A fire prevention subcode official may be removed from office by the body or official or the successor or designee of said body or official which appointed such official.

[FN1] N.J.S.A. § 52:27D-126.

#### **52:27D-126.2. Persons appointed as construction officials or subcode officials; licenses**

Notwithstanding the provisions of the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C. 52:27D-119 et seq.), or any rule or regulation adopted pursuant thereto to the contrary, on or after January 1, 1981, no person who received an appointment as a construction official or a subcode official prior to October 1, 1978, shall hold or perform the duties of an office for which a license is required under that act, or represent himself as qualified for that position, use a title denoting that he is so licensed or otherwise represent himself as licensed or authorized to act under the code, unless that person possesses the appropriate license; except that a subcode official or municipal engineer appointed prior to October 1, 1978, and acting as a construction official on January 1, 1981, or a municipal official appointed prior to October 1, 1978, and acting as a subcode official on January 1, 1981, may continue to act as a construction official or a subcode official, respectively, until March 1, 1981, without licensing by the commissioner.

#### **52:27D-126.3. Program for emergency deployment of construction code officials and inspectors**

The Commissioner of Community Affairs shall establish a program for the emergency deployment of State and local construction code officials and inspectors to assist local construction code officials and inspectors in the evaluation of buildings and structures affected by a natural or man-made disaster or emergency, and to provide such other assistance in code enforcement and related activities as may be required in order to protect public health and safety. The code officials and inspectors so deployed shall, when necessary, assist in assessing possible damage to the structural design and life-safety systems of buildings, and in facilitating rapid decision making regarding the closure or reoccupancy of buildings, in the event of a natural or man-made disaster or emergency for which a state of emergency has been declared by the President of the United States or the Governor, or for which a state of emergency has been declared by a municipal emergency management coordinator. The commissioner may provide for participation in the program by licensed professional engineers, registered architects and other licensed professionals. For the purposes of this section, “local construction code officials and inspectors” means code officials and inspectors employed by a municipality or county.

#### **52:27D-126.4. Joint aid agreements for mutual construction code enforcement**

The governing bodies of two or more municipalities may by resolution enter into agreements with each other for mutual construction code enforcement aid concerning the evaluation of buildings and structures affected by a natural or man-made disaster or emergency. Such agreements may provide for the reimbursement of the municipality or municipalities rendering such aid, including reimbursement for any damage to property and for payment to any official or employee of a local construction code enforcing agency for injuries sustained

while serving pursuant to such agreements, or to a surviving spouse or other dependent in the event of death of that official or employee.

#### **52:27D-126.5. Powers of persons under emergency deployment program**

Persons deployed under the emergency deployment program established by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c. 2 (C.52:27D-126.3), or providing assistance pursuant to an inter-municipal agreement pursuant to section 2 of P.L.2007, c. 2 (C.52:27D-126.4), shall, while on duty rendering assistance to any local construction code enforcing agency, have the same powers, authority and immunities as the members of the local construction code enforcing agency of the municipality in which such assistance is being rendered.

#### **52:27D-126.6. Injury or death in performance of duties; beneficiaries**

If any local construction code official or inspector suffers injury or death in the performance of his duties, the legal beneficiaries of such official or inspector shall be entitled to such salary, pension rights, workers' compensation, or other benefits as would have accrued if such injury or death had occurred in the performance of duties in the jurisdiction in which the official or employee is regularly employed. The responsibility for the payment of benefits pursuant to this section shall be determined in the agreements entered into pursuant to section 2 of P.L.2007, c. 2 (C.52:27D-126.4).

#### **52:27D-126.7. Voluntary participation in program; resolution of non-participation**

a. Participation by municipalities in the emergency deployment program established by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c. 2 (C.52:27D-126.3) shall be voluntary; provided, however, that any municipality that does not adopt a resolution of non-participation in the emergency deployment program, and file such resolution with the Department of Community Affairs, within 60 days of the effective date of rules implementing section 1 of P.L.2007, c. 2 (C.52:27D-126.3), shall be deemed to be participating in the program, until such time as a resolution of non-participation may be adopted and filed. A non-participating municipality may join the emergency deployment program at any time by adopting a resolution of participation and filing it with the commissioner.

b. During a state of emergency, any deployed construction code official or inspector shall report to the municipal emergency management coordinator for the deployment area.

#### **52:27D-127. Construction board of appeals**

a. There shall be a construction board of appeals for each county to hear appeals from decisions by the enfor-

cing agency provided that any municipality may establish its own construction board of appeals to hear appeals from decisions by the enforcing agency and further provided that where two or more municipalities have combined to appoint a construction official and subcode officials such combined municipalities may establish a joint construction board of appeals. Any such municipal or joint board shall hear appeals from the decisions of the municipal or joint enforcing agency, as the case may be, instead of the county board.

Every construction board of appeals shall consist of five members. Each member of the board shall be qualified by experience or training to perform the duties of members of the construction board of appeals. In addition to the five regular members, each construction board of appeals shall include two special members, one of whom shall be a licensed professional engineer with municipal construction experience, and one of whom shall be a builder. The special members shall serve as additional members of the board in any case involving an appeal of municipal fees pursuant to P.L.1995, c. 54 (C. 40:55D-53.2 et al.). Board members shall be appointed for a term of four years by the appointing authority of the county or municipality in question or, in the case of a joint municipal board, by means mutually determined by the governing bodies of such municipalities. For the members first appointed, the appointing authority shall designate the appointees' terms so that one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and two for a term of four years. Vacancies on the board shall be filled for the unexpired term. Members may be removed by the authority appointing them for cause. A person may serve on more than one construction board of appeals.

b. When an enforcing agency refuses to grant an application or refuses to act upon application for a construction permit, or when the enforcing agency makes any other decision, pursuant or related to this act or the code, an owner, or his authorized agent, may appeal in writing to the county or municipal or joint board, whichever is appropriate. The board shall hear the appeal, render a decision thereon and file its decision with a statement of the reasons therefor with the enforcing agency from which the appeal has been taken not later than 10 business days following the submission of the appeal, unless such period of time has been extended with the consent of the applicant. Such decision may affirm, reverse or modify the decision of the enforcing agency or remand the matter to the enforcing agency for further action. A copy of the decision shall be forwarded by certified or registered mail to the party taking the appeal. Failure by the board to hear an appeal and render and file a decision thereon within the time limits prescribed in this subsection shall be deemed a denial of the appeal for purposes of a complaint, application or appeal to a court of competent jurisdiction. A record of all decisions made by the board, properly indexed, shall be kept by the enforcing agency and shall be subject to public inspection during business hours. The board shall provide rules for its procedure in accordance with this act and regulations established by the commissioner.

#### **52:27D-128. Substitute administration and enforcement**

Whenever a municipality or several municipalities decide not to administer and enforce the code and request the commissioner to assume that task, the commissioner shall by regulation provide for the enforcement of the code and this act in said municipality or municipalities and for payment to the State of fees necessary to defray the expenses in furtherance of that end and the commissioner shall have all the powers conferred by this

act upon any municipal governing body, chief executive, or enforcing agency and all other powers necessary and convenient to that end, provided that the commissioner shall provide a departmental appeal in lieu of an appeal to a municipal or joint construction board of appeals.

The commissioner shall hold hearings pursuant to section 6c. of this act [FN1] in order to establish regulations defining the operation of this section.

[FN1] N.J.S.A. § 52:27D-124.

**52:27D-129. State buildings and buildings of interstate agencies; outdoor advertising signs on public property**

a. Notwithstanding any other provision of P.L.1975, c. 217 (C.52:27D-119 et seq.), the Department of Community Affairs shall have authority to administer and enforce the code in regard to buildings and structures owned by the State, and any of its departments, divisions, bureaus, boards, councils, authorities or other agencies; provided, however, that the Division of Building and Construction in the Department of the Treasury [FN1] shall have authority to conduct field inspections for the purpose of enforcing the code in buildings built under its supervision. The Division of Building and Construction shall be authorized to review plans and undertake construction if the Department of Community Affairs cannot approve plans within the 20-day period provided for in P.L.1975, c. 217. In an emergency or cost savings situation, the commissioner may delegate, by rule, the authority to conduct field inspections for the purpose of enforcing the code. The Division of Building and Construction and any public or private agency which receives such a delegation shall carry out any review or inspection responsibilities with persons certified by the Commissioner of Community Affairs pursuant to the provisions of P.L.1975, c. 217. The Department of Community Affairs shall have ultimate responsibility for insuring that all buildings conform to the requirements of the code.

b. Construction, alteration, renovation, rehabilitation, repair, removal or demolition of any building or structure situated wholly within New Jersey by or for an agency created by an interstate compact to which the State of New Jersey is a party shall be subject to the provisions of the code; provided that such interstate agency shall have exclusive authority to administer and enforce the code in regard to such buildings and structures.

c. Notwithstanding any other provision of law, rule or regulation to the contrary, except for signs which advertise or otherwise identify activities performed on the property on which the sign is located, the Department of Community Affairs shall be the sole enforcing agency with regard to outdoor advertising signs which exceed 32 square feet in area on any face and which are located on land owned or controlled by any public entity, including but not limited to any State, county or local department, agency, board, commission, authority or instrumentality.

[FN1] Continuation and transfer of functions, powers and duties of the Division of Buildings and Construction to the Division of Property Management and Construction; and the abolition of the General

Services Administration by Reorganization Plan No. 003-1997, set out under § 52:18A-178. Continuation and transfer of functions, powers and duties of the Division of Property Management and Construction to the Department of Community Affairs; see Reorganization Plan No. 002-1998, set out under § 34:1-1.

**52:27D-130. Permit required for construction or alteration of buildings and structures; application therefor; required contents of application; issuance, effect and duration of permits; certain public school facilities**

Except as otherwise provided by this act or in the code, before construction or alteration of any building or structure, the owner, or his agent, engineer or architect, shall submit an application in writing, including signed and sealed drawings and specifications, to the enforcing agency as defined in this act. The application shall be in accordance with regulations established by the commissioner and on a form prescribed by the commissioner and shall be accompanied by payment of the fee to be established by the municipal governing body by ordinance in accordance with standards established by the commissioner. The application for a construction permit shall be filed with the enforcing agency and shall be a public record; and no application for a construction permit shall be removed from the custody of the enforcing agency after a construction permit has been issued. Nothing contained in this paragraph shall be interpreted as preventing the imposition of requirements in the code, for additional permits for particular kinds of work, including but not limited to plumbing, electrical, elevator, fire prevention equipment or boiler installation or repair work, or in other defined situations.

No permit shall be issued for a public school facility unless the final plans and specifications have been first approved by the Bureau of Facility Planning Services in the Department of Education or a municipal code official who is appropriately licensed by the Commissioner of Community Affairs for the type and level of plans being reviewed. Approval by the Bureau of Facility Planning Services in the Department of Education shall only be required when a review for educational adequacy is necessary. Requirements determining when a review for educational adequacy is necessary shall be established jointly by the Department of Community Affairs and the Department of Education. The standards shall thereafter be adopted as part of the Uniform Construction Code regulations by the Department of Community Affairs. After the final plans and specifications have been approved for educational adequacy by the Bureau of Facility Planning Services in the Department of Education, a local board of education may submit the final plans and specifications for code approval to either the Bureau of Facility Planning Services in the Department of Education or a municipal code official who is appropriately licensed by the Commissioner of Community Affairs for the type and level of plans being reviewed. The Bureau of Facility Planning Services in the Department of Education when approving final plans and specifications shall be responsible for insuring that the final plans and specifications conform to the requirements of the code as well as for insuring that they provide for an educationally adequate facility. In carrying out its responsibility pursuant to the provisions of this section the Department of Education shall employ persons licensed by the Commissioner of Community Affairs for the type and level of plans being reviewed.

**52:27D-130.1. Construction permit surcharge fee; construction contracted for or conducted by municipal-**

**ity; prohibition**

Notwithstanding the provisions of the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, no municipality shall be charged a construction permit surcharge fee for construction contracted for or conducted by the municipality within its boundaries when the municipality itself is the enforcing agency.

**52:27D-130.2. Construction permit for installation or alteration of solar energy heating or cooling system; municipal fee or charge; prohibition**

No person shall be required to pay a municipal fee or charge in order to secure a construction permit for the installation or alteration of a solar energy heating or cooling system in any building or part thereof. As used in this act, “solar energy heating and cooling system” means a system which is certified as eligible for an exemption from property taxation by the Department of Community Affairs pursuant to P.L.1977, c. 256 (C.54:4-3.113 et seq.).

**52:27D-130.3. State department or agency; fee; prohibition**

The installation or alteration of a solar energy heating or cooling system in any building shall not be subject to any fee, including any surcharge or training fee, imposed by any department or agency of State government pursuant to any law, or rule or regulation.

**52:27D-130.4. Rules and regulations relative to safe building interiors; certification; penalties**

a. Within 12 months after the effective date of this act, the Department of Health and Senior Services shall adopt rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.) that establish: (1) procedures for the evaluation and assessment of the interior of buildings that are to be used for child care centers licensed pursuant to the provisions of P.L.1983, c. 492 (C.30: 5B-1 et seq.), or for educational purposes; and (2) standards that establish maximum contaminant levels for building interiors to be used for child care centers licensed pursuant to the provisions of P.L.1983, c. 492, or for educational purposes, that are protective of the public health and safety. The rules and regulations adopted pursuant to this subsection shall be protective of the health of children and infants, and shall account for the difference in rate of the absorption, metabolism, and excretion of compounds between adults and infants and children.

b. The department shall establish an application process for the certification issued pursuant to subsection c. of this section. Every application for a certification shall be accompanied by a fee, established in accordance with a fee schedule adopted by the department, by rule or regulation, reflecting the costs of reviewing and processing the application. Fees collected pursuant to this subsection shall be deposited into a separate account, and shall be dedicated for use by the department solely for the purposes of administering and enforcing the provisions of this section and any rules or regulations adopted pursuant thereto.

c. Upon a demonstration to the department by the applicant that the procedures established pursuant to subsection a. of this section for the evaluation and assessment of building interiors have been followed, and that there are no contaminants present in the building that exceed the maximum contaminant levels established in subsection a. of this section, the department shall issue a certification that the building interior is safe for use as a child care center, or for educational purposes.

d. As used in this section: “contaminant” shall have the same meaning as provided in section 23 of [P.L.1993, c. 139 \(C.58:10B-1\)](#); and “educational purposes” shall mean for the purposes of a private school or public school as defined in [N.J.S.18A:1-1](#), or a charter school as defined pursuant to [P.L.1995, c. 426 \(C.18A:36A-1 et seq.\)](#).

e. Whenever the Commissioner of Health and Senior Services finds that a person has violated any provision of this section, or any rule or regulation adopted pursuant thereto, or knowingly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained pursuant to this section, the commissioner may assess a civil administrative penalty of not more than \$25,000 for a first offense, and not more than \$50,000 for the second and every subsequent offense. Each day that a violation continues shall constitute an additional, separate, and distinct offense. The department may compromise and settle any claim for a penalty pursuant to this subsection in an amount as the department determines is appropriate and equitable under the circumstances.

Any penalty imposed pursuant to this subsection may be collected, with costs, in a summary proceeding pursuant to the “Penalty Enforcement Law of 1999,” [P.L.1999, c. 274 \(C.2A:58-10 et seq.\)](#). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the “Penalty Enforcement Law of 1999” in connection with this section.

#### **[52:27D-130.5. Construction permit for structures to be used for child centers or educational purposes](#)**

a. (1) No construction permit shall be issued pursuant to section 12 of [P.L.1975, c. 217 \(C.52:27D-130\)](#) for the reconstruction, alteration, conversion, or repair of any building or structure to be used for a child care center licensed pursuant to the provisions of [P.L.1983, c. 492 \(C.30:5B-1 et seq.\)](#), or for educational purposes, if that building or structure was previously used for industrial, storage, or high hazard purposes, as a nail salon, dry cleaning facility, or gasoline station, or is on a contaminated site, on a site on which there is suspected contamination, or on an industrial site that is subject to the provisions of the “Industrial Site Recovery Act,” [P.L.1983, c. 330 \(C.13: 1K-6 et al.\)](#), except upon the submission of the certification issued by the Department of Health and Senior Services pursuant to section 1 of [P.L.2007, c. 1 \(C.52:27D-130.4\)](#) to the construction official by the applicant, that the building or structure has been evaluated and assessed for contaminants, and that the building or structure is safe for use as a child care center licensed pursuant to the provisions of [P.L.1983, c. 492](#), or for educational purposes.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, a construction permit

may be issued for the construction or alteration of any building or structure to be used as a child care center licensed pursuant to the provisions of P.L.1983, c. 492, or for educational purposes, if the construction permit is necessary to perform work in the building or structure in order to comply with the rules and regulations adopted pursuant to subsection a. of section 1 of [P.L.2007, c. 1 \(C.52: 27D-130.4\)](#) and obtain the certification issued by the Department of Health and Senior Services pursuant to subsection c. of section 1 of [P.L.2007, c. 1 \(C.52:27D-130.4\)](#).

A construction permit issued pursuant to this paragraph shall be limited to the construction or alterations necessary to comply with the rules and regulations adopted pursuant to subsection a. of section 1 of [P.L.2007, c. 1 \(C.52:27D-130.4\)](#).

(3) The appropriate enforcing agency shall not grant a certificate of occupancy for any building or structure to be used as a child care center licensed pursuant to the provisions of P.L.1983, c. 492, or for educational purposes, that received a construction permit pursuant to paragraph (2) of this subsection, except upon the submission of the certification issued by the Department of Health and Senior Services pursuant to subsection c. of section 1 of [P.L.2007, c. 1 \(C.52:27D-130.4\)](#) to the construction official by the applicant, that the building or structure has been evaluated and assessed for contaminants, and that the building or structure is safe for use as a child care center licensed pursuant to the provisions of P.L.1983, c. 492, or for educational purposes.

b. (1) No construction permit shall be issued for the construction or alteration of any building or structure to be used as a child care center licensed pursuant to the provisions of P.L.1983, c. 492, or for educational purposes, on a site that was previously used for industrial, storage, or high hazard purposes, as a nail salon, dry cleaning facility, or gasoline station, or on a contaminated site, on a site on which there is suspected contamination, or on an industrial site that is subject to the provisions of the “Industrial Site Recovery Act,” P.L.1983, c. 330 ([C.13:1K-6](#) et al.), except after submission by the applicant to the construction official of documentation sufficient to establish that the Department of Environmental Protection has approved a remedial action workplan for the entire site or that the site has been remediated consistent with the remediation standards and other remediation requirements established pursuant to section 35 of [P.L.1993, c. 139 \(C.58:10B-12\)](#) and a no further action letter has been issued by the Department of Environmental Protection for the entire site.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, a construction permit may be issued for the construction or alteration of any building or structure to be used as a child care center licensed pursuant to the provisions of P.L.1983, c. 492, or for educational purposes, on a site that was previously used for industrial, storage, or high hazard purposes, as a nail salon, dry cleaning facility, or gasoline station, or on a contaminated site, on a site on which there is suspected contamination, or on an industrial site that is subject to the provisions of the “Industrial Site Recovery Act,” P.L.1983, c. 330 ([C.13:1K-6](#) et al.), if the construction permit is necessary to remediate the site consistent with the remediation standards and other remediation requirements established pursuant to section 35 of [P.L.1993, c. 139 \(C.58:10B-12\)](#) in order to obtain a no further action letter from the Department of Environmental Protection.

A construction permit issued pursuant to this paragraph shall be limited to the construction or alterations necessary to develop a remedial action workplan to be submitted to the Department of Environmental Protection for approval or to remediate the site consistent with the remediation standards and other remediation requirements established pursuant to section 35 of [P.L.1993, c. 139 \(C.58:10B-12\)](#) and receive a no further action letter from the Department of Environmental Protection.

(3) The appropriate enforcing agency shall not grant a certificate of occupancy for any building or structure to be used as a child care center licensed pursuant to the provisions of [P.L.1983, c. 492](#), or for educational purposes, that received a construction permit pursuant to paragraph (2) of this subsection, except after submission by the applicant to the construction official of documentation sufficient to establish that the site has been remediated consistent with the remediation standards and other remediation requirements established pursuant to section 35 of [P.L.1993, c. 139 \(C.58: 10B-12\)](#) and a no further action letter has been issued by the Department of Environmental Protection for the entire site.

c. As used in this section: “contaminated site” means any real property on which there is contamination; “contamination,” “remediation” or “remediate,” and “no further action letter” shall have the same meanings as provided in section 23 of [P.L.1993, c. 139 \(C.58:10B-1\)](#); and “educational purposes” means for the purposes of a private school or public school as defined in [N.J.S.18A:1-1](#), or a charter school as defined pursuant to [P.L.1995, c. 426 \(C.18A:36A-1 et seq.\)](#).

#### **52:27D-130.6. Green building manual for residential and commercial buildings**

The Commissioner of Community Affairs is authorized to prepare, in consultation with other State agencies, and make available to the public, a green building manual for the purpose of ensuring that standards are available for those owners and builders who participate in any program that encourages or requires the construction of green buildings. The manual shall include federal guidelines and regulations for energy efficiency in building construction. The manual shall cover residential as well as commercial buildings. For the purposes of this act, “green building” means those building construction practices that significantly reduce or eliminate the negative impact of buildings on the environment and their occupants and may consider, but need not be limited to five broad areas: sustainable site planning; safeguarding water and water efficiency; energy efficiency and renewable energy; conservation of materials and resources; and indoor environmental quality.

#### **52:27D-130.7. Grants to certain owners and operators of child care centers from the Hazardous Discharge Site Remediation Fund**

a. Notwithstanding any provisions of [P.L.1993, c.139 \(C.58:10B-1 et seq.\)](#) to the contrary, the New Jersey Economic Development Authority, in conjunction with the Department of Environmental Protection, may provide a grant of \$1,500 from the Hazardous Discharge Site Remediation Fund, established pursuant to section 26 of [P.L.1993, c.139 \(C.58:10B-4\)](#), to the owner or operator of a child care center licensed pursuant to [P.L.1983, c.492 \(C.30:5B-1 et seq.\)](#), or a prospective owner or operator of a child care center who has applied

for a license pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.), for the costs of a preliminary assessment performed in order to obtain a no further action letter as required pursuant to the provisions of subsection b. of section 2 of P.L.2007, c.1 (C.52:27D-130.5) or performed as part of the child care center licensing requirements established by the Department of Children and Families.

b. The New Jersey Economic Development Authority, in the administration of the Hazardous Discharge Site Remediation Fund, shall authorize the Department of Environmental Protection to implement a program for the grants to be awarded pursuant to section a. [FN\*] of this section.

c. For the purposes of this section, “preliminary assessment” means the same as that term is defined in section 23 of P.L.1993, c.139 (C.58:10B-1).

d. The Department of Environmental Protection may adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to effectuate this section.

[FN\*] Probably should read “subsection a.”.

#### **52:27D-131. Examination and approval of applications for permits; expiration or cancellation of permits**

a. The enforcing agency shall examine each application for a construction permit. If the application conforms with this act, the code, and the requirements of other applicable laws and ordinances, the enforcing agency shall approve the application and shall issue a construction permit to the applicant. Every application for a construction permit shall be granted, in whole or in part, or denied within 20 business days. If application is denied in whole or in part, the enforcing agency shall set forth the reasons therefor in writing. If an enforcing agency fails to grant, in whole or in part, or deny an application for a construction permit within the period of time prescribed herein, such failure shall be deemed a denial of the application for purposes of an appeal to the construction board of appeals unless such period of time has been extended with the consent of the applicant. The enforcing agency may approve changes in plans and specifications previously approved by it, if the plans and specifications when so changed remain in conformity with law. Except as otherwise provided in this act or the code, the construction or alteration of a building or structure shall not be commenced until a construction permit has been issued. The construction of a building or structure shall be in compliance with the approved application for a construction permit; and the enforcing agency shall insure such compliance in the manner set forth in section 14 of this act. [FN1]

The commissioner, after consultation with the code advisory board, may, for certain classes or types of occupancy posing special or unusual hazards to public safety, establish regulations designating the department as the enforcing agency for purposes of approving plans and specifications. A municipal enforcing agency shall not grant an occupancy permit for any such class or type of construction unless the applicant submits appropriate plans and specifications certified or approved by the department. Upon submission by an applicant of such certified approved plans and specifications, the enforcing agency shall recognize the approval when de-

ciding whether to approve the application for a construction permit.

b. A construction permit, issued in accordance with the foregoing provisions, pursuant to which no construction has been undertaken above the foundation walls within one year from the time of issuance, shall expire.

c. The enforcing agency may revoke or cancel a construction permit in the event the project for which the permit is obtained is not completed by the third anniversary of the date of issuance of the construction permit. Notwithstanding the provisions of any other law, rule or regulation to the contrary, the enforcing agency may revoke or cancel a construction permit in effect on the effective date of [P.L.2001, c. 457 \(C.52:27D-131.1 et al.\)](#), if the project for which the construction permit was obtained is not completed by the third anniversary of the effective date of [P.L.2001, c. 457 \(C.52:27D-131.1 et al.\)](#).

d. If the project for which the permit is obtained is not completed by a deadline set forth in this section, the permittee may submit a request for an extension of the permit to the enforcing agency for review. The enforcing agency may extend the permit for a period of one year. Approval of the extension shall not be unreasonably withheld. Denial of a request for an extension may be appealed to the county construction board of appeals established pursuant to section 9 of [P.L.1975, c. 217 \(C.52: 27D-127\)](#). If a project is not completed within the deadline set forth in this section, the enforcing agency shall take all appropriate action up to and including demolition of the uncompleted structure.

The provisions of this subsection shall not apply to a permit obtained: (1) to construct improvements to the interior of a residential property in which the permittee is currently residing that are not visible from the outside of the residential property, (2) for any building of which the exterior and all required site improvements have been fully constructed, or (3) for a project while that project is under the control of a mortgagee in possession.

The enforcing agency may suspend, revoke or cancel a construction permit in case of neglect or failure to comply with the provisions of this act or the code, or upon a finding by it that a false statement or representation has been made in the application for the construction permit.

[FN1] [N.J.S.A. § 52:27D-132](#).

#### **[52:27D-131.1. Failure to comply with removal or demolition order; costs as municipal lien](#)**

a. If the owner of a building or structure fails to comply with a removal or demolition order issued by an enforcing agency under authority of [P.L.2001, c. 457 \(C.52:27D-131.1 et al.\)](#) or of [P.L.1975, c. 217 \(C.52:27D-119 et seq.\)](#), the enforcing agency may cause such building or structure to be removed or demolished or may notify the governing body of the need to contract for the removal or demolition thereof in accordance with the provisions of the "Local Public Contracts Law," [P.L.1971, c. 198 \(C.40A: 11-1 et seq.\)](#). Such removal or demolition shall include the clearance, and any necessary leveling, of the site.

b. The cost of any such removal or demolition, together with the cost of filing legal papers, expert witnesses' fees, search fees and advertising charges incurred in the course of any proceeding taken under P.L.2001, c. 457 (C.52:27D-131.1 et al.) or under P.L.1975, c. 217 (C.52:27D-119 et seq.), less any proceeds received by the enforcing agency from the sale of the materials of the building or structure, shall be a municipal lien against the real property upon which such cost was incurred. In the event that costs were paid by any governmental entity other than the municipality, the lien shall be assigned to that governmental entity. The lien shall be filed and shall be enforceable in the same manner as are other municipal liens.

### **52:27D-132. Inspection of construction by enforcing entity; right of entry; stop construction orders; reinspection**

a. The enforcing agency shall periodically inspect all construction undertaken pursuant to a construction permit issued by it to insure that the construction or alteration is performed in accordance with the conditions of the construction permit and consistent with the requirements of the code and any ordinance implementing said code.

b. The owner of any premises upon which a building or structure is being constructed shall be deemed to have consented to the inspection by the enforcing agency and the department, of the entire premises and of any and all construction being performed on it until a certificate of occupancy has been issued. An inspector, or team of inspectors, on presentation of proper credentials, shall have the right to enter and inspect such premises, and any and all construction thereon, for purposes of ensuring compliance with the provisions of the applicable construction permit, the code, and other applicable laws and regulations. All inspection pursuant to this act shall be between the hours of 9 a.m. and 5 p.m. on business days, or when construction is actually being undertaken, provided, however, that inspections may be conducted at other times if the enforcing agency has reasonable cause to believe that an immediate danger to life, limb or property exists, or if permission is given by an owner, or his agent, architect, engineer or builder. No person shall accompany an inspector or team of inspectors on any inspection pursuant to this act, unless his presence is necessary for the enforcement of this act, or the code, or unless consent is given by an owner or his agent, architect, engineer or builder.

c. If the construction of a structure or building is being undertaken contrary to the provisions of a construction permit, this act, the code, or other applicable laws or ordinances, the enforcing agency may issue a stop construction order in writing which shall state the conditions upon which construction may be resumed and which shall be given to the owner or the holder of the construction permit or to the person performing the construction. If the person doing the construction is not known, or cannot be located with reasonable effort, the notice may be delivered to the person in charge of, or apparently in charge of, the construction. No person shall continue, or cause or allow to be continued, the construction of a building or structure in violation of a stop construction order, except with the permission of the enforcing agency to abate a dangerous condition or remove a violation, or except by court order. If an order to stop construction is not obeyed, the enforcing agency may apply to the appropriate court as otherwise established by law for an order enjoining the violation of the stop construction order. The remedy for violation of such an order provided in this subsection shall be in addition to, and not in limitation of, any other remedies provided by law or ordinance.

d. When an inspector or team of inspectors finds a violation of the provisions of a construction permit, the code, or other applicable laws and regulations at an owner-occupied single-family residence, and issues a notice of violation and an order to terminate the violation, the enforcing agency shall require the same inspector or team of inspectors who found the violation to undertake any subsequent reinspection thereof at the premises. When the same inspector or team of inspectors cannot be assigned to undertake the reinspection, the enforcing agency may assign an available inspector provided the scope of the reinspection shall be limited to the violation for which the reinspection is required. The requirements of this subsection shall not apply to violations of the plumbing or electrical subcodes, or to fire safety code violations, or to any violation of any other subcode that the Department of Community Affairs determines to be a health or safety violation. Nothing in this subsection shall be construed to infringe upon the right of a property owner to request a different inspector, team of inspectors, or supervisor, to perform any required reinspection.

### **52:27D-133. Certificates of occupancy**

No building or structure hereafter constructed shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the enforcing agency. No building or structure hereafter altered, in whole or in part, shall be used or occupied until such a certificate has been issued, except that any use or occupancy in an already existing building or structure that was not discontinued during its alteration may be continued in the preexisting structure for 30 days after the completion of the alteration without the issuance of a certificate of occupancy. A certificate of occupancy shall be issued by the enforcing agency when all of the work covered by a construction permit shall have been completed in accordance with the permit, the code, and other applicable laws and ordinances. In the case of any new home subject to sales surcharge pursuant to [P.L.1991, c. 202 \(C. 46:3B-13 et al.\)](#) a certificate of occupancy shall not be issued except after presentation of a receipt, or verified duplicate thereof, from the Department of Community Affairs evidencing the payment of the surcharge. On request of a holder of a construction permit, the appropriate enforcing agency may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the construction permit has been completed, if the part or parts of the building or structure to be covered by the certificate may be occupied prior to completion of all work in accordance with the permit, the code, and other applicable laws and ordinances, without endangering the health and safety of the occupants or users. When a building or structure is entitled thereto, the enforcing agency shall issue a certificate of occupancy within 10 business days after receipt of a written application therefor in accordance with regulations established by the commissioner on a form prescribed by the commissioner accompanied by payment of a fee to be established by the municipal governing body by ordinance in accordance with standards established by the commissioner. The certificate of occupancy shall certify that the building or structure has been constructed in accordance with the provisions of the construction permit, the code, and other applicable laws and ordinances.

#### **52:27D-133.1. Definitions**

As used in this act:

“Bonding and grounding certificate” means a document issued by a recognized electrical testing agency that verifies the electrical continuity and integrity of the bonding and grounding system of a swimming pool.

“Swimming pool” means a swimming pool, hot tub, or spa located on any property other than one or two family residential property and includes but is not limited to swimming pools open for the use of members, residents or the public.

“Electrical certificate of compliance” means a document issued by the enforcing agency that verifies that all wiring located in or about the pool pump house or similar structure and associated electrical equipment is in compliance with the electrical subcode of the State Uniform Construction Code.

#### **52:27D-133.2. Bonding and grounding certificate required**

a. A swimming pool shall not be opened for use or occupied in whole or in part by any person until a valid bonding and grounding certificate and electrical certificate of compliance are issued. The bonding and grounding certificate shall be evidence of continuity and integrity of the bonding system meeting the requirements of the electrical subcode of the State Uniform Construction Code. The electrical certificate of compliance shall not be issued unless a valid bonding and grounding certificate has been issued.

b. The bonding and grounding certificate shall be valid for a period of five years from the date of issuance. The electrical certificate of compliance shall be renewed annually upon completion of a satisfactory inspection by the enforcing agency, which may charge a fee for each inspection. A swimming pool that is operated on a seasonal basis shall not be opened for the season until a new electrical certificate of compliance has been issued.

c. If the inspection reveals any defective electrical condition on the pool premises that condition shall be repaired by an electrical contractor licensed in the State of New Jersey prior to issuance of the electrical certificate of compliance.

d. The bonding and grounding certificate and the electrical certificate of compliance shall be posted in or about the pool pump house or structure that encloses the pool wiring.

#### **52:27D-133.3. Occupancy of dwelling unit; definitions; fines**

a. In any case in which a change of occupancy of any dwelling unit in a building with fewer than three dwelling units is subject to a municipal ordinance requiring the issuance of a certificate of occupancy, certificate of inspection or other documentary certification of compliance with laws and regulations relating to the safety, healthfulness and upkeep of the premises, no such certificate shall issue until the officer or agency responsible

for its issuance has determined that: (1) the dwelling unit is equipped with one or more carbon monoxide sensor devices, or (2) that there is no potential carbon monoxide hazard in the dwelling unit. Any such determination shall be made in accordance with rules adopted by the Commissioner of Community Affairs.

b. In the case of an initial occupancy or a change of occupancy of any dwelling unit in a building with fewer than three dwelling units to which the provisions of subsection a. of this section do not apply, no owner shall sell, lease or otherwise permit occupancy for residential purposes of that dwelling unit without first obtaining from the relevant enforcing agency under the “Uniform Fire Safety Act,” P.L.1983, c. 383 ([C.52:27D-192 et seq.](#)) a certificate indicating: (1) that the dwelling unit is equipped with one or more carbon monoxide sensor devices, or (2) that there is no potential carbon monoxide hazard in the dwelling unit. Any such determination shall be made in accordance with rules adopted by the Commissioner of Community Affairs.

c. The local governing body having jurisdiction over the enforcing agency or, where the Division of Fire Safety is the enforcing agency, the Commissioner of Community Affairs, may establish a fee which covers the cost of inspection and of issuance of the certificate; however, if an inspection is being made and a certificate is being issued evidencing compliance with section 2 of [P.L.1991, c. 92 \(C.52:27D-198.2\)](#), the fee authorized therein shall cover the costs of complying with this section.

d. For the purposes of this section:

“Carbon monoxide sensor device” means a carbon monoxide alarm or detector that bears the label of a nationally recognized testing laboratory, and has been tested and listed as complying with the most recent Underwriters Laboratories standard 2034 or its equivalent.

“Dwelling unit” means a structure, or a room or group of rooms within a structure, used or intended for use, in whole or in part, for residential purposes.

e. An owner who sells, leases or otherwise permits occupancy of a dwelling unit without complying with the provisions of this section shall be subject to a fine of not more than \$100, which may be collected and enforced by the local enforcing agency by summary proceedings pursuant to “The Penalty Enforcement Law of 1999,” [P.L.1999, c. 274 \(C.2A:58-10 et seq.\)](#).

f. This section shall become operative on the 61st day after enactment of [P.L.2003, c.44 \(C.52:27D-133.5 et al.\)](#).

#### **[52:27D-133.4. Rules and regulations](#)**

Within six months of the effective date of [P.L.1999, c. 15 \(C.52:27D-133.3 et al.\)](#), the Commissioner of Com-

munity Affairs shall promulgate pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.) the rules and regulations necessary to effectuate sections 2 and 3 of P.L.1999, c. 15 (C.55:13A-7.17 and C.55:13B-6.1) which shall substantially comport with National Fire Protection Association 720, Recommended Practice for the Installation of Household Carbon Monoxide (CO) Warning Equipment.

#### **52:27D-133.5. Rules and regulations**

Notwithstanding any provision of law, rule or regulation to the contrary, within two months of the effective date of P.L.2003, c.44 (C.52:27D-133.3, 52:27D-124, 52:27D-133.5) the Commissioner of Community Affairs shall promulgate pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.) the rules and regulations necessary to effectuate this act.

#### **52:27D-134. Stay of proceedings**

a. An appeal to a county, municipal or joint construction board of appeals, a departmental appeal, or an appeal to a court of competent jurisdiction shall not automatically stay any order to stop construction issued pursuant to this act or prevent the seeking of an order in a court of competent jurisdiction to enjoin the violation of a stop construction order.

b. Upon the 121st day subsequent to its filing, an appeal to a county, municipal or joint construction board of appeals, a departmental appeal, or an appeal to a court of competent jurisdiction shall not automatically stay any order, including orders to pay a penalty imposed pursuant to section 20 of P.L.1975, c. 217 (C.52:27D-138) or prevent the seeking of an order in a court of competent jurisdiction to enjoin the violation of any order of an enforcing agency, in connection with any property which is certified by a code enforcement official to be unoccupied. For the purposes of this section, a building may not be certified as unoccupied unless it has been unoccupied for a period of not less than six months.

Any party filing an appeal with a court of competent jurisdiction regarding violations assessed against property which has been certified as unoccupied pursuant to this section shall file a motion upon the initiation of the appeal requesting expedited consideration of the appeal on the ground that acceleration is warranted because the subject of the appeal involves matters of public safety. In the event the appeal is granted, the court shall grant the motion to expedite.

#### **52:27D-135. Premanufactured systems**

The commissioner shall by rules promulgated hereunder establish a procedure whereby premanufactured systems intended for use in the State may, if entitled thereto, be issued a certificate of acceptability by the department at its place of manufacture. The procedure shall include a requirement that the manufacturer submit to

the department detailed plans and specifications for the premanufactured system for approval in compliance with the requirements of the code.

It may also include a requirement that the manufacturer submit to the department test results on the premanufactured system, or its components, or any other material or information that the department considers relevant, or one or more of the premanufactured systems for testing and evaluation. The procedure shall require that premanufactured systems be inspected by the department or a qualified person selected by it, to determine that the premanufactured systems have been manufactured in accordance with the code and with the plans and specifications submitted to the department. Alternatively, the commissioner, after consultation with the code advisory board, may require that each premanufactured system bear the approved label of a qualified body selected by the commissioner. Said body shall have such follow-up inspection services as are satisfactory to the commissioner and shall certify that the premanufactured system complies with the code and with the plans and specifications submitted to the department. If an application for a construction permit specifying the use of a premanufactured system with a certificate of acceptability is submitted to an enforcing agency, and if the application complies in all respects with this act, the code and other applicable laws and ordinances, then the enforcing agency shall issue the construction permit within the time specified in section 13 hereof. [FN1] At the time of installation, a premanufactured system with a certificate of acceptability shall be subject only to such nondestructive tests approved by the department as may be necessary to determine that it has not been damaged in transit or installation, and that it has been installed in accordance with the applicable construction permit and the code. The fees established and charged by an enforcing agency in connection with the granting of a construction permit on the basis of an application therefor specifying the use of a premanufactured system with a certificate of acceptability, or in connection with the inspection of the installation of such systems, shall bear a reasonable relationship to the costs incurred by the enforcing agency in performing such acts.

[FN1] N.J.S.A. § 52:27D-131.

#### **52:27D-136. Extension of reciprocity**

- a. The commissioner, after consultation with the code advisory board, is empowered to extend to and accept from any state, group of states, or the United States of America, reciprocal recognition, certification or approval as enumerated in subsection b. of this section, provided such action is otherwise consistent with the basic purposes of this act and the code.
  
- b. The commissioner, after consultation with the code advisory board, is authorized to accept the findings of any other state, the Federal Government, or nationally recognized organizations, in matters involving or related to the certification of premanufactured systems, assemblies, subsystems, subassemblies and related materials; and the findings of any state or states, the United States, or nationally recognized organizations in the matters of the approval of products, plans, modes and techniques of construction and testing. The commissioner shall certify that such findings are in compliance with the code and this act.

### **52:27D-137. Review of plans and specifications and inspection of construction by the department**

At the request of an enforcing agency, the department or an agency approved by the commissioner may assist an enforcing agency in the inspection of any construction of buildings or structures, provided that the enforcing agency has submitted the plans and specifications for such construction to the department or such agency, as the case may be, for review as to compliance with the code and this act. In such cases the commissioner shall provide by regulation for fees to the department to cover the cost of providing such services, to be borne ultimately by applicants for construction permits. The commissioner shall also provide for the readjustment of municipal fees in accordance with the cost of services performed.

### **52:27D-138. Penalties**

a. Any person or corporation, including an officer, director or employee of a corporation, who:

- (1) Violates any of the provisions of this act or rules promulgated hereunder;
- (2) Constructs a structure or building in violation of a condition of a building permit;
- (3) Fails to comply with any order issued by an enforcing agency or the department;
- (4) Makes a false or misleading written statement, or omits any required information or statement in any application or request for approval to an enforcing agency or the department;
- (5) Knowingly sells or offers for retail sale any item, device or material, the regular and intended use of which would violate any provision of the State Uniform Construction Code;

Shall be subject to a penalty of not more than \$2,000; provided, however, that any penalties in excess of \$500.00 per violation may be levied by an enforcing agency only in accordance with subsection e. below.

Paragraph (5) above does not prohibit the retail sale or offering for retail sale of any item, device or material which has more than one regular and intended use, if one of those uses does not violate the code, provided that the item, device or material is not publicly advertised or otherwise promoted by the seller or manufacturer as suitable for a use that would violate any provisions of the code.

b. Anyone who knowingly refuses entry or access to an inspector lawfully authorized to inspect any premises, building or structure pursuant to this act or who unreasonably interferes with such an inspection shall be subject to a fine of not more than \$250.00.

c. With respect to subsection a. (3) of this section, a person shall be guilty of a separate offense for each day that he fails to comply with a stop construction order validly issued by an enforcing agency or the department and for each week that he fails to comply with any other order validly issued by an enforcing agency or the department. With respect to subsections a. (1) and a. (4) of this section, a person shall be guilty of a separate offense for each violation of any provision of this act or rules promulgated hereunder and for each false or misleading written statement or omission of required information or statement made in any application or request for approval to an enforcing agency or the department. With respect to subsection a. (2) of the section, a person shall be guilty of a separate offense for each violation of the conditions of a construction permit.

d. The penalties pursuant to this section may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C.2A:58-10 et seq.). Jurisdiction to enforce such penalties is hereby conferred upon judges of the municipal court, in addition to the courts specified by N.J.S.2A:58-2. Suit may be brought by a municipality or the State of New Jersey. Payment of a money judgment pursuant hereto shall be remitted, in the case of a suit brought by a municipality, to the municipal treasurer and in the case of a suit brought by the State of New Jersey, to the State Treasurer.

e. Penalties in excess of \$500.00 per violation may be levied by an enforcing agency only as follows:

(1) A penalty for failure or refusal to comply with any lawful order shall not exceed \$1,000.00 per violation, unless the failure or refusal to comply is done with the knowledge that it will endanger the life or safety of any person, in which case the penalty shall not exceed \$2,000.00 per violation;

(2) A penalty for failure to obtain a required permit prior to commencing construction or for allowing a building to be occupied without a certificate of occupancy shall not exceed \$2,000.00 per violation;

(3) A penalty for failure to comply with a stop construction order shall not exceed \$2,000.00 per violation;

(4) A penalty for willfully making a false or misleading written statement, or willfully omitting any required information or statement in any application or request for approval, shall not exceed \$2,000.00 per violation;

For purposes of this subsection, in an occupied building, only a code violation involving fire safety, structural soundness or the malfunctioning of mechanical equipment that would pose a life safety hazard shall be deemed to endanger the life or safety of a person. In an unoccupied building only a code violation of a requirement intended to protect members of the public who are walking by the property shall be deemed to endanger the life or safety of a person.

#### **52:27D-138.1. Surcharge on penalty for violations of Construction Code**

In addition to any other penalty, fine or charge imposed pursuant to law, a person convicted of a violation of the State Uniform Construction Code adopted pursuant to the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.), shall be subject to a surcharge in the amount of \$100, of which amount \$50 shall be payable to the municipality in which the violation shall have occurred and \$50 shall be payable to the Treasurer of the State of New Jersey for deposit into the General Fund; except that in the case of a violation occurring in a municipality in which the enforcement of the State Uniform Construction Code is performed exclusively by the State, the entire amount of the surcharge shall be payable to the State Treasurer for deposit into the General Fund.

### **52:27D-139. Effect of the promulgation of the code**

All construction regulations incorporated in any act of the State of New Jersey, or of any municipality presently in effect, or validly promulgated or enacted by any board, department, commission or agency thereof shall continue in effect until such time as any such regulation is superseded by appropriate regulations promulgated pursuant to this act, at which time they shall be deemed repealed and superseded, and of no further force and effect. A construction permit issued under valid construction regulations prior to the promulgation of the code shall remain valid, and the construction of any building or structure may be completed pursuant to and in accordance with said permit. The construction of any building or structure started before the promulgation of the code that did not as of the date of the beginning of the construction require a construction permit may be completed without a construction permit. Nothing contained in this act or the code shall be deemed to affect, repeal or invalidate local zoning ordinances or the regulation or licensing of any trade or profession engaged in construction work.

#### **52:27D-139.1. Fire safety maintenance code; municipalities or fire districts; adoption; enforcement**

Notwithstanding any provisions of the act to which this act is a supplement, a municipality or the commissioners of a fire district pursuant to N.J.S. 40A:14-81 may adopt and provide for the enforcement of a fire safety maintenance code or continue to enforce an existing fire safety maintenance code. The provisions of the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C. 52:27D-119 et seq.) providing for the adoption and enforcement of a fire prevention subcode as part of the State Uniform Construction Code shall apply to fire prevention-related construction activities which are defined as those fire prevention-related construction activities, which in any way may affect, pertain to, or involve the issuance of a construction permit or initial certificate of occupancy under said act. No fire safety maintenance code or the enforcement thereof by any municipality or commissioners of a fire district pursuant to N.J.S. 40A:14-81 shall in any way conflict with or otherwise affect the terms and enforcement of the State Uniform Construction Code adopted pursuant to the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C. 52:27D-119 et seq.).

#### **52:27D-140. Partial invalidity; severability**

If any clause, sentence, subdivision, paragraph, subsection or section of this act be adjudged unconstitutional

or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, subsection or section thereof directly involved in the controversy in which said judgment shall have been rendered.

#### **52:27D-141. Interpretation of powers**

The powers enumerated in this act shall be interpreted broadly to effectuate the purposes thereof.

#### **52:27D-141.1. Short title; Residential Development Solar Energy Systems Act**

This act shall be known and may be cited as the “Residential Development Solar Energy Systems Act.”

#### **52:27D-141.2. Legislative findings and declarations; renewable energy sources**

The Legislature finds and declares that:

- a. New Jersey residents primarily rely on fossil fuels for their energy needs;
- b. Fossil fuels are nonrenewable fuels since they are derived from finite resources that will inevitably dwindle over time, becoming too expensive or too environmentally damaging to extract;
- c. Unlike fossil fuels, renewable energy sources have minimal environmental impact since, for example, energy produced from photovoltaic cells does not result in air or water pollution, deplete natural resources, or endanger animal and human health;
- d. The use of renewable energy equipment also reduces the nation's dependency on foreign sources of energy, which is an important strategy in the process of creating a secure and sustainable energy future;
- e. The use of renewable energy technology would benefit New Jersey's economy since jobs evolve directly from the manufacture, design, installation, service and repair, and marketing of renewable energy products;
- f. The State has adopted a renewable energy portfolio standard that requires twenty percent of the State's electricity demand to be produced from renewable sources by the year 2020, and requires a specific percentage of these renewable energy sources to be from solar photovoltaic systems;
- g. Generating electricity from solar energy reduces consumption of fossil fuels, which decreases pollution and

greenhouse gas emissions; and

h. The installation of even small scale solar energy systems will combat global warming and reduce the nation's dependence on foreign energy sources, resulting in a significant environmental benefit.

### **52:27D-141.3. Definitions**

As used in this act: [\[FN1\]](#)

“Advertising” means the same as the term is defined in section 3 of P.L.1977, c. 419 ([C.45:22A-23](#)).

“Commissioner” means the Commissioner of Community Affairs.

“Developer” means any person who constructs or offers to construct a dwelling unit as part of a residential development.

“Dwelling unit” means a single-family residence constructed as part of a development, the roof of which is exclusive to that residence and not a common element or common area.

“Owner” means any person who acquires a legal or equitable interest in a dwelling unit.

“Prospective owner” means any person who contemplates acquiring a legal or equitable interest in a dwelling unit.

“Residential development” means development undertaken for the purpose of creating 25 or more dwelling units for owner occupancy.

“Solar energy system” means any system which uses solar energy to provide all or a portion of the heating, cooling, or general energy needs of a dwelling unit, including, but not limited to, nocturnal heat radiation, flat plate or focusing solar collectors, or photovoltaic solar cells.

[\[FN1\]](#) L.2009, c. 33 (N.J.S.A. § 52:27D-141.1 et seq.), the “Residential Development Solar Energy Systems Act.”

### **52:27D-141.4. Developer duty to offer installation of solar energy system during negotiations; advertising**

a. Where technically feasible, as determined by the commissioner in consultation with the Board of Public

Utilities, a developer shall offer to install, or to provide for the installation of, a solar energy system into a dwelling unit when a prospective owner enters into negotiations with the developer to purchase a dwelling unit.

b. A developer shall disclose in any advertising, in a manner and form determined by the commissioner pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.):

(1) that a prospective owner may have a solar energy system installed in any dwelling unit;

(2) the total cost of installing a solar energy system into a dwelling unit that will be charged to the owner by the developer;

(3) general information on the environmental benefits of, and potential energy cost savings associated with, solar energy systems; and

(4) information concerning any applicable credits, rebates, or other incentives that may be available for the installation of solar energy systems, as provided to the developer by the commissioner and the Board of Public Utilities pursuant to subsection b. of section 7 of this act.

#### **52:27D-141.5. Acceptance of installation offer; time to complete installation**

If the prospective owner accepts, pursuant to a written contract, the developer's offer to install, or to provide for the installation of, a solar energy system into the dwelling unit, then the developer shall install, or provide for the installation of, a solar energy system into the dwelling unit prior to the completion of the construction of that unit.

#### **52:27D-141.6. Homeowner association rights relating to solar energy systems**

If the dwelling unit is located within a residential development for which a homeowner association or other owner or membership association will be responsible for the maintenance, repair or replacement of the roof of the dwelling unit or other area upon which a solar energy system is installed, and the association incurs any additional cost or expense resulting from the installation of a solar energy system, such as the additional cost to remove and reinstall the system in the course of maintenance, repair or replacement, then the association shall have the right to:

a. impose and collect the additional cost or expense from the owner of the dwelling unit, which shall be collectible in the same manner as any other common expense or fee of the development;

b. access the dwelling unit as may be reasonably required to perform such maintenance, repair or replacement; and

c. record a declaration or similar instrument, in the same manner as a deed, with the county clerk for the purpose of advising current and prospective owners of the dwelling unit that they may be responsible for the additional costs and expenses described in this section.

#### **52:27D-141.7. Installation standards for solar energy systems; minimum requirements**

a. The commissioner, in consultation with the Board of Public Utilities, shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), standards with respect to the technical sufficiency of solar energy systems to be installed pursuant to this act. [FN1] These standards, at a minimum, shall provide:

(1) that the solar energy system is to be installed in conformance with the manufacturer's specifications and in compliance with all applicable electrical and building code standards;

(2) that the solar energy system is intended primarily to offset part or all of the consumer's own electricity demand;

(3) that all components in the solar energy system are to be new and unused, and shall not have previously been placed in service in any other location or for any other application;

(4) that the solar energy system shall have a warranty of not less than 10 years provided by the solar energy system manufacturer, and shall be subject to coverage afforded under “The New Home Warranty and Builders' Registration Act,” P.L.1977, c. 467 (C.46:3B-1 et seq.) to protect the integrity of the roof of the home and to protect against defects and undue degradation of electrical generation output;

(5) that the solar energy system shall have meters or other devices in place to monitor and measure the system's performance and the quantity of electricity generated by the system;

(6) that the solar energy system shall comply with adopted energy codes for the dwelling unit where the solar energy system is installed;

(7) for rating criteria for equipment, components, and systems to assure reasonable performance and criteria for complying with these minimum ratings;

(8) that the solar energy system shall be consistent with the net metering standards and safety and power quality interconnection standards adopted by the Board of Public Utilities pursuant to subsection e. of section 38 of P.L.1999, c. 23 (C.48:3-87); and

(9) for the criteria by which the technical feasibility of the installation of a solar energy system is determined in section 4 of this act.

b. The commissioner, in consultation with the Board of Public Utilities, shall:

(1) publish educational materials designed to demonstrate how developers may incorporate solar energy systems during construction as well as energy efficiency measures that best complement solar energy systems; and

(2) provide developers with information concerning any applicable credits, rebates, or other incentives that may be available for the installation of solar energy systems.

[FN1] L.2009, c. 33 (N.J.S.A. § 52:27D-141.1 et seq.), the “Residential Development Solar Energy Systems Act.”

#### **52:27D-141.8. Commissioner enforcement authority; penalties**

The commissioner shall enforce the provisions of this act and may assess violators of this act in accordance with the penalties provided for under section 18 of P.L.1977, c. 419 (C.45:22A-38).

#### **52:27D-141.9. Rules and regulations**

The Board of Public Utilities shall adopt orders, rules, or regulations that provide for solar energy systems installed in accordance with the provisions of P.L.2009, c. 33 (C.52:27D-141.1 et seq.) to be eligible for all applicable credits, rebates, or other incentives that may be available for the installation of solar energy systems.

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