

## CHAPTER 106

AN ACT promoting energy efficiency in buildings and amending and supplementing P.L.1975, c.217 and amending P.L.1977, c.146.

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

C.52:27D-122.2 Findings, declarations relative to energy efficiency in buildings.

1. The Legislature hereby finds and declares:
  - a. It is the public policy of this State to encourage and facilitate the construction of energy-efficient buildings which are designed and built to reduce overall energy demand.
  - b. While energy-efficient buildings may cost more to construct, the payback period to recoup the added investment is only a few years.
  - c. Energy savings can be most fully realized when incorporated into new construction from the beginning.
  - d. It is therefore necessary and appropriate that the Commissioner of Community Affairs, in consultation with the Board of Public Utilities, adopt energy-efficient building codes that may exceed the requirements of national model codes.

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

C.52:27D-123 State Uniform Construction Code; adoption.

5. 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, except for the energy subcode, 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 of such other nationally recognized 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.

The energy subcode shall be based upon the model codes cited under this subsection or the International Energy Conservation Code. It may be amended or supplemented by the commissioner once before 2012 without regard to intervals between the adoption of the energy subcode in effect on the effective date of P.L.2009, c.106 (C.52:27D-122.2 et al.) and subsequent year revisions of that subcode. In amending or supplementing the energy subcode, the commissioner shall rely upon 10-year energy price projections provided by an institution of higher education within one year following the effective date of P.L.2009, c.106 (C.52:27D-122.2 et al.), and thereafter at three-year intervals. In developing the energy price projections, the institution of higher education shall consult with the Board of Public Utilities. The commissioner shall be authorized to amend the energy subcode to establish enhanced energy conservation construction requirements, the added cost of each of which may reasonably be recovered through energy conservation over a period of not more than seven years. Such requirements shall include provisions to ensure that, in all parts of the State the anticipated energy savings shall be similarly proportionate to the additional costs of energy subcode compliance.

(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.)

3. Section 9 of P.L.1977, c.146 (C.52:27F-11) is amended to read as follows:

C.52:27F-11 Division of energy planning and conservation; powers of BPU.

9. The Board of Public Utilities shall through the Division of Energy Planning and Conservation:

a. Be the central repository within the State Government for the collection of energy information;

b. Collect and analyze data relating to present and future demands and resources for all forms of energy;

c. Have authority to require all persons, firms, corporations or other entities engaged in the production, processing, distribution, transmission or storage of energy in any form or in the use of steam in quantities greater than 50,000 pounds per hour to submit reports setting forth such information as shall be required to carry out the provisions of this act;

d. Have authority to require any person to submit information necessary for determining the impact of any construction or development project on the energy and fuel resources of this State;

e. Charge other State Government departments and agencies involved in energy-related activities with specific information gathering goals and require that said goals be fulfilled;

f. Establish an energy information system which will provide all data necessary to insure a fair and equitable distribution of available energy, to permit a more efficient and effective use of available energy, and to provide the basis for long-term planning related to energy needs;

g. Design, implement, and enforce a program for the conservation of energy in commercial, industrial, and residential facilities, which program shall provide for the evaluation of energy systems as they relate to lighting, heating, refrigeration, air-conditioning, building design and operation, elective cogeneration and process steam production associated with cogeneration facilities, and appliance manufacturing and operation; and may include, but shall not be limited to, the requiring of an annual inspection and adjustment, if necessary, of oil-fired heating systems in residential, commercial and industrial buildings so as to bring such systems into conformity with efficiency standards therefor prescribed by law; the setting of lighting efficiency standards for public buildings; the establishment of mandatory thermostat settings and the use of seven-day, day-night thermostats in public buildings; the development of standards for efficient boiler operation; consider the establishment of cogeneration facilities to simultaneously produce electricity and steam to conserve fuel; and, the preparation of a plan to insure the phased retrofitting of existing gas furnaces with electric ignition systems and to require that new gas ranges and dryers be equipped with electric ignition systems, and new gas furnaces with electric ignition systems and automatic vent-dampers. The program for the conservation of energy in new home construction shall include a provision for down payment assistance to purchasers of new homes meeting the enhanced energy subcode requirements adopted pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123). The down payment assistance portion of the program shall be designed in consultation with the Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency. The assistance shall be limited to those purchasers whose household income does not exceed 110 percent of county median income, as adjusted for household size. The total down payment to be made by the purchaser, including the amount of the down payment assistance, shall not exceed 20 percent of the purchase price of the new home. The down payment assistance shall not exceed the lesser of (1) the additional cost of construction required in order to make a building, which otherwise would conform to the edition of the International Energy Conservation Code in effect at the time of the offering of down payment assistance, also conform to the enhanced energy

conservation construction requirements established by the Commissioner of Community Affairs pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123) or (2) the additional down payment required in order to qualify the purchaser or purchasers for mortgage financing without the requirement of private mortgage insurance;

h. Conduct and supervise a State-wide program of education including the preparation and distribution of information relating to energy conservation;

i. Monitor prices charged for energy within the State, evaluate policies governing the establishment of rates and prices for energy, and make recommendations for necessary changes in such policies to other concerned Federal and State agencies, and to the Legislature;

j. Have authority to conduct and supervise research projects and programs for the purpose of increasing the efficiency of energy use, developing new sources of energy, evaluating energy conservation measures, and meeting other goals consistent with the intent of this act;

k. Have authority to distribute and expend funds made available for the purpose of research projects and programs;

l. Have authority to enter into interstate compacts in order to carry out energy research and planning with other states or the Federal Government where appropriate;

m. Have authority to apply for, accept, and expand grants-in-aid and assistance from private and public sources for energy programs; notwithstanding any other law to the contrary, the President of the Board of Public Utilities is designated as the State official to apply for, receive, and expend Federal and other funding made available to the State for the purposes of this act;

n. Require the annual submission of energy utilization reports and conservation plans by State Government departments and agencies, evaluate said plans and the progress of the departments and agencies in meeting these plans, and order changes in the plans or improvement in meeting the goals of the plans;

o. Carry out all duties given to the Board of Public Utilities under other sections of this act or any other acts;

p. Have authority to conduct hearings and investigations in order to carry out the purposes of this act and to issue subpoenas in furtherance of such power. Such power to conduct investigations shall include, but not be limited to, the authority to enter without delay and at reasonable times the premises of any energy industry in order to obtain or verify any information necessary for carrying out the purposes of this act;

q. Have authority to adopt, amend or repeal, pursuant to the "Administrative Procedure Act" (C.52:14B-1 et seq.) such rules and regulations necessary and proper to carry out the purposes of this act;

r. Administer such Federal energy regulations as are applicable to the states, including, but not limited to, the mandatory petroleum allocation regulations and State energy conservation plans;

s. Have authority to sue and be sued;

t. Have authority to acquire by purchase, grant, contract or eminent domain title to real property for the purpose of demonstrating facilities which improve the efficiency of energy use, conserve energy or generate energy in new and efficient ways;

u. Have authority to construct and operate, on an experimental or demonstration basis, facilities which improve the efficiency of energy use, conserve energy or generate power in new and efficient ways;

v. Have authority to contract with any other public agency or corporation incorporated under the laws of this or any other state for the performance of any function under this act;

w. Determine the effect of energy and fuel shortages upon consumers, and formulate proposals designed to encourage the lowest possible cost of energy and fuels consumed in the State consistent with the conservation and efficient use of energy;

x. Keep complete and accurate minutes of all hearings held before the Board of Public Utilities or any member of the Division of Energy Planning and Conservation pursuant to the provisions of this act. All such minutes shall be retained in a permanent record and shall be available for public inspection at all times during the office hours of the board; and

y. Provide consultation to an institution of higher education as pursuant to subsection b. of section 5 of P.L.1975, c.217 (C.52:27D-123), in order to assist the institution with the preparation of a report to the Department of Community Affairs on the projected cost of energy, to be used by that department when analyzing the cost and payback of energy conservation measures and requirements being considered for inclusion in the energy subcode of the State Uniform Construction Code.

4. This act shall take effect immediately.

Approved August 6, 2009.