

P.L. 2009, CHAPTER 106, *approved August 6, 2009*  
Senate, No. 702 (*Second Reprint*)

1 AN ACT promoting energy efficiency in buildings and amending  
2 and supplementing P.L.1975, c.217 and amending P.L.1977,  
3 c.146.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. (New section) The Legislature hereby finds and declares:

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

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

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

17 d. It is therefore necessary and appropriate that the  
18 Commissioner of Community Affairs, in consultation with <sup>2</sup><sup>1</sup>an  
19 institution of higher education and<sup>1</sup><sup>2</sup> the Board of Public Utilities,  
20 adopt energy-efficient building codes that may exceed the  
21 requirements of national model codes.  
22

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

25 5. a. The commissioner shall after public hearing pursuant to  
26 section 4 of the "Administrative Procedure Act," P.L.1968, c.410  
27 (C.52:14B-4) adopt a State Uniform Construction Code for the  
28 purpose of regulating the structural design, construction,  
29 maintenance and use of buildings or structures to be erected and  
30 alteration, renovation, rehabilitation, repair, maintenance, removal  
31 or demolition of buildings or structures already erected. Prior to the  
32 adoption of said code, the commissioner shall consult with the code  
33 advisory board and other departments, divisions, bureaus, boards,  
34 councils or other agencies of State Government heretofore  
35 authorized to establish or administer construction regulations.

36 Such prior consultations with departments, divisions, bureaus,  
37 boards, councils, or other agencies of State Government shall  
38 include but not be limited to consultation with the Commissioner of  
39 Health and Senior Services and the Public Health Council prior to

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SEG committee amendments adopted October 2, 2008.

<sup>2</sup>Senate SBA committee amendments adopted June 11, 2009.

1 adoption of a plumbing subcode pursuant to paragraph b. of this  
2 section. Said code shall include any code, rule or regulation  
3 incorporated therein by reference.

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

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

26 The energy subcode <sup>2</sup>[may] <sup>2</sup>shall <sup>2</sup>be based upon the model  
27 codes cited under this subsection <sup>2</sup>[, but] <sup>2</sup>or the International  
28 Energy Conservation Code. It <sup>2</sup>may be amended or supplemented  
29 by the commissioner <sup>2</sup>[at any time] <sup>2</sup>once before 2012 <sup>2</sup>without  
30 regard to intervals between the <sup>2</sup>[initial] <sup>2</sup>adoption of the energy  
31 subcode <sup>2</sup>in effect on the effective date of  
32 P.L. , c. (C. )<sup>2</sup>(pending before the Legislature as this bill)<sup>2</sup>  
33 and subsequent year revisions of that subcode. In amending or  
34 supplementing the energy subcode, the commissioner shall rely  
35 upon 10-year energy price projections provided by <sup>1</sup>an institution of  
36 higher education within one year following the effective date of  
37 P.L. , c. (C. )<sup>1</sup>(pending before the Legislature as this bill), and  
38 thereafter at three year intervals. In developing the energy price  
39 projections, the institution of higher education shall consult with<sup>1</sup>  
40 the Board of Public Utilities <sup>1</sup>[at three year intervals pursuant to  
41 subsection y. of section 9 of P.L.1977, c.146 (C.52:27F-11)]<sup>1</sup> . The  
42 commissioner shall be authorized to amend the energy subcode to  
43 establish enhanced energy conservation construction requirements,  
44 the added cost of <sup>1</sup>each of <sup>1</sup>which may reasonably be <sup>1</sup>[expected to  
45 be]<sup>1</sup> recovered through energy conservation over a period of not  
46 more than seven years. Such requirements shall include provisions

1 to ensure that, in all parts of the State the anticipated energy savings  
2 shall be similarly proportionate to the additional costs of energy  
3 subcode compliance.

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

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

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

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

41 (5) The commissioner shall be authorized to adopt a barrier free  
42 subcode or to supplement or revise any model code adopted  
43 hereunder, for the purpose of insuring that adequate and sufficient  
44 features are available in buildings or structures so as to make them  
45 accessible to and usable by the physically handicapped. Multi-  
46 family residential buildings with four or more dwelling units in a  
47 single structure shall be constructed in accordance with the barrier

1 free subcode; for the purposes of this subsection the term "multi-  
2 family residential buildings with four or more dwelling units in a  
3 single structure" shall not include buildings constructed as  
4 townhouses, which are single dwelling units with two or more  
5 stories of living space, exclusive of basement or attic, with most or  
6 all of the sleeping areas on one story and with most of the  
7 remaining habitable space, such as kitchen, living and dining areas,  
8 on another story, and with an independent entrance at or near grade  
9 level.

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

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

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

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

45 The commissioner may adopt, reject or return such  
46 recommendations to the code advisory board for further  
47 deliberation. If adopted, any such proposal shall be presented to the

1 subsequent meeting of the National Model Code Agency by the  
2 commissioner or by persons designated by the commissioner as a  
3 State sponsored code change proposal. Nothing herein, however,  
4 shall limit the right of any municipality, the department, or any  
5 other person from presenting amendments to the National Model  
6 Code Agency on its own initiative.

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

11 d. (Deleted by amendment, P.L.1983, c.496.)  
12 (cf: P.L.2003, c.72, s.2)

13  
14 3. Section 9 of P.L.1977, c.146 (C.52:27F-11) is amended to  
15 read as follows:

16 9. The **【commissioner】** Board of Public Utilities shall **【,** on  
17 behalf of the department**】** through the Division of Energy Planning  
18 and Conservation:

19 a. **【Manage the department as】** Be the central repository within  
20 the State Government for the collection of energy information;

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

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

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

32 e. Charge other State Government departments and agencies  
33 involved in energy-related activities **【,** including the Board of  
34 Public Utilities,**】** with specific information gathering goals and  
35 require that said goals be fulfilled;

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

41 g. Design, implement, and enforce a program for the  
42 conservation of energy in commercial, industrial, and residential  
43 facilities, which program shall provide for the evaluation of energy  
44 systems as they relate to lighting, heating, refrigeration, air-  
45 conditioning, building design and operation, elective cogeneration  
46 and process steam production associated with cogeneration  
47 facilities, and appliance manufacturing and operation; and may

1 include, but shall not be limited to, the requiring of an annual  
2 inspection and adjustment, if necessary, of oil-fired heating systems  
3 in residential, commercial and industrial buildings so as to bring  
4 such systems into conformity with efficiency standards therefor  
5 prescribed by **the department** law; the setting of lighting  
6 efficiency standards for public buildings; the establishment of  
7 mandatory thermostat settings and the use of seven-day, day-night  
8 thermostats in public buildings; the development of standards for  
9 efficient boiler operation; consider the establishment of  
10 cogeneration facilities to simultaneously produce electricity and  
11 steam to conserve fuel; and, the preparation of a plan to insure the  
12 phased retrofitting of existing gas furnaces with electric ignition  
13 systems and to require that new gas ranges and dryers be equipped  
14 with electric ignition systems, and new gas furnaces with electric  
15 ignition systems and automatic vent-dampers. The program for the  
16 conservation of energy in new home construction shall include a  
17 provision for down payment assistance to purchasers of new homes  
18 meeting the enhanced energy subcode requirements adopted  
19 pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123). The  
20 down payment assistance portion of the program shall be designed  
21 in consultation with the Department of Community Affairs and the  
22 New Jersey Housing and Mortgage Finance Agency. The assistance  
23 shall be limited to those purchasers whose household income does  
24 not exceed 110 percent of county median income, as adjusted for  
25 household size. The total down payment to be made by the  
26 purchaser, including the amount of the down payment assistance,  
27 shall not exceed 20 percent of the purchase price of the new home.  
28 The down payment assistance shall not exceed the lesser of (1) the  
29 additional cost of construction required in order to make a building,  
30 which otherwise would conform to the 'current' edition of the  
31 International Energy Code 'in effect at the time of the offering of  
32 down payment assistance' , also conform to the enhanced energy  
33 conservation construction requirements established by the  
34 Commissioner of Community Affairs pursuant to section 5 of  
35 P.L.1975, c.217 (C.52:27D-123) or (2) the additional down payment  
36 required in order to qualify the purchaser or purchasers for  
37 mortgage financing without the requirement of private mortgage  
38 insurance;

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

42 i. Monitor prices charged for energy within the State, evaluate  
43 policies governing the establishment of rates and prices for energy,  
44 and make recommendations for necessary changes in such policies  
45 to other concerned Federal and State agencies, **including the Board**  
46 **of Public Utilities,** and to the Legislature;

- 1       j. Have authority to conduct and supervise research projects  
2 and programs for the purpose of increasing the efficiency of energy  
3 use, developing new sources of energy, evaluating energy  
4 conservation measures, and meeting other goals consistent with the  
5 intent of this act;
- 6       k. Have authority to distribute and expend funds made  
7 available for the purpose of research projects and programs;
- 8       l. Have authority to enter into interstate compacts in order to  
9 carry out energy research and planning with other states or the  
10 Federal Government where appropriate;
- 11       m. Have authority to apply for, accept, and expand grants-in-aid  
12 and assistance from private and public sources for energy programs;  
13 notwithstanding any other law to the contrary, the **[commissioner]**  
14 President of the Board of Public Utilities is designated as the State  
15 official to apply for, receive, and expend Federal and other funding  
16 made available to the State for the purposes of this act;
- 17       n. Require the annual submission of energy utilization reports  
18 and conservation plans by State Government departments and  
19 agencies, **[including the Board of Public Utilities,]** evaluate said  
20 plans and the progress of the departments and agencies in meeting  
21 these plans, and order changes in the plans or improvement in  
22 meeting the goals of the plans;
- 23       o. Carry out all duties given **[him]** to the Board of Public  
24 Utilities under other sections of this act or any other acts;
- 25       p. Have authority to conduct hearings and investigations in  
26 order to carry out the purposes of this act and to issue **[subpenas]**  
27 subpoenas in furtherance of such power. **[Said]** Such power to  
28 conduct investigations shall include, but not be limited to, the  
29 authority to enter without delay and at reasonable times the  
30 premises of any energy industry in order to obtain or verify any  
31 information necessary for carrying out the purposes of this act;
- 32       q. Have authority to adopt, amend or repeal, pursuant to the  
33 "Administrative Procedure Act" (C.52:14B-1 et seq.) such rules and  
34 regulations necessary and proper to carry out the purposes of this  
35 act;
- 36       r. Administer such Federal energy regulations as are applicable  
37 to the states, including, but not limited to, the mandatory petroleum  
38 allocation regulations and State energy conservation plans.
- 39       s. Have authority to sue and be sued;
- 40       t. Have authority to acquire by purchase, grant, contract or  
41 eminent domain title to real property for the purpose of  
42 demonstrating facilities which improve the efficiency of energy use,  
43 conserve energy or generate energy in new and efficient ways;
- 44       u. Have authority to construct and operate, on an experimental  
45 or demonstration basis, facilities which improve the efficiency of  
46 energy use, conserve energy or generate power in new and efficient  
47 ways;

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

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

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

14 y. '【At intervals of every three years, submit】 Provide  
15 consultation to an institution of higher education as pursuant to  
16 subsection b. of section 5 of P.L.1975, c.217 (C.52:27D-123), in  
17 order to assist the institution with the preparation of' a report to the  
18 Department of Community Affairs on the projected cost of energy,  
19 to be used by that department when analyzing the cost and payback  
20 of energy conservation measures and requirements being considered  
21 for inclusion in the energy subcode of the State Uniform  
22 Construction Code.

23 (cf: P.L.1978, c.80, s.2)

24  
25 4. This act shall take effect immediately.  
26  
27  
28  
29

30 \_\_\_\_\_  
31 Authorizes enhancement of State Uniform Construction Code's  
32 energy subcode based on anticipated energy savings; provides down  
33 payment assistance to certain purchasers of homes meeting  
enhanced energy subcode requirements.