

P.L. 2024, CHAPTER 36, *approved July 10, 2024*
Senate, No. 3385

1 AN ACT concerning deadline for certain non-residential
2 development fee reporting and amending P.L.2008, c.46.

3

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

6

7 1. Section 35 of P.L.2008, c.46 (C.40:55D-8.4) is amended to
8 read as follows:

9 35. a. Beginning on the effective date of P.L.2008, c.46
10 (C.52:27D-329.1 et al.), a fee is imposed on all construction
11 resulting in non-residential development, as follows:

12 (1) A fee equal to two and one-half percent of the equalized
13 assessed value of the land and improvements, for all new non-
14 residential construction on an unimproved lot or lots; or

15 (2) A fee equal to two and one-half percent of the increase in
16 equalized assessed value, of the additions to existing structures to
17 be used for non-residential purposes.

18 b. All non-residential construction of buildings or structures on
19 property used by churches, synagogues, mosques, and other houses
20 of worship, and property used for educational purposes, which is
21 tax-exempt pursuant to R.S.54:4-3.6, shall be exempt from the
22 imposition of a non-residential development fee pursuant to this
23 section, provided that the property continues to maintain its tax
24 exempt status under that statute for a period of at least three years
25 from the date of issuance of the certificate of occupancy. In
26 addition, the following shall be exempt from the imposition of a
27 non-residential development fee:

28 (1) parking lots and parking structures, regardless of whether the
29 parking lot or parking structure is constructed in conjunction with a
30 non-residential development, such as an office building, or whether
31 the parking lot is developed as an independent non-residential
32 development;

33 (2) any non-residential development which is an amenity to be
34 made available to the public, including, but not limited to,
35 recreational facilities, community centers, and senior centers, which
36 are developed in conjunction with or funded by a non-residential
37 developer;

38 (3) non-residential construction resulting from a relocation of or
39 an on-site improvement to a nonprofit hospital or a nursing home
40 facility;

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

Matter underlined thus is new matter.

1 (4) projects that are located within a specifically delineated
2 urban transit hub, as defined pursuant to section 2 of P.L.2007,
3 c.346 (C.34:1B-208);

4 (5) projects that are located within an eligible municipality, as
5 defined under section 2 of P.L.2007, c.346 (C.34:1B-208), when a
6 majority of the project is located within a one-half mile radius of
7 the midpoint of a platform area for a light rail system; and

8 (6) projects determined by the New Jersey Transit Corporation
9 to be consistent with a transit village plan developed by a transit
10 village designated by the Department of Transportation.

11 A developer of a non-residential development exempted from the
12 non-residential development fee pursuant to this section shall be
13 subject to it at such time the basis for the exemption set forth in this
14 subsection no longer applies, and shall make the payment of the
15 non-residential development fee, in that event, within three years
16 after that event or after the issuance of the final certificate of
17 occupancy of the non-residential development whichever is later.

18 For purposes of this subsection, "recreational facilities and
19 community center" means any indoor or outdoor buildings, spaces,
20 structures, or improvements intended for active or passive
21 recreation, including but not limited to ball fields, meeting halls,
22 and classrooms, accommodating either organized or informal
23 activity; and "senior center" means any recreational facility or
24 community center with activities and services oriented towards
25 serving senior citizens.

26 If a property which was exempted from the collection of a non-
27 residential development fee thereafter ceases to be exempt from
28 property taxation, the owner of the property shall remit the fees
29 required pursuant to this section within 45 days of the termination
30 of the property tax exemption. Unpaid non-residential development
31 fees under these circumstances may be enforceable by the
32 municipality as a lien against the real property of the owner.

33 c. (1) Unless authorized to pay directly to the municipality in
34 which the non-residential construction is occurring in accordance
35 with paragraph (2) of this subsection, developers shall pay non-
36 residential development fees imposed pursuant to P.L.2008, c.46
37 (C.52:27D-329.1 et al.) to the Treasurer, in accordance with
38 subsection g. of this section in a manner and on such forms as
39 required by the Treasurer, provided that a certified proof concerning
40 the payment shall be furnished by the Treasurer, to the
41 municipality.

42 (2) The department shall maintain on its Internet website a list
43 of each municipality that is authorized to use the development fees
44 collected pursuant to this section and that has a confirmed status of
45 compliance with the "Fair Housing Act," P.L.1985, c.222
46 (C.52:27D-301 et al.), or is in the process of seeking compliance
47 certification, which compliance shall include a spending plan

1 pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) for all
2 development fees collected.

3 (3) No later than **【90】** 180 days following the enactment of
4 P.L.2024, c.2 (C.52:27D-304.1 et al.), any municipality that is or
5 has been authorized to retain and expend non-residential
6 development fees shall provide the department with a detailed
7 accounting of all such fees that have been collected and expended
8 since the inception of the municipal authorization to collect and
9 retain said fees.

10 (4) Beginning with the year after the enactment of P.L.2024, c.2
11 (C.52:27D-304.1 et al.), by February 15, every municipality that is
12 or has been authorized to retain and expend non-residential
13 development fees shall provide the department with a detailed
14 accounting of all such fees that have been collected and expended
15 previous year.

16 d. The payment of non-residential development fees required
17 pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1
18 through C.40:55D-8.7) shall be made prior to the issuance of a
19 certificate of occupancy for such development. A final certificate
20 of occupancy shall not be issued for any non-residential
21 development until such time as the fee imposed pursuant to this
22 section has been paid by the developer. A non-residential developer
23 may deposit with the appropriate entity the development fees as
24 calculated by the municipality under protest, and the local code
25 enforcement official shall thereafter issue the certificate of
26 occupancy provided that the construction is otherwise eligible for a
27 certificate of occupancy.

28 e. The construction official responsible for the issuance of a
29 building permit shall notify the local tax assessor of the issuance of
30 the first building permit for a development which may be subject to
31 a non-residential development fee. Within 90 days of receipt of that
32 notice, the municipal tax assessor, based on the plans filed, shall
33 provide an estimate of the equalized assessed value of the non-
34 residential development. The construction official responsible for
35 the issuance of a final certificate of occupancy shall notify the local
36 assessor of any and all requests for the scheduling of a final
37 inspection on property which may be subject to a non-residential
38 development fee. Within 10 business days of a request for the
39 scheduling of a final inspection, the municipal assessor shall
40 confirm or modify the previously estimated equalized assessed
41 value of the improvements of the non-residential development in
42 accordance with the regulations adopted by the Treasurer pursuant
43 to P.L.1971, c.424 (C.54:1-35.35); calculate the non-residential
44 development fee pursuant to sections 32 through 38 of P.L.2008,
45 c.46 (C.40:55D-8.1 through C.40:55D-8.7); and thereafter notify the
46 developer of the amount of the non-residential development fee.
47 Should the municipality fail to determine or notify the developer of
48 the amount of the non-residential development fee within 10

1 business days of the request for final inspection, the developer may
2 estimate the amount due and pay that estimated amount consistent
3 with the dispute process set forth in subsection b. of section 37 of
4 P.L.2008, c.46 (C.40:55D-8.6). Upon tender of the estimated non-
5 residential development fee, provided the developer is in full
6 compliance with all other applicable laws, the municipality shall
7 issue a final certificate of occupancy for the subject property.
8 Failure of the municipality to comply with the timeframes or
9 procedures set forth in this subsection may subject it to penalties to
10 be imposed by the commissioner; any penalties so imposed shall be
11 deposited into the "New Jersey Affordable Housing Trust Fund"
12 established pursuant to section 20 of P.L.1985, c.222 as amended
13 by section 17 of P.L.2008, c.46 (C.52:27D-320).

14 A developer of a mixed use development shall be required to pay
15 the Statewide non-residential development fee relating to the non-
16 residential development component of a mixed use development
17 subject to the provisions of P.L.2008, c.46 (C.52:27D-329.1 et al.).

18 Non-residential construction which is connected with the
19 relocation of the facilities of a for-profit hospital shall be subject to
20 the fee authorized to be imposed under this section to the extent of
21 the increase in equalized assessed valuation in accordance with
22 regulations to be promulgated by the Director of the Division of
23 Taxation, Department of the Treasury.

24 f. Any municipality that is not in compliance with the
25 requirements established pursuant to sections 32 through 38 of
26 P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), or
27 regulations of the commissioner adopted thereto, may be subject to
28 forfeiture of any or all funds remaining within its municipal
29 development trust fund. Any funds so forfeited shall be deposited
30 into the New Jersey Affordable Housing Trust Fund established
31 pursuant to section 20 of P.L.1985, c.222 as amended by section 17
32 of P.L.2008, c.46 (C.52:27D-320).

33 g. The Treasurer shall credit to the "Urban Housing Assistance
34 Fund," established pursuant to section 13 of P.L.2008, c.46
35 (C.52:27D-329.7) annually from the receipts of the fees authorized
36 to be imposed pursuant to this section an amount equal to \$20
37 million; all receipts in excess of this amount shall be deposited into
38 the "New Jersey Affordable Housing Trust Fund," established
39 pursuant to section 20 of P.L.1985, c.222 as amended by section 17
40 of P.L.2008, c.46 (C.52:27D-320), to be used for the purposes of
41 that fund.

42 The Treasurer shall adopt such regulations as necessary to
43 effectuate sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1
44 through C.40:55D-8.7), in accordance with the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
46 (cf: P.L.2024, c.2, s.15)

1 2. This act shall take effect immediately, and shall apply
2 retroactively to authorize and validate the provision of a detailed
3 accounting by any municipality, pursuant to paragraph (3) of
4 subsection c. of section 35 of P.L.2008, c.46 (C.40:55D-8.4), that is
5 provided to the Department of Community Affairs on or before 180
6 days following the enactment of P.L.2024, c.2 (C.52:27D-304.1 et
7 al.).

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STATEMENT

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12 This bill provides that municipalities that are authorized to retain
13 and expend non-residential development fees have 180 days
14 following the enactment of P.L.2024, c.2 (C.52:27D-304.1 et al.) on
15 March 20, 2024 to provide the Department of Community Affairs
16 (DCA) with an accounting of all such fees that have been collected
17 and expended since the inception of the municipal authorization to
18 collect and retain the fees. The bill reflects the intent of P.L.2024,
19 c.2 (C.52:27D-304.1 et al.) regarding the reporting of non-
20 residential development fee expenditures, and harmonizes an
21 inconsistency within that enactment.

22 The bill takes effect immediately, and applies retroactively to the
23 enforceability of penalties for noncompliance with the submission
24 deadline.

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29 Concerns deadline for municipality to report certain non-
30 residential development fee information.

CHAPTER 36

AN ACT concerning deadline for certain non-residential development fee reporting and amending P.L.2008, c.46.

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

1. Section 35 of P.L.2008, c.46 (C.40:55D-8.4) is amended to read as follows:

C.40:55D-8.4 Fee imposed on construction resulting in non-residential development; exemptions.

35. a. Beginning on the effective date of P.L.2008, c.46 (C.52:27D-329.1 et al.), a fee is imposed on all construction resulting in non-residential development, as follows:

(1) A fee equal to two and one-half percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots; or

(2) A fee equal to two and one-half percent of the increase in equalized assessed value, of the additions to existing structures to be used for non-residential purposes.

b. All non-residential construction of buildings or structures on property used by churches, synagogues, mosques, and other houses of worship, and property used for educational purposes, which is tax-exempt pursuant to R.S.54:4-3.6, shall be exempt from the imposition of a non-residential development fee pursuant to this section, provided that the property continues to maintain its tax exempt status under that statute for a period of at least three years from the date of issuance of the certificate of occupancy. In addition, the following shall be exempt from the imposition of a non-residential development fee:

(1) parking lots and parking structures, regardless of whether the parking lot or parking structure is constructed in conjunction with a non-residential development, such as an office building, or whether the parking lot is developed as an independent non-residential development;

(2) any non-residential development which is an amenity to be made available to the public, including, but not limited to, recreational facilities, community centers, and senior centers, which are developed in conjunction with or funded by a non-residential developer;

(3) non-residential construction resulting from a relocation of or an on-site improvement to a nonprofit hospital or a nursing home facility;

(4) projects that are located within a specifically delineated urban transit hub, as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208);

(5) projects that are located within an eligible municipality, as defined under section 2 of P.L.2007, c.346 (C.34:1B-208), when a majority of the project is located within a one-half mile radius of the midpoint of a platform area for a light rail system; and

(6) projects determined by the New Jersey Transit Corporation to be consistent with a transit village plan developed by a transit village designated by the Department of Transportation.

A developer of a non-residential development exempted from the non-residential development fee pursuant to this section shall be subject to it at such time the basis for the exemption set forth in this subsection no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development whichever is later.

For purposes of this subsection, "recreational facilities and community center" means any indoor or outdoor buildings, spaces, structures, or improvements intended for active or passive recreation, including but not limited to ball fields, meeting halls, and classrooms, accommodating either organized or informal activity; and "senior center" means any recreational facility or community center with activities and services oriented towards serving senior citizens.

If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.

c. (1) Unless authorized to pay directly to the municipality in which the non-residential construction is occurring in accordance with paragraph (2) of this subsection, developers shall pay non-residential development fees imposed pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.) to the Treasurer, in accordance with subsection g. of this section in a manner and on such forms as required by the Treasurer, provided that a certified proof concerning the payment shall be furnished by the Treasurer, to the municipality.

(2) The department shall maintain on its Internet website a list of each municipality that is authorized to use the development fees collected pursuant to this section and that has a confirmed status of compliance with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), or is in the process of seeking compliance certification, which compliance shall include a spending plan pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) for all development fees collected.

(3) No later than 180 days following the enactment of P.L.2024, c.2 (C.52:27D-304.1 et al.), any municipality that is or has been authorized to retain and expend non-residential development fees shall provide the department with a detailed accounting of all such fees that have been collected and expended since the inception of the municipal authorization to collect and retain said fees.

(4) Beginning with the year after the enactment of P.L.2024, c.2 (C.52:27D-304.1 et al.), by February 15, every municipality that is or has been authorized to retain and expend non-residential development fees shall provide the department with a detailed accounting of all such fees that have been collected and expended previous year.

d. The payment of non-residential development fees required pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7) shall be made prior to the issuance of a certificate of occupancy for such development. A final certificate of occupancy shall not be issued for any non-residential development until such time as the fee imposed pursuant to this section has been paid by the developer. A non-residential developer may deposit with the appropriate entity the development fees as calculated by the municipality under protest, and the local code enforcement official shall thereafter issue the certificate of occupancy provided that the construction is otherwise eligible for a certificate of occupancy.

e. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which may be subject to a non-residential development fee. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the non-residential development. The construction official responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a final inspection on property which may be subject to a non-residential development fee. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the non-residential development in accordance with the regulations adopted by the Treasurer pursuant to P.L.1971, c.424 (C.54:1-35.35); calculate the non-residential development fee pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7); and thereafter notify the developer of the amount of the non-residential development fee. Should the municipality fail to determine or notify the

developer of the amount of the non-residential development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6). Upon tender of the estimated non-residential development fee, provided the developer is in full compliance with all other applicable laws, the municipality shall issue a final certificate of occupancy for the subject property. Failure of the municipality to comply with the timeframes or procedures set forth in this subsection may subject it to penalties to be imposed by the commissioner; any penalties so imposed shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 as amended by section 17 of P.L.2008, c.46 (C.52:27D-320).

A developer of a mixed use development shall be required to pay the Statewide non-residential development fee relating to the non-residential development component of a mixed use development subject to the provisions of P.L.2008, c.46 (C.52:27D-329.1 et al.).

Non-residential construction which is connected with the relocation of the facilities of a for-profit hospital shall be subject to the fee authorized to be imposed under this section to the extent of the increase in equalized assessed valuation in accordance with regulations to be promulgated by the Director of the Division of Taxation, Department of the Treasury.

f. Any municipality that is not in compliance with the requirements established pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), or regulations of the commissioner adopted thereto, may be subject to forfeiture of any or all funds remaining within its municipal development trust fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to section 20 of P.L.1985, c.222 as amended by section 17 of P.L.2008, c.46 (C.52:27D-320).

g. The Treasurer shall credit to the "Urban Housing Assistance Fund," established pursuant to section 13 of P.L.2008, c.46 (C.52:27D-329.7) annually from the receipts of the fees authorized to be imposed pursuant to this section an amount equal to \$20 million; all receipts in excess of this amount shall be deposited into the "New Jersey Affordable Housing Trust Fund," established pursuant to section 20 of P.L.1985, c.222 as amended by section 17 of P.L.2008, c.46 (C.52:27D-320), to be used for the purposes of that fund.

The Treasurer shall adopt such regulations as necessary to effectuate sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

2. This act shall take effect immediately, and shall apply retroactively to authorize and validate the provision of a detailed accounting by any municipality, pursuant to paragraph (3) of subsection c. of section 35 of P.L.2008, c.46 (C.40:55D-8.4), that is provided to the Department of Community Affairs on or before 180 days following the enactment of P.L.2024, c.2 (C.52:27D-304.1 et al.).

Approved July 10, 2024.

SENATE, No. 3385

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 3, 2024

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

SYNOPSIS

Concerns deadline for municipality to report certain non-residential development fee information.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2024)

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2

1 AN ACT concerning deadline for certain non-residential
2 development fee reporting and amending P.L.2008, c.46.

3

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11 resulting in non-residential development, as follows:

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13 assessed value of the land and improvements, for all new non-
14 residential construction on an unimproved lot or lots; or

15 (2) A fee equal to two and one-half percent of the increase in
16 equalized assessed value, of the additions to existing structures to
17 be used for non-residential purposes.

18 b. All non-residential construction of buildings or structures on
19 property used by churches, synagogues, mosques, and other houses
20 of worship, and property used for educational purposes, which is
21 tax-exempt pursuant to R.S.54:4-3.6, shall be exempt from the
22 imposition of a non-residential development fee pursuant to this
23 section, provided that the property continues to maintain its tax
24 exempt status under that statute for a period of at least three years
25 from the date of issuance of the certificate of occupancy. In
26 addition, the following shall be exempt from the imposition of a
27 non-residential development fee:

28 (1) parking lots and parking structures, regardless of whether the
29 parking lot or parking structure is constructed in conjunction with a
30 non-residential development, such as an office building, or whether
31 the parking lot is developed as an independent non-residential
32 development;

33 (2) any non-residential development which is an amenity to be
34 made available to the public, including, but not limited to,
35 recreational facilities, community centers, and senior centers, which
36 are developed in conjunction with or funded by a non-residential
37 developer;

38 (3) non-residential construction resulting from a relocation of or
39 an on-site improvement to a nonprofit hospital or a nursing home
40 facility;

41 (4) projects that are located within a specifically delineated
42 urban transit hub, as defined pursuant to section 2 of P.L.2007,
43 c.346 (C.34:1B-208);

44 (5) projects that are located within an eligible municipality, as
45 defined under section 2 of P.L.2007, c.346 (C.34:1B-208), when a

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

Matter underlined thus is new matter.

1 majority of the project is located within a one-half mile radius of
2 the midpoint of a platform area for a light rail system; and

3 (6) projects determined by the New Jersey Transit Corporation
4 to be consistent with a transit village plan developed by a transit
5 village designated by the Department of Transportation.

6 A developer of a non-residential development exempted from the
7 non-residential development fee pursuant to this section shall be
8 subject to it at such time the basis for the exemption set forth in this
9 subsection no longer applies, and shall make the payment of the
10 non-residential development fee, in that event, within three years
11 after that event or after the issuance of the final certificate of
12 occupancy of the non-residential development whichever is later.

13 For purposes of this subsection, "recreational facilities and
14 community center" means any indoor or outdoor buildings, spaces,
15 structures, or improvements intended for active or passive
16 recreation, including but not limited to ball fields, meeting halls,
17 and classrooms, accommodating either organized or informal
18 activity; and "senior center" means any recreational facility or
19 community center with activities and services oriented towards
20 serving senior citizens.

21 If a property which was exempted from the collection of a non-
22 residential development fee thereafter ceases to be exempt from
23 property taxation, the owner of the property shall remit the fees
24 required pursuant to this section within 45 days of the termination
25 of the property tax exemption. Unpaid non-residential development
26 fees under these circumstances may be enforceable by the
27 municipality as a lien against the real property of the owner.

28 c. (1) Unless authorized to pay directly to the municipality in
29 which the non-residential construction is occurring in accordance
30 with paragraph (2) of this subsection, developers shall pay non-
31 residential development fees imposed pursuant to P.L.2008, c.46
32 (C.52:27D-329.1 et al.) to the Treasurer, in accordance with
33 subsection g. of this section in a manner and on such forms as
34 required by the Treasurer, provided that a certified proof concerning
35 the payment shall be furnished by the Treasurer, to the
36 municipality.

37 (2) The department shall maintain on its Internet website a list
38 of each municipality that is authorized to use the development fees
39 collected pursuant to this section and that has a confirmed status of
40 compliance with the "Fair Housing Act," P.L.1985, c.222
41 (C.52:27D-301 et al.), or is in the process of seeking compliance
42 certification, which compliance shall include a spending plan
43 pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) for all
44 development fees collected.

45 (3) No later than **[90]** 180 days following the enactment of
46 P.L.2024, c.2 (C.52:27D-304.1 et al.), any municipality that is or
47 has been authorized to retain and expend non-residential
48 development fees shall provide the department with a detailed

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1 accounting of all such fees that have been collected and expended
2 since the inception of the municipal authorization to collect and
3 retain said fees.

4 (4) Beginning with the year after the enactment of P.L.2024, c.2
5 (C.52:27D-304.1 et al.), by February 15, every municipality that is
6 or has been authorized to retain and expend non-residential
7 development fees shall provide the department with a detailed
8 accounting of all such fees that have been collected and expended
9 previous year.

10 d. The payment of non-residential development fees required
11 pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1
12 through C.40:55D-8.7) shall be made prior to the issuance of a
13 certificate of occupancy for such development. A final certificate
14 of occupancy shall not be issued for any non-residential
15 development until such time as the fee imposed pursuant to this
16 section has been paid by the developer. A non-residential developer
17 may deposit with the appropriate entity the development fees as
18 calculated by the municipality under protest, and the local code
19 enforcement official shall thereafter issue the certificate of
20 occupancy provided that the construction is otherwise eligible for a
21 certificate of occupancy.

22 e. The construction official responsible for the issuance of a
23 building permit shall notify the local tax assessor of the issuance of
24 the first building permit for a development which may be subject to
25 a non-residential development fee. Within 90 days of receipt of that
26 notice, the municipal tax assessor, based on the plans filed, shall
27 provide an estimate of the equalized assessed value of the non-
28 residential development. The construction official responsible for
29 the issuance of a final certificate of occupancy shall notify the local
30 assessor of any and all requests for the scheduling of a final
31 inspection on property which may be subject to a non-residential
32 development fee. Within 10 business days of a request for the
33 scheduling of a final inspection, the municipal assessor shall
34 confirm or modify the previously estimated equalized assessed
35 value of the improvements of the non-residential development in
36 accordance with the regulations adopted by the Treasurer pursuant
37 to P.L.1971, c.424 (C.54:1-35.35); calculate the non-residential
38 development fee pursuant to sections 32 through 38 of P.L.2008,
39 c.46 (C.40:55D-8.1 through C.40:55D-8.7); and thereafter notify the
40 developer of the amount of the non-residential development fee.
41 Should the municipality fail to determine or notify the developer of
42 the amount of the non-residential development fee within 10
43 business days of the request for final inspection, the developer may
44 estimate the amount due and pay that estimated amount consistent
45 with the dispute process set forth in subsection b. of section 37 of
46 P.L.2008, c.46 (C.40:55D-8.6). Upon tender of the estimated non-
47 residential development fee, provided the developer is in full
48 compliance with all other applicable laws, the municipality shall

S3385 SINGLETON

1 issue a final certificate of occupancy for the subject property.
2 Failure of the municipality to comply with the timeframes or
3 procedures set forth in this subsection may subject it to penalties to
4 be imposed by the commissioner; any penalties so imposed shall be
5 deposited into the "New Jersey Affordable Housing Trust Fund"
6 established pursuant to section 20 of P.L.1985, c.222 as amended
7 by section 17 of P.L.2008, c.46 (C.52:27D-320).

8 A developer of a mixed use development shall be required to pay
9 the Statewide non-residential development fee relating to the non-
10 residential development component of a mixed use development
11 subject to the provisions of P.L.2008, c.46 (C.52:27D-329.1 et al.).

12 Non-residential construction which is connected with the
13 relocation of the facilities of a for-profit hospital shall be subject to
14 the fee authorized to be imposed under this section to the extent of
15 the increase in equalized assessed valuation in accordance with
16 regulations to be promulgated by the Director of the Division of
17 Taxation, Department of the Treasury.

18 f. Any municipality that is not in compliance with the
19 requirements established pursuant to sections 32 through 38 of
20 P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), or
21 regulations of the commissioner adopted thereto, may be subject to
22 forfeiture of any or all funds remaining within its municipal
23 development trust fund. Any funds so forfeited shall be deposited
24 into the New Jersey Affordable Housing Trust Fund established
25 pursuant to section 20 of P.L.1985, c.222 as amended by section 17
26 of P.L.2008, c.46 (C.52:27D-320).

27 g. The Treasurer shall credit to the "Urban Housing Assistance
28 Fund," established pursuant to section 13 of P.L.2008, c.46
29 (C.52:27D-329.7) annually from the receipts of the fees authorized
30 to be imposed pursuant to this section an amount equal to \$20
31 million; all receipts in excess of this amount shall be deposited into
32 the "New Jersey Affordable Housing Trust Fund," established
33 pursuant to section 20 of P.L.1985, c.222 as amended by section 17
34 of P.L.2008, c.46 (C.52:27D-320), to be used for the purposes of
35 that fund.

36 The Treasurer shall adopt such regulations as necessary to
37 effectuate sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1
38 through C.40:55D-8.7), in accordance with the "Administrative
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

40 (cf: P.L.2024, c.2, s.15)

41

42 2. This act shall take effect immediately, and shall apply
43 retroactively to authorize and validate the provision of a detailed
44 accounting by any municipality, pursuant to paragraph (3) of
45 subsection c. of section 35 of P.L.2008, c.46 (C.40:55D-8.4), that is
46 provided to the Department of Community Affairs on or before 180
47 days following the enactment of P.L.2024, c.2 (C.52:27D-304.1 et
48 al.).

STATEMENT

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This bill provides that municipalities that are authorized to retain and expend non-residential development fees have 180 days following the enactment of P.L.2024, c.2 (C.52:27D-304.1 et al.) on March 20, 2024 to provide the Department of Community Affairs (DCA) with an accounting of all such fees that have been collected and expended since the inception of the municipal authorization to collect and retain the fees. The bill reflects the intent of P.L.2024, c.2 (C.52:27D-304.1 et al.) regarding the reporting of non-residential development fee expenditures, and harmonizes an inconsistency within that enactment.

The bill takes effect immediately, and applies retroactively to the enforceability of penalties for noncompliance with the submission deadline.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 3385

STATE OF NEW JERSEY

DATED: JUNE 17, 2024

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 3385.

This bill provides that municipalities that are authorized to retain and expend non-residential development fees have 180 days following the enactment of P.L.2024, c.2 (C.52:27D-304.1 et al.) on March 20, 2024 to provide the Department of Community Affairs (DCA) with an accounting of all fees that have been collected and expended since the inception of the municipal authorization to collect and retain the fees. The bill reflects the intent of P.L.2024, c.2 (C.52:27D-304.1 et al.) regarding the reporting of non-residential development fee expenditures and harmonizes an inconsistency within that enactment.

The bill takes effect immediately and applies retroactively to the enforceability of penalties for noncompliance with the submission deadline.

ASSEMBLY, No. 4602

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 17, 2024

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

SYNOPSIS

Concerns deadline for municipality to report certain non-residential development fee information.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning deadline for certain non-residential
2 development fee reporting and amending P.L.2008, c.46.

3

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

6

7 1. Section 35 of P.L.2008, c.46 (C.40:55D-8.4) is amended to
8 read as follows:

9 35. a. Beginning on the effective date of P.L.2008, c.46
10 (C.52:27D-329.1 et al.), a fee is imposed on all construction
11 resulting in non-residential development, as follows:

12 (1) A fee equal to two and one-half percent of the equalized
13 assessed value of the land and improvements, for all new non-
14 residential construction on an unimproved lot or lots; or

15 (2) A fee equal to two and one-half percent of the increase in
16 equalized assessed value, of the additions to existing structures to
17 be used for non-residential purposes.

18 b. All non-residential construction of buildings or structures on
19 property used by churches, synagogues, mosques, and other houses
20 of worship, and property used for educational purposes, which is
21 tax-exempt pursuant to R.S.54:4-3.6, shall be exempt from the
22 imposition of a non-residential development fee pursuant to this
23 section, provided that the property continues to maintain its tax
24 exempt status under that statute for a period of at least three years
25 from the date of issuance of the certificate of occupancy. In
26 addition, the following shall be exempt from the imposition of a
27 non-residential development fee:

28 (1) parking lots and parking structures, regardless of whether the
29 parking lot or parking structure is constructed in conjunction with a
30 non-residential development, such as an office building, or whether
31 the parking lot is developed as an independent non-residential
32 development;

33 (2) any non-residential development which is an amenity to be
34 made available to the public, including, but not limited to,
35 recreational facilities, community centers, and senior centers, which
36 are developed in conjunction with or funded by a non-residential
37 developer;

38 (3) non-residential construction resulting from a relocation of or
39 an on-site improvement to a nonprofit hospital or a nursing home
40 facility;

41 (4) projects that are located within a specifically delineated
42 urban transit hub, as defined pursuant to section 2 of P.L.2007,
43 c.346 (C.34:1B-208);

44 (5) projects that are located within an eligible municipality, as
45 defined under section 2 of P.L.2007, c.346 (C.34:1B-208), when a

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

Matter underlined thus is new matter.

1 majority of the project is located within a one-half mile radius of
2 the midpoint of a platform area for a light rail system; and

3 (6) projects determined by the New Jersey Transit Corporation
4 to be consistent with a transit village plan developed by a transit
5 village designated by the Department of Transportation.

6 A developer of a non-residential development exempted from the
7 non-residential development fee pursuant to this section shall be
8 subject to it at such time the basis for the exemption set forth in this
9 subsection no longer applies, and shall make the payment of the
10 non-residential development fee, in that event, within three years
11 after that event or after the issuance of the final certificate of
12 occupancy of the non-residential development whichever is later.

13 For purposes of this subsection, "recreational facilities and
14 community center" means any indoor or outdoor buildings, spaces,
15 structures, or improvements intended for active or passive
16 recreation, including but not limited to ball fields, meeting halls,
17 and classrooms, accommodating either organized or informal
18 activity; and "senior center" means any recreational facility or
19 community center with activities and services oriented towards
20 serving senior citizens.

21 If a property which was exempted from the collection of a non-
22 residential development fee thereafter ceases to be exempt from
23 property taxation, the owner of the property shall remit the fees
24 required pursuant to this section within 45 days of the termination
25 of the property tax exemption. Unpaid non-residential development
26 fees under these circumstances may be enforceable by the
27 municipality as a lien against the real property of the owner.

28 c. (1) Unless authorized to pay directly to the municipality in
29 which the non-residential construction is occurring in accordance
30 with paragraph (2) of this subsection, developers shall pay non-
31 residential development fees imposed pursuant to P.L.2008, c.46
32 (C.52:27D-329.1 et al.) to the Treasurer, in accordance with
33 subsection g. of this section in a manner and on such forms as
34 required by the Treasurer, provided that a certified proof concerning
35 the payment shall be furnished by the Treasurer, to the
36 municipality.

37 (2) The department shall maintain on its Internet website a list
38 of each municipality that is authorized to use the development fees
39 collected pursuant to this section and that has a confirmed status of
40 compliance with the "Fair Housing Act," P.L.1985, c.222
41 (C.52:27D-301 et al.), or is in the process of seeking compliance
42 certification, which compliance shall include a spending plan
43 pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) for all
44 development fees collected.

45 (3) No later than **【90】** 180 days following the enactment of
46 P.L.2024, c.2 (C.52:27D-304.1 et al.), any municipality that is or
47 has been authorized to retain and expend non-residential
48 development fees shall provide the department with a detailed

1 accounting of all such fees that have been collected and expended
2 since the inception of the municipal authorization to collect and
3 retain said fees.

4 (4) Beginning with the year after the enactment of P.L.2024, c.2
5 (C.52:27D-304.1 et al.), by February 15, every municipality that is
6 or has been authorized to retain and expend non-residential
7 development fees shall provide the department with a detailed
8 accounting of all such fees that have been collected and expended
9 previous year.

10 d. The payment of non-residential development fees required
11 pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1
12 through C.40:55D-8.7) shall be made prior to the issuance of a
13 certificate of occupancy for such development. A final certificate
14 of occupancy shall not be issued for any non-residential
15 development until such time as the fee imposed pursuant to this
16 section has been paid by the developer. A non-residential developer
17 may deposit with the appropriate entity the development fees as
18 calculated by the municipality under protest, and the local code
19 enforcement official shall thereafter issue the certificate of
20 occupancy provided that the construction is otherwise eligible for a
21 certificate of occupancy.

22 e. The construction official responsible for the issuance of a
23 building permit shall notify the local tax assessor of the issuance of
24 the first building permit for a development which may be subject to
25 a non-residential development fee. Within 90 days of receipt of that
26 notice, the municipal tax assessor, based on the plans filed, shall
27 provide an estimate of the equalized assessed value of the non-
28 residential development. The construction official responsible for
29 the issuance of a final certificate of occupancy shall notify the local
30 assessor of any and all requests for the scheduling of a final
31 inspection on property which may be subject to a non-residential
32 development fee. Within 10 business days of a request for the
33 scheduling of a final inspection, the municipal assessor shall
34 confirm or modify the previously estimated equalized assessed
35 value of the improvements of the non-residential development in
36 accordance with the regulations adopted by the Treasurer pursuant
37 to P.L.1971, c.424 (C.54:1-35.35); calculate the non-residential
38 development fee pursuant to sections 32 through 38 of P.L.2008,
39 c.46 (C.40:55D-8.1 through C.40:55D-8.7); and thereafter notify the
40 developer of the amount of the non-residential development fee.
41 Should the municipality fail to determine or notify the developer of
42 the amount of the non-residential development fee within 10
43 business days of the request for final inspection, the developer may
44 estimate the amount due and pay that estimated amount consistent
45 with the dispute process set forth in subsection b. of section 37 of
46 P.L.2008, c.46 (C.40:55D-8.6). Upon tender of the estimated non-
47 residential development fee, provided the developer is in full
48 compliance with all other applicable laws, the municipality shall

1 issue a final certificate of occupancy for the subject property.
2 Failure of the municipality to comply with the timeframes or
3 procedures set forth in this subsection may subject it to penalties to
4 be imposed by the commissioner; any penalties so imposed shall be
5 deposited into the "New Jersey Affordable Housing Trust Fund"
6 established pursuant to section 20 of P.L.1985, c.222 as amended
7 by section 17 of P.L.2008, c.46 (C.52:27D-320).

8 A developer of a mixed use development shall be required to pay
9 the Statewide non-residential development fee relating to the non-
10 residential development component of a mixed use development
11 subject to the provisions of P.L.2008, c.46 (C.52:27D-329.1 et al.).

12 Non-residential construction which is connected with the
13 relocation of the facilities of a for-profit hospital shall be subject to
14 the fee authorized to be imposed under this section to the extent of
15 the increase in equalized assessed valuation in accordance with
16 regulations to be promulgated by the Director of the Division of
17 Taxation, Department of the Treasury.

18 f. Any municipality that is not in compliance with the
19 requirements established pursuant to sections 32 through 38 of
20 P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), or
21 regulations of the commissioner adopted thereto, may be subject to
22 forfeiture of any or all funds remaining within its municipal
23 development trust fund. Any funds so forfeited shall be deposited
24 into the New Jersey Affordable Housing Trust Fund established
25 pursuant to section 20 of P.L.1985, c.222 as amended by section 17
26 of P.L.2008, c.46 (C.52:27D-320).

27 g. The Treasurer shall credit to the "Urban Housing Assistance
28 Fund," established pursuant to section 13 of P.L.2008, c.46
29 (C.52:27D-329.7) annually from the receipts of the fees authorized
30 to be imposed pursuant to this section an amount equal to \$20
31 million; all receipts in excess of this amount shall be deposited into
32 the "New Jersey Affordable Housing Trust Fund," established
33 pursuant to section 20 of P.L.1985, c.222 as amended by section 17
34 of P.L.2008, c.46 (C.52:27D-320), to be used for the purposes of
35 that fund.

36 The Treasurer shall adopt such regulations as necessary to
37 effectuate sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1
38 through C.40:55D-8.7), in accordance with the "Administrative
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

40 (cf: P.L.2024, c.2, s.15)

41

42 2. This act shall take effect immediately, and shall apply
43 retroactively to authorize and validate the provision of a detailed
44 accounting by any municipality, pursuant to paragraph (3) of
45 subsection c. of section 35 of P.L.2008, c.46 (C.40:55D-8.4), that is
46 provided to the Department of Community Affairs on or before 180
47 days following the enactment of P.L.2024, c.2 (C.52:27D-304.1 et
48 al.).

STATEMENT

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3 This bill provides that municipalities that are authorized to retain
4 and expend non-residential development fees have 180 days
5 following the enactment of P.L.2024, c.2 (C.52:27D-304.1 et al.) on
6 March 20, 2024 to provide the Department of Community Affairs
7 (DCA) with an accounting of all such fees that have been collected
8 and expended since the inception of the municipal authorization to
9 collect and retain the fees. The bill reflects the intent of P.L.2024,
10 c.2 (C.52:27D-304.1 et al.) regarding the reporting of non-
11 residential development fee expenditures, and harmonizes an
12 inconsistency within that enactment.

13 The bill takes effect immediately, and applies retroactively to the
14 enforceability of penalties for noncompliance with the submission
15 deadline.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4602

STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4602.

This bill provides that municipalities that are authorized to retain and expend non-residential development fees have 180 days following the enactment of P.L.2024, c.2 (C.52:27D-304.1 et al.) on March 20, 2024 to provide the Department of Community Affairs (DCA) with an accounting of all such fees that have been collected and expended since the inception of the municipal authorization to collect and retain the fees. The bill reflects the intent of P.L.2024, c.2 (C.52:27D-304.1 et al.) regarding the reporting of non-residential development fee expenditures, and harmonizes an inconsistency within that enactment.

The bill takes effect immediately, and applies retroactively to the enforceability of penalties for noncompliance with the submission deadline.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

Governor Murphy Takes Action on Legislation

07/10/2024

TRENTON – Today, Governor Murphy signed the following bills into law:

S-2792/A-3697 (Cruz-Perez, Turner/Spearman, Park, Simmons) - Appropriates \$500,000 from constitutionally dedicated CBT revenues and "2009 Farmland Preservation Fund" to State Agriculture Development Committee for municipal planning incentive grants for farmland preservation purposes

S-2793/A-3698 (Cruz-Perez, Turner/Reynolds-Jackson, Fantasia, Stanley) - Appropriates \$1.723 million from constitutionally dedicated CBT revenues and "2009 Farmland Preservation Fund" to State Agriculture Development Committee for grants to certain nonprofit organizations for farmland preservation purposes

S-2825/A-3906 (Gopal/Peterpaul, Donlon, Flynn) - Removes time limitation on issuance of additional alcoholic beverage licenses within boundaries of former federal military installations

S-3192/A-4454 (Diegnan, Moriarty/Freiman, Pintor Marin, DiMaio) - "Real Estate Consumer Protection Enhancement Act"

S-3275/A-4448 (Gopal, McKeon/Donlon, Pintor Marin, Wimberly) - Revises various provisions of film and digital media content production tax credit program

S-3371/A-4457 (Pou, Singer/Freiman) - Revises limits for net cash surrender and net cash withdrawal values for certain annuity policies and contracts from \$100,000 to \$250,000

S-3384/A-4426 (Burzichelli, Schepisi/Katz, Atkins, Drulis) - Appropriates funds to DEP for environmental infrastructure projects for FY2025

S-3385/A-4602 (Singleton/Lopez) - Concerns deadline for municipality to report certain non-residential development fee information

S-3474/A-4570 (Greenstein/Carter, Speight, Wimberly) - Appropriates \$10,067,905 to DEP from constitutionally dedicated CBT revenues for grants to certain nonprofit entities to acquire or develop lands for recreation and conservation purposes, and for certain administrative expenses

A-1677/S-3263 (Lampitt, Bagolie, Stanley/Diegnan, Turner) - Authorizes extended terms for lease and purchase contracts for electric school buses; permits New Jersey School Boards Association to serve as government aggregator to obtain energy services for local units

A-3772/S-2334 (McCann Stamato, Sampson, Lopez/Stack, McKnight) - Revises process for property tax lien holder to foreclose right to redeem property tax lien; allows property owner to protect remaining equity

A-4046/S-3303 (Pintor Marin, Spearman/Pou, Mukherji) - Extends certain accommodations for businesses participating in State economic development programs

- A-4425/S-3383 (Ramirez, Spearman, Atkins/Gopal, Mukherji)** - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for environmental infrastructure projects for FY2025
- A-4458/S-3342 (Sumter, Sampson/Greenstein, Sarlo)** - Establishes exemptions and revises implementation timeline for requirement that newly constructed townhouses be installed with automatic fire sprinkler system
- A-4478/S-3367 (Calabrese, Karabinchak, Wimberly/Burzichelli)** - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for transportation infrastructure projects for FY2025; makes appropriation
- A-4572/S-3473 (Donlon, Sumter, Drulis/McKeon, Space)** - Appropriates \$101,696,535 from constitutionally dedicated CBT revenues to DEP for local government open space acquisition and park development projects, and for certain administrative expenses
- A-4581/S-3471 (Haider, Sampson, Tully/Mukherji, O'Scanlon)** - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for Community Hazard Assistance Mitigation Program projects for FY 2025
- A-4587/S-3451 (Stanley/Cryan, Pou)** - Increases hours required for individual to obtain licensure as teacher in cosmetology and hairstyling or as massage and bodywork therapist