

LEGISLATIVE HISTORY CHECKLIST

NJSA: 55:13A-6 et al (Hotels and multiple dwellings-- inspection by State under certain circumstances)

CHAPTER 30

Laws Of: 1987

Bill No: A2013

Sponsor(s): Zangari

Date Introduced: February 13, 1986

Committee: Assembly: Housing
Senate: County and Municipal Government

Amended during passage: Yes

Date of Passage: Assembly: October 2, 1986
Senate: December 4, 1986

Date of Approval: January 27, 1987

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly: Yes
Senate: Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

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ASSEMBLY, No. 2013

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1986

By Assemblyman ZANGARI

AN ACT to amend and supplement the "Hotel and Multiple Dwelling Law," approved May 31, 1967 (P. L. 1967, c. 76) as said short title was amended by P. L. 1970, c. 138, and repealing section thereof.

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

1. Section 6 of P. L. 1967, c. 76 (C. 55:13A-6) is amended to read as follows:

6. The commissioner is hereby granted and shall have and exercise, in addition to other powers herein granted, all the powers necessary and appropriate to carry out and execute the purposes of this act, including but not limited to, the power:

(a) To provide owners or groups of owners with such advisory consultation and educational services as will assist said owners or groups of owners to discharge their responsibilities under this act, and to suggest to said owners or groups of owners methods and procedures by which they may develop and implement health and safety programs;

(b) To enter and inspect, without prior notice, any hotel or multiple dwelling as provided by this amendatory and supplementary act, and to make such investigation as is reasonably necessary to carry out the provisions of this act;

(c) To administer and enforce the provisions of existing law, and any amendments and supplements thereto, and any rules or regulations promulgated thereunder, concerning the regulation of

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 printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted September 15, 1986.

**—Senate committee amendments adopted November 17, 1986.

20 multiple dwellings, also commonly known as tenements, and hotels;

21 (d) To issue subpoenas to any person subject to this act which
22 shall compel attendance at any hearing as a witness and shall
23 compel production of such reports, documents, books or papers, in
24 any part of the State before the commissioner or a member of the
25 department designated by him, as the commissioner may deem
26 necessary to implement the purposes of this act. In any case
27 where a person neglects or refuses to obey the command of such
28 subpoena, the commissioner may apply ex parte to the Superior
29 Court for an order compelling a person to testify or to produce
30 files, books, papers, documents or other objects in accordance with
31 the subpoena issued by the commissioner and, in addition, said per-
32 son shall be subject to a penalty of \$100,000.00 for each instance in
33 which he does not comply with the subpoena issued by the commis-
34 sioner, said penalty to be recovered pursuant to section 18 of this
35 act[.];

36 (e) To issue and promulgate such rules and regulations as the
37 commissioner may deem necessary to implement the purposes of
38 this act, which rules and regulations shall have the force and effect
39 of law until revised, repealed or amended from time to time by the
40 commissioner in the exercise of his discretion; provided, that any
41 such rules and regulations shall be filed with the ***[Secretary of**
41a **State]*** **Office of Administrative Law**;

42 (f) To enforce and administer the provisions of this act, enter
43 complaints against any person violating the provisions of this act,
44 and to prosecute or cause to be prosecuted violations of the pro-
45 visions of this act in administrative hearings and civil action in
46 State or local courts;

47 (g) To assess penalties and to compromise and settle any claim
48 for a penalty for any violation of the provisions of this act in such
49 amount in the discretion of the commissioner as may appear appro-
50 priate and equitable under all of the circumstances of said violation
51 in any of the actions or proceeding mentioned in subsection (f);

52 (h) To institute an in rem action against the property upon
53 which a violation exists in cases where the owner, after diligent
54 effort, cannot be served;

55 (i) To institute a quasi-in rem action against the owner by attach-
56 ment of the property upon which a violation exists, followed by
57 service by publication, in cases where the owner, after diligent
58 effort, cannot be served; ****[and]****

59 (j) To hold and exercise all the rights and remedies available
60 to a judgment creditor where a judgment lien arises as a result of a

61 penalty action or an administrative proceeding taken pursuant to
62 enforcement of this act**[.]** **; and**

63 **(k) To adopt, amend and repeal, after consultation with the*
64 *Hotel and Multiple Dwelling Health and Safety Board, rules con-*
65 *cerning the qualifications and licensing of persons employed by*
66 *local agencies and municipalities to enforce this **amendatory and*
67 *supplementary** act and fees to cover the cost of any licensing pro-*
68 *gram.**

1 2. Section 13 of P. L. 1967, c. 76 (C. 55:13A-13) is amended to
2 read as follows:

3 13. (a) [The commissioner shall inspect each] *Each multiple*
4 *dwelling shall be inspected* at least once in every five years, and
5 each [hoted] *hotel shall be inspected* at least once in every three
6 years, for the purpose of determining the extent to which each
7 hotel or multiple dwelling complies with the provisions of this act
8 and regulations promulgated hereunder.

9 (b) On or before January 1, 1968, and within 90 days of the most
10 recent inspection thereafter, the owner of each hotel shall file with
11 the commissioner, upon forms provided by the commissioner, an
12 application for a certificate of inspection. Said application shall
13 include such information as the commissioner shall prescribe to
14 enforce the provisions of this law. Said application shall be
15 accompanied by a fee as follows: a basic fee of \$50.00 for the
16 inspection of the common areas and \$10.00 per unit of dwelling
17 space except in the case of hotels open and operating less than
18 six months in each year, \$5.00 per unit of dwelling space, provided
19 that the maximum total fee is limited to \$350.00 for each building.
20 In the event there are more than three buildings within a project,
21 the fees for inspection of those buildings in excess of three shall
22 be as follows: the fee for the fourth building shall not exceed
23 one-half of the fee which could be charged for such inspection;
24 the fee for the fifth building shall not exceed one-fourth of the fee
25 which could be charged for such inspection; the fee for the sixth
26 and all remaining buildings shall not exceed \$50.00 for each such
27 building, provided that in no event shall the total of such fees for
28 all buildings within a project exceed \$750.00. A certificate of inspec-
29 tion and the fees therefor shall not be required more often than
30 once every three years.

31 Within 90 days of the most recent inspection [by the commis-
32 sioner] of any multiple dwelling occupied or intended to be
33 occupied by three or more persons living independently of each
34 other, the owner of each such multiple dwelling shall file with the
35 commissioner, upon forms provided by the commissioner, an appli-

36 cation for a certificate of inspection. Said application shall include
37 such information as the commissioner shall prescribe to enforce
38 the provisions of this law. Said application shall be accompanied
39 by a fee as follows: a basic fee of \$20.00 for the inspection of the
40 common areas and \$15.00 per unit of dwelling space, provided that
41 the maximum total fee is limited to \$350.00 for each building. In
42 the event there are more than three buildings within a project, the
43 fees for inspection of those buildings in excess of three shall be as
44 follows: the fee for the fourth building shall not exceed one-half of
45 the fee which could be charged for such inspection; the fee for the
46 fifth building shall not exceed one-fourth of the fee which could be
47 charged for such inspection; the fee for the sixth and all remaining
48 buildings shall not exceed \$50.00 for each such building, provided
49 that in no event shall the total of such fees for all buildings within
50 a project exceed \$1,250.00. A certificate of inspection and the fees
51 therefor shall not be required more often than once every five years.

52 (c) If the commissioner determines, as a result of the most recent
53 inspection of any hotel or multiple dwelling as required by sub-
54 section (a) of this section, that any hotel or multiple dwelling com-
55 plies with the provisions of this act and regulations promulgated
56 hereunder, then the commissioner shall issue to the owner thereof,
57 upon receipt of the application and fee as required by subsection
58 (b) of this section, a certificate of inspection. Any owner to whom
59 a certificate of inspection is issued shall keep said certificate posted
60 in a conspicuous location in the hotel or multiple dwelling to which
61 the certificate applies. The certificate of inspection shall be in such
62 form as may be prescribed by the commissioner.

63 (d) If the commissioner determines, as a result of the most recent
64 inspection of any hotel or multiple dwelling as required by sub-
65 section (a) of this section, that any hotel or multiple dwelling does
66 not comply with the provisions of this act and regulations promul-
67 gated thereunder, then the commissioner shall issue to the owner
68 thereof, a written notice stating the manner in which any such
69 **[motel]** *hotel* or multiple dwelling does not comply with this act or
70 regulations promulgated thereunder. Said notice shall fix such date,
71 not less than 60 days nor more than 180 days, on or before which
72 any such hotel or multiple dwelling must comply with the provisions
73 of this act and regulations promulgated thereunder. If any such
74 hotel or multiple dwelling is made to comply with the provisions of
75 this act and regulations promulgated thereunder on or before the
76 date fixed in said notice, then the commissioner shall issue to the
77 owner thereof a certificate of inspection as described in subsection

78 (c) of this section. If any such hotel or multiple dwelling is not
 79 made to comply with the provisions of this act and regulations
 80 promulgated thereunder on or before the date fixed in said notice,
 81 then the commissioner shall not issue to the owner thereof a certifi-
 82 cate of inspection as described in subsection (c) of this section, and
 83 shall enforce the provisions of this act against the owner thereof.

1 3. (New section) a. **["**Except as provided in subsection b. of
 2 this section, any**"]** *Any* inspection required under P. L. 1967,
 3 c. 76 (C. 55:13A-1 et seq.) shall be conducted by the commissioner
 4 except *as provided in subsection b. of this section or* where
 5 **["**the hotel or multiple dwelling is located in a municipality which
 6 maintains an agency authorized by the commissioner to enforce the
 7 provisions of that act or in**"]** a municipality **["**which**"]** has a
 8 cooperative arrangement, with the bureau to perform these in-
 9 spections in which case the inspection shall be conducted by the
 10 **["**agency or**"]** municipality; provided, however, that nothing in
 11 this section shall preclude the bureau from conducting inspections
 12 in any municipality for the purpose of monitoring or auditing the
 13 performance of local *agencies*, *as provided hereinafter,* or
 13A inspectors **["**under the cooperative inspection program**"]**, or for
 13B the purpose of dealing with imminent hazards.

14 b. In any municipality which maintains a permanent **["**munic-
 15 ipal**"]** *local* agency for the purpose of conducting inspections
 16 and enforcing laws, ordinances and regulations concerning build-
 17 ings and structures within the municipality, *and such agency is*
 18 *supervised by, and has all hotel and multiple dwelling inspections*
 19 *performed by* **["****"]** *persons licensed by,* *the* **["**Commis-
 20 sioner**"]** *commissioner* under this act, the municipal gov-
 21 erning body may by ordinance designate that agency to conduct the
 22 inspections and enforce the regulations prescribed by or pursuant
 23 to P. L. 1967, c. 76 (C. 55:13A-1 et seq.). Where an ordinance is
 24 in effect all inspections required pursuant to P. L. 1967, c. 76 within
 25 the territorial limits of the municipality shall be conducted by the
 26 agency so designated, **["**which, except as provided in subsection c.
 27 of this section, shall not be**"]** subject to the supervision **["**or**"]**
 28 *and* control of the commissioner; and all applications otherwise
 29 directed by law to be filed with the commissioner, and all fees and
 30 penalties otherwise to be imposed or collected by the commissioner,
 31 shall in such a municipality be filed with, or imposed or collected
 32 by, the **["**municipal**"]** *local* agency designated by ordinance pur-
 33 suant to this subsection; provided, that in no case shall the **["**municipal
 34 **"]** *local* agency collect or impose a **["**fee or**"]** penalty in excess

35 of **[that]** *the minimum amount* which the commissioner is
 36 authorized by law to collect or impose for the same **[service or]**
 37 violation*, or to assess a continuing penalty, without the written
 38 prior approval of the bureau. The commissioner shall have the
 39 power to order corrective action as may be necessary where a local
 40 agency is found to be failing to carry out its responsibilities under
 41 this act and to suspend the authority of the local agency under this
 42 subsection where the local agency repeatedly or habitually fails to
 43 enforce the "Hotel and Multiple Dwelling Law"**, ** P. L. 1967,
 44 c. 76 (C. 55:13A-1 et seq.)** and the regulations adopted pursuant
 44A thereto*.

45 c. Any person affected by the determinations made pursuant to
 46 any inspection conducted under P. L. 1967, c. 76 (C. 55:13A-1
 47 et seq.) may appeal those determinations to **[an administrative**
 48 law judge with the concurrence of] *the Office of Administrative*
 49 *Law with the final decision to be issued by* the **[Commissioner of**
 50 *the Department of Community Affairs] *commissioner* ; pro-
 51 *vided, however, that the cost of any such hearing to the* **[Depart-**
 52 *ment of Community Affairs] *department* shall be borne by
 53 *the local agency in any case where the inspection fee is required to*
 54 *be paid to a local agency or in which the notice, order or decision*
 55 *being contested was issued by a local agency*.***

1 4. (New section) Section 15 of P. L. 1967, c. 76 (C. 55:13A-15)
 2 is repealed.

1 5. This act shall take effect immediately.

HOUSING AND BOARDING HOMES

Authorizes the enforcement of the Hotel and Multiple Dwelling
 Law in certain municipalities by a municipal agency instead of the
 Department of Community Affairs.

STATEMENT

This bill allows municipal inspectors to conduct inspections required under the "Hotel and Multiple Dwelling Law," P. L. 1967, c. 76 (C. 55:13A-1 et seq.). The Bureau of Housing Inspection would retain the authority to monitor the performance of local inspectors.

This bill also repeals section 15 of P. L. 1967, c. 76 which pertains to review and approval of construction plans and has been rendered obsolete by the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D-119 et seq.).

HOUSING AND BOARDING HOMES

Authorizes the enforcement of the Hotel and Multiple Dwelling Law in certain municipalities by a municipal agency instead of the Department of Community Affairs.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2013

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 15, 1986

Assembly Bill No. 2013 is reported favorably, with amendments.

This bill would permit certain municipalities to assume full responsibility for the conduct of inspections and enforcement of regulations under the "Hotel and Multiple Dwelling Law," P. L. 1967, c. 76 (C. 55:13A-1 et seq.) within their corporate limits.

Under P. L. 1967, c. 76, which this bill would amend and supplement, full responsibility for enforcing the requirements of the statutes is assigned to the Commissioner of the Department of Community Affairs, and inspections are carried out by inspectors acting under his authority, specifically the staff of the Department's Bureau of Housing Inspection. The commissioner has also by regulation implemented a "cooperative" inspection program, under which qualified inspectors employed by the several municipal (or county) governments may be authorized to make the inspections, acting in this capacity as agents of the Bureau of Housing Inspection, and "subject to the control and supervision of the Commissioner." (N. J. A. C. 5:10-1.3(b)) Fees and penalties resulting from inspection and enforcement activities are paid to the commissioner, for deposit in the State Treasury, as the statute requires; but the regulations provide a schedule of compensation to be credited and paid by the bureau for the activities of local inspectors acting as its authorized agents.

This bill would alter the above-described system by permitting some municipalities to undertake the full responsibility for conducting the inspections and enforcing the law, subject to supervision and control by the Commissioner of the Department of Community Affairs.

The bill provides that any municipality which has a "permanent municipal agency for the purpose of conducting inspections and enforcing laws, ordinances and regulations concerning buildings and structures" may be ordinance designate that agency to enforce the "Hotel and Multiple Dwelling Law" (P. L. 1967, c. 76; C. 55:13A-1 et seq.) within that municipality, if the inspection personnel are qualified and licensed in accordance with rules adopted by the commissioner. Where

such an ordinance is in effect, the fees and penalties arising out of inspection and enforcement activities will be paid to the municipality rather than to the State. It is provided, however, that no municipal enforcement agency may impose a penalty for any particular violation exceeding the minimum which the commissioner could impose for the same violation. (§ 3)

The bill also amends sections 6 and 13 of the statute (C. 55:13A-6, 13) to conform the wording to the above-described changes in the inspection system. (§§ 1 and 2) It also repeals section 15 of the statute (C. 55:13A-15), relating to review and approval of construction plans for hotels and multiple dwellings, which is now obsolete, having been superseded by the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D-119 et seq.). (§ 4)

The committee adopted amendments, suggested by the Department of Community Affairs and accepted by the sponsor, that provide for the supervision and licensure of local inspection services under rules adopted by the commissioner, including rules setting fees to cover the cost of any licensing program. These amendments also provide that a local enforcement agency may not impose a continuing penalty, or a penalty exceeding the minimum which the commissioner could impose for the same violation, without prior written approval from the Bureau of Housing Inspection; that the commissioner may suspend a local enforcement agency, or take other corrective action, in the event of the agency's failure to carry out its duties properly; and that the cost of appeals to the commissioner from a local agency's orders or decisions be borne by the local agency.

In addition, these amendments (1) update the language of the section referring to the commissioner's rule-making authority by providing that adopted rules be filed with the "Office of Administrative Law" rather than the "Secretary of State;" (2) substitute the word "local" for "municipal" in several references to local enforcement agencies; and (3) clarify language relating to administrative appeals in section 4, subsection c., by providing that they be made "to the Office of Administrative Law, with the final decision to be issued by the Commissioner of the Department of Community Affairs."

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2013

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with Senate committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 17, 1986

The Senate County and Municipal Government Committee reports favorably and with Committee amendments Assembly Bill No. 2013 OCR.

Assembly Bill No. 2013 OCR Sca permits certain municipalities to assume responsibility for the conduct of inspections and enforcement of regulations under the "Hotel and Multiple Dwelling Law," P. L. 1967, c. 76 (C. 55:13A-1 et seq.).

Under P. L. 1967, c. 76, which this bill amends and supplements, full responsibility for enforcement is assigned to the Commissioner of the Department of Community Affairs, and inspections are carried out by inspectors acting under his authority, specifically the staff of the Department's Bureau of Housing Inspection. The commissioner also, by regulation, has implemented a "cooperative" inspection program, under which qualified inspectors employed by the several municipal (or county) governments may be authorized to make the inspections, acting in this capacity as agents of the Bureau of Housing Inspection, and "subject to the control and supervision of the Commissioner" (N. J. A. C. 5:10-1.3(b)). Fees and penalties resulting from inspection and enforcement activities are paid to the commissioner, for deposit in the State Treasury, pursuant to law. The regulations, however, provide for a schedule of compensation to be credited and paid by the bureau for the activities of local inspectors acting as its authorized agents.

This bill would alter the current system by permitting some municipalities to undertake the full responsibility for conducting the inspections and enforcing the law, subject to supervision and control by the commissioner.

The bill provides that any municipality which has a "permanent municipal agency for the purpose of conducting inspections and enforcing laws, ordinances and regulations concerning buildings and structures" may, by ordinance, designate that agency to enforce the

“Hotel and Multiple Dwelling Law” (P. L. 1967, c. 76; C. 55:13A-1 et seq.) within that municipality, if the inspection personnel are qualified and licensed in accordance with rules adopted by the commissioner. Where such an ordinance is in effect, the fees and penalties arising out of inspection and enforcement activities will be paid to the municipality rather than to the State. It is provided, however, that no municipal enforcement agency may impose a penalty for any particular violation exceeding the minimum which the commissioner could impose for the same violation.

The bill also repeals section 15 of P. L. 1967, c. 76 (C. 55:13A-15), relating to review and approval of construction plans for hotels and multiple dwellings, which is now obsolete, having been superseded by the “State Uniform Construction Code Act,” P. L. 1975, c. 217 (C. 52:27D-119 et seq.).

The bill was amended by the Assembly Housing Committee to provide for the supervision and licensure of local inspectors under rules adopted by the commissioner, including rules setting fees to cover the cost of any licensing program. These amendments also provide that a local enforcement agency may not impose a continuing penalty, or a penalty exceeding the minimum which the commissioner could impose for the same violation, without prior written approval from the Bureau of Housing Inspection; that the commissioner may suspend a local enforcement agency, or take other corrective action, in the event of the agency’s failure to carry out its duties properly; and that the cost of appeals to the commissioner from a local agency’s orders or decisions be borne by the local agency.

The committee amended the bill to make certain technical and clarifying amendments.
