

LEGISLATIVE HISTORY CHECKLIST

NJSA: 52:27D-192 to 52:27D-213; 40A:4-45.21 (Fire Safety Code - uniform)

LAWS OF: 1983

CHAPTER: 383

Bill No: S1933

Sponsor(s): Caufield and others

Date Introduced: November 23, 1982

Committee:

Assembly: Municipal Government

Senate: County and Municipal Government

Amended during passage:

YES

Amendments during passage denoted by asterisks. Substituted for A2203 (not attached since identical to S1933)

Date of Passage:

Assembly: July 7, 1983

Senate: January 20, 1983

Date of Approval: November 12, 1983

Following statements are attached if available:

Sponsor statement:

YES

Committee statement:

Assembly

YES

Senate

YES

Fiscal Note:

NO

Veto Message:

NO

Message on Signing:

YES

Following were printed:

Reports:

YES

Hearings:

YES

Report, referred to in sponsors' statement:

974.90 New Jersey. Fire Safety Study Commission.  
S128 Final report... November 22, 1982. Trenton,  
1982b 1982.  
(see especially pp. 10, 25-33, 116-137.)

(OVER)

974.90  
S128  
1981

New Jersey.  
Public hearing...held 8/18/81, 9/22/81, 10/20/81 & 11/24/81,  
South Orange, Camden, Asbury Park, New Brunswick, 1981.

cbc

383 83  
11-12-83  
[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1933

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 23, 1982

By Senators CAUFIELD, FORAN, CONNORS, HIRKALA, FELDMAN, LIPMAN, LAROCCA, RAND, CODEY, GALLAGHER, DUMONT, DALTON, BASSANO, GORMLEY, DiFRANCESCO and BORNHEIMER

Referred to Committee on County and Municipal Government

AN ACT establishing a uniform, minimum fire safety code \***[and amending P. L. 1976, c. 68]**\*

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

1 1. This act shall be known and may be cited as the "Uniform  
2 Fire Safety Act."

1 2. This act is remedial legislation necessary to protect life and  
2 property within this State from the danger of destruction by fire  
3 and explosion and shall be liberally construed to effectuate these  
4 purposes.

1 3. It is found and declared that:

2 a. Although fire safety codes have been adopted by many of  
3 New Jersey's municipalities, many others have not adopted these  
4 codes and some of the codes which do exist have defects that limit  
5 their usefulness.

6 b. Although some departments of State government have respon-  
7 sibility for fire safety inspection in certain types of buildings,  
8 other types of buildings go unregulated; no department is em-  
9 powered to establish overall minimum standards; and there is  
10 therefore no State fire safety code governing all existing buildings.

11 c. Few municipalities have adopted fire safety codes which  
12 require the upgrading of the fire safety provisions of existing  
13 buildings; however, so long as these buildings continue to be in use,

**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:

\*—Senate committee amendments adopted December 16, 1982.

\*\*—Assembly committee amendments adopted June 27, 1983.

14 some of them need to be upgraded in order to protect occupants  
15 of the buildings, fire fighters and the general public.

16 d. Although many municipalities consistently and conscientiously  
17 seek to ensure compliance with fire safety codes, others do not,  
18 and all are limited in their efforts by serious financial constraints.

19 e. Existing enforcement processes are often cumbersome, and  
20 penalties are often insufficient to deter violations.

21 f. The pattern of development in the State is such that many  
22 buildings posing significant fire safety problems are located in  
23 municipalities not equipped to deal with these problems.

24 g. Recent multiple-death fires in this State and elsewhere indi-  
25 cate the need for strict fire safety codes as minimum standards for  
26 the maintenance and upgrading of existing properties, modified  
27 as may be necessary for the special requirements of this State,  
28 and for county or State enforcement of these codes in high-rise  
29 and high-hazard structures when municipalities are unable to  
30 enforce them adequately.

1 4. It is the purpose of this act to ensure that:

2 a. All areas of this State are protected by a uniform, minimum,  
3 fire safety code which will protect the lives and property of the  
4 State's citizens.

5 b. Uniform, thorough and adequately funded fire safety inspec-  
6 tions protect the public whenever buildings which pose a serious  
7 life safety hazard are found.

8 c. Penalties for violators are both swift and commensurate with  
9 the gravity of the offense.

1 5. As used in this act:

2 a. "Commissioner" means the Commissioner of the Department  
3 of Community Affairs or his delegate.

4 b. "Department" means the Department of Community Affairs.

5 c. "Fire safety commission" means the \***[first]**\* \*fire\* safety  
6 commission created by section 5 of P. L. . . . , c. . . . (C. . . . .)  
7 (now pending before the Legislature as Senate Bill No. 1931 of  
7A 1982).

8 d. "High-rise structure" means a building or structure having  
9 floors used for human occupancy located either more than six  
10 stories or more than 75 feet above the lowest level accessible to a  
11 fire department vehicle.

12 e. "Life hazard use" means a building or structure, or part  
13 thereof, classified in any of the following use groups in the 1981  
14 edition of the Building Officials and Code Administrators, Inter-  
15 national (BOCA) Basic Building Code: A-1, A-2, A-3, A-5, and I,  
16 a covered mall subject to section 630.0 of the 1981 edition of the

17 BOCA Basic Building Code, and any other use which the commis-  
18 sioner defines by regulation as a life hazard.

19 f. "Dwelling unit" means a room, suite, or apartment which is  
20 occupied or intended to be occupied for dwelling purposes by one  
21 or more persons living independently of persons in similar dwelling  
22 units.

23 g. "Enforcing agency" means the department, a municipal or  
24 county department or agency, or a fire district which has been  
25 authorized by municipal ordinance to enforce this act.

26 h. "Protective equipment" means any equipment, device, sys-  
27 tem or apparatus permitted or required by the commissioner to be  
28 constructed or installed in or upon a building, structure or prem-  
29 ises for the purpose of protecting the occupants or intended  
30 occupants thereof, fire fighters or the public generally *\*from fire or*  
31 *other products of combustion\**.

32 i. "Owner" means a person who owns, purports to own, *\*[man-*  
33 *age]\* \*manages\**, rents, leases or exercises control over a building,  
34 structure or premises.

1 6. The commissioner shall have all the powers necessary or con-  
2 venient to effectuate the purposes of this act, including without  
3 limitation, the following powers:

4 a. To enter and inspect, without prior notice, a building, struc-  
5 ture or premises, other than an owner-occupied building used  
6 exclusively for dwelling purposes and containing fewer than three  
7 dwelling units, and make such investigation as is reasonably neces-  
8 sary to carry out the provisions of this act;

9 b. To enforce and administer the provisions of this act, and to  
10 prosecute or cause to be prosecuted violators of the provisions of  
11 this act in administrative hearings and in civil proceedings in  
12 State and local courts;

13 c. To assess penalties and to compromise and settle a claim for  
14 a penalty for a violation of the provisions of this act in an amount  
15 as may appear appropriate and equitable;

16 d. To hold and exercise all the rights and remedies available to  
17 a judgment creditor; and

18 e. To collect from units of local government and their agencies  
19 information reasonable and necessary to carry out the intent of  
20 this act.

1 7. a. The commissioner shall promulgate, in accordance with the  
2 "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1  
3 et seq.), and after consulting with the fire safety commission,  
4 regulations to insure the maintenance and operation of buildings  
5 and equipment in such a manner as will provide a reasonable  
6 degree of safety from fire and explosion.

7 Regulations promulgated pursuant to this section shall include  
8 a uniform fire safety code primarily based on the standards  
9 established by the Life Safety Code (National Fire Protection  
10 Association 101) and any other fire codes of the National Fire  
11 Protection Association and the Building Officials and Code Admin-  
12 istrators International (BOCA) Basic Fire Prevention Code, both  
13 of which may be adopted by reference. The regulations may include  
14 modifications and amendments the commissioner finds necessary.

15 b. The code promulgated pursuant to this section shall include  
16 the requirements for fire detection and suppression systems,  
17 elevator systems, emergency egresses and protective equipment  
18 reasonably necessary to the fire safety of the occupants or intended  
19 occupants of new or existing buildings subject to this act, including  
20 but not limited to electrical fire hazards, maintenance of fire pro-  
21 tection systems and equipment, fire evacuation plans and fire drills,  
22 and all components of building egress. In addition, the regulations  
23 issued and promulgated pursuant to this section which are appli-  
24 cable to new or existing buildings shall include, but not be limited to  
25 fire suppression systems, built-in fire fighting equipment, fire  
26 resistance ratings, smoke control systems, fire detection systems,  
27 and fire alarm systems including fire service connections.

28 c. When promulgating regulations, the commissioner shall take  
29 into account the varying degrees of fire safety provided by the  
30 different types of construction of existing buildings and the varying  
31 degrees of hazard associated with the different types and intensity  
32 of uses in existing buildings. When preparing regulations which  
33 require the installation of fire safety equipment and devices, the  
34 commissioner shall consult with the fire safety commission and  
35 shall take into account, to the greatest extent prudent, the economic  
36 consequences of the regulations and shall define different use  
37 groups and levels of hazard within more general use groups, mak-  
38 ing corresponding distinctions in fire safety requirements for these  
39 different uses and levels of hazard. The commissioner shall also  
40 take into account the desirability of maintaining the integrity of  
41 historical structures to the extent that it is possible to do so with-  
42 out endangering human life and safety. The regulations established  
43 pursuant to this subsection shall apply to secured vacant buildings  
44 only to the extent necessary to eliminate hazards affecting adjoin-  
45 ing properties.

46 d. Except as otherwise provided in this act, including rules and  
47 regulations promulgated hereunder, all installations of equipment  
48 and other alterations to existing buildings shall be made in accor-  
49 dance with the technical standards and administrative procedures

50 established by the commissioner pursuant to the "State Uniform  
 51 Construction Code Act," P. L. 1975, c. 217 (C. 52:27D-119 et seq.)  
 52 and shall be subject to plan review and inspection by the local  
 53 construction and subcode officials having jurisdiction over the  
 54 building, who shall enforce the regulations established pursuant  
 55 to this act applicable to the installation or other alteration along  
 56 with the regulations established pursuant to the "State Uniform  
 57 Construction Code Act."

58 e. The commissioner shall, by regulation, establish standards  
 59 ~~\*[and] \*~~ procedures *and fees* for the certification of persons  
 60 engaged in the business of installing fire suppression systems  
 61 ~~\*[and] \*~~ for the warranting of those systems\*, *and for the*  
 62 *establishment, funding and operation of a warranty security pro-*  
 63 *gram*\*. A fire suppression system installed in a building subject  
 64 to this act shall be warranted in accordance with those standards  
 65 and procedures\*, *shall be required to be covered by the warranty*  
 66 *security program*\*, and shall be installed by a person certified in  
 67 accordance with those standards and procedures.

1 8. A building, which is subject to this act but the use of which  
 2 shall have commenced in good faith on or before the effective date  
 3 of any retroactive regulations, shall comply with the provisions of  
 4 this act on or before the first anniversary of the effective date of  
 5 the regulations ~~\*\*[but in]\*\*~~ *and, in the case of any building sub-*  
 6 *ject to local rent control, any improvement required to be made*  
 7 *pursuant to this act, or any other law, ordinance, or regulation*  
 8 *concerning fire safety shall, for the purposes of the rent control*  
 9 *ordinance, be deemed to be a capital improvement, the cost of*  
 10 *which may be passed on to the tenants. In\*\* a case of imminent*  
 11 *hazard to life, \*\*[it]\*\* \*\*a building\*\* shall comply within the*  
 12 period of time designated by the enforcing agency.

1 9. a. Upon the application of the owner of a building, structure  
 2 or premises, the enforcing agency may grant variances from the  
 3 ~~\*[literal]\*~~ requirements of a regulation issued pursuant to this act.  
 4 No variance shall be granted in a particular case unless the enforc-  
 5 ing agency shall find: (1) that strict compliance with the regulation  
 6 would result in undue hardship to the owner; and (2) that the  
 7 variance, if granted, will not unreasonably jeopardize the safety of  
 8 intended occupants, fire fighters and the public generally.

9 b. An application for a variance pursuant to this section shall be  
 10 filed in writing with the enforcing agency and shall set forth  
 11 specifically: (1) a statement of the requirements of the regulation  
 12 from which a variance is sought; (2) a statement of the manner by

13 which strict compliance with the regulation would result in undue  
14 hardship; (3) a statement of the nature and extent of the undue  
15 hardship; and (4) a statement of feasible alternatives to the re-  
16 quirements of the regulation which would adequately protect the  
17 safety of the occupants or intended occupants, fire fighters, and the  
18 public generally.

19 c. Within 30 days of receiving the application for a variance,  
20 the enforcing agency shall grant or deny the application in writing,  
21 stating the reason for granting or denying the application. If the  
22 application is not granted within 30 days, the applicant shall con-  
23 sider it to have been denied *\*\*and shall have the same appeal rights*  
23A *as in the case of a written denial\*\**.

24 The enforcing agency shall maintain records of all applications  
25 for variances and the action taken on them, and shall make the  
26 records reasonably available for public inspection. An enforcing  
27 agency other than the department shall provide copies of the  
28 records to the commissioner.

1 10. a. Within 90 days of the effective date of this act, and there-  
2 after as required by subsection c. of this section, the owner of a life  
3 hazard use or high-rise structure shall file with the commissioner,  
4 upon forms provided by the commissioner, an application for a  
5 certificate of registration. Each application shall include informa-  
6 tion prescribed by the commissioner to enforce the provisions of  
7 this act. Upon receipt of the application, the commissioner shall  
8 forthwith issue to the owner of the life hazard use or high-rise  
9 structure a certificate of registration, which certificate of registra-  
10 tion shall be posted by the owner of the structure in a conspicuous  
11 location therein. The certificate of registration shall be in such  
12 form as may be prescribed by the commissioner.

13 b. Within 90 days of the effective date of this act, and thereafter  
14 as required by subsection c. of this section, the owner of each life  
15 hazard use or high-rise structure shall appoint an agent for the  
16 purpose of receiving service of process and orders or notices  
17 issued by the commissioner pursuant to this act. Each agent shall  
18 be either a resident of this State or a corporation licensed to do  
19 business in this State.

20 c. If the ownership of a life hazard use or high-rise structure is  
21 transferred, whether by sale, assignment, gift, intestate succession,  
22 testate devolution, reorganization, receivership, foreclosure or  
23 execution process, the new owner shall file with the commissioner,  
24 within 30 days of the transfer, an application for a certificate of  
25 registration pursuant to subsection a. of this section and appoint  
26 an agent for the service of process pursuant to subsection b. of this  
27 section.



28 d. If an owner of a life hazard use or high-rise structure has not  
29 fulfilled the requirements of this section, the commissioner shall  
30 notify the owner in writing that he is in violation of this section  
31 and shall order that registration be accomplished within 30 days.  
32 The notice and order shall include an accurate restatement of the  
33 subsection of this section with which the owner has not complied.  
34 If the owner has not complied with the order of the commissioner  
35 within 30 days of the date on which it was mailed, the commissioner  
36 shall order him to pay not less than \$200.00 and not more than  
37 \$1,000.00 for each registration. The commissioner may issue a  
38 certificate to the clerk of the Superior Court that the owner is  
39 indebted for the payment of the penalty and the clerk shall im-  
40 mediately enter upon his record of docketed judgments the name  
41 of the owner and of the department, a designation of the statute  
42 under which the penalty is imposed, the amount of the penalty  
43 certified and the date the certification was made. The making of the  
44 entry shall have the same effect as the entry of the docketed judg-  
45 ment in the office of the clerk but without prejudice to the owner's  
46 right of appeal.

47 e. On or before July 1 next following the effective date of this  
48 act, and annually thereafter, the owner of each life hazard use and  
49 of each high-rise structure in the State shall pay to the department  
50 an annual fee in an amount which the commissioner shall establish  
51 by regulation and which shall allow the department to recover the  
52 cost to it and to local enforcing agencies of administering this act.

53 \***[Fees]**\* *\*Annual fees\** received from owners of life hazard uses  
54 and high-rise structure inspected by a local enforcing agency shall  
55 be divided between the local enforcing agency and the department  
56 in accordance with a percentage formula which the commissioner  
57 shall establish by regulation and which shall allow the department  
58 to recover the cost to it of administering this act in municipalities  
59 having local enforcement.

60 With the approval of the department, local enforcement agencies  
61 may collect the annual fee and remit to the department only that  
62 percentage of the annual fee which the commissioner shall have  
63 established by regulation as constituting the department's share  
64 of the fee.

65 f. All moneys which the commissioner shall receive in the form  
66 of fees and for penalties for failure to register shall be appropriated  
67 to the department to pay the cost of enforcing this act.

68 g. The owner of a life hazard use or high-rise structure shall pay  
69 the annual fee within 30 days of the day on which it is demanded by  
70 the department or the local enforcing agency. If he fails to do so,

71 the department may issue a certificate to the clerk of the Superior  
 72 Court that the owner is indebted to the department for the payment  
 73 of the annual fee and the clerk shall immediately enter upon his  
 74 record of docketed judgments and the name of the owner and of the  
 75 department, a designation of the statute under which the fee is  
 76 assessed, the amount of the fee certified and the date the certifica-  
 77 tion was made. The making of the entry shall have the same effect  
 78 as the entry of a docketed judgment in the office of the clerk, but  
 79 without prejudice to the owner's right of appeal.

1 11. a. Each municipality in this State is authorized to adopt an  
 2 ordinance providing for local enforcement of this act. The ordi-  
 3 nance shall designate the municipal fire department or the county  
 4 **\*\*[code enforcement agency.]\*\*** fire marshal or one or more fire  
 5 districts as the local enforcement agency.

6 b. Nothing in this act shall preclude the right of any municipality  
 7 to adopt an ordinance dealing with fire safety whether or not it is  
 8 more restrictive than this act and the regulations promulgated  
 9 thereunder. *\*No county or municipal official shall issue an order  
 10 regarding fire safety with respect to a building, structure or prem-  
 11 ises, except in accordance with this act or with a duly promulgated  
 12 ordinance.\**

1 12. a. Each enforcing agency in this State shall enforce this act  
 2 in all buildings, structures and premises within its jurisdiction,  
 3 except owner-occupied buildings used exclusively for dwelling  
 4 purposes and containing fewer than three dwelling units, subject to  
 5 the control and supervision of the commissioner and in accordance  
 6 with regulations promulgated by the commissioner. The commis-  
 7 sioner shall consult with and advise all local enforcement agencies  
 8 enforcing the provisions of this act, and each local enforcement  
 9 agency shall provide the commissioner with reports, data and  
 10 information required by the commissioner. *\*To cover the cost to  
 10A the municipality of conducting inspections under this act, the mu-  
 10B nicipality may, by ordinance, establish fees, which shall be paid  
 10C into the treasury of the municipality to which the local enforcing  
 10D agency is responsible, and which shall be appropriated by the mu-  
 10E nicipality to the local enforcing agency to pay the cost of enforcing  
 10F this act.\**

11 b. A local enforcing agency consisting of or employing at least  
 12 one paid fire inspector who is certified pursuant to subsection c.  
 13 of this section may elect to inspect **\*[high-rise]\*** *\*high-rise\** struc-  
 14-15 tures and life hazard uses within its jurisdiction, in lieu of in-  
 16 spection by the commissioner. *\*That election shall be made by  
 17 resolution of the governing body having jurisdiction over the local*

18 *enforcing agency. If an appropriate resolution has not been re-*  
 19 *ceived by the commissioner on or before the effective date of this*  
 20 *act, the department shall perform all inspections under this sub-*  
 21 *section until such time as the governing body shall adopt and send*  
 22 *to the commissioner an appropriate resolution.\* A local enforcing*  
 23 *agency that elects to inspect high-rise structures and life hazard*  
 24 *uses may issue the certificates of inspection required to be issued*  
 25 *pursuant to section 14 of this act and may inspect buildings and*  
 26 *premises other than high-rise structures and life hazard uses in*  
 27 *order to secure compliance with this act. \***[To cover the cost to***  
 28 *the municipality of the inspections, the municipality may by ordi-*  
 29 *nance establish fees, which shall be paid into the treasury of the*  
 30 *municipality to which the local enforcing agency is responsible*  
 31 *and shall be appropriated by the municipality to the local enforcing*  
 32 *agency to pay the cost of enforcing this act.]\*\**

33 c. **\*[A]\*** *\*The commissioner shall certify fire inspectors under*  
 34 *this act in accordance with such standards as he shall establish by*  
 35 *regulation; provided that a\* fire inspector certificate shall be issued*  
 36 *by the commissioner to any person who: on the effective date of*  
 37 *this act is\*,\* and for at least one year prior to the effective date*  
 38 *of this act has been\*,\* serving as a fire inspector in the fire service;*  
 39 *or **\*[has]\*** \*shall have, within two years of the effective date of*  
 40 *this act,\*successfully completed an educational program such as*  
 41 *the basic fire prevention code course offered by the Building Officials*  
 42 *and Code Administrators International or a recognized equiva-*  
 43 *lent\***[; or has successfully completed]\***\*,\* a fire prevention course*  
 44 *offered by an institution of higher education or recognized fire*  
 45 *school which has been approved by the commissioner.*

1 13. a. The department shall have concurrent jurisdiction with  
 2 local enforcing agencies to enforce this act in all buildings, struc-  
 3 tures and premises in the State, other than owner-occupied build-  
 4 ings used exclusively for dwelling purposes and containing fewer  
 5 than three dwelling units.

6 b. If the commissioner determines that a local enforcing agency  
 7 which had previously elected to inspect high-rise structures and  
 8 life hazard uses has failed to properly enforce this act, he shall  
 9 notify the local enforcing agency of his determination and there-  
 10 after all inspection and enforcement with respect to high-rise  
 11 structures and life hazard uses within the jurisdiction of the local  
 12 enforcing agency shall be done by the department and all fees and  
 13 penalties received as a result of the inspection and enforcement  
 14 shall be paid to the department.

1 14. a. The enforcing agency shall inspect each high-rise structure  
2 and each life hazard use in the State at least once every year for  
3 the purpose of determining the extent to which they comply with  
4 the provisions of this act.

5 b. The commissioner, by regulation, may establish shorter inspec-  
6 tion cycles for those classes of structures and uses whose nature  
7 makes more frequent inspection necessary for the protection of  
8 the public.

9 c. Thirty days following the inspection of a high-rise structure  
10 or life hazard use, the owner of the high-rise structure or life  
11 hazard use shall file with the department, upon forms to be pro-  
12 vided by the enforcing agency, an application for a certificate of  
13 inspection containing information prescribed by regulation by the  
14 commissioner.

1 15. a. A person aggrieved by a ruling, action, order, or notice of  
2 the commissioner pursuant to this act shall be entitled to an  
3 administrative hearing. The application for the hearing shall be  
4 filed with the commissioner by the 15th day after receipt by  
5 the person of notice of the ruling, action, order or notice.

6 All hearings shall be conducted by the Office of Administrative  
7 Law pursuant to the "Administrative Procedure Act," P. L. 1968,  
8 c. 410 (C. 52:14B-1 et seq.) and P. L. 1978, c. 67 (C. 52:14F-1  
9 et seq.), and the final decision shall be issued by the \***[**Director of  
10 the Division of Housing**]** \* *commissioner or his designee*.\*

11 b. A person aggrieved by any ruling, action, order or notice of  
12 a local enforcement agency pursuant to this act, shall be entitled  
13 to an administrative hearing before the construction board of  
14 appeals created pursuant to section 9 of P. L. 1975, c. 215 (C.  
15 52:27D-127), having jurisdiction in the municipality in which the  
16 building, structure or premises is located. The applications for  
17 the hearing shall be filed with the construction board of appeals  
18 by the 15th day after the receipt by the person of notice of the  
19 ruling, action, order or notice complained of.

1 16. a. If an enforcing agency discovers a violation of the provi-  
2 sions of this act upon an inspection of a building, structure or  
3 premises, then the enforcing agency shall issue and cause to be  
4 served on the owner of the building, structure or premises a  
5 written order requiring the owner to terminate, or cause to be  
6 terminated, the violation. The order shall state the nature of the  
7 violation and a reasonable specified period of time within which  
8 the violation shall be terminated. The order shall also require the  
9 owner to take or cause to be taken any affirmative action necessary  
10 to correct the violation.

11 b. The enforcing agency may petition the Superior Court for  
12 mandatory injunctive relief enforcing an order issued pursuant  
13 to this act. The Superior Court may proceed in a summary manner  
14 or otherwise, and shall have power to grant temporary relief or a  
15 restraining order as it may deem just and proper, and to make and  
16 enter a decree enforcing, modifying, and enforcing as so modified,  
17 or setting aside, in whole or in part, any order issued pursuant to  
18 this act.

1 17. a. If upon an inspection of a building, structure or premises  
2 the enforcing agency discovers a violation of this act that con-  
3 stitutes an imminent hazard to the health, safety or welfare of the  
4 occupants or intended occupants, fire fighters, or the public gener-  
5 ally, the enforcing agency may issue and cause to be served on the  
6 owner of the building, structure or premises a written order direct-  
7 ing that the building, structure or premises be vacated, closed, or  
8 removed forthwith or that the violation be corrected within the  
9 period specified in the order. The order shall state the nature of  
10 the violation and the date and hour by which the building, struc-  
11 ture or premises shall be vacated, closed or removed or the violation  
12 shall be abated.

13 b. The enforcing agency shall reinspect the building, structure  
14 or premises within 48 hours of receiving written notice from the  
15 owner of a building, structure or premises vacated *\*or closed,\** or  
16 ordered to be vacated *\*or closed,\** stating that the violation has  
17 been terminated. If, upon reinspection, the enforcing agency de-  
18 termines that the violation has been terminated, it shall rescind  
19 the order requiring the vacation of the building, structure or pre-  
20 mises and occupancy may be resumed immediately; provided that if  
21 the reinspection is not made by the local enforcing agency within  
22 48 hours of the receipt of the notice, the owner may apply to the  
22A department for a reinspection.

23 c. If the owner of a building, structure or premises denies that a  
24 violation justifying an order pursuant to this section to vacate,  
25 close, remove, or abate within a specified time exists, the owner  
26 may apply to the commissioner or construction board of appeals,  
27 as the case may be, for a reconsideration hearing. The hearing  
28 shall be conducted, and a final decision issued, within 48 hours of  
29 the receipt of the request. Failure to issue a decision shall con-  
30 stitute denial of the owner's appeal\*\*, *providing that, in the case*  
31 *of an appeal to the construction board of appeals, if the hearing is*  
32 *not held within 48 hours of the receipt of the request, the owner*  
33 *may apply to the department for an administrative hearing and*  
34 *the decision shall be rendered by the commissioner within 48 hours*  
35 *of the receipt of the application for the hearing\*\*.*

1 18. a. If the enforcing agency finds a violation of the provisions  
 2 of this act *\*\*in a life hazard use\*\** to be willful or grossly negli-  
 3 gent, or to be in violation of a previously issued order, and to  
 4 constitute a clear danger to human life, in addition to ordering  
 5 the building, structure or premises vacated **\*[or]\*** *\*and\** closed  
 6 until the violation is abated, the enforcing agency may order the  
 7 building, structure or premises to remain *\*vacated and\** closed  
 8 *\*\*for a further period not to exceed 60 days and\*\** **\*[for a further**  
 9 period not to exceed 60 days. A]**\*** *\*until such time as a\** certificate  
 10 of continued occupancy, issued pursuant to regulations authorized  
 11 by section 6 of the "State Uniform Construction Code Act," P. L.  
 11A 1975, c. 217 (C. 52:27D-124) shall be obtained by the owner **\*[prior**  
 11B to reopening the building, structure, or premises]**\***.

12 b. If the owner of a building, structure or premises denies that a  
 13 violation exists justifying an order to remain closed for the period  
 14 of time indicated in the order, the owner may apply to the commis-  
 15 sioner, or construction board of appeals, as the case may be, for a  
 16 reconsideration hearing. The hearing shall be conducted, and a  
 17 final decision issued, within 48 hours of receipt of the request.  
 18 Failure to issue a decision shall constitute denial of the appeal.

1 19. a. No person shall:

2 (1) Obstruct, hinder, delay or interfere by force or otherwise  
 3 with the commissioner or any local enforcing agency in the exercise  
 4 of any power or the discharge of any function or duty under the  
 5 provisions of this act;

6 (2) Prepare, utter or render any false statement, report, docu-  
 7 ment, plans or specification permitted or required under the pro-  
 8 visions of this act;

9 (3) Render ineffective or inoperative, or fail to properly main-  
 10 tain, any protective equipment or system installed, or intended to  
 11 be installed, in a building or structure;

12 (4) Refuse or fail to comply with a lawful ruling, action, order  
 13 or notice of the commissioner or a local enforcing agency; or

14 (5) Violate, or cause to be violated, any of the provisions of this  
 15 act.

16 b. A person who violates or causes to be violated a provision of  
 17 subsection a. of this section shall be liable to a penalty of not more  
 18 than \$5,000.00 for each violation. If a violation of subsection a. of  
 19 this section is of a continuing nature, each day during which the  
 20 violation remains unabated after the date fixed in an order or notice  
 21 for the correction or termination of the continuing violation shall  
 22 constitute an additional and separate violation, except while an  
 23 appeal from the order is pending. If an owner has been given notice  
 24 of the existence of a violation of the act and fails to abate the viola-

25 tion, he shall be liable to an additional penalty in the amount of the  
26 actual cost to the municipality or fire district of suppressing any  
27 fire\*,\* directly or indirectly\*,\* resulting from the violation.

28 c. The commissioner or a local enforcing agency may levy and  
29 collect penalties in the amounts set forth in this section, but not in  
30 excess of the maximum amounts that the commissioner shall  
31 establish by regulation for different types of violations. If the  
32 administrative penalty order has not been satisfied by the 30th day  
33 after its issuance, the penalty may be sued for, and recovered by  
34 and in the name of the commissioner or the enforcing agency, as the  
35 case may be, in a civil action by a summary proceeding under "the  
36 penalty enforcement law," (N. J. S. 2A :58-1 et seq.) in the Superior  
37 Court, county district court or municipal court. All moneys re-  
38 covered in the form of penalties by a municipality shall be paid into  
39 the treasury of the municipality and shall be appropriated for the  
40 enforcement of the act. A person who fails to pay immediately a  
41 money judgment rendered against him pursuant to this subsection  
42 may be sentenced to imprisonment by the court for a period not  
43 exceeding six months, unless the judgment is sooner paid.

44 d. A person shall be deemed to have violated or caused to have  
45 violated a provision of subsection a. of this section if an officer,  
46 agent or employee under his control and with his knowledge has  
47 violated or caused to have violated any of the provisions of sub-  
48 section a. of this section.

49 e. Upon request of the owner or purchaser of a building or  
50 structure, the enforcing agency having jurisdiction over the build-  
51 ing or structure shall issue a certificate either enumerating the  
52 violations indicated by its records to be unabated and the penalties  
53 or fees indicated to be unpaid, or stating that its records indicate  
54 that no violations remain unabated and no penalties or fees remain  
55 unpaid.

56 f. A person who purchases a property without having obtained a  
57 certificate stating that there are no unabated violations of record  
58 and no unpaid fees or penalties shall be deemed to have notice of  
59 all violations of record and shall be liable for the payment of all  
60 unpaid fees or penalties.

1 20. a. Notices, rules, decisions and orders required or permitted  
2 to be issued and served pursuant to this act shall be served as  
3 follows:

4 (1) On the owner:

5 (a) By certified mail to the person designated as owner or agent  
6 on the certificate of registration, in the municipal tax records, or  
7 in the records of the Secretary of State; however, if the certified

8 mailing is returned, the original letter shall be remailed to the last  
9 known address of the person by ordinary mail.

10 (b) By serving the document on the Secretary of State, who  
11 shall be deemed the owner's agent for service of process; except  
12 that reasonable efforts have first been made to serve the owner or  
13 his agent by certified mail and that a copy of the document is  
14 posted in a conspicuous location on the premises. "Conspicuous  
15 location" shall include the walls of the front vestibule or any  
16 common foyer or hallway immediately inside the main front  
17 entrance.

18 (c) By personal delivery of the document to the owner.

19 (d) By leaving the document at the office or dwelling unit of the  
20 owner with a person 14 years of age or older.

21 (2) On any other person:

22 (a) By certified mail to the person at his last known address;  
23 however, if the certified mailing is returned, the original letter  
24 shall be remailed to the last known address of the person by ordi-  
25 nary mail.

26 (b) By personal delivery of the document to the person.

27 (c) By leaving the document at the office or dwelling unit of the  
28 person with a person 14 years of age or older.

29 b. The date of personal service or the third day after mailing  
30 shall be considered the date of service.

1 21. The record of an action or proceeding under this act or any  
2 statement, report or record of any kind whatsoever obtained or  
3 received by the commissioner in connection with the administration  
4 or enforcement of the provisions of this act shall be public records  
5 and reasonably available for public inspection.

1 22. a. This act shall not be construed as authorizing the adoption  
2 of a regulation or the enactment of an ordinance requiring that a  
3 building conforming in all respects to the requirements of the  
4 "State Uniform Construction Code Act," P. L. 1975, c. 217 (C.  
5 52:27D-119 et seq.) be made to conform to more restrictive  
6 standards.

7 b. Buildings, structures and premises owned or operated by the  
8 State, its agencies, departments, or instrumentalities or an inter-  
9 state agency shall *\*be inspected exclusively by the Department of*  
10 *Community Affairs, and shall\** conform to this act in the same  
11 manner as all other buildings, structures and premises of similar  
12 construction and use classification; but no fees or penalties shall  
13 be charged to or assessed against the State, its agency, department  
13A or instrumentality, or an interstate agency.



14 c. Buildings, structures and premises subject to inspection for  
 15 fire safety by an agency of the State shall be inspected by the  
 16 agency in accordance with the standards established pursuant to  
 17 this act. Any State fire safety standard *\*for buildings, structures*  
 18 *or premises\** established by or pursuant to any statute other than  
 19 this act shall **\*[be unenforceable]\*** *\*continue in effect until such*  
 20 *time as that standard is superseded by appropriate regulations pro-*  
 21 *mulgated under this act\**. An agency of the State that enforced  
 22 fire standards prior to the effective date of this act shall be entitled  
 23 to petition the commissioner to establish a regulation establishing  
 24 the standards it considers to be necessary and appropriate for  
 25 buildings, structures and premises **\*[previously]\*** subject to its  
 26 inspection.

1 23. **\*[Section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) is amended**  
 2 to read as follows:

3 3. In the preparation of its budget a municipality shall limit any  
 4 increase in said budget to 5% over the previous year's final  
 5 appropriations subject to the following exceptions:

6 a. The amount of revenue generated by the increase in its valua-  
 7 tions based solely on applying the preceding year's general tax  
 8 rate of the municipality to the assessed value of new construction  
 9 or improvements;

10 b. Capital expenditures including appropriations for current  
 11 capital expenditures whether in the capital improvement fund,  
 12 or as a component of a line item elsewhere in the budget, provided  
 13 that any such current capital expenditure would be otherwise  
 14 bondable under the requirements of N. J. S. 40A:2-21 and  
 15 40A:2-22;

16 c. An increase based upon: (1) emergency temporary appro-  
 17 priations made pursuant to N. J. S. 40A:4-20 to meet an urgent  
 18 situation or event which immediately endangers the health, safety  
 19 or property of the residents of the municipality, and over which  
 20 the governing body had no control and for which it could not plan;  
 21 (2) emergency appropriations made pursuant to N. J. S. 40A:4-46  
 22 and special emergency appropriations made pursuant to N. J. S.  
 23 40A:4-53; or (3) special emergency appropriations made pursuant  
 24 to N. J. S. 40A:4-54, section 1 of P. L. 1961, c. 22 (C. 40A:4-55.1)  
 25 or section 1 of P. L. 1968, c. 194 (C. 40A:4-55.13). Emergency  
 26 temporary appropriations, special emergency appropriations and  
 27 emergency appropriations under (1) and (2) above shall be ap-  
 28 proved by at least two-thirds of the governing body and by the  
 29 Director of the Division of Local Government Services, and shall  
 30 not exceed in the aggregate 3% of the previous year's final

31 current operating appropriations. Special emergency appropria-  
 32 tions under (3) above shall be approved by at least two-thirds of  
 33 the governing body, and shall not exceed in the aggregate 3% of  
 34 the previous year's final current operating appropriations. Neither  
 35 procedure shall apply to appropriations adopted for a purpose re-  
 36 ferred to in subsections d. or j. below.

37 d. All debt service, including that of a Type I school district;

38 e. Amounts required for funding a preceding year's deficit;

39 f. Amounts reserved for uncollected taxes;

40 g. Expenditures mandated after the effective date of this act  
 41 pursuant to State or federal law;

42 h. Expenditure of amounts derived from new or increased ser-  
 43 vice fees imposed by ordinance, or derived from the sale of  
 44 municipal assets *or derived from construction, housing, health or*  
 45 *fire safety inspection fees set by statute, or by administrative rule*  
 46 *of a State agency, or subject to control by a State agency;*

47 i. When approved by referendum;

48 j. Amounts required to be paid pursuant to any contract with  
 49 respect to use, services or provision of any project, facility or  
 50 public improvement for water, sewer, solid waste, parking, senior  
 51 citizen housing or any similar purpose, or payments on account of  
 52 debt service therefor, between a municipality and any other  
 53 municipality, county, school or other district, agency, authority,  
 54 commission, instrumentality, public corporation, body corporate  
 55 and politic or political subdivision of this State. With respect to  
 56 the amounts required to be paid for senior citizen housing in the  
 57 above cited political subdivisions or bodies, the exceptions shall  
 58 be subject to the review and approval of the Local Finance Board;

59 k. Amounts required to be paid by any constituent municipality  
 60 of the Hackensack Meadowlands District established pursuant to  
 61 article 2 of the "Hackensack Meadowlands Reclamation and De-  
 62 velopment Act," (P. L. 1968, c. 404; C. 13:17-4) to the inter-  
 63 municipal account established pursuant to article 9 of said act  
 64 (C. 13:17-60 through 13:17-76);

65 l. Programs funded wholly or in part by federal or State funds  
 66 and amounts received or to be received from federal, State or  
 67 other funds in reimbursement for local expenditures; or

68 m. Amounts expended to fund any increase in public utility,  
 69 fuel oil, gasoline or heating oil charges which exceeds by more  
 70 than 10% the previous year's final expenditures for such pur-  
 71 poses.]\* \*On and after January 1, 1983, for the purposes of sec-  
 72 tions 2 and 3 of P. L. 1976, c. 68 (C. 40A:4-45.2 and C. 40A:4-45.3),  
 73 amounts derived by a municipality from new construction, housing,  
 74 health or fire safety inspection fees, which are set by statute or by  
 75 administrative rule of a State agency, or which are subject to con-

76 *trol by a State agency, and amounts derived from increases in any*  
77 *such fees previously imposed, shall be appropriated as an exception*  
78 *to the limitations imposed on increases in final appropriations*  
79 *under section 3 of that act, and revenues derived therefrom in the*  
80 *previous year shall be included in the current budget year as part*  
81 *of the municipality's final appropriations for the previous year upon*  
82 *which the permissible 5% increase is computed under section 2 of*  
83 *that act.\**

1 24. This act shall take effect 180 days following enactment \*ex-  
2 cept that section 23 shall apply to the current local budget year  
3 and thereafter\*.

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## STATEMENT

The purpose of this bill is to provide for the adoption, by the Department of Community Affairs, of a uniform, minimum fire safety code to protect the lives and property of the State's citizens; to ensure that uniform, thorough and adequately funded fire safety inspections are conducted on buildings that pose a serious life-safety hazard; and to ensure that penalties for violating the code are swift and commensurate with the gravity of the offense.

The New Jersey Fire Safety Study Commission, in its final report, concluded that a uniform fire safety code, implemented and enforced at the local level within guidelines set by the department be enacted. This bill would constitute implementation of the Fire Safety Study Commission's recommendation.

The fire safety code provided for by the bill would be based upon the Basic Fire Prevention Code of the Building Officials and Code Administrators (BOCA) and on the Life Safety Code of the National Fire Protection Association (NFPA 101).

The bill would require the retrofitting of some existing buildings and would distinguish among types and uses of buildings. High-rise buildings and hazardous occupancies would be required to meet stricter standards than other buildings.

If a municipality chose not to enforce the code itself, the department would enforce it. Inspection programs would be supported by fees, and a section of the bill amending the "cap law" (P. L. 1976, c. 68; C. 40A:4-45.3) would permit municipalities to exempt the fees for use in the inspection program from the 5% cap.

The department would provide training, technical assistance, and enforcement support to municipalities.

The bill includes penalties for violating the code.

51933 (1982)

SENATE COUNTY AND MUNICIPAL GOVERNMENT  
COMMITTEE

STATEMENT TO

**SENATE, No. 1933**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 16, 1982

Senate Bill No. 1933 would provide for the establishment of a uniform, minimum State fire safety code. The Commissioner of the Department of Community Affairs shall promulgate the State uniform fire safety code and such regulations as are necessary. The code shall include requirements for installation of fire detection and suppression systems, elevator systems, emergency egresses and protective equipment that are determined necessary for protecting the public from fire hazards. These requirements may result in the retrofitting of existing buildings with fire protection equipment. The commissioner shall consider the different types of existing buildings and the varying degrees of fire hazard associated with the buildings when developing the regulations. Also, a municipality may, by ordinance, establish a stricter fire safety code for the municipality than the code established for the State.

Senate Bill No. 1933 requires the registration and annual inspection of high-rise and "life hazard use" buildings. The inspection is conducted by either a local enforcing agency or an inspector with the Department of Community Affairs. Serious violations of the fire code could result in an inspector ordering the building vacated, closed or removed until the violation is terminated. Monetary penalties are charged to persons who willfully violate the provisions of the act.

Annual fees are charged to the owners of high-rise and life hazard use buildings for the costs of registration and inspection. A municipality may, by ordinance, establish additional fees if the municipality's expenses are not entirely covered by the annual fee. Senate Bill No. 1933 supplements the "Caps" law so that the revenue from the fees received by the municipality are treated in the same manner as other service fees that a municipality receives.

This bill represents one of the several final recommendations of the New Jersey Fire Safety Study Commission.

The Senate committee amended the bill at the request of the sponsor to authorize the establishment of a warranty security program respecting the installation of fire suppression systems by certified businesses, to clarify the authority of municipalities to establish fees for inspections conducted by local enforcing agencies, and to clarify generally the provisions of the bill.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

**SENATE, No. 1933**

[OFFICIAL COPY REPRINT]

with Assembly committee amendments

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**STATE OF NEW JERSEY**

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DATED: JUNE 27, 1983

Senate Bill No. 1933 OCR would provide for the adoption of a uniform, minimum State fire safety code by the Department of Community Affairs. It authorizes the Commissioner of the Department of Community Affairs to promulgate the State uniform fire safety code and any other regulations as may be necessary to effectuate the purposes of this legislation. The code is to set forth requirements for the installation of fire detection and suppression systems, elevator systems, emergency egresses and protective equipment which are deemed necessary for protecting the public from fire hazards. The requirements may necessitate certain retrofittings of existing structures with fire protection equipment. When developing the regulations, the commissioner is to consider the different types of existing structures and the varying degrees of fire hazard associated with those structures. The bill permits municipalities, by ordinance, to establish and enforce local fire codes which are stricter than the fire code set forth for the State.

The bill also requires the registration and annual inspection of high-rise and "life hazard use" buildings. The inspection is to be conducted by either a local enforcing agency or an inspector from the Department of Community Affairs. The bill provides that the persons conducting the inspections must be certified by the commissioner. Monetary penalties may be imposed upon persons found in violation of the code of regulations.

Annual fees may be imposed upon the owners of high-rise and "life hazard use" buildings to cover the costs of registration and inspection. A municipality may, by ordinance, establish additional fees if the municipality's costs are not entirely covered by the annual fee.

The bill also amends the "Local cap law," P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.) so that the revenues generated by such fees may be treated in the same manner as other service fees imposed and collected by the municipality.

The Senate committee amendments to the bill authorize the establishment of a warranty security program for the installation of fire suppression systems by certifying and licensing the persons engaged in their installation. The Senate committee amendments also clarified the authority of municipalities to establish fees for inspections conducted by local enforcing agencies.

The committee, at the sponsor's request, amended the bill to permit the passing along of required fire safety improvement costs in rent controlled buildings to the tenants, assure prompt hearing of appeals and limit punitive closing to "life hazard use" buildings. The amendments also limit county enforcement to county fire marshals.

The committee notes that the provisions of Senate Bill No. 1933 OCR, as amended by the committee, are identical to the provisions of Assembly Bill No. 2203 with Assembly committee amendments.

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OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: CARL GOLDEN

SATURDAY, NOVEMBER 12, 1983

Governor Thomas H. Kean, in a move he termed "significant progress toward reducing fire related deaths as well as assuring greater individual protection from fires," today signed legislation to establish a statewide Uniform Fire Safety Code, as well as, a Bureau of Fire Safety, and a Fire Safety Commission.

Kean signed the bills at a public ceremony at the Newark Fire Training Academy. The legislation, S-1931 and S-1933, was sponsored by State Senator John Caufield, D-Essex, who is also Newark City Fire Director.

The uniform safety code is designed to establish minimum standards for all structures, with the exception of one and two family buildings and provide for statewide cooperation and enforcement of its provisions.

The Bureau of Fire Safety and the Fire Safety Commission are established in the Department of Community Affairs. The Bureau will be responsible for the enforcement of the uniform fire safety code, training and educational programs, a fire incident reporting system, and research and planning functions for fire safety.

The Commission, to consist of 19 members to be appointed by the Governor, the President of the Senate and the Speaker of the Assembly, will assist and advise the Commissioner of the Department of Community Affairs in the administration of the law.

The legislation signed by the Governor was developed by the Fire Safety Study Commission which was chaired by Senator Caufield.

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BILLS S-1931, S-1933

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November 12, 1983

"All of us are painfully aware of fire tragedies and all of us are just as aware that the loss of life probably could have been averted through greater use of fire safety warning devices and procedures," the Governor said. "The creation of the statewide uniform fire code will mean that such improvements as alarm systems, smoke detectors, and sprinkler systems will become standard equipment in most buildings."

"It means, further, the development of regulations concerning electrical fire hazards, emergency exits, evacuation plans, fire drills, and built-in fire fighting equipment," the Governor said.

Kean said the code would be of particular significance in buildings used for public gatherings, such as hotels and convention centers, and for high-rise dwelling units.

"Too often, we have seen news coverage of fires which result in heavy loss of life because of failed alarm systems, because of poorly marked emergency exits, because of a lack of emergency procedures, or because the height of a building prevented rescuers from reaching trapped persons," Kean said. "This legislation specifically addresses the problem of tall buildings by providing a registration and licensing procedure as well as giving the Commissioner the power to close the building until any violations discovered are corrected."

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Bills S-1931, S-1933

Page Three

November 12, 1983

This provision applies to dwelling units in excess of six stories or which are more than 75 feet above the lowest level accessible to a fire department vehicle. The legislation also provides for registration and licensing for such buildings as night clubs, auditoriums enclosed malls, theaters, libraries, restaurants, stadiums, and other similar public gathering facilities.

Owners of the high-rise structures and the public gathering places must pay an annual registration fee to be set by the Department. Failure to register is punishable by a fine of between \$200 and \$1,000. These structures are also subject to annual inspections and the legislation provides for shorter interval inspections if necessary.

For other buildings under the legislation, violations are punishable by a fine not to exceed \$5,000. If, however, a violation constitutes an imminent hazard to the safety of the occupants of a building, it may be ordered closed and vacated until the violation is corrected.

The bill is effective six months from enactment.

Under the legislation which creates the Bureau of Fire Safety, personnel now assigned to the Office of the State Fire Marshall will be attached to the new bureau.

The legislation carries a \$300,000 appropriation to implement it and is effective immediately.

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