55:13 A-13

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(Hotel & multiple dwelling--inspection)

LAWS OF: 1991

CHAPTER: 179

Bill No:

A4809

Sponsor(s):

Schwartz

Date Introduced: April 29, 1991

Committee: Assembly: Housing; Appropriations

Senate:

A mended during passage:

Yes

A mendments during passage

denoted by asterisks.

Date of Passage:

Assembly:

June 17, 1991

Senate:

June 24, 1991

Date of Approval: June 28, 1991

Following statements are attached if available:

Sponsor statement:

Yes

Committee Statement: Assembly: Yes

6-10-91 & 6-13-91

Senate:

No

Fiscal Note:

No

Veto Message:

No

Message on signing:

No

Following were printed:

Reports:

No

Hearings:

No

KBG/SLJ

[SECOND REPRINT] ASSEMBLY, No. 4809

STATE OF NEW JERSEY

INTRODUCED APRIL 29, 1991

By Assemblyman SCHWARTZ

AN ACT concerning hotel and multiple dwelling inspection fees and penalties, amending and supplementing P.L.1967, c.76, and making an appropriation.

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

- 1. Section 13 of P.L.1967, c.76 (C.55:13A-13) is amended to read as follows:
- 13. (a) Each multiple dwelling ¹and each hotel ¹ shall be inspected at least once in every five years ¹[, and each hotel shall be inspected at least once in every three years,] ¹ for the purpose of determining the extent to which each hotel or multiple dwelling complies with the provisions of this act and regulations promulgated hereunder.
- (b) [On or before January 1, 1968, and within] Within 90 days of the most recent inspection [thereafter], the owner of each hotel shall file with the commissioner, upon forms provided by the commissioner, an application for a certificate of inspection. include such information as application shall commissioner shall prescribe to enforce the provisions of this law. Said application shall be accompanied by a fee as follows: [a basic fee of \$50.00 for the inspection of the common areas and \$10.00] 2 [\$19] \$15 2 per unit of dwelling space for the first 1 [96] 201 units of dwelling space in any building 1 or project 1, 1 2[\$15] $$12^2$ per unit of dwelling space for the 21st through 100th unit in any building or project, 1 1[\$12] 2[\$10] \$82 1 per unit of dwelling space for the ¹[97th] 101st¹ through ¹[200th] 250th¹ unit in any building ¹or project ¹, and ¹[\$7] \$5 ¹ per unit of dwelling space for all units over ¹[200] 250¹ in any building ¹or project ¹, except that in the case of hotels open and operating less than six months in each year[, \$5.00 per unit of dwelling space, provided that the maximum total fee is limited to \$350.00 for each building. In the event there are more than three buildings within a project, the fees for inspection of those buildings in excess of three shall be as follows: the fee for the fourth building shall not exceed one-half of the fee which could be charged for such inspection; the fee for the fifth building shall not exceed one-fourth of the fee which could be charged for such inspection; the fee for the

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

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sixth and all remaining buildings shall not exceed \$50.00 for each such building, provided that in no event shall the total of such fees for all buildings within a project exceed \$750.00] the fee shall be one half that which would otherwise be required. A certificate of inspection and the fees therefor shall not be required more often than once every ¹[three] five ¹ years.

Additionally, there shall be reinspection fees for hotels in the amount of \$10 for each dwelling unit reinspected.

Within 90 days of the most recent inspection of any multiple dwelling occupied or intended to be occupied by three or more persons living independently of each other, the owner of each such multiple dwelling shall file with the commissioner, upon forms provided by the commissioner, an application for a certificate of inspection. Said application shall include such information as the commissioner shall prescribe to enforce the provisions of this law. Said application shall be accompanied by a fee [as follows: a basic fee of \$20.00 for the inspection of the common areas and \$15.00] of \$33 per unit of dwelling space for the first 7 units in any building 1 or project 1, \$21 per unit of dwelling space for the 8th through the 24th unit in any building ¹or project¹, \$18 per unit for the 25th through the 48th unit in any building ¹or project ¹, and \$12 per unit of dwelling space for all units of dwelling space over 48 in any building ¹or project ¹, provided that the maximum total fee [is limited to \$350.00 for each building. In the event there are more than three buildings within a project, the fees for inspection of those buildings in excess of three shall be as follows: the fee for the fourth building shall not exceed one-half of the fee which could be charged for such inspection; the fee for the fifth building shall not exceed one-fourth of the fee which could be charged for such inspection; the fee for the sixth and all remaining buildings shall not exceed \$50.00 for each such building, provided that in no event shall the total of such fees for all buildings within a project exceed \$1,250.00] for owner-occupied three-unit multiple dwellings shall be limited to \$65 for owners having a household income that is less than 80 percent of the median income for households of similar size in the county in which the multiple dwelling is located, and the maximum total fee for owner-occupied four-unit multiple dwellings shall be limited to \$80 for owners having a household income that is less than 80 percent of the median income for households of similar size in the county in which the multiple dwelling is located. certificate of inspection and the fees therefor shall not be required more often than once every five years.

Additionally, there shall be reinspection fees for multiple dwellings in the amount of 2 [\$20] \$40 2 for each dwelling unit reinspected 2 [. These fees shall be applicable to three-unit and four-unit multiple dwellings] , but 2 only after the first reinspection.

¹The commissioner may waive the inspection fee for any unit

upon a finding that the unit has been thoroughly inspected within the previous 12-month period under a municipal ordinance requiring inspection upon change of occupancy in accordance with the maintenance standards established by the commissioner under this act, and has received a municipal certificate of occupancy as a result of that inspection.

If the commissioner finds that (1) a building has been thoroughly inspected prior to resale since the most recent inspection in accordance with this section, (2) the inspection prior to resale was conducted by the municipality in accordance with the maintenance standards established by the commissioner under this act, and (3) a municipal certificate of occupancy was issued as a result of that inspection, the commissioner may accept the inspection done prior to resale in lieu of a current inspection under this section. If the commissioner accepts an inspection prior to resale in lieu of a current inspection, no fee shall be charged for any inspection done by the commissioner within five years after the date of the inspection so accepted. 1

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

¹The commissioner may, upon finding a consistent pattern of compliance with the maintenance standards established under this act in at least 20 percent of the units in a building or project, issue a certificate of inspection for the building or project, in which case the inspection fee shall be charged on the basis of the number of units inspected.

The commissioner may by rule establish standards for self-inspection by condominium associations exercising control over buildings of not more than three stories, constructed after 1976, and certified by the local enforcing agency having jurisdiction as being in compliance with the Uniform Fire Code promulgated pursuant to P.L.1983, c.383 (C.52:27D-192 et seq.), in which at least 80 percent of the dwelling units are occupied by the unit owners. The commissioner shall issue a certificate of acceptance, which shall be in lieu of a certificate of inspection, upon acceptance of any such self-inspection and upon payment of a fee of \$25.1

(d) If the commissioner determines, as a result of the most recent inspection of any hotel or multiple dwelling as required by subsection (a) of this section, that any hotel or multiple dwelling 1

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does not comply with the provisions of this act and regulations promulgated thereunder, then the commissioner shall issue to the owner thereof[,] a written notice stating the manner in which any such hotel or multiple dwelling does not comply with this act or regulations promulgated thereunder. Said notice shall fix such date, not less than 60 days nor more than 180 days, on or before which any such hotel or multiple dwelling must comply with the provisions of this act and regulations promulgated thereunder. If any such hotel or multiple dwelling is made to comply with the provisions of this act and regulations promulgated thereunder on or before the date fixed in said notice, then the commissioner shall issue to the owner thereof a certificate of inspection as described in subsection (c) of this section. If any such hotel or multiple dwelling is not made to comply with the provisions of this act and regulations promulgated thereunder on or before the date fixed in said notice, then the commissioner shall not issue to the owner thereof a certificate of inspection as described in subsection (c) of this section, and shall enforce the provisions of this act against the owner thereof.

(e) The commissioner shall annually review the cost of implementing and enforcing this act, including the cost to municipalities of carrying out inspections pursuant to section 21 of this act, and shall establish by rule 1, not more frequently than once every three years, 1 such fees as may be necessary to cover the costs of such implementation and enforcement; provided, however, that any increase or decrease shall be applied as a uniform percentage to each category of fee ¹[so]¹ established ¹herein, and provided, further, that the percentage amount of any increase shall not exceed the percentage increase in salaries paid to State employees since the then current fee schedule was established. The commissioner shall provide by rule to owners the option of paying inspection fees in installments in the form of an annual fee. The commissioner shall annually prepare and file with the presiding officers of the Senate and General Assembly and the legislative committees having jurisdiction in housing matters a report setting forth the amounts of fees and penalties received by the Bureau of Housing Inspection, the cost to the bureau of enforcing this act, and information concerning the productivity of the bureau. Copies of the report shall also be submitted to the Office of Administrative Law for publication in the New Jersey Register and to the members of the Hotel and Multiple Dwelling Health and Safety Board. If in any State fiscal year the fee revenue received by the bureau exceeds the cost of enforcement of this act, the excess revenue shall be distributed pro rata to persons who paid inspection fees during that fiscal year. Such distribution shall be made within three months after the end of the fiscal year¹.

(f) Except as otherwise provided in section 2 of P.L., c.
(C.) (now pending in the Legislature as this bill), the fees established by or pursuant to the provisions of this section are

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- dedicated to meeting the costs of implementing and enforcing this act and shall not be used for any other purpose. All receipts in excess of \$2,200,000 are hereby appropriated for the purposes of this act.
- 5 (cf: P.L.1987, c.30 s.2)
 - 2. (New section) Fifty percent of all penalty moneys collected by the commissioner pursuant to section 19 of P.L.1967, c.76 (C.55:13A-19) shall be deposited in the Revolving Housing Development and Demonstration Grant fund established by section 5 of P.L.1967, c.82 (C.52:27D-63).
 - 3. (New section) In the fiscal year beginning July 1, 1993, and in each fiscal year thereafter, there shall be appropriated to the Revolving Housing Development and Demonstration Grant Fund established by section 5 of P.L.1967, c.82 (C.52:27D-63) an amount not less than the amount by which hotel and multiple dwelling inspection program costs during the next preceding fiscal year exceeded inspection fee revenue under the program received by the Department of Community Affairs during Fiscal Year 1991.
 - 4. This act shall take effect immediately.

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HOUSING AND CONSTRUCTION

Changes hotel and multiple dwelling inspection fees; dedicates fee revenue to meet inspection costs, and provides that general revenue savings, with half the enforcement penalties, be devoted to housing. established by section 5 of P.L.1967, c.82 (C.52:27D-63) an amount not less than the amount by which hotel and multiple dwelling inspection program costs during the next preceding fiscal year exceeded inspection fee revenue under the program received by the Department of Community Affairs during Fiscal Year 1991.

4. This act shall take effect immediately.

STATEMENT

This bill amends the fee schedule for inspections under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.) in a manner intended to provide sufficient fee revenue to sustain the inspection program without relying on additional funding from general State revenues. It also provides funding for additional housing programs with the revenue thus saved.

Maximum inspection fees for owner-occupied three-unit and four-unit multiple dwellings are kept at the current \$65 and \$80 levels for owners whose household income is less than 80 percent of the median household income in their county.

In order to raise the additional revenue needed to make the inspection program self-sufficient, the bill eliminates the maximum per-building and per-project fees, which now have the effect of making the inspection of every multiple dwelling unit beyond the 22nd, and every hotel unit beyond the 30th, free of charge. Instead, a fee will be charged for each unit inspected; but the per-unit fee will diminish in accordance with the overall number of units to be inspected. Seasonal hotels (those operating less than six months per year) will be charged half the regular fee.

Reinspection fees are also instituted, for both hotels and multiple dwellings, at a flat fee for each reinspection for each unit. In the case of owner-occupied three-unit and four-unit multiple dwellings, this fee will not be levied for the first reinspection.

These inspection fees have not been increased since 1970 (P.L.1970, c.138) when their purpose, as stated by the Governor in his signing message, was to have them cover the cost of the enforcement program. They have long since ceased to do so.

A further provision of the bill explicitly dedicates all fee revenues to the support of the inspection and enforcement program under the act, and appropriates to that purpose all fee revenues in excess of the amount already budgeted for.

The Commissioner of Community Affairs is directed to review the fee schedule annually, and to adjust the fees by rule so as to match the current costs of the inspection program. It is provided that any such adjustment be made uniformly throughout the fee schedule, every category being raised or lowered, as the case may be, by the same percentage.

Since the fundamental purpose of hotel and multiple dwelling

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inspection is the preservation of the State's hotel and multifamily housing stock, this bill provides that one half of the penalty revenue received be paid into the Revolving Housing Development and Demonstration Grant Fund (P.L.1967, c.82; C.52:27D-63), where it can be used for loans and grants for housing improvement and production. The bill also provides for future appropriation to that fund of the money saved by eliminating the subsidy now given to the hotel and multiple dwelling inspection program out of general revenues. That subsidy currently amounts to about \$1,000,000 annually. These funds can not be so appropriated in Fiscal Year 1992, because the proposed budget for that year already allocates those savings to other purposes.

HOUSING AND CONSTRUCTION

 Changes hotel and multiple dwelling inspection fees; dedicates fee revenue to meet inspection costs, and provides that general revenue savings, with half the enforcement penalties, be devoted to housing.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4809

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 10, 1991

The Assembly Housing Committee reports Assembly Bill No. 4809 favorably, with amendments.

This bill amends the fee schedule for inspections under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.) in a manner intended to provide sufficient fee revenue to sustain the inspection program without relying on additional funding from general State revenues. It also provides funding for additional housing programs with the revenue thus saved.

Maximum inspection fees for owner-occupied three-unit and four-unit multiple dwellings are kept at the current \$65 and \$80 levels for owners whose household income is less than 80 percent of the median household income in their county.

In order to raise the additional revenue needed to make the inspection program self-sufficient, the bill eliminates the maximum per-building and per-project fees, which now have the effect of making the inspection of every multiple dwelling unit beyond the 22nd, and every hotel unit beyond the 30th, free of charge. Instead, a fee will be charged for each unit inspected, but the per-unit fee will diminish in accordance with the overall number of units to be inspected. Seasonal hotels (those operating less than six months per year) will be charged half the regular fee.

Reinspection fees are also instituted, for both hotels and multiple dwellings, at a flat fee for each reinspection for each unit. In the case of owner-occupied three-unit and four-unit multiple dwellings, this fee will not be levied for the first reinspection.

These inspection fees have not been increased since 1970 (P.L.1970, c.138) when their purpose, as stated by the Governor in his signing message, was to have them cover the cost of the enforcement program. They have long since ceased to do so.

A further provision of the bill explicitly dedicates all fee revenues to the support of the inspection and enforcement program under the act and appropriates to that purpose all fee revenues in excess of the amount budgeted.

The Commissioner of Community Affairs is directed to review the fee schedule annually and to adjust the fees by rule so as to match the current costs of the inspection program. It is provided that any such adjustment be made uniformly throughout the fee schedule by the same percentage, every category being raised or lowered as the case may be. A fee schedule increase may not exceed the percentage of salary increases paid to Bureau of Housing personnel since the last time the schedule was adjusted.

Since the fundamental purpose of hotel and multiple dwelling inspection is the preservation of the State's hotel and multifamily housing stock, this bill provides that one-half of the penalty revenue received be paid into the Revolving Housing Development and Demonstration Grant Fund (P.L.1967, c.82; C.52:27D-63), where it can be used for loans and grants for housing improvement and production. The bill also provides for future appropriation to that fund of the money saved by eliminating the subsidy now given to the hotel and multiple dwelling inspection program out of general revenues. That subsidy currently amounts to about \$1,000,000 annually. These funds can not be so appropriated in Fiscal Year 1992, because the proposed budget for that year already allocates those savings to other purposes.

The committee adopted amendments to the following effect:

- 1. The inspection cycle for hotels was increased to five years, the same as for multiple dwellings.
- 2. The hotel per-unit inspection fee scheduled was changed by restricting the top-level \$19 fee to the first 20 units, inserting a new \$15 step for the 21st through 100th units, and reducing the two final steps to \$10 for the 101st through 250th units and \$5 for all units over 250. The amendment also provides that calculation of the fees according to the number of units, as given above, be applied to the whole number of units in a multi-building complex, rather than to each building individually. The same provision is applied to the multiple-dwelling fee schedule.
- 3. The commissioner is authorized to waive the regular inspection and fee for any unit that, within 12 months prior to the scheduled DCA inspection, has been inspected by the municipality under a municipal ordinance requiring it upon change of occupancy, if the municipal inspection procedure meets standards established by the commissioner.
- 4. The commissioner is authorized to waive the regularly scheduled inspection of any building that, since the previous DCA inspection, has been inspected and given a certificate of occupancy by the municipality in connection with a resale of the building, if the municipal inspection procedure meets standards established by the commissioner. Acceptance of such a municipal inspection will result in an adjustment of the DCA inspection cycle, so that the next DCA inspection will not be due until five years after the accepted municipal inspection.
- 5. A "random sampling" inspection technique is authorized. Under this provision, if an inspection of at least 20 percent of the units in a building or complex indicates a "consistent pattern of compliance," the commissioner may omit individual inspection of the remainder. A certificate of inspection is then issued for the entire building or complex, but the fee is based only upon the number of units individually inspected.
- 6. A self-inspection program, under standards established by the commissioner by rule, is authorized for condominiums that (1) are of less than three stories, (2) have been certified by their local enforcing authority as in compliance with the Uniform Fire Code,

- and (3) have at least 80 percent of their units occupied by owners of the units. Upon accepting the results of such a self-inspection, the commissioner shall issue a certificate of acceptance, in lieu of a certificate of inspection, charging a fee of \$25 therefor.
- 7. The commissioner's authority to set fees administratively is limited by (1) a provision that no fee increase be made within three years of a previous increase and (2) any increase be limited to a percentage no greater than the percentage increase in salaries paid to State employees over the same time as has elapsed since the last fee adjustment.
- 8. Provision is made for hotel and multiple dwelling owners to amortize inspection fee costs by periodic payments over the entire five-year inspection cycle, rather than in a single sum at the time of inspection.
- 9. The commissioner is required to submit annual reports, setting forth the inspection bureau's costs, fee and penalty receipts, and productivity, to the presiding officers of the Senate and General Assembly, the legislative committees having jurisdiction in housing matters, the Office of Administrative Law for publication in the New Jersey Register, and to the members of the Hotel and Multiple Dwelling Health and Safety Board.
- 10. Excess fee revenues in any State fiscal year, if any, are to be refunded pro rata to those who paid fees during that fiscal year. The distribution is to be made within three months after the end of the fiscal year.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT] ASSEMBLY, No. 4809

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 13, 1991

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4809 (1R) with Assembly committee amendments.

Assembly Bill No. 4809 (1R), as amended, revises the fee schedule for inspections under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.) and dedicates all fee revenues to the inspection and enforcement program. The bill is intended to make the inspection program self-supporting and also provide funding for additional housing programs beginning in FY 1993, in an amount equivalent to these offsetting fee increases.

The bill removes the statutory maximum per-building and per-project inspection fees but replaces them with a decreasing per-unit fee as the overall number of units increases. Maximum inspection fees for owner-occupied three-unit and four-unit multiple dwellings are kept at the current \$65 and \$80 levels for owners whose household income is less than 80 percent of the median household income in their county. Seasonal hotels will be charged half the regular fee.

The bill also institutes reinspection fees for hotel and multiple dwelling units, at a flat \$40 fee for each unit reinspected, but only after the first reinspection.

The Commissioner of Community Affairs is required to submit annual reports to specified officials, setting forth inspection program costs, fee and penalty receipts, and productivity. The commissioner is also directed to annually review the fee schedule and adjust fees by rule so as to match the current costs of the inspection program. Any such adjustments are to be made uniformly throughout the fee schedule by the same percentage. A fee schedule increase may not exceed the percentage of salary increases paid to Bureau of Housing personnel since the last time the schedule was adjusted, and no fee increase may be made within three years of a previous increase. In addition, any fee revenues collected in excess of actual total inspection program costs are to be refunded pro rata to those who paid fees during that fiscal year, within three months after the end of the fiscal year.

The bill provides that one-half of all penalty revenue be paid into the Revolving Housing Development and Demonstration Grant Fund (P.L.1967, c.82; C.52:27D-63). The bill also provides for future appropriation to that fund of the money saved by eliminating

the "subsidy" now given to the inspection program out of general revenues; specifically, in FY 1993 and thereafter, an amount equal to the difference between prior fiscal year total inspection program costs and FY 1991 fee revenue shall be appropriated to that fund.

FISCAL IMPACT

A fiscal note has not been completed on this bill at this time. The Governor's Budget Recomendation for FY 1992 anticipates \$2.4 million in housing inspection fee revenues (\$1.0 million in fees and \$1.4 million in penalty revenues), recommends appropriation of \$2.2 million for housing code enforcement, as well as appropriation of any receipts in excess of the anticipated \$2.4 million for housing code enforcement activities, and reflects \$1.485 million in appropriated revenues for housing code enforcement. This bill increases inspection fees by an undetermined amount, appropriates receipts in excess of \$2.2 million for the purposes of the bill, and provides that one-half of penalty revenue be paid to the Revolving Housing Development and Demonstration Grant Fund. The bill also provides that, in FY 1993 and thereafter, an amount equal to the difference between prior fiscal year inspection program costs and FY 1991 fee revenue shall be appropriated to that fund.

COMMITTEE AMENDMENTS

The committee amended the bill to reduce the per-unit inspection fee for hotel units from \$19 to \$15 for the first 20 units, from \$15 to \$12 for the 21st through 100th unit, and from \$10 to \$8 for the 101st through 250th unit in each building or project. The committee also changed the multiple dwelling reinspection fee, which originally was \$20 per dwelling unit reinspected, and with a first reinspection exemption for three- and four-unit multiple dwellings. As amended, all first reinspections are without charge, and each reinspection after that will be at a fee of \$40 per dwelling unit.