**Bill Axxxx/Sxxxx – Proposal to Amend A-1440**

**Session 2022 – 2023**

Deletions from A-1440 ~~as such~~

Additionsto A1440 **as such**

Addition as noted in the existing A-1440 as such

Descriptions starting with “NOTE” are under discussion

ASSEMBLY, No. xxxx, SENATE, No. xxxx

STATE OF NEW JERSEY

220th LEGISLATURE

FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

SYNOPSIS (**Underlined, bold text are provisions proposed by NJ 50 x 30 Building Electrification Team.)**

 Establishes "Zero Energy Construction Act"; ~~requires all new residential and commercial developments to be zero energy ready; requires developers to offer zero energy construction.~~

**requires all new and rehabilitated residential and commercial buildings to be zero energy building construction.**

CURRENT VERSION OF TEXT

     Introduced Pending Technical Review by Legislative Counsel.

An Act concerning zero energy building construction, supplementing and amending P.L.1975, c.217, and amending P.L.2009, c.106.

     Be It Enacted by the Senate and General Assembly of the State of New Jersey:

     1.    P.L.    , c.    (C.        ) (pending before the Legislature as this bill) shall be known and may be cited as the “Zero Energy Construction Act.”

     2.    As used in P.L.    , c.    (C.        ) (pending before the Legislature as this bill):

     “Developer” means any person who constructs or offers to construct a new residential or commercial building.

     “Owner” means any person who acquires a legal or equitable interest in a new residential or commercial building.

     “Prospective owner” means any person who contemplates acquiring a legal or equitable interest in a new residential or commercial building.

     “Zero energy building” means an energy-efficient building where, on a source energy basis, the actual annual delivered energy is less than or equal to the on-site renewable exported energy. **Generally speaking, a zero energy building produces enough renewable energy to meet its own annual energy consumption requirements, thereby reducing the use of nonrenewable energy in the building sector. (Above terms are verbatim and fully defined in a US Dept of Energy** [document.](https://www.energy.gov/eere/buildings/zero-energy-buildings) )

**NOTE: following definitions are from DOE “A Common Definition for Zero Energy Buildings”**

**“Zero energy building” means an energy-efficient building where, on a source energy basis, the actual annual delivered energy is less than or equal to the on-site renewable exported energy. (Generally speaking, a zero energy building produces enough renewable energy to meet its own annual energy consumption requirements, thereby reducing the use of nonrenewable energy in the building sector.)**

**“Source Energy”: Site energy plus the energy consumed in the extraction, processing and transport of primary fuels such as coal, oil and natural gas; energy losses in thermal combustion in power generation plants; and energy losses in transmission and distribution to the building site.**

**“Site Boundary”: Line that marks the limits of the building site(s) across which delivered energy and exported energy are measured**

**“On-site Renewable Energy”: Includes any renewable energy collected and generated within the site boundary that is used for building energy and the excess renewable energy could be exported outside the site boundary. The renewable energy certificates (RECs) associated with the renewable energy must be retained or retired by the building owner/lessee to be claimed as renewable energy.**

**“Exported Energy”: On-site renewable energy supplied through the site boundary and used outside the site boundary.**

 **“Rehabilitated building” means any residential or commercial building that undergoes alteration, renovation, rehabilitation, repair or maintenance that is subject to the rehabilitation subcode.**

**Renewable Energy Certificate (REC): Represents and conveys the environmental, social and other non-power qualities of one megawatt-hour of renewable electricity generation and can be sold separately from the underlying physical electricity associated with a renewable-based generation source.**

Renewable Energy Certificate - Zero Energy Building (REC-ZEB) An energy-efficient building where, on a source energy basis, the actual annual n**on-renewable**delivered energy is less than or equal to the on-site renewable exported energy plus acquired **and retired Class I**  Renewable Energy Certificates (RECs)**, participation in an approved Community Solar project or renewable energy delivered as part of an approved Government Energy Aggregation as set forth at N.J.S.A 48:3- 92 (P.L. 2003, c24). For the purpose of this section delivered electric energy shall not include the percentage of renewable energy as required by the Renewable Energy Portfolio Standards (RPS) as set forth at  N.J.S.A. 48:3-87 d (P.L.2018, c. 17)"**

 **“Rehabilitated building” means any residential or commercial building that undergoes alteration, renovation, rehabilitation, repair or maintenance that is subject to the rehabilitation subcode.**

 ~~“Zero energy ready building” means a building that would be a zero energy building if equipped with a renewable energy system.~~

**NOTE: Following energy sources are not DOE official, but are to be discussed as possible “on-site Renewable Energy” for the purpose of defining a “Zero Energy” rehabilitated house**

* **Long term contracts for “Community Solar” (define as originating within the building “Site”)**
* **Long term contracts for RECs**
* **Power Purchase Agreements**
* **Renewable content of electricity delivered by the local utility**

     3.    On and after ~~January 1, 2025~~ **October 1, 2025**, an enforcing agency shall not issue a construction permit for a new residential or commercial building unless the permit requires the building to be constructed as a zero energy ~~ready~~ building. **This shall include energy efficient construction, electric air source cold climate heat pump (or electric ground source heat pump) for space and water heating, sufficient on-site or shared clean, renewable energy generated to meet the zero energy building definition above, as well as an electrical system capable of supporting, at a minimum, any additional electric appliances and electric vehicle charging.**

     4.    a.  A developer of a building subject to the provisions of section 3 of P.L.    , c.    (C.        ) (pending before the Legislature as this bill) ~~shall offer to construct the building as a zero energy building when a prospective owner enters into negotiations with the developer to purchase a new building.~~**shall disclose to a prospective owner who enters into negotiations with the developer to purchase a new building that the building will be constructed as a zero energy building,** **and shall describe the features of such construction. The developer shall inform the prospective owner of the availability on the Internet website of the Department of Community Affairs of general information on the environmental benefits of, and potential energy cost savings associated with, zero energy buildings, and any applicable credits, rebates, or other incentives that may be available to the prospective owner for constructing or rehabilitating a zero energy building**.

     b.    ~~Prior to entering into a contract of sale for a building subject to the provisions of section 3 of P.L.    , c.    (C.        ) (pending before the Legislature as this bill), a developer shall:~~

~~(1)   disclose that a prospective owner may have the building be constructed as a zero energy building, and upon request by the prospective owner, disclose the total projected cost of constructing the building as such that will be charged to the owner by the developer; and~~

~~(2)  unless construction of the building as a zero energy building is included in the sale of the building at no cost to the prospective owner, inform the prospective owner of the availability on the Internet website of the Department of Community Affairs of general information on the environmental benefits of, and potential energy cost savings associated with, zero energy buildings, and any applicable credits, rebates, or other incentives that may be available to the prospective owner for purchasing a zero energy building.~~

~~c.     Every contract of sale for a building subject to the provisions of section 3 of P.L.    , c.    (C.        ) (pending before the Legislature as this bill), shall include a notification by the developer to the prospective owner of the offer to construct the building as a zero energy building.~~

     d.    The Commissioner **of Community Affairs**, in consultation with the Department of Environmental Protection and the Board of Public Utilities, shall compile, and make available on the Internet website of the Department of Community Affairs, information for prospective owners and developers concerning the environmental benefits of, and potential energy cost savings associated with, zero energy buildings, and any applicable credits, rebates, or other incentives that may be available to the prospective owner for ~~purchasing~~ **constructing or rehabilitating** a zero energy building.

     5.    **No later than October 1, 2025 for new buildings and October 1, 2026 for rehabilitated buildings** the Commissioner **of Community Affairs**, in consultation with the Department of Environmental Protection and the Board of Public Utilities, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to effectuate the purposes of P.L.    , c.    (C.        ) (pending before the Legislature as this bill) and shall revise the code and energy subcode accordingly.

     6.    Section 1 of P.L.2009, c.106 (C.52:27D-122.2) is amended to read as follows:

     1.    The Legislature hereby finds and declares:

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

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

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

     d.    It is therefore necessary and appropriate that the Commissioner of Community Affairs, in consultation with the Board of Public Utilities, adopt energy-efficient building codes that may exceed the requirements of national model codes.

     e.     Further, in light of the serious threats posed by climate change, it is necessary and appropriate that the Commissioner of Community Affairs, in consultation with the Department of Environmental Protection and the Board of Public Utilities, adopt enhanced energy conservation construction requirements and revise ~~these energy-efficient building codes~~ **the** **code and energy subcode** to require that new residential and commercial buildings and rehabilitated buildings be constructed as zero energy ~~ready~~ buildings in accordance with the provisions of P.L.    , c.    (C.        ) (pending before the Legislature as this bill).

(cf: P.L.2009, c.106, s.1)

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

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

     Such prior consultations with departments, divisions, bureaus, boards, councils, or other agencies of State Government shall include but not be limited to consultation with the Commissioner of Health and the Public Health Council prior to adoption of a plumbing subcode pursuant to paragraph b. of this section.  Said code shall include any code, rule, or regulation incorporated therein by reference.

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

     These subcodes, except for the energy subcode, shall be adoptions of the model codes of the Building Officials and Code Administrators International, Inc., the National Electrical Code, and the National Standard Plumbing Code, provided that for good reasons, the commissioner may adopt as a subcode, a model code or standard of some other nationally recognized organization upon a finding that such model code or standard promotes the purposes of P.L.1975, c.217 (C.52:27D-119 et seq.).  The initial adoption of a model code or standard as a subcode shall constitute adoption of subsequent edition year publications of the model code or standard of such other nationally recognized organization, except as provided for in paragraphs (1) through (4) of this subsection.  Adoption of publications shall not occur more frequently than once every three years; provided, however, that a revision or amendment may be adopted at any time in the event that the commissioner finds that there exists an imminent peril to the public health, safety, or welfare.

     The energy subcode shall be based upon the model codes cited under this subsection or the International Energy Conservation Code; provided, however, that the energy subcode shall be revised as necessary to comply with the requirements of P.L.    , c.    (C.        ) (pending before the Legislature as this bill).  It may be amended or supplemented by the commissioner once before 2012 without regard to intervals between the adoption of the energy subcode in effect on the effective date of P.L.2009, c.106 (C.52:27D-122.2 et al.) and subsequent year revisions of that subcode.  In amending or supplementing the energy subcode, the commissioner shall rely upon 10-year energy price projections provided by an institution of higher education within one year following the effective date of P.L.2009, c.106 (C.52:27D-122.2 et al.), and thereafter at three-year intervals.  In developing the energy price projections, the institution of higher education shall consult with the Board of Public Utilities.  The commissioner shall be authorized to amend the energy subcode to establish enhanced energy conservation construction requirements, the added cost of each of which may reasonably be recovered through energy conservation over a period of not more than ~~seven~~ **ten** years.  Such requirements shall include provisions to ensure that, in all parts of the State the anticipated energy savings shall be similarly proportionate to the additional costs of energy subcode compliance.

     (1)   Except as otherwise provided in this subsection, the edition of a model code or standard in effect as a subcode as of July 1, 1995 shall continue in effect regardless of any publication of a subsequent edition of that model code or standard.  Prior to establishing the effective date for any subsequent revision or amendment of any model code or standard adopted as a subcode, the commissioner shall review, in consultation with the code advisory board, the text of the revised or amended model code or standard and determine whether the amended or revised provisions of the model code are essential to carry out the intent and purpose of P.L.1975, c.217 (C.52:27D-119 et seq.) as viewed in contrast to the corresponding provisions of the subcode then currently in effect.

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

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

     (4)   In the event that the commissioner, after consultation with the code advisory board, determines pursuant to this subsection that a provision of a model code or standard currently in effect as a subcode of the State Uniform Construction Code is less consistent with the intent and purpose of P.L.1975, c.217 (C.52:27D-119 et seq.) than was the corresponding provision of a previously adopted edition of the same model code or standard, the commissioner may delete the provision in effect and substitute in its place the corresponding provision of the previously adopted edition of the same model code or standard determined to be more consistent with the intent and purpose of P.L.1975, c.217 (C.52:27D-119 et seq.).

     (5)   The commissioner shall be authorized to adopt a barrier free subcode or to supplement or revise any model code adopted hereunder, for the purpose of insuring that adequate and sufficient features are available in buildings or structures so as to make them accessible to and usable by persons with physical disabilities.  Multi-family residential buildings with four or more dwelling units in a single structure shall be constructed in accordance with the barrier free subcode; for the purposes of this subsection the term "multi-family residential buildings with four or more dwelling units in a single structure" shall not include buildings constructed as townhouses, which are single dwelling units with two or more stories of living space, exclusive of basement or attic, with most or all of the sleeping areas on one story and with most of the remaining habitable space, such as kitchen, living, and dining areas, on another story, and with an independent entrance at or near grade level.

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

     At least 45 days prior to the final date for the submission of amendments or code change proposals to the National Model Code Adoption Agency, the code of which has been adopted as a subcode under P.L.1975, c.217 (C.52:27D-119 et seq.), the commissioner shall hold a public hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), at which testimony on any application recommending a State sponsored code change proposal will be heard.

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

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

     The commissioner may adopt, reject, or return such recommendations to the code advisory board for further deliberation.  If adopted, any such proposal shall be presented to the subsequent meeting of the National Model Code Agency by the commissioner or by persons designated by the commissioner as a State sponsored code change proposal.  Nothing herein, however, shall limit the right of any municipality, the department, or any other person from presenting amendments to the National Model Code Agency on its own initiative.

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

     d.    (Deleted by amendment, P.L.1983, c.496.)

(cf: P.L.2017, c.131, s.191)

**e. On and after October 1, 2026, an enforcing agency shall not issue a construction permit to rehabilitate any residential or commercial structure that is subject to the rehabilitation code unless the rehabilitation causes the structure to become a zero energy building. The Board of Public Utilities shall provide resources and technical assistance to municipalities to facilitate adoption of the State’s upgraded building energy performance standards and shall provide additional utility incentives to building owners to meet such standards.**

**f. During the 2024 Code cycle and every three years thereafter, the Uniform Construction Code shall allow for the adoption of a statewide voluntary stretch energy code that authorizes municipalities to adopt at the local level additional energy efficiency requirements beyond the base energy code provisions in the Energy Subcode. The Department of Community Affairs shall be charged with developing and promulgating the statewide subcode, and the Board of Public Utilities shall be charged with implementing incentive programs and providing technical assistance to municipalities interested in adopting stretch codes.**

8.    This act shall take effect immediately. ~~, but shall remain inoperative until January 1, 2025, except that the Commissioner of Community Affairs, the Department of Environmental Protection, and the Board of Public Utilities, shall take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.~~

STATEMENT

     This bill would establish the “Zero Energy Construction Act” which would, beginning ~~on January 1, 2025~~ **October 1, 2025**, require all new residential and commercial ~~developments~~ **buildings** to be zero energy ~~ready~~ **buildings.** ~~and require developers to offer zero energy construction to prospective owners.~~ **On October 1, 2026, the provision would also apply to any rehabilitation of a building that falls within the rehabilitation subcode.**  Zero energy buildings consume only as much energy as can be produced onsite through renewable resources ~~, and zero energy ready buildings are buildings capable of reaching this level of energy consumption with the addition of renewable resources.~~ . Requiring ~~new developments~~ **buildings** to be constructed as zero energy ~~ready~~ **buildings** will reduce both the consumption of energy that contributes to climate change as well as the long-term energy costs of home and business owners.

**Additionally, the Department of Community Affairs would adopt a statewide energy stretch code that could be adopted voluntarily by municipalities, providing them the opportunity to require more stringent energy efficiency measures than are required by the basic Uniform Construction Code.**

     The bill requires the Commissioner of Community Affairs, in consultation with the Department of Environmental Protection and the Board of Public Utilities, to compile, and make available on the Internet website of the Department of Community Affairs, information for prospective owners and developers concerning the environmental benefits of, and potential energy cost savings associated with, zero energy buildings, and any applicable credits, rebates, or other incentives that may be available to the prospective owner for purchasing a zero energy building.  The bill also requires the Commissioner of Community Affairs, in consultation with the Department of Environmental Protection and the Board of Public Utilities, to adopt rules and regulations necessary to effectuate the purposes of the bill and to revise the State Uniform Construction Code and the energy subcode accordingly.

     While the construction requirements of the bill would ~~be inoperative until~~ **first begin on**~~ilJanuary 1, 2025~~ **October 1, 2025,** the bill authorizes **and directs** the Commissioner of Community Affairs, the Department of Environmental Protection, and the Board of Public Utilities, to take ~~any~~ anticipatory administrative action ~~in advance as is necessary~~ **prior to that date** for the implementation of the bill.