

1. If the dissolved district has combined with another district or districts, the remaining district(s) shall have the option, within 30 days of the dissolution, to assume local enforcing agency responsibilities. If this option is not exercised, it shall pass to the fire department within the territorial area of the dissolved districts and, if not exercised, shall pass to the municipality. The department and municipality shall each have 15 days in which to decide the matter.

2. Exercise of the option shall be evidenced by a written notice signed by the party authorized to act on behalf of the entity. This notice shall be delivered to the municipal governing body which enacted the ordinance authorizing local enforcement. In addition, a copy shall immediately be forwarded to the Division.

3. The local enabling ordinance governing the local enforcing agency shall be modified if necessary and promptly filed with the Division. The new local enforcing agency shall promptly assume local enforcing agency responsibilities and notify the Division.

4. If, within 60 days of dissolution, the Division has not received proper written notice of the assumption of a dissolved district's obligations, the Division shall assume responsibility.

(b) Fire districts created after June 18, 1985, shall have 60 days from the date of the first meeting of the Board of Commissioners in which to request designation as a local enforcing agency in accordance with the provisions set forth in this subchapter. If such a request is made and a local enforcing agency exists, the district and such agency shall cooperate in transferring the local enforcing agency responsibilities.

Amended by R.1985 d.611, effective December 2, 1985.

See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

(c)4 deleted; (c)5 renumbered as (c)4.

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

5:18A-2.5 State enforcing agency; establishment

(a) The Division is constituted as the State enforcing agency for the purpose of administering and enforcing the Code in those areas where a local enforcing agency has not been established or designated for the inspection of life hazard uses and as provided in N.J.A.C. 5:18-2.2(b)3.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

5:18A-2.6 Collection of and accounting for fees and penalties

(a) Collection of registration fees:

1. The Division shall annually bill for and take such steps as may be necessary to collect or provide for the collection of the annual registration fees provided for by

the Code. No fee shall be assessed against premises owned by the agency enforcing the Code.

2. The Division shall remit 65 percent of the amount collected to the local enforcing agency established for the inspection of life hazard uses. This payment shall be disbursed by the end of the quarter next succeeding the one in which the fees were collected.

3. The 65 percent local share shall not be considered State funds but rather local funds held in trust by the State.

4. Where a local enforcing agency has been assigned a certificate of judgment in accordance with N.J.A.C. 5:18-2.6(g)1, it shall remit 35 percent of the net amount collected to the Division by the end of the quarter next succeeding the one in which the fees were collected.

i. The local enforcing agency may deduct the costs of collection from the total amount collected provided an accounting of the costs is included with the remittance. Any such deduction shall be made prior to calculating the required remittance.

(b) Permit fees and other fees provided for or allowed by the Code or any local ordinance or any penalties shall be collected and retained fully on behalf of the enforcement agency having jurisdiction. Penalties collected by the Division for failure to register or for late payment of fees shall be retained fully by the Division.

(c) All revenues collected by the Division shall be deposited in the Fire Safety Revolving Fund created by the Treasurer of the State of New Jersey. Expenditures may be made from the fund to carry out any of the responsibilities of the Division.

(d) All revenues generated pursuant to the Act or local implementing ordinance which are collected by or provided to a county or municipality shall be appropriated by the local governing body to the local enforcing agency for the purpose of enforcing the Code, operating the local enforcing agency and advancing local fire prevention interests.

(e) The Division shall have no obligation to a local enforcing agency in respect of fees due but not collected in any given quarter.

Amended by R.1985 d.611, effective December 2, 1985.

See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

(b) deleted; (c)-(e) renumbered (b)-(d).

Emergency amendment, R.1989 d.404, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2126(a).

In (a)2 and 3: changed "80 percent" to "70 percent".

Adopted concurrent proposal, R.1989 d.513, effective September 1, 1989.

See: 21 N.J.R. 2126(a), 21 N.J.R. 3084(a).

Provisions of emergency amendment R.1989 d.404 readopted without change.

Amended by R.1991 d.504, effective October 7, 1991.

See: 23 N.J.R. 2234(a), 23 N.J.R. 2999(a).

Local enforcing agency to receive 65% of fees.

Amended by R.1992 d.104, effective March 2, 1992.

See: 23 N.J.R. 3552(a), 24 N.J.R. 739(a).

Text on collection of judgements added at (a); stylistic changes.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

5:18A-2.7 Registry of agencies

(a) Each municipality that passes an ordinance establishing a local enforcing agency shall file a copy of same with the Division within two weeks of final adoption. Each county that passes an ordinance or resolution establishing a county enforcing agency shall file a copy of same with the Division within two weeks of adoption.

1. Any municipality or county that later amends a resolution or an ordinance that established an enforcing agency shall file a copy of the amendments with the Division within two weeks of adoption.

2. A municipality or county that does not file an ordinance or resolution shall be deemed not to have passed one, in which case, the Division shall enforce the Code in that jurisdiction.

(b) The Division shall compile those ordinances and resolutions and shall issue quarterly a Registry of Enforcing Agencies. The Registry shall be made available to the general public and shall show what agency is responsible to enforce the Code and what agency is responsible to inspect life hazard uses in every area of the State.

(c) The status of any enforcing agency with respect to responsibility to enforce the Code or inspect life hazard uses shall change as of the deadline date for submission to the next applicable quarterly registry unless the Division assumes jurisdiction in accordance with these regulations. Submission deadline dates for the registry are as follows:

i. For the annual (first quarter) registry, December 31 of the previous year.

ii. For the second quarter registry, March 31; for the third quarter registry, June 30; and, for the fourth quarter registry, September 30.

(d) If the Commissioner returns jurisdiction to a local enforcing agency pursuant to N.J.A.C. 5:18A-2.10, the effective date shall be the deadline date for submission of the next quarterly publication of the Registry of Enforcing Agencies following the Commissioner's decision.

(e) When the Division assumes responsibility pursuant to N.J.A.C. 5:18A-4.3(c), then the effective date shall be the 61st day after the vacancy occurs unless the Division grants a 30 day extension as provided in N.J.A.C. 5:18A-4.3(c).

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

5:18A-2.8 Amendments to the Code

(a) Local amendments of the technical standards of N.J.A.C. 5:18-3 and 4 are permitted to be adopted by ordinance but no such amendment shall require a building which complies with the Uniform Construction Code to conform to a more restrictive standard.

(b) No amendment to N.J.A.C. 5:18-1 and 2 is permitted except for permit and certificate of smoke detector compliance fees in accordance with N.J.A.C. 5:18-2.7.

(c) Any amendments adopted shall be filed with the Division in accordance with N.J.A.C. 5:18A-2.7(a).

(d) Whenever any person believes that a locally adopted amendment establishes a more restrictive requirement than that established for the same building or circumstance by the Uniform Construction Code, then that person may apply to the Commissioner for a determination pursuant to N.J.S.A. 52:14B-8.

1. Any such application shall be in writing and shall set forth the particular provision of the local amendment which is allegedly more restrictive and the reasons the person believes it to be so.

2. The Commissioner shall issue a preliminary ruling stating whether or not the amendment establishes a more restrictive requirement and shall notify the applicant and the local enforcing agency. Each party shall have 30 days in which to file exceptions to the preliminary ruling after which the Commissioner shall adopt it as originally set forth or as modified and make it a final ruling.

3. A final ruling which finds an amendment to the Code adopted by local ordinance to be more restrictive shall set forth each particular in which the ordinance is more restrictive. Those particulars shall be declared invalid and shall be of no further force or effect.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

5:18A-2.9 Conflict of interest

(a) No person employed by an enforcing agency as a fire official or fire inspector shall carry out any inspection or enforcement procedure with respect to any property or business in which he or she or a member of his or her immediate family has an economic interest.

1. Where an inspection or enforcement procedure is necessary or required in any such property or business, then the fire official shall arrange for the inspection or enforcement to be carried out by the county enforcing agency, the local enforcing agency of an adjoining jurisdiction or the Division of Fire Safety.