

**ASSEMBLY BILL NO. 4850**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Assembly Bill No. 4850 with my recommendations for reconsideration.

Assembly Bill No. 4850 proposes to expedite construction inspections by changing the way municipalities enforce the Uniform Construction Code ("UCC"). The Department of Community Affairs ("DCA") would be required to establish rules to permit local code enforcement agencies to conduct expedited construction inspections in exchange for a fee. In municipalities that do not offer expedited inspections, project owners would be permitted to select a private entity, licensed by DCA, to conduct expedited inspections. The bill would also codify into statute an existing DCA regulation that non-expedited inspections occur within three business days of a requested inspection date, as long as the owner makes the request at least 24 hours prior to the desired date. If the local agency fails to comply with the statutory timeline, the owner would be able to retain a private entity to perform the remainder of the inspections for the project, with oversight by the local agency.

I commend the bill's sponsors for seeking to facilitate speedy construction inspections. With this same goal in mind, my Administration has ramped up efforts to make the construction permitting and inspection system more efficient. This year's budget, for example, appropriated \$5 million to DCA "to support activities to increase the production of affordable housing by streamlining the permitting and construction review processes at the State and municipal levels." P.L.2021, c.133, p.38. And DCA has been taking a more proactive approach to helping local agencies improve their systems and clear backlogs.

While I share with my partners in the Legislature the desire for residential and commercial real estate development to proceed without unnecessary delay, I have substantial reservations about the proposed method for achieving that goal. As we work to build a stronger and fairer New Jersey, it is paramount that we preserve the components of our construction code that make it one of the strongest in the country and continue to ensure that the system works for everyone. In this case, I am concerned that allowing expedited inspections in exchange for an additional fee could create a two-track system that moves smaller developers and homeowners to the back of the line in favor of those who can pay a premium. And, while I am certain this was not the intent of the bill's sponsors, granting private entities broad discretion to conduct construction inspections when local agencies do not meet their deadlines creates an appearance of bias in favor of those who can afford private inspections.

While it is true that DCA and local agencies would retain substantial oversight over private entities and local agencies would continue to make the ultimate decisions regarding whether to issue a certificate of occupancy, the resources required to license, authorize, and oversee private entities would be considerable, drawing attention from DCA's and local agencies' core work and making it even more difficult for local agencies to meet their deadlines. On top of that, private entities would be taking from local agencies not only much-needed operating revenue, but also experienced code officials, at a time when these officials are in high demand.

Nevertheless, I agree that it is necessary for all of us in government and in the real estate industry to continue thinking creatively about how to make sure projects proceed quickly,

equitably, and safely. The Department of Environmental Protection's Licensed Site Remediation Professional ("LSRP") program has shown how private entities can "step into the shoes" of a government agency to speed along important work related to health and safety when it comes to the remediation of contaminated sites. The program enables LSRPs to take responsibility for oversight of the environmental investigation and cleanup of contaminated sites and has led to the greatest amount of contaminated site cleanups over the shortest period in the State's history, with thousands of known contaminated sites having been remediated since the program was established in 2007. Additionally, current law permits municipalities to contract with private inspection agencies to assist with UCC enforcement in some circumstances.

Accordingly, I am recommending revisions to Assembly Bill No. 4850 to require DCA to study whether there is a similar role for private entities to play in the construction inspection and permitting process. As part of its study, DCA should consider the degree to which inspection efficiencies can be achieved by consolidation of local agencies and through the sharing of services. DCA also should consult with the Department of Labor and Workforce Development on ideas for cultivating the next generation of code officials.

In addition, I am recommending amendments to require local agencies to notify DCA immediately upon determining that they will be unable to meet the bill's requirement to conduct inspections within three business days of an owner's requested inspection date. Failure to provide the required notification will subject local agencies to DCA's existing authority to take remedial action against agencies that do not comply with DCA's laws or regulations.

This amendment will enable DCA to quickly begin working with the local agency to help it operate more efficiently.

Therefore, I herewith return Assembly Bill No. 4850 and recommend that it be amended as follows:

- Page 2, Section 1, Line 7: Delete "(New section)"
- Page 2, Section 1, Line 7: Delete "(1)"
- Page 2, Section 1, Line 8: Delete "promulgate rules and" and insert "conduct a study that considers how to facilitate speedy"
- Page 2, Section 1, Lines 9-11: Delete in their entirety
- Page 2, Section 1, Line 12: Delete "providing expedited"
- Page 2, Section 1, Line 13: After "permit." Insert "As part of the study, the commissioner shall consider:
- (1) Whether and how any responsibilities of a local enforcing agency may be delegated to a private inspection agency, including, in consultation with the Department of Environmental Protection, whether any aspects of the Licensed Site Remediation Professional program administered by the Department of Environmental Protection may be applicable to inspections of constructions undertaken pursuant to a construction permit;
  - (2) Whether and how efficiencies may be achieved by the consolidation of local enforcing agencies or the sharing of services;
  - (3) Methods to improve the training, recruitment, and retention of local inspection officials, in consultation with the Department of Labor and Workforce Development;
  - (4) Whether the department's enforcement authority over local enforcing agencies should be augmented;
  - (5) The extent to which any proposals considered by the commissioner would negatively affect health and safety, the quality of inspections, or the

conducting of inspections in a fair and equitable manner; and

(6) Any other proposals the commissioner deems relevant to the purposes of the study."

- Page 2, Section 1, Lines 14-41: Delete in their entirety
- Page 2, Section 1, Line 42: Delete "(1) a municipal governing body, in consultation with the" and insert "Not later than the first day of the 25th month next following the effective date of P.L. , c. (pending before the Legislature as this bill), the commissioner shall submit a report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), outlining the commissioner's findings following the study conducted pursuant to subsection a. of this section and any recommendations for legislation, administrative action, or other actions as the commissioner deems appropriate."
- Page 2, Section 1, Lines 43-44: Delete in their entirety
- Page 3, Section 1, Lines 1-29: Delete in their entirety
- Page 3, Section 1, Line 30: Delete "(1) The department shall establish a program for the" and insert "The commissioner is authorized to contract with a third party to conduct the study and submit the report required by this section."
- Page 3, Section 1, Lines 31-47: Delete in their entirety
- Page 4, Section 1, Lines 1-45: Delete in their entirety
- Page 5, Section 2, Line 33: Delete "subpena" and insert "subpoenas"
- Page 6, Section 2, Line 27: Delete "business entity" and insert "private agency"
- Page 6, Section 2, Line 29: Delete "business entity" and insert "private agency"
- Page 6, Section 2, Lines 29-30: Delete "private inspection agency,"
- Page 6, Section 2, Line 30: After "agency" delete ","
- Page 6, Section 2, Line 48: After "Act.'" insert "This shall include the power to compel local enforcing agencies to notify the

Department of any instance where the local enforcing agency is unable to meet a deadline imposed by law or regulation."

Page 8, Section 3, Line 32:

Delete "Except for" and insert "The"

Page 8, Section 3, Lines 33-34:

Delete in their entirety

Page 9, Section 4, Line 10:

Delete "the owner may elect to retain a private inspection" and insert "or the local enforcing agency determines it is unable to meet the deadline imposed by that subsection, the local enforcing agency shall notify the Department of Community Affairs immediately. Failure to provide such notification shall subject the enforcing agency to corrective action as authorized under subsection k. of section 6 of P.L.1975, c.217 (C.52:27D-124(k))."

Page 9, Section 4, Lines 11-47:

Delete in their entirety

Page 10, Section 4, Lines 1-4:

Delete in their entirety

Page 10, Section 5, Line 7:

Delete "on the first day of the fourth month" and insert "immediately."

Page 10, Section 5, Lines 8-10:

Delete in their entirety

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor