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**Department of Labor and Industry**  
**Construction Codes and Licensing Division**  
**Building Permit Surcharge**



**Legislative Report**

**Nov. 30, 2007**

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## **Building permit surcharge**

The building permit surcharge was established in 1971 by Minnesota Statutes §16B.70, Subd. 1, which states:

Subd. 1. **Computation.** To defray the costs of administering sections 16B.59 to 16B.76, a surcharge is imposed on all permits issued by municipalities in connection with the construction of or addition or alteration to buildings and equipment or appurtenances after June 30, 1971. The commissioner may use any surplus in surcharge receipts to award grants for code research and development and education.

## **Report requirement**

This report is submitted pursuant to Minnesota Statutes §16B.70, Subd. 3, which states:

Subd. 3. [REVENUE TO EQUAL COSTS.] Revenue received from the surcharge imposed in subdivision 1 should approximately equal the cost, including the overhead cost, of administering sections 16B.59 to 16B.75. By November 30 each year, the commissioner must report to the commissioner of finance and to the legislature on changes in the surcharge imposed in subdivision 1 needed to comply with this policy. In making this report, the commissioner must assume that the services associated with administering sections 16B.59 to 16B.75 will continue to be provided at the same level provided during the fiscal year in which the report is made.

## **Construction Codes and Licensing Division**

Governor Pawlenty's Reorganization Order No. 193 on May 16, 2005 and subsequent statute by the 2007 Legislature consolidated code regulation entities of five agencies into the Department of Labor and Industry (DLI). These five entities include the Board of Electricity, Building Codes and Standards Division from the Department of Administration, Plumbing and Engineering from the Department of Health, Code Administration and Inspection Services from the Department of Labor and Industry, and Residential Contractor and Remodelers from the Department of Commerce. These activities were all consolidated into a new Construction Codes and Licensing Division (CCLD) within DLI. The functions in DLI that are funded by the surcharge have not changed and are:

- to develop and maintain state building code, which includes building, mechanical, accessibility, energy, elevator and manufactured-housing codes;
- to provide building official certification and recertification;
- to provide education and training programs for building officials, design professionals and contractors to maintain consistency and uniformity of code administration;
- to conduct investigations of improper, inconsistent code administration and consumer complaints;

- to adopt rules to update state building code to the most recent national model standards and construction technology;
- to issue grants for code development, research and education;
- to review plans and conduct inspections of public buildings (state-owned and school district buildings) and state-licensed facilities (hospitals, nursing homes and correctional facilities);
- to conduct elevator, escalator and wheelchair lift inspections; and
- to conduct manufactured- and modular-housing inspections and audits of plants and dealer lots.

## Financial information

The 2007 Legislature created a new Construction Code Fund to consolidate all revenue and expenditures of the Construction Codes and Licensing Division. This fund consolidation was effective beginning in fiscal-year 2008. While the building permit surcharge is included in this consolidated fund, there was no change to the functions that are funded by the surcharge. Other revenue collected by the fund includes permit, plan review, inspection, license and bond filing fees for the five consolidated agencies. Operating expenses now include all costs of administering the Construction Codes and Licensing Division beginning in fiscal-year 2008.

The surcharge fee schedule was originally established in 1971; it was adjusted in 1983 when surcharge fees for higher valuation buildings were lowered. Plan review and inspection fees for public buildings and state-licensed facilities have not increased since 1990, and are lower than the fee schedules of most local jurisdictions.

The following table summarizes the historical fiscal-year 2004 through 2007 surcharge fees and estimated fiscal-year 2008 through 2010 activity of the consolidated Construction Codes Fund.

Building Code/Construction Code Fund  
(in thousands)

Fiscal year	Surcharge revenue	Other revenue	Operating expenses	Grants	Transfers to general fund	Ending balance
2004	\$5,266	\$ 1,581	\$ 5,685	\$267		\$4,900
2005	\$5,018	\$ 1,619	\$ 5,607	\$130		\$5,800
2006	\$5,184	\$ 2,115	\$ 6,608	\$149	\$2,000	\$4,342
2007	\$4,480	\$ 2,396	\$ 6,069	\$ 17		\$5,132
2008	\$4,000	\$25,477	\$29,233	\$250	\$1,627	\$7,499 <sup>1</sup>
2009	\$4,500	\$25,477	\$30,085	\$250	\$1,515	\$5,626
2010	\$5,000	\$25,477	\$30,970	\$250	\$1,515	\$3,368

<sup>1</sup>\$4 million of fiscal-year 2008 ending balance includes an estimate of funds to be transferred to the Construction Code Fund from the Board of Electricity and Plumbing and Engineering Units (M.S. § 326B.04).

## **Assumptions**

- Recent quarters have shown a slowing in construction activity. The overall economy relating to construction activity is projected to continue to struggle with the impact of sub-prime mortgage problems and tightening of the mortgage markets. There are indications the overall housing market will be suppressed through the first quarter of 2008. New housing starts are projected by the National Association of Home Builders October 2007 report to drop approximately an additional 5.6 percent in the last quarter of 2007, with declines of 11.9 and in the first quarters of 2008. Growth is projected for the last half of 2008 through 2010. DLI believes the reduction in residential activity will be partially offset by the increases in the valuation of projects in some sectors and an increase in remodeling permits.
- A reduction in construction activity does not necessarily reflect a reduction in service demands or statutory service requirements. Many activities of the division, such as maintaining up-to-date code standards for the construction industry, investigation of improper administration of the code, training and education about the codes, certification and recertification of code officials and code research, are not affected by minor fluctuations in construction.
- An appropriate level of carryover dollars, equal to three months of operating expense, is required to balance minor fluctuations in the construction economy and meet cash-flow needs.

## **Recommendation**

DLI does not recommend any change to the surcharge fee at this time. The creation of the new Construction Code fund that encompasses all activities of CCLD will provide the financial framework to better support the consolidated business functions. Experience operating under this new framework will provide DLI with information needed to provide recommendations about fee adjustments to the Legislature as part of DLI's budget for the 2010 through 2011 biennium.