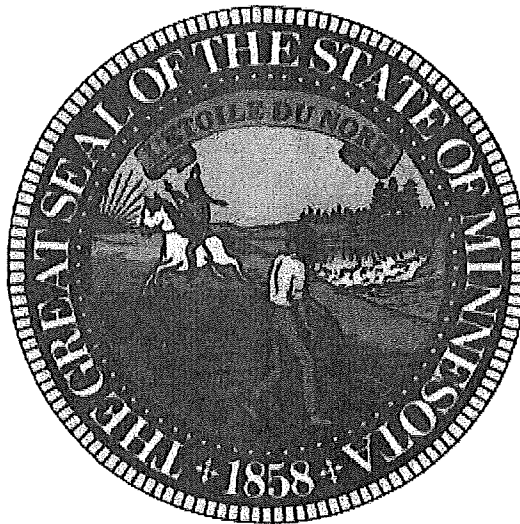




# Building Permit Surcharge

## Legislative Report



**Nov. 30, 2009**

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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 326B.101 to 326B.194, 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 §326B.148, 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 326B.101 to 326B.194. 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 subd. 1 needed to comply with this policy. In making this report, the commissioner must assume the services associated with administering sections 326B.101 to 326B.194 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 changes 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, the Building Codes and Standards Division from the Department of Administration, the Plumbing and Engineering unit from the Department of Health, the Code Administration and Inspection Services unit from DLI, and the Residential Contractor and Remodelers unit from the Department of Commerce. These activities were consolidated into a new Construction Codes and Licensing Division (CCLD) within DLI. Effective beginning in fiscal-year 2008, fee revenues collected for funding CCLD activities were consolidated into one dedicated revenue fund. The primary functions in DLI funded by the surcharge 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 that update state building code to current 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); 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 CCLD revenue and expenditures. The fund consolidation was effective beginning in fiscal-year 2008. 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 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.

The following table summarizes the historical fiscal-year 2005 through 2009 surcharge fees and estimated fiscal-year 2010 through 2011 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
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	\$3,765	\$22,042	\$23,117	\$ 85	\$1,627	\$9,171
2009	\$2,965	\$21,087	\$25,541	\$ 59	\$3,515	\$4,107
2010	\$2,900	\$23,490	\$23,752	\$ 96	\$1,515	\$5,135
2011	\$2,900	\$21,940	\$23,247		\$1,515	\$5,213

## Assumptions

- Construction activity has slowed in recent years and there are indications the overall construction market remains suppressed. Yet, the steep declines realized in fiscal-year 2009 are not anticipated to continue through fiscal-year 2010. Seasonally adjusted residential construction permits reported by the U.S. Department of Commerce for the Midwest indicated a drop of 25 percent for September 2009 as compared to September 2008. However, the permit rate has remained fairly stable during the past several months. DLI lowered fiscal year 2010 building permit surcharge revenues only slightly below 2009 actual receipts. CCLD believes a continuation of \$8,000 first-time home buyer tax credit will have a positive affect on building permits and could contribute to higher revenues.

- A reduction in construction activity does not necessarily reflect a reduction in DLI service demands or statutory service requirements. Many CCLD activities are not affected by fluctuations in the construction industry. This includes the areas of maintenance and development of construction code standards, investigation of improper code administration, the certification and recertification of code officials, training, education and research.
- An appropriate level of operating fund balance, equal to three months of operating expense, is required to balance fluctuations in the construction economy and meet cash-flow needs.

## **Recommendation**

To meet the intent of Minnesota Statutes §326B.148, subd.3, CCLD will evaluate its building permit surcharge and its other fees to address the \$1.515 million transfer from this fund to the General fund and to ensure ongoing revenue meets the division's needs.

The Construction Code fund supports all activities of CCLD. Efforts are underway to develop an overall financial framework for the various fees that support the program. The intent is to provide better equity, transparency and accountability to the various entities served by the division. CCLD continues to focus on ways to improve efficiency and control costs.

Economic conditions have resulted in lower fee revenue. Division management continues to evaluation program capacity to deliver services based on projected revenue. During the past year, substantial cost reductions have been made to best align diminishing fund resources with the highest priority obligations. Initiatives include: adjustments to electrical contractor contracts; the curtailing of rules development; cut backs in education programs; reassignment of staff to high priority regulatory, inspection and licensing activities; the elimination of vacated positions; and staff layoffs.

Fee adjustments, which include the building permit surcharge, will need to be included in the 2011-2012 Biennial Budget to maintain program viability in areas such as code development, education and training.