
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 388 Session of
2023

INTRODUCED BY HEFFLEY, R. MACKENZIE, MALONEY AND MOUL,
MARCH 14, 2023

REFERRED TO COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT,
MARCH 14, 2023

AN ACT

1 Amending the act of November 10, 1999 (P.L.491, No.45), entitled
2 "An act establishing a uniform construction code; imposing
3 powers and duties on municipalities and the Department of
4 Labor and Industry; providing for enforcement; imposing
5 penalties; and making repeals," in adoption and enforcement
6 by municipalities, further providing for administration and
7 enforcement.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 501(b)(1), (2) and (3) and (c)(1) of the
11 act of November 10, 1999 (P.L.491, No.45), known as the
12 Pennsylvania Construction Code Act, are amended, subsection (b)
13 is amended by adding a paragraph and the section is amended by
14 adding subsections to read:

15 Section 501. Administration and enforcement.

16 * * *

17 (b) Municipal administration and enforcement.--This act may
18 be administered and enforced by municipalities in any of the
19 following ways:

20 (1) By the designation of an employee to serve as the

1 municipal code official to act on behalf of the municipality
2 for administration and enforcement of this act. A municipal
3 code official may utilize third-party agencies to supplement
4 the municipal code enforcement program's plan review and
5 inspection services or may utilize third-party agencies to
6 perform plan review and inspection services in categories
7 which its program does not possess the necessary personnel to
8 administer.

9 (2) By the retention of one or more construction code
10 officials or third-party agencies to act on behalf of the
11 municipality for administration and enforcement of this act.
12 This paragraph shall expire January 1, 2024.

13 (2.1) On and after January 1, 2024, by the retention of
14 two or more third-party agencies to act on behalf of the
15 municipality for administration and enforcement of this act.

16 (3) Two or more municipalities may provide for the joint
17 administration and enforcement of this act through an
18 intermunicipal agreement under 53 Pa.C.S. Ch. 23 Subch. A
19 (relating to intergovernmental cooperation). The following
20 apply:

21 (i) Intergovernmental cooperation agreements that
22 provide for the joint administration and enforcement of
23 this act by utilizing third-party agencies shall be in
24 writing and conform to paragraph (2.1) on and after
25 January 1, 2024.

26 (ii) Professional service contracts entered into
27 with third-party agencies on or after the effective date
28 of this subparagraph for the purpose specified under
29 subparagraph (i) may not exceed three years.

30 (iii) The provisions of subsections (b.1), (b.2) and

1 (b.3) shall apply to intergovernmental cooperation
2 agreements that provide for the joint administration and
3 enforcement of this act by utilizing third-party
4 agencies.

5 * * *

6 (b.1) Administration and enforcement by third-party
7 agencies.--A municipality opting to administer and enforce this
8 act by retaining two or more third-party agencies under
9 subsection (b) (2.1) shall be subject to the following
10 requirements:

11 (1) The services of the third-party agencies shall be
12 furnished and performed under written professional services
13 contracts with the municipality.

14 (2) In entering into professional services contracts on
15 or after the effective date of this subsection, the governing
16 body of the municipality shall take into consideration all of
17 the following:

18 (i) The qualifications of the third-party agency.

19 (ii) The fee schedule.

20 (iii) The availability of services.

21 (iv) The input of affected stakeholders.

22 (3) Third-party agencies contracting with the
23 municipality under this subsection may not be affiliated with
24 one another.

25 (4) A professional services contract entered into
26 between a municipality and a third-party agency on or after
27 the effective date of this subsection may not exceed three
28 years.

29 (5) The permit applicant from the municipality shall
30 choose from the third-party agencies approved and contracted

1 by the municipality. The permit applicant may only utilize
2 the services of the permit applicant's selected third-party
3 agency for the services required under this act and
4 associated with the permit applicant's project.

5 (b.2) Waiver.--If a municipality opts to administer and
6 enforce this act under subsection (b)(2.1) but cannot obtain an
7 offer from a third-party agency to fulfill the need to have at
8 least two third-party agencies, the municipality may be relieved
9 from the requirement of retaining two third-party agencies by
10 completing a certification form, subject to the following:

11 (1) The municipality must complete the certification
12 form before the contract with the selected third-party agency
13 is executed and must maintain the form throughout the life of
14 the contract with the third-party agency.

15 (2) The certification form must be completed annually.

16 (3) A copy of the certification form must be filed with
17 the department. The department shall maintain a list of
18 municipalities that have filed a certification form on the
19 department's publicly accessible Internet website.

20 (4) The department shall furnish the certification form
21 which must:

22 (i) Require the municipality to disclose the methods
23 and dates of the public solicitation. For purposes of
24 meeting this requirement, the municipality shall
25 advertise requests for proposals and announce the
26 solicitation at a public meeting.

27 (ii) Require the municipality to disclose the number
28 of qualified bids received to the public solicitation.

29 (iii) Contain a statement that the information
30 provided by the municipality is in compliance with 18

1 Pa.C.S. § 4904 (relating to unsworn falsification to
2 authorities).

3 (iv) Contain a statement that the department does
4 not have the discretion to deny waiver requests.

5 (b.3) Duties of municipalities.--If a municipality contracts
6 with third-party agencies for the administration and enforcement
7 of this act, the municipality shall:

8 (1) Ensure that the form utilized for a permit
9 application notifies an applicant of all of the following:

10 (i) The third-party agency is acting on behalf of
11 the municipality.

12 (ii) An applicant may inform the governing body of
13 complaints about the third-party agencies' services,
14 including reports of incompetence or gross negligence, a
15 failure to abide by a time period specified under this
16 act, unprofessional behavior or discrimination based on
17 personal bias against the applicant.

18 (iii) The department certifies third-party agencies
19 and investigates complaints due to violations of this
20 act, incompetence or gross negligence, fraud, deceit or
21 acts of moral turpitude.

22 (iv) The department has a publicly accessible
23 Internet website that includes the form for filing a
24 complaint under subparagraph (iii).

25 (2) Maintain a record of complaints submitted under
26 paragraph (1)(ii).

27 (c) Board of appeals.--

28 (1) A municipality which has adopted an ordinance for
29 the administration and enforcement of this act or
30 municipalities which are parties to an agreement for the

1 joint administration and enforcement of this act shall
2 establish or designate a board of appeals as provided by
3 regulations promulgated by the department to hear appeals
4 from decisions of the code administrator[.] subject to the
5 following:

6 (i) Members of the municipality's governing body may
7 not serve as members of the board of appeals.

8 (ii) A municipality may establish a board of appeals
9 or may establish or designate a joint board of appeals in
10 accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to
11 intergovernmental cooperation).

12 (iii) A city of the first class may designate an
13 existing departmental board that has jurisdiction over
14 building standard appeals to act as the board of appeals
15 of the city of the first class and advise the appropriate
16 department that oversees building standards as to whether
17 an appeal should be granted, modified or rejected. The
18 department shall render final decision on requests for
19 appeal.

20 * * *

21 Section 2. The department may issue regulations to establish
22 or clarify procedures necessary to effectuate the intent of this
23 act.

24 Section 3. The provisions of this act are severable. If any
25 provision of this act or its application to any person or
26 circumstance is held invalid, the invalidity shall not affect
27 other provisions or applications of this act which can be given
28 effect without the invalid provision or application.

29 Section 4. This act shall take effect immediately.