

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 406 Session of
2023

INTRODUCED BY LAUGHLIN AND DiSANTO, FEBRUARY 21, 2023

REFERRED TO LABOR AND INDUSTRY, FEBRUARY 21, 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
21 municipal code official to act on behalf of the municipality

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

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

12 (2.1) On and after January 1, 2024, by the retention of
13 two or more third-party agencies to act on behalf of the
14 municipality for administration and enforcement of this act.

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

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

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

29 (iii) The provisions of subsections (b.1), (b.2) and
30 (b.3) shall apply to intergovernmental cooperation

1 agreements that provide for the joint administration and
2 enforcement of this act by utilizing third-party
3 agencies.

4 * * *

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

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

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

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

18 (ii) The fee schedule.

19 (iii) The availability of services.

20 (iv) The input of affected stakeholders.

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

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

28 (5) The permit applicant from the municipality shall
29 choose from the third-party agencies approved and contracted
30 by the municipality. The permit applicant may only utilize

1 the services of the permit applicant's selected third-party
2 agency for the services required under this act and
3 associated with the permit applicant's project.

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

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

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

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

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

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

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

28 (iii) Contain a statement that the information
29 provided by the municipality is in compliance with 18
30 Pa.C.S. § 4904 (relating to unsworn falsification to

1 authorities).

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

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

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

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

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

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

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

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

26 (c) Board of appeals.--

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

1 establish or designate a board of appeals as provided by
2 regulations promulgated by the department to hear appeals
3 from decisions of the code administrator[.] subject to the
4 following:

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

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

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

19 * * *

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

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

28 Section 4. This act shall take effect immediately.