



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 2302

PRINTERS NO. 3902

PRIME SPONSOR: Harhai

COST / (SAVINGS)

FUND	FY 2014/15	FY 2015/16
General Fund	\$0	\$0
Municipal Property Maintenance Code Assistance Fund	\$0	See "Fiscal Impact"
Municipal Funds	\$0	See "Fiscal Impact"

SUMMARY: Amends Title 53 (Municipalities Generally) prohibiting a municipal ordinance from penalizing a resident, tenant or landlord if police or emergency assistance was dispatched in response to an individual needing intervention or emergency assistance and provides a grant program for municipalities to create code enforcement programs and to hire and train code enforcement personnel. This legislation would take effect in 90 days.

ANALYSIS: This legislation prohibits a municipal ordinance from penalizing a resident, tenant or landlord if police or emergency assistance was dispatched in response to an individual needing intervention or emergency assistance and provides a grant program for municipalities to create code enforcement programs and to hire and train code enforcement personnel.

Declaration of Policy for Victims of Abuse or Crime: A declaration of policy is set forth within new Section 303 (relating to protection for victims of abuse or crime) which provides that it is the public policy of the Commonwealth to ensure that all victims of abuse and crime and individuals in an emergency may contact police or emergency assistance without penalty. It is the intention to shield residents, tenants and landlords from penalties levied pursuant to enforcement of an ordinance or regulation if police or emergency services respond to a residence or tenancy to assist a victim of abuse or crime or an individual in an emergency. It is not intended to prohibit municipalities from enforcing an ordinance or regulation if police or emergency services are not providing assistance to a victim of abuse or crime or an individual in an emergency.

Protection for Victims of Abuse or Crime: This legislation provides that no municipal ordinance may penalize a resident, tenant or landlord for a contact made for police or emergency assistance by or on behalf of a victim of abuse (as defined in Title 23 §6102), a victim of a crime (pursuant to Title 18) or an individual in an emergency (pursuant to Title 35 §8103), if the contact was made based upon the reasonable belief of the person making the contact that intervention or emergency assistance was necessary to prevent the perpetration or escalation of the abuse, crime or emergency or if the intervention or emergency assistance was actually needed in response to the abuse, crime or emergency.

Remedies: If a municipality enforces or attempts to enforce an ordinance against a resident, tenant or landlord in violation of the protection afforded by Section 303, the resident, tenant or landlord may bring a civil action and seek an order from a court of competent jurisdiction for any of the following remedies:

- an order requiring the municipality to cease and desist the unlawful practice;
- payment of compensatory damages, provided that a resident, tenant or landlord makes a reasonable effort to mitigate any damages;
- payment of reasonable attorney fees;
- payment of court costs; and
- other equitable relief, including, but not limited to, reinstating a rental license or rental permit, as the court deems appropriate.

Preemption of Ordinance or Regulation: Section 303 preempts any ordinance or regulation insofar as it is inconsistent with the section. However, Section 303 does not affect or apply to enforcement of the “Expedited Eviction of Drug Traffickers Act” or the enforcement of Title 18 § 7511 (relating to control of alarm devices and automatic dialing devices).

Legislative Intent for Municipal Code Enforcement: The legislation provides for legislative intent which is to provide funding for individual or 2 or more municipalities, councils or a multimunicipal code enforcement entity, for the purpose of municipal property maintenance code enforcement within that county or region in order to prevent and eradicate blighted property conditions.

Code Enforcement Grant Program: This legislation establishes a competitive grant program through the Department of Community and Economic Development (DCED) to issue grants for the purpose of reducing blighted property conditions through the establishment of special code enforcement programs.

Grants may be awarded to eligible municipalities and must be used to help fight blighted properties and can be awarded no more than three consecutive years to the same recipient. Grants shall be no more than \$100,000 and be matched by municipal funds equal to the amount of the grant provided. No grant issued under this section may be used to pay code enforcement personnel unless the individual has acquired relevant certification or training in property maintenance.

Imposition of Surcharge for Code Violation: A \$250 surcharge on property owners shall be imposed on a real property owner in violation of one or more provisions of a municipal code for which the owner was previously cited for violating. The surcharge shall be in addition to any other applicable fee or charges as provided by law.

The surcharge cannot be imposed until 90 days following the initial inspection by a local code official to remedy a violation of a municipal code, for which the owner was previously cited for violation with the exception of a serious violation. A serious violation is a violation of code that poses an imminent threat to the health and safety of a dwelling occupant, occupants in surrounding structures or a passerby.

The municipality shall collect the surcharge, and then submit the funds on a quarterly basis to DCED for distribution as grant money for municipal code enforcement.

Special Fund: The Municipal Property Maintenance Code Assistance Fund is established as a special fund in the State Treasury to hold moneys collected from the \$250 surcharge. DCED may use no more than 10% of the total funds collected each year for administrative costs associated with the program.

Report to General Assembly: Finally, DCED shall submit an annual report to the Urban Affairs and Housing Committee of the Senate and the Urban Affairs Committee of the House of Representatives concerning the implementation of this act. The report shall include the number of grants awarded and the recipients of those grants.

Guidelines: DCED shall establish guidelines to carry out the provisions of this act. The guidelines may include:

- The age of the existing housing stock in the municipality
- The municipality's existing tax base
- The existing financial condition of the municipality

FISCAL IMPACT: This legislation would have no adverse fiscal impact on the General Fund. The legislation could have a minimal fiscal impact on municipalities that enforce or attempt to enforce an ordinance against a resident, tenant or landlord in violation of the protection afforded by Section 303 in that the resident, tenant or landlord would have the ability to collect penalties and hold the municipalities liable for compensatory damages, reasonable attorney fees and payment of court costs if such event occurred. Approximately 20 Pennsylvania boroughs and third class cities have enacted ordinances that make landlords responsible for their tenants' disorderly behavior or disorderly conduct. However, the legislation would provide the opportunity for additional grant funding for any municipality trying to eradicate blight through code enforcement through the newly established Municipal Property Maintenance Code Assistance Fund. That grant funding is indeterminable at this point.

According to DCED, they believe that they can handle the additional workload with existing staff. In the event that they cannot, they will have the ability to offset their expenses with an allowance of 10% of the amount of funds collected annually within the Municipal Property Maintenance Code Assistance Fund. If 5,000 violations occurred each year, this would generate \$1.25 million for the special fund, \$125,000 of that would be available for DCED's administrative costs.

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: September 15, 2014

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.