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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 349 Session of  
2019

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INTRODUCED BY HEFFLEY, GREINER, RYAN, MOUL, MILLARD, MACKENZIE,  
KNOWLES, ZIMMERMAN, EMRICK, HILL-EVANS, LAWRENCE, MALONEY,  
COX AND TURZAI, FEBRUARY 1, 2019

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 1, 2019

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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, amended October 25, 2017  
13 (P.L.356, No.36), are amended, subsection (b) is amended by  
14 adding a paragraph and the section is amended by adding  
15 subsections to read:

16 Section 501. Administration and enforcement.

17 \* \* \*

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

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

10 (2) By the retention of one or more construction code  
11 officials or third-party agencies to act on behalf of the  
12 municipality for administration and enforcement of this act.  
13 This paragraph shall expire June 30, 2019.

14 (2.1) On and after July 1, 2019, by the retention of two  
15 or more third-party agencies to act on behalf of the  
16 municipality for administration and enforcement of this act.

17 (3) Two or more municipalities may provide for the joint  
18 administration and enforcement of this act through an  
19 intermunicipal agreement under 53 Pa.C.S. Ch. 23 Subch. A  
20 (relating to intergovernmental cooperation). Any  
21 intermunicipal agreement that provides for exclusive  
22 enforcement by a third-party agency shall be in writing and  
23 conform to paragraph (2.1) on and after July 1, 2019.

24 \* \* \*

25 (b.1) Administration and enforcement by third-party  
26 agencies.--A municipality opting to administer and enforce this  
27 act by retaining two or more third-party agencies under  
28 subsection (b) (2.1) shall be subject to the following  
29 requirements:

30 (1) The services of the third-party agencies shall be

1 furnished and performed under written professional services  
2 contracts with the municipality.

3 (2) In entering into professional services contracts  
4 under this subsection, the governing body of the municipality  
5 shall take into consideration all of the following:

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

7 (ii) The fee schedule.

8 (iii) The availability of services.

9 (iv) The input of affected stakeholders.

10 (3) Third-party agencies contracting with the  
11 municipality under this subsection may not be affiliated with  
12 one another.

13 (4) One of the third-party agencies contracting with the  
14 municipality under this subsection shall be designated as the  
15 enforcement agent for the municipality for general code  
16 enforcement actions.

17 (5) A professional services contract between a  
18 municipality and a third-party agency in effect before the  
19 effective date of this subsection shall remain in effect and  
20 the provisions of subsection (b)(2.1) shall take effect upon  
21 the expiration of the original terms of the professional  
22 services contract. The terms of a professional service  
23 contract between a municipality and a third-party agency in  
24 effect on the effective date of this subsection may not be  
25 binding on a successor governing body of the municipality.

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

30 (7) The permit applicant from the municipality shall

1 choose from the third-party agencies approved and contracted  
2 by the municipality.

3 (b.2) Waiver.--If a municipality opts to administer and  
4 enforce this act under subsection (b) (2.1) but cannot obtain an  
5 offer from a qualified third-party agency to fulfill the need to  
6 have at least two third-party agencies, the municipality may be  
7 relieved from the requirement of retaining two third-party  
8 agencies by completing a certification form, subject to the  
9 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 amendment of section 501(b)(3) of the act  
24 shall apply to intermunicipal agreements entered into on and  
25 after the effective date of this section.

26 Section 4. This act shall take effect immediately.