

LEGISLATIVE REFERENCE BUREAU

L.R.B. Form No. 4 (Rev. 3/25/10)

2013D03100SFL:SRA

No. \_\_\_\_\_

LEGISLATIVE REFERENCE BUREAU

AN ACT

Amending the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, providing for review fees.

INTRODUCED \_\_\_\_\_ 20\_\_\_\_\_

By \_\_\_\_\_ District NO. \_\_\_\_\_

By \_\_\_\_\_ District NO. \_\_\_\_\_

By \_\_\_\_\_ District NO. \_\_\_\_\_

By \_\_\_\_\_ District NO. \_\_\_\_\_

See next page for additional co-sponsors.

<b>Referred to Committee on</b>	
Date _____	20_____
Reported _____	20_____
<b>As Committed-Amended</b>	
<b>Recommendation</b>	
_____	
By Hon. _____	

## AN ACT

1 Amending the act of July 31, 1968 (P.L.805, No.247), entitled,  
2 as amended, "An act to empower cities of the second class A,  
3 and third class, boroughs, incorporated towns, townships of  
4 the first and second classes including those within a county  
5 of the second class and counties of the second through eighth  
6 classes, individually or jointly, to plan their development  
7 and to govern the same by zoning, subdivision and land  
8 development ordinances, planned residential development and  
9 other ordinances, by official maps, by the reservation of  
10 certain land for future public purpose and by the acquisition  
11 of such land; to promote the conservation of energy through  
12 the use of planning practices and to promote the effective  
13 utilization of renewable energy sources; providing for the  
14 establishment of planning commissions, planning departments,  
15 planning committees and zoning hearing boards, authorizing  
16 them to charge fees, make inspections and hold public  
17 hearings; providing for mediation; providing for transferable  
18 development rights; providing for appropriations, appeals to  
19 courts and penalties for violations; and repealing acts and  
20 parts of acts," providing for review fees.

21 The General Assembly of the Commonwealth of Pennsylvania  
22 hereby enacts as follows:

23 Section 1. Section 603 of the act of July 31, 1968 (P.L.805,  
24 No.247), known as the Pennsylvania Municipalities Planning Code,  
25 reenacted and amended December 21, 1988 (P.L.1329, No.170), is  
26 amended by adding a subsection to read:

1 Section 603. Ordinance Provisions.--\* \* \*

2 (m) Zoning ordinances may include provisions for the  
3 charging of review fees for the municipality's evaluation of  
4 conditional use applications pursuant to express standards and  
5 criteria set forth in the zoning ordinance, consistent with  
6 subsection (c) (2) and section 913.2. Review fees may include  
7 reasonable and necessary charges by the municipality's  
8 professional consultants for review and report on a conditional  
9 use application to the municipality. Review fees charged under  
10 this subsection shall be based upon a schedule established by  
11 ordinance or resolution and shall be in accordance with the  
12 ordinary and customary charges for similar service in the  
13 community, but in no event shall the fees exceed the rate or  
14 cost charged by the professional consultants for comparable  
15 services to the municipality for services which are not  
16 reimbursed or otherwise imposed on applicants. Review fees  
17 charged under this subsection shall not duplicate review fees  
18 charged under section 503(1). Fees charged to the municipality  
19 relating to any appeal of a decision on an application shall not  
20 be considered review fees and may not be charged to an  
21 applicant.

22 (1) Upon making a decision on an application, the  
23 governing body shall submit to the applicant an itemized bill  
24 showing work performed, identifying the person performing the  
25 services and the time and date spent for each task.

26 (2) In the event the applicant disputes the amount of  
27 any such review fees, the applicant shall, not later than 30  
28 days after the date of transmittal of the bill to the  
29 applicant, notify the municipality and the municipality's  
30 professional consultant that such fees are disputed and shall

1 explain the basis of its objections to the fees charged.  
2 Failure of the applicant to dispute a bill within 30 days of  
3 transmittal of the bill shall be a waiver of the applicant's  
4 right to arbitration of that bill pursuant to this  
5 subsection.

6 (3) If, within 30 days after the applicant's  
7 notification of dispute, the applicant and the municipality's  
8 professional consultant cannot agree on the amount of review  
9 fees that are reasonable and necessary, then the applicant  
10 shall have the right to request the appointment of another  
11 professional consultant to serve as an arbitrator. The  
12 applicant and municipality's professional consultant shall,  
13 within 20 days of the request and by mutual agreement,  
14 appoint an arbitrator to review any disputed bills and make a  
15 determination as to the amount thereof that is reasonable and  
16 necessary. The arbitrator shall be of the same profession as  
17 the professional consultant whose fees are being challenged.

18 (4) In the event that the municipality's professional  
19 consultant and applicant cannot agree upon the arbitrator to  
20 be appointed within 20 days of the request for appointment,  
21 then, upon application of either party, the president judge  
22 of the court of common pleas of the judicial district in  
23 which the municipality is located or, if at the time there be  
24 no president judge, then the senior active judge then sitting  
25 shall appoint such arbitrator, who, in that case, shall be  
26 neither the municipality's professional consultant nor any  
27 professional consultant who has been retained by, or  
28 performed services for, the municipality or the applicant  
29 within the preceding five years.

30 (5) The arbitrator so appointed shall hear such evidence

1 and review such documentation as the arbitrator in his sole  
2 opinion deems necessary and shall render a decision not later  
3 than 50 days after the date of appointment. Based on the  
4 decision of the arbitrator, the applicant or the  
5 municipality's professional consultant shall be required to  
6 pay any amounts necessary to implement the decision within 60  
7 days following the decision. In the event the municipality  
8 has paid the professional consultant an amount in excess of  
9 the amount determined to be reasonable and necessary, the  
10 professional consultant shall within 60 days reimburse the  
11 excess payment.

12 (6) The fee of the arbitrator shall be paid by the  
13 applicant if the review fee charged is sustained by the  
14 arbitrator or it shall be divided equally between the  
15 municipality's professional consultant and the applicant. If  
16 the disputed fees are found to be excessive by more than  
17 \$5,000, the arbitrator shall have the discretion to assess an  
18 amount greater than 50% of the arbitration fee against the  
19 municipality's professional consultant. The governing body  
20 and the consultant whose fees are the subject of the dispute  
21 shall be parties to the proceeding.

22 Section 2. This act shall take effect immediately.