



**AIA**  
Pennsylvania

## **TESTIMONY**

### **House Labor and Industry Committee**

Public Hearing on House Bill 349 and  
Third-Party Agencies

March 20, 2019

### **House Bill 349**

Good morning Chairman Cox, Chairman Harkins, and members of the House Labor and Industry Committee. Thank you for the opportunity to provide testimony to you today regarding the important issue of code review and enforcement in the Commonwealth. AIA Pennsylvania is submitting written testimony in support of HB 349, sponsored by Representative Doyle Heffley, which amends the Pennsylvania Construction Code Act to require municipalities who use a third-party agency to contract with at least two or more entities to provide plan review and inspection services.

AIA Pennsylvania, a component of the American Institute of Architects, represents the voices of nearly 3,000 members throughout Pennsylvania, with many of our members nationally-recognized authorities on international building codes and the Uniform Construction Code (UCC).

Building codes define the minimum standard of building performance and are an important tool to assure the Health, Safety, and Welfare (HSW) of building occupants. Architects are professionally tested and licensed by the Commonwealth to interpret the building codes during the design process for application in many varieties of construction projects. Architects shoulder a long-term liability for each code compliant design realized. The Commonwealth has entrusted the responsibility to architects for the safety and efficiency of buildings over the long term.

Architects are intimately involved in the use and interpretation of the UCC during the design and development process, and in most cases, prior to the involvement of other licensed professionals, code officials, and contractors. The Commonwealth already entrusts architects with the primary role of interpreting and applying the building codes prior to, and in the design phase.

Architects, like Pennsylvania Certified Code Officials, are licensed to interpret the building codes and at times are met with differing opinions from third-party and municipal inspectors and plan reviewers. AIA Pennsylvania believes that the code itself serves as the standard, not a single person or entity. Occasionally, if a resolution is not met these situations have the potential to create delays and cost business owners, permit holders, and taxpayers' precious dollars in time and talent. HB 349 seeks to remedy the

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problem that there is simply no alternative or no avenue of recourse in some cases.

One specific example of why HB 349 is vital came from an AIA Pennsylvania member in Southeast Pennsylvania. The firm had a project in a jurisdiction who used a single third-party reviewer. This reviewer came back with code comments that appeared to contradict the intent of the building codes and life safety codes. In short, this individual was apparently misreading the language of the code and taking a position that would have cost the client over \$100,000 in additional construction costs along with potentially lost time and revenue for redesign.

What the reviewer was objecting to was common practice and something that is done in every building across the country. The architectural firm obtained written letters of interpretation from both the International Code Council and the National Fire Protection Association explaining that the design solution met the intent and the language in the code but this code official maintained his position.

If the option existed to submit drawings to another code reviewer, or even to multiple other reviewers to validate the firm's position and the interpretation from ICC and NFPA, it would have saved a lot of time and money. Ultimately, the client scrapped the project because the added cost meant the pro-forma no longer worked. This is just one example.

Several architects and engineers in the Commonwealth are already ICC Certified and a number of ICC certified Inspectors work directly for architectural and engineering firms. These individuals typically do not have credentials beyond passing portions of the L&I Construction Codes Academy and hold the ICC Certification to be a Building Codes Official. If not working for an Engineer or Architect, they would likely work directly for a municipality or TPA.

Currently, The Pennsylvania Construction Code leaves many residents, architects, and contractors subject to a lack of alternatives when it comes to third-party UCC plan review and inspection. This legislation aims to ensure that property owners have an option regarding code review and inspection services. This bill will help to promote competition in the marketplace, resulting in competitive fee structures, and help to protect individual property owners, contractors, and architects.

AIA Pennsylvania recognizes the potential burden that this legislation may place on local municipalities across the Commonwealth but also believes that it is important for uniformity and impartial code review and inspections. AIA Pennsylvania will continue to advocate for more of our member firms to register with Labor and



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Industry to be certified as Third-Party Agencies to add to the pool of TPA's executing code review.

HB 349 would allow for options giving citizens a choice in the administration and enforcement of the UCC, where the code itself serves as the standard, not a single person or entity.

House Bill 349 would afford much needed relief to businesses and homeowners by providing for much needed options in the selection of a third-party agency to review their construction documents and perform inspection services.

Sincerely,

Stephen M. Swarney, J.D.  
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