

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 411 Session of  
2001

INTRODUCED BY ADOLPH, BARRAR, CIVERA, FLICK, MICOZZIE, RAYMOND,  
ALLEN, BARD, CALTAGIRONE, L. I. COHEN, DAILEY, EGOLF,  
FAIRCHILD, FRANKEL, FREEMAN, GABIG, HENNESSEY, HERMAN,  
HERSHEY, HORSEY, KIRKLAND, LAUGHLIN, LEH, LYNCH, MARSICO,  
ORIE, PETRONE, ROHRER, RUBLEY, SCHRODER, SEMMEL, SHANER,  
SOLOBAY, STEELMAN, STEIL, E. Z. TAYLOR, TIGUE, WATSON,  
C. WILLIAMS, WILT, WOJNAROSKI, YOUNGBLOOD AND ZUG,  
JANUARY 31, 2001

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JANUARY 31, 2001

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," further providing for purpose of act;  
21 defining "home-based business"; and further providing for  
22 ordinance provisions.

23 The General Assembly of the Commonwealth of Pennsylvania

24 hereby enacts as follows:

25 Section 1. Section 105 of the act of July 31, 1968 (P.L.805,

1 No.247), known as the Pennsylvania Municipalities Planning Code,  
2 amended June 22, 2000 (P.L.495, No.68), is amended to read:

3 Section 105. Purpose of Act.--It is the intent, purpose and  
4 scope of this act to protect and promote safety, health and  
5 morals; to accomplish coordinated development; to provide for  
6 the general welfare by guiding and protecting amenity,  
7 convenience, future governmental, economic, practical, and  
8 social and cultural facilities, development and growth, as well  
9 as the improvement of governmental processes and functions; to  
10 guide uses of land and structures, type and location of streets,  
11 public grounds and other facilities; to promote the conservation  
12 of energy through the use of planning practices and to promote  
13 the effective utilization of renewable energy sources; to  
14 promote the preservation of this Commonwealth's natural and  
15 historic resources and prime agricultural land; to encourage  
16 municipalities to adopt municipal or joint municipal  
17 comprehensive plans generally consistent with the county  
18 comprehensive plan; to promote small business development and  
19 foster a business-friendly environment in this Commonwealth; to  
20 ensure that municipalities adopt zoning ordinances which are  
21 generally consistent with the municipality's comprehensive plan;  
22 to encourage the preservation of prime agricultural land and  
23 natural and historic resources through easements, transfer of  
24 development rights and rezoning; to ensure that municipalities  
25 enact zoning ordinances that facilitate the present and future  
26 economic viability of existing agricultural operations in this  
27 Commonwealth and do not prevent or impede the owner or  
28 operator's need to change or expand their operations in the  
29 future in order to remain viable; to encourage the  
30 revitalization of established urban centers; and to permit

1 municipalities to minimize such problems as may presently exist  
2 or which may be foreseen and wherever the provisions of this act  
3 promote, encourage, require or authorize governing bodies to  
4 protect, preserve or conserve open land, consisting of natural  
5 resources, forests and woodlands, any actions taken to protect,  
6 preserve or conserve such land shall not be for the purposes of  
7 precluding access for forestry.

8 Section 2. Section 107(a) of the act is amended by adding a  
9 definition to read:

10 Section 107. Definitions.--(a) The following words and  
11 phrases when used in this act shall have the meanings given to  
12 them in this subsection unless the context clearly indicates  
13 otherwise:

14 \* \* \*

15 "Home-based business," any activity operated for pecuniary  
16 gain in, or directed from, a residential dwelling or unit by one  
17 or more family members residing within that dwelling or unit in  
18 which:

19 (1) The business activity is compatible with the  
20 residential use of the property and surrounding residential  
21 uses.

22 (2) The business employs no employees other than family  
23 members residing in the dwelling or unit.

24 (3) The number of invitees or guests who visit the  
25 residential dwelling or unit is not in excess of what is  
26 customary for residential use in the neighborhood. If a  
27 zoning ordinance contains a provision in effect as of January  
28 1, 1999, concerning the number of invitees or guests who  
29 visit a residential dwelling or unit at which a home-based  
30 business is located, that provision shall remain in effect

1 after the effective date of this definition until such time  
2 as it is repealed by the municipal governing body. Clients  
3 and recipients of the services provided by the home-based  
4 business shall be included in the calculation of the number  
5 of invitees or guests who visit a residential dwelling or  
6 unit at which a home-based business is located, but persons  
7 who provide services to the home-based business, including,  
8 but not limited to, persons who pick up and deliver items to  
9 the home-based business, shall not be included in the  
10 calculation.

11 (4) There is no outside appearance of a business use,  
12 including, but not limited to, parking, signs, lights or the  
13 volume of deliveries or truck and other vehicular traffic is  
14 not in excess of what is normally associated with residential  
15 use in the neighborhood.

16 (5) The business activity uses no equipment or process  
17 that creates noise, vibration, glare, fumes, odors or  
18 electrical or electronic interference, including interference  
19 with radio or television reception, that is detectable by any  
20 neighbors.

21 (6) The business activity does not generate any solid  
22 waste or sewage discharge, in volume or type, which is not  
23 normally associated with residential use in the neighborhood.

24 (7) The business does not involve any illegal activity.

25 Section 3. Section 603 of the act is amended by adding a  
26 subsection to read:

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

28 (1) Zoning ordinances may regulate home-based businesses and  
29 may include conditions on the operation of home-based  
30 businesses, provided that the following requirements are

1 satisfied:

2 (1) the provisions are not unreasonably restrictive;

3 (2) the provisions do not require a use variance for

4 home-based businesses;

5 (3) the provisions permit home-based businesses in all

6 residential zones of the municipality; and

7 (4) the provisions, if applied to a dwelling unit which

8 is part of a common interest ownership community, do not

9 supersede any deed restriction, covenant, agreement, master

10 deed, by-laws or other documents that prohibit a home-based

11 business.

12 Section 4. This act shall take effect in 60 days.