
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1330 Session of
2007

INTRODUCED BY KESSLER, FREEMAN, SAYLOR, BRENNAN, CARROLL,
CREIGHTON, CURRY, EVERETT, FLECK, GALLOWAY, GERBER, GRUCELA,
HARPER, HENNESSEY, KING, KORTZ, KULA, LEACH, LENTZ,
LONGIETTI, MACKERETH, MELIO, MOYER, O'NEILL, SEIP, K. SMITH
AND WATSON, MAY 24, 2007

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 24, 2007

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 appeal from ordinances, resolutions, maps, etc.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 5571 of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 5571. Appeals generally.

9 (a) General rule.--The time for filing an appeal, a petition
10 for allowance of appeal, a petition for permission to appeal or
11 a petition for review of a quasi-judicial order, in the Supreme
12 Court, the Superior Court or the Commonwealth Court shall be
13 governed by general rules. No other provision of this subchapter
14 shall be applicable to matters subject to this subsection.

15 (b) Other courts.--Except as otherwise provided in
16 subsections (a) and (c) and in section 5571.1 (relating to
17 appeals from ordinances, resolutions, maps, etc.), an appeal

1 from a tribunal or other government unit to a court or from a
2 court to an appellate court must be commenced within 30 days
3 after the entry of the order from which the appeal is taken, in
4 the case of an interlocutory or final order.

5 (c) Exceptions.--

6 (1) Election cases.--The time for appeal from an order
7 in any matter arising under the act of June 3, 1937
8 (P.L.1333, No.320), known as the "Pennsylvania Election
9 Code," or any other statute relating to registration or
10 elections shall, if such statutes provide for a lesser time
11 for appeal, be governed by the appropriate provision of such
12 statutes.

13 (2) Financing cases.--The time for appeal from an order
14 in any matter arising under the act of July 12, 1972
15 (P.L.781, No.185), known as the "Local Government Unit Debt
16 Act," or any other statute relating to the incurring of debt
17 by a government unit, shall if such statutes provide for a
18 lesser time for appeal, be governed by the appropriate
19 provision of such statutes.

20 (3) Probate matters.--The time for appeal from an order
21 of a register of wills under Title 20 (relating to decedents,
22 estates and fiduciaries) shall, if such statute provides a
23 greater time for appeal, be governed by the appropriate
24 provision of such statute.

25 (4) Execution matters.--The time for appeal from an
26 order of any system or related personnel entered in
27 connection with enforcement of attachments, judgments or
28 similar process or orders shall be governed by general rule.

29 [(5) Ordinances, resolutions, maps, etc.--

30 Notwithstanding section 909.1(a)(2) of the act of July 31,

1 1968 (P.L.805, No.247), known as the Pennsylvania
2 Municipalities Planning Code, questions relating to an
3 alleged defect in the process of enactment or adoption of any
4 ordinance, resolution, map or similar action of a political
5 subdivision, including appeals and challenges to the validity
6 of land use ordinances adopted pursuant to the Pennsylvania
7 Municipalities Planning Code, shall be raised by appeal or
8 challenge commenced within 30 days after the intended
9 effective date of the ordinance, resolution, map or similar
10 action. As used in this paragraph, the term "intended
11 effective date" means the effective date specified in the
12 ordinance, resolution, map or similar action or, if no
13 effective date is specified, the date 60 days after the date
14 the ordinance, resolution, map or similar action was finally
15 adopted but for the alleged defect in the process of
16 enactment or adoption.]

17 (6) Implied determinations.--When pursuant to law a
18 determination is deemed to have been made by reason of the
19 expiration of a specified period of time after submission of
20 a matter to a tribunal or other government unit or after
21 another prior event, any person affected may treat the
22 expiration of such period as equivalent to the entry of an
23 order for purposes of appeal and any person affected shall so
24 treat the expiration of the period where the person has
25 actual knowledge (other than knowledge of the mere lapse of
26 time) that an implied determination has occurred.

27 (d) Interlocutory appeals.--A petition for permission to
28 appeal from an interlocutory order must be filed within 30 days
29 after its entry.

30 (e) Action following grant of permission to appeal.--The

1 period limited by this section is tolled by the filing of a
2 petition for permission to appeal. If the petition is granted
3 further proceedings in the matter, including any time
4 limitations, shall be governed by general rules or rules of
5 court, and not by the provisions of subsections (b) through (d).

6 (f) Cross appeals.--An appellee may be permitted by general
7 rules or rules of court to take an appeal within the time
8 limited by rule from an order from which another party has taken
9 a timely appeal, notwithstanding the fact that the time
10 otherwise limited by this section has expired.

11 Section 2. Title 42 is amended by adding a section to read:

12 § 5571.1. Appeals from ordinances, resolutions, maps, etc.

13 (a) General rule.--

14 (1) Questions relating to an alleged defect in the
15 process of enactment or adoption of an ordinance, resolution,
16 map or similar action of a political subdivision may, at any
17 time, be raised by appeal.

18 (2) An appeal pursuant to this section shall be to the
19 court of common pleas.

20 (b) Presumption, burdens, etc.--Notwithstanding any other
21 provision of law, an appeal pursuant to this section shall be
22 subject to and in accordance with the following:

23 (1) An ordinance, resolution, map or similar action of a
24 political subdivision shall be presumed to be valid and to
25 have been enacted or adopted in strict compliance with
26 statutory procedural requirements.

27 (2) Notwithstanding any other provision of law and
28 except as provided in paragraph (3), a defect in the process
29 of enactment or adoption of an ordinance, resolution, map or
30 similar action of a political subdivision shall not

1 invalidate it or render it void.

2 (3) To invalidate or render void an ordinance,
3 resolution, map or similar action of a political subdivision,
4 pursuant to an appeal, the party alleging the defect in the
5 process of enactment or adoption shall have the burden of
6 proving the following:

7 (i) that there was a failure to strictly comply with
8 statutory procedural requirements; and

9 (ii) that as a result of this failure the public did
10 not have sufficient notification of impending changes in
11 the law so that the public generally could comment on
12 those changes and intervene if necessary.

13 (4) In an appeal taken more than two years after the
14 governing body of the political subdivision has voted to
15 finally adopt or enact an ordinance, resolution, map or
16 similar action, the ordinance, resolution, map or similar
17 action shall not be invalidated or rendered void unless the
18 proof required in paragraph (3) is established by clear and
19 convincing evidence.

20 (5) Proof of public acquiescence in and reliance on the
21 ordinance, resolution, map or similar action of a political
22 subdivision shall create an irrebuttable presumption that the
23 public did have sufficient notification of impending changes
24 in the law so that the public generally could comment on
25 those changes and intervene if necessary.

26 (6) In an appeal taken not more than 60 days after the
27 governing body of the political subdivision has voted to
28 finally adopt or enact an ordinance, resolution, map or
29 similar action, the prospective enforcement of the ordinance,
30 resolution, map or similar action may be enjoined if the

1 element of proof in paragraph (3)(i) is established.

2 Section 3. This act shall take effect immediately.