

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

**HOUSE BILL****No. 1787** Session of  
2007

---

INTRODUCED BY McILVAINE SMITH, QUINN, FREEMAN, STEIL, BRENNAN, CARROLL, COSTA, CURRY, EVERETT, FRANKEL, GIBBONS, GOODMAN, GRUCELA, HARPER, HORNAMAN, JAMES, JOSEPHS, KESSLER, KING, KORTZ, KOTIK, KULA, LEACH, LENTZ, MAHONEY, McGEEHAN, MELIO, MUNDY, M. O'BRIEN, O'NEILL, PASHINSKI, PAYTON, PETRI, ROEBUCK, RUBLEY, SCHRODER, SHIMKUS, K. SMITH, TANGRETTI, R. TAYLOR, THOMAS, VEREB, VITALI, WAGNER, WALKO, WATSON, GALLOWAY, MENSCH, SIPTROTH, MOYER AND CALTAGIRONE, AUGUST 1, 2007

---

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, DECEMBER 3, 2007

---

## 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 municipal curative  
21 amendments; and providing for procedure for municipal  
22 curative amendment subsequent to appellate court decision.

23 The General Assembly of the Commonwealth of Pennsylvania  
24 hereby enacts as follows:

1 Section 1. Section 609.2 of the act of July 31, 1968  
2 (P.L.805, No.247), known as the Pennsylvania Municipalities  
3 Planning Code, reenacted and amended December 21, 1988  
4 (P.L.1329, No.170), is amended to read:

5 Section 609.2. Procedure for Municipal Curative  
6 Amendments.--If a municipality determines that its zoning  
7 ordinance or any portion thereof is substantially invalid, it  
8 shall take the following actions:

9 (1) A municipality shall declare by formal action, its  
10 zoning ordinance or portions thereof substantively invalid  
11 and propose to prepare a curative amendment to overcome such  
12 invalidity. Within 30 days following such declaration and  
13 proposal the governing body of the municipality shall:

14 (i) By resolution make specific findings setting  
15 forth the declared invalidity of the zoning ordinance  
16 which may include:

17 (A) references to specific uses which are either  
18 not permitted or not permitted in sufficient  
19 quantity;

20 (B) reference to a class of use or uses which  
21 require revision; or

22 (C) reference to the entire ordinance which  
23 requires revisions.

24 (ii) Begin to prepare and consider a curative  
25 amendment to the zoning ordinance to correct the declared  
26 invalidity.

27 (2) Within 180 days from the date of the declaration and  
28 proposal, the municipality shall enact a curative amendment  
29 to validate, or reaffirm the validity of, its zoning  
30 ordinance pursuant to the provisions required by section 609

1 in order to cure the declared invalidity of the zoning  
2 ordinance.

3 (3) Upon the initiation of the procedures, as set forth  
4 in clause (1), the governing body shall not be required to  
5 entertain or consider any landowner's curative amendment  
6 filed under section 609.1 nor shall the zoning hearing board  
7 be required to give a report requested under section 909.1 or  
8 916.1 subsequent to the declaration and proposal based upon  
9 the grounds identical to or substantially similar to those  
10 specified in the resolution required by clause (1)(a). Upon  
11 completion of the procedures as set forth in clauses (1) and  
12 (2), no rights to a cure pursuant to the provisions of  
13 sections 609.1 and 916.1 shall, from the date of the  
14 declaration and proposal, accrue to any landowner on the  
15 basis of the substantive invalidity of the unamended zoning  
16 ordinance for which there has been a curative amendment  
17 pursuant to this section.

18 (4) A municipality having utilized the procedures as set  
19 forth in clauses (1) and (2) may not again utilize said  
20 procedure for a [36-month] 24-month period following the date  
21 of the enactment of a curative amendment, or reaffirmation of  
22 the validity of its zoning ordinance, pursuant to clause (2);  
23 provided, however, if after the date of declaration and  
24 proposal there is a substantially new duty or obligation  
25 imposed upon the municipality by virtue of a change in  
26 statute or by virtue of a Pennsylvania Appellate Court  
27 decision, the municipality may utilize the provisions of this  
28 section to prepare a curative amendment to its ordinance to  
29 fulfill said duty or obligation.

30 Section 2. The act is amended by adding a section to read:

1 Section 609.3. Procedure for Municipal Curative Amendment  
2 Subsequent to Appellate Court Decision.--If a Pennsylvania  
3 appellate court determines that a municipal zoning ordinance or  
4 any portion thereof is substantially invalid, the municipality  
5 may take the following actions:

6 (1) A municipality shall declare by formal action its  
7 zoning ordinance or portions thereof may be substantially  
8 invalid and propose to prepare a curative amendment to  
9 overcome the invalidity identified in the appellate court  
10 decision. Within 30 days of the date that the appellate court  
11 decision is filed, the governing body of the municipality  
12 shall:

13 (i) By resolution make specific findings setting  
14 forth the declared invalidity of the ordinance.

15 (ii) Begin to prepare and consider a curative  
16 amendment to the zoning ordinance to correct the declared  
17 invalidity.

18 (2) Within 270 days from the date that the decision of  
19 the appellate court is filed, the municipality shall enact a  
20 curative amendment to validate or reaffirm the validity of  
21 its zoning ordinance pursuant to the requirements of section  
22 609 to cure the declared invalidity of the zoning ordinance  
23 by the appellate court.

24 (3) When a municipality elects to follow the procedure  
25 set forth in clause (1):

26 (i) The governing body shall not be required to  
27 entertain or consider any landowner's curative amendment,  
28 based on grounds identical to or substantially similar to  
29 those specified in the resolution required by clause  
30 (1)(i), filed under section 609.1, from the date that the

1 decision of the appellate court is filed.

2 (ii) Similarly, the zoning hearing board shall not  
3 be required to make a determination under section 909.1  
4 or 916.1 based on grounds identical to or substantially  
5 similar to those specified in the resolution required by  
6 clause (1)(i), from the date that the decision of the  
7 appellate court is filed.

8 (iii) Upon completion of the procedures set forth in  
9 clauses (1) and (2), no right to a cure pursuant to the  
10 provisions of sections 609.1 and 916.1 shall, from the  
11 date that the decision of the appellate court is filed,  
12 accrue to any landowner on the basis of the substantive  
13 invalidity of the unamended zoning ordinance for which  
14 there has been a curative amendment pursuant to this  
15 section.

16 (4) A municipality having utilized the procedure as set  
17 forth in clause (1) may not again utilize the procedure.  
18 However, if there is a substantially new duty or obligation  
19 imposed upon the municipality by virtue of a Pennsylvania  
20 appellate court decision, the municipality may utilize the  
21 provisions of this section to prepare a curative amendment to  
22 its ordinance to fulfill the duty or obligation.

23 Section 3. This act shall take effect ~~in 60 days~~ JULY 1, ←  
24 2008, OR IMMEDIATELY, WHICHEVER IS LATER.