

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2193 Session of  
2008

INTRODUCED BY CUTLER, BOYD, CLYMER, CREIGHTON, HERSHEY,  
HICKERNELL, MENSCH, MOYER, PICKETT, REED, ROSS, SONNEY, STERN  
AND TURZAI, JANUARY 23, 2008

REFERRED TO COMMITTEE ON COMMERCE, JANUARY 23, 2008

AN ACT

1 Providing for Weatherization Assistance Program integrity;  
2 prescribing duties of the Department of Community and  
3 Economic Development; establishing the Office of Program  
4 Compliance for Weatherization Assistance; and providing for  
5 the powers and duties of the Auditor General.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the  
10 Weatherization Assistance Program Integrity Act.

11 Section 2. Scope of act.

12 This act shall apply to the Weatherization Assistance Program  
13 and those entities that administer the program, including the  
14 Department of Community and Economic Development and the local  
15 agencies which receive grants from the Department of Community  
16 and Economic Development under the program. This act shall also  
17 apply to an individual who seeks or is provided assistance under  
18 the Weatherization Assistance Program.

19 Section 3. Definitions.

1       The following words and phrases when used in this act shall  
2 have the meanings given to them in this section unless the  
3 context clearly indicates otherwise:

4       "Department." The Department of Community and Economic  
5 Development of the Commonwealth.

6       "Grant." Funds provided to a local agency by the Department  
7 of Community and Economic Development under the Weatherization  
8 Assistance Program.

9       "Local agency." An entity which receives a grant from the  
10 Department of Community and Economic Development under the  
11 Weatherization Assistance Program. The term includes a unit of  
12 county or local government. The term does not include an  
13 individual who seeks or is provided assistance under the  
14 Weatherization Assistance Program.

15       "Office." The Office of Program Compliance for  
16 Weatherization Assistance established under this act.

17       "Program." The Weatherization Assistance Program.

18       "Secretary." The Secretary of Community and Economic  
19 Development of the Commonwealth.

20       "Significant discrepancy." Information regarding assets,  
21 income, resources or status of an individual who seeks or is  
22 provided assistance under the Weatherization Assistance Program,  
23 derived from a database in section 4 which gives the Department  
24 of Community and Economic Development grounds to suspect that  
25 either:

26           (1) the individual is ineligible to participate in the  
27 Weatherization Assistance Program under Federal or State law;  
28 or

29           (2) the assets, income or resources of the individual  
30 are at least, in terms of dollar amount, 25% greater than the

1 dollar amount reflected in the information the Department of  
2 Community and Economic Development possesses about the  
3 individual with respect to the individual's assets, income or  
4 resources.

5 "Status." Being in the United States illegally, being dead,  
6 being an inmate in a prison or jail or being a fleeing felon.

7 Section 4. Assistance.

8 (a) Duties.--Within 180 days of the effective date of this  
9 section, the department shall do all of the following:

10 (1) Issue photographic identification cards to  
11 individuals who apply for and receive assistance under the  
12 program.

13 (2) Establish a computerized income eligibility  
14 verification system in order to eliminate duplication of  
15 assistance under the program and to deter fraud.

16 (b) Information.--The department shall require, as a  
17 condition of receiving assistance under the program, that an  
18 individual applying for or receiving assistance under the  
19 program must supply the individual's Social Security number and  
20 the Social Security numbers of the members of the individual's  
21 household. The department shall match the Social Security  
22 numbers with the following:

23 (1) Unearned income information maintained by the  
24 Internal Revenue Service.

25 (2) Employer quarterly reports of income and  
26 unemployment insurance benefit payment information maintained  
27 by the Commonwealth.

28 (3) Earned income information maintained by the Social  
29 Security Administration.

30 (4) Immigration status information maintained by the

1 United States Bureau of Citizenship and Immigration Services.

2 (5) Death register information maintained by the Social  
3 Security Administration.

4 (6) Prisoner information maintained by the Social  
5 Security Administration.

6 (7) Public housing and Section 8 payment information  
7 maintained by the Department of Housing and Urban  
8 Development.

9 (8) National fleeing felon information maintained by the  
10 Federal Bureau of Investigation.

11 (9) Wage reporting and similar information maintained by  
12 contiguous states.

13 (10) Beneficiary Data Exchange (BENDEX) Title H database  
14 maintained by the Social Security Administration.

15 (11) Beneficiary Earnings Exchange Report (BEER)  
16 database maintained by the Social Security Administration.

17 (12) State New Hire database maintained by the  
18 Commonwealth.

19 (13) National New Hire database maintained by the  
20 Federal Government.

21 (14) State Data Exchange (SDX) database maintained by  
22 the Social Security Administration.

23 (15) Veterans Benefits and Veterans Medical (PARIS)  
24 maintained by the Department of Veterans Affairs with  
25 coordination through the Department of Health and Human  
26 Services.

27 (16) Commonwealth day care subsidy payments maintained  
28 by the Commonwealth.

29 (17) The database of persons who currently hold a  
30 license, permit or certificate from a Commonwealth agency,

1 the cost of which exceeds \$1,000.

2 (18) A database which is substantially similar to or a  
3 successor of a database set forth in paragraphs (1) through  
4 (17).

5 (c) System.--Notwithstanding any other provision of law, the  
6 income eligibility verification system shall be utilized for an  
7 individual at the time of application for assistance under the  
8 program and every time the individual or a member of the  
9 individual's household applies for assistance.

10 (d) Notification.--The department shall notify an individual  
11 applying for or receiving assistance of the requirement of  
12 providing a Social Security number for the individual and for  
13 each member of the individual's household at the time of  
14 application for assistance and as otherwise required under the  
15 provisions of this section.

16 (e) Review.--If a significant discrepancy results from a  
17 match between the Social Security number and one or more of the  
18 databases set forth in subsection (b), the department shall  
19 review the case and shall investigate the circumstances to  
20 confirm eligibility of the individual applying for or receiving  
21 assistance under the program utilizing the procedure set forth  
22 in subsection (f).

23 (f) Investigation.--The department shall institute the  
24 following procedure to investigate the circumstances of a  
25 significant discrepancy:

26 (1) If the information discovered under subsection (b)  
27 does not result in ineligibility or modification of the  
28 amount or type of assistance under the program, the  
29 department shall take no further action.

30 (2) If paragraph (1) does not apply and there is a

1 significant discrepancy, the individual applying for or  
2 receiving assistance under the program shall be given an  
3 opportunity to explain the significant discrepancy. The  
4 department shall provide written notice to the individual  
5 describing in sufficient detail the circumstances of the  
6 significant discrepancy, the opportunity to resolve the  
7 significant discrepancy, the manner in which it may be  
8 resolved and the consequences of failing to take action. The  
9 explanation of the individual may be given over the  
10 telephone, as set forth in subsection (i), in person or in  
11 writing. After receiving the explanation, the department may  
12 request additional documentation if it determines that there  
13 is a substantial risk of fraud.

14 (3) If the individual does not respond to the notice,  
15 the department may deny assistance under the program for  
16 failure to cooperate, in which case the department shall  
17 provide notice of intent to discontinue eligibility.  
18 Eligibility for assistance under the program shall not be  
19 reestablished until the significant discrepancy has been  
20 resolved.

21 (4) If the individual disagrees with the findings of the  
22 match between the Social Security number and one or more of  
23 the databases set forth in subsection (b), the department  
24 shall reinvestigate the matter. If the department finds that  
25 there has been an error, the department shall take immediate  
26 action to correct it, and no further action shall be taken.  
27 If, after investigation, the department determines that there  
28 is no error, the department shall determine the effect of the  
29 match and take appropriate action. Written notice of the  
30 department's action shall be given to the individual.

1           (5) If the individual agrees with the findings of the  
2 match between the Social Security number of the individual or  
3 a Social Security number of a member of the individual's  
4 household and the database, the department shall determine  
5 the effect and take appropriate action. Written notice of the  
6 department's action shall be given to the individual.

7           (6) If the findings of a match between the Social  
8 Security number and the database result in no change in  
9 eligibility, the department shall take no further action.

10          (g) Discrepancy.--If a discrepancy which is not a  
11 significant discrepancy results between a Social Security number  
12 and a database set forth in subsection (b), the department may  
13 review the case and may investigate the circumstances to confirm  
14 eligibility of the individual applying for or receiving  
15 assistance under the program utilizing the procedure set forth  
16 in subsection (f).

17          (h) Discontinuation or modification.--

18           (1) In no case shall the department discontinue or  
19 modify the amount or type of assistance under the program  
20 solely as a result of a match between a Social Security  
21 number and one or more of the databases set forth in  
22 subsection (b).

23           (2) Nothing in this subsection shall be construed to  
24 limit the right of appeal provided by law.

25          (i) Telephone number.--The department shall establish a  
26 single Statewide toll-free telephone number and call center to  
27 be used by individuals applying for or receiving assistance  
28 under the program in order to resolve discrepancies. The call  
29 center shall have sufficient capacity and staff to promptly  
30 handle incoming telephone calls, and the department shall assign

1 sufficient staff to enable the department to make prompt  
2 determinations regarding eligibility under this section.

3 (j) Report.--No later than one year after the effective date  
4 of this section and every year thereafter, the department shall  
5 provide a written report to the Governor, the General Assembly  
6 and the State Inspector General detailing the results achieved  
7 under this section and the amount of case closures and savings  
8 that resulted.

9 (k) Application.--The following shall apply to an individual  
10 applying for or receiving assistance under the program:

11 (1) Subject to paragraph (2), for a county with only one  
12 local agency, an individual who is a resident of that county  
13 must apply for and receive assistance under the program from  
14 that local agency.

15 (2) Notwithstanding paragraph (1), an individual who  
16 lives in a county with only one local agency may apply for  
17 and receive assistance under the program from a local agency  
18 which is located in a county contiguous to the individual's  
19 county of residence if the local agency in the contiguous  
20 county is closer to the residence of the individual, by the  
21 most direct travel route, than the local agency in the county  
22 in which the individual resides.

23 (3) For a county with more than one local agency, an  
24 individual who is a resident of the county must apply for and  
25 receive assistance under the program from the local agency  
26 which is closest, by the most direct travel route, to the  
27 residence of the individual.

28 Section 5. Establishment of office.

29 The Office of Program Compliance for Weatherization  
30 Assistance is hereby established within the department. The



1 office shall be administered by a director who shall be  
2 appointed by the Governor with the advice and consent of a  
3 majority of the members of the Senate. The director may hire  
4 professional and other staff as necessary to carry out the  
5 powers and duties set forth in section 6.

6 Section 6. Powers and duties.

7 The office shall have the following powers and duties:

8 (1) To monitor the department's administration of the  
9 program and the performance of local agencies, including the  
10 adherence of local agencies with the provisions of this act.

11 In fulfilling its duties under this paragraph, the office  
12 shall develop and enforce written standard operating  
13 procedures for local agencies, including the following:

14 (i) Procedures for ensuring crisis situations are  
15 remedied within 48 hours or within 18 hours if the crisis  
16 is life threatening. The office shall develop and enforce  
17 procedures so that local agencies employ temporary  
18 measures to ensure health and safety if it is impossible  
19 to remedy the crisis situation within 48 or 18 hours.

20 (ii) Procedures for handling applications for  
21 assistance under the program which ensure the most  
22 vulnerable applicants, including the disabled, the  
23 elderly and families with children, are served first.

24 (iii) Procedures for the handling of waiting lists.

25 (iv) Creation of a single application form for use  
26 by individuals applying for assistance under the program.

27 (v) The requirement that persons providing materials  
28 and services or conducting repairs under the program  
29 submit detailed invoices. The procedures must require  
30 that a person submit a detailed invoice which breaks down

1 the cost of labor, the cost of materials and other costs.

2 (vi) The requirement that before a person is paid by  
3 a local agency for providing materials and services or  
4 conducting repairs under the program that a detailed  
5 invoice is submitted in accordance with subparagraph (v)  
6 and that a final inspection by the local agency is  
7 conducted to ensure safety and quality.

8 (vii) Procedures for tracking complaints of  
9 individuals who apply for and receive assistance under  
10 the program and a procedure for remedying complaints.

11 (viii) Procedures for redetermining eligibility of  
12 individuals applying for or receiving assistance under  
13 the program every 12 months.

14 (ix) Procedures to ensure a standard bidding process  
15 for the provision of materials and services or conducting  
16 repairs under the program.

17 (x) Procedures to calculate the energy and monetary  
18 savings achieved on the part of individuals who receive  
19 assistance under the program.

20 (xi) Procedures to seek reimbursement from landlords  
21 when furnaces are replaced under the program.

22 (xii) Procedures which set forth the documentation  
23 necessary to support a local agency's request for a grant  
24 under the program.

25 (xiii) Procedures to require quarterly reports on  
26 the part of local agencies regarding expenditures under  
27 the program and individual cases of assistance provided  
28 under the program. In fulfilling its duties under this  
29 subparagraph, the office may require other information  
30 deemed relevant by the director from the local agency.

1 (xiv) Procedures for ensuring that where more than  
2 one local agency is located within the same geographic  
3 area that the local agencies coordinate their efforts and  
4 do not provide materials or services or conduct repairs  
5 under the program with respect to the same dwellings.

6 (xv) Procedures which, in the discretion of the  
7 director, are relevant to the efficient and cost-  
8 effective administration of the program and proper  
9 oversight of local agencies.

10 (2) To reconcile grant expenditures of local agencies to  
11 grant requests made by local agencies and to reconcile  
12 expenditures of individual cases of assistance provided under  
13 the program.

14 (3) To conduct audits and reviews of the program and to  
15 do so in a manner which will allow an independent audit of  
16 the program. In fulfilling its duties under this paragraph,  
17 the office shall keep records electronically.

18 (4) To develop and implement a computerized system which  
19 permits integration between the department, the office and  
20 the local agencies. In fulfilling its duties under this  
21 paragraph, the office shall ensure that an integrated  
22 database is created so that information from each local  
23 agency regarding expenditures, crisis situations, waiting  
24 lists, and other information deemed by the director of the  
25 office to be relevant to the efficient and cost-effective  
26 administration of the program, be gathered, tracked,  
27 summarized and compiled in a report.

28 (5) To conduct inspections of local agencies. The office  
29 shall conduct at least one inspection of each local agency  
30 every year. In addition, the office shall conduct unannounced

1 inspections on an ongoing and random basis. The office shall  
2 conduct unannounced inspections of local agencies when the  
3 office suspects that the program is not being administered  
4 properly and there is a potential for fraud.

5 (6) To create and implement written policies and  
6 procedures for use by staff of local agencies regarding the  
7 requirements of this act. In fulfilling its duties under this  
8 paragraph, the office shall conduct training sessions for  
9 managers, senior staff and other staff of a local agency  
10 regarding the provisions of this act.

11 (7) To create and implement written policies and  
12 procedures for employees within the office who are  
13 responsible for monitoring the activities of the local  
14 agencies under this act, including procedures:

15 (i) For reviewing applications filed by individuals  
16 seeking assistance under the program for completeness and  
17 accuracy.

18 (ii) For reviewing grant requests and other  
19 documents filed with the department on the part of local  
20 agencies.

21 (iii) For reviewing invoices from persons providing  
22 materials and services or conducting repairs under the  
23 program for completeness and accuracy.

24 (iv) For reconciling grant requests from local  
25 agencies with expenditures of local agencies under the  
26 program.

27 (v) For conducting announced and unannounced  
28 inspections of local agencies.

29 (vi) For conducting inspections of dwellings of  
30 individuals who apply for and receive assistance under

1 the program.

2 (vii) To develop a sampling methodology with respect  
3 to reviewing the activity of local agencies.

4 (viii) To evaluate the handling of waiting lists by  
5 local agencies.

6 (ix) To assess whether local agencies are ensuring  
7 that the most vulnerable, including the disabled, elderly  
8 and families with children, receive assistance under the  
9 program first.

10 (x) Which, in the discretion of the director, are  
11 deemed relevant to the efficient and cost-effective  
12 administration of the program and proper oversight of the  
13 local agencies.

14 (8) To require local agencies to submit, on a quarterly  
15 and yearly basis, a report of expenditures, complaints,  
16 length of time to complete weatherization, status of waiting  
17 lists and other information deemed relevant by the director  
18 of the office to the efficient and cost-effective  
19 administration of the program and proper oversight of local  
20 agencies.

21 (9) To recommend and require changes regarding the  
22 performance of a local agency when it finds a local agency is  
23 not operating properly or in conformity with this act or with  
24 Federal regulations.

25 (10) To recommend to the secretary changes regarding the  
26 administration of the program by the department.

27 (11) To refer cases to the Attorney General and the  
28 State Inspector General when the director of the office  
29 believes fraud exists.

30 (12) To report to the Governor, the General Assembly,

1 the State Inspector General and the secretary, every two  
2 years regarding its duties, including instances of fraud and  
3 potential for fraud, and to recommend changes to the program.

4 Section 7. Powers and duties of Auditor General.

5 (a) Conduct of performance audit.--The Auditor General shall  
6 conduct a thorough performance audit of the manner in which the  
7 department and the office are implementing this act and the  
8 program which shall be completed within one year after the  
9 effective date of this section. Thereafter, the Auditor General  
10 shall conduct such performance audits at intervals of not less  
11 than five years from the date of completing the immediately  
12 preceding performance audit required under this subsection. The  
13 department shall make all records, documents and other  
14 information available for the inspection of the Auditor General  
15 that reasonably relate to the conduct of the performance audit  
16 prescribed in this section.

17 (b) Content of audit.--The audit shall address in detail the  
18 adequacy of the performance of the department and the office  
19 with respect to each of the administrative and regulatory  
20 activities described in sections 4 and 6 and shall make detailed  
21 recommendations to the office, the department, the Governor and  
22 the General Assembly for remedial and regulatory changes in the  
23 program that will further the purposes of this act.

24 (c) Implementation of recommendations.--The office shall  
25 implement each of the recommendations in the performance audit  
26 unless the director and the secretary jointly make a written  
27 finding setting out in detail for each recommendation the  
28 specific reasons why the director and the secretary have jointly  
29 refused to implement that recommendation of the Auditor General.

30 (d) Transmission of audit reports and written findings of

1 secretary and director; public access.--A copy of each  
2 performance audit conducted pursuant to subsection (a) and each  
3 written finding made pursuant to subsection (c) shall be  
4 transmitted to the department, the office, the Governor, the  
5 State Inspector General, the Attorney General, the chairman and  
6 minority chairman of the Appropriations Committee of the Senate,  
7 the chairman and minority chairman of the Appropriations  
8 Committee of the House of Representatives, the chairman and  
9 minority chairman of the Public Health and Welfare Committee of  
10 the Senate and the chairman and minority chairman of the Health  
11 and Human Services Committee of the House of Representatives. A  
12 copy of the performance audit and the written findings rejecting  
13 any recommendations shall be made available for public  
14 inspection and copying, and the written findings of the  
15 secretary and the director shall be published as a notice in the  
16 Pennsylvania Bulletin.

17 (e) Transmission of information or fraudulent activities.--  
18 The Auditor General shall transmit any information uncovered  
19 during the conduct of the performance audit relating to fraud to  
20 the department, the office, the Attorney General and the State  
21 Inspector General.

22 (f) Performance audits by Legislative Budget and Finance  
23 Committee.--The Legislative Budget and Finance Committee shall  
24 conduct a thorough performance audit of the manner in which the  
25 department, the office and the Auditor General are implementing  
26 this act and the program which shall be completed within three  
27 years after the effective date of this section. Thereafter, the  
28 Legislative Budget and Finance Committee shall conduct such  
29 performance audits at intervals of not less than ten years from  
30 the date of completing the immediately preceding performance

1 audit required under this subsection. A copy of each performance  
2 audit conducted by the Legislative Budget and Finance Committee  
3 shall be transmitted to the public officials specified in  
4 subsection (d).

5 Section 8. Duties of local agencies.

6 A local agency shall have the following duties under this  
7 act:

8 (1) To comply with this act, including the written  
9 standard operating procedures set forth in section 6(1).

10 (2) To implement changes in its operations recommended  
11 by the office as set forth in section 6(9).

12 (3) To cooperate with the department and the office  
13 during inspections and at all other times.

14 (4) To conduct final inspections of dwellings which have  
15 been provided materials or services or have been repaired  
16 under the program before payment is made to persons providing  
17 materials and services or conducting repairs under the  
18 program.

19 Section 9. Training materials.

20 Within 180 days of the effective date of this section, the  
21 department or the office shall create and develop training  
22 materials and manuals regarding proper administration of the  
23 program and the requirements of this act to be used by local  
24 agencies and shall distribute the materials and manuals to the  
25 local agencies. The department or the office shall conduct  
26 training sessions for managers, senior staff and other staff of  
27 the local agencies responsible for the administration of the  
28 program.

29 Section 10. Report.

30 Every 60 days, the secretary shall submit a report to the



1 President pro tempore of the Senate, the majority chairperson  
2 and minority chairperson of the Public Health and Welfare  
3 Committee of the Senate, the Speaker of the House of  
4 Representatives and the majority chairperson and minority  
5 chairperson of the Health and Human Services Committee of the  
6 House of Representatives regarding the progress made with  
7 respect to the requirements of sections 4 and 9. The secretary  
8 shall submit the report for publication in the Pennsylvania  
9 Bulletin.

10 Section 11. Effective date.

11 This act shall take effect immediately.