

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1645 Session of
2015

INTRODUCED BY HARPER, MURT, JAMES, ROSS, BOYLE, BRIGGS, COHEN,
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TAYLOR, VITALI AND DIGIROLAMO, OCTOBER 19, 2015

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, OCTOBER 19, 2015

AN ACT

1 Amending the act of November 10, 1999 (P.L.491, No.45), entitled
2 "An act establishing a uniform construction code; imposing
3 powers and duties on municipalities and the Department of
4 Labor and Industry; providing for enforcement; imposing
5 penalties; and making repeals," in preliminary provisions,
6 further providing for definitions and for Uniform
7 Construction Code Review and Advisory Council; in Uniform
8 Construction Code, further providing for revised or successor
9 codes; and, in adoption and enforcement by municipalities,
10 further providing for administration and enforcement.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The definition of "board of appeals" in section
14 103 of the act of November 10, 1999 (P.L.491, No.45), known as
15 the Pennsylvania Construction Code Act, is amended and the
16 section is amended by adding a definition to read:

17 Section 103. Definitions.

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

21 * * *

1 "Board of appeals." The body created by a municipality or
2 more than one municipality to hear appeals from decisions of the
3 code administrator as provided for by [Chapter 1 of the 1999
4 Building Officials and Code Administrators International, Inc.,
5 National Building Code, Fourteenth Edition] the department by
6 regulation.

7 * * *

8 "Updated provisions." Any and all provisions of the latest
9 edition of the codes specified under 34 Pa. Code § 403.21
10 (relating to Uniform Construction Code) that are different from
11 the then current Uniform Construction Code, including any and
12 all additions, deletions, modifications and changes.

13 * * *

14 Section 2. Section 107 of the act, amended or added October
15 9, 2008 (P.L.1386, No.106) and April 25, 2011 (P.L.1, No.1), is
16 amended to read:

17 Section 107. Uniform Construction Code Review and Advisory
18 Council.

19 (a) Establishment.--The Uniform Construction Code Review and
20 Advisory Council is hereby established.

21 (b) Duties.--The council shall do the following:

22 (1) Gather information from municipal officers, building
23 code officials, construction code officials, licensed design
24 professionals, builders [and], property owners, emergency
25 personnel and representatives of the general public
26 concerning issues with the Uniform Construction Code raised
27 by council members or changes proposed by members of the
28 General Assembly.

29 (2) Evaluate the information compiled under paragraph
30 (1) and make recommendations to the following:

- (i) The Governor.
- (ii) The Secretary of Labor and Industry.
- (iii) The members of any legislative committee considering amendments to this act.
- (iv) The President pro tempore of the Senate.
- (v) The Speaker of the House of Representatives.
- (vi) The Code Development Councils of the International Code Council.

(3) With the exception of the provisions of Chapter 11 and Appendix E of the International Building Code of 2009, or its successor codes, or any other accessibility requirements contained in or referenced by the Uniform Construction Code relating to persons with physical disabilities, review the [latest triennial code revisions issued by the International Code Council, beginning with the 2012 codes] updated provisions, as provided under subsection (b.1).

(b.1) Code review process.--

(1) [Beginning with the 2012 ICC codes, the council shall review the latest triennial code revisions upon] Except as otherwise provided under paragraph (1.1), the department shall review all updated provisions within nine months of official publication of the codes.

(1.1) Within nine months of the effective date of this paragraph, notwithstanding the council's 2015 report under paragraph (3), for the 2015 codes only, the department shall review the updated provisions that were not previously reviewed by the council.

(1.2) The department shall submit its recommendations for the modification or rejection of the updated provisions to the council for review. Any council member may also submit

1 recommendations for the modification or rejection of the
2 updated provisions to the council for review.

3 (1.3) Modification shall be limited to the subject
4 matter of the provision being modified and shall be
5 consistent with the intent and purposes of this act. Any
6 modified provision shall meet or exceed the requirements of
7 the code provision in effect or provision being reviewed.

8 (2) During the council's review process, the council
9 shall hold at least three public hearings. One of the public
10 hearings shall be held in Harrisburg, one shall be held in
11 [the eastern region of this Commonwealth] Philadelphia and
12 one shall be held in [the western region of this
13 Commonwealth] Pittsburgh.

14 (3) The council shall submit a report to the secretary
15 within the [12-month] three-month period following [official
16 publication of the latest triennial code revisions under
17 paragraph (1) with provisions of the codes that are specified
18 for adoption. The provisions of the codes that are specified
19 for adoption shall be separately designated in the report.]
20 the date of submission to the council of the recommendations
21 under paragraph (1.2). The report shall contain the updated
22 provisions that the council recommends for rejection or
23 modification. The updated provisions that are recommended for
24 rejection or modification shall be separately designated in
25 the report. The report shall include a summary of the
26 council's examination of the criteria under paragraph (4) and
27 any materials relied upon in the examination.

28 (4) The council shall examine [triennial code revisions]
29 the updated provisions applying all of the following
30 criteria:

1 (i) The impact that the provision may have upon the
2 health, safety and welfare of the public.

3 (ii) The economic and financial impact of the
4 provision.

5 (iii) The technical feasibility of the provision.

6 (iv) The environmental impact of the provision.

7 (5) Only [triennial code revisions that are adopted by a
8 two-thirds vote of council membership] updated provisions
9 that are rejected or modified as provided under paragraph (6)
10 shall be included in the report required under paragraph (3).

11 (6) The council's decision to reject or modify an
12 updated provision shall be by consensus of the council
13 membership present at the council meeting where voting is
14 conducted, provided that a quorum is present. If consensus
15 cannot be reached, the provision shall be subject to the
16 following mediation process:

17 (i) Within 10 days of the council's determination,
18 the executive committee provided for under subsection
19 (c.1) shall meet in person or by telephone conference
20 call to consider the provision to be rejected or
21 modified, and come to a consensus decision.

22 (ii) If the executive committee is unable to reach a
23 consensus decision as provided under subparagraph (i),
24 the secretary shall decide whether the provision should
25 be rejected or modified.

26 (c) Composition.--The council shall consist of the following
27 members who are appointed by the Governor or as otherwise
28 specified:

29 (1) A general contractor [from] nominated by an
30 association representing the residential construction

1 industry who has recognized ability and experience in the
2 construction of [new] residential buildings. Residential
3 buildings shall include manufactured and modular housing.

4 (2) A general contractor [from] nominated by an
5 association representing the nonresidential construction
6 industry who has recognized ability and experience in the
7 construction of nonresidential buildings.

8 (3) A Uniform Construction Code-certified residential
9 building inspector who possesses all five residential
10 certifications [from] nominated by an association
11 representing building code officials who has experience
12 administering and enforcing residential codes.

13 (4) A Uniform Construction Code-certified building
14 inspector who possesses all nonresidential inspection
15 certifications, but need not possess a fire inspector
16 certification, or a certified plans examiner who also holds
17 an accessibility certification [from] nominated by an
18 association representing building code officials who has
19 experience administering and enforcing nonresidential codes.

20 (5) A Uniform Construction Code-certified fire inspector
21 [from] nominated by an association representing [building]
22 fire code officials.

23 (6) A Uniform Construction Code-certified building code
24 official [from] nominated by an association representing
25 building code officials with building code official
26 certification.

27 (7) A [residential contractor from an association
28 representing contractors engaged in remodeling residential
29 buildings] trade contractor nominated by an association
30 representing construction trade contractors who has

1 recognized ability and experience in [remodeling]
2 construction of residential [and] or nonresidential
3 buildings.

4 (8) A licensed architect [from] nominated by an
5 association representing architects who has recognized
6 ability and experience in the design and construction of
7 nonresidential buildings.

8 (9) A licensed architect [from] nominated by an
9 association representing architects who has recognized
10 ability and experience in the design and construction of
11 residential buildings.

12 (10) A licensed structural engineer [from] nominated by
13 an association representing professional engineers who has
14 recognized ability and experience in the design and
15 construction of buildings.

16 (11) A licensed mechanical engineer specializing in HVAC
17 systems [from] nominated by an association representing
18 professional engineers who has recognized ability and
19 experience in the design and construction of buildings.

20 (12) A licensed mechanical engineer specializing in
21 plumbing and fire protection [from] nominated by an
22 association representing professional engineers who has
23 recognized ability and experience in the design and
24 construction of buildings.

25 (13) A licensed electrical engineer [from] nominated by
26 an association representing professional engineers who has
27 recognized ability and experience in the design and
28 construction of buildings.

29 (14) An elected township official [of a township of the
30 second class] who has recognized ability and experience in

1 construction of buildings.

2 (15) An elected borough official who has recognized
3 ability and experience in construction of buildings.

4 (16) An elected official of a second class or third
5 class city who has recognized ability and experience in the
6 construction of buildings.

7 [(17) An individual from an association representing
8 manufactured housing who shall be knowledgeable, licensed or
9 certified to sell and install manufactured housing.]

10 (18) An official of a city of the first class who has
11 recognized ability and experience in the administration and
12 enforcement of this act.

13 [(19) An individual from an association representing
14 only modular housing manufacturers who is knowledgeable,
15 licensed or certified under the act of May 11, 1972 (P.L.286,
16 No.70), known as the Industrialized Housing Act, to
17 manufacture and sell modular homes in Pennsylvania.]

18 (20) An appointee of the State Fire Commissioner.

19 (21) An appointee of the executive director of the
20 Pennsylvania Emergency Management Agency.

21 (22) An appointee of the chairperson of the Public
22 Utility Commission with recognized ability and experience in
23 building energy efficiency.

24 (23) An appointee representing the interests of the
25 general public.

26 At least one of the inspectors appointed to the council shall be
27 a municipal employee, and at least one inspector shall be a
28 third-party private sector inspector. A municipal official may
29 designate a municipal employee from his or her jurisdiction to
30 represent the official on the council.

1 (c.1) Executive committee.--An executive committee shall
2 serve as mediators in the event that the council fails to reach
3 a consensus decision to reject or modify an updated provision.

4 The executive committee shall be comprised of the following:

5 (1) A council member selected by the majority
6 chairperson of the Labor and Industry Committee of the
7 Senate.

8 (2) A council member selected by the minority
9 chairperson of the Labor and Industry Committee of the
10 Senate.

11 (3) A council member selected by the majority
12 chairperson of the Labor and Industry Committee of the House
13 of Representatives.

14 (4) A council member selected by the minority
15 chairperson of the Labor and Industry Committee of the House
16 of Representatives.

17 (5) The representative of the department serving as
18 chairperson under subsection (g).

19 (d) Vacancies.--Vacancies on the council shall be filled in
20 the [same] manner [in which they were originally designated]
21 provided under subsection (c) within 30 business days of the
22 vacancy. If the Governor fails to act within 30 business days,
23 the council chairperson shall appoint an individual to fill the
24 vacancy.

25 (e) Removal.--A member may be removed for just cause by the
26 Governor.

27 (f) Terms.--A member of the council shall serve terms of two
28 years and until his successor is appointed beginning July 1,
29 2008, except the initial term of members appointed under
30 subsection (c) (1), (3), (4), (5), (8), (11), (13) and (14) shall

1 be for three years [and until their successor is appointed].

2 (g) Chairperson and vice chairperson.--A representative of
3 the department shall serve as a nonvoting chairperson of the
4 council. The members shall elect, by a majority vote, a
5 [chairperson and] vice chairperson of the council.

6 (h) Quorum.--[Ten] Eleven members shall constitute a quorum.

7 (i) Meetings.--Meetings shall be conducted as required under
8 65 Pa.C.S. Ch. 7 (relating to open meetings) as follows:

9 (1) The council shall meet at least once every six
10 months. Meeting dates shall be set by majority vote of the
11 council members or by the call of the chair along with at
12 least seven business days' notice to all members.

13 (2) All meetings of the council shall be publicly
14 advertised and shall be open to the public. Members of the
15 general public shall be given reasonable opportunity to
16 address the council prior to a vote by the council on a
17 motion.

18 (3) The council shall publish a schedule of its meetings
19 in the Pennsylvania Bulletin and in at least one newspaper of
20 general circulation. The notice shall be published at least
21 five business days in advance of each meeting. The notice
22 shall specify the date, time and place of the meeting and
23 shall state that the meetings of the council are open to the
24 general public.

25 (j) Administrative support.--The department shall provide a
26 facility for council meetings under this act, stenographic
27 services, secretarial services, legal representation and
28 required notice of the council's meetings. The department may
29 provide staff support in drafting any reports required under
30 this act.

1 (k) Technical support.--The [council may solicit and retain,
2 without compensation, individuals who are qualified by training
3 or experience to provide expert input to the council and, at the
4 discretion of the council, such individuals may be reimbursed
5 for reasonable travel expenses at a rate established by the
6 secretary.] department shall provide the council with technical
7 support needed to perform its duties.

8 (l) Compensation and expenses.--Members of the council shall
9 [not receive a salary or per diem allowance for their service]
10 receive reimbursement for reasonable travel expenses at a rate
11 established by the secretary.

12 Section 3. Section 304 of the act, amended April 25, 2011
13 (P.L.1, No.1), is amended to read:

14 Section 304. Revised or successor codes.

15 (a) Duties of department.--

16 (1) Subject to sections 105(c) and (d), 301(a)(3), (4),
17 (5), (6) and (7), (c) and (d) and 302, within three months of
18 the receipt of the report under section 107(b.1), the
19 department shall promulgate final-omitted regulations under
20 the act of June 25, 1982 (P.L.633, No.181), known as the
21 Regulatory Review Act, to adopt the [triennial code revisions
22 made] updated provisions recommended for rejection or
23 modification in the report without change.

24 (2) Regulations promulgated under this subsection are
25 exempt from:

26 (i) section 205 of the act of July 31, 1968
27 (P.L.769, No.240), referred to as the Commonwealth
28 Documents Law; and

29 (ii) sections 204(b) and 301(10) of the act of
30 October 15, 1980 (P.L.950, No.164), known as the

Commonwealth Attorneys Act.

(3) Notwithstanding paragraphs (1) and (2), the department shall promulgate regulations updating accessibility standards under Chapter 3 by adopting Chapter 11 and Appendix E of the International Building Code of 2012, or its successor, by December 31 of the year of issuance of the new code.

[(a.1) Continuity.--If a triennial revision is not adopted under section 107(b.1)(5), the relevant provisions of the prior version of the codes shall remain in effect.]

(c) Prior permits and construction.--

(1) A construction permit issued under valid construction regulations prior to the effective date of regulations for a subsequent Uniform Construction Code or International Fuel Gas Code issued under this act shall remain valid, and the construction of any building or structure may be completed pursuant to and in accordance with the permit.

(2) If the permit has not been actively prosecuted within two years of the effective date of the regulation or the period specified by a municipal ordinance, whichever is less, the former permitholder shall be required to acquire a new permit.

(3) Where construction of a building or structure commenced before the effective date of the regulations for a subsequent Uniform Construction Code or International Fuel Gas Code issued under this act and a permit was not required at that time, construction may be completed without a permit.

Section 4. Section 501(c) of the act, amended November 29, 2006 (P.L.1440, No.157) and October 24, 2012 (P.L.1433, No.179),

1 is amended to read:

2 Section 501. Administration and enforcement.

3 * * *

4 (c) Board of appeals.--

5 (1) A municipality which has adopted an ordinance for
6 the administration and enforcement of this act or
7 municipalities which are parties to an agreement for the
8 joint administration and enforcement of this act shall
9 establish or designate a board of appeals as provided by
10 [Chapter 1 of the 1999 BOCA National Building Code,
11 Fourteenth Edition,] the department by regulation to hear
12 appeals from decisions of the code administrator. Members of
13 the municipality's governing body may not serve as members of
14 the board of appeals. A municipality may establish a board of
15 appeals or may establish or designate a joint board of
16 appeals in accordance with 53 Pa.C.S. Ch. 23 Subch. A
17 (relating to intergovernmental cooperation).

18 (2) An application for appeal shall be based on a claim
19 that the true intent of this act or regulations legally
20 adopted under this act have been incorrectly interpreted, the
21 provisions of this act do not fully apply or an equivalent
22 form of construction is to be used.

23 (3) When a municipality cannot find persons to serve on
24 a board of appeals who meet the minimum qualifications [of
25 Chapter 1 of the BOCA National Building Code] established by
26 the department, the municipality may fill a position on the
27 board with a qualified person who resides outside of the
28 municipality.

29 (4) The fee for an appeal to the Board of Appeals for a
30 municipality that is administering and enforcing this act

1 shall not exceed actual costs of the public notice of the
2 hearing, appearance fee for the court reporter and
3 administrative fees as necessary.

4 (5) In the case of an appeal or request for variance or
5 extension of time involving the construction of a one-family
6 or two-family residential building, the board of appeals
7 shall convene a hearing within 30 days of the appeal. The
8 Board of Appeals shall render a written decision to the
9 parties within five business days, or within ten business
10 days in cities of the first class, of the last hearing. If
11 the board of appeals fails to act within the time period
12 under this paragraph, the appeal shall be deemed granted.

13 * * *

14 Section 5. This act shall take effect immediately.