

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1790 Session of  
2021

---

INTRODUCED BY SILVIS, HAMM, HEFFLEY, MILLARD, RADER AND  
STAMBAUGH, AUGUST 12, 2021

---

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, AUGUST 12, 2021

---

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 adoption and enforcement  
6 by municipalities, further providing for consideration of  
7 applications and inspections; and, in training and  
8 certification of inspectors, providing for corrective action.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. Section 502(a)(2) of the act of November 10, 1999  
12 (P.L.491, No.45), known as the Pennsylvania Construction Code  
13 Act, is amended and the subsection is amended by adding  
14 paragraphs to read:

15 Section 502. Consideration of applications and inspections.

16 (a) Applications for permits and inspections.--

17 \* \* \*

18 (2) If an application is denied in whole or in part, the  
19 code administrator shall set forth the reasons in writing,  
20 identifying the elements of the application which are not in  
21 compliance with the relevant provisions of the Uniform

1 Construction Code and ordinance as appropriate and providing  
2 a citation to the relevant provisions of the Uniform  
3 Construction Code and ordinance as appropriate. The written  
4 notification shall provide specific references to the  
5 sections of the applicable ICC codes with which the code  
6 administrator requires the application to be in compliance  
7 before the application can be approved.

8 \* \* \*

9 (4) A construction code official shall perform the  
10 required inspections of construction to ensure that the  
11 construction complies with a permit approved under this  
12 subsection and the Uniform Construction Code. The following  
13 apply:

14 (i) Inspections shall only be conducted during  
15 normal business hours at the construction site unless the  
16 permit holder or agent requests or agrees to another  
17 time.

18 (ii) The construction code official shall provide  
19 the permit holder with a written description of items  
20 that are not in compliance. The written description shall  
21 include specific references to the sections of the  
22 applicable ICC codes that require remedial action.

23 (5) A municipality shall ensure that the form utilized  
24 for a permit application notifies an applicant of all of the  
25 following:

26 (i) The department investigates complaints about  
27 code administrators and can take corrective action for  
28 just cause section 701.1. The notice provided shall  
29 include a list of the infractions that constitute just  
30 cause under section 701.1 and department regulations.

1           (ii) The department has a publicly accessible  
2 Internet website that includes the form for filing a  
3 complaint under subparagraph (i).

4           (iii) An applicant may file a complaint with the  
5 department about a violation that would constitute just  
6 cause for the department to initiate corrective action  
7 under section 701.1.

8           \* \* \*

9           Section 2. The act is amended by adding a section to read:  
10 Section 701.1. Corrective action.

11          (a) Decertification or refusal to certify.--The department  
12 may initiate action against a code administrator or refuse to  
13 issue certification for just cause, which includes the  
14 following:

15           (1) Failure to remedy an error or omission specified in  
16 a formal warning or comply with an order issued by the  
17 department under this section.

18           (2) Fraud or deceit or making untrue representations in  
19 obtaining a certification.

20           (3) Failure to remit the required certification fee.

21           (4) Violation of this act or department regulations  
22 related to the training and certification of code  
23 administrators.

24           (5) Incompetence or gross negligence.

25           (6) Acting in a manner presenting a danger to the public  
26 health and safety.

27           (7) Pleading guilty, entering a plea of nolo contendere,  
28 being found guilty, receiving probation without verdict,  
29 disposition in lieu of trial or an Accelerated Rehabilitative  
30 Disposition to a felony or any crime relating to the business

1 of code administrator in a Federal court, the courts of this  
2 Commonwealth or a court of any other state, territory or  
3 insular possession of the United States.

4 (8) Having a certification or an authorization to engage  
5 in the business of code administrator revoked or suspended,  
6 having other disciplinary action taken or having an  
7 application for certification or authorization to engage in  
8 the business of code administrator refused or denied by the  
9 proper authority of another state or Federal district,  
10 territory or insular possession of the United States, the  
11 Federal Government or Canada.

12 (9) Failing to complete continuing education  
13 requirements of this act or engaging in deceit or  
14 misrepresentation in the reporting of continuing education  
15 requirements.

16 (10) Engaging in fraud, deceit or an act of moral  
17 turpitude while acting as code administrator.

18 (11) Failing to enforce this act or the Uniform  
19 Construction Code.

20 (12) Knowingly aiding and abetting a person engaging in  
21 code administrator activity who is not currently certified or  
22 registered.

23 (13) Being a third-party agency that does not comply  
24 with department regulations relating to liability insurance  
25 coverage.

26 (14) Engaging in the activities of a code administrator  
27 or advertising as a code administrator without a current  
28 certification required for the work performed or registration  
29 issued by the department.

30 (15) A violation of this act related to any time frame

1 in which the code administrator is required to take a  
2 specific action.

3 (16) Unreasonably disparate treatment of similarly  
4 situated applicants or permit holders for any reason.

5 (17) Extremely rude or unprofessional behavior, if the  
6 behavior would be likely to cause a reasonable person to  
7 conclude that the code administrator cannot enforce the  
8 provisions of this act and the Uniform Construction Code in  
9 an unbiased manner.

10 (18) Any other reason, as may be provided in department  
11 regulations related to the training and certification of code  
12 administrators.

13 (b) Notice and hearing.--

14 (1) Actions of the department relating to  
15 decertification under this section shall be taken subject to  
16 the right of notice, hearing and adjudication in accordance  
17 with 2 Pa.C.S. (relating to administrative law and  
18 procedure).

19 (2) Decertification proceedings shall be conducted in  
20 accordance with 1 Pa. Code Pt. II (relating to the general  
21 rules of administrative practice and procedure).

22 (c) Procedure for decertification.--

23 (1) The department shall serve the code administrator  
24 with an order to show cause in accordance with 1 Pa. Code §  
25 35.14 (relating to orders to show cause). The following  
26 apply:

27 (i) The order to show cause shall contain  
28 notification that:

29 (A) The certification may be subject to action,  
30 along with the grounds for the action.

1           (B) The code administrator is to respond in  
2           writing within 30 days after the date of service of  
3           the order.

4           (ii) The department shall also serve a copy of the  
5           order to show cause upon:

6           (A) The supervising official in the municipality  
7           where the alleged incidents occurred.

8           (B) The current employer of the code  
9           administrator.

10          (2) The code administrator may respond in writing to the  
11          allegations in the order to show cause in accordance with 1  
12          Pa. Code § 35.37 (relating to answers to orders to show  
13          cause). If made, the answer shall be filed with the  
14          department within 30 days after the date of service of the  
15          order to show cause.

16          (3) At the request of the code administrator, the  
17          department shall hold a hearing on the matter that is the  
18          subject of the order to show cause. The secretary shall  
19          designate a presiding officer to conduct the hearing and  
20          issue a proposed report. The following apply:

21          (i) The presiding officer shall:

22                (A) Conduct hearings in accordance with 1 Pa.  
23                Code Ch. 35 Subch. E (relating to presiding  
24                officers).

25                (B) Issue a proposed report that shall be served  
26                upon counsel of record or to the parties in the  
27                hearing.

28                (C) Transmit the proposed report and the  
29                certified record to the secretary within 15 days  
30                after issuance of the proposed report.

1           (ii) The report shall be prepared in accordance with  
2 1 Pa. Code §§ 35.201 (relating to certification of record  
3 without proposed report), 35.202 (relating to proceedings  
4 in which proposed reports are prepared), 35.203 (relating  
5 to unavailability of presiding officer), 35.204 (relating  
6 to oral argument before presiding officer), 35.205  
7 (relating to contents of proposed reports), 35.206  
8 (relating to proposed report a part of the record) and  
9 35.207 (relating to service of proposed reports).

10           (4) A participant desiring to appeal to the secretary  
11 shall, within 30 days after the service of a copy of the  
12 proposed report under paragraph (3), file exceptions to the  
13 proposed report in accordance with 1 Pa. Code § 35.211  
14 (relating to procedure to except to proposed report). A  
15 response to the exceptions may be filed within 20 days after  
16 the filing of exceptions.

17           (5) The secretary or a designee of the secretary shall  
18 issue a final order in accordance with 1 Pa. Code § 35.226  
19 (relating to final orders).

20           (d) Types of corrective action.--When the department is  
21 authorized to take action against a code administrator, the  
22 department may:

23           (1) Administer a formal warning.

24           (2) Require the code administrator to take remedial  
25 educational courses under section 701(g).

26           (3) Decertify the code administrator under section  
27 701(h) for a period set by the department. Following  
28 decertification, the department shall order the code  
29 administrator to surrender the certificate specifying that  
30 the code administrator was so certified.

1           (4) Deny the application for certification.

2           (e) Conditions for reinstatement.--Unless ordered to do so  
3 by a court of competent jurisdiction, the department may not  
4 reinstate certification to a person who was decertified until  
5 the following conditions are met:

6           (1) The full period of decertification ordered by the  
7 department has elapsed.

8           (2) The person has complied with conditions imposed by  
9 the department's order of decertification and recertification  
10 would not be detrimental to the public health and safety.

11           (3) The person complies with departmental regulations  
12 and procedures issued under section 701 relating to  
13 application and identification.

14           Section 3. The amendment of section 502(a) of the act shall  
15 apply to applications for construction permits submitted on or  
16 after the effective date of this act.

17           Section 4. This act shall take effect in 180 days.