



## — Senate Committee on Labor and Industry —

Senator Kim L. Ward  
Chairman

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### House Bill 1469 Printer's No. 2186

Prime Sponsor: Heffley  
Committee: Labor and Industry

#### **SYNOPSIS:**

Amends the Pennsylvania Construction Code Act (PCCA) to provide for administration and enforcement and for the filing of complaints.

#### **SUMMARY:**

##### Section 501 Amendments

Current law allows municipalities that opt to enforce the Uniform Construction Code (UCC) themselves four ways to do so. The bill maintains the four options but:

- Clarifies that municipalities that designate an employee to serve as the municipal code official may utilize third-party agencies (TPAs) to supplement plan review and inspection services or may utilize TPAs to perform plan review and inspection services in categories which its program does not possess the necessary personnel to administer.
- Provides alternative options for permit applicants in municipalities that enforce the UCC by retaining only one TPA, either individually or as part of a joint agreement between two or more municipalities, as follows:
  - Allows the permit applicant to utilize the services of another TPA if the alternative TPA agrees to remit a surcharge for its services to the municipality. The municipality is required to notify applicants of this option as part of its overall permitting process.
    - The municipality shall establish the surcharge by ordinance as a percentage of the total amount of fees not to exceed 10 percent.
    - If a municipality fails to establish a surcharge, the surcharge shall be 1 percent of total fees charged.

- The permit applicant must notify the municipality and the exclusive TPA of its intent to utilize an alternative TPA. The applicant must utilize the alternative TPA for all requirements of the PCCA associated with a project.
- Before performing services, the alternative TPA must notify the municipality and the exclusive TPA that it is performing code enforcement services on a project.
- The alternative TPA must provide a copy of the permit issued and the approved plans for the project to the municipality and the exclusive TPA on the date the permit is issued.
- On the date of issuance of the final inspection report for a project, the TPA must submit to the municipality and the exclusive TPA:
  - The final inspection report.
  - A summary of total fees charged.
  - Payment of the required surcharge.
  - The building permit fee required under Section 703(A).
  - Any additional documentation requested by the municipality.

The municipality or its exclusive TPA may withhold issuing the Certificate of Occupancy if the alternative TPA fails to comply with the above requirements.

The municipality may notify the Department of Labor & Industry (Department) of a possible violation of the Act if an alternative TPA fails to comply with the above provisions.

- The exclusive TPA shall be immune from any civil liability associated with the contents of the final inspection report.
- A contract between a municipality and TPA for exclusive enforcement in place prior to the effective date of this section shall remain in effect, and the provisions of this section shall not take effect, until the expiration of the original terms of the contract.

Provides that in municipalities that contract with one or more TPAs to enforce the UCC, the application form for a building permit must include the following information:

- That the authority of the TPA is the result of a contract approved by the governing body of the municipality or the result of an inter-municipal agreement.
- That the applicant may inform the governing body of complaints about the TPAs services including reports of incompetence or gross negligence, a failure to abide by a time period specified in the Act, rude or unprofessional behavior, or discrimination based on personal bias against the applicant.

- That the Department certifies TPAs and investigates complaints about service, including complaints about violations of the Act, incompetence, gross negligence, fraud, deceit or acts of moral turpitude.
- That the Department has a complaint form on its website.

Requires the municipality to maintain a record of complaints submitted.

### Section 701 Amendments

Provides for how the Department is to investigate complaints about code administrators to include giving the Secretary discretion to enforce remedial actions, if necessary, including actions to decertify the code administrator or revoke the code administrator's certification for a specified period of time.

Requires the Department to review complaints regarding:

- Incompetence, negligence or unethical conduct.
- Failure to abide by statutory deadlines, which result in an unduly delay in the progress of a project.
- Undisclosed, duplicative or exorbitant fees.
- Professional incompetence, including establishment of a different requirement after plan approval.
- Other established violations in 34 Pa. Code § 401.14 (Relating to decertification or refusal to certify).

Requires the Department to notify the code official under review and the municipality of the complaint.

Allows the Secretary to issue an order to a municipality to allow a complainant to use an alternative TPA if the Secretary fears the complainant will be retaliated against for the remainder of the project or permanently.

Prohibits disclosure of a complainant, without consent, unless disclosure is unavoidable as a result of an investigation of a code administrator.

Prohibits a code administrator from discriminating, threatening, coercing or retaliating against an applicant who files a complaint.

Permits the Department to issue regulations to establish or clarify procedures necessary to effectuate the Act.

Effective Date: 60 days

**BILL HISTORY:**

Introduced 5-31-17

Passed House as amended (107-87) 6-29-17

Prepared by: Kratz 10/19/2017