
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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SEPTEMBER 9, 2008

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
SEPTEMBER 9, 2008

AN ACT

1 Providing for the designation and regulation of geologically
2 hazardous areas throughout this Commonwealth to protect
3 people and limit property damage and the disruption of
4 commerce from the possible dangers associated with land
5 development in areas that are prone to landslides, sinkholes
6 or other geologic hazards; imposing duties and conferring
7 powers on the Department of Environmental Protection, the
8 Department of Conservation and Natural Resources and
9 municipalities; and providing for enforcement and remedies.

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

12 CHAPTER 1

13 PRELIMINARY PROVISIONS

14 Section 101. Short title.

15 This act shall be known and may be cited as the Geologically
16 Hazardous Areas Act.

17 Section 102. Purpose.

18 The purpose of this act is to:

19 (1) Protect people and property from the dangers and
20 damage associated with earth disturbance activity in

1 geologically hazardous areas that may be prone to landslides
2 or sinkholes and other hazardous conditions, such as
3 hazardous rock and soil slippage, and other soil management
4 problems.

5 (2) Recognize and minimize the man-made conditions that
6 increase the potential for:

7 (i) Landslides and other gravity-driven movements of
8 susceptible rock and soil.

9 (ii) Sinkhole development and related subsidence in
10 soluble units.

11 (iii) Degradation of surface and groundwater
12 resources associated with the alteration of geologic
13 conditions.

14 (3) Authorize a comprehensive and coordinated program to
15 regulate earth disturbance activity in geologically hazardous
16 areas using sound land use practices, designed to prevent
17 damage to and destruction of private and public property and
18 structures, prevent the disruption of commerce and preserve
19 and restore the natural ecological systems.

20 (4) Encourage administration, management and stewardship
21 of geologically hazardous areas consistent with the
22 obligation to avoid unnecessary expenditure of public moneys,
23 the Commonwealth's duty as trustee of natural resources and
24 the people's constitutional right to the preservation of the
25 natural, scenic, aesthetic and historic values of the
26 environment.

27 Section 103. Definitions.

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

1 "Closed depression." Part of the land surface on a site that
2 drains internally, has generally sunk to a variable depth and is
3 generally characterized by a downward movement of soil into
4 bedrock voids without breaking the ground surface.

5 "Department." The Department of Environmental Protection of
6 the Commonwealth.

7 "Earth disturbance activity." A construction or other human
8 activity that disturbs the surface of the land, including, but
9 not limited to, land clearing and grubbing, grading,
10 excavations, embankments, land development, agricultural plowing
11 or tilling cultivation, operation of animal heavy use areas,
12 timber harvesting activities, road maintenance activities, oil
13 and gas activities, well drilling, mineral or oil extraction and
14 the moving, depositing, stockpiling or storing of soil, rock or
15 earth materials.

16 "Geologically hazardous area." An area with geologic
17 formations or soil conditions, or both, that under natural
18 conditions or when disturbed are documented by a licensed
19 professional to be geologically susceptible to cause, or
20 historically have caused, a hazardous condition.

21 "Hazardous condition." Any condition that may include, but
22 not be limited to, a mass earth movement, such as a soil and
23 rock slide, acid formation or sinkhole development, that:

24 (1) has a negative environmental impact;

25 (2) constitutes a danger or potential danger to life,
26 health or property; or

27 (3) threatens the safety, use or stability of property,
28 public ways, structures and utilities.

29 "Karst." A type of topography that is formed over limestone,
30 dolomite or gypsum by bedrock solution and characterized by

1 closed depressions or sinkholes, caves and underground drainage.

2 "Licensed professional." A person licensed by the
3 Commonwealth in the applicable practice under the act of May 23,
4 1945 (P.L.913, No.367), known as the Engineer, Land Surveyor and
5 Geologist Registration Law.

6 "Sinkhole." A surface feature that is:

7 (1) formed in a karst area;

8 (2) characterized by a roughly circular hole in the
9 ground of variable size and depth; and

10 (3) the result of the movement of soil, rocks or similar
11 materials down into voids in the limestone bedrock or
12 regolith.

13 CHAPTER 3

14 AGENCY AND MUNICIPAL RESPONSIBILITIES

15 Section 301. Duties of Department of Conservation and Natural
16 Resources.

17 (a) General rule.--The Department of Conservation and
18 Natural Resources shall:

19 (1) Develop techniques and criteria for mapping
20 geologically hazardous areas in this Commonwealth.

21 (2) Identify and delineate geologically hazardous areas
22 in this Commonwealth.

23 (3) Analyze:

24 (i) The type and nature of rock and soil susceptible
25 to acid formation, a landslide, a sinkhole or development
26 of karst that may result in a hazardous condition.

27 (ii) Other relevant factors determined by the
28 Department of Conservation and Natural Resources.

29 (4) Create an inventory of data developed under this
30 section that is publicly available.

1 (5) Notify the municipalities identified as falling
2 within a geologically hazardous area or having within their
3 boundaries a geologically hazardous area.

4 (b) Report.--Within two years following enactment of this
5 act, the Department of Conservation and Natural Resources shall
6 report to the General Assembly the information gathered under
7 subsection (a), including the mapping of geologically hazardous
8 areas of high priority, as defined by the Department of
9 Conservation and Natural Resources, and a projected plan to
10 continue gathering the information directed by subsection (a).

11 (c) Review and update.--The Department of Conservation and
12 Natural Resources shall periodically review and update the
13 following, which shall be forwarded to the department:

14 (1) The techniques and criteria for mapping geologically
15 hazardous areas in this Commonwealth.

16 (2) The maps of geologically hazardous areas in this
17 Commonwealth.

18 (d) Performance of duties.--In performing its duties under
19 this section, the Department of Conservation and Natural
20 Resources shall:

21 (1) Review aerial photographs and maps, soil data and
22 geologic information, which may include:

23 (i) Data and reports from other departments.

24 (ii) Geologic reports under section 302.

25 (2) Perform site visits and studies as necessary.

26 (e) Publication of hazardous areas.--At least annually and
27 more often if updated, but at least 30 days prior to becoming
28 effective, the Department of Conservation and Natural Resources
29 shall publish in the Pennsylvania Bulletin a list of all
30 municipalities that fall within a geologically hazardous area or

1 have geologically hazardous areas within their boundaries, as
2 identified and delineated under subsection (a)(2).

3 (f) Regulations.--The Department of Conservation and Natural
4 Resources may promulgate regulations necessary to implement this
5 section.

6 Section 302. Geologic reports.

7 (a) General rule.--A person proposing to undertake earth
8 disturbance activity within a geologically hazardous area shall
9 submit a geologic report, prepared and sealed by a licensed
10 professional, to the municipality and department or its
11 delegated designee, along with:

12 (1) any application to discharge pollutants or storm
13 water under a National Pollutant Discharge Elimination System
14 Permit for Discharges Associated with Construction Activities
15 or any other authorization relating to earthmoving
16 activities;

17 (2) a plan to control erosion and sediment required
18 under departmental rules and regulations; or

19 (3) a plan to manage postconstruction storm water
20 required under departmental rules and regulations.

21 (b) Additional requirements.--In addition to the application
22 requirements for the items set forth in subsection (a), a
23 geologic report under this section must adequately identify the
24 proposed courses of action and their sequence, to be taken
25 during and after construction to eliminate or reduce the
26 occurrence of a hazardous condition as a result of the proposed
27 earth disturbance activity.

28 (c) Fees.--A person submitting a geologic report under this
29 section shall be responsible for all fees involving the
30 preparation and review of the report.

1 (d) Review.--The department, its delegated designee or a
2 municipality may have a geologic report submitted under this
3 section reviewed by a licensed professional independent from the
4 preparer and sealer of the submitted report.

5 (e) Scope.--This section shall not apply to a municipality
6 engaging in road construction and maintenance activities.

7 Section 303. Duties of department.

8 (a) Approval.--The department may authorize earth
9 disturbance activity in a geologically hazardous area in
10 accordance with applicable laws and regulations if the
11 department determines that the geologic report under section 302
12 adequately identifies the proposed courses of action to be taken
13 during and after construction to eliminate or reduce the
14 occurrence of a hazardous condition as a result of the proposed
15 earth disturbance activity.

16 (b) Disapproval.--The department may refuse to authorize
17 earth disturbance activity in a geologically hazardous area if
18 the geologic report under section 302 fails to adequately
19 identify proposed courses of action to be taken during and after
20 construction to eliminate or reduce the occurrence of a
21 hazardous condition as a result of the proposed earth
22 disturbance activity.

23 (c) Delegation of permit review.--The department may
24 delegate its permit review, enforcement and inspection authority
25 under this act to a county conservation district.

26 (d) Duties.--In issuing orders or permits, and in taking any
27 other action under this act, the department shall:

28 (1) Review and take appropriate action on all permit
29 applications submitted under this act and issue, modify,
30 suspend, limit, renew or revoke permits under this act and

1 departmental regulations.

2 (2) Receive and act upon written complaints.

3 (3) Issue orders necessary to implement this act or
4 departmental regulations.

5 (e) Regulations.--The Environmental Quality Board may
6 promulgate regulations necessary to implement this act.

7 Section 304. Inspections.

8 (a) Condition.--Approval of earth disturbance activity
9 within a geologically hazardous area may be conditioned upon the
10 granting of permission for an agent or employee of a
11 municipality or the department to:

12 (1) Enter a property to survey a geologically hazardous
13 area or ascertain the location of a structure.

14 (2) Enter a property or structure to ascertain
15 compliance or noncompliance with this act, municipal and
16 Commonwealth law, regulation, approval, conditional approval
17 or order.

18 (b) Inspection warrant.--If an agent or employee of a
19 municipality or the department charged with the enforcement of
20 the provisions of this act has been improperly refused access to
21 the property to survey or inspect as authorized by subsection
22 (a) or reasonably requires access to the property without prior
23 notice to the owner, the agent or employee of the municipality
24 or the department may apply for an inspection warrant to any
25 Commonwealth official authorized by law to issue a search or
26 inspection warrant to permit the agent or employee of the
27 municipality or the department to access and inspect the
28 property. In determining whether to issue an inspection warrant,
29 sufficient probable cause is that the inspection is necessary to
30 properly enforce the provisions of this act.

1 (c) Grounds.--The department shall promptly inspect earth
2 disturbance activity within a geologically hazardous area when
3 the municipality presents information to the department that
4 gives the department probable cause to believe that there is a
5 violation of this act, including a violation of regulation,
6 approval, conditional approval or order issued under this act.
7 The department shall notify the municipality of this inspection
8 and allow a municipal inspector from the municipality to
9 accompany the departmental inspector during the inspection. If
10 the department determines that there is insufficient information
11 to give the department probable cause to believe that a
12 violation is occurring or has occurred, the department shall
13 promptly provide a written explanation to the municipality of
14 its decision not to inspect.

15 Section 305. Liability.

16 (a) General rule.--Approval, conditional approval or
17 issuance of a permit under this act does not:

18 (1) relieve a person from liability for damage to
19 persons or property resulting from the issuance or
20 compliance, or as otherwise imposed by law; or

21 (2) impose any liability for damages to persons or
22 property on the municipality or the Commonwealth or its
23 officers, employees or agents.

24 (b) Costs.--Any person conducting earth disturbance activity
25 in violation of this act, or a regulation or order under this
26 act, is liable for the costs of abatement of any pollution and
27 any public nuisance caused by the violation.

28 Section 306. Conditioned approval by municipality.

29 A municipality may not finally approve a proposal involving
30 earth disturbance activity under this act unless and until the

1 department approves the earth disturbance activity, but a
2 municipality may conditionally approve a proposal involving
3 earth disturbance activity under this act, subject to approval
4 or conditional approval by the department.

5 CHAPTER 5

6 ENFORCEMENT AND REMEDIES

7 Section 501. Enforcement and remedies.

8 (a) Unlawful conduct.--It is unlawful to:

9 (1) Fail to comply with any departmental rule,
10 regulation, order, permit or license.

11 (2) Violate this act or any rule or regulation adopted
12 under this act.

13 (3) Hinder, obstruct, prevent or interfere with the
14 department, its personnel or any delegated designee in the
15 performance of any duty under this act.

16 (b) Remedies and enforcement under The Clean Streams Law.--
17 Except as provided in subsection (c), for purposes of
18 enforcement of this act and remedies under this act, the act of
19 June 22, 1937 (P.L.1987, No.394), known as The Clean Streams
20 Law, shall govern.

21 (c) Scope.--Nothing in subsection (b) is intended to broaden
22 the scope of persons that must comply with the provisions of
23 this act.

24 (d) Construction.--An offense that constitutes a violation
25 of this act and The Clean Streams Law shall not result in dual
26 penalties.

27 CHAPTER 21

28 MISCELLANEOUS PROVISIONS

29 Section 2101. Administration.

30 The General Assembly shall appropriate the funds necessary to

1 implement this act.

2 Section 2102. Effect on other law.

3 Nothing contained in this act shall be construed to create
4 additional review powers already regulated by other law.

5 Section 2103. Savings clause.

6 The provisions of this act shall not affect any suit or
7 prosecution pending under the authority of any statute repealed
8 by this act.

9 Section 2104. Repeal.

10 All acts and parts of acts are repealed insofar as they are
11 inconsistent with this act.

12 Section 2105. Effective date.

13 This act shall take effect immediately.