

AMENDMENTS TO HOUSE BILL NO. 1437

Sponsor: REPRESENTATIVE SANTORA

Printer's No. 2460

1 Amend Bill, page 1, line 5, by inserting after "penalties,"
2 further providing for definitions; providing for issuance of
3 use and occupancy certificate; and

4 Amend Bill, page 1, lines 11 through 18; page 2, lines 1
5 through 25; by striking out all of said lines on said pages and
6 inserting

7 Section 1. Section 2 of the act of December 20, 2000
8 (P.L.724, No.99), known as the Municipal Code and Ordinance
9 Compliance Act, is amended to read:

10 Section 2. Definitions.

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

14 ["Constructive knowledge." Knowledge of a violation listed
15 on the seller's property disclosure statement made pursuant to
16 the act of July 2, 1996 (P.L.500, No.84), known as the Real
17 Estate Seller Disclosure Act, a violation appearing on a buyer's
18 notification certificate provided by a municipality or a
19 violation that is a matter of public record.]

20 "Date of purchase." The [closing] date on which title and
21 right to possess the property transfers to the purchaser or, in
22 cases where the property is sold pursuant to the act of May 16,
23 1923 (P.L.207, No.153), referred to as the Municipal Claim and
24 Tax Lien Law, the first day following the right of redemption
25 period authorized under the Municipal Claim and Tax Lien Law.

26 ["Known to have." Knowledge of a violation based on actual
27 or constructive knowledge.]

28 "Municipality." Any city, borough, incorporated town,
29 township, home rule municipality, optional plan municipality,
30 optional charter municipality or any similar general purpose
31 unit of government which may be created or authorized by
32 statute.

33 "Substantial violation." A violation of [a building,
34 housing, property maintenance or fire code, which violation
35 posed a threat to health, safety or property but not a violation
36 of such a code deemed by a court to be de minimis.] an adopted

1 building, housing, property maintenance or fire code or
2 maintenance, health or safety nuisance ordinance that makes a
3 building, structure or any part thereof unfit for human
4 habitation and is discovered during the course of a municipal
5 inspection of a property and disclosed to the record owner or
6 prospective purchaser of the property through issuance of a
7 municipal report.

8 "Temporary use and occupancy certificate." A certificate
9 issued by a municipality as a result of the municipal inspection
10 of a property incident to the resale of the property that
11 reveals a violation but no substantial violation, and the
12 purpose of the certificate is to authorize the purchaser to
13 fully utilize or reside in the property while correcting
14 violations pursuant to the maintenance and repair provisions of
15 this act.

16 "Temporary access certificate." A certificate issued by a
17 municipality as a result of the municipal inspection of a
18 property incident to the resale of the property that identifies
19 at least one substantial violation, and the purpose of the
20 certificate is to authorize the purchaser to access the property
21 for the purpose of correcting substantial violations pursuant to
22 the maintenance and repair provisions of this act. No person may
23 occupy a property during the term of a temporary access
24 certificate, but the owner shall be permitted to store
25 personalty that is related to the proposed use or occupancy of
26 the property or is needed to repair the substantial violations
27 during the time of the temporary access certificate.

28 "Unfit for human habitation." A condition which renders a
29 building, structure, or any part thereof, dangerous or injurious
30 to the health, safety or physical welfare of an occupant or the
31 occupants of neighboring dwellings. The condition may include
32 substantial violations of a property that show evidence of: a
33 significant increase to the hazards of fire or accident;
34 inadequate sanitary facilities; vermin infestation; or a
35 condition of disrepair, dilapidation or structural defects such
36 that the cost of rehabilitation and repair would exceed one-half
37 of the agreed-upon purchase price of the property.

38 "Use and occupancy certificate." A certificate issued by a
39 municipality stipulating that the property meets all ordinances
40 and codes and may be used or occupied as intended.

41 "Violation." A violation of a properly adopted building,
42 housing, property maintenance or fire code or maintenance,
43 health or safety nuisance ordinance that does not rise to the
44 level of a substantial violation and is discovered during the
45 course of a municipal inspection of a property and disclosed to
46 the record owner or prospective purchaser of the property
47 through issuance of a municipal report.

48 Section 2. The act is amended by adding a section to read:
49 Section 2.1. Issuance of use and occupancy certificate.

50 (a) General rule.--A municipality requiring a use and
51 occupancy certificate shall issue the certificate in the

1 following manner:

2 (1) If the municipal inspection reveals no violations.

3 (2) If the municipal inspection reveals at least one
4 violation, but no substantial violations, the municipality
5 shall issue a temporary use and occupancy certificate.

6 (3) If the municipal inspection reveals at least one
7 substantial violation, the municipality shall specifically
8 note those items on the inspection report and shall issue a
9 temporary access certificate.

10 (b) Escrows and bonds prohibited.--A municipality may not
11 require the escrowing of funds or posting of a bond, or impose
12 any similar financial security as a condition of issuing a
13 certificate.

14 (c) Construction.--Subsection (b) shall not be construed to
15 prohibit a municipality from requiring an owner, prior to
16 accessing the property, to acquire the necessary permits and
17 meet all other related obligations in other statutes that
18 pertain to building, property maintenance, fire codes or other
19 health or safety codes.

20 Section 3. Section 3 of the act is amended to read:
21 Section 3. Compliance requirement.

22 (a) General rule.--Within [18] 12 months of the date of
23 [purchase or longer subject to an agreement between the
24 purchaser and the municipality, any purchaser of any building,
25 structure or part of a building or structure known to have one
26 or more substantial violations of municipal codes relating to
27 building, housing, property maintenance or fire shall:] the
28 issuance of a temporary access certificate, 12 months of the
29 date of the issuance of a temporary use and occupancy
30 certificate or 12 months of the date of settlement or transfer
31 of title, the purchaser of a property, at his option, shall
32 either:

33 (1) bring the building, structure or that part of a
34 building or structure into compliance with [those] municipal
35 codes or ordinances; or

36 (2) demolish the building or structure in accordance
37 with law.

38 (a.1) Negotiation of longer time periods.--At the request of
39 the property owner, the municipality may negotiate, at its
40 discretion, longer time periods for maintenance and repair of
41 the structure under a temporary certificate, but the time
42 periods stated in subsection (a) may not be shortened.

43 (a.2) Reinspection of property.--

44 (1) At the expiration of the time period set forth in
45 subsection (a) or before that time, if requested by the
46 property owner, the municipality shall reinspect the property
47 for the purpose of determining compliance with the cited
48 violations.

49 (2) If a temporary access permit has been issued and
50 reinspection indicates that the noted substantial violations
51 have been corrected but other cited violations have not yet

1 been corrected, the municipality shall issue a temporary use
2 and occupancy permit to be valid for the time remaining on
3 the original temporary access permit.

4 (3) If the reinspection indicates that all noted
5 violations have been corrected, the municipality shall issue
6 a use and occupancy certificate for the property.

7 (b) Penalty.--

8 (1) Failure to comply with the requirements of
9 subsection (a) shall result in [the]:

10 (i) Revocation of the temporary certificate.

11 (ii) The purchaser being subject to any existing
12 municipal ordinances or codes relating to the occupation
13 of a property without a use and occupancy certificate.

14 (iii) The purchaser being personally liable for the
15 costs of maintenance, repairs or demolition sufficient to
16 correct the cited violations, and a fine of not less than
17 \$1,000 and not more than \$10,000.

18 (2) Fines shall be remitted to the municipality in which
19 the building, structure or part of a building or structure is
20 located.

21 (3) In municipalities with low-income housing, not less
22 than one-third of the fine imposed specifically for code
23 violations shall be used by the municipality for low-income
24 housing in a manner determined by the municipality.

25 [(c) Nuisance ordinances.--

26 (1) Any purchaser of any lot or parcel of land known to
27 have one or more substantial violations of municipal nuisance
28 ordinances relating to maintenance, health or safety is
29 required to make a reasonable attempt to abate the nuisance
30 within one year of the date of purchase.

31 (2) Failure to comply with the requirements of this
32 subsection shall result in the purchaser being personally
33 liable for the cost of maintenance and a fine of not less
34 than \$1,000 and not more than \$10,000. Fines shall be
35 remitted to the municipality in which the lot or parcel of
36 land is located.

37 (d) Enforcement.--Local municipalities are authorized to
38 enforce the provisions of this section.

39 (e) Coordination with other requirements.--In connection
40 with the purchase of a building, structure, part of a building
41 or structure, lot or parcel of land subject to subsection (a) or
42 (c), a municipality shall not refuse to issue a use and
43 occupancy certificate or similar permit on the basis of a
44 substantial violation or require the correction of a substantial
45 violation as a condition to issuing a use and occupancy
46 certificate or similar permit unless the substantial violation
47 renders the property unfit for habitation.]

48 (f) Nonapplicability.--This section shall not apply where
49 the municipality denies the certificate or permit pursuant to 53
50 Pa.C.S. Ch. 61 (relating to neighborhood blight reclamation and
51 revitalization).

1 Amend Bill, page 2, line 26, by striking out "2" and
2 inserting
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