

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1951

Session of  
1984

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INTRODUCED BY ITKIN, J. L. WRIGHT, PETRARCA, PISTELLA, KUKOVICH,  
PRATT, SWEET, PRESTON AND RICHARDSON, FEBRUARY 22, 1984

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
MAY 15, 1984

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## AN ACT

1 Amending the act of December 15, 1980 (P.L.1203, No.222),  
2 entitled "An act providing for the regulation for energy  
3 conservation purposes of the construction of buildings, the  
4 establishment of a Building Energy Conservation Committee and  
5 a Board on Variances, appeals and for penalties," changing  
6 the definition of "building"; further providing for  
7 certification; further providing for notice to the  
8 department; providing for notice to public utilities; further  
9 providing for penalties; CREATING A SPECIAL ACCOUNT; and <—  
10 further providing for variances.

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

13 Section 1. The definition of "building" in section 103 of  
14 the act of December 15, 1980 (P.L.1203, No.222), known as the  
15 Building Energy Conservation Act, amended July 10, 1981  
16 (P.L.231, No.75), is amended and a definition is added to read:  
17 Section 103. Definitions.

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

21 "Building." Any structure that provides facilities or

1 shelter for public assembly or for educational, business,  
2 mercantile, institutional, warehouse or residential occupancy,  
3 or industrial use including, but not limited to, those portions  
4 of factory and industrial occupancy such as office space except  
5 for:

6 (1) Buildings and structures or portions thereof whose  
7 peak design rate of energy usage is less than one watt per  
8 square foot or [3.4] 3.5 BTU/hr per square foot of floor area  
9 for all purposes.

10 (2) Structures or those portions of structures used for  
11 housing equipment or machinery, or in which manufacturing or  
12 processing is done, where the operation of such equipment or  
13 machinery, or the manufacturing or processing procedures  
14 employed require the use of or generate substantial heat  
15 producing energy or cooling within the structure. As used  
16 herein, the generation of substantial heat shall mean  
17 generation of more than 6 watts per square foot of floor  
18 area.

19 (3) Buildings which are neither heated nor cooled.

20 (4) Historic buildings.

21 (5) Buildings owned by the Federal Government.

22 (6) All units subject to the act of May 11, 1972  
23 (P.L.286, No.70), known as the "Industrialized Housing Act."

24 (7) All units subject to Title VI (Public Law 93-383),  
25 referred to as the Federal Mobile Home Construction and  
26 Safety Standards Act of 1974.

27 (8) Buildings which are constructed primarily of tree  
28 logs and only incidentally of other materials.

29 \* \* \*

30 "Public utility." A person or corporation, CORPORATION OR

<—

1 MUNICIPALITY in this Commonwealth owning or operating equipment  
2 or facilities for producing, generating, transmitting,  
3 distributing or furnishing electricity to or for the public for  
4 compensation for any purpose. This term includes an electric  
5 cooperative corporation created under the provisions of the act  
6 of June 21, 1937 (P.L.1969, No.389), known as the "Electric  
7 Cooperative Corporation Act," and which provides retail electric  
8 service to its members on a nonprofit basis. The term does not  
9 include:

10       (1) Any generator, producer or manufacturer of  
11 electricity or steam not engaged in distributing such  
12 electricity, gas or steam directly to the public for  
13 compensation.

14       (2) Any person or corporation not otherwise a public  
15 utility who or which furnishes service only to himself or  
16 itself.

17       \* \* \*

18       Section 2. Section 305 of the act is amended to read:

19       Section 305. Certification.

20       (a) Applicability.--The provisions of this section shall  
21 apply to all buildings subject to this act except those  
22 classified as Use Group R-3.

23       (b) Compliance with act.--It shall be the duty of the  
24 licensed design professional retained in connection with the  
25 design or construction of a building to certify that, in his  
26 professional opinion and in accordance with the accepted  
27 standards of his profession, the drawings, specifications and  
28 other data will achieve compliance with the provisions of this  
29 act, except as provided in subsection (e). All such information  
30 required in this provision to be submitted to the department

1 must be accompanied by a filing fee of \$10. The filing fee may  
2 be subject to change by the Building Energy Conservation  
3 Committee upon the recommendation of the department to the  
4 Building Energy Conservation Committee, provided, however, that  
5 advance notice of such change has appeared in the Pennsylvania  
6 Bulletin. If the building is subject to the provisions of the  
7 act of April 27, 1927 (P.L.465, No.299), referred to as the Fire  
8 and Panic Act, the certification required hereunder shall be  
9 submitted on a form with the application for plan approval under  
10 the said Fire and Panic Act.

11 (c) Inspection.--Each licensed design professional retained  
12 by the owner or his designee, where any of such are retained  
13 during the construction of a building, shall make periodic  
14 inspections of the building progression to [insure] observe  
15 compliance with this act, except as provided in subsection (e):  
16 Provided, that such inspection shall not be construed as a  
17 guarantee of satisfactory performance by others or as an  
18 assumption of financial liability for defects or deficiencies in  
19 the work of others.

20 (d) Final certification.--Each [licensed design  
21 professional] builder retained by the owner or the owner, if he  
22 is the builder, shall make a final certification of every  
23 completed building stating that[, in his professional opinion  
24 and in accordance with the accepted standards of his  
25 profession,] such building has been constructed in compliance  
26 with the provisions of this act[, except as provided in  
27 subsection (e)].

28 (e) Certification by builder.--If a licensed design  
29 professional is not retained in connection with the design and  
30 construction of a building, it shall be the responsibility of

1 the builder or owner, if he is the builder, to perform the  
2 inspections and certification required by this section including  
3 payment of the filing fee.

4 Section 3. Section 306(a) of the act is amended and a <—

5 ~~subsection is~~ SUBSECTIONS ARE added to read: <—

6 Section 306. Use Group R-3; notice; warranty.

7 (a) Notice to department.--Prior to construction of any  
8 building classified as Use Group R-3, the builder shall notify  
9 the department by [certified] FIRST CLASS mail of his intent to <—  
10 begin construction. Such notice shall include a filing fee of  
11 [\$5] \$10 and contain the name of the owner of the building and  
12 its location. The filing fee may be subject to change by the  
13 Building Energy Conservation Committee, upon the recommendation  
14 of the department to the Building Energy Conservation Committee,  
15 provided, however, that advance notice of such change has  
16 appeared in the Pennsylvania Bulletin.

17 (A.1) SPECIAL ACCOUNT.--ALL FILING FEES SHALL BE DEPOSITED <—  
18 IN A SPECIAL ACCOUNT IN THE STATE TREASURY TO BE KNOWN AS THE  
19 BUILDING ENERGY CONSERVATION ACCOUNT. ALL FEES COLLECTED FOR THE  
20 PURPOSE OF THIS ACT SHALL BE DEPOSITED IN THIS ACCOUNT AND THE  
21 DEPARTMENT SHALL DRAW FROM THE ACCOUNT SUFFICIENT FUNDS TO COVER  
22 THE ADMINISTRATIVE AND ENFORCEMENT COSTS OF OPERATING THE  
23 PROGRAM. THE FUNDS IN THE ACCOUNT ARE HEREBY APPROPRIATED TO THE  
24 DEPARTMENT TO CARRY OUT THIS ACT AND FUNDS NOT SPENT OR  
25 ENCUMBERED BY THE DEPARTMENT SHALL LAPSE AT THE END OF EACH  
26 FISCAL YEAR.

27 ~~(a.1).~~ (A.2) Notice to public utilities.-- <—

28 (1) The builder shall also provide a copy of the notice  
29 of intent to begin construction required by subsection (a) to  
30 all public utilities which may be requested to furnish

1 services to or for buildings classified as Use Group R-3  
2 which are constructed after the effective date of this  
3 subsection. No public utility shall furnish, render or supply  
4 any service to or for any building classified as Use Group R-  
5 3 unless it shall have first received a copy of the required  
6 notice.

7 (2) All public utilities shall rely absolutely on the  
8 copy of the required notice in furnishing, rendering or  
9 supplying any service to or for a building classified as Use  
10 Group R-3, and no public utility which receives a copy of  
11 such notice shall conduct any audit, inspection or  
12 examination of the building for the purpose of determining  
13 compliance with this act. The furnishing, rendering or  
14 supplying of service by a public utility, in reliance upon  
15 the copy of the required notice, to or for a building  
16 classified as Use Group R-3 shall not constitute a  
17 certification or determination by the utility that the  
18 building has been constructed in compliance with this act.

19 (3) The copy of the notice of intent to begin  
20 construction required by this subsection shall be submitted  
21 to the appropriate public utilities not later than the date  
22 on which any service to or for a building classified as Use  
23 Group R-3 is to be provided by such utilities.

24 \* \* \*

25 Section 4. Sections 313(b) and 504 of the act are amended to  
26 read:

27 Section 313. Penalties.

28 \* \* \*

29 (b) Violations of act.--Any person who shall willfully or  
30 negligently violate any of the provisions of this act, or the

1 rules and regulations or the orders for the enforcement of the  
2 said provisions or rules and regulations issued by duly  
3 authorized officers of the department or who shall hinder, delay  
4 or interfere with any officer charged with the enforcement of  
5 this act in the performance of his duty, [shall, upon conviction  
6 thereof, be punished by a fine of not more than \$300 and costs]  
7 commits a summary offense, and upon conviction thereof, shall be  
8 sentenced to pay a fine of \$300 plus costs, or undergo  
9 imprisonment for 30 days, or both. In the event of violation of  
10 more than one provision of this act, the violation of each  
11 provision shall be deemed a separate and distinct offense for  
12 the purposes of this section.

13 \* \* \*

14 Section 504. Variances.

15 Any municipality electing to administer the provisions of  
16 this act under section 501 or 502 shall establish a Board on  
17 Variances to make determinations on request for variance from  
18 the energy conservation standards contained herein or as  
19 promulgated by the department with the approval of the Building  
20 Energy Conservation Committee, and is authorized exclusive  
21 jurisdiction to grant such variances, section 307(a)  
22 notwithstanding. A municipality, however, need not establish a  
23 Board on Variances if it has established a zoning hearing board  
24 pursuant to the act of July 31, 1968 (P.L.805, No.247), known as  
25 the "Pennsylvania Municipalities Planning Code." If the  
26 municipality does not establish a Board on Variances, the powers  
27 and duties established by this section shall be exercised by  
28 such zoning hearing board. A variance shall only be granted if  
29 the criteria of section 307(b) have been satisfied.

30 Section 5. This act shall take effect in 60 days.