

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1714 Session of
1995

INTRODUCED BY CIVERA, DURHAM, DeLUCA, RAYMOND AND MICOZZIE,
JUNE 7, 1995

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JUNE 7, 1995

AN ACT

1 Relating to the establishment of a construction code for the
2 Commonwealth of Pennsylvania; and making repeals.

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5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Pennsylvania
9 Construction Code Act.

10 Section 2. Intent and purpose.

11 It is the intent and purpose of this act to:

12 (1) Provide standards for the protection of life,
13 health, property and environment and for the safety and
14 welfare of the consumer, general public and the owners and
15 occupants of buildings and structures.

16 (2) Encourage innovation and economy in construction and
17 to provide requirements for construction and construction
18 materials consistent with nationally recognized standards.

19 (3) Eliminate unnecessary duplication of effort and fees
20 in the review of construction plans and the inspection of
21 construction.

22 (4) Assure that officials charged with the
23 administration and enforcement of the technical provisions of
24 this act are adequately trained.

25 Section 3. Legislative findings.

26 The General Assembly finds and declares as follows:

27 (1) A multiplicity of construction codes currently
28 exists in this Commonwealth. Moreover, the variation of
29 construction standards caused by the multiplicity of codes
30 slows the process of construction and increases the cost of

1 construction.

2 (2) The way to insure uniform, modern construction
3 standards and regulations throughout this Commonwealth is to
4 adopt a minimum construction code.

5 (3) The model codes of the Building Officials and Code
6 Administrators International, Inc. (BOCA) are construction
7 codes which have been widely adopted in this Commonwealth and
8 in the geographical region of the United States of which this
9 Commonwealth is a part. Adoption of nationally recognized
10 codes such as these pursuant to this act will insure that
11 this Commonwealth has a minimum construction code which will
12 insure safe, healthy and sanitary construction.

13 Section 4. Definitions.

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

17 "BOCA." Building Officials and Code Administrators
18 International, Inc.

19 "CABO." Council of American Building Officials.

20 "Code." The Statewide minimum construction code as adopted
21 by this act.

22 "Construction." The construction, erection, reconstruction,
23 alteration, conversion, demolition, removal, repair or equipping
24 of building of structures.

25 "Construction code inspector." An individual employed to
26 perform plan review of construction documents, inspect
27 construction, enforce or administer codes and regulations
28 pursuant to this act or related acts. As used in this act, the
29 term shall include, but not be limited to, building inspectors,
30 electrical inspectors, fire prevention inspectors, mechanical

1 inspectors, plan reviewers, plumbing inspectors, code
2 enforcement officers and code administrators employed by a
3 municipality or municipalities.

4 "Council." The Construction Code Evaluation Council.

5 "Department." The Department of Community Affairs of the
6 Commonwealth.

7 "Design professional." A person licensed as an architect or
8 professional engineer pursuant to the appropriate licensure act.

9 "Industrialized housing." As defined in the act of May 11,
10 1972 (P.L.286, No.70), known as the Industrialized Housing Act.

11 "Manufactured housing." Housing which bears a label, as
12 required by and referred to in the act of November 17, 1982
13 (P.L.676, No.192), known as the Manufactured Housing
14 Construction and Safety Standards Authorization Act, which
15 certifies that it conforms to Federal construction and safety
16 standards adopted pursuant to the Housing and Community
17 Development Act of 1974 (Public Law 93-383, 88 Stat. 139).

18 "Municipality." Any city, borough, incorporated town or
19 township or home rule municipality.

20 "Owner." Any person, agent, firm or corporation having a
21 legal or equitable interest in the property. The term includes
22 any department or agency of the Commonwealth.

23 "Third-party agency." A person, firm or corporation having
24 been certified by the Department of Community Affairs and
25 contracted to perform plan review of construction documents and
26 inspect construction pursuant to this act.

27 Section 5. Application.

28 (a) General rule.--This act shall apply to the construction,
29 alteration, repair and occupancy of all buildings in this
30 Commonwealth.

1 (b) Exclusions.--This act shall not apply to any new
2 buildings or renovations to existing buildings on which a
3 contract for design has been signed prior to the effective date
4 of the regulations promulgated under this act.

5 (c) Prior permits and construction.--A construction permit
6 issued under valid construction regulations prior to the
7 effective date of the regulations issued under this act shall
8 remain valid, and the construction of any building or structure
9 may be completed pursuant to and in accordance with the permit.
10 The construction of any building or structure started before the
11 effective date of the regulations issued under this act that did
12 not as of the date construction commenced require a construction
13 permit may be completed without a construction permit.

14 (d) Preemption.--Any construction regulations provided by
15 any local ordinance of a municipality or municipalities acting
16 collectively or validly promulgated or enacted by any board,
17 department, commission or agency of local government adopted
18 prior to July 1, 1995, shall continue in effect if such
19 ordinance is at least as stringent as the Statewide code
20 following promulgation of regulations by the department pursuant
21 to section 6. Such ordinance shall be subject to review and
22 public comment at a public meeting of the governing body within
23 60 days of the promulgation of regulations by the department.
24 Failure by a municipality to review such ordinance within the
25 required time period shall render the ordinance null and void.
26 The ordinance shall then remain in effect but shall be subject
27 to review and amendment at such time the department promulgates
28 subsequent regulations which provide for modifications to the
29 Statewide code. Each municipality covered under this section
30 must file with the council copies of such ordinance.

1 Section 6. Statewide construction code.

2 (a) Regulations.--The department in cooperation with the
3 council shall, within one year after enactment of this act,
4 promulgate regulations adopting as a minimum State construction
5 code, the BOCA National Building Code, latest edition, as well
6 as the BOCA National Mechanical Code, BOCA National Fire
7 Prevention Code and CABO Model Energy Code. The regulations
8 adopted by the department implementing these codes shall
9 supersede and preempt all local building codes regulating any
10 aspect of the construction, alteration, repair and occupancy of
11 buildings adopted or enforced by any municipality or authority
12 or pursuant to any rule, regulation, ordinance, resolution,
13 tariff or order of any public utility or any State or local
14 board, agency, commission or homeowner's association, except as
15 may be otherwise specifically provided in this act.

16 (1) The regulations adopting the Statewide code may be
17 reviewed by the council and modified at such time any
18 subsequent edition of the BOCA National Building Code shall
19 become available. Such modifications to regulations shall be
20 promulgated in the manner provided by law and shall be
21 subject to the act of June 25, 1982 (P.L.633, No.181), known
22 as the Regulatory Review Act.

23 (2) The Department of Labor and Industry in cooperation
24 with the council shall promulgate regulations, within one
25 year of the effective date of this act, providing for the
26 adoption and enforcement of Chapter 30 of the BOCA National
27 Building Code pertaining to elevators. These regulations
28 shall be enforced by the Department of Labor and Industry.

29 (b) Exceptions.--

30 (1) Municipalities which have adopted an ordinance for

1 the administration and enforcement of this act as provided
2 under section 8(a)(1) and (3) may adopt local amendments by
3 ordinance to the Statewide code to Chapter 1 (Administrative)
4 and Chapter 9 (Fire Protection Systems), provided such
5 amendments do not reduce the minimum Statewide standards.
6 Municipalities wishing to adopt amendments to local
7 ordinances shall provide the department and the council with
8 a copy of the ordinance within 10 days of its adoption.

9 (2) Municipalities which have a unique and compelling
10 local climatic, geologic, topographic or public safety
11 circumstance which may necessitate a building code standard
12 different from the Statewide code may petition the council
13 for approval to adopt an amendment by ordinance differing
14 from the code. The council must approve or deny the petition
15 within 90 days of submission. If the council fails to act
16 within the required period of time, the petition is deemed
17 approved. Any aggrieved party to a petition for amendment to
18 the Statewide code shall have the right to appeal the
19 decision of the council to a court of competent jurisdiction.

20 (3) Only amendments which are no less stringent than the
21 Statewide code and pertain only to construction standards and
22 regulations may be considered and reviewed by the council. In
23 no case may a municipality propose or the council review an
24 amendment or amendments inconsistent with the provisions of
25 the Statewide code or this act.

26 Section 7. Construction Code Evaluation Council.

27 (a) Organization of council.--

28 (1) The Construction Code Evaluation Council is created
29 within the department. The department shall provide
30 administrative support for the council. The council shall

1 consist of seven members appointed by the Governor within 60
2 days of the effective date of this act: one architect
3 licensed in this Commonwealth, one professional engineer
4 licensed in this Commonwealth, one municipal building code
5 official within this Commonwealth, one member of the
6 construction industry, one fire code protection official, one
7 elected municipal government official and one public member
8 who shall not have an interest in or be a representative of
9 the other individuals appointed. Each member shall serve for
10 a period of four years or until a successor has been
11 appointed. The terms of the first appointees shall be
12 designated at different times so that two members shall be
13 appointed for two years, two members shall be appointed for
14 three years and three members shall be appointed for four
15 years. Successive terms shall be four years or until his
16 successor is appointed and qualified.

17 (2) The council shall meet annually at which time the
18 council shall elect from its membership a president who shall
19 serve for one year or until a successor is duly elected. The
20 council may meet at such other times as the council deems
21 appropriate. Meetings on the council may be called in
22 accordance with rules and regulations promulgated by the
23 council. Public notice of the time and place of meetings of
24 the council shall be given in the Pennsylvania Bulletin.

25 (3) Should a vacancy in the office of president occur,
26 the remaining members of the council shall fill that vacancy
27 by election.

28 (4) A majority of the council members shall constitute a
29 quorum for the transaction of all business.

30 (5) Each member of the council shall be paid reasonable

1 traveling, hotel and other necessary expenses and a per diem
2 compensation at a rate to be established in the regulations
3 for each day of actual service while on council business.

4 (b) Powers of council.--

5 (1) The council shall review and adopt any proposed and
6 existing rules and regulations necessary to the
7 administration and enforcement of this act subject to the
8 limitations provided for in sections 6 and 11.

9 (2) The council shall approve or deny petitions from
10 municipalities under circumstances contained in section
11 6(b)(2).

12 (3) The department shall make an annual report to the
13 General Assembly.

14 Section 8. Enforcement.

15 (a) Enforcement.--This act may be enforced by municipalities
16 in any of the following ways:

17 (1) By adoption of an ordinance which designates an
18 employee or another municipality or municipal agency to act
19 on behalf of the municipality for enforcement of this act.

20 (2) A private third-party agency may be retained by a
21 municipality to act as the agent of the municipality for
22 enforcement of this act, provided that the agency performing
23 the work has been certified by the department. A private
24 third-party agency may not establish or serve on a board of
25 appeals.

26 (3) Two or more municipalities may provide by ordinance
27 for the joint enforcement of this act through an
28 intermunicipal agreement under the act of July 12, 1972
29 (P.L.762, No.180), referred to as the Intergovernmental
30 Cooperation Law.

1 (4) In a municipality not wishing to adopt an ordinance
2 as provided by this section the municipality may designate a
3 State-certified third-party agency or agencies to conduct the
4 necessary plan approval and inspections under the Statewide
5 code. The certificate of inspection or inspection reports, if
6 a certificate cannot be issued due to deficiencies and
7 noncompliance with the Statewide code and regulations, shall
8 be filed with the building permit at the municipal office and
9 with the lender if applicable. In cases of violation of the
10 Statewide code and regulations, the municipality shall be
11 required to assess penalties as provided under section 16. If
12 the municipality also issues an occupancy permit, such permit
13 shall not be issued if a valid certificate of inspection is
14 not provided to the municipality. Nothing in this subsection
15 shall, however, be construed as to impose liability on the
16 municipality for actions of the owner or third-party agency
17 resulting in violation of the provisions of this act, nor
18 shall this subsection limit the ability of a third-party
19 agency to seek additional recourse for actions taken to
20 conduct the necessary plan approval and inspections required
21 by the Statewide code. A municipality designating a third-
22 party agency or agencies shall not be subject to a fee for
23 such inspections but nothing shall preclude a municipality
24 from increasing the costs of building permit or
25 administrative fees to recover the costs of retaining a
26 third-party agency or agencies.

27 (b) Financial interest prohibited.--A construction code
28 inspector or third-party agency shall not review or approve any
29 plans for or conduct inspections of any building or structure in
30 which the inspector or agency has any financial interests.

1 Section 9. Municipal administration.

2 (a) Inspector appointed.--Where the municipality has adopted
3 an ordinance for the administration and enforcement of this act,
4 the governing body in each municipality shall appoint a State-
5 certified construction inspector to administer and enforce the
6 code.

7 (b) Permit requirement.--Every application for a
8 construction permit shall be granted or denied, in whole or in
9 part, within 30 calendar days of the filing date. No
10 municipality shall be required to issue a permit within 30
11 calendar days if the applicant has not presented proof of
12 receipt of all necessary permits and plan approvals related to
13 the issuance of a construction permit. If a permit is denied,
14 the municipality shall provide the applicant with the reasons
15 for denial in writing.

16 Section 10. Board of appeals.

17 (a) Board established.--Where the municipality has adopted
18 an ordinance for the administration and enforcement of this act,
19 it shall establish a construction board of appeals to hear
20 appeals from decisions of the construction code inspector. An
21 application for appeal shall be based on a claim that the true
22 intent of this code or rules legally adopted thereunder have
23 been incorrectly interpreted, the provisions of this code do not
24 fully apply or an equivalent form of construction is to be used.

25 (b) Membership.--Membership shall be in accordance with
26 provisions contained in BOCA Code.

27 Section 11. Training and certification.

28 (a) Written examination.--

29 (1) The department shall by regulation adopt the
30 BOCA/CABO program for testing and certification of

1 construction code inspectors and third-party agencies. The
2 department may contract with an agency, firm, college or
3 university within this Commonwealth to provide the code
4 educational programs. Upon determination of qualifications,
5 the department shall issue a certificate to the construction
6 code inspector and third-party agency stating such
7 compliance. The department is empowered to revoke the
8 certification of construction code inspectors and third-party
9 agencies for just cause.

10 (2) The department shall establish a registry of
11 certified construction code inspectors and third-party
12 agencies and shall, on a quarterly basis, send to each
13 municipality an updated copy of the registry.

14 (b) Construction code inspectors certification.--

15 Construction code inspectors employed as of the effective date
16 of this act will be considered certified but must conform to the
17 department's continuing education requirements.

18 (c) Continuing education.--All construction code inspectors
19 shall participate in the BOCA/CABO continuing education
20 programs.

21 (d) Rules.--The department shall issue any rules necessary
22 for the conduct of third-party agencies to perform plan
23 approvals and inspections.

24 Section 12. Appropriation.

25 A one-time appropriation of \$200,000 is made to the
26 Department of Community Affairs for personnel and administrative
27 costs associated with implementing the training, educational and
28 certification requirements of this act.

29 Section 13. Exemptions.

30 This act shall not apply to manufactured housing which bears

1 a label, as required by and referred to in the act of November
2 17, 1982 (P.L.676, No.192), known as the Manufactured Housing
3 Construction and Safety Standards Authorization Act, which
4 certifies that it conforms to Federal construction and safety
5 standards adopted pursuant to the Housing and Community
6 Development Act of 1974 (Public Law 93-383, 88 Stat. 139), nor
7 shall it apply to industrialized housing, as defined in the act
8 of May 11, 1972 (P.L.286, No.70), known as the Industrialized
9 Housing Act.

10 Section 14. Savings.

11 This act shall not repeal or in any way affect the act of
12 January 24, 1966 (1965 P.L.1535, No.537), known as the
13 Pennsylvania Sewage Facilities Act, and regulations promulgated
14 thereunder.

15 Section 15. Time frame for administrative arrangements.

16 Municipalities operating alone or cooperating in joint
17 programs shall have two years from the effective date of this
18 act to establish administrative arrangements including
19 appointment to a board of appeals and setting of fees.

20 Section 16. Penalties.

21 (a) General rule.--Any person, or corporation, including an
22 officer, director or employee of a corporation shall be subject
23 to a penalty of not more than \$1,000 and be liable for the full
24 cost of correcting the violation if the person or corporation:

25 (1) Violates any provision of this act or rules
26 promulgated hereunder.

27 (2) Constructs a structure or building in violation of a
28 condition of a building permit.

29 (3) Fails to comply with any order issued by an
30 enforcing agency, municipality or third-party agency.

1 (4) Makes false or misleading written statements or
2 omits any required information or statement in any
3 application or request for approval to an enforcing
4 municipality or third-party agency.

5 (b) Third-party agency.--A third-party agency shall submit
6 the necessary information to the municipality for the assessment
7 of penalties under subsection (a).

8 (c) Refusal of access.--Anyone who knowingly refuses entry
9 or access to an inspector lawfully authorized to inspect any
10 premises, building or structure pursuant to this act or who
11 unreasonably interferes with such an inspection shall be subject
12 to a fine of not more than \$1,000.

13 Section 17. Repeals.

14 (a) Absolute.--The following acts and parts of acts are
15 repealed:

16 Sections 1 through 3.3, 4 through 6, 8 through 10 and 12
17 through 15 of the act of April 27, 1927 (P.L.465, No.299),
18 referred to as the Fire and Panic Act, and the regulations
19 promulgated thereunder.

20 Act of May 2, 1929 (P.L.1518, No.452), referred to as the
21 Elevator Regulation Law, and the regulations promulgated
22 thereunder.

23 Act of September 1, 1965 (P.L.459, No.235), entitled "An act
24 requiring that certain buildings and facilities adhere to
25 certain principles, standards and specifications to make the
26 same accessible to and usable by persons with physical
27 handicaps, and providing for enforcement," and the regulations
28 promulgated thereunder.

29 Section 1(a) and (c) of the act of July 9, 1976 (P.L.919,
30 No.170), entitled "An act providing for the approval or

1 disapproval of applications for a permit relating to the
2 construction or maintenance of improvements to real estate."

3 Act of December 15, 1980 (P.L.1203, No.222), known as the
4 Building Energy Conservation Act, and the regulations
5 promulgated thereunder.

6 (b) General.--All other acts and parts of acts are repealed
7 insofar as they are inconsistent with this act.

8 Section 18. Effective date.

9 This act shall take effect in 60 days.