
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 647 Session of
1999

INTRODUCED BY WAUGH, WAGNER, KUKOVICH, HART, CORMAN, SALVATORE,
BRIGHTBILL, THOMPSON, WOZNIAK AND BOSCOLA, MARCH 24, 1999

REFERRED TO LOCAL GOVERNMENT, MARCH 24, 1999

AN ACT

1 Establishing a Uniform Construction Code; imposing powers and
2 duties on municipalities and the Department of Labor and
3 Industry; providing for enforcement; imposing penalties; and
4 making repeals.

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14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 CHAPTER 1

17 PRELIMINARY PROVISIONS

18 Section 101. Short title.

19 This act shall be known and may be cited as the Pennsylvania
20 Construction Code Act.

21 Section 102. Legislative findings and purpose.

22 (a) Findings.--The General Assembly finds as follows:

23 (1) Many municipalities within this Commonwealth have no
24 construction codes to provide for the protection of life,
25 health, property and the environment and for the safety and
26 welfare of the consumer, general public and the owners and
27 occupants of buildings and structures. Consumers and
28 occupants may be at risk from substandard construction.

29 (2) Likewise, in some regions of this Commonwealth a
30 multiplicity of construction codes currently exist and some

1 of these codes may contain cumulatively needless requirements
2 which limit the use of certain materials, techniques or
3 products and lack benefits to the public. Moreover, the
4 variation of construction standards caused by the
5 multiplicity of codes may slow the process of construction
6 and increase the costs of construction.

7 (3) The way to insure uniform, modern construction
8 standards and regulations throughout this Commonwealth is to
9 adopt a Uniform Construction Code.

10 (4) The model code of the Building Officials and Code
11 Administrators International, Inc. (BOCA), is a construction
12 code which has been widely adopted in this Commonwealth and
13 in the geographical region of the United States of which this
14 Commonwealth is a part. Adoption of a nationally recognized
15 code will insure that this Commonwealth has a uniform, modern
16 construction code which will insure safety, health and
17 sanitary construction.

18 (b) Intent and purpose.--It is the intent of the General
19 Assembly and the purpose of this act:

20 (1) To provide standards for the protection of life,
21 health, property and environment and for the safety and
22 welfare of the consumer, general public and the owners and
23 occupants of buildings and structures.

24 (2) To encourage standardization and economy in
25 construction by providing requirements for construction and
26 construction materials consistent with nationally recognized
27 standards.

28 (3) To permit to the fullest extent feasible the use of
29 state-of-the-art technical methods, devices and improvements
30 consistent with reasonable requirements for the health,

1 safety and welfare of occupants or users of buildings and
2 structures.

3 (4) To eliminate existing codes to the extent that these
4 codes are restrictive, obsolete, conflicting and contain
5 duplicative construction regulations that tend to
6 unnecessarily increase costs or retard the use of new
7 materials, products or methods of construction or provide
8 preferential treatment to certain types or classes of
9 materials or methods of construction.

10 (5) To eliminate unnecessary duplication of effort and
11 fees related to the review of construction plans and the
12 inspection of construction projects.

13 (6) To assure that officials charged with the
14 administration and enforcement of the technical provisions of
15 this act are adequately trained and supervised.

16 (7) To insure that existing Commonwealth laws and
17 regulations, including those which would be repealed or
18 rescinded by this act, would be fully enforced during the
19 transition to Statewide administration and enforcement of a
20 Uniform Construction Code. Further, it is the intent of this
21 act that the Uniform Construction Code requirements for
22 making buildings accessible to and usable by persons with
23 disabilities do not diminish from those requirements
24 previously in effect under the former provisions of the act
25 of September 1, 1965 (P.L.459, No.235), entitled, as amended,
26 "An act requiring that certain buildings and facilities
27 adhere to certain principles, standards and specifications to
28 make the same accessible to and usable by persons with
29 physical handicaps, and providing for enforcement."

30 (8) To start a process leading to the design,

1 construction and alteration of buildings under a uniform
2 standard.

3 Section 103. Definitions.

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

7 "Advisory board." The Accessibility Advisory Board created
8 in section 106.

9 "Agricultural building." A structure utilized to store farm
10 implements, hay, feed, grain or other agricultural or
11 horticultural products or to house poultry, livestock or other
12 farm animals. The term shall not include habitable space, spaces
13 in which agricultural products are processed, treated or
14 packaged and shall not be construed to mean a place of occupancy
15 by the general public.

16 "Board of appeals." The body created by a municipality or
17 more than one municipality to hear appeals from decisions of the
18 code administrator as provided for by Chapter 1 of the Building
19 Officials and Code Administrators International, Inc., National
20 Building Code.

21 "BOCA." Building Officials and Code Administrators
22 International, Inc.

23 "CABO." Council of American Building Officials.

24 "Code administrator." A municipal code official, a
25 construction code official, a third party agency or the
26 Department of Labor and Industry.

27 "Construction code official." An individual certified by the
28 Department of Labor and Industry in an appropriate category
29 established pursuant to section 701(b) of this act to perform
30 plan review of construction documents, inspect construction or

1 administer and enforce codes and regulations in such code
2 category under this act or related acts.

3 "Department." The Department of Labor and Industry of the
4 Commonwealth.

5 "Habitable space." Space in a structure for living,
6 sleeping, eating or cooking. Bathrooms, toilet compartments,
7 closets, halls, storage or utility spaces and similar areas
8 shall not be construed as habitable spaces.

9 "Industrialized housing." The term shall have the meaning
10 ascribed to it in the act of May 11, 1972 (P.L.286, No.70),
11 known as the Industrialized Housing Act.

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

19 "Municipal code official." An individual employed by a
20 municipality or more than one municipality and certified by the
21 Department of Labor and Industry under this act to perform plan
22 review of construction documents, inspect construction or
23 administer and enforce codes and regulations under this act or
24 related acts.

25 "Municipality." A city, borough, incorporated town, township
26 or home rule municipality.

27 "Occupancy." The purpose for which a building, or portion
28 thereof, is used.

29 "Secretary." The Secretary of Labor and Industry of the
30 Commonwealth.

1 "Technically infeasible." An alteration of a building or a
2 facility that has little likelihood of being accomplished
3 because the existing structural conditions require the removal
4 or alteration of a load-bearing member that is an essential part
5 of the structural frame, or because other existing physical or
6 site constraints prohibit modification or addition of elements,
7 spaces or features which are in full and strict compliance with
8 the minimum requirements for new construction and which are
9 necessary to provide accessibility.

10 "Third-party agency." A person, firm or corporation
11 certified by the Department of Labor and Industry as a
12 construction code official and contracted to perform plan review
13 of construction documents, inspect construction or administer
14 and enforce codes and regulations under this act.

15 "Uniform Construction Code." The code established in section
16 301.

17 "Utility and miscellaneous use structures." Buildings or
18 structures of an accessory character and miscellaneous
19 structures not classified by the Building Officials and Code
20 Administrators International, Inc., in any specific use group.
21 The term includes carports, detached private garages,
22 greenhouses and sheds having a building area less than 1,000
23 square feet.

24 Section 104. Application.

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

28 (b) Exclusions.--This act shall not apply to:

29 (1) new buildings or renovations to existing buildings
30 for which an application for a building permit has been made

1 to the municipality prior to the effective date of the
2 regulations promulgated under this act;

3 (2) new buildings or renovations to existing buildings
4 on which a contract for design or construction has been
5 signed prior to the effective date of the regulations
6 promulgated under this act on projects requiring department
7 approval;

8 (3) utility and miscellaneous use structures that are
9 accessory to detached one-family dwellings except for
10 swimming pools and spas; or

11 (4) any agricultural building.

12 (c) Prior permits and construction.--

13 (1) Subject to paragraph (2) a construction permit
14 issued under valid construction regulations prior to the
15 effective date of the regulations issued under this act shall
16 remain valid, and the construction of any building or
17 structure may be completed pursuant to and in accordance with
18 the permit.

19 (2) If the requirements of the permit have not been
20 actively prosecuted within two years of the effective date of
21 the regulations or the period specified by a municipal
22 ordinance, whichever is less, the former permit holder shall
23 be required to acquire a new permit. Where construction of a
24 building or structure commenced before the effective date of
25 the regulations promulgated under this act and a permit was
26 not required at that time, construction may be completed
27 without a permit.

28 (d) Preemption.--

29 (1) Except as otherwise provided in this act,
30 construction standards provided by any statute or local

1 ordinance or regulation promulgated or adopted by a board,
2 department, commission, agency of State government or agency
3 of local government shall continue in effect only until the
4 effective date of regulations promulgated under this act, at
5 which time they shall be preempted by regulations promulgated
6 under this act and deemed thereafter to be rescinded.

7 (2) (i) Except as otherwise provided in this act and as
8 specifically excepted in subparagraph (ii), a homeowners'
9 association or community association shall be preempted
10 from imposing building construction standards or building
11 codes for buildings to be constructed, renovated, altered
12 or modified.

13 (ii) In municipalities which have not adopted an
14 ordinance for the administration and enforcement of this
15 act, a homeowners' association or community association
16 may enact by board regulations the Uniform Construction
17 Code or the CABO One and Two Family Dwelling Code, latest
18 edition. The applicable building code shall constitute
19 the standard governing building structures in the
20 association's community.

21 (e) Municipal regulation.--Nothing in this act shall
22 prohibit a municipality from licensing any persons engaged in
23 construction activities or from establishing work rules or
24 qualifications for such persons.

25 Section 105. Department of Labor and Industry.

26 (a) Review.--

27 (1) Except for complaints arising out of a municipal
28 ordinance enacted under section 503(a), the department may
29 with reasonable cause review municipalities, municipal code
30 officials, third-party agencies, construction code officials

1 and code administrators concerning the enforcement and
2 administration of this act, including specifically complaints
3 concerning accessibility requirements.

4 (2) The department shall make a report to the governing
5 body of the municipality that was the subject of the review.
6 The report shall include recommendations to address any
7 deficiency observed by the department.

8 (3) The department may require compliance with this act
9 through proceedings in Commonwealth Court.

10 (b) State-owned buildings.--

11 (1) The department shall maintain plan and specification
12 review and inspection authority over all State-owned
13 buildings. State-owned buildings shall be subject to
14 regulations promulgated under this act. The department shall
15 notify municipalities of all inspections of State-owned
16 buildings and give municipalities the opportunity to observe
17 the department inspection of such buildings.

18 (2) Municipalities shall notify the department of all
19 inspection of buildings owned by political subdivisions and
20 give the department the opportunity to observe municipal
21 inspection of such buildings.

22 (3) The department shall make available to
23 municipalities, upon request, copies of all building plans
24 and plan review documents in the custody of the department
25 for State-owned buildings.

26 (4) A municipality shall make available to the
27 department upon request copies of all building plans and plan
28 review documents in the custody of the municipality for
29 buildings owned by political subdivisions.

30 (c) Elevators and conveying systems.--

1 (1) The department shall maintain Statewide
2 administration and inspection authority over ski lifts,
3 inclined passenger lifts and related devices, and elevators,
4 conveying systems and related equipment as defined in section
5 3002.0 (definitions) of Chapter 30 of the 1996 BOCA National
6 Building Code, Thirteenth Edition.

7 (2) Notwithstanding Chapters 3 and 5, the department
8 may, subject to the act of June 25, 1982 (P.L.633, No.181),
9 known as the Regulatory Review Act, by regulation, modify the
10 BOCA Building Code Referenced Standards for elevator
11 construction, repair, maintenance and inspection. The
12 department shall not require reshackling more than once every
13 two years.

14 (3) Nothing in this section shall be construed to
15 disallow third-party elevator inspections.

16 (d) Limitation.--Nothing in this act, the regulations under
17 this act nor the administration of the act or the regulations by
18 the department shall contravene the right of builders to freely
19 compete for and perform contracts for construction of commercial
20 buildings in this Commonwealth.

21 Section 106. Accessibility Advisory Board.

22 (a) Creation and composition.--

23 (1) There is hereby created an Accessibility Advisory
24 Board which shall be composed of 11 members appointed by the
25 secretary. At least six members of the advisory board shall
26 be public members, three of whom shall be persons with
27 physical disabilities, one shall be an architect registered
28 in Pennsylvania, one shall be a member of the business
29 community and one shall be a representative of the
30 multifamily housing industry. One member shall be a municipal

1 official. The chairman and minority chairman of the Labor and
2 Industry Committee of the Senate and the chairman and
3 minority chairman of the Labor Relations Committee of the
4 House of Representatives, or their designees, shall be
5 members. All members of the advisory board, except the
6 members of the General Assembly, shall serve for a term of
7 two years and until their successors are appointed.

8 (2) The members of the advisory board shall be paid
9 traveling expenses and other necessary expenses and may
10 receive a per diem compensation at a rate to be determined by
11 the secretary for each day of actual service in the
12 performance of their duties under this act.

13 (3) Meetings of the advisory board shall be called by
14 the secretary. A quorum of the advisory board shall consist
15 of four members.

16 (4) The initial advisory board shall be the body
17 constituted under the former provisions of section 3.1 of the
18 act of September 1, 1965 (P.L.459, No.235), entitled, as
19 amended, "An act requiring that certain buildings and
20 facilities adhere to certain principles, standards and
21 specifications to make the same accessible to and usable by
22 persons with physical handicaps, and providing for
23 enforcement."

24 (b) Advice on regulation.--The advisory board shall review
25 all proposed regulations under this act and shall offer comment
26 and advice to the secretary on all issues relating to
27 accessibility by persons with physical disabilities, including
28 those which relate to the enforcement of the accessibility
29 requirements.

30 (c) Recommendations for modifications.--The advisory board

1 shall review all applications from individual projects for
2 modifications of the provisions of Chapter 11 (Accessibility) of
3 the Uniform Construction Code and any other accessibility
4 requirements contained in or referenced by the Uniform
5 Construction Code, and shall advise the secretary regarding
6 whether modification should be granted or whether compliance by
7 existing facilities with provisions of Chapter 11
8 (Accessibility) of the Uniform Construction Code and any other
9 accessibility requirements contained in or referenced by the
10 Uniform Construction Code is technically infeasible.

11 CHAPTER 3

12 UNIFORM CONSTRUCTION CODE

13 Section 301. Adoption by regulations.

14 (a) Regulations.--

15 (1) The department shall, within 180 days of the
16 effective date of this section, promulgate regulations
17 adopting the 1996 BOCA National Building Code, Thirteenth
18 Edition, as a Uniform Construction Code, except as provided
19 in section 105(c)(2) and this section. The department shall
20 promulgate separate regulations which may make changes to
21 Chapter 1 of the 1996 BOCA National Building Code that are
22 necessary for the department's implementation of this act.

23 (2) The regulations shall include a provision that all
24 detached one-family and two-family dwellings that are not
25 more than three stories in height shall be designed and
26 constructed either in accordance with the CABO One and Two
27 Family Dwelling Code, latest edition, or in accordance with
28 the requirements of the Uniform Construction Code at the
29 option of the building permit applicant. The provision shall
30 require that an irrevocable election be made at the time

1 plans are submitted for review and approval.

2 (3) The regulations shall include a provision that the
3 secretary shall have the exclusive power to grant
4 modifications and decide issues of technical infeasibility
5 under Chapter 11 (Accessibility) of the Uniform Construction
6 Code and any other accessibility requirements contained in or
7 referenced by the Uniform Construction Code for individual
8 projects.

9 (4) The secretary shall consider the recommendations of
10 the advisory board as provided in section 106(c). The
11 department shall consider the comments of the advisory board
12 with respect to accessibility issues in any proposed
13 regulations.

14 (4) The regulations shall include the provisions of
15 exception 8 to section 1014.6 (relative to stairway treads
16 and risers) of the 1993 BOCA National Building Code, Twelfth
17 Edition and the provisions of section R-213.1 (relative to
18 stairways) of the CABO One and Two Family Dwelling Code, 1992
19 edition, which provisions shall continue in effect until
20 December 31, 2003, and such provisions shall be applicable
21 notwithstanding section 303(b), which shall not apply to the
22 provisions of any municipal building code ordinance which
23 equals or exceeds these provisions.

24 (b) Scope of regulations.--

25 (1) The regulations adopted by the department
26 implementing these codes shall supersede and preempt all
27 local building codes regulating any aspect of the
28 construction, alteration and repair of buildings adopted or
29 enforced by any municipality or authority or pursuant to any
30 deed restriction, rule, regulation, ordinance, resolution,

1 tariff or order of any public utility or any State or local
2 board, agency, commission or homeowners' association, except
3 as may be otherwise specifically provided in this act.

4 (2) The department may establish by regulation plan
5 review and inspection fees where the department is
6 responsible for administration and enforcement and
7 requirements for municipal notification to the department of
8 ordinance adoption and repeal under Chapter 5.

9 (3) The department shall establish by regulation
10 standards for the retention and sharing of building plans and
11 other documents, for other than one-family or two-family
12 dwelling units and utility and miscellaneous structures, by
13 the department, municipalities and third-party agencies.

14 Section 302. Related standards.

15 (a) International Fuel Gas Code.--The department shall,
16 within 180 days of the effective date of this section,
17 promulgate regulations adopting the International Fuel Gas Code
18 for the installation of fuel gas piping systems, fuel gas
19 utilization equipment and related accessories. Where differences
20 occur between provisions of the Uniform Construction Code and
21 the International Fuel Gas Code, the provisions of the
22 International Fuel Gas Code shall apply.

23 (b) Referenced standards.--

24 (1) The standards referenced in Chapters 30 and 35, or
25 the applicable chapter, of the BOCA National Building Code
26 and the American National Standards for Passenger Tramways,
27 Aerial Tramways, Aerial Lifts, Surface Lifts and Tows,
28 ASME/ANSI B77.1, shall be considered part of the requirements
29 of the Uniform Construction Code to the prescribed extent of
30 each such reference except that BNPMC-96 BOCA National

1 Property Maintenance Code and ASME/ANSI A17.3 (safety code
2 for existing elevators and escalators) shall be excluded.

3 (2) Nothing contained in this act shall preempt the
4 ability of a municipality to adopt or enforce the codes
5 referred to in this subsection to the extent not referenced,
6 in whole or in part, in Chapter 35 or applicable chapter of
7 the BOCA National Building Code.

8 (c) Prescriptive methods for energy-related standards.--The
9 department shall, within 180 days of the effective date of this
10 section, by regulation promulgate prescriptive methods to
11 implement the energy-related standards of the Uniform
12 Construction Code which take into account the various climatic
13 conditions through this Commonwealth. In deriving these
14 standards the department shall seek to balance energy savings
15 with initial construction costs.

16 Section 303. Existing municipal building codes.

17 (a) Failure to meet requirements.--Except as provided in
18 subsection (d), all municipal building code ordinances in effect
19 on January 1, 1998, that do not comply with the minimum
20 requirements of the regulations promulgated under this act shall
21 be amended by the effective date of the regulations promulgated
22 under this act to provide for the minimum requirements.

23 (b) Provisions which equal or exceed the Uniform
24 Construction Code.--Except as provided in subsection (d), all
25 municipal building code ordinances in effect on January 1, 1998,
26 or reenactments of provisions of simultaneously repealed
27 ordinances which were originally adopted prior to January 1,
28 1998, which contain provisions which equal or exceed the
29 specific requirements of the regulations promulgated under this
30 act shall remain in effect until December 31, 2003, by which

1 time they shall be amended to incorporate the specific
2 requirements of the regulations promulgated under this act or
3 shall be amended using the provisions of Chapter 5 to
4 incorporate provisions which equal or exceed the specific
5 requirements of the regulations promulgated under this act.

6 (c) Ordinance adopted after January 1, 1998.--Except as
7 provided in subsection (d), any municipal building code
8 ordinance adopted or effective after January 1, 1998, except
9 reenactments of provisions of simultaneously repealed ordinances
10 which were originally adopted prior to January 1, 1998, shall
11 continue in effect only until the effective date of the
12 regulations promulgated under this act, at which time the
13 municipal building code ordinance shall be preempted by the
14 regulations promulgated under this act and shall be deemed
15 thereafter to be rescinded.

16 (d) Cities of the first class.--Any municipal building code
17 ordinance in effect or adopted by a city of the first class by
18 July 1, 1998, shall remain in effect until December 31, 2003, by
19 which time the ordinance shall be amended to incorporate the
20 specific requirements of the regulations promulgated under this
21 act or shall be amended using the provisions of Chapter 5 to
22 incorporate provisions which equal or exceed the specific
23 requirements of the regulations promulgated under this act.
24 Section 304. Revised or successor codes.

25 (a) Building code.--By December 31 of the year of the
26 issuance of a new triennial BOCA National Building Code, or its
27 successor building code, the department shall promulgate
28 regulations adopting the new code as the Uniform Construction
29 Code.

30 (b) International Fuel Gas Code.--By December 31 of the year

1 of the issuance of a new National Fuel Gas Code, or its
2 successor code, the department shall promulgate regulations
3 adopting the new code.

4 (c) Prior permits and construction.--

5 (1) A construction permit issued under valid
6 construction regulations prior to the effective date of
7 regulations for a subsequent Uniform Construction Code or
8 International Fuel Gas Code issued under this act shall
9 remain valid, and the construction of any building or
10 structure may be completed pursuant to and in accordance with
11 the permit.

12 (2) If the permit has not been actively prosecuted
13 within two years of the effective date of the regulation or
14 the period specified by a municipal ordinance, whichever is
15 less, the former permitholder shall be required to acquire a
16 new permit.

17 (3) Where construction of a building or structure
18 commenced before the effective date of the regulations for a
19 subsequent Uniform Construction Code or International Fuel
20 Gas Code issued under this act and a permit was not required
21 at that time, construction may be completed without a permit.

22 CHAPTER 5

23 ADOPTION AND ENFORCEMENT BY MUNICIPALITIES

24 Section 501. Administration and enforcement.

25 (a) Adoption of ordinance.--

26 (1) In order to administer and enforce the provisions of
27 this act, municipalities shall enact an ordinance
28 concurrently adopting the Uniform Construction Code as their
29 municipal building code and the International Fuel Gas Code
30 for the purposes described in section 302(a). Municipalities

1 may adopt the Uniform Construction Code and incorporated
2 codes and the International Fuel Gas Code by reference.

3 (2) Municipalities shall have 90 days after the
4 effective date of this act to adopt such an ordinance.
5 Municipalities shall notify the department of the adoption of
6 such an ordinance within 30 days. A municipality may adopt
7 such an ordinance at any time thereafter, upon giving the
8 department 180 days' notice of its intention to adopt such
9 ordinance.

10 (b) Municipal administration and enforcement.--This act may
11 be administered and enforced by municipalities in any of the
12 following ways:

13 (1) By the designation of an employee to serve as the
14 municipal code official to act on behalf of the municipality
15 for administration and enforcement of this act.

16 (2) By the retention of one or more construction code
17 officials or third-party agencies to act on behalf of the
18 municipality for administration and enforcement of this act.

19 (3) Two or more municipalities may provide for the joint
20 administration and enforcement of this act through an
21 intermunicipal agreement under 53 Pa.C.S. Ch. 23 Subch. A
22 (relating to intergovernmental cooperation).

23 (4) By entering into a contract with the proper
24 authorities of another municipality for the administration
25 and enforcement of this act. When such a contract has been
26 entered into, the municipal code official shall have all the
27 powers and authority conferred by law in the municipality
28 which has contracted to secure such services.

29 (5) By entering into an agreement with the department
30 for plan reviews, inspections and enforcement of structures

1 other than one-family or two-family dwelling units and
2 utility and miscellaneous use structures.

3 (c) Board of appeals.--

4 (1) Where the municipality has adopted an ordinance for
5 the administration and enforcement of this act, the
6 municipality shall or two or more municipalities may
7 establish a board of appeals as provided by Chapter 1 of the
8 BOCA National Building Code to hear appeals from decisions of
9 the code administrator. Members of the municipality's
10 governing body may not serve as members of the board of
11 appeals.

12 (2) An application for appeal shall be based on a claim
13 that the true intent of this act or regulations legally
14 adopted under this act have been incorrectly interpreted, the
15 provisions of this act do not fully apply or an equivalent
16 form of construction is to be used.

17 (3) When a municipality cannot find persons to serve on
18 a board of appeals who meet the minimum qualifications of
19 Chapter 1 of the BOCA National Building Code, the
20 municipality may fill a position on the board with a
21 qualified person who resides outside of the municipality.

22 (d) Registration.--Nothing in this act shall allow a
23 municipality to prohibit a construction code official who meets
24 the requirements of Chapter 7 and remains in good standing from
25 performing inspections in the municipality. This section does
26 not alter the power and duties given to municipalities under
27 section 501(b)(1), (3) and (4).

28 (e) Nonmunicipal administration.--

29 (1) In municipalities which have not adopted an
30 ordinance for the administration and enforcement of this act,

1 it shall be the duty of the municipality to notify an
2 applicant for a construction permit that it shall be the
3 responsibility of the permit applicant of one-family or two-
4 family dwelling units and utility and miscellaneous use
5 structures to obtain the services of a construction code
6 official or third-party agency with appropriate categories of
7 certification to conduct the plan review and inspections. For
8 one-family and two-family dwelling units and utility and
9 miscellaneous use structures, all of the following five
10 inspections shall be required:

11 (i) Foundation inspection.

12 (ii) Plumbing, mechanical and electrical inspection.

13 (iii) Frame and masonry inspection.

14 (iv) Wallboard inspection.

15 (v) Final inspection. The final inspection shall not
16 be deemed approved until all previous inspections have
17 been successfully completed and passed.

18 (2) In municipalities which have not adopted an
19 ordinance for the administration and enforcement of this act,
20 it shall be the duty of the municipality to notify the
21 department and an applicant for a construction permit that it
22 shall be the responsibility of the owner of structures other
23 than one-family or two-family dwelling units and utility and
24 miscellaneous structures to obtain the services of the
25 department to conduct the plan review and inspections
26 required by this act.

27 (3) A copy of the final inspection report shall be sent
28 to the property owner and to the builder and to a lender
29 designated by the builder.

30 (4) In municipalities which require a building permit or

1 a certificate of occupancy but do not conduct inspections,
2 the code administrator shall also be required to submit a
3 copy of the report to the municipality.

4 (f) Private right of action.--

5 (1) In relation to complaints arising out of chapter 11
6 of the BOCA Code (accessibility), any individual,
7 partnership, agency, association or corporation who
8 reasonably believes there is a violation of this act and its
9 regulations by a governmental entity or private owner may
10 file a complaint with the body responsible for enforcement of
11 the Uniform Construction Code Act. The complaint shall be in
12 writing, shall be verified and shall set forth the grounds
13 for the complaint. Within 60 days after the receipt of the
14 complaint, the code enforcement body shall respond to the
15 complaint by acknowledging receipt of the complaint in
16 writing. The enforcement body shall investigate the
17 complaints and respond to the complainant in writing with its
18 findings, determinations and any enforcement measures
19 initiated or contemplated within 120 days after the receipt
20 of the complaint. For the purpose of investigating a
21 complaint, an employee of the enforcement organization may
22 inspect at reasonable times the building or building site
23 which is the subject of the complaint and may make any
24 additional investigation deemed necessary for the full and
25 effective determination of compliance with this act and
26 regulations promulgated pursuant to it.

27 (2) Any individual, partnership, agency, association or
28 corporation aggrieved by a final determination of the
29 enforcement agency may file a petition for review within 30
30 days of the final determination in the Commonwealth Court

1 pursuant to 42 Pa.C.S. section 763(a) (relating to direct
2 appeals from government agencies). The decision of the
3 enforcement agency shall not be reversed unless it is found
4 to be arbitrary, capricious, illegal or not supported by
5 substantial evidence.

6 (3) (i) Any individual, partnership, agency,
7 association or corporation who filed a complaint pursuant
8 to paragraph (1) and received no written response from
9 the enforcement agency acknowledging receipt of its
10 complaint within 60 days or received a response from the
11 enforcement agency indicating that a violation was found
12 but enforcement measures were not contemplated or
13 enforcement measures were contemplated but such measures
14 were not initiated after a period of 60 days from said
15 response may either bring suit in Commonwealth Court
16 against the agency for failure to enforce the provisions
17 of this act and regulations promulgated pursuant to it or
18 may bring a civil action in the appropriate court of
19 common pleas against a building owner or owner's agent
20 for a violation of any provisions of this act or
21 regulations promulgated pursuant to it.

22 (ii) If the court finds a violation of this act or
23 of regulations adopted pursuant to it, the court may
24 enjoin construction or remodeling of the building, direct
25 the correction of violations within a reasonable and
26 specified time period or order such other relief deemed
27 appropriate. The court, in issuing any final orders in
28 any action brought pursuant to this action, may award
29 costs of litigation, attorney and expert witness fees, to
30 any party, whenever the court determines such an award is

1 appropriate. The court may, if a temporary restraining
2 order or preliminary injunction is sought, require the
3 filing of a bond or equivalent security in accordance
4 with the rules of civil procedure.

5 (iii) An architect or licensed design professional
6 who has complied with the provisions of this act and its
7 regulations and prepared construction documents in
8 accordance with accepted professional standards shall
9 have no further liability pursuant to litigation
10 commenced under this section.

11 Section 502. Consideration of applications and inspections.

12 (a) Applications for construction permits.--

13 (1) Every application for a construction permit for one-
14 family and two-family dwelling units and utility and
15 miscellaneous use structures shall be granted or denied, in
16 whole or in part, within 15 business days of the filing date.
17 All other construction permits shall be granted or denied, in
18 whole or in part, within 30 business days of the filing date.
19 Municipalities may establish different time limits to
20 consider applications for construction permits in historic
21 districts.

22 (2) If an application is denied in whole or in part, the
23 code administrator shall set forth the reasons in writing.

24 (3) If the code administrator fails to act on an
25 application within the time prescribed, the application shall
26 be deemed approved. The time limits established in this
27 section for permit applications other than one-family and
28 two-family dwellings may be extended upon agreement in
29 writing between the applicant and the municipality for a
30 specific number of additional days.

1 (b) Highway occupancy permit.--

2 (1) No building permit shall be issued for any property
3 which will require access to a highway under the jurisdiction
4 of the Department of Transportation, unless the permit
5 contains a notice that a highway occupancy permit is required
6 pursuant to section 420 of the act of June 1, 1945 (P.L.1242,
7 No.428), known as the State Highway Law, before driveway
8 access to a State highway is permitted.

9 (2) The department shall, within 60 days of the date of
10 receipt of an application for a highway occupancy permit:

11 (i) approve the permit;

12 (ii) deny the permit;

13 (iii) return the application for additional
14 information or correction to conform with department
15 regulations; or

16 (iv) determine that no permit is required, in which
17 case the department shall notify the municipality and
18 applicant in writing.

19 (3) If the department fails to take any action within
20 the 60-day period, the permit shall be deemed to be issued.
21 The permit shall be marked to indicate that access to the
22 State highway shall be only as authorized by a highway
23 occupancy permit.

24 (4) (i) Neither the department nor any municipality to
25 which permit-issuing authority has been delegated under
26 section 420 of the State Highway Law shall be liable in
27 damages for any injury to persons or property arising out
28 of the issuance or denial of a driveway permit, or for
29 failure to regulate any driveway.

30 (ii) The municipality from which the building permit

1 approval has been requested shall not be held liable for
2 damages to persons or property arising out of the
3 issuance or denial of a driveway permit by the
4 department.

5 (c) Financial interest prohibited.--A code administrator
6 shall not review or approve any plans for or construction of any
7 building or structure in which the code administrator has any
8 financial interest.

9 Section 503. Changes in Uniform Construction Code.

10 (a) Administration.--Municipalities may enact ordinances
11 which equal or exceed the minimum requirements of Chapter 1 of
12 the BOCA National Building Code without following the special
13 provisions of this act, except as specifically provided by this
14 act.

15 (b) Minimum requirement.--Subject to the provisions of this
16 act, no municipality may propose any ordinance which is less
17 than the minimum requirement of the BOCA National Building Code.

18 (c) Modification of minimum requirement.--Subject to the
19 provisions of this act, the municipal governing body may propose
20 an ordinance to equal or exceed the minimum requirements of the
21 Uniform Construction Code under the law governing the adoption
22 of ordinances in that jurisdiction.

23 (d) Public hearing.--The municipality must hold at least one
24 public hearing prior to adoption of the ordinance.

25 (e) Notice of public hearing.--The municipality shall place
26 notice in a newspaper of general circulation in the municipality
27 at least seven days, but not more than 60 days, in advance of a
28 public hearing to consider the proposed ordinance.

29 (f) Filing of proposed ordinance with department.--The
30 municipality shall file a copy of the proposed ordinance with

1 the department at least 30 days prior to public hearing. The
2 department shall make proposed ordinances available for public
3 inspection.

4 (g) Municipal action.--Following the public hearing, the
5 municipal governing body may enact the ordinance under the law
6 governing the adoption of ordinance in that jurisdiction.

7 (h) Amendment of proposed ordinance.--If the municipality
8 proposes any substantive amendment to a proposed ordinance, the
9 municipal governing body shall be required to meet the
10 advertising, filing, notice and public hearing requirements of
11 this section before enacting the proposed ordinance.

12 (i) Department review.--The department shall review all
13 proposed ordinances required to be filed with the department
14 under subsection (f) for compliance with subsection (b). If the
15 proposed ordinance does not comply with subsection (b), the
16 department shall advise the municipality of its finding setting
17 forth the reasons in writing. The municipality shall then
18 withdraw the proposed ordinance or revise the proposed ordinance
19 to meet the minimum requirements of the BOCA National Building
20 Code.

21 (j) Challenge of ordinance.--

22 (1) Aggrieved parties shall have 30 days from date of
23 enactment of the ordinance to file a written challenge with
24 the department and the municipality. The challenge shall
25 state the reason or reasons for the challenge. A municipal
26 ordinance may not take effect for a period of 35 days
27 following its enactment. If a challenge is filed in writing
28 with the department within 30 days, the department has five
29 business days from the end of the 30-day filing period to
30 notify a municipality of the challenge. There may be no

1 enforcement of the ordinance until a ruling is issued by the
2 secretary or 45 days after the filing date of the last
3 challenge to the ordinance, whichever occurs first.

4 (2) The department shall review any ordinance which
5 would equal or exceed the minimum requirements of the Uniform
6 Construction Code based on the following standards:

7 (i) that certain clear and convincing local
8 climatic, geologic, topographic or public health and
9 safety circumstances or conditions justify the exception;

10 (ii) the exemption shall be adequate for the purpose
11 intended and shall meet a standard of performance equal
12 to or greater than that prescribed by the BOCA National
13 Building Code; and

14 (iii) the exception would not diminish or threaten
15 the health, safety and welfare of the public.

16 (k) Ruling by secretary.-- A ruling on a challenge by an
17 aggrieved party shall be issued by the secretary within 45 days
18 of receipt of the filing of the last challenge to the ordinance.
19 If the secretary approves the ordinance, the municipality may
20 begin to administer and enforce the ordinance. If the secretary
21 disapproves the ordinance, the ordinance shall be null and void.
22 The secretary shall state the reasons for the disapproval in
23 writing to the municipality.

24 Section 504. Appeals.

25 (a) Ruling of secretary.--An appeal of the secretary's
26 ruling may be taken to the Commonwealth Court within 30 days of
27 the date of the ruling.

28 (b) Application for enforcement of ordinance.--Any person
29 aggrieved by the application or enforcement of any provision of
30 an ordinance adopted pursuant to section 503 shall have the

1 right to challenge the validity of the ordinance in the
2 appropriate court of common pleas.

3 CHAPTER 7

4 TRAINING AND CERTIFICATION OF INSPECTORS

5 Section 701. Training of inspectors.

6 (a) Training program.--The department, in consultation with
7 the advisory board, BOCA and other interested parties, shall by
8 regulation adopt a program of required training and
9 certification for all categories of code administrators. This
10 education program shall include accessibility requirements
11 contained in and referenced by the Uniform Construction Code.
12 The department may contract with a third party to provide the
13 code training and testing programs.

14 (b) Categories of inspectors.--The department, in
15 consultation with BOCA and other interested parties, shall
16 establish appropriate categories of code administrators.

17 (c) Certification.--Upon determination of qualification, the
18 department shall issue a certificate to the code administrator
19 stating that he is so certified.

20 (d) Waiver.--The department shall by regulation establish a
21 procedure for the consideration of requests for waivers of the
22 initial training and certification requirements for individuals
23 who present documentation that they have previously satisfied
24 substantially similar training, testing and certification
25 requirements. Any waiver shall not apply to continuing education
26 requirements.

27 (e) Current officials.--

28 (1) The department shall by regulation determine the
29 time period for current code administrators to meet the
30 training and certification requirements of this act. This

1 time period shall not be less than three years and not exceed
2 seven years from the effective date of this act for
3 individuals conducting plan review and inspections of one-
4 family or two-family residential property or not be less than
5 five years and not exceed ten years for individuals
6 conducting plan reviews and inspections on all other
7 buildings and structures.

8 (2) Notwithstanding the provisions of this subsection,
9 the department shall adopt regulations specifically providing
10 for the department's administration and enforcement of the
11 provisions of Chapter 11 (Accessibility) of the Uniform
12 Construction Code and any other accessibility requirements
13 contained in or referenced by the Uniform Construction Code
14 until code administrators have been certified regarding
15 accessibility provisions. The department shall maintain
16 jurisdiction over the provisions of Chapter 11
17 (Accessibility) of the Uniform Construction Code and any
18 other accessibility requirements contained in or referenced
19 by the Uniform Construction Code until such time as municipal
20 code administrators meet the requirements for certification.

21 (f) Continuing education.--The department shall, by
22 regulation, adopt and implement the continuing education program
23 and all code administrators shall participate in the
24 department's continuing education programs.

25 (g) Remedial education.--The department is empowered to
26 require code administrators to participate in remedial education
27 programs for just cause.

28 (h) Decertification.--The department is empowered to
29 decertify code administrators for just cause. The department
30 shall, by regulation, establish a procedure for the notification

1 of code administrators of decertification and the right of the
2 individual to receive a hearing before the department on
3 decertification.

4 (i) List of code administrators.--The department shall
5 maintain a list of code administrators, indicating the
6 categories of certifications, which shall be made available to
7 municipalities and, upon request, the public.

8 (j) Fees.--The department shall determine and approve
9 reasonable fees for educational programs, testing and
10 certification of code administrators.

11 (k) Insurance.--The department shall promulgate regulations
12 requiring code administrators in third-party agencies to carry
13 minimum levels of liability insurance.

14 Section 702. Reciprocity.

15 The department may develop reciprocity agreements with other
16 states or jurisdictions which have established accreditations
17 and certification requirements which the department determines
18 to be substantially similar to those set forth in this act.

19 CHAPTER 9

20 EXEMPTIONS AND PENALTIES

21 Section 901. Exemptions.

22 This act shall not apply to manufactured housing which bears
23 a label, as required by and referred to in the act of November
24 17, 1982 (P.L.676, No.192), known as the Manufactured Housing
25 Construction and Safety Standards Authorization Act, which
26 certifies that it conforms to Federal construction and safety
27 standards adopted under the Housing and Community Development
28 Act of 1974 (Public Law 93-383, 88 Stat. 139), nor shall it
29 apply to industrialized housing, as defined in the act of May
30 11, 1972 (P.L.286, No.70), known as the Industrialized Housing

1 Act.

2 Section 902. Penalties.

3 (a) Violation of act.--

4 (1) Any individual, firm or corporation that violates
5 any provision of this act commits a summary offense and
6 shall, upon conviction, be sentenced to pay a fine of not
7 more than \$1,000 and costs.

8 (2) Each day that a violation of this act continues
9 shall be considered a separate violation.

10 (b) Disposition of penalties.--The amount of the penalty
11 shall be forwarded to the entity with enforcement jurisdiction.

12 CHAPTER 11

13 MISCELLANEOUS PROVISIONS

14 Section 1101. Savings.

15 This act shall not repeal or in any way affect:

16 Sections 1, 3.3, 3.4, 3.5, 3.6(f)(1)(i) and (g), 10.1, 13, 14
17 and 15 of the act of April 27, 1927 (P.L.465, No.299), referred
18 to as the Fire and Panic Act.

19 Act of May 2, 1929 (P.L.1513, No.451), referred to as the
20 Boiler Regulation Law.

21 Act of August 24, 1951 (P.L.1304, No.315), known as the Local
22 Health Administration Law, insofar as it applies to counties of
23 the second class, and rules and regulations adopted by counties
24 of the second class under the act. Any construction standard
25 adopted after October 31, 1996, by counties of the second class
26 under the authority of the Local Health Administration Law shall
27 comply with Chapters 3 and 5 of this act.

28 Act of December 27, 1951 (P.L.1793, No.475), referred to as
29 the Liquefied Petroleum Gas Act.

30 Act of January 24, 1966 (1965 P.L.1535, No.537), known as the

1 Pennsylvania Sewage Facilities Act, and regulations promulgated
2 under the act.

3 Act of October 4, 1978 (P.L.851, No.166), known as the Flood
4 Plain Management Act, and regulations and ordinances promulgated
5 under the act.

6 Section 1102. Repeals.

7 (a) Absolute.--The following acts and parts of acts are
8 repealed:

9 Sections 2, 3, 3.1, 3.2, 3.6(a), (b), (c), (d), (e),
10 (f)(1)(ii), (iii) and (2), 4, 4.1, 4.2, 5, 6, 7, 8, 9, 10, 11,
11 12 and 15.1 of the act of April 27, 1927 (P.L.465, No.299),
12 referred to as the Fire and Panic Act.

13 Act of May 2, 1929 (P.L.1518, No.452), referred to as the
14 Elevator Regulation Law.

15 Act of September 1, 1965 (P.L.459, No.235), entitled, as
16 amended, "An act requiring that certain buildings and facilities
17 adhere to certain principles, standards and specifications to
18 make the same accessible to and usable by persons with physical
19 handicaps, and providing for enforcement."

20 Act of July 9, 1976 (P.L.919, No.170), entitled "An act
21 providing for the approval or disapproval of applications for a
22 permit relating to the construction or maintenance of
23 improvements to real estate."

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

27 Act of December 17, 1990 (P.L.742, No.185), entitled "An act
28 providing for restrooms in facilities where the public
29 congregates; and requiring that restroom facilities be provided
30 for women on an equitable basis."

1 Act of December 19, 1990 (P.L.1387, No.214), known as the Dry
2 Cleaning Law.

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

5 Section 1103. Effective date.

6 This act shall take effect as follows:

7 (1) Sections 301, 302, 701 and this section shall take
8 effect immediately.

9 (2) The remainder of this act shall take effect 90 days
10 following publication of notice in the Pennsylvania Bulletin
11 that the regulations required by this act have been finally
12 adopted.