

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1507

Session of
2005

INTRODUCED BY WILT, ALLEN, ARMSTRONG, BAKER, CAUSER, CREIGHTON,
FAIRCHILD, GEORGE, HALUSKA, LEH, McILHATTAN, PICKETT, SHANER,
S. H. SMITH, STERN, R. STEVENSON, T. STEVENSON, SURRA, ZUG,
DENLINGER AND McILHINNEY, MAY 3, 2005

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 22, 2005

AN ACT

1 Amending the act of November 10, 1999 (P.L.491, No.45), entitled
2 "An act establishing a uniform construction code; imposing
3 powers and duties on municipalities and the Department of
4 Labor and Industry; providing for enforcement; imposing
5 penalties; and making repeals," further providing for
6 definitions; and providing for applicability ~~and for~~ <—
7 ~~liability~~ on certain ~~uncertificated~~ UNCERTIFIED buildings. <—

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 103 of the act of November 10, 1999
11 (P.L.491, No.45), known as the Pennsylvania Construction Code
12 Act, is amended by adding definitions to read:

13 Section 103. 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 * * *

18 ~~"Fire protection system." Approved devices, equipment and~~ <—
19 ~~systems or combinations of systems used to detect a fire,~~

~~activate an alarm, extinguish or control a fire or control or
manage smoke and products of a fire.~~

~~* * *~~

~~"Means of egress." A continuous and unobstructed path of
vertical and horizontal egress travel from any occupied portion
of a building or structure to a public way. A means of egress
consists of three separate and distinct parts: the exit access,
the exit and the exit discharge.~~

~~"INDUSTRIAL BOARD." THE INDUSTRIAL BOARD UNDER SECTIONS 445
AND 2214 OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS
THE ADMINISTRATIVE CODE OF 1929, WHICH HEARS REQUESTS FOR
VARIANCES AND EXTENSIONS OF TIME AND APPEALS OF DECISIONS OF THE
DEPARTMENT OF LABOR AND INDUSTRY UNDER THE UNIFORM CONSTRUCTION
CODE.~~

~~* * *~~

~~"UNCERTIFIED BUILDING." AN EXISTING BUILDING WHICH, PRIOR TO
APRIL 9, 2004, WAS NOT APPROVED FOR USE AND OCCUPANCY BY THE
DEPARTMENT OF LABOR AND INDUSTRY OR A MUNICIPALITY WHICH WAS
ENFORCING A BUILDING CODE. THE TERM DOES NOT INCLUDE A
RESIDENTIAL BUILDING.~~

~~* * *~~

~~Section 2. The act is amended by adding sections to read:
Section 902.1. Applicability to certain buildings.~~

~~An existing building which did not have a certificate of
occupancy prior to April 10, 2004, shall be treated as an
existing building under Chapter 3. The following apply:~~

~~(1) A building under this section shall be issued an
occupancy permit under this act if all of the following
apply:~~

~~(i) The entire building meets the requirements of~~

~~Chapter 3 for fire protection systems and means of egress.~~

~~(ii) The building is not unsafe, unsanitary or judged to be a fire hazard or dangerous to human life or public welfare.~~

~~(2) For a building under this section, a code administrator shall not require changes which are technically infeasible for the purpose of meeting means of egress requirements.~~

~~(3) A code administrator shall construe this section liberally to allow a property owner to maintain occupancy of a building under this section.~~

~~Section 902.2. Buildings without occupancy certificates.~~

~~(a) Liability.~~

~~(1) A municipality shall not be liable for civil damages as a result of its act or omission in permitting the occupancy of a building which did not, prior to April 10, 2004, have a certificate of occupancy.~~

~~(2) The Commonwealth shall indemnify and hold harmless all of the following for claims or actions referred to in paragraph (1):~~

~~(i) A municipality.~~

~~(ii) An elected or appointed municipal official.~~

~~(iii) A municipal employee or agent.~~

~~(iv) A municipal volunteer.~~

~~(b) Waiver of immunity. Nothing in this section shall be deemed a waiver of sovereign immunity under 42 Pa.C.S. Ch. 85 Subch. B (relating to actions against Commonwealth parties) or C (relating to actions against local parties).~~

SECTION 2. SECTION 902 OF THE ACT IS AMENDED TO READ:

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SECTION 902. APPLICABILITY TO [HISTORIC] CERTAIN BUILDINGS[,
STRUCTURES AND SITES].

(A) HISTORIC BUILDINGS, STRUCTURES AND SITES.--THE
PROVISIONS OF THE 1999 BOCA NATIONAL BUILDING CODE, FOURTEENTH
EDITION, RELATING TO THE CONSTRUCTION, REPAIR, ALTERATION,
ADDITION, RESTORATION AND MOVEMENT OF STRUCTURES SHALL NOT APPLY
TO EXISTING BUILDINGS AND STRUCTURES, OR NEW BUILDINGS AND
STRUCTURES NOT INTENDED FOR RESIDENTIAL USE ON HISTORIC SITES,
THAT ARE IDENTIFIED AND CLASSIFIED BY THE FEDERAL, STATE OR
LOCAL GOVERNMENT AUTHORITY AS HISTORIC BUILDINGS OR SITES WHERE
SUCH BUILDINGS AND STRUCTURES ARE JUDGED BY THE CODE OFFICIAL TO
BE SAFE AND IN THE INTEREST OF PUBLIC HEALTH, SAFETY AND
WELFARE.

(B) UNCERTIFIED BUILDINGS.--SUBJECT TO SUBSECTION (C), ALL
OF THE FOLLOWING APPLY:

(1) A CONSTRUCTION CODE OFFICIAL SHALL ISSUE A
CERTIFICATE OF OCCUPANCY TO AN UNCERTIFIED BUILDING IF THAT
BUILDING MEETS THE REQUIREMENTS OF THIS SUBSECTION, UNLESS
THE OFFICIAL DEEMS THE BUILDING TO BE UNSAFE BECAUSE OF
INADEQUATE MEANS OF EGRESS, INADEQUATE LIGHT AND VENTILATION,
FIRE HAZARDS OR OTHER DANGERS TO HUMAN LIFE OR TO PUBLIC
WELFARE.

(2) AN UNCERTIFIED BUILDING SHALL COMPLY WITH THE
FOLLOWING:

(I) MEANS OF EGRESS REQUIREMENTS OF THE
INTERNATIONAL BUILDING CODE PERTAINING TO MINIMUM NUMBER
OF EXITS, MAXIMUM TRAVEL DISTANCES TO EXITS, MEANS OF
EGRESS ILLUMINATION, MINIMUM EGRESS WIDTHS AND HEIGHTS
FOR EXIT DOORS, EXIT STAIRS, EXIT RAMPS AND EXIT
CORRIDORS. WAIVERS SHALL BE AS FOLLOWS:

1 (A) A CONSTRUCTION CODE OFFICIAL MAY WAIVE
2 REQUIREMENTS FOR MINIMUM EGRESS WIDTHS AND HEIGHTS
3 FOR EXITS, EXIT ACCESS DOORS, EXIT RAMPS AND EXIT
4 CORRIDORS IF THE CONSTRUCTION CODE OFFICIAL
5 DETERMINES THAT ANY NONCONFORMING OPENINGS PROVIDE
6 SUFFICIENT WIDTH AND HEIGHT FOR BUILDING OCCUPANTS TO
7 PASS THROUGH OR EGRESS THE BUILDING.

8 (B) A CONSTRUCTION CODE OFFICIAL MAY WAIVE ANY
9 REQUIREMENTS UNDER THIS SUBPARAGRAPH IF:

10 (I) THE CONSTRUCTION CODE OFFICIAL
11 DETERMINES A REQUIREMENT TO BE TECHNICALLY
12 INFEASIBLE; OR

13 (II) THE BUILDING OWNER DEMONSTRATES THAT
14 THE BUILDING MET THE APPLICABLE EGRESS
15 REQUIREMENTS WHICH EXISTED UNDER THE ACT OF APRIL
16 27, 1927 (P.L.465, NO.299), REFERRED TO AS THE
17 FIRE AND PANIC ACT.

18 (C) A WAIVER SHALL BE DOCUMENTED ON THE
19 CERTIFICATE OF OCCUPANCY.

20 (II) FIRE SAFETY REQUIREMENTS OF THE INTERNATIONAL
21 BUILDING CODE WITH RESPECT TO FIRE ALARMS, FIRE
22 EXTINGUISHERS, HEAT AND SMOKE DETECTORS AND AUTOMATIC
23 SPRINKLER SYSTEMS. IF THE CODE REQUIRES THAT A BUILDING
24 HAVE AUTOMATIC SPRINKLER SYSTEMS, THE ONLY BUILDINGS
25 REQUIRED TO INSTALL AUTOMATIC SPRINKLER SYSTEMS SHALL BE
26 THOSE BUILDINGS CLASSIFIED IN USE GROUPS E (EDUCATIONAL),
27 H (HIGH-HAZARD), I (INSTITUTIONAL), R-1 OR R-2
28 (RESIDENTIAL) AND THOSE BUILDINGS WHICH HAVE OCCUPIED
29 FLOORS MORE THAN 75 FEET ABOVE LOWEST LEVEL OF FIRE
30 DEPARTMENT ACCESS. BUILDINGS IN USE GROUPS R-1 AND R-2

1 WHICH DO NOT HAVE OCCUPIED FLOORS MORE THAN 75 FEET ABOVE
2 LOWEST LEVEL OF FIRE DEPARTMENT ACCESS MAY, INSTEAD OF
3 INSTALLING AUTOMATIC SPRINKLER SYSTEMS, INSTALL HARD-
4 WIRED INTERCONNECTED HEAT AND SMOKE DETECTORS LOCATED IN
5 ALL LOBBIES, CORRIDORS, EQUIPMENT ROOMS, STORAGE ROOMS
6 AND OTHER SPACES THAT ARE NOT NORMALLY OCCUPIED. IF
7 CONSTRUCTION BEGAN ON A BUILDING PRIOR TO MAY 19, 1984,
8 THERE IS NO REQUIREMENT FOR THE INSTALLATION OF AUTOMATIC
9 SPRINKLER SYSTEMS UNDER THIS SUBPARAGRAPH. IF
10 CONSTRUCTION OF A BUILDING BEGAN AFTER MAY 18, 1984,
11 AUTOMATIC SPRINKLER INSTALLATION REQUIRED UNDER THIS
12 SUBPARAGRAPH SHALL BE COMPLETED WITHIN FIVE YEARS OF THE
13 EFFECTIVE DATE OF THIS SUBSECTION; OR AN OCCUPANCY PERMIT
14 ISSUED UNDER THIS SUBSECTION SHALL BE INVALID. WAIVERS
15 SHALL BE AS FOLLOWS:

16 (A) A CONSTRUCTION CODE OFFICIAL MAY WAIVE ANY
17 REQUIREMENTS UNDER THIS SUBPARAGRAPH IF:

18 (I) THE CONSTRUCTION CODE OFFICIAL
19 DETERMINES A REQUIREMENT TO BE TECHNICALLY
20 INFEASIBLE; OR

21 (II) THE BUILDING OWNER DEMONSTRATES THAT
22 THE BUILDING MET THE APPLICABLE FIRE SAFETY
23 REQUIREMENTS WHICH EXISTED UNDER THE FIRE AND
24 PANIC ACT.

25 (B) A WAIVER SHALL BE DOCUMENTED ON THE
26 CERTIFICATE OF OCCUPANCY.

27 (III) ACCESSIBILITY REQUIREMENTS AS FOLLOWS:

28 (A) IF CONSTRUCTION OF A BUILDING BEGAN BEFORE
29 SEPTEMBER 1, 1965, NO ACCESSIBILITY REQUIREMENTS
30 SHALL BE IMPOSED.

1 (B) IF CONSTRUCTION OF A BUILDING BEGAN AFTER
2 AUGUST 31, 1965, AND BEFORE FEBRUARY 18, 1989, AND IF
3 THE BUILDING WAS SUBJECT TO THE REQUIREMENTS OF THE
4 FORMER ACT OF SEPTEMBER 1, 1965 (P.L.459, NO.235),
5 ENTITLED, "AN ACT REQUIRING THAT CERTAIN BUILDINGS
6 AND FACILITIES ADHERE TO CERTAIN PRINCIPLES,
7 STANDARDS AND SPECIFICATIONS TO MAKE THE SAME
8 ACCESSIBLE TO AND USABLE BY PERSONS WITH PHYSICAL
9 HANDICAPS, AND PROVIDING FOR ENFORCEMENT," IT SHALL
10 HAVE:

11 (I) AT LEAST ONE ACCESSIBLE ENTRANCE;

12 (II) AN ACCESSIBLE ROUTE FROM THE ACCESSIBLE
13 ENTRANCE TO ANY PUBLIC SPACES ON THE SAME LEVEL
14 AS THE ACCESSIBLE ENTRANCE; AND

15 (III) IF TOILET ROOMS ARE PROVIDED, AT LEAST
16 ONE ACCESSIBLE TOILET ROOM FOR EACH SEX OR A
17 UNISEX TOILET ROOM, COMPLYING WITH THE
18 ACCESSIBILITY REQUIREMENTS OF THE INTERNATIONAL
19 BUILDING CODE.

20 (C) IF CONSTRUCTION OF THE BUILDING BEGAN AFTER
21 FEBRUARY 17, 1989, ALL ACCESSIBILITY REQUIREMENTS OF
22 THE INTERNATIONAL BUILDING CODE SHALL BE MET.

23 (3) STRUCTURAL REQUIREMENTS SHALL NOT BE IMPOSED, UNLESS
24 A CONSTRUCTION CODE OFFICIAL DETERMINES THAT THE BUILDING OR
25 A PORTION OF THE BUILDING HAS DEFECTS WHICH ARE DANGEROUS AS
26 DEFINED IN THE INTERNATIONAL EXISTING BUILDING CODE. A
27 CONSTRUCTION CODE OFFICIAL MAY IMPOSE ONLY THOSE REQUIREMENTS
28 MINIMALLY NECESSARY TO REMOVE ANY DANGER TO THE BUILDING'S
29 OCCUPANTS.

30 (4) A BUILDING OWNER MAY FILE AN APPLICATION FOR A

1 VARIANCE FROM THIS SUBSECTION CONCERNING ACCESSIBILITY WITH
2 THE ADVISORY BOARD UNDER SECTION 106. A BUILDING OWNER MAY
3 FILE AN APPLICATION FOR A VARIANCE FROM THIS SUBSECTION
4 CONCERNING OTHER STANDARDS AS FOLLOWS:

5 (I) THE APPLICATION MUST BE FILED WITH THE BOARD OF
6 APPEALS IF THE BUILDING IS IN A MUNICIPALITY WHICH
7 ELECTED TO ENFORCE THIS ACT.

8 (II) THE APPLICATION MUST BE FILED WITH THE
9 INDUSTRIAL BOARD IF ANY OF THE FOLLOWING APPLY:

10 (A) THE BUILDING IS LOCATED IN A MUNICIPALITY
11 WHICH ELECTED NOT TO ENFORCE THIS ACT.

12 (B) THE BUILDING IS A STATE-OWNED BUILDING. AS
13 USED IN THIS CLAUSE, THE TERM "STATE-OWNED BUILDING"
14 MEANS A BUILDING OWNED OR CONSTRUCTED FOR
15 COMMONWEALTH ENTITIES, CONSISTING OF THE GENERAL
16 ASSEMBLY; THE UNIFIED JUDICIAL SYSTEM; THE
17 PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY; AN
18 EXECUTIVE AGENCY; AN INDEPENDENT AGENCY; AND A STATE-
19 AFFILIATED ENTITY OR STATE-RELATED INSTITUTION, AS
20 DEFINED IN 62 PA.C.S. § 103 (RELATING TO
21 DEFINITIONS).

22 (5) A MUNICIPALITY, AN OFFICIAL OR EMPLOYEE OF A
23 MUNICIPALITY, AND A THIRD PARTY ACTING ON BEHALF OF A
24 MUNICIPALITY SHALL NOT BE LIABLE FOR CIVIL DAMAGES AS A
25 RESULT OF ITS ACT OR OMISSION IN PERMITTING THE OCCUPANCY OF
26 A BUILDING UNDER THIS SUBSECTION.

27 (6) A BUILDING SUBJECT TO THIS SUBSECTION SHALL BE
28 PERMITTED TO MAINTAIN ITS CURRENT OCCUPANCY AS LONG AS THE
29 OWNER DEMONSTRATES REASONABLE EFFORTS TO COMPLY WITH THIS
30 SUBSECTION.

1 (7) AN UNCERTIFIED BUILDING WHICH WAS BUILT BEFORE APRIL
2 27, 1927, SHALL BE DEEMED A CERTIFIED BUILDING FOR PURPOSES
3 OF THIS ACT.

4 (C) APPLICABILITY OF UNIFORM CONSTRUCTION CODE.--NOTHING IN
5 SUBSECTION (B) SHALL BE CONSTRUED AS TO AFFECT APPLICABILITY OF
6 CHAPTER 3 IF A BUILDING IS SUBJECT TO RENOVATION, ADDITIONS,
7 ALTERATIONS OR A CHANGE IN USE OR OCCUPANCY.

8 Section 3. This act shall take effect immediately.