

AMENDMENTS TO HOUSE BILL NO. 1437

Sponsor: REPRESENTATIVE SANTORA

Printer's No. 2460

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

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

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

10 Section 2. Definitions.

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

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

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

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

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

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

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

8 "Temporary use and occupancy certificate." A certificate
9 issued by a municipality as a result of the municipal inspection
10 of a property incident to the resale of the property that
11 reveals a violation but no substantial violation, and the
12 purpose of which certificate is to authorize the purchaser to
13 fully utilize or reside in the property while correcting
14 violations pursuant to the maintenance and repair provisions of
15 this act. The term includes a certificate that meets this
16 definition, regardless of the terminology utilized by a
17 municipality, including, but not limited to, "resale
18 certificate" or "certificate of occupancy."

19 "Temporary use certificate." A certificate issued by a
20 municipality as a result of the municipal inspection of a
21 property incident to the resale of the property that identifies
22 at least one substantial violation, and the purpose of which
23 certificate is to authorize the purchaser to utilize the
24 property for the purpose of correcting substantial violations
25 pursuant to the maintenance and repair provisions of this act.
26 The term includes a certificate that meets this definition,
27 regardless of the terminology utilized by a municipality,
28 including, but not limited to, "resale certificate" or
29 "certificate of occupancy." No person may occupy a property
30 during the term of a temporary use certificate, but the owner
31 shall be permitted to store personalty in the property during
32 that time.

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

43 "Use and occupancy certificate." A certificate issued by a
44 municipality as a result of the municipal inspection of a
45 property incident to the resale of the property that does not
46 reveal a violation and the purpose of which certificate is to
47 authorize the purchaser to fully utilize or reside in the
48 property. The term includes a certificate that meets this
49 definition, regardless of the terminology utilized by a
50 municipality, including, but not limited to, "resale
51 certificate" or "certificate of occupancy."

1 "Violation." A violation of a properly adopted building,
2 housing, property maintenance or fire code or maintenance,
3 health or safety nuisance ordinance that does not rise to the
4 level of a substantial violation and is discovered during the
5 course of a municipal inspection of a property and disclosed to
6 the record owner or prospective purchaser of the property
7 through issuance of a municipal report.

8 Section 2. The act is amended by adding a section to read:

9 Section 2.1. Issuance of use and occupancy certificate.

10 (a) General rule.--A municipality requiring use and
11 occupancy certificates may not deny a certificate under any
12 circumstances, and shall issue the certificates in the following
13 manner:

14 (1) If the inspection reveals no violations, the
15 municipality shall issue a use and occupancy certificate.

16 (2) If the inspection reveals at least one violation,
17 but no substantial violations, the municipality shall issue a
18 temporary use and occupancy certificate.

19 (3) If the inspection reveals at least one substantial
20 violation, the municipality shall specifically note those
21 items on the inspection report and shall issue a temporary
22 use certificate.

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

27 Section 3. Section 3 of the act is amended to read:

28 Section 3. Compliance requirement.

29 (a) General rule.--[Within 18 months of the date of purchase
30 or longer subject to an agreement between the purchaser and the
31 municipality, any purchaser of any building, structure or part
32 of a building or structure known to have one or more substantial
33 violations of municipal codes relating to building, housing,
34 property maintenance or fire shall:] If the municipality issues
35 either a temporary use and occupancy certificate or a temporary
36 use certificate, within 12 months from the purchase date the
37 purchaser, at his option, shall either:

38 (1) bring the building, structure or that part of a
39 building or structure into compliance with those codes or
40 ordinances; or

41 (2) demolish the building or structure in accordance
42 with law.

43 (a.1) Negotiation of longer time periods.--At its
44 discretion, the municipality may negotiate longer time periods
45 for maintenance and repair under a temporary certificate, but
46 the time periods stated in subsection (a) may not be shortened.

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

48 (1) At the expiration of the time period set forth in
49 subsection (a) or before that time, if requested by the
50 property owner, the municipality shall reinspect the property
51 for the purpose of determining compliance with the cited

1 violations.

2 (2) If a temporary use permit has been issued and
3 reinspection indicates that the noted substantial violations
4 have been corrected but other cited violations have not yet
5 been corrected, the municipality shall issue a temporary use
6 and occupancy permit to be valid for the time remaining on
7 the original temporary use permit.

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

11 (b) Penalty.--

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

14 (i) Revocation of the temporary certificate.

15 (ii) The purchaser being subject to any existing
16 municipal ordinances relating to the occupation of a
17 property without a use and occupancy certificate.

18 (iii) The purchaser being personally liable for the
19 costs of maintenance, repairs or demolition sufficient to
20 correct the cited violations, and a fine of not less than
21 \$1,000 and not more than \$10,000.

22 (2) Fines shall be remitted to the municipality in which
23 the building, structure or part of a building or structure is
24 located.

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

29 [(c) Nuisance ordinances.--

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

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

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

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

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

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

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