

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 647

Session of
1999

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

SENATOR GERLACH, LOCAL GOVERNMENT, AS AMENDED, APRIL 19, 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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15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 CHAPTER 1

18 PRELIMINARY PROVISIONS

19 Section 101. Short title.

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

22 Section 102. Legislative findings and purpose.

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

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

30 (2) Likewise, in some regions of this Commonwealth a

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

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

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

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

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

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

29 (3) To permit to the fullest extent feasible the use of
30 state-of-the-art technical methods, devices and improvements

1 consistent with reasonable requirements for the health,
2 safety and welfare of occupants or users of buildings and
3 structures.

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

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

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

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

1 (8) To start a process leading to the design,
2 construction and alteration of buildings under a uniform
3 standard.

4 Section 103. Definitions.

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

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

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

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

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

24 "CABO." Council of American Building Officials.

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

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

1 plan review of construction documents, inspect construction or
2 administer and enforce codes and regulations in such code
3 category under this act or related acts.

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

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

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

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

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

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

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

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

1 Commonwealth.

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

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

16 "Uniform Construction Code." The code established in section
17 301.

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

25 Section 104. Application.

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

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

30 (1) new buildings or renovations to existing buildings

1 for which an application for a building permit has been made
2 to the municipality prior to the effective date of the
3 regulations promulgated under this act;

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

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

12 (4) any agricultural building.

13 (c) Prior permits and construction.--

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

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

29 (d) Preemption.--

30 (1) Except as otherwise provided in this act,

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

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

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

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

26 Section 105. Department of Labor and Industry.

27 (a) Review.--

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

officials, third-party agencies, construction code officials and code administrators concerning the enforcement and administration of this act, including specifically complaints concerning accessibility requirements.

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

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

(b) State-owned buildings.--

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

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

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

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

1 (c) Elevators and conveying systems.--

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

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

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

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

22 Section 106. Accessibility Advisory Board.

23 (a) Creation and composition.--

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

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

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

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

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

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

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

12 CHAPTER 3

13 UNIFORM CONSTRUCTION CODE

14 Section 301. Adoption by regulations.

15 (a) Regulations.--

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

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

1 require that an irrevocable election be made at the time
2 plans are submitted for review and approval.

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

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

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

25 (b) Scope of regulations.--

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

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

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

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

15 Section 302. Related standards.

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

24 (b) Referenced standards.--

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

each such reference except that BNPMC-96 BOCA National Property Maintenance Code and ASME/ANSI A17.3 (safety code for existing elevators and escalators) shall be excluded.

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

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

Section 303. Existing municipal building codes.

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

(b) Provisions which equal or exceed the Uniform Construction Code.--Except as provided in subsection (d), all municipal building code ordinances in effect on January 1, 1998, or reenactments of provisions of simultaneously repealed ordinances which were originally adopted prior to January 1, 1998, which contain provisions which equal or exceed the specific requirements of the regulations promulgated under this

1 act shall remain in effect. ~~until December 31, 2003, by which~~
2 ~~time they shall be amended to incorporate the specific~~
3 ~~requirements of the regulations promulgated under this act or~~
4 ~~shall be amended using the provisions of Chapter 5 to~~
5 ~~incorporate provisions which equal or exceed the specific~~
6 ~~requirements of the regulations promulgated under this act.~~

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

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

25 Section 304. Revised or successor codes.

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

1 (b) International Fuel Gas Code.--By December 31 of the year
2 of the issuance of a new National Fuel Gas Code, or its
3 successor code, the department shall promulgate regulations
4 adopting the new code.

5 (c) Prior permits and construction.--

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

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

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

23 CHAPTER 5

24 ADOPTION AND ENFORCEMENT BY MUNICIPALITIES

25 Section 501. Administration and enforcement.

26 (a) Adoption of ordinance.--

27 (1) In order to administer and enforce the provisions of
28 this act, municipalities shall enact an ordinance
29 concurrently adopting the Uniform Construction Code as their
30 municipal building code and the International Fuel Gas Code

1 for the purposes described in section 302(a). Municipalities
2 may adopt the Uniform Construction Code and incorporated
3 codes and the International Fuel Gas Code by reference.

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

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

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

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

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

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

30 (5) By entering into an agreement with the department

1 for plan reviews, inspections and enforcement of structures
2 other than one-family or two-family dwelling units and
3 utility and miscellaneous use structures.

4 (c) Board of appeals.--

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

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

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

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

29 (e) Nonmunicipal administration.--

30 (1) In municipalities which have not adopted an

ordinance for the administration and enforcement of this act,
it shall be the duty of the municipality to notify an
applicant for a construction permit that it shall be the
responsibility of the permit applicant of one-family or two-
family dwelling units and utility and miscellaneous use
structures to obtain the services of a construction code
official or third-party agency with appropriate categories of
certification to conduct the plan review and inspections. For
one-family and two-family dwelling units and utility and
miscellaneous use structures, all of the following five
inspections shall be required:

(i) Foundation inspection.

(ii) Plumbing, mechanical and electrical inspection.

(iii) Frame and masonry inspection.

(iv) Wallboard inspection.

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

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

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

1 (4) In municipalities which require a building permit or
2 a certificate of occupancy but do not conduct inspections,
3 the code administrator shall also be required to submit a
4 copy of the report to the municipality. NO CERTIFICATE OF <—
5 OCCUPANCY SHALL BE ISSUED FOR A BUILDING UNLESS IT MEETS ALL
6 OF THE PROVISIONS OF THE UNIFORM CONSTRUCTION CODE OR HAS
7 BEEN GRANTED A VARIANCE FOR THE REQUIREMENTS IT DOES NOT
8 MEET. A CERTIFICATE OF PARTIAL OCCUPANCY MAY BE ISSUED IF THE
9 SPACE TO BE OCCUPIED COMPLIES WITH THE ACCESSIBILITY
10 REQUIREMENTS CONTAINED IN THE UNIFORM CONSTRUCTION CODE
11 UNLESS A VARIANCE FOR THE SPACE HAS BEEN OBTAINED IN
12 ACCORDANCE WITH THIS ACT.

13 (f) Private right of action.--

14 (1) In relation to complaints arising out of Chapter 11
15 of the BOCA Code (accessibility), any individual,
16 partnership, agency, association or corporation who
17 reasonably believes there is a violation of this act and its
18 regulations by a governmental entity or private owner may
19 file a complaint with the body responsible for enforcement of
20 the Uniform Construction Code Act. The complaint shall be in
21 writing, shall be verified and shall set forth the grounds
22 for the complaint. Within 60 days after the receipt of the
23 complaint, the code enforcement body shall respond to the
24 complaint by acknowledging receipt of the complaint in
25 writing. The enforcement body shall investigate the
26 complaints and respond to the complainant in writing with its
27 findings, determinations and any enforcement measures
28 initiated or contemplated within 120 days after the receipt
29 of the complaint. For the purpose of investigating a
30 complaint, an employee of the enforcement organization may

1 inspect at reasonable times the building or building site
2 which is the subject of the complaint and may make any
3 additional investigation deemed necessary for the full and
4 effective determination of compliance with this act and
5 regulations promulgated pursuant to it.

6 (2) Any individual, partnership, agency, association or
7 corporation aggrieved by a final determination of the
8 enforcement agency may file a petition for review within 30
9 days of the final determination in the Commonwealth Court
10 pursuant to 42 Pa.C.S. § 763(a) (relating to direct appeals
11 from government agencies). The decision of the enforcement
12 agency shall not be reversed unless it is found to be
13 arbitrary, capricious, illegal or not supported by
14 substantial evidence.

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

(ii) If the court finds a violation of this act or of regulations adopted pursuant to it, the court may enjoin construction or remodeling of the building, direct the correction of violations within a reasonable and specified time period or order such other relief deemed appropriate. The court, in issuing any final orders in any action brought pursuant to this action, may award costs of litigation, attorney and expert witness fees, to any party, whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the rules of civil procedure.

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

Section 502. Consideration of applications and inspections.

(a) Applications for construction permits.--

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

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

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

10 (b) Highway occupancy permit.--

11 (1) No building permit shall be issued for any property
12 which will require access to a highway under the jurisdiction
13 of the Department of Transportation, unless the permit
14 contains a notice that a highway occupancy permit is required
15 pursuant to section 420 of the act of June 1, 1945 (P.L.1242,
16 No.428), known as the State Highway Law, before driveway
17 access to a State highway is permitted.

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

20 (i) approve the permit;

21 (ii) deny the permit;

22 (iii) return the application for additional
23 information or correction to conform with department
24 regulations; or

25 (iv) determine that no permit is required, in which
26 case the department shall notify the municipality and
27 applicant in writing.

28 (3) If the department fails to take any action within
29 the 60-day period, the permit shall be deemed to be issued.

30 The permit shall be marked to indicate that access to the

1 State highway shall be only as authorized by a highway
2 occupancy permit.

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

9 (ii) The municipality from which the building permit
10 approval has been requested shall not be held liable for
11 damages to persons or property arising out of the
12 issuance or denial of a driveway permit by the
13 department.

14 (c) Financial interest prohibited.--A code administrator
15 shall not review or approve any plans for or construction of any
16 building or structure in which the code administrator has any
17 financial interest.

18 Section 503. Changes in Uniform Construction Code.

19 (a) Administration.--Municipalities may enact ordinances
20 which equal or exceed the minimum requirements of Chapter 1 of
21 the BOCA National Building Code without following the special
22 provisions of this act, except as specifically provided by this
23 act.

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

27 (c) Modification of minimum requirement.--Subject to the
28 provisions of this act, the municipal governing body may propose
29 an ordinance to equal or exceed the minimum requirements of the
30 Uniform Construction Code under the law governing the adoption

1 of ordinances in that jurisdiction.

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

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

8 (f) Filing of proposed ordinance with department.--The
9 municipality shall file a copy of the proposed ordinance with
10 the department at least 30 days prior to public hearing. The
11 department shall make proposed ordinances available for public
12 inspection.

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

16 (h) Amendment of proposed ordinance.--If the municipality
17 proposes any substantive amendment to a proposed ordinance, the
18 municipal governing body shall be required to meet the
19 advertising, filing, notice and public hearing requirements of
20 this section before enacting the proposed ordinance.

21 (i) Department review.--The department shall review all
22 proposed ordinances required to be filed with the department
23 under subsection (f) for compliance with subsection (b). If the
24 proposed ordinance does not comply with subsection (b), the
25 department shall advise the municipality of its finding setting
26 forth the reasons in writing. The municipality shall then
27 withdraw the proposed ordinance or revise the proposed ordinance
28 to meet the minimum requirements of the BOCA National Building
29 Code.

30 (j) Challenge of ordinance.--

1 (1) Aggrieved parties shall have 30 days from date of
2 enactment of the ordinance to file a written challenge with
3 the department and the municipality. The challenge shall
4 state the reason or reasons for the challenge. A municipal
5 ordinance may not take effect for a period of 35 days
6 following its enactment. If a challenge is filed in writing
7 with the department within 30 days, the department has five
8 business days from the end of the 30-day filing period to
9 notify a municipality of the challenge. There may be no
10 enforcement of the ordinance until a ruling is issued by the
11 secretary or 45 days after the filing date of the last
12 challenge to the ordinance, whichever occurs first.

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

16 (i) that certain clear and convincing local
17 climatic, geologic, topographic or public health and
18 safety circumstances or conditions justify the exception;

19 (ii) the exemption shall be adequate for the purpose
20 intended and shall meet a standard of performance equal
21 to or greater than that prescribed by the BOCA National
22 Building Code; and

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

25 (k) Ruling by secretary.-- A ruling on a challenge by an
26 aggrieved party shall be issued by the secretary within 45 days
27 of receipt of the filing of the last challenge to the ordinance.
28 If the secretary approves the ordinance, the municipality may
29 begin to administer and enforce the ordinance. If the secretary
30 disapproves the ordinance, the ordinance shall be null and void.

1 The secretary shall state the reasons for the disapproval in
2 writing to the municipality.

3 Section 504. Appeals.

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

7 (b) Application for enforcement of ordinance.--Any person
8 aggrieved by the application or enforcement of any provision of
9 an ordinance adopted pursuant to section 503 shall have the
10 right to challenge the validity of the ordinance in the
11 appropriate court of common pleas.

12 CHAPTER 7

13 TRAINING AND CERTIFICATION OF INSPECTORS

14 Section 701. Training of inspectors.

15 (a) Training program.--The department, in consultation with
16 the advisory board, BOCA and other interested parties, shall by
17 regulation adopt a program of required training and
18 certification for all categories of code administrators. This
19 education program shall include accessibility requirements
20 contained in and referenced by the Uniform Construction Code.
21 The department may contract with a third party to provide the
22 code training and testing programs.

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

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

29 (d) Waiver.--The department shall by regulation establish a
30 procedure for the consideration of requests for waivers of the

1 initial training and certification requirements for individuals
2 who present documentation that they have previously satisfied
3 substantially similar training, testing and certification
4 requirements. Any waiver shall not apply to continuing education
5 requirements.

6 (e) Current officials.--

7 (1) The department shall by regulation determine the
8 time period for current code administrators to meet the
9 training and certification requirements of this act. This
10 time period shall not be less than three years and not exceed
11 seven years from the effective date of this act for
12 individuals conducting plan review and inspections of one-
13 family or two-family residential property or not be less than
14 five years and not exceed ten years for individuals
15 conducting plan reviews and inspections on all other
16 buildings and structures.

17 (2) Notwithstanding the provisions of this subsection,
18 the department shall adopt regulations specifically providing
19 for the department's administration and enforcement of the
20 provisions of Chapter 11 (Accessibility) of the Uniform
21 Construction Code and any other accessibility requirements
22 contained in or referenced by the Uniform Construction Code
23 until code administrators have been certified regarding
24 accessibility provisions. The department shall maintain
25 jurisdiction over the provisions of Chapter 11
26 (Accessibility) of the Uniform Construction Code and any
27 other accessibility requirements contained in or referenced
28 by the Uniform Construction Code until such time as municipal
29 code administrators meet the requirements for certification.

30 (f) Continuing education.--The department shall, by

1 regulation, adopt and implement the continuing education program
2 and all code administrators shall participate in the
3 department's continuing education programs.

4 (g) Remedial education.--The department is empowered to
5 require code administrators to participate in remedial education
6 programs for just cause.

7 (h) Decertification.--The department is empowered to
8 decertify code administrators for just cause. The department
9 shall, by regulation, establish a procedure for the notification
10 of code administrators of decertification and the right of the
11 individual to receive a hearing before the department on
12 decertification.

13 (i) List of code administrators.--The department shall
14 maintain a list of code administrators, indicating the
15 categories of certifications, which shall be made available to
16 municipalities and, upon request, the public.

17 (j) Fees.--The department shall determine and approve
18 reasonable fees for educational programs, testing and
19 certification of code administrators.

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

23 Section 702. Reciprocity.

24 The department may develop reciprocity agreements with other
25 states or jurisdictions which have established accreditations
26 and certification requirements which the department determines
27 to be substantially similar to those set forth in this act.

28 CHAPTER 9

29 EXEMPTIONS AND PENALTIES

30 Section 901. Exemptions.

1 This act shall not apply to manufactured housing which bears
2 a label, as required by and referred to in the act of November
3 17, 1982 (P.L.676, No.192), known as the Manufactured Housing
4 Construction and Safety Standards Authorization Act, which
5 certifies that it conforms to Federal construction and safety
6 standards adopted under the Housing and Community Development
7 Act of 1974 (Public Law 93-383, 88 Stat. 139), nor shall it
8 apply to industrialized housing, as defined in the act of May
9 11, 1972 (P.L.286, No.70), known as the Industrialized Housing
10 Act.

11 Section 902. Penalties.

12 (a) Violation of act.--

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

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

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

21 CHAPTER 11

22 MISCELLANEOUS PROVISIONS

23 Section 1101. Savings.

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

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

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

30 Act of August 24, 1951 (P.L.1304, No.315), known as the Local

1 Health Administration Law, insofar as it applies to counties of
2 the second class, and rules and regulations adopted by counties
3 of the second class under the act. Any construction standard
4 adopted after October 31, 1996, by counties of the second class
5 under the authority of the Local Health Administration Law shall
6 comply with Chapters 3 and 5 of this act.

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

9 Act of January 24, 1966 (1965 P.L.1535, No.537), known as the
10 Pennsylvania Sewage Facilities Act, and regulations promulgated
11 under the act.

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

15 Section 1102. Repeals.

16 (a) Absolute.--The following acts and parts of acts are
17 repealed:

18 Sections 2, 3, 3.1, 3.2, 3.6(a), (b), (c), (d), (e),
19 (f)(1)(ii), (iii) and (2), 4, 4.1, 4.2, 5, 6, 7, 8, 9, 10, 11,
20 12 and 15.1 of the act of April 27, 1927 (P.L.465, No.299),
21 referred to as the Fire and Panic Act.

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

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

29 Act of July 9, 1976 (P.L.919, No.170), entitled "An act
30 providing for the approval or disapproval of applications for a

1 permit relating to the construction or maintenance of
2 improvements to real estate."

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

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

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

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

14 Section 1103. Effective date.

15 This act shall take effect as follows:

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

18 (2) The remainder of this act shall take effect 90 days
19 following publication of notice in the Pennsylvania Bulletin
20 that the regulations required by this act have been finally
21 adopted.