

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 1437

PRINTER NO. 3952

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

July 6, 2015

PRIME SPONSOR

Representative Goodman

DESCRIPTION AND PURPOSE OF BILL

House Bill 1437 amends the Municipal Code and Ordinance Compliance Act (Act 99 of 2000) to reduce the number of months that a purchaser has to correct known code violations on a property they have purchased, from 18 months to 12 months.

The legislation deletes the definitions of "Constructive knowledge" and "Known to have", and it amends the definition of "Date of purchase" by replacing "closing date" with "date on which title and right to possess the property transfers to the purchaser."

House Bill 1437 amends the definition of "Substantial violation" to be a violation of an adopted building, housing, property maintenance or fire code or maintenance, health or safety nuisance ordinance that makes a building, structure or any part thereof unfit for human habitation and is discovered during the course of a municipal inspection of a property and disclosed to the record owner or prospective purchaser of the property through issuance a municipal report.

The bill adds a definition of "Temporary use and occupancy certificate" as a certificate issued by a municipality as a result of the municipal inspection of a property incident to the resale of the property that reveals a violation but no substantial violation, and the purpose of the certificate is to authorize the purchaser to fully utilize or reside in the property while correcting violations pursuant to the maintenance and repair provisions of this act.

The legislation adds a definition of "Temporary access certificate" as a certificate issued by a municipality as a result of the municipal inspection of a property incident to the resale of the property that identifies at least one substantial violation, and the purpose of the certificate is to authorize the purchaser to access the property for the purpose of correcting substantial violations pursuant to the maintenance and repair provisions of this act. No person may occupy a property during the term of a temporary access certificate, but the owner shall be permitted to store personal property that is related to the proposed use or occupancy of the property or is needed to repair the substantial violations during the time of the temporary access certificate.

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House Bill 1437 adds a definition of "Unfit for human habitation" as a condition which renders a building, structure, or any part thereof, dangerous or injurious to the health, safety or physical welfare of an occupant or the occupants of neighboring dwellings. The condition may include substantial violations of a property that show evidence of: a significant increase to the hazards of fire or accident; inadequate sanitary facilities; vermin infestation; or a condition of disrepair, dilapidation or structural defects such that the cost of rehabilitation and repair would exceed one-half of the agreed-upon purchase price of the property.

The bill adds a definition of "Use and occupancy certificate" as a certificate issued by a municipality stipulating that the property meets all ordinances and codes and may be used or occupied as intended. It also adds a definition of "Violation" as a violation of a properly adopted building, housing, property maintenance or fire code or maintenance, health or safety nuisance ordinance that does not rise to the level of a substantial violation and is discovered during the course of a municipal inspection of a property and disclosed to the record owner or prospective purchaser of the property through issuance of a municipal report.

House Bill 1437 adds a new section 2.1, which provides for the following:

- A municipality requiring a use and occupancy permit shall issue the certificate in the following manner:
 - If the municipal inspection reveals no violations.
 - If the municipal inspection reveals at least one violation, but no substantial violations, the municipality shall issue a temporary use and occupancy permit.
 - If the municipal inspection reveals at least one substantial violation, the municipality shall specifically note those items on the inspection report and shall issue a temporary access certificate.
- A municipality may not require the escrowing of funds or the posting of a bond, or impose any similar financial security as a condition of issuing a certificate.
- Provides that municipalities are not prohibited from requiring an owner, prior to accessing the property, to acquire the necessary permits and meet all other statutory obligations pertaining to building, property maintenance, fire codes, or other health or safety codes.

The legislation adds a new section 2.2 stating that this Act shall not apply to, and a municipality may not require, a certificate of occupancy, a temporary use and occupancy certificate or a temporary access certificate for a real estate transfer, residential or non-residential, as provided under 68 Pa.C.S. § 7103(b)(2), to any of the following which take title to property for the purpose of holding the property for sale to offset losses incurred on a loan or other obligation in default secured by a mortgage, deed of trust or other lien on the property: a bank, savings association, credit union, mortgage lender, similar financial institution, or a subsidiary of a financial institution. However, a financial institution may be required by a municipality to correct a substantial violation.

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The bill reduces from 18 months to 12 months the time period in which the purchaser of a property known to be in violation of a municipal code or ordinance must either bring the property into compliance or demolish the building or structure. House Bill 1437 allows a municipality, in its discretion and at the request of the purchaser, to negotiate longer periods of time for maintenance and repair of structures under a temporary certificate; however, the time periods may not be shortened.

The legislation provides that at the expiration of 12 months (or sooner, if requested by the property owner) the municipality shall reinspect the property to determine compliance with the cited violations. If a temporary access permit has been issued and the reinspection indicates that the noted substantial violations have been corrected but other cited violations have not yet been corrected, the municipality shall issue a temporary use and occupancy permit to be valid for the time period remaining on the original temporary access permit. If the reinspection indicates that all noted violations have been corrected, the municipality shall issue a use and occupancy permit for the property.

House Bill 1437 establishes penalties for failing to comply, including:

- Revocation of the temporary certificate.
- The purchaser being subjected to any existing municipal ordinances or codes relating to the occupation of a property without a use and occupancy certificate.
- The purchaser being personally liable for costs of maintenance, repairs or demolition sufficient to correct the cited violations, and a fine of not less than \$1,000 and not more than \$10,000. The fines shall be remitted to the municipality where the building or structure is located. In municipalities with low-income housing, no less than one-third of the fine imposed specifically for code violations shall be used by the municipality for low income housing.

The bill repeals sections regarding with “nuisance ordinances”, enforcement by local municipalities, and coordination with other requirements.

House Bill 1437 provides that the section of the act regarding compliance requirements shall not apply to any violation of a municipal code or ordinance, for which a fine, other penalty or judgment to abate or correct was imposed by a magisterial district judge or municipal court, or a judgment at law or in equity was imposed by a court of common pleas prior to the purchase.

The section of the act regarding compliance requirements shall not apply where a municipality denies the certificate or permit pursuant to the Neighborhood Blight Reclamation and Revitalization Act (Act 90 of 2010).

The act shall take effect in 60 days.

FISCAL IMPACT:

Enactment of House Bill 1437 will have no fiscal impact on Commonwealth or local funds.