

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2542 Session of
 1974

INTRODUCED BY A. K. HUTCHINSON AND PETRARCA (BY REQUEST),
 JULY 10, 1974

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JULY 10, 1974

AN ACT

1 Authorizing the Secretary of the Department of Community Affairs
 2 to adopt rules and regulations relating to the construction,
 3 alteration, demolition, maintenance, occupancy and use of
 4 buildings and structures; to provide for the administration
 5 and enforcement of the act; and establish remedies and fix
 6 penalties for violations of the act.

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

9 Section 1. Short Title.--This act shall be known and may be
 10 cited as the "Pennsylvania Building Act."

11 Section 2. Legislative Findings and Declaration of Policy.--

12 (a) It is hereby found and declared that:

13 (1) There are inadequate resources at the local level for
 14 municipal governments of the Commonwealth to deal effectively
 15 with all the problems of sound building practices.

16 (2) There exists in the Commonwealth a variety of model or
 17 local building regulations that cause confusion.

18 (3) There exists at local levels restrictive obsolete,
 19 conflicting and unnecessary construction regulations that tend
 20 to increase construction costs or retard the use of new

1 materials, products or methods of construction, or provide
2 preferential treatment to types or classes of materials or
3 products or methods of construction.

4 (4) There exists inadequate maintenance of buildings and
5 structures throughout the Commonwealth to adequately protect the
6 health, safety and welfare of the people of Pennsylvania.

7 (5) There exists in the Commonwealth both urban and rural
8 residential, commercial and industrial structures which are
9 substandard or unsanitary or are neglected and this trend will
10 cause them to become dilapidated.

11 (b) It is declared to be the policy of the Commonwealth of
12 Pennsylvania to promote the health and welfare of the
13 inhabitants thereof by the enactment of the "Pennsylvania
14 Building Act" to:

15 (1) Promote innovations and economy in construction and to
16 provide requirements for construction and construction materials
17 consistent with nationally recognized and approved standards.

18 (2) Formulate such requirements, to the extent practicable,
19 in terms of performance objectives, so as to make adequate
20 performance for the use intended as the test of acceptability.

21 (3) Permit to the fullest extent feasible the use of modern
22 technical methods, devices and improvements consistent with
23 reasonable requirements for the health, safety and welfare of
24 occupants or users of buildings and structures.

25 (4) Eliminate restrictive, obsolete, conflicting and
26 unnecessary construction regulations that tend to unnecessarily
27 increase construction costs or retard the use of new materials,
28 products or methods of construction.

29 (5) Insure adequate maintenance of buildings and structures
30 throughout the Commonwealth and to adequately protect the

1 health, safety and welfare of the people.

2 Section 3. Definitions.--The following words and phrases
3 when used in this act shall have the meanings ascribed to them
4 in this section unless the context clearly indicates otherwise:

5 "Accessory building." A building, the use or occupancy of
6 which is incidental to that of the main building.

7 "Accessory use." A use or occupancy incidental to the
8 principle use or occupancy of a building.

9 "Addition." An extension or increase in floor area or height
10 of a building that increases its exterior dimensions.

11 "Allowable stress." The maximum stress permitted at a given
12 point in a structural member under given conditions.

13 "Alteration." Any addition, or change or modification of a
14 building, or the service equipment thereof, that affects safety
15 or health and that is not classified as a minor alteration or
16 ordinary repair. The moving of a building from one location or
17 position to another shall be deemed an alteration.

18 "Amusement device." A mechanically operated device or
19 structure open to the public, used to convey persons in any
20 direction as a form of amusement.

21 "Approved." When used in connection with plans shall mean
22 approved by the secretary; when used in connection with
23 materials or equipment shall mean approved by the board;
24 otherwise shall mean approved by the department.

25 "Assembly space." Any part of a place of assembly exclusive
26 of a stage, that is occupied by a number of persons during the
27 major period of occupancy. Every tier of seating shall be
28 considered a separate assembly space.

29 "Attic." The space between the ceiling framing of the top
30 most story and the underside of the roof framing.

1 "Backflow" (water supply). The flow of water or other
2 substances into distribution pipes of a potable water supply
3 from any source other than the intended source.

4 "Basement." A story partly underground, but having less than
5 one-half its clear height below grade.

6 "Board." The Board of Standards and Appeals of the
7 Commonwealth of Pennsylvania.

8 "Building." A combination of materials to form a
9 construction adopted to permanent, temporary or continuous
10 occupancy having a roof.

11 "Certificate of occupancy." A certificate provided for in
12 this act indicating that the construction authorized by the
13 building permit has been completed in accordance with the
14 building permit, the State Building Code, and any ordinance
15 implementing said code.

16 "Code enforcement." The discharge by the building official
17 of his duties pursuant to this act.

18 "Construction." Any or all work or operations necessary or
19 incidental to the erection, demolition, assembling, installing,
20 or equipping of buildings, or any alteration and operations
21 incidental thereto. The term "construction" shall include land
22 clearing, grading, excavating and filling.

23 "Department." The Department of Community Affairs.

24 "Enforcing agency." The municipal building official and any
25 assistants and inspectors subordinate to him. In the absence of
26 a municipal building official the department will assume the
27 responsibility.

28 "Hearing examiner." Persons appointed by the secretary to
29 conduct hearings, summarize evidence, and make findings of fact.

30 "Maintenance." The replacement or mending of existing work

1 with equivalent materials or the provisions of additional work
2 or material for the purpose of the safety, healthfulness, and
3 upkeep as are required in the interest of public safety, health
4 and welfare.

5 "Municipality." Any county, city, borough, township,
6 incorporated town or village.

7 "Owner." The owner or owners in fee of the property or a
8 lesser estate therein, a mortgagee, or vendee in possession, an
9 assignee of rents, receiver, executor, trustee, lessee, or any
10 other person, firm or corporation, directly or indirectly in
11 control of a building, structure or real property.

12 "Secretary." The Secretary of Community Affairs.

13 "Structure." A combination of materials to form a
14 construction for occupancy, use or ornamentation whether
15 installed on, above, or below the surface of a parcel of land,
16 provided the word structure shall be construed when used herein
17 as though followed by the words "or part or parts thereof and
18 all equipment therein" unless the context clearly requires a
19 different meaning.

20 Section 4. Adoption of State Building Code.--(a) The
21 secretary shall promulgate a State building code for the purpose
22 of regulating the design, construction, maintenance and use of
23 buildings or structures to be erected and alterations, repair,
24 maintenance, or demolition of buildings or structures already
25 erected. Prior to the adoption of said code, the secretary or
26 his designated representative shall consult with the other
27 departments of State Government heretofore authorized to
28 establish or administer construction regulations.

29 (b) The department shall promulgate rules and regulations to
30 interpret and make specific the provisions of this act. Such

1 rules and regulations adopted, amended, repealed and substituted
2 from time to time pursuant to this section shall assure the
3 health, safety and welfare of the people of Pennsylvania by
4 requiring safe and sanitary housing and shall include provisions
5 imposing requirements reasonably consistent with recognized and
6 accepted model codes.

7 Section 5. Powers of the Secretary.--The secretary shall
8 have all the powers necessary or convenient to effectuate the
9 purposes of this act, including, but not limited to, the
10 following powers in addition to all others granted by this act:

11 (1) To adopt, amend and repeal rules relating to the
12 administration and enforcement of the code and the
13 qualifications or licensing, or both, of all persons employed by
14 enforcing agencies or the State to enforce this act or the code.

15 (2) To enter into agreements with Federal agencies to
16 provide, insofar as practicable, (i) single agency review of
17 construction, and (ii) intergovernmental acceptance of such
18 review and inspection to avoid unnecessary duplication of
19 efforts and fees. The secretary shall have the power to enter
20 into such agreements although the Federal standards are not
21 identical with State standards; provided that the same basic
22 objectives are reasonably expected to be met by either the State
23 or Federal standards. The secretary shall have the power through
24 such agreements with Federal agencies to bind the Commonwealth
25 of Pennsylvania and all governmental entities deriving authority
26 therefrom.

27 (3) To enforce the code in lieu of local enforcing agencies
28 for projects financed by the Pennsylvania Housing Finance
29 Agency.

30 (4) To take testimony and hold hearings relating to any

1 aspect of or matter relating to the administration or
2 enforcement of this act and, in connection therewith, issue
3 subpoenas to compel the attendance of witnesses and the
4 production of evidence. The secretary may designate one or more
5 hearing examiners to hold public hearings and report on such
6 hearings to the secretary.

7 (5) To encourage, support or conduct educational and
8 training programs for employees, agents and inspectors of the
9 enforcing agencies, either through the Department of Community
10 Affairs or in cooperation with other departments of State
11 government, enforcing agencies, educational institutions or
12 associations of building code officials.

13 (6) To determine after thorough evaluation whether any
14 material, product, method of construction, or method of
15 manufacture, or installation is acceptable under the code; to
16 issue certificates of such acceptability; and to establish
17 procedures for the testing of devices, materials, fixtures,
18 methods, systems, or processes, and contract with existing
19 laboratories for such testing.

20 (7) To make, establish and amend such rules as may be
21 necessary, desirable or proper to carry out his powers and
22 duties under this act.

23 Section 6. Enforcement.--(a) The municipality shall appoint
24 an officer to administer this act within the municipality. Such
25 officer shall be known as the building official and shall head
26 the enforcing agency. The municipality shall have the power to
27 appoint such assistants, inspectors and other subordinates,
28 consistent with standards established by the secretary as are
29 necessary for proper enforcement of the code. The building
30 official, to be eligible for appointment, shall be certified by

1 the Commonwealth of Pennsylvania, Department of Community
2 Affairs in accordance with subsection (b) of this section and
3 shall have at least three years of experience in construction,
4 design or supervision. The building official shall pass upon
5 matters relative to the mode, manner or construction or
6 materials to be used in the erection or alteration of buildings
7 or structures. The building official shall pass on the actual
8 execution of the approved plans and the installation of the
9 materials approved by the State. He shall require compliance
10 with the provisions of this act, of all rules lawfully adopted
11 and promulgated thereunder and of laws relating to the
12 construction, alteration, repair, removal, demolition and
13 integral equipment and location, occupancy and maintenance of
14 building and structures, except as may be otherwise provided
15 for. Two or more municipalities may provide by ordinance subject
16 to regulations established by the secretary for the joint
17 appointment of a building official for the purpose of enforcing
18 the provisions of this act. The Department of Community Affairs
19 shall reimburse municipalities for enforcing the rules and
20 regulations as promulgated under this act. A municipal governing
21 body may, by ordinance transmitted to the secretary by certified
22 or registered mail, transfer to the Department of Community
23 Affairs all municipal powers to enforce the rules and
24 regulations as promulgated under this act.

25 (b) No person shall act as a building official for any
26 municipality unless the Department of Community Affairs
27 determines that said person is so qualified except for the
28 following: (i) a municipal building official holding office
29 under tenure by law on the effective date of this act or within
30 one year thereafter, and, (ii) a municipal building official

1 holding office without tenure on the effective date of this act
2 or within one year thereafter provided said building official
3 not having tenure shall be certified in accordance with this act
4 within two years of the effective date thereof. The secretary
5 may authorize the preparation and conducting of oral, written
6 and practical examinations to determine if a person is qualified
7 by this act to be eligible to be a building official or in the
8 alternative may accept successful completion of programs of
9 training as proof of qualifications within the meaning of this
10 act. Upon a determination of qualifications the secretary shall
11 issue or cause to be issued a certificate to the building
12 official or trainee stating that he is so certified. The
13 secretary may establish classes of certification that will
14 recognize the varying complexities of code enforcement in the
15 municipalities within the Commonwealth. The secretary may
16 provide for educational programs designed to train and assist
17 building officials in carrying out their responsibilities.

18 Section 7. Permits Required for Construction or Alteration
19 of Buildings and Structures; Application Therefor; Required
20 Contents of Application; Issuance, Effect and Duration of
21 Permits.--(a) Application for Permit. Except as otherwise
22 provided in the act, before construction or alteration of any
23 building or structure, the owner, or his agent, shall submit an
24 application in writing, including signed and sealed drawings and
25 specifications to the building official as defined in this act.
26 The application shall be in accordance with regulations
27 established by the secretary and on a form prescribed by the
28 secretary and shall be accompanied by payment of the fee as
29 established by the enforcing agency in accordance with standards
30 established in the rules and regulations. The application for a

1 building permit shall be filed with the enforcing agency and
2 shall be a public record and no application for a building
3 permit shall be removed from the custody of the enforcing agency
4 after a building permit has been issued.

5 (b) Examination and Approval of Applications for Permits;
6 Expiration or Cancellation of Permits. All applications for
7 permits and any accompanying plans and papers, including any
8 amendments thereto, shall be examined promptly after their
9 submission for compliance with the provisions of this act and
10 other applicable laws and regulations. Applications complying
11 with the provisions of this act and other applicable laws and
12 regulations shall be approved by the enforcing agency and the
13 permit issued promptly and not later than thirty calendar days
14 after the submission thereof; applications failing to comply
15 with the requirements of this act and other applicable laws and
16 regulations shall be rejected and written notice of rejection,
17 stating the grounds of rejection, shall be given the applicant
18 promptly and not later than thirty calendar days after the
19 submission thereof. Whenever a permit application has been
20 rejected and is thereafter revised and resubmitted to meet
21 stated grounds of rejection the revised application shall be
22 approved if it meets the stated grounds of rejection. The permit
23 card bearing the permit number, application number, location of
24 the premises for which the permit is issued shall be posted in a
25 conspicuous place. No such permit card shall be posted or
26 displayed at any location other than the location of the
27 premises for which the permit was issued. At least twenty-four
28 hour written notice shall be given to the enforcing agency
29 before commencement of any work for which a permit has been
30 issued.

1 (c) Expiration or Revocation of Permits. Except as otherwise
2 provided, all permits issued by the enforcing agency shall
3 expire by limitation and become invalid if the permitted work or
4 use is not commenced within six months from the date of issuance
5 of the permit, or if commenced is suspended or abandoned for a
6 period of six months thereafter. The enforcing agency may revoke
7 any permit for failure to comply with the provisions of this act
8 or other applicable laws or regulations; or whenever there has
9 been any false statement or any misrepresentation as to a
10 material fact in the application or accompanying plans and
11 papers upon the basis of which the permit was issued; or
12 whenever any permit has been issued in error and conditions are
13 such that a permit should not have been issued. No permit shall
14 be issued unless and until the required fee or fees therefor as
15 prescribed shall have been paid. Permit shall be deemed to
16 incorporate the provisions that the applicant, his agent,
17 employees and contractors shall carry out the permitted work or
18 use in accordance with the provisions of this act and other
19 applicable laws and regulations, whether specified or not,
20 except in so far as variations therefrom have been legally
21 permitted or authorized. All work shall conform to the approved
22 application and accompanying plans and papers, and any approved
23 amendments thereto.

24 (d) Right of Entry and Inspection. All inspections pursuant
25 to this act shall be between the hours of 9:00 a.m. and 4:00
26 p.m. on business days, or when construction is actually being
27 undertaken, provided, however, that inspections may be conducted
28 at other times if the enforcing agency has reasonable cause to
29 believe that an immediate danger to life, limb or property
30 exists.

1 (e) Notice of Violation of Building Permit; Stop Orders. If
2 the construction, alteration or demolition of a structure or
3 building is being undertaken contrary to provisions of a
4 building permit, this act, the rules and regulations, or other
5 applicable laws or ordinances, the enforcing agency shall give
6 written notice of said violation to the owner and the holder of
7 the building permit, if a building permit has been issued; or to
8 the person performing the construction, and the owner as shown
9 on the current tax duplicate in the municipal tax assessor's or
10 collector's office, if a building permit has not been issued.
11 The holder of the building permit or other persons performing
12 the construction, as the case may be, shall be notified to
13 appear and show cause before the building official why the
14 construction should not be stopped. If the person doing the
15 construction, alteration or demolition is not known, or cannot
16 be located with reasonable effort, the notice may be delivered
17 to the person in charge of, or apparently in charge of the
18 construction. No person shall continue, or cause or allow to be
19 continued, the construction, alteration or demolition of a
20 building or structure in violation of a stop construction order,
21 except with the permission of the enforcing agency to abate a
22 dangerous condition or remove a violation, or except by court
23 order. If an order to stop construction, alteration or
24 demolition is not obeyed, the enforcing agency may apply to the
25 appropriate court as otherwise established by law for an order
26 enjoining the violation of the stop construction order.

27 Section 8. Certificates of Occupancy.--No building or
28 structure hereafter constructed shall be used or occupied in
29 whole or part until a certificate of occupancy shall have been
30 issued by the enforcing agency.

1 Section 9. Stay of Proceedings.--An appeal to a court of
2 competent jurisdiction shall not automatically stay any order to
3 stop construction issued by an enforcing agency or prevent an
4 enforcing agency from seeking an order in a court of competent
5 jurisdiction enjoining the violations of a stop construction
6 order.

7 Section 10. Penalties.--(a) Any person or corporation,
8 including an officer, director or employee of a corporation,
9 owner or his agent, is subject to the penalties in subsection
10 (b) who knowingly:

11 (1) violates any of the provisions of this act or rules
12 promulgated hereunder;

13 (2) constructs, alters or demolishes a structure or building
14 in violation of a condition of a building permit;

15 (3) fails to comply with any order issued by an enforcing
16 agency or the department;

17 (4) knowingly makes false or misleading written statements
18 or knowingly omits any required information or statement in any
19 application or request for approval to an enforcing agency or to
20 the department;

21 (5) refuses entry or access to an inspector lawfully
22 authorized to inspect any premises, building or structure
23 pursuant to this act or who unreasonably interferes with such an
24 inspection; or

25 (6) fails to comply with a stop construction order validly
26 issued by an enforcing agency or the department.

27 (b) The department may obtain injunctive relief from the
28 Commonwealth Court of Pennsylvania to enjoin the construction,
29 alteration or demolition of a building or structure upon an
30 affidavit specifying the manner in which the construction,

1 alteration or demolition does not conform to the requirements of
2 this act or to rules and regulations issued pursuant hereto.
3 Whoever violates any provisions of this act is guilty of a
4 misdemeanor, and upon conviction thereof, shall be sentenced to
5 pay a fine not exceeding five hundred dollars (\$500) or undergo
6 imprisonment not exceeding six months or both.

7 Section 11. Appeals.--The department shall promulgate rules
8 pertaining to hearing of appeals. The department shall hear
9 appeals brought by any person regarding the application or
10 interpretation of any rule or regulation promulgated by the
11 department under this act.

12 Section 12. Variances.--The department may grant variances
13 from the duly promulgated rules and regulations when it appears
14 that such requested variances do not impair the health, safety
15 and welfare of consumers.

16 Section 13. General Provisions.--Nothing in this act or in
17 the rules and regulations herein adopted shall be construed to
18 affect any suit or proceeding now pending in any court, or any
19 rights acquired or liability incurred, or any cause or causes or
20 action accrued or existing, under any act or rules and
21 regulations repealed hereby. No right or remedy of any character
22 shall be lost, impaired or affected by this act.

23 Section 14. Interpretation of Powers.--The powers enumerated
24 in this act shall be interpreted broadly to effectuate the
25 purposes thereof.

26 Section 15. Effective Date.--This act shall take effect
27 immediately.