
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1951 Session of
1984

INTRODUCED BY ITKIN, J. L. WRIGHT, PETRARCA, PISTELLA, KUKOVICH,
PRATT, SWEET, PRESTON AND RICHARDSON, FEBRUARY 22, 1984

AS AMENDED ON SECOND CONSIDERATION, IN SENATE,
NOVEMBER 28, 1984

AN ACT

1 Amending the act of December 15, 1980 (P.L.1203, No.222),
2 entitled "An act providing for the regulation for energy
3 conservation purposes of the construction of buildings, the
4 establishment of a Building Energy Conservation Committee and
5 a Board on Variances, appeals and for penalties," changing
6 the definition of "building"; further providing for
7 APPLICATION OF ENERGY STANDARDS AND FOR certification; ←
8 further providing for notice to the department; providing for
9 notice to public utilities; further providing for penalties;
10 creating a special account; and further providing for
11 variances.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. The definition of "building" in section 103 of
15 the act of December 15, 1980 (P.L.1203, No.222), known as the
16 Building Energy Conservation Act, amended July 10, 1981
17 (P.L.231, No.75), is amended and a definition is added to read:
18 Section 103. Definitions.

19 The following words and phrases when used in this act shall
20 have, unless the context clearly indicates otherwise, the

1 meanings given to them in this section:

2 "Building." Any structure that provides facilities or
3 shelter for public assembly or for educational, business,
4 mercantile, institutional, warehouse or residential occupancy,
5 or industrial use including, but not limited to, those portions
6 of factory and industrial occupancy such as office space except
7 for:

8 (1) Buildings and structures or portions thereof whose
9 peak design rate of energy usage is less than one watt per
10 square foot or [3.4] 3.5 BTU/hr per square foot of floor area
11 for all purposes.

12 (2) Structures or those portions of structures used for
13 housing equipment or machinery, or in which manufacturing or
14 processing is done, where the operation of such equipment or
15 machinery, or the manufacturing or processing procedures
16 employed require the use of or generate substantial heat
17 producing energy or cooling within the structure. As used
18 herein, the generation of substantial heat shall mean
19 generation of more than 6 watts per square foot of floor
20 area.

21 (3) Buildings which are neither heated nor cooled.

22 (4) Historic buildings.

23 (5) Buildings owned by the Federal Government.

24 (6) All units subject to the act of May 11, 1972
25 (P.L.286, No.70), known as the "Industrialized Housing Act."

26 (7) All units subject to Title VI (Public Law 93-383),
27 referred to as the Federal Mobile Home Construction and
28 Safety Standards Act of 1974.

29 (8) Buildings which are constructed primarily of tree
30 logs and only incidentally of other materials.

1 * * *

2 "Public utility." A person, corporation or municipality in
3 this Commonwealth owning or operating equipment or facilities
4 for producing, generating, transmitting, distributing or
5 furnishing electricity to or for the public for compensation for
6 any purpose. This term includes an electric cooperative
7 corporation created under the provisions of the act of June 21,
8 1937 (P.L.1969, No.389), known as the "Electric Cooperative
9 Corporation Act," and which provides retail electric service to
10 its members on a nonprofit basis. The term does not include:

11 (1) Any generator, producer or manufacturer of
12 electricity or steam not engaged in distributing such
13 electricity, gas or steam directly to the public for
14 compensation.

15 (2) Any person or corporation not otherwise a public
16 utility who or which furnishes service only to himself or
17 itself.

18 * * *

19 Section 2. ~~Section~~ SECTIONS 302 AND 305 of the act ~~is~~ ARE <—
20 amended to read:

21 SECTION 302. APPLICATION OF ENERGY CONSERVATION STANDARDS. <—

22 THE ENERGY CONSERVATION STANDARDS CONTAINED HEREIN OR AS
23 PROMULGATED BY THE DEPARTMENT WITH THE APPROVAL OF THE BUILDING
24 ENERGY CONSERVATION COMMITTEE SHALL APPLY TO NEW BUILDINGS OR TO
25 RENOVATIONS ON WHICH ACTUAL CONSTRUCTION AND/OR DESIGN HAS NOT
26 COMMENCED PRIOR TO THEIR EFFECTIVE DATES. EXCEPT FOR THE
27 AUTHORITY OF THE DEPARTMENT OF COMMUNITY AFFAIRS TO PROMULGATE
28 RULES OR REGULATIONS FOR ALL UNITS SUBJECT TO THE ACT OF MAY 11,
29 1972 (P.L.286, NO.70), KNOWN AS THE "INDUSTRIALIZED HOUSING
30 ACT," PROVIDED SUCH STANDARDS INVOKED ARE EQUAL TO OR MORE

1 STRINGENT THAN THOSE CONTAINED IN THIS ACT, OR AS MANDATED BY
2 FEDERAL LAW, NO UTILITY, DEPARTMENT, BOARD, AGENCY OR COMMISSION
3 OTHER THAN AS PROVIDED HEREIN, SHALL PROMULGATE OR ADOPT ANY
4 STANDARDS, RULES OR REGULATIONS [WHICH ARE INCONSISTENT WITH]
5 OTHER THAN THE STANDARDS CONTAINED IN CHAPTER 2, SUBCHAPTERS D
6 THROUGH J OR PROMULGATED UNDER CHAPTER 4 OF THIS ACT EXCEPT AS
7 MANDATED BY FEDERAL LAW.

8 Section 305. Certification.

9 (a) Applicability.--The provisions of this section shall
10 apply to all buildings subject to this act except those
11 classified as Use Group R-3.

12 (b) Compliance with act.--It shall be the duty of the
13 licensed design professional retained in connection with the
14 design or construction of a building to certify that, in his
15 professional opinion and in accordance with the accepted
16 standards of his profession, the drawings, specifications and
17 other data will achieve compliance with the provisions of this
18 act, except as provided in subsection (e). All such information
19 required in this provision to be submitted to the department
20 must be accompanied by a filing fee of \$10. The filing fee may
21 be subject to change by the Building Energy Conservation
22 Committee upon the recommendation of the department to the
23 Building Energy Conservation Committee, provided, however, that
24 advance notice of such change has appeared in the Pennsylvania
25 Bulletin. If the building is subject to the provisions of the
26 act of April 27, 1927 (P.L.465, No.299), referred to as the Fire
27 and Panic Act, the certification required hereunder shall be
28 submitted on a form with the application for plan approval under
29 the said Fire and Panic Act.

30 (c) Inspection.--Each licensed design professional retained

1 by the owner or his designee, where any of such are retained
2 during the construction of a building, shall make periodic
3 inspections of the building progression to [insure] observe
4 compliance with this act, except as provided in subsection (e):
5 Provided, That such inspection shall not be construed as a
6 guarantee of satisfactory performance by others or as an
7 assumption of financial liability for defects or deficiencies in
8 the work of others.

9 (d) Final certification.--Each [licensed design
10 professional] builder retained by the owner or the owner, if he
11 is the builder, shall make a final certification of every
12 completed building stating that[, in his professional opinion
13 and in accordance with the accepted standards of his
14 profession,] such building has been constructed in compliance
15 WITH THE APPROVED DRAWINGS AND SPECIFICATIONS PREPARED BY A ←
16 LICENSED DESIGN PROFESSIONAL OR with the provisions of this
17 act[, except as provided in subsection (e)].

18 (e) Certification by builder.--If a licensed design
19 professional is not retained in connection with the design and
20 construction of a building, it shall be the responsibility of
21 the builder or owner, if he is the builder, to perform the
22 inspections and certification required by this section including
23 payment of the filing fee.

24 Section 3. Section 306(a) of the act is amended and
25 subsections are added to read:

26 Section 306. Use Group R-3; notice; warranty.

27 (a) Notice to department.--Prior to construction of any
28 building classified as Use Group R-3, the builder shall notify
29 the department by [certified] first class mail of his intent to
30 begin construction. Such notice shall include a filing fee of

1 [\$5] \$10 and contain the name of the owner of the building and
2 its location. The filing fee may be subject to change by the
3 Building Energy Conservation Committee, upon the recommendation
4 of the department to the Building Energy Conservation Committee,
5 provided, however, that advance notice of such change has
6 appeared in the Pennsylvania Bulletin.

7 (a.1) Special account.--All filing fees shall be deposited
8 in a special account in the State Treasury to be known as the
9 Building Energy Conservation Account. All fees collected for the
10 purpose of this act shall be deposited in this account and the
11 department shall draw from the account sufficient funds to cover
12 the administrative and enforcement costs of operating the
13 program. The funds in the account are hereby appropriated to the
14 department to carry out this act and funds not spent or
15 encumbered by the department shall lapse at the end of each
16 fiscal year.

17 (a.2) Notice to public utilities.--

18 (1) The builder shall also provide a copy of the notice
19 of intent to begin construction required by subsection (a)
20 AND CERTIFIED AS RECEIVED BY THE DEPARTMENT to all public <—
21 utilities which may be requested to furnish services to or
22 for buildings classified as Use Group R-3 which are
23 constructed after the effective date of this subsection. No <—
24 public utility shall furnish, render or supply any service to
25 or for any building classified as Use Group R-3 unless it
26 shall have first received a copy of the required notice. IF A <—
27 BUILDER HAS NOT YET FILED THE REQUIRED NOTICE AT THE TIME A
28 PUBLIC UTILITY IS REQUESTED TO FURNISH, RENDER OR SUPPLY A
29 SERVICE TO OR FOR A BUILDING CLASSIFIED AS USE GROUP R-3, THE
30 UTILITY SHALL FURNISH THE NECESSARY SERVICE AND NOTIFY THE

1 DEPARTMENT, IN WRITING, THAT THE SERVICE HAS BEEN PROVIDED.

2 (2) All public utilities shall rely absolutely on the
3 CERTIFIED copy of the required notice in furnishing, ←
4 rendering or supplying any service to or for a building
5 classified as Use Group R-3, and no public utility which
6 receives a copy of such notice shall conduct any audit,
7 inspection or examination of the building for the purpose of
8 determining compliance with this act. The furnishing,
9 rendering or supplying of service by a public utility, in
10 reliance upon the copy of the required notice, to or for a
11 building classified as Use Group R-3 shall not constitute a
12 certification or determination by the utility that the
13 building has been constructed in compliance with this act.

14 ~~(3) The CERTIFIED copy of the notice of intent to begin~~ ←
15 ~~construction required by this subsection shall be submitted~~
16 ~~to the appropriate public utilities not later than the date~~
17 ~~on which any service to or for a building classified as Use~~
18 ~~Group R 3 is to be provided by such utilities.~~

19 * * *

20 Section 4. Sections 313(b) and 504 of the act are amended to
21 read:

22 Section 313. Penalties.

23 * * *

24 (b) Violations of act.--Any person who shall willfully or
25 negligently violate any of the provisions of this act, or the
26 rules and regulations or the orders for the enforcement of the
27 said provisions or rules and regulations issued by duly
28 authorized officers of the department or who shall hinder, delay
29 or interfere with any officer charged with the enforcement of
30 this act in the performance of his duty, {shall, upon conviction ←

1 thereof, be punished by a fine of [not more than] \$300 and <—
2 costs.] ~~commits a summary offense, and upon conviction thereof,~~ <—
3 ~~shall be sentenced to pay a fine of \$300 plus costs, or undergo~~
4 ~~imprisonment for 30 days, or both.~~ In the event of violation of
5 more than one provision of this act, the violation of each
6 provision shall be deemed a separate and distinct offense for
7 the purposes of this section.

8 * * *

9 Section 504. Variances.

10 Any municipality electing to administer the provisions of
11 this act under section 501 or 502 shall establish a Board on
12 Variances to make determinations on request for variance from
13 the energy conservation standards contained herein or as
14 promulgated by the department with the approval of the Building
15 Energy Conservation Committee, and is authorized exclusive
16 jurisdiction to grant such variances, section 307(a)
17 notwithstanding. A municipality, however, need not establish a
18 Board on Variances if it has established a zoning hearing board
19 pursuant to the act of July 31, 1968 (P.L.805, No.247), known as
20 the "Pennsylvania Municipalities Planning Code." If the
21 municipality does not establish a Board on Variances, the powers
22 and duties established by this section shall be exercised by
23 such zoning hearing board. A variance shall only be granted if
24 the criteria of section 307(b) have been satisfied.

25 Section 5. This act shall take effect in ~~60~~ 90 days. <—