

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2149 Session of
2003

INTRODUCED BY FAIRCHILD, BELFANTI, ALLEN, ARMSTRONG, BAKER,
BOYD, BUNT, CAPPELLI, CLYMER, COY, CREIGHTON, DENLINGER,
EACHUS, EGOLF, FABRIZIO, FEESE, FLEAGLE, FORCIER, GEIST,
GEORGE, GERGELY, GODSHALL, GOODMAN, GORDNER, HARRIS,
HENNESSEY, HERSHEY, HESS, LEH, LEVDANSKY, PHILLIPS, PICKETT,
READSHAW, REICHLEY, SATHER, SCAVELLO, SCHRODER, S. H. SMITH,
STABACK, STERN, R. STEVENSON, SURRA, E. Z. TAYLOR, WALKO,
WILT, YOUNGBLOOD, ZUG, PETRARCA AND HARHAI, NOVEMBER 10, 2003

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MARCH 31, 2004

AN ACT

1 Amending the act of November 10, 1999 (P.L.491, No.45), entitled
2 "An act establishing a uniform construction code; imposing
3 powers and duties on municipalities and the Department of
4 Labor and Industry; providing for enforcement; imposing
5 penalties; and making repeals," adding a definition of
6 "recreational cabin"; further providing for application of
7 the act, for municipal administration and enforcement and for
8 exemptions; and providing for municipal immunity.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 103 of the act of November 10, 1999
12 (P.L.491, No.45), known as the Pennsylvania Construction Code
13 Act, is amended by adding a definition to read:

14 Section 103. Definitions.

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

1 * * *

2 "Recreational cabin." A structure which is:

3 (1) used principally for the purpose of engaging in
4 seasonal hunting and fishing;

5 (2) not utilized as a domicile or residence for any
6 individual for any time period;

7 (3) not utilized for commercial purposes;

8 (4) not greater than two stories in height, excluding
9 basement;

10 (5) not used by the owner or any other person as a place
11 of employment;

12 (6) not a mailing address for bills and correspondence;
13 and

14 (7) not listed as an individual's place of residence on
15 a tax return, driver's license, car registration or voter
16 registration.

17 * * *

18 Section 2. Sections 104(b) and 501(b) of the act are amended
19 and the sections are amended by adding subsections to read:

20 Section 104. Application.

21 * * *

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

23 (1) new buildings or renovations to existing buildings
24 for which an application for a building permit has been made
25 to the municipality prior to the effective date of the
26 regulations promulgated under this act;

27 (2) new buildings or renovations to existing buildings
28 on which a contract for design or construction has been
29 signed prior to the effective date of the regulations
30 promulgated under this act on projects requiring department

1 approval;

2 (3) utility and miscellaneous use structures that are
3 accessory to detached one-family dwellings; [or]

4 (4) any agricultural building[.]; or

5 (5) any recreational cabin if:

6 (i) the cabin is equipped with at least one smoke
7 detector, one fire extinguisher and one carbon monoxide
8 detector in both the kitchen and sleeping quarters; and

9 (ii) the owner of the cabin files with the
10 municipality either:

11 (A) an affidavit on a form prescribed by the
12 department attesting to the fact that the cabin meets
13 the definition of a "recreational cabin" in section
14 103; or

15 (B) a valid proof of insurance for the
16 recreational cabin, written and issued by an insurer
17 authorized to do business in this Commonwealth,
18 stating that the structure meets the definition of a
19 "recreational cabin" as defined in section 103.

20 (b.1) Continuity of exclusion.--

21 (1) If a recreational cabin is subject to exclusion
22 under subsection (b)(5), upon transfer of ownership of the
23 recreational cabin, written notice must be provided in the
24 sales agreement and the deed that the recreational cabin:

25 (i) is exempt from this act;

26 (ii) may not be in conformance with the Uniform
27 Construction Code; and

28 (iii) is not subject to municipal regulation.

29 (2) Failure to comply with the notice requirement under
30 paragraph (1) shall render the sale voidable at the option of

1 the purchaser.

2 * * *

3 Section 501. Administration and enforcement.

4 * * *

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

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

11 (2) By the retention of one or more construction code
12 officials [or third-party agencies] to act on behalf of the
13 municipality for administration and enforcement of this act.

14 ~~(2.1) A municipality shall not select any agency to be~~ <—
15 ~~the sole provider of inspections but shall maintain a list of~~
16 ~~all third party agencies qualified to perform plan reviews~~
17 ~~and inspections as prescribed by this act.~~

18 ~~(2.1) BY THE RETENTION OF A THIRD-PARTY AGENCY TO ACT ON~~ <—
19 ~~BEHALF OF THE MUNICIPALITY FOR ADMINISTRATION AND ENFORCEMENT~~
20 ~~OF ALL OR PARTS OF THIS ACT.~~

21 ~~(2.2) (I) BY MAINTAINING A LIST OF ALL THIRD-PARTY~~
22 ~~AGENCIES CERTIFIED UNDER THIS ACT WHOSE NORMAL AREA OF~~
23 ~~OPERATIONS INCLUDES THE MUNICIPALITY AND FROM WHICH LIST~~
24 ~~A RESPONSIBLE PARTY MAY SELECT SERVICE. THE MUNICIPALITY~~
25 ~~MAY ESTABLISH REASONABLE STANDARDS OF PERFORMANCE FOR THE~~
26 ~~THIRD-PARTY AGENCIES AND MAY BAR A THIRD-PARTY AGENCY~~
27 ~~FROM OPERATING IN THE MUNICIPALITY IF THE AGENCY FAILS TO~~
28 ~~MEET THE MUNICIPALITY'S STANDARDS.~~

29 ~~(II) A MUNICIPALITY THAT MAINTAINS A LIST OF THIRD-~~
30 ~~PARTY AGENCIES CERTIFIED UNDER THIS ACT SHALL BE IMMUNE~~

1 FROM CIVIL LIABILITY UNDER THIS ACT.

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

6 (4) By entering into a contract with the proper
7 authorities of another municipality for the administration
8 and enforcement of this act. When such a contract has been
9 entered into, the municipal code official shall have all the
10 powers and authority conferred by law in the municipality
11 which has contracted to secure such services.

12 (5) By entering into an agreement with the department
13 for plan reviews, inspections and enforcement of structures
14 other than one-family or two-family dwelling units and
15 utility and miscellaneous use structures.

16 (b.1) All third-party agencies seeking inclusion on any list
17 as referred to in subsection ~~(b)(2.1)~~ (B)(2.2) shall register <—
18 with the department and any appropriate municipal official of
19 each municipality in which they seek inclusion on any list.

20 * * *

21 Section 3. The act is amended by adding a section to read:
22 Section 505. Immunity.

23 A municipality shall be immune from civil liability for any
24 action arising out of the safety of a recreational cabin which
25 is excluded from this act under section 104(b)(5).

26 Section 4. Section 901 of the act, amended June 22, 2001
27 (P.L.585, No.43), is amended to read:

28 Section 901. Exemptions.

29 (a) Manufactured housing.--This act shall not apply to
30 manufactured housing which bears a label, as required by and

1 referred to in the act of November 17, 1982 (P.L.676, No.192),
2 known as the Manufactured Housing Construction and Safety
3 Standards Authorization Act, which certifies that it conforms to
4 Federal construction and safety standards adopted under the
5 Housing and Community Development Act of 1974 (Public Law 93-
6 383, 88 Stat. 633), nor shall it apply to industrialized
7 housing, as defined in the act of May 11, 1972 (P.L.286, No.70),
8 known as the Industrialized Housing Act.

9 (b) Religious beliefs.--

10 (1) An applicant for a construction permit for a
11 dwelling unit utilized by a member of a recognized religious
12 sect may file an application with a code administrator to be
13 exempted from an electrical provision of the Uniform
14 Construction Code which conflicts with the applicant's
15 religious beliefs. The application shall state the manner in
16 which the provision conflicts with the applicant's religious
17 beliefs and shall include an affidavit by the applicant
18 stating that:

19 (i) the applicant is a member of a recognized
20 religious sect;

21 (ii) the religious sect has established tenets or
22 teachings which conflict with an electrical provision of
23 the Uniform Construction Code;

24 (iii) the applicant adheres to the established
25 tenets or teachings of the sect; and

26 (iv) the dwelling unit will be used solely as a
27 residence for the applicant and the applicant's
28 household.

29 (2) A code administrator shall grant an application for
30 an exemption if made in accordance with paragraph (1).

1 (3) If an applicant receives an exemption for a dwelling
2 unit under this subsection and the applicant subsequently
3 sells or leases the dwelling unit, the applicant shall bring
4 the dwelling unit into compliance with the provision of the
5 Uniform Construction Code from which it was exempted under
6 this subsection prior to the dwelling unit being sold or
7 leased unless the prospective subsequent owner or lessee
8 files an affidavit in compliance with paragraph (1)(i)
9 through (iv).

10 (c) Natural cut trees.--Section 804.1.1 (relating to natural
11 cut trees) of the International Fire Code (2003) and any
12 successor provision is excluded from this act. A municipality
13 which elects to adopt an ordinance for the administration and
14 enforcement of this act may, by ordinance, restrict the
15 placement of natural cut trees in an occupancy group. The
16 ordinance restricting the placement shall not be subject to
17 section 503(b) through (k).

18 Section 5. This act shall take effect as follows:

19 (1) The following provisions shall take effect
20 immediately:

21 (i) The amendment of section 901 of the act.

22 (ii) This section.

23 (2) The remainder of this act shall take effect in 60
24 days.