

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 736 Session of  
2005

INTRODUCED BY ROBBINS, BOSCOLA, CORMAN, EARLL, LEMMOND, ORIE,  
WENGER, D. WHITE, M. WHITE AND WOZNIAK, JUNE 9, 2005

SENATOR SCARNATI, LABOR AND INDUSTRY, AS AMENDED,  
NOVEMBER 1, 2005

## 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," further providing for~~  
6 ~~definitions; and providing for applicability.~~

7 AMENDING THE ACT OF NOVEMBER 10, 1999 (P.L.491, NO.45), ENTITLED <—  
8 "AN ACT ESTABLISHING A UNIFORM CONSTRUCTION CODE; IMPOSING  
9 POWERS AND DUTIES ON MUNICIPALITIES AND THE DEPARTMENT OF  
10 LABOR AND INDUSTRY; PROVIDING FOR ENFORCEMENT; IMPOSING  
11 PENALTIES; AND MAKING REPEALS," FURTHER PROVIDING FOR  
12 DEFINITIONS; AND PROVIDING FOR APPLICABILITY ON CERTAIN  
13 UNCERTIFIED BUILDINGS.

14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 ~~Section 1. Section 103 of the act of November 10, 1999~~ <—

17 ~~(P.L.491, No.45), known as the Pennsylvania Construction Code~~  
18 ~~Act, is amended by adding a definition to read:~~

19 ~~Section 103. Definitions.~~

20 ~~The following words and phrases when used in this act shall~~  
21 ~~have the meanings given to them in this section unless the~~  
22 ~~context clearly indicates otherwise:~~

1       \* \* \*

2       ~~"Means of egress." A continuous and unobstructed path of~~  
3 ~~vertical and horizontal egress travel from any occupied portion~~  
4 ~~of a building or structure to a public way. A means of egress~~  
5 ~~consists of three separate and distinct parts: the exit access,~~  
6 ~~the exit and the exit discharge.~~

7       \* \* \*

8       ~~Section 2. The act is amended by adding sections to read:~~  
9 ~~Section 902.1. Applicability to certain buildings.~~

10       ~~An existing building which did not have a certificate of~~  
11 ~~occupancy prior to April 10, 2004, shall be treated as an~~  
12 ~~existing building under Chapter 3. The following apply:~~

13           ~~(1) A building under this section shall be issued an~~  
14 ~~occupancy permit under Chapter 3 if the building is not~~  
15 ~~unsafe, unsanitary or judged to be a fire hazard or dangerous~~  
16 ~~to human life or public welfare.~~

17           ~~(2) For a building under this section, a code~~  
18 ~~administrator shall not require changes which are technically~~  
19 ~~infeasible for the purpose of meeting means of egress~~  
20 ~~requirements.~~

21           ~~(3) A code administrator shall construe this section~~  
22 ~~liberally to allow a property owner to maintain occupancy of~~  
23 ~~a building under this section.~~

24 ~~Section 902.2. Immunity, liability and indemnification with~~  
25 ~~regard to certain buildings.~~

26       ~~(a) Immunity. Nothing in this act shall be deemed to~~  
27 ~~constitute a waiver of governmental or sovereign immunity.~~

28       ~~(b) Liability. A municipality shall not be liable for civil~~  
29 ~~damages as a result of acts or omissions by a municipality in~~  
30 ~~permitting the occupancy of a building which did not have a~~

~~certificate of occupancy prior to April 10, 2004.~~

~~(c) Indemnification. The Commonwealth shall indemnify a municipality and hold a municipality harmless from all claims, suits, demands, judgments or causes of action made against the municipality, its elected or appointed officials, employees, agents or volunteers arising from or in connection with permitting the occupancy of a building which did not have a certificate of occupancy prior to April 10, 2004.~~

~~Section 3. This act shall take effect immediately.~~

SECTION 1. SECTION 103 OF THE ACT OF NOVEMBER 10, 1999 (P.L.491, NO.45), KNOWN AS THE PENNSYLVANIA CONSTRUCTION CODE ACT, IS AMENDED BY ADDING DEFINITIONS TO READ:

SECTION 103. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

\* \* \*

"INDUSTRIAL BOARD." THE INDUSTRIAL BOARD UNDER SECTIONS 445 AND 2214 OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929, WHICH HEARS REQUESTS FOR VARIANCES AND EXTENSIONS OF TIME AND APPEALS OF DECISIONS OF THE DEPARTMENT OF LABOR AND INDUSTRY UNDER THE UNIFORM CONSTRUCTION CODE.

\* \* \*

"UNCERTIFIED BUILDING." AN EXISTING BUILDING WHICH, PRIOR TO APRIL 9, 2004, WAS NOT APPROVED FOR USE AND OCCUPANCY BY THE DEPARTMENT OF LABOR AND INDUSTRY OR A MUNICIPALITY WHICH WAS ENFORCING A BUILDING CODE. THE TERM DOES NOT INCLUDE A RESIDENTIAL BUILDING.

\* \* \*

SECTION 2. SECTION 902 OF THE ACT IS AMENDED TO READ:

SECTION 902. APPLICABILITY TO [HISTORIC] CERTAIN BUILDINGS[,  
STRUCTURES AND SITES].

(A) HISTORIC BUILDINGS, STRUCTURES AND SITES.--THE  
PROVISIONS OF THE 1999 BOCA NATIONAL BUILDING CODE, FOURTEENTH  
EDITION, RELATING TO THE CONSTRUCTION, REPAIR, ALTERATION,  
ADDITION, RESTORATION AND MOVEMENT OF STRUCTURES SHALL NOT APPLY  
TO EXISTING BUILDINGS AND STRUCTURES, OR NEW BUILDINGS AND  
STRUCTURES NOT INTENDED FOR RESIDENTIAL USE ON HISTORIC SITES,  
THAT ARE IDENTIFIED AND CLASSIFIED BY THE FEDERAL, STATE OR  
LOCAL GOVERNMENT AUTHORITY AS HISTORIC BUILDINGS OR SITES WHERE  
SUCH BUILDINGS AND STRUCTURES ARE JUDGED BY THE CODE OFFICIAL TO  
BE SAFE AND IN THE INTEREST OF PUBLIC HEALTH, SAFETY AND  
WELFARE.

(B) UNCERTIFIED BUILDINGS UNDER DEPARTMENT'S JURISDICTION.--  
SUBJECT TO SUBSECTION (D), ALL OF THE FOLLOWING APPLY TO A  
BUILDING SUBJECT TO THE JURISDICTION OF THE DEPARTMENT:

(1) THE DEPARTMENT SHALL ISSUE A CERTIFICATE OF  
OCCUPANCY TO AN UNCERTIFIED BUILDING IF THAT BUILDING MEETS  
THE REQUIREMENTS OF THIS SUBSECTION, UNLESS THE DEPARTMENT  
DEEMS THE BUILDING TO BE UNSAFE BECAUSE OF INADEQUATE MEANS  
OF EGRESS, INADEQUATE LIGHT AND VENTILATION, FIRE HAZARDS OR  
OTHER DANGERS TO HUMAN LIFE OR TO PUBLIC WELFARE.

(2) AN UNCERTIFIED BUILDING SHALL COMPLY WITH THE  
FOLLOWING:

(I) MAXIMUM STORY HEIGHT, MINIMUM ALLOWABLE  
CONSTRUCTION TYPE BASED ON FLOOR AREA, VERTICAL OPENING  
AND SHAFT PROTECTION, MEANS OF EGRESS REQUIREMENTS OF THE  
INTERNATIONAL BUILDING CODE PERTAINING TO MINIMUM NUMBER  
OF EXITS, MAXIMUM TRAVEL DISTANCES TO EXITS, MEANS OF

1 EGRESS ILLUMINATION, MINIMUM EGRESS WIDTHS AND HEIGHTS  
2 FOR EXIT DOORS, EXIT STAIRS, EXIT RAMPS AND EXIT  
3 CORRIDORS. WAIVERS SHALL BE AS FOLLOWS:

4 (A) THE DEPARTMENT MAY WAIVE REQUIREMENTS FOR  
5 MINIMUM EGRESS WIDTHS AND HEIGHTS FOR EXITS, EXIT  
6 ACCESS DOORS, EXIT RAMPS AND EXIT CORRIDORS IF THE  
7 DEPARTMENT DETERMINES THAT ANY NONCONFORMING OPENINGS  
8 PROVIDE SUFFICIENT WIDTH AND HEIGHT FOR BUILDING  
9 OCCUPANTS TO PASS THROUGH OR EGRESS THE BUILDING.

10 (B) THE DEPARTMENT MAY WAIVE ANY REQUIREMENTS  
11 UNDER THIS SUBPARAGRAPH IF:

12 (I) THE DEPARTMENT DETERMINES A REQUIREMENT  
13 TO BE TECHNICALLY INFEASIBLE; OR

14 (II) THE BUILDING OWNER DEMONSTRATES THAT  
15 THE BUILDING MET THE APPLICABLE EGRESS  
16 REQUIREMENTS WHICH EXISTED UNDER THE ACT OF APRIL  
17 27, 1927 (P.L.465, NO.299), REFERRED TO AS THE  
18 FIRE AND PANIC ACT.

19 (C) A WAIVER SHALL BE DOCUMENTED ON THE  
20 CERTIFICATE OF OCCUPANCY.

21 (II) FIRE SAFETY REQUIREMENTS OF THE INTERNATIONAL  
22 BUILDING CODE WITH RESPECT TO FIRE ALARMS, FIRE  
23 EXTINGUISHERS, HEAT AND SMOKE DETECTORS, AUTOMATIC  
24 SPRINKLER SYSTEMS AND OCCUPANCY AND INCIDENTAL USE  
25 SEPARATIONS. IF THE CODE REQUIRES THAT A BUILDING HAVE  
26 AUTOMATIC SPRINKLER SYSTEMS, THE ONLY BUILDINGS REQUIRED  
27 TO INSTALL AUTOMATIC SPRINKLER SYSTEMS SHALL BE THOSE  
28 BUILDINGS CLASSIFIED IN USE GROUPS E (EDUCATIONAL), H  
29 (HIGH-HAZARD), I (INSTITUTIONAL), R-1 OR R-2  
30 (RESIDENTIAL) AND THOSE BUILDINGS WHICH HAVE OCCUPIED

1 FLOORS MORE THAN 75 FEET ABOVE LOWEST LEVEL OF FIRE  
2 DEPARTMENT ACCESS. BUILDINGS IN USE GROUPS R-1 AND R-2  
3 WHICH DO NOT HAVE OCCUPIED FLOORS MORE THAN 75 FEET ABOVE  
4 LOWEST LEVEL OF FIRE DEPARTMENT ACCESS MAY, INSTEAD OF  
5 INSTALLING AUTOMATIC SPRINKLER SYSTEMS, INSTALL HARD-  
6 WIRED INTERCONNECTED HEAT AND SMOKE DETECTORS LOCATED IN  
7 ALL LOBBIES, CORRIDORS, EQUIPMENT ROOMS, STORAGE ROOMS  
8 AND OTHER SPACES THAT ARE NOT NORMALLY OCCUPIED. IF  
9 CONSTRUCTION BEGAN ON A BUILDING PRIOR TO MAY 19, 1984,  
10 THERE IS NO REQUIREMENT FOR THE INSTALLATION OF AUTOMATIC  
11 SPRINKLER SYSTEMS UNDER THIS SUBPARAGRAPH. IF  
12 CONSTRUCTION OF A BUILDING BEGAN AFTER MAY 18, 1984,  
13 AUTOMATIC SPRINKLER INSTALLATION REQUIRED UNDER THIS  
14 SUBPARAGRAPH SHALL BE COMPLETED WITHIN FIVE YEARS OF THE  
15 EFFECTIVE DATE OF THIS SUBSECTION; OR AN OCCUPANCY PERMIT  
16 ISSUED UNDER THIS SUBSECTION SHALL BE INVALID. WAIVERS  
17 SHALL BE AS FOLLOWS:

18 (A) THE DEPARTMENT MAY WAIVE ANY REQUIREMENTS  
19 UNDER THIS SUBPARAGRAPH IF:

20 (I) THE DEPARTMENT DETERMINES A REQUIREMENT  
21 TO BE TECHNICALLY INFEASIBLE; OR

22 (II) THE BUILDING OWNER DEMONSTRATES THAT  
23 THE BUILDING MET THE APPLICABLE FIRE SAFETY  
24 REQUIREMENTS WHICH EXISTED UNDER THE FIRE AND  
25 PANIC ACT.

26 (B) A WAIVER SHALL BE DOCUMENTED ON THE  
27 CERTIFICATE OF OCCUPANCY.

28 (III) ACCESSIBILITY REQUIREMENTS AS FOLLOWS:

29 (A) IF CONSTRUCTION OF A BUILDING BEGAN BEFORE  
30 SEPTEMBER 1, 1965, NO ACCESSIBILITY REQUIREMENTS

1           SHALL BE IMPOSED.

2           (B) IF CONSTRUCTION OF A BUILDING BEGAN AFTER  
3           AUGUST 31, 1965, AND BEFORE FEBRUARY 18, 1989, AND IF  
4           THE BUILDING WAS SUBJECT TO THE REQUIREMENTS OF THE  
5           FORMER ACT OF SEPTEMBER 1, 1965 (P.L.459, NO.235),  
6           ENTITLED, "AN ACT REQUIRING THAT CERTAIN BUILDINGS  
7           AND FACILITIES ADHERE TO CERTAIN PRINCIPLES,  
8           STANDARDS AND SPECIFICATIONS TO MAKE THE SAME  
9           ACCESSIBLE TO AND USABLE BY PERSONS WITH PHYSICAL  
10          HANDICAPS, AND PROVIDING FOR ENFORCEMENT," IT SHALL  
11          HAVE:

12                   (I) AT LEAST ONE ACCESSIBLE ENTRANCE;

13                   (II) AN ACCESSIBLE ROUTE FROM THE ACCESSIBLE  
14                   ENTRANCE TO ANY PUBLIC SPACES ON THE SAME LEVEL  
15                   AS THE ACCESSIBLE ENTRANCE; AND

16                   (III) IF TOILET ROOMS ARE PROVIDED, AT LEAST  
17                   ONE ACCESSIBLE TOILET ROOM FOR EACH SEX OR A  
18                   UNISEX TOILET ROOM, COMPLYING WITH THE  
19                   ACCESSIBILITY REQUIREMENTS OF THE INTERNATIONAL  
20                   BUILDING CODE.

21           (C) IF CONSTRUCTION OF THE BUILDING BEGAN AFTER  
22           FEBRUARY 17, 1989, ALL ACCESSIBILITY REQUIREMENTS OF  
23           THE INTERNATIONAL BUILDING CODE SHALL BE MET.

24           (3) STRUCTURAL REQUIREMENTS SHALL NOT BE IMPOSED, UNLESS  
25           THE DEPARTMENT DETERMINES THAT THE BUILDING OR A PORTION OF  
26           THE BUILDING HAS DEFECTS WHICH ARE DANGEROUS AS DEFINED IN  
27           THE INTERNATIONAL EXISTING BUILDING CODE. THE DEPARTMENT MAY  
28           IMPOSE ONLY THOSE REQUIREMENTS MINIMALLY NECESSARY TO REMOVE  
29           ANY DANGER TO THE BUILDING'S OCCUPANTS.

30           (4) A BUILDING OWNER MAY FILE AN APPLICATION FOR A

1 VARIANCE FROM THIS SUBSECTION CONCERNING ACCESSIBILITY WITH  
2 THE ADVISORY BOARD UNDER SECTION 106. A BUILDING OWNER MAY  
3 FILE AN APPLICATION FOR A VARIANCE FROM THIS SUBSECTION  
4 CONCERNING OTHER STANDARDS. THE APPLICATION MUST BE FILED  
5 WITH THE INDUSTRIAL BOARD IF ANY OF THE FOLLOWING APPLY:

6 (I) THE BUILDING IS LOCATED IN A MUNICIPALITY WHERE  
7 THE DEPARTMENT HAS JURISDICTION.

8 (II) THE BUILDING IS A STATE-OWNED BUILDING. AS USED  
9 IN THIS SUBPARAGRAPH, THE TERM "STATE-OWNED BUILDING"  
10 MEANS A BUILDING OWNED OR CONSTRUCTED FOR COMMONWEALTH  
11 ENTITIES, CONSISTING OF THE GENERAL ASSEMBLY; THE UNIFIED  
12 JUDICIAL SYSTEM; THE PENNSYLVANIA HIGHER EDUCATION  
13 ASSISTANCE AGENCY; AN EXECUTIVE AGENCY; AN INDEPENDENT  
14 AGENCY; AND A STATE-AFFILIATED ENTITY OR STATE-RELATED  
15 INSTITUTION, AS DEFINED IN 62 PA.C.S. § 103 (RELATING TO  
16 DEFINITIONS).

17 (5) A BUILDING SUBJECT TO THIS SUBSECTION SHALL BE  
18 PERMITTED TO MAINTAIN ITS CURRENT OCCUPANCY AS LONG AS THE  
19 OWNER DEMONSTRATES REASONABLE EFFORTS TO COMPLY WITH THIS  
20 SUBSECTION.

21 (6) AN UNCERTIFIED BUILDING WHICH WAS BUILT BEFORE APRIL  
22 27, 1927, SHALL BE DEEMED A CERTIFIED BUILDING FOR PURPOSES  
23 OF THIS ACT.

24 (C) UNCERTIFIED BUILDINGS OVER WHICH THE DEPARTMENT DOES NOT  
25 HAVE JURISDICTION.--

26 (1) A CONSTRUCTION CODE OFFICIAL SHALL ISSUE A  
27 CERTIFICATE OF OCCUPANCY TO AN UNCERTIFIED BUILDING IF IT  
28 MEETS THE REQUIREMENTS OF THE LATEST VERSION OF THE  
29 INTERNATIONAL EXISTING BUILDING CODE OR CHAPTER 34 OF THE  
30 INTERNATIONAL BUILDING CODE, AND THE CONSTRUCTION CODE



1 OFFICIAL SHALL UTILIZE THE CODE FOR THE MUNICIPALITY WHICH,  
2 IN HIS PROFESSIONAL JUDGMENT, HE DEEMS TO BEST APPLY.

3 (2) A CONSTRUCTION CODE OFFICIAL MAY DENY THE ISSUANCE  
4 OF A CERTIFICATE OF OCCUPANCY IF THE OFFICIAL DEEMS THAT A  
5 BUILDING IS UNSAFE BECAUSE OF INADEQUATE MEANS OF EGRESS,  
6 INADEQUATE LIGHTING AND VENTILATION, FIRE HAZARDS OR OTHER  
7 DANGERS TO HUMAN LIFE OR TO PUBLIC WELFARE.

8 (3) A MUNICIPALITY SUBJECT TO THIS SUBSECTION MAY  
9 UTILIZE THE STANDARDS OF SUBSECTION (B) FOR THE ISSUANCE OF  
10 CERTIFICATES OF OCCUPANCY TO UNCERTIFIED BUILDINGS BY  
11 ADOPTING AN ORDINANCE ADOPTING THE STANDARDS OF ISSUANCE  
12 PURSUANT TO THE PROCEDURES DELINEATED IN SECTION 503.

13 (D) APPLICABILITY OF UNIFORM CONSTRUCTION CODE.--NOTHING IN  
14 SUBSECTION (B) SHALL BE CONSTRUED AS TO AFFECT APPLICABILITY OF  
15 CHAPTER 3 IF A BUILDING IS SUBJECT TO RENOVATION, ADDITIONS,  
16 ALTERATIONS OR A CHANGE IN USE OR OCCUPANCY.

17 SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.