

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1437 Session of 2015

INTRODUCED BY GOODMAN, BISHOP, COHEN, D. COSTA, FARINA, KOTIK, MAHONEY, MASSER, McNEILL, MURT, O'BRIEN, ROZZI, SAINATO, SCHREIBER, SCHWEYER, TAYLOR, DeLUCA, NEILSON, KINSEY, BARBIN AND DAVIS, JULY 6, 2015

SENATOR WAGNER, URBAN AFFAIRS AND HOUSING, IN SENATE, AS AMENDED, SEPTEMBER 27, 2016

AN ACT

1 Amending the act of December 20, 2000 (P.L.724, No.99), entitled
2 "An act requiring purchasers of real estate with buildings
3 thereon to bring the buildings into compliance with municipal
4 codes; providing for nuisance abatement; and imposing
5 penalties," further providing for definitions; providing for
6 issuance of use and occupancy certificate AND FOR <--
7 APPLICABILITY; and further providing for compliance
8 requirement.

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

11 Section 1. Section 2 of the act of December 20, 2000
12 (P.L.724, No.99), known as the Municipal Code and Ordinance
13 Compliance Act, is amended to read:

14 Section 2. 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:

18 ["Constructive knowledge." Knowledge of a violation listed
19 on the seller's property disclosure statement made pursuant to

1 the act of July 2, 1996 (P.L.500, No.84), known as the Real  
2 Estate Seller Disclosure Act, a violation appearing on a buyer's  
3 notification certificate provided by a municipality or a  
4 violation that is a matter of public record.]

5 "Date of purchase." The [closing] date on which title and  
6 right to possess the property transfers to the purchaser or, in  
7 cases where the property is sold pursuant to the act of May 16,  
8 1923 (P.L.207, No.153), referred to as the Municipal Claim and  
9 Tax Lien Law, the first day following the right of redemption  
10 period authorized under the Municipal Claim and Tax Lien Law.

11 ["Known to have." Knowledge of a violation based on actual  
12 or constructive knowledge.]

13 "Municipality." Any city, borough, incorporated town,  
14 township, home rule municipality, optional plan municipality,  
15 optional charter municipality or any similar general purpose  
16 unit of government which may be created or authorized by  
17 statute.

18 "Substantial violation." A violation of [a building,  
19 housing, property maintenance or fire code, which violation  
20 posed a threat to health, safety or property but not a violation  
21 of such a code deemed by a court to be de minimis.] an adopted  
22 building, housing, property maintenance or fire code or  
23 maintenance, health or safety nuisance ordinance that makes a  
24 building, structure or any part thereof unfit for human  
25 habitation and is discovered during the course of a municipal  
26 inspection of a property and disclosed to the record owner or  
27 prospective purchaser of the property through issuance of a  
28 municipal report.

29 "Temporary use and occupancy certificate." A certificate  
30 issued by a municipality as a result of the municipal inspection

1 of a property incident to the resale of the property that  
2 reveals a violation but no substantial violation, and the  
3 purpose of the certificate is to authorize the purchaser to  
4 fully utilize or reside in the property while correcting  
5 violations pursuant to the maintenance and repair provisions of  
6 this act.

7 "Temporary access certificate." A certificate issued by a  
8 municipality as a result of the municipal inspection of a  
9 property incident to the resale of the property that identifies  
10 at least one substantial violation, and the purpose of the  
11 certificate is to authorize the purchaser to access the property  
12 for the purpose of correcting substantial violations pursuant to  
13 the maintenance and repair provisions of this act. No person may  
14 occupy a property during the term of a temporary access  
15 certificate, but the owner shall be permitted to store  
16 personalty that is related to the proposed use or occupancy of  
17 the property or is needed to repair the substantial violations  
18 during the time of the temporary access certificate.

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

29 "Use and occupancy certificate." A certificate issued by a  
30 municipality stipulating that the property meets all ordinances

1 and codes and may be used or occupied as intended.

2 "Violation." A violation of a properly adopted building,  
3 housing, property maintenance or fire code or maintenance,  
4 health or safety nuisance ordinance that does not rise to the  
5 level of a substantial violation and is discovered during the  
6 course of a municipal inspection of a property and disclosed to  
7 the record owner or prospective purchaser of the property  
8 through issuance of a municipal report.

9 Section 2. The act is amended by adding ~~a section~~ SECTIONS <--  
10 to read:

11 Section 2.1. Issuance of use and occupancy certificate.

12 (a) General rule.--A municipality requiring a use and  
13 occupancy certificate shall issue the certificate in the  
14 following manner:

15 (1) If the municipal inspection reveals no violations.

16 (2) If the municipal inspection reveals at least one  
17 violation, but no substantial violations, the municipality  
18 shall issue a temporary use and occupancy certificate.

19 (3) If the municipal inspection reveals at least one  
20 substantial violation, the municipality shall specifically  
21 note those items on the inspection report and shall issue a  
22 temporary access certificate.

23 (b) Escrows and bonds prohibited.--A municipality may not  
24 require the escrowing of funds or posting of a bond, or impose  
25 any similar financial security as a condition of issuing a  
26 certificate.

27 (c) Construction.--Subsection (b) shall not be construed to  
28 prohibit a municipality from requiring an owner, prior to  
29 accessing the property, to acquire the necessary permits and  
30 meet all other related obligations in other statutes that

1 pertain to building, property maintenance, fire codes or other  
2 health or safety codes.

3 SECTION 2.2. APPLICABILITY.

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4 (A) APPLICABILITY.--EXCEPT AS SET FORTH IN SUBSECTION (B),  
5 THIS ACT SHALL NOT APPLY TO, AND A MUNICIPALITY MAY NOT REQUIRE,  
6 A CERTIFICATE OF OCCUPANCY, A TEMPORARY USE AND OCCUPANCY  
7 CERTIFICATE OR A TEMPORARY ACCESS CERTIFICATE FOR A REAL ESTATE  
8 TRANSFER, INCLUDING A RESIDENTIAL OR NONRESIDENTIAL TRANSFER, AS  
9 PROVIDED UNDER 68 PA.C.S. § 7103(B) (2) (RELATING TO APPLICATION  
10 OF PART), TO ANY OF THE FOLLOWING WHICH TAKE TITLE TO PROPERTY  
11 FOR THE PURPOSE OF HOLDING THE PROPERTY FOR SALE TO OFFSET  
12 LOSSES INCURRED ON A LOAN OR OTHER OBLIGATION IN DEFAULT SECURED  
13 BY A MORTGAGE, DEED OF TRUST OR OTHER LIEN ON THE PROPERTY:

14 (1) BANK.

15 (2) SAVINGS ASSOCIATION.

16 (3) CREDIT UNION.

17 (4) MORTGAGE LENDER.

18 (5) FINANCIAL INSTITUTION SIMILAR TO AN INSTITUTION  
19 LISTED IN PARAGRAPHS (1) THROUGH (4).

20 (6) SUBSIDIARY OF A FINANCIAL INSTITUTION LISTED IN  
21 PARAGRAPHS (1) THROUGH (5).

22 (B) EXCEPTION.--A FINANCIAL INSTITUTION NOT SUBJECT TO THIS  
23 ACT UNDER SUBSECTION (A) MAY BE REQUIRED BY A MUNICIPALITY TO  
24 CORRECT A SUBSTANTIAL VIOLATION.

25 Section 3. Section 3 of the act is amended to read:

26 Section 3. Compliance requirement.

27 (a) General rule.--Within [18] 12 months of the date of  
28 [purchase or longer subject to an agreement between the  
29 purchaser and the municipality, any purchaser of any building,  
30 structure or part of a building or structure known to have one

1 or more substantial violations of municipal codes relating to  
2 building, housing, property maintenance or fire shall:] ~~the~~ <--  
3 ~~issuance of a temporary access certificate, 12 months of the~~  
4 ~~date of the issuance of a temporary use and occupancy~~  
5 ~~certificate or 12 months of the date of settlement or transfer~~  
6 ~~of title~~ PURCHASE, the purchaser of a property KNOWN TO BE IN <--  
7 VIOLATION OF A MUNICIPAL CODE OR ORDINANCE SHALL, at his option,  
8 ~~shall~~ either: <--  
9 (1) bring the [building, structure or that part of a <--  
10 building or structure] PROPERTY into compliance with [those] <--  
11 municipal codes or ordinances; or  
12 (2) demolish the building or structure in accordance  
13 with law.  
14 (a.1) Negotiation of longer time periods.--At the request of  
15 the property owner, the municipality may negotiate, at its  
16 discretion, longer time periods for maintenance and repair of  
17 the structure under a temporary certificate, but the time  
18 periods stated in subsection (a) may not be shortened.  
19 (a.2) Reinspection of property.--  
20 (1) At the expiration of the time period set forth in  
21 subsection (a) or before that time, if requested by the  
22 property owner, the municipality shall reinspect the property  
23 for the purpose of determining compliance with the cited  
24 violations.  
25 (2) If a temporary access permit has been issued and  
26 reinspection indicates that the noted substantial violations  
27 have been corrected but other cited violations have not yet  
28 been corrected, the municipality shall issue a temporary use  
29 and occupancy permit to be valid for the time remaining on  
30 the original temporary access permit.

1           (3) If the reinspection indicates that all noted  
2 violations have been corrected, the municipality shall issue  
3 a use and occupancy certificate for the property.

4       (b) Penalty.--

5           (1) Failure to comply with the requirements of  
6 subsection (a) shall result in [the]:

7           (i) Revocation of the temporary certificate.

8           (ii) The purchaser being subject to any existing  
9 municipal ordinances or codes relating to the occupation  
10 of a property without a use and occupancy certificate.

11          (iii) The purchaser being personally liable for the  
12 costs of maintenance, repairs or demolition sufficient to  
13 correct the cited violations, and a fine of not less than  
14 \$1,000 and not more than \$10,000.

15          (2) Fines shall be remitted to the municipality in which  
16 the building, structure or part of a building or structure is  
17 located.

18          (3) In municipalities with low-income housing, not less  
19 than one-third of the fine imposed specifically for code  
20 violations shall be used by the municipality for low-income  
21 housing in a manner determined by the municipality.

22       [(c) Nuisance ordinances.--

23           (1) Any purchaser of any lot or parcel of land known to  
24 have one or more substantial violations of municipal nuisance  
25 ordinances relating to maintenance, health or safety is  
26 required to make a reasonable attempt to abate the nuisance  
27 within one year of the date of purchase.

28           (2) Failure to comply with the requirements of this  
29 subsection shall result in the purchaser being personally  
30 liable for the cost of maintenance and a fine of not less

1 than \$1,000 and not more than \$10,000. Fines shall be  
2 remitted to the municipality in which the lot or parcel of  
3 land is located.

4 (d) Enforcement.--Local municipalities are authorized to  
5 enforce the provisions of this section.

6 (e) Coordination with other requirements.--In connection  
7 with the purchase of a building, structure, part of a building  
8 or structure, lot or parcel of land subject to subsection (a) or  
9 (c), a municipality shall not refuse to issue a use and  
10 occupancy certificate or similar permit on the basis of a  
11 substantial violation or require the correction of a substantial  
12 violation as a condition to issuing a use and occupancy  
13 certificate or similar permit unless the substantial violation  
14 renders the property unfit for habitation.]

15 (F) EXCEPTION.--A VIOLATION OF A MUNICIPAL CODE OR <--  
16 ORDINANCE, FOR WHICH A FINE, OTHER PENALTY OR A JUDGMENT TO  
17 ABATE OR CORRECT WAS IMPOSED BY A MAGISTERIAL DISTRICT JUDGE OR  
18 MUNICIPAL COURT, OR A JUDGMENT AT LAW OR IN EQUITY WAS IMPOSED  
19 BY A COURT OF COMMON PLEAS PRIOR TO PURCHASE, SHALL NOT BE  
20 SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

21 ~~(f)~~ (G) Nonapplicability.--This section shall not apply <--  
22 where the municipality denies the certificate or permit pursuant  
23 to 53 Pa.C.S. Ch. 61 (relating to neighborhood blight  
24 reclamation and revitalization).

25 Section 4. This act shall take effect in 60 days.