

No. 2005-95

AN ACT

SB 736

Amending the act of November 10, 1999 (P.L.491, No.45), entitled "An act establishing a uniform construction code; imposing powers and duties on municipalities and the Department of Labor and Industry; providing for enforcement; imposing penalties; and making repeals," further providing for definitions and for regulations; and providing for applicability on certain uncertified buildings.

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

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 1.1. Section 301(a) of the act is amended by adding a paragraph to read:

Section 301. Adoption by regulations.

(a) Regulations.—

\* \* \*

***(9) Regulations under this subsection shall include the adoption of section 110.3 (temporary occupancy) of the International Building Code.***

\* \* \*

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 egress illumination, minimum egress widths and heights for exit doors, exit stairs, exit ramps and exit corridors. Waivers shall be as follows:**

**(A) The department may waive requirements for minimum egress widths and heights for exits, exit access doors, exit ramps and exit corridors if the department determines that any nonconforming openings provide sufficient width and height for building occupants to pass through or egress the building.**

**(B) The department may waive any requirements under this subparagraph if:**

**(I) the department determines a requirement to be technically infeasible; or**

**(II) the building owner demonstrates that the building met the applicable egress requirements which existed under the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act.**

**(C) A waiver shall be documented on the certificate of occupancy.**

**(ii) Fire safety requirements of the International Building Code with respect to fire alarms, fire extinguishers, heat and smoke detectors, automatic sprinkler systems and occupancy and incidental use separations. If the code requires that a building have automatic**

*sprinkler systems, the only buildings required to install automatic sprinkler systems shall be those buildings classified in use groups E (educational), H (high-hazard), I (institutional), R-1 or R-2 (residential) and those buildings which have occupied floors more than 75 feet above lowest level of fire department access. Buildings in use groups R-1 and R-2 which do not have occupied floors more than 75 feet above lowest level of fire department access may, instead of installing automatic sprinkler systems, install hard-wired interconnected heat and smoke detectors located in all lobbies, corridors, equipment rooms, storage rooms and other spaces that are not normally occupied. If construction began on a building prior to May 19, 1984, there is no requirement for the installation of automatic sprinkler systems under this subparagraph. If construction of a building began after May 18, 1984, automatic sprinkler installation required under this subparagraph shall be completed within five years of the effective date of this subsection, or an occupancy permit issued under this subsection shall be invalid. Waivers shall be as follows:*

*(A) The department may waive any requirements under this subparagraph if:*

*(I) the department determines a requirement to be technically infeasible; or*

*(II) the building owner demonstrates that the building met the applicable fire safety requirements which existed under the Fire and Panic Act.*

*(B) A waiver shall be documented on the certificate of occupancy.*

*(iii) Accessibility requirements as follows:*

*(A) If construction of a building began before September 1, 1965, no accessibility requirements shall be imposed.*

*(B) If construction of a building began after August 31, 1965, and before February 18, 1989, and if the building was subject to the requirements of the former act of September 1, 1965 (P.L.459, No.235), entitled "An act requiring that certain buildings and facilities adhere to certain principles, standards and specifications to make the same accessible to and usable by persons with physical handicaps, and providing for enforcement," it shall have:*

*(I) at least one accessible entrance;*

*(II) an accessible route from the accessible entrance to any public spaces on the same level as the accessible entrance; and*

*(III) if toilet rooms are provided, at least one accessible toilet room for each sex or a unisex toilet room, complying with the accessibility requirements of the International Building Code.*

**(C) If construction of the building began after February 17, 1989, all accessibility requirements of the International Building Code shall be met.**

**(3) Structural requirements shall not be imposed unless the department determines that the building or a portion of the building has defects which are dangerous as defined in the International Existing Building Code. The department may impose only those requirements minimally necessary to remove any danger to the building's occupants.**

**(4) A building owner may file an application for a variance from this subsection concerning accessibility with the advisory board under section 106. A building owner may file an application for a variance from this subsection concerning other standards. The application must be filed with the Industrial Board if any of the following apply:**

**(i) The building is located in a municipality where the department has jurisdiction.**

**(ii) The building is a State-owned building. As used in this subparagraph, the term "State-owned building" means a building owned or constructed for Commonwealth entities consisting of the General Assembly, the Unified Judicial System, the Pennsylvania Higher Education Assistance Agency, an executive agency, an independent agency and a State-affiliated entity or State-related institution, as defined in 62 Pa.C.S. § 103 (relating to definitions).**

**(5) A building subject to this subsection shall be permitted to maintain its current occupancy as long as the owner demonstrates reasonable efforts to comply with this subsection.**

**(6) An uncertified building which was built before April 27, 1927, shall be deemed a certified building for purposes of this act.**

**(c) Uncertified buildings over which the department does not have jurisdiction.—**

**(1) A construction code official shall issue a certificate of occupancy to an uncertified building if it meets the requirements of the latest version of the International Existing Building Code or Chapter 34 of the International Building Code, and the construction code official shall utilize the code for the municipality which, in his professional judgment, he deems to best apply.**

**(2) A construction code official may deny the issuance of a certificate of occupancy if the official deems that a building is unsafe because of inadequate means of egress, inadequate lighting and ventilation, fire hazards or other dangers to human life or to public welfare.**

**(3) A municipality subject to this subsection may utilize the standards of subsection (b) for the issuance of certificates of occupancy to uncertified buildings by adopting an ordinance adopting the standards of issuance pursuant to the procedures delineated in section 503.**

***(d) Applicability of Uniform Construction Code.—Nothing in subsection (b) shall be construed as to affect applicability of Chapter 3 if a building is subject to renovation, additions, alterations or a change in use or occupancy.***

Section 3. This act shall take effect immediately.

APPROVED—The 22nd day of December, A.D. 2005.

EDWARD G. RENDELL