

No. 2004-92

AN ACT

SB 1139

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, for application of act, for adoption of regulations, for administration and enforcement, for changes in Uniform Construction Code and for exemptions.

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

Section 1. The definitions of "agricultural building" and "utility and miscellaneous use structures" in section 103 of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act, are amended and the section 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:

"Addition." *An extension or increase in floor area or height of a building or structure.*

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"Agricultural building." *A structure utilized to store farm implements, hay, feed, grain or other agricultural or horticultural products or to house poultry, livestock or other farm animals[,] and a milk house. The term includes a carriage house owned and used by members of a recognized religious sect for the purposes of housing horses and storing buggies. The term shall not include habitable space or spaces in which agricultural products are processed, treated or packaged and shall not be construed to mean a place of occupancy by the general public.*

"Alteration." *Any construction or renovation to an existing structure other than repair or addition.*

* * *

"Recreational cabin." *A structure which is:*

- (1) utilized principally for recreational activity;*
- (2) not utilized as a domicile or residence for any individual for any time period;*
- (3) not utilized for commercial purposes;*
- (4) not greater than two stories in height, excluding basement;*
- (5) not utilized by the owner or any other person as a place of employment;*
- (6) not a mailing address for bills and correspondence; and*

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

"Repair." *The reconstruction or renewal of any part of an existing building for the purpose of its maintenance.*

"Residential building." *Detached one-family and two-family dwellings and multiple single-family dwellings which are not more than three stories in height with a separate means of egress, which includes accessory structures.*

* * *

"Utility and miscellaneous use structures." Buildings or structures of an accessory character and miscellaneous structures not classified by the Building Officials and Code Administrators International, Inc., in any specific use group. The term includes carports, detached private garages, greenhouses and sheds having a building area less than [500] 1,000 square feet. The term does not include swimming pools or spas.

Section 2. Section 104(b) of the act is amended and the section is amended by adding a subsection to read:

Section 104. Application.

* * *

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

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

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

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

(4) any agricultural building;

(5) *alterations to residential buildings which do not make structural changes or changes to means of egress, except as might be required by ordinances in effect pursuant to section 303(b)(1) or adopted pursuant to section 503. For purposes of this paragraph, a structural change does not include a minor framing change needed to replace existing windows or doors;*

(6) *repairs to residential buildings, except as might be required by ordinances in effect pursuant to section 303(b)(1) or adopted pursuant to section 503;*

(7) *any recreational cabin if:*

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

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

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

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

(b.1) Continuity of exclusion.—

(1) If a recreational cabin is subject to exclusion under subsection (b)(7), upon transfer of ownership of the recreational cabin, written notice must be provided in the sales agreement and the deed that the recreational cabin:

(i) is exempt from this act;

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

(iii) is not subject to municipal regulation.

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

Section 3. Section 301(a) of the act is amended by adding a paragraph to read:

Section 301. Adoption by regulations.

(a) Regulations.—

(8) The regulations shall exclude section R313.1.1 of the 2003 International Residential Code for One- and Two-Family Dwellings or its successor code from applying to existing one-family and two-family unit dwellings undergoing alterations, repairs or additions but shall include provisions requiring non-interconnected battery-operated smoke alarms in one-family and two-family dwellings in accordance with section R313.1.1 of the 2003 International Residential Code for One- and Two-Family Dwellings.

Section 4. Section 501 of the act is amended by adding subsections to read:

Section 501. Administration and enforcement.

(a.1) Counties of the second class.—Notwithstanding the provisions of subsection (a), a municipality located within a county of the second class shall not administer and enforce plumbing code provisions of an ordinance adopting the Uniform Construction Code and incorporated codes for the purposes of section 302(a). A county of the second class that has adopted a plumbing code and accompanying rules and regulations pursuant to the act of August 24, 1951 (P.L.1304, No.315), known as the Local Health Administration Law, shall retain the authority to promulgate

and enforce such plumbing code and to make such changes as it deems necessary, provided that such changes meet the minimum requirements as defined in the Uniform Construction Code.

* * *

(g) Technical assistance to municipalities.—The Governor’s Center for Local Government Services in the Department of Community and Economic Development shall be the principal agency for developing and providing technical assistance to municipalities for implementing, administrating and enforcing the provisions of this act.

Section 5. Sections 503(a) and (c) and 701(b) and (d) of the act are amended to read:

Section 503. Changes in Uniform Construction Code.

(a) Administration.—Municipalities may enact ordinances which equal or exceed the minimum requirements of Chapter 1 of the 1999 BOCA National Building Code, Fourteenth Edition, *or successor codes*, relating to administration consistent with the provisions of section 501(c).

* * *

(c) Modification of minimum requirement.—Subject to the provisions of this act, the municipal governing body may propose and enact an ordinance to equal or exceed the minimum requirements of the Uniform Construction Code under the law governing the adoption of ordinances in that jurisdiction. *Municipalities may enact ordinances pursuant to this section which adopt additional code requirements for alterations or repairs to residential buildings. Municipalities may enact ordinances pursuant to this section which adopt stricter code requirements than required by this act for the regulation of utility and miscellaneous use structures.*

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Section 701. Training of inspectors.

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(b) Categories of inspectors.—

(1) The department, in consultation with BOCA and other interested parties, shall establish appropriate categories of code administrators.

(2) *A code administrator may act in place of a lumber grading or inspection agency to satisfy the requirement set forth under section 2303.1.1 of the 2003 International Building Code or its successor code.*

* * *

(d) Waiver.—The department shall by regulation establish a procedure for the consideration of requests for waivers of the initial training and certification requirements for individuals who present documentation that they have previously satisfied substantially similar training, testing and certification requirements. *The department may also consider past work experience as an inspector when deciding a request for a waiver.* Any waiver shall not apply to continuing education requirements.

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Section 6. Section 901 of the act, amended June 22, 2001 (P.L.585, No.43), is amended to read:

Section 901. Exemptions.

(a) **Manufactured housing.**—This act shall not apply to manufactured housing which bears a label, as required by and referred to in the act of November 17, 1982 (P.L.676, No.192), known as the Manufactured Housing Construction and Safety Standards Authorization Act, which certifies that it conforms to Federal construction and safety standards adopted under the Housing and Community Development Act of 1974 (Public Law 93-383, 88 Stat. 633), nor shall it apply to industrialized housing, as defined in the act of May 11, 1972 (P.L.286, No.70), known as the Industrialized Housing Act.

(b) **Religious beliefs.**—

(1) An applicant for a construction permit for a dwelling unit *or one-room schoolhouse* utilized by a member *or members* of a recognized religious sect may file an application with a code administrator to be exempted from an electrical provision of the Uniform Construction Code which conflicts with the applicant's religious beliefs. The application shall state the manner in which the provision conflicts with the applicant's religious beliefs and shall include an affidavit by the applicant stating that:

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

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

(iii) the applicant adheres to the established tenets or teachings of the sect; **[and]**

(iv) *in the case of a dwelling unit*, the dwelling unit will be used solely as a residence for the applicant and the applicant's household[.]; **and**

(v) *in the case of a one-room schoolhouse*, the *one-room schoolhouse* will be used solely by members of the religious sect.

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

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

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

Section 7. The amendment of section 901(b) of the act shall apply to permits applied for on or after the effective date of this act.

Section 8. This act shall take effect immediately.

APPROVED—The 15th day of July, A.D. 2004.

EDWARD G. RENDELL