

## No. 2016-133

## AN ACT

HB 1437

Amending the act of December 20, 2000 (P.L.724, No.99), entitled "An act requiring purchasers of real estate with buildings thereon to bring the buildings into compliance with municipal codes; providing for nuisance abatement; and imposing penalties," further providing for definitions; providing for issuance of use and occupancy certificate and for applicability; and further providing for compliance requirement.

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

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

Section 2. 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:

**["Constructive knowledge." Knowledge of a violation listed on the seller's property disclosure statement made pursuant to the act of July 2, 1996 (P.L.500, No.84), known as the Real Estate Seller Disclosure Act, a violation appearing on a buyer's notification certificate provided by a municipality or a violation that is a matter of public record.]**

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

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

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

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

"Temporary access certificate." *A certificate issued by a municipality as a result of the municipal inspection of a property incident to the resale*

*of the property that identifies at least one substantial violation, and the purpose of the certificate is to authorize the purchaser to access the property for the purpose of correcting substantial violations pursuant to the maintenance and repair provisions of this act. No person may occupy a property during the term of a temporary access certificate, but the owner shall be permitted to store personally that is related to the proposed use or occupancy of the property or is needed to repair the substantial violations during the time of the temporary access certificate.*

*"Temporary use and occupancy certificate." A certificate issued by a municipality as a result of the municipal inspection of a property incident to the resale of the property that reveals a violation but no substantial violation, and the purpose of the certificate is to authorize the purchaser to fully utilize or reside in the property while correcting violations pursuant to the maintenance and repair provisions of this act.*

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

*"Use and occupancy certificate." A certificate issued by a municipality stipulating that the property meets all ordinances and codes and may be used or occupied as intended.*

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

Section 2. The act is amended by adding sections to read:

**Section 2.1. Issuance of use and occupancy certificate.**

*(a) General rule.—A municipality requiring a use and occupancy certificate shall issue the certificate in the following manner:*

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

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

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

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

*(c) Construction.—Subsection (b) shall not be construed to prohibit a municipality from requiring an owner, prior to accessing the property, to acquire the necessary permits and meet all other related obligations in*

*other statutes that pertain to building, property maintenance, fire codes or other health or safety codes.*

**Section 2.2. Applicability.**

*(a) Applicability.—Except as set forth in subsection (b), this act shall not apply to, and a municipality may not require, a certificate of occupancy, a temporary use and occupancy certificate or a temporary access certificate for a real estate transfer, including a residential or nonresidential transfer, as provided under 68 Pa.C.S. § 7103(b)(2) (relating to application of part), to any of the following which take title to property for the purpose of holding the property for sale to offset losses incurred on a loan or other obligation in default secured by a mortgage, deed of trust or other lien on the property:*

*(1) Bank.*

*(2) Savings association.*

*(3) Credit union.*

*(4) Mortgage lender.*

*(5) Financial institution similar to an institution listed in paragraphs (1) through (4).*

*(6) Subsidiary of a financial institution listed in paragraphs (1) through (5).*

*(b) Exception.—A financial institution not subject to this act under subsection (a) may be required by a municipality to correct a substantial violation.*

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

**Section 3. Compliance requirement.**

*(a) General rule.—Within [18] 12 months of the date of [purchase or longer subject to an agreement between the purchaser and the municipality, any purchaser of any building, structure or part of a building or structure known to have one or more substantial violations of municipal codes relating to building, housing, property maintenance or fire shall:] purchase, the purchaser of a property known to be in violation of a municipal code or ordinance shall, at his option, either:*

*(1) bring the [building, structure or that part of a building or structure] property into compliance with [those] municipal codes or ordinances; or*

*(2) demolish the building or structure in accordance with law.*

*(a.1) Negotiation of longer time periods.—At the request of the property owner, the municipality may negotiate, at its discretion, longer time periods for maintenance and repair of the structure under a temporary certificate, but the time periods stated in subsection (a) may not be shortened.*

*(a.2) Reinspection of property.—*

*(1) At the expiration of the time period set forth in subsection (a) or before that time, if requested by the property owner, the municipality shall reinspect the property for the purpose of determining compliance with the cited violations.*

*(2) If a temporary access permit has been issued and reinspection indicates that the noted substantial violations have been corrected but other cited violations have not yet been corrected, the municipality shall*

*issue a temporary use and occupancy permit to be valid for the time remaining on the original temporary access permit.*

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

(b) Penalty.—

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

*(i) Revocation of the temporary certificate.*

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

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

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

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

**[(c) Nuisance ordinances.—**

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

(2) Failure to comply with the requirements of this subsection shall result in the purchaser being personally liable for the cost of maintenance and a fine of not less than \$1,000 and not more than \$10,000. Fines shall be remitted to the municipality in which the lot or parcel of land is located.

**(d) Enforcement.—**Local municipalities are authorized to enforce the provisions of this section.

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

*(f) Exception.—A violation of a municipal code or ordinance, for which a fine, other penalty or a judgment to abate or correct was imposed by a magisterial district judge or municipal court, or a judgment at law or in equity was imposed by a court of common pleas prior to purchase, shall not be subject to the requirements of this section.*

*(g) Nonapplicability.—This section shall not apply where the municipality denies the certificate or permit pursuant to 53 Pa.C.S. Ch. 61 (relating to neighborhood blight reclamation and revitalization).*

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

APPROVED—The 3rd day of November, A.D. 2016

TOM WOLF