

HOUSE BILL No. 4608

April 12, 1989, Introduced by Reps. Harrison, Saunders, Watkins, Kilpatrick, Joe Young, Sr., Berman, DeMars, Stallworth, Perry Bullard, Joe Young, Jr., Emerson, Hollister and Wallace and referred to the Committee on Appropriations.

A bill to amend sections 2, 3, 7, and 9 of Act No. 230 of the Public Acts of 1972, entitled as amended

"State construction code act of 1972,"

sections 2 and 9 as amended by Act No. 371 of the Public Acts of 1980 and section 3 as amended by Act No. 189 of the Public Acts of 1984, being sections 125.1502, 125.1503, 125.1507, and 125.1509 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 3, 7, and 9 of Act No. 230 of the
2 Public Acts of 1972, sections 2 and 9 as amended by Act No. 371
3 of the Public Acts of 1980 and section 3 as amended by Act
4 No. 189 of the Public Acts of 1984, being sections 125.1502,
5 125.1503, 125.1507, and 125.1509 of the Michigan Compiled Laws,
6 are amended to read as follows:

1 Sec. 2. (1) As used in this act:

2 (a) "Agricultural or agricultural purposes" means of, or
3 pertaining to, or connected with, or engaged in, agriculture or
4 tillage which is characterized by the act or business of culti-
5 vating or using land and soil for the production of crops for the
6 use of animals or humans, and includes, but is not limited to,
7 purposes related to agriculture, farming, dairying, pasturage,
8 horticulture, floriculture, viticulture, and animal and poultry
9 husbandry.

10 (b) "Application for a building permit" means an application
11 for a building permit submitted to an enforcing agency pursuant
12 to this act and plans, specifications, surveys, statements, and
13 other material submitted to the enforcing agency together or in
14 connection with the application.

15 (c) "Barrier free design" means design complying with legal
16 requirements for architectural designs which eliminate the type
17 of barriers and hindrances that deter handicappers from having
18 access to and free mobility in and around a building or
19 structure.

20 (d) "Board of appeals" means the construction board of
21 appeals of a governmental subdivision provided for in section
22 14.

23 (e) "Boards" means the state plumbing and electrical admin-
24 istrative boards and the barrier free design board provided for
25 in Act No. 1 of the Public Acts of 1966, as amended, being sec-
26 tions 125.1351 to 125.1356 of the Michigan Compiled Laws.

1 (f) "Building" means a combination of materials, whether
2 portable or fixed, forming a structure affording a facility or
3 shelter for use or occupancy by persons, animals, or property.
4 The term does not include a building incidental to the use for
5 agricultural purposes of the land on which the building is
6 located if it is not used in the business of retail trade. The
7 term shall be construed as though followed by the words "or part
8 or parts of the building and all equipment in the building"
9 unless the context clearly requires a different meaning.

10 (g) "Building envelope" means the elements of a building
11 which enclose conditioned spaces through which thermal energy may
12 be transferred to or from the exterior.

13 (h) "Business day" means a day of the year, exclusive of a
14 Saturday, Sunday, or legal holiday.

15 (i) "Chief elected official" means the chairperson of the
16 county board of commissioners, the city mayor, the village presi-
17 dent, or the township supervisor.

18 (j) "Code" means the state construction code provided for in
19 section 4 or a part thereof of limited application, and includes
20 a modification of or amendment to the code.

21 (k) "Commission" means the state construction code commis-
22 sion created by section 3.

23 (l) "Construction" means the construction, erection, recon-
24 struction, alteration, conversion, demolition, repair, moving, or
25 equipping of buildings or structures.

26 (m) "Construction regulation" means a law, act, rule,
27 resolution, regulation, ordinance, or code ~~, general or special,~~

1 ~~or compilation thereof, heretofore or hereafter~~ enacted or
2 adopted ~~—~~ by this state or a county, city, village, or town-
3 ship, including a department, board, bureau, commission, or other
4 agency ~~thereof~~ OF THE STATE, COUNTY, CITY, VILLAGE, OR
5 TOWNSHIP, relating to the design, construction, or use of build-
6 ings and structures and the installation of equipment in the
7 building or structure. Construction regulation does not include
8 a zoning ordinance or rule issued pursuant to a zoning ordinance
9 and related to zoning.

10 (n) "Department" means the department of ~~labor~~ HOUSING AND
11 URBAN AND RURAL DEVELOPMENT.

12 (o) "Director" means the director of ~~labor~~ HOUSING AND
13 URBAN AND RURAL DEVELOPMENT or an authorized representative of
14 the director.

15 (p) "Energy conservation" means the efficient use of energy
16 by providing building envelopes with high thermal resistance and
17 low air leakage, and the selection of energy efficient mechani-
18 cal, electrical service, and illumination systems, equipment,
19 devices, or apparatus.

20 (q) "Enforcing agency" means the enforcing agency, in
21 accordance with section 8 or 9, which is responsible for adminis-
22 tration and enforcement of a nationally recognized model code or
23 this act and the code within a governmental subdivision, except
24 for the purposes of section 19 enforcing agency means the agency
25 in a governmental unit principally responsible for the adminis-
26 tration and enforcement of applicable construction regulations.

1 (r) "Equipment" means plumbing, heating, electrical,
2 ventilating, air conditioning, and refrigerating equipment.

3 (s) "Executive director" means the director of the ~~bureau~~
4 ~~of construction codes~~ COMMISSION as set forth under section 7.

5 (t) "Governmental subdivision" means a county, city, vil-
6 lage, or township. ~~which in accordance with section 8 or 9 has~~
7 ~~assumed responsibility for the administration and enforcement of~~
8 ~~a nationally recognized model code or this act and the code~~
9 ~~within its jurisdiction.~~

10 (u) "Handicapper" means a person whose physical characteris-
11 tics have a particular relationship to that person's ability to
12 be self-reliant in the person's movement throughout and use of
13 the building environment.

14 (v) "Mobile home" means a vehicular, portable structure
15 built on a chassis and designed to be used without a permanent
16 foundation as a dwelling when connected to required utilities and
17 which is, or is intended to be, attached to the ground, to
18 another structure, or to a utility system on the same premises
19 for more than 30 consecutive days.

20 (w) "Other laws and ordinances" means other laws and ordi-
21 nances, whether enacted by this state or by a county, city, vil-
22 lage, or township and the rules issued thereunder.

23 (x) "Owner" means the owner of the freehold of the premises
24 or lesser estate in the premises, a mortgagee or vendee in pos-
25 session, an assignee of rents, receiver, executor, trustee,
26 lessee, or any other person, sole proprietorship, partnership,
27 association, or corporation directly or indirectly in control of

1 a building, structure, or real property or his or her duly
2 authorized agent.

3 (y) "Premanufactured unit" means an assembly of materials or
4 products intended to comprise all or part of a building or struc-
5 ture, and which is assembled at other than the final location of
6 the unit of the building or structures by a repetitive process
7 under circumstances intended to insure uniformity of quality and
8 material content. Premanufactured unit includes a mobile home.

9 (z) "Structure" means that which is built or constructed, an
10 edifice or building of any kind, or a piece of work artificially
11 built up or composed of parts joined together in some definite
12 manner. Structure does not include a structure incident to the
13 use for agricultural purposes of the land on which the structure
14 is located and does not include works of heavy civil construction
15 including without limitation, a highway, bridge, dam, reservoir,
16 lock, mine, harbor, dockside port facility, an airport landing
17 facility and facilities for the generation or transmission, or
18 distribution of electricity. Structure shall be construed as
19 though followed by the words "or part or parts of the structure
20 and all equipment in the structure" unless the context clearly
21 indicates otherwise.

22 (2) Unless the context clearly indicates otherwise, refer-
23 ences to this act, or to this act and the code, shall refer to
24 this act and rules promulgated pursuant to this act including the
25 code.

26 Sec. 3. (1) The state construction code commission is
27 created and consists of the state fire marshal or the state fire

1 marshal's designee and the chairpersons of the barrier free
2 design board, the electrical administrative board, the state
3 plumbing board, and the board of mechanical rules, who shall be
4 permanent members, and 12 residents of the state to be appointed
5 by the governor with the advice and consent of the senate.
6 Appointed members of the commission shall include 1 person from
7 each of the fields of industrial management, architecture, pro-
8 fessional engineering, building contracting, organized labor,
9 premanufactured building, and 3 members representing municipal
10 building inspection, 1 of whom enforces this act and the code, 1
11 of whom enforces the building officials and code administrators
12 building code, and 1 of whom enforces the international confer-
13 ence of building officials building code; 2 persons from the gen-
14 eral public; and a licensed residential builder. A member of the
15 commission shall be appointed for a term of 2 years, except that
16 a vacancy shall be filled for the unexpired portion of the term.
17 A member of the commission may be removed from office by the gov-
18 ernor for inefficiency, neglect of duty, or misconduct or malfea-
19 sance in office. A member of the commission who has a pecuniary
20 interest in a matter before the commission shall disclose the
21 interest before the commission takes action in the matter, which
22 disclosures shall be made a matter of record in its official
23 proceedings. Each member of the commission, except the state
24 fire marshal or the state fire marshal's designee, shall receive
25 compensation and actual expenses incurred by the member in the
26 performance of the duties as a member of the commission. The per
27 diem compensation of the members and the schedule for

1 reimbursement of expenses shall be established annually by the
2 legislature. An appointed member of the commission shall not
3 serve more than 3 consecutive terms.

4 (2) Nine members of the commission constitute a quorum.
5 Except as otherwise provided in the commission's bylaws, action
6 may be taken by the commission by vote of a majority of the mem-
7 bers present at a meeting. Meetings of the commission may be
8 called by the chairperson or by 3 members on 10 days' written
9 notice. Not less than 1 meeting shall be held each calendar
10 quarter. A meeting of the commission may be held anywhere in
11 this state.

12 (3) The commission shall elect 1 member as chairperson;
13 another as vice-chairperson, and other officers as it determines
14 appropriate, for the terms and with the duties and powers as the
15 commission determines. The chairperson and vice-chairperson of
16 the commission shall be elected from those members appointed to
17 the commission by the governor.

18 (4) The commission shall be within the department of ~~labor~~
19 HOUSING AND URBAN AND RURAL DEVELOPMENT, but it shall exercise
20 its statutory functions independently of the ~~head of the~~
21 ~~department~~ DIRECTOR OF HOUSING AND URBAN AND RURAL DEVELOPMENT,
22 except that budgeting, personnel, and procurement functions of
23 the commission shall be performed under the direction and super-
24 vision of the director of ~~labor~~ HOUSING AND URBAN AND RURAL
25 DEVELOPMENT.

26 (5) The business which the commission may perform shall be
27 conducted at a public meeting of the commission held in

1 compliance with the open meetings act, Act No. 267 of the Public
2 Acts of 1976, as amended, being sections 15.261 to 15.275 of the
3 Michigan Compiled Laws. Public notice of the time, date, and
4 place of the meeting shall be given in the manner required by Act
5 No. 267 of the Public Acts of 1976, as amended.

6 (6) A writing prepared, owned, used, in the possession of,
7 or retained by the commission in the performance of an official
8 function shall be made available to the public in compliance with
9 the freedom of information act, Act No. 442 of the Public Acts of
10 1976, as amended, being sections 15.231 to 15.246 of the Michigan
11 Compiled Laws.

12 Sec. 7. (1) After consultation and with the approval of the
13 commission, the director of ~~labor~~ HOUSING AND URBAN AND RURAL
14 DEVELOPMENT shall appoint an executive director of the commission
15 and may:

16 (a) Subject to civil service requirements, appoint subordi-
17 nate officers and employees of the commission, including legal
18 counsel, and prescribe their duties and fix their compensation.

19 (b) Appoint or use experts, consultants, technical advisers,
20 and advisory committees for assistance and recommendations rela-
21 tive to preparation and promulgation of the code and to assist
22 the commission and the executive director in carrying out this
23 act.

24 (c) Subject to the advice of the commission, do those things
25 necessary or desirable to effectuate the general purposes and
26 specific objectives of this act.

1 (2) The director of ~~labor~~ HOUSING AND URBAN AND RURAL
2 DEVELOPMENT shall cooperate with agencies of the federal
3 government, may enter into contracts to receive funds, and may
4 receive grants from the federal government to carry out the pur-
5 poses of this act.

6 Sec. 9. (1) Except as otherwise provided in this section,
7 the executive director is responsible for administration and
8 enforcement of this act and the code. A governmental subdivision
9 may by ordinance assume responsibility for administration and
10 enforcement of this act within its political boundary. ~~The~~
11 ~~requirements of section 11(m) of Act No. 156 of the Public Acts~~
12 ~~of 1851, as amended, relating to the submission of a county ordi-~~
13 ~~nance, act, or regulation for approval or disapproval by the gov-~~
14 ~~ernor and deposit with the secretary of state, shall not apply to~~
15 ~~county ordinances adopted pursuant to this act.~~ A county ordi-
16 nance adopted pursuant to this act shall be adopted by the county
17 board of commissioners and shall be signed by the chairperson of
18 the county board of commissioners and certified by the county
19 clerk.

20 (2) A governmental subdivision which has assumed the respon-
21 sibility for administering and enforcing this act and the code
22 may through its chief legal officer issue a complaint and obtain
23 a warrant for a violation of this act or the code and prosecute
24 the violation with the same power and authority it possesses in
25 prosecuting a local ordinance violation. Unless otherwise pro-
26 vided by local law or ordinance, the legislative body of a
27 governmental subdivision responsible for administration and

1 enforcement of this act and the code shall designate an enforcing
2 agency that shall discharge the responsibilities of the govern-
3 mental subdivision under this act. Governmental subdivisions may
4 provide by agreement for joint enforcement of this act.

5 (3) Subject to the other provisions of this act, an enforc-
6 ing agency shall be any official or agent of a governmental sub-
7 division qualified by experience or training to perform the
8 duties associated with construction code administration and
9 enforcement.

10 (4) Within 10 days after the effective date of this subsec-
11 tion, the executive director shall provide all governmental sub-
12 divisions administering and enforcing this act and the code with
13 a notice of intent form. This form shall set forth the date
14 return receipt is required, which date shall not be less than 60
15 days. The chief elected official of the governmental subdivision
16 that receives this notice shall indicate on the form the inten-
17 tion of the governmental subdivision as to whether it shall con-
18 tinue to administer and enforce this act and the code and trans-
19 mit this notice to the executive director within the prescribed
20 period. If a governmental subdivision fails to submit a notice
21 of intent to continue to administer and enforce this act and the
22 code within the date set forth in the notice, the executive
23 director shall send a notice by registered mail to the clerk of
24 that governmental subdivision. The registered notice shall indi-
25 cate that the governmental subdivision shall have 15 additional
26 days in which to submit a notice of intent to continue to
27 administer and enforce this act and the code. If the

1 governmental subdivision does not respond by the end of the 15
2 additional days, it shall be conclusively presumed that the gov-
3 ernmental subdivision does not intend to continue to administer
4 and enforce this act and the code and the executive director
5 shall assume the responsibility for administering and enforcing
6 this act and the code in that governmental subdivision, unless
7 the county within which the governmental subdivision is located
8 has submitted a notice of intent to continue to administer and
9 enforce this act and the code.

10 (5) A county which is administering and enforcing this act
11 and the code on the effective date of this subsection, and has
12 submitted a notice of intent to continue to administer and
13 enforce this act and the code pursuant to subsection (4) shall be
14 responsible for the administration and enforcement of this act
15 and the code for all of the governmental subdivisions within the
16 county which have not submitted a notice of intent to continue to
17 administer and enforce this act and the code or another nation-
18 ally recognized model code within its jurisdiction. The execu-
19 tive director shall notify the county of those governmental sub-
20 divisions that have not submitted a notice of intent.

21 (6) A governmental subdivision which, before the effective
22 date of this subsection, has not administered and enforced either
23 this act and the code or another nationally recognized model code
24 may elect to assume the responsibility for the administration and
25 enforcement of this act and the code pursuant to subsection (1)
26 by the passage of an ordinance to that effect. A governmental
27 subdivision which makes this election after the effective date of

1 this subsection shall submit, in addition to the ordinance, an
2 application to the commission for approval to administer and
3 enforce this act and the code within its jurisdiction. This
4 application shall be made on the proper form to be provided by
5 the commission. The standards for approval shall include, but
6 not be limited to, the certification by the governmental subdivi-
7 sion that the enforcing agency is qualified by experience or
8 training to administer and enforce this act and the code and all
9 related acts and rules, that agency personnel are provided as
10 necessary, administrative services are provided, plan review
11 services are provided, and timely field inspection services will
12 be provided. The executive director shall seek additional infor-
13 mation when the executive director considers it necessary. The
14 commission shall render a decision on the application for
15 approval to administer and enforce this act and the code and
16 transmit its findings to that governmental subdivision within 90
17 days of receipt of the application. The commission shall docu-
18 ment its reasons, if the commission disapproves an application.
19 A governmental subdivision which receives a disapproval may
20 resubmit its application for approval. Upon receipt of approval
21 from the commission for the administration and enforcement of
22 this act and the code, the governmental subdivision shall admin-
23 ister and enforce this act and the code within its jurisdiction
24 pursuant to the provisions of this act and the application.

25 (7) A governmental subdivision which has elected to adminis-
26 ter and enforce this act and the code within its jurisdiction by
27 the adoption of an ordinance may rescind that ordinance and

1 transfer the responsibility for the administration and
2 enforcement of this act and the code to the executive director.
3 The executive director shall assume the responsibility for admin-
4 istering and enforcing this act and the code in that governmental
5 subdivision, unless the county within which that governmental
6 subdivision is located has submitted a notice of intent to con-
7 tinue to administer and enforce the code. However, that action
8 shall not take effect until 12 months after the passage of an
9 ordinance to that effect. A structure commenced under an effec-
10 tive code shall be completed under that code.

11 (8) The executive director is responsible for administration
12 and enforcement of this act and the code in those governmental
13 subdivisions for buildings and structures which are not under the
14 responsibility of an enforcing agency in those governmental sub-
15 divisions which elect to administer and enforce this act and the
16 code or another nationally recognized model code. A building or
17 structure owned by the state shall not be erected, remodeled, or
18 reconstructed in the state after the effective date of this sub-
19 section, except school buildings or facilities or institutions of
20 higher education as defined in section 4 of article ~~8~~ VIII of
21 the state constitution of 1963, until written approval of the
22 plans and specifications has been obtained from the ~~bureau of~~
23 ~~construction codes located within the~~ department of ~~labor~~
24 HOUSING AND URBAN AND RURAL DEVELOPMENT indicating that the state
25 owned facilities shall be designed and constructed in conformance
26 with the state construction code and all pertinent sections.
27 This subsection shall not apply to any state owned facility for

1 which construction has commenced before ~~the effective date of~~
 2 ~~this subsection~~ DECEMBER 30, 1980. The ~~bureau of construction~~
 3 ~~codes~~ DEPARTMENT OF HOUSING AND URBAN AND RURAL DEVELOPMENT
 4 shall be the lead agency in the coordination and implementation
 5 of this subsection. The ~~bureau of construction codes~~
 6 DEPARTMENT OF HOUSING AND URBAN AND RURAL DEVELOPMENT shall per-
 7 form all required plan reviews and inspections as required by the
 8 state construction code. Each department shall secure all
 9 required plan approvals and permits from the ~~bureau~~ DEPARTMENT
 10 OF HOUSING AND URBAN AND RURAL DEVELOPMENT. Fees charged by the
 11 ~~bureau~~ DEPARTMENT OF HOUSING AND URBAN AND RURAL DEVELOPMENT
 12 for permits shall be in accordance with the commission's approved
 13 schedule of fees. State departments and institutions may allow
 14 local inspectors to inspect the construction of state owned
 15 facilities. However, an inspection conducted by a local inspec-
 16 tor shall be of an advisory nature only.

17 (9) This section ~~shall~~ DOES not affect the responsibili-
 18 ties of the commission for administration and enforcement of this
 19 act pursuant to other sections of this act, or pursuant to THE
 20 FIRE PREVENTION CODE, Act No. 207 of the Public Acts of 1941, as
 21 amended, being sections 29.1 to ~~29.25~~ 29.33 of the Michigan
 22 Compiled Laws, except sections 6 and 7 of Act No. 207 of the
 23 Public Acts of 1941, as amended, being sections 29.6 and 29.7 of
 24 the Michigan Compiled Laws; ~~Act No. 327 of the Public Acts of~~
 25 ~~1947, as amended, being sections 29.201 to 29.330 of the Michigan~~
 26 ~~Compiled Laws,~~ Act No. 306 of the Public Acts of 1937, as
 27 amended, being sections 388.851 to 388.855a of the Michigan

1 Compiled Laws; THE FIRE FIGHTERS TRAINING COUNCIL ACT OF 1966,
2 Act No. 291 of the Public Acts of 1966, as amended, being sec-
3 tions 29.361 to 29.377 of the Michigan Compiled Laws; Act No. 9
4 of the Public Acts of the First Extra Session of 1942, as
5 amended, being sections 419.201 to 419.205 of the Michigan
6 Compiled Laws; parts 215 and 217 of THE PUBLIC HEALTH CODE, Act
7 No. 368 of the Public Acts of 1978, as amended, being sections
8 333.21501 to 333.21799e of the Michigan Compiled Laws; and sec-
9 tion 58 of THE SOCIAL WELFARE ACT, Act No. 280 of the Public Acts
10 of 1939, as amended, being section 400.58 of the Michigan
11 Compiled Laws.

12 (10) Pursuant to parts 215 and 217 of Act No. 368 of the
13 Public Acts of 1978, as amended, the directors of the department
14 of ~~labor~~ HOUSING AND URBAN AND RURAL DEVELOPMENT, public
15 health, and state police, or their designees shall develop con-
16 sistent construction standards for hospitals and nursing homes.
17 These standards shall assure that consistent, uniform, and equi-
18 table construction requirements and state supervision thereof are
19 achieved and that unnecessary duplication is avoided. The com-
20 mission shall delegate plan review and approval of health facil-
21 ity construction plans to the department of PUBLIC health. This
22 subsection shall not preclude a state agency or a governmental
23 subdivision from conducting plan reviews or inspections necessary
24 to assure compliance with approved construction plans.

25 (11) Except as otherwise provided in this act, this act does
26 not limit or restrict existing powers or authority of
27 governmental subdivisions, and this act shall be enforced by

1 governmental subdivisions in the manner prescribed by local law
2 or ordinance. To the extent not inconsistent with this act,
3 local laws and ordinances relating to administration and enforce-
4 ment of construction regulations enacted before the effective
5 date of the code by or for a governmental subdivision are appli-
6 cable to administration and enforcement of the code in that gov-
7 ernmental subdivision.