

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Reps. MacMaster and McBroom

ENROLLED HOUSE BILL No. 4732

AN ACT to amend 1972 PA 230, entitled "An act to create a construction code commission and prescribe its functions; to authorize the director to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to prescribe energy conservation standards for the construction of certain buildings; to provide for statewide approval of premanufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish penalties, remedies, and sanctions for violations of the act; to repeal acts and parts of acts; and to provide an appropriation," by amending sections 2a and 10 (MCL 125.1502a and 125.1510), section 2a as amended by 2012 PA 103 and section 10 as amended by 1999 PA 245.

The People of the State of Michigan enact:

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

(a) "Agricultural or agricultural purposes" means of, or pertaining to, or connected with, or engaged in agriculture or tillage that is characterized by the act or business of cultivating or using land and soil for the production of crops for the use of animals or humans, and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.

(b) "Agricultural product" means a farm product as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

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

(d) "Barrier free design" means design complying with legal requirements for architectural designs that eliminate the type of barriers and hindrances that deter persons with disabilities from having access to and free mobility in and around a building or structure.

(e) "Board of appeals" means the construction board of appeals of a governmental subdivision provided for in section 14.

(f) "Boards" means the state plumbing board created in section 13 of the state plumbing act, 2002 PA 733, MCL 338.3523, the board of mechanical rules created in section 3 of the Forbes mechanical contractors act, 1984 PA 192, MCL 338.973, the electrical administrative board created in section 2 of the electrical administrative act, 1956 PA 217, MCL 338.882, and the barrier free design board created in section 5 of 1966 PA 1, MCL 125.1355.

(g) "Building" means a combination of materials, whether portable or fixed, forming a structure affording a facility or shelter for use or occupancy by individuals, animals, or property. Building does not include a building, whether temporary or permanent, incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade. Building includes a part or parts of the building and all equipment in the building unless the context clearly requires a different meaning.

(h) “Building envelope” means the elements of a building that enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.

(i) “Building official” means an individual who is employed by a governmental subdivision and is charged with the administration and enforcement of the code and who is registered in compliance with the building officials and inspectors registration act, 1986 PA 54, MCL 338.2301 to 338.2313. This individual may also be an employee of a private organization.

(j) “Business day” means a day of the year, exclusive of a Saturday, Sunday, or legal holiday.

(k) “Chief elected official” means the chairperson of the county board of commissioners, the city mayor, the village president, or the township supervisor.

(l) “Code” means the state construction code provided for in section 4 or a part of that code of limited application and includes a modification of or amendment to the code.

(m) “Commission” means the state construction code commission created by section 3a.

(n) “Construction” means the construction, erection, reconstruction, alteration, conversion, demolition, repair, moving, or equipping of buildings or structures.

(o) “Construction regulation” means a law, act, rule, regulation, or code, general or special, or a compilation thereof, enacted or adopted by this state including a department, board, bureau, commission, or other agency of this state, relating to the design, construction, or use of and the installation of equipment in buildings and structures. Construction regulation does not include a zoning ordinance or rule issued pursuant to a zoning ordinance and related to zoning.

(p) “Cost-effective”, in reference to section 4(3)(f) and (g), means, using the existing energy efficiency standards and requirements as the base of comparison, the economic benefits of the proposed energy efficiency standards and requirements will exceed the economic costs of the requirements of the proposed rules based upon an incremental multiyear analysis that meets all of the following requirements:

(i) Considers the perspective of a typical first-time home buyer.

(ii) Considers benefits and costs over a 7-year time period.

(iii) Does not assume fuel price increases in excess of the assumed general rate of inflation.

(iv) Ensures that the buyer of a home who would qualify to purchase the home before the addition of the energy efficient standards will still qualify to purchase the same home after the additional cost of the energy-saving construction features.

(v) Ensures that the costs of principal, interest, taxes, insurance, and utilities will not be greater after the inclusion of the proposed cost of the additional energy-saving construction features required by the proposed energy efficiency rules than under the provisions of the existing energy efficiency rules.

(q) “Department” means the department of licensing and regulatory affairs.

(r) “Director” means the director of the department or an authorized representative of the director.

(s) “Energy conservation” means the efficient use of energy by providing building envelopes with high thermal resistance and low air leakage, and the selection of energy efficient mechanical, electrical service, and illumination systems, equipment, devices, or apparatus.

(t) “Enforcing agency” means the governmental agency that, in accordance with section 8a or 8b, is responsible for administration and enforcement of the code within a governmental subdivision. However, for the purposes of section 19, enforcing agency means the agency in a governmental unit principally responsible for the administration and enforcement of applicable construction regulations.

(u) “Equipment” means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating equipment.

(v) “Governmental subdivision” means a county, city, village, or township that, in accordance with section 8a or 8b, has assumed responsibility for administration and enforcement of this act and the code within its jurisdiction.

(w) “Mobile home” means a vehicular, portable structure that meets all of the following requirements:

(i) Is built on a chassis pursuant to the national manufactured housing construction and safety standards act of 1974, 42 USC 5401 to 5426.

(ii) Is designed to be used without a permanent foundation as a dwelling when connected to required utilities.

(iii) Is or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than 30 consecutive days.

(x) “Other laws and ordinances” means other laws and ordinances whether enacted by this state or by a county, city, village, or township and the rules issued under those laws and ordinances.

(y) “Owner” means the owner of the freehold of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, or lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property or his or her duly authorized agent.

(z) "Person with disabilities" means an individual whose physical characteristics limit that individual's ability to be self-reliant in the individual's movement throughout and use of the building environment.

(aa) "Premanufactured unit" means an assembly of materials or products intended to comprise all or part of a building or structure, and that is assembled at other than the final location of the unit of the building or structure by a repetitive process under circumstances intended to ensure uniformity of quality and material content. Premanufactured unit includes a mobile home.

(bb) "Structure" means that which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner. Structure does not include a structure incident to the use for agricultural purposes of the land on which the structure is located and does not include works of heavy civil construction including, but not limited to, a highway, bridge, dam, reservoir, lock, mine, harbor, dockside port facility, an airport landing facility and facilities for the generation, transmission, or distribution of electricity. Structure includes a part or parts of the structure and all equipment in the structure unless the context clearly requires a different meaning.

(2) Unless the context clearly indicates otherwise, a reference to this act, or to this act and the code, means this act and rules promulgated pursuant to this act including the code.

Sec. 10. (1) Except as otherwise provided in the code, before construction of a building or structure, the owner, or the owner's builder, architect, engineer, or agent, shall submit an application in writing to the appropriate enforcing agency for a building permit. The application shall be on a form prescribed by the commission and shall be accompanied by payment of the fee established by the enforcing agency. The application shall contain a detailed statement in writing, verified by affidavit of the individual making it, of the specifications for the building or structure, and full and complete copies of the plans drawn to scale of the proposed work. A site plan showing the dimensions, and the location of the proposed building or structure and other buildings or structures on the same premises, shall be submitted with the application. The application shall state in full the name and residence, by street and number, of the owner in fee of the land on which the building or structure will be constructed, and the purposes for which it will be used.

(2) If construction is proposed to be undertaken by a person other than the owner of the land in fee, the statement shall contain the full name and residence, by street and number, of the owner and also of the person proposing the construction. The affidavit shall state that the specifications and plans are true and complete and contain a correct description of the building or structure, lot or parcel, and proposed work. The statements and affidavits may be made by an owner, or the owner's attorney, agent, engineer, architect, or builder, by the person who proposes to make the construction or alteration, or by that person's agent, engineer, architect, or builder. A person shall not be recognized as the agent, attorney, engineer, architect, or builder of another person unless the person seeking recognition files with the enforcing agency a written instrument, which shall be an architectural, engineering, or construction contract, power of attorney, or letter of authorization signed by that other person designating the person seeking recognition as the agent, attorney, architect, engineer, or builder and, in case of a residential builder or maintenance and alteration contractor, architect, or engineer, setting forth the license number of the person seeking recognition and the expiration date of the license.

(3) A person licensed or required to be licensed as a residential builder or residential maintenance and alteration contractor under the occupational code, 1980 PA 299, MCL 339.101 to 339.2919, a plumbing contractor or master or journeyman plumber pursuant to the state plumbing act, 2002 PA 733, MCL 338.3511 to 338.3569, an electrical contractor, master electrician, or electrical journeyman pursuant to the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892, or pursuant to a local ordinance, or a mechanical contractor pursuant to the Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to 338.988, who applies for a building permit to perform work on a residential building or a residential structure shall, in addition to any other information required pursuant to this act, provide on the building permit application all of the following information:

(a) The occupational license number of the applicant and the expiration date of the occupational license.

(b) One of the following:

(i) The name of each carrier providing worker's disability compensation insurance to the applicant if the applicant is required to be insured pursuant to the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(ii) The reasons for exemption from the requirement to be insured if the applicant is not required to be insured under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(c) One of the following:

(i) The employer identification number, if the applicant is required to have an employer identification number pursuant to section 6109 of the internal revenue code, 26 USC 6109.

(ii) The reasons for exemption from the requirement to have an employer identification number pursuant to section 6109 of the internal revenue code, 26 USC 6109, if the applicant is not required to have an employer identification number pursuant to that section.

(d) One of the following:

(i) The Michigan employment security commission employer number, if the applicant is required to make contributions pursuant to the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(ii) If the applicant is not required to make contributions, the reasons for exemptions from the requirement to make contributions under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(4) The building permit application form shall contain the following statement in 8-point boldfaced type immediately above the location for the applicant's signature:

"Section 23a of the state construction code act of 1972, 1972 PA 230, MCL 125.1523a, prohibits a person from conspiring to circumvent the licensing requirements of this state relating to persons who are to perform work on a residential building or a residential structure. Violators of section 23a are subjected to civil fines."

(5) The application for a building permit shall be filed with the enforcing agency and the application and any other writing prepared, owned, used, in the possession of, or retained by the enforcing agency in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. An application shall not be removed from the custody of the enforcing agency after a building permit has been issued.

(6) This section shall be construed to allow the imposition of requirements in the code, or in other laws or ordinances, for additional permits for particular kinds of work, including plumbing and electrical, or in other specified situations. The requirements of the code may provide for issuance of construction permits for certain of the systems of a structure and allow construction to commence on those systems approved under that permit even though the design and approval of all the systems of the structure have not been completed and subsequent construction permits have not been issued.

(7) A building permit is not required for ordinary repairs of a building or structure.

(8) A building permit is not required for a building incidental to the use for agricultural purposes of the land on which the building is located if the building is not used in the business of retail trade.

(9) A qualifying roadside stand is exempt from the plumbing fixture requirements of this act and the code and is not required to have electric power. However, a qualifying roadside stand that has electric power must comply with the electrical code. This subsection does not exempt a qualifying roadside stand from a requirement to obtain a building permit. As used in this subsection, "qualifying roadside stand" means a roadside stand that meets all of the following requirements:

(a) Is used only for seasonal retail trade in agricultural products.

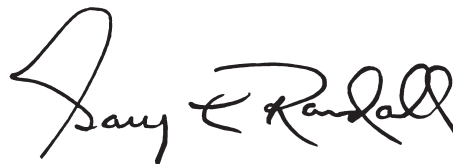
(b) At least 50% of the agricultural products offered for sale at the roadside stand are produced on a farm that is owned or controlled by the person who owns the roadside stand.

(c) Is not larger than 400 square feet.

(d) Is securely anchored to the ground.

(10) A tent that meets the requirements of subsection (9)(a), (b), and (c) is exempt from this act and the code.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor