

HOUSE BILL No. 5060

July 16, 1997, Introduced by Reps. Cropsey, Kukuk, McBryde and Lowe and referred to the Committee on Regulatory Affairs.

A bill to amend 1972 PA 230, entitled "State construction code act of 1972," by amending sections 2, 9, 14, and 22 (MCL 125.1502, 125.1509, 125.1514, and 125.1522), sections 2 and 22 as amended by 1980 PA 371 and section 9 as amended by 1994 PA 22.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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~~ THAT is characterized by the act or business of
5 cultivating or using land and soil for the production of crops
6 for the use of animals or humans, and includes, but is not
7 limited to, purposes related to agriculture, farming, dairying,
8 pasturage, horticulture, floriculture, viticulture, and animal
9 and poultry husbandry.

1 (b) "Application for a building permit" means an application
2 for a building permit submitted to an enforcing agency ~~pursuant~~
3 ~~to~~ UNDER this act and plans, specifications, surveys, state-
4 ments, and other material submitted to the enforcing agency
5 together or in connection with the application.

6 (c) "Barrier free design" means design complying with legal
7 requirements for architectural designs ~~which~~ THAT eliminate the
8 type of barriers and hindrances that deter handicappers from
9 having access to and free mobility in and around a building or
10 structure.

11 (d) "Board of appeals" means the construction board of
12 appeals of a governmental subdivision provided for in section
13 14.

14 (e) "Boards" means the state plumbing and electrical admin-
15 istrative boards and the barrier free design board provided for
16 in ~~Act No. 1 of the Public Acts of 1966, as amended, being sec-~~
17 ~~tions 125.1351 to 125.1356 of the Michigan Compiled Laws 1966 PA~~
18 1, MCL 125.1351 TO 125.1356.

19 (f) "Building" means a combination of materials, whether
20 portable or fixed, forming a structure affording a facility or
21 shelter for use or occupancy by persons, animals, or property.
22 The term does not include a building incidental to the use for
23 agricultural purposes of the land on which the building is
24 located if it is not used in the business of retail trade. The
25 term shall be construed as though followed by the words "or part
26 or parts of the building and all equipment in the building"
27 unless the context clearly requires a different meaning.

1 (g) "Building envelope" means the elements of a building
2 ~~which~~ THAT enclose conditioned spaces through which thermal
3 energy may be transferred to or from the exterior.

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

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

9 (j) "Code" means the state construction code OR ANY PART OF
10 THE CODE provided for in section 4. ~~or a part thereof of limited~~
11 ~~application, and includes a modification of or amendment to the~~
12 ~~code.~~

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

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

18 (m) "Construction regulation" means a law, act, rule, reso-
19 lution, regulation, ordinance, or code, general or special, or
20 compilation thereof, ~~heretofore or hereafter~~ enacted or adopted
21 ~~, by this~~ BY THE state or a county, city, village, or township
22 ~~including a department, board, bureau, commission, or other~~
23 ~~agency thereof,~~ relating to the design, construction, or use of
24 buildings and structures and the installation of equipment in the
25 building or structure. Construction regulation does not include
26 a zoning ordinance or rule issued ~~pursuant to~~ UNDER a zoning
27 ordinance and related to zoning.

1 (n) "Department" means the department of labor.

2 (o) "Director" means the director of labor or an authorized
3 representative of the director.

4 (p) "Energy conservation" means the efficient use of energy
5 by providing building envelopes with high thermal resistance and
6 low air leakage, and the selection of energy efficient mechani-
7 cal, electrical service, and illumination systems, equipment,
8 devices, or apparatus.

9 (q) "Enforcing agency" means the enforcing agency, in
10 accordance with section 8 or 9, ~~which~~ THAT is responsible for
11 administration and enforcement of a nationally recognized model
12 code or this act and the code within a governmental subdivision,
13 except for the purposes of section 19 enforcing agency means the
14 agency in a governmental unit principally responsible for the
15 administration and enforcement of applicable construction
16 regulations.

17 (r) "Equipment" means plumbing, heating, electrical, venti-
18 lating, air conditioning, and refrigerating equipment.

19 (s) "Executive director" means the director of the bureau of
20 construction codes as set forth under section 7.

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

26 (u) "Handicapper" means a person whose physical
27 characteristics have a particular relationship to that person's

1 ability to be self-reliant in the person's movement throughout
2 and use of the building environment.

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

9 (w) "Other laws and ordinances" means other laws and ordi-
10 nances, whether enacted by this state or by a county, city, vil-
11 lage, or township and the rules issued ~~thereunder~~ UNDER THOSE
12 LAWS AND ORDINANCES.

13 (x) "Owner" means the owner of the freehold of the premises
14 or lesser estate in the premises, a mortgagee or vendee in pos-
15 session, an assignee of rents, receiver, executor, trustee,
16 lessee, or any other person, sole proprietorship, partnership,
17 association, or corporation directly or indirectly in control of
18 a building, structure, or real property or his or her duly autho-
19 rized agent.

20 (y) "Premanufactured unit" means an assembly of materials or
21 products intended to comprise all or part of a building or struc-
22 ture, and which is assembled at A LOCATION other than the final
23 location of the unit of the building or structures by a repeti-
24 tive process under circumstances intended to insure uniformity of
25 quality and material content. Premanufactured unit includes a
26 mobile home.

1 (Z) "PUBLIC AGENT" MEANS A PERSON APPOINTED BY A
2 GOVERNMENTAL SUBDIVISION TO ADMINISTER AND ENFORCE THE CODE AND
3 WHO HAS COMPLETED THE FOLLOWING TRAINING PROGRAMS CONDUCTED BY
4 THE COMMISSION:

5 (A) AN INITIAL TRAINING PROGRAM OF NOT LESS THAN 7 HOURS
6 THAT INCLUDES, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

7 (i) CODE ADMINISTRATION.

8 (ii) BOARD OF APPEALS ACTIONS.

9 (iii) LICENSING REQUIREMENTS FOR PRACTITIONERS.

10 (iv) PERMIT ISSUANCE.

11 (v) CERTIFICATES OF OCCUPANCY.

12 (vi) NOTICES OF VIOLATION.

13 (B) AN ANNUAL TRAINING PROGRAM OF NOT LESS THAN 2 HOURS THAT
14 INCLUDES, BUT IS NOT LIMITED TO, LEGISLATIVE AND RULE UPDATES
15 AFFECTING THE ADMINISTRATION AND ENFORCEMENT OF THIS ACT OR
16 CODE.

17 (AA) "RESIDENTIAL STRUCTURE" MEANS A DETACHED 1 OR 2 FAMILY
18 DWELLING OR A 1 FAMILY TOWN HOUSE THAT IS NOT MORE THAN 3 STORIES
19 AND ANY ACCESSORY STRUCTURES.

20 (BB) ~~(z)~~ "Structure" means that which is built or con-
21 structed, an edifice or building of any kind, or a piece of work
22 artificially built up or composed of parts joined together in
23 some definite manner. Structure does not include a structure
24 incident to the use for agricultural purposes of the land on
25 which the structure is located and does not include works of
26 heavy civil construction including without limitation, a highway,
27 bridge, dam, reservoir, lock, mine, harbor, dockside port

1 facility, an airport landing facility and facilities for the
2 generation, ~~or~~ transmission, or distribution of electricity.
3 Structure shall be construed as though followed by the words "or
4 part or parts of the structure and all equipment in the
5 structure" unless the context clearly indicates otherwise.

6 (2) Unless the context clearly indicates otherwise, refer-
7 ences to this act, or to this act and the code, shall refer to
8 this act and rules promulgated ~~pursuant to~~ UNDER this act
9 including the code.

10 Sec. 9. (1) Except as otherwise provided in this section,
11 the ~~executive~~ director ~~is responsible for administration and~~
12 ~~enforcement of~~ SHALL ADMINISTER AND ENFORCE this act and the
13 code.

14 (2) A governmental subdivision may by ordinance assume
15 responsibility for administration and enforcement of this act
16 within its political boundary. A county ordinance adopted
17 ~~pursuant to~~ UNDER this ~~act~~ SUBSECTION shall be adopted by the
18 county board of commissioners, ~~and shall be~~ signed by the
19 chairperson of the county board of commissioners, and certified
20 by the county clerk.

21 (3) ~~(2)~~ A governmental subdivision that has assumed the
22 responsibility for administering and enforcing this act and the
23 code may through its chief legal officer issue a complaint and
24 obtain a warrant for a violation of this act or the code and
25 prosecute the violation ~~with the same power and authority it~~
26 ~~possesses~~ IN THE SAME MANNER in prosecuting a local ordinance
27 violation. If ~~pursuant to~~ UNDER section 23, a governmental

1 subdivision has by ordinance designated a violation of ~~the~~ THIS
2 act or code as a municipal civil infraction, the governmental
3 subdivision may issue a citation or municipal ordinance violation
4 notice ~~pursuant to~~ UNDER chapter 87 of the revised judicature
5 act of 1961, ~~Act No. 236 of the Public Acts of 1961, being sec-~~
6 ~~tions 600.8701 to 600.8733 of the Michigan Compiled Laws, for a~~
7 ~~violation of the act or code~~ 1961 PA 236, MCL 600.8701 TO
8 600.8733. Unless otherwise provided by local law or ordinance,
9 the legislative body of a governmental subdivision responsible
10 for administration and enforcement of this act and the code shall
11 designate an enforcing agency ~~that shall~~ TO discharge the
12 responsibilities of the governmental subdivision under this act.
13 Governmental subdivisions may provide by agreement for joint
14 enforcement of this act.

15 (4) ~~(3) Subject to the other provisions of this act, an~~ AN
16 enforcing agency is any BUILDING official or PUBLIC agent of a
17 governmental subdivision. ~~qualified by experience or training to~~
18 ~~perform the duties associated with construction code administra-~~
19 ~~tion and enforcement.~~ THE OFFICIAL OR PUBLIC AGENT ACTING AS THE
20 ENFORCING AGENCY TO ADMINISTER AND ENFORCE THE CODE IS THE FINAL
21 DECISION MAKING AUTHORITY WITHIN THE GOVERNMENTAL SUBDIVISION FOR
22 THE ISSUANCE AND REVOCATION OF PERMITS, CORRECTION NOTICES, CER-
23 TIFICATES OF OCCUPANCY, STOP WORK NOTICES, AND OTHER SIMILAR
24 ACTIONS. THE DECISION OF THE OFFICIAL OR PUBLIC AGENT IS APPEAL-
25 ABLE TO THE CONSTRUCTION BOARD OF APPEALS UNDER SECTION 14.

26 ~~(4) Before January 10, 1981, the executive director shall~~
27 ~~provide each governmental subdivision administering and enforcing~~

~~1 this act and the code with a notice of intent form. This form
2 shall set forth the date return receipt is required, which date
3 shall not be less than 60 days. The chief elected official of
4 the governmental subdivision that receives this notice shall
5 indicate on the form the intention of the governmental subdivi-
6 sion as to whether it shall continue to administer and enforce
7 this act and the code and transmit this notice to the executive
8 director within the prescribed period. If a governmental subdi-
9 vision fails to submit a notice of intent to continue to adminis-
10 ter and enforce this act and the code within the date set forth
11 in the notice, the executive director shall send a notice by reg-
12 istered mail to the clerk of that governmental subdivision. This
13 notice shall indicate that the governmental subdivision has 15
14 additional days in which to submit a notice of intent to continue
15 to administer and enforce this act and the code. If the govern-
16 mental subdivision does not respond by the end of the 15 addi-
17 tional days, it shall be conclusively presumed that the govern-
18 mental subdivision does not intend to continue to administer and
19 enforce this act and the code and the executive director shall
20 assume the responsibility for administering and enforcing this
21 act and the code in that governmental subdivision, unless the
22 county within which the governmental subdivision is located sub-
23 mits a notice of intent to continue to administer and enforce
24 this act and the code.~~

25 (5) THE ENFORCING AGENCY IN ADMINISTERING THE CODE SHALL
26 BASE ITS DECISION ON EITHER OF THE FOLLOWING:

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1 (A) THE RECOMMENDATION OF A BUILDING OFFICIAL OR PUBLIC
2 AGENT THAT IS REGISTERED UNDER THE BUILDING OFFICIALS AND
3 INSPECTORS REGISTRATION ACT, 1986 PA 54, MCL 338.2301 TO
4 338.2313.

5 (B) THE TECHNICAL ADVICE AND ASSISTANCE OF A PRIVATE INDI-
6 VIDUAL WHO IS A REGISTERED INSPECTOR OR PLAN REVIEWER REGISTERED
7 UNDER THE BUILDING OFFICIALS AND INSPECTORS REGISTRATION ACT,
8 1986 PA 54, MCL 338.2301 TO 338.2313.

9 (6) AN OFFICIAL OR PUBLIC AGENT SHALL NOT BE DIRECTLY OR
10 INDIRECTLY AN OFFICER, DIRECTOR, STOCKHOLDER, OR EMPLOYEE OF ANY
11 PRIVATE ENTITY OR INDIVIDUAL PROVIDING THE GOVERNMENTAL SUBDIVI-
12 SION WITH ADMINISTRATIVE, PLAN REVIEW, OR FIELD INSPECTION SERV-
13 ICES OR TECHNICAL ADVICE AND ASSISTANCE. AN OFFICIAL OR PUBLIC
14 AGENT SHALL NOT RECEIVE DIRECTLY OR INDIRECTLY ANY FEE, PERQUI-
15 SITE, REWARD, EMOLUMENT, OR OTHER COMPENSATION OR FINANCIAL BENE-
16 FIT FROM ANY PRIVATE ENTITY OR INDIVIDUAL PROVIDING THE GOVERN-
17 MENTAL SUBDIVISION WITH ADMINISTRATIVE, PLAN REVIEW, OR FIELD
18 INSPECTION SERVICES OR TECHNICAL ADVICE AND ASSISTANCE.

19 (7) ~~(5)~~ A county that is administering and enforcing this
20 act and the code ~~on December 30, 1980 and that submits a notice~~
21 ~~of intent to continue to administer and enforce this act and the~~
22 ~~code pursuant to subsection (4)~~ is responsible for the adminis-
23 tration and enforcement of this act and the code for each govern-
24 mental subdivision within the county that does not ~~submit a~~
25 ~~notice of intent to continue to~~ administer and enforce this act
26 and the code or another nationally recognized model code within
27 its jurisdiction. ~~The executive director shall notify the~~

1 ~~county of those governmental subdivisions that do not submit a~~
2 ~~notice of intent.~~

3 (8) ~~(6)~~ A governmental subdivision that ~~—, before~~
4 ~~December 30, 1980, did~~ DOES not administer and enforce ~~either~~
5 this act and the code or another nationally recognized model code
6 may elect to assume the responsibility for the administration and
7 enforcement of this act and the code ~~pursuant to~~ UNDER subsec-
8 tion ~~(1)~~ (2) by the passage of an ordinance. ~~to that effect.~~
9 A governmental subdivision that makes this election ~~after~~
10 ~~December 30, 1980~~ shall submit, in addition to the ordinance, an
11 application to the commission for approval to administer and
12 enforce this act and the code within its jurisdiction. ~~This~~
13 ~~application shall be made on the proper form to be provided by~~
14 ~~the commission.~~ The standards for approval shall include, but
15 not be limited to, the certification by the governmental subdivi-
16 sion that the enforcing agency is qualified by experience or
17 training to administer and enforce this act and the code and all
18 related acts and rules, that agency personnel are provided as
19 necessary, that administrative services are provided, that plan
20 review services are provided, and that timely field inspection
21 services will be provided. The executive director ~~shall seek~~
22 MAY REQUEST additional information if the executive director con-
23 siders it necessary.

24 (9) The commission shall render a decision on the applica-
25 tion for approval to administer and enforce this act and the code
26 and transmit its findings to the governmental subdivision within
27 90 days ~~of~~ AFTER receipt of the application. ~~The commission~~

1 ~~shall document its reasons, if~~ IF the commission disapproves an
2 application, THE COMMISSION SHALL DOCUMENT ITS REASONS. A gov-
3 ernmental subdivision that receives a disapproval may resubmit
4 its application for approval. Upon receipt of approval from the
5 commission for the administration and enforcement of this act and
6 the code, the governmental subdivision shall administer and
7 enforce this act and the code within its jurisdiction. ~~pursuant~~
8 ~~to the provisions of this act and the application.~~

9 (10) ~~(7)~~ A governmental subdivision that elects to admin-
10 ister and enforce this act and the code within its jurisdiction
11 by the adoption of an ordinance may rescind that ordinance and
12 transfer the responsibility for the administration and enforce-
13 ment of this act and the code to the executive director. The
14 executive director shall assume the responsibility for adminis-
15 tering and enforcing this act and the code in that governmental
16 subdivision, unless the county within which that governmental
17 subdivision is located ~~has submitted a notice of intent to~~
18 ~~continue~~ IS AUTHORIZED to administer and enforce the code.
19 However, that action shall not take effect until 12 months after
20 the passage of an ordinance to that effect. A structure com-
21 menced under an effective code shall be completed under that
22 code.

23 (11) ~~(8)~~ The executive director is responsible for admin-
24 istration and enforcement of this act and the code for buildings
25 and structures that are not under the responsibility of an
26 enforcing agency in those governmental subdivisions that elect to
27 administer and enforce this act and the code or another

1 nationally recognized model code. A building or structure owned
2 by the state shall not be erected, remodeled, or reconstructed in
3 the state, ~~after December 30, 1980,~~ except school buildings
4 ~~or~~ AND facilities or institutions of higher education as
5 described in section 4 of article VIII of the state constitution
6 of 1963, until written approval of the plans and specifications
7 has been obtained from the bureau of construction codes located
8 within the department of labor indicating that the state owned
9 facilities shall be designed and constructed in conformance with
10 the state construction code. ~~This subsection does not apply to~~
11 ~~any state owned facility for which construction commenced before~~
12 ~~December 30, 1980.~~ The bureau of construction codes ~~shall be~~
13 ~~the lead agency in~~ IS RESPONSIBLE FOR the coordination and
14 implementation of this subsection. The bureau of construction
15 codes shall perform required plan reviews and inspections as
16 required by the state construction code. Each EXECUTIVE depart-
17 ment shall secure required plan approvals and permits from the
18 bureau. Fees charged by the bureau for permits shall be in
19 accordance with the commission's approved schedule of fees.
20 State departments and institutions may allow local inspectors to
21 inspect the construction of state owned facilities. ~~However,~~
22 ~~an~~ AN inspection conducted by a local inspector ~~shall be~~ IS of
23 an advisory nature only.

24 (12) ~~(9)~~ This section does not affect the responsibilities
25 of the commission for administration and enforcement of this act
26 ~~pursuant to~~ UNDER ANY other sections of this act, ~~or~~
27 ~~responsibilities pursuant to~~ UNDER the fire prevention code,

1 ~~Act No. 207 of the Public Acts of 1941, as amended, being~~
2 ~~sections 29.1 to 29.33 of the Michigan Compiled Laws 1941 PA~~
3 ~~207, MCL 29.1 TO 29.33, except sections 6 and 7 of Act No. 207~~
4 ~~of the Public Acts of 1941, as amended, being sections 29.6 and~~
5 ~~29.7 of the Michigan Compiled Laws; Act No. 306 of the Public~~
6 ~~Acts of 1937, as amended, being sections 388.851 to 388.855a of~~
7 ~~the Michigan Compiled Laws; THE FIRE PREVENTION CODE, 1941 PA~~
8 ~~207, MCL 29.6 AND 29.7, OR AFFECT THE COMMISSION'S RESPONSIBILI-~~
9 ~~TIES UNDER 1937 PA 306, MCL 388.851 TO 388.855A, the fire fight-~~
10 ~~ers training council act of 1966, Act No. 291 of the Public Acts~~
11 ~~of 1966, as amended, being sections 29.361 to 29.377 of the~~
12 ~~Michigan Compiled Laws; Act No. 9 of the Public Acts of the First~~
13 ~~Extra Session of 1942, as amended, being sections 419.201 to~~
14 ~~419.205 of the Michigan Compiled Laws; 1966 PA 291, MCL 29.361~~
15 ~~TO 29.377, 1942 (1ST EX SESS) PA 9, MCL 419.201 TO 419.205, parts~~
16 ~~215 and 217 of the public health code, Act No. 368 of the Public~~
17 ~~Acts of 1978, as amended, being sections 333.21501 to 333.21799e~~
18 ~~of the Michigan Compiled Laws; 1978 PA 368, MCL 333.21501 TO~~
19 ~~333.21799E, and section 58 of the social welfare act, Act~~
20 ~~No. 280 of the Public Acts of 1939, as amended, being section~~
21 ~~400.58 of the Michigan Compiled Laws 1939 PA 280, MCL 400.58.~~
22 (13) ~~(10) Pursuant to~~ UNDER parts 215 and 217 of ~~Act~~
23 ~~No. 368 of the Public Acts of 1978, as amended,~~ THE PUBLIC
24 HEALTH CODE, 1978 PA 368, MCL 333.21501 TO 333.21799E, the direc-
25 tors of the ~~department~~ DEPARTMENTS of labor, public health, and
26 state police, or their designees, shall develop consistent
27 construction standards for hospitals and nursing homes. These

1 standards shall ensure that consistent, uniform, and equitable
2 construction requirements and state supervision of the
3 ~~requirements~~ CONSTRUCTION are achieved and that unnecessary
4 duplication is avoided. The commission shall delegate plan
5 review and approval of health facility construction plans to the
6 department of health. This subsection does not preclude a state
7 agency or a governmental subdivision from conducting plan reviews
8 or inspections necessary to ensure compliance with approved con-
9 struction plans.

10 (14) ~~(11)~~ Except as otherwise provided in this act, this
11 act does not limit or restrict existing powers or authority of
12 governmental subdivisions, and this act shall be enforced by gov-
13 ernmental subdivisions in the manner prescribed by local law or
14 ordinance. To the extent not inconsistent with this act, local
15 laws and ordinances relating to administration and enforcement of
16 construction regulations enacted before ~~the effective date of~~
17 ~~the code by or for~~ JANUARY 1, 1973 BY a governmental subdivision
18 ~~are applicable~~ APPLY to administration and enforcement of the
19 code in that governmental subdivision.

20 Sec. 14. (1) A construction board of appeals for each gov-
21 ernmental subdivision enforcing the code shall be created con-
22 sisting of ~~not less than~~ 3 ~~nor more than~~ TO 7 members, as
23 determined by the ~~governing body of the~~ governmental
24 subdivision. Unless otherwise provided by local law or ordi-
25 nance, the members of the board of appeals shall be appointed for
26 2-year terms by the chief executive officer of a city, village,
27 ~~or~~ township, ~~and the chairperson of the county board of~~

1 ~~commissioners of a~~ OR county. A member of the board of appeals
2 shall be qualified by experience or training to perform the
3 duties of members of the board of appeals ~~—A person~~ AND may
4 serve on the board of appeals of more than 1 governmental
5 subdivision.

6 (2) If an enforcing agency refuses to grant ~~an application~~
7 ~~for~~ a building permit ~~,~~ or ~~if the enforcing agency~~ makes
8 ~~any other~~ AN ADVERSE decision, ~~pursuant or related to this~~
9 ~~act, or the code, an interested person, or the person's autho-~~
10 ~~rized agent,~~ THE AFFECTED PERSON may appeal in writing to the
11 board of appeals. ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (3) OR
12 (6), THE board of appeals shall hear the appeal and ~~render and~~
13 file its decision, with a statement of reasons for the decision,
14 with the enforcing agency ~~from whom the appeal was taken not~~
15 ~~more than~~ WITHIN 30 days after ~~submission~~ THE FILING of the
16 appeal. ~~Failure~~ EXCEPT AS PROVIDED IN SUBSECTION (3), FAILURE
17 by the board of appeals to ~~hear an appeal and~~ file a decision
18 within ~~the time limit~~ 30 DAYS is CONSIDERED a denial of the
19 appeal for purposes ~~of authorizing the institution~~ of an appeal
20 to the commission. A copy of the decision and statement of the
21 reasons for the decision shall be delivered or mailed, before
22 filing, to the party taking the appeal.

23 (3) ~~(2)~~ This act does not prevent a governmental subdivi-
24 sion from granting its board of appeals additional powers or
25 duties not inconsistent with this act, or from establishing pro-
26 cedures to be followed by its board of appeals ~~insofar as the~~
27 ~~procedures~~ THAT do not conflict with this act. ~~Except as~~

1 ~~otherwise provided by this act, or by other laws or ordinances,~~
2 ~~a~~ A board of appeals may by rules establish its own procedures.

3 (4) ~~-(3)-~~ The ~~business which the~~ board of appeals ~~may~~
4 ~~perform shall be conducted at a public meeting of the board of~~
5 ~~appeals held in compliance~~ SHALL COMPLY with ~~Act No. 267 of the~~
6 ~~Public Acts of 1976. Public notice of the time, date, and place~~
7 ~~of the meeting shall be given in the manner required by Act~~
8 ~~No. 267 of the Public Acts of 1976.~~ THE OPEN MEETINGS ACT, 1976
9 PA 267, MCL 15.261 TO 15.275.

10 (5) ~~-(4)-~~ A record of decisions made by the board of appeals
11 ~~, properly indexed, and any other writing prepared, owned, used,~~
12 ~~in the possession of, or retained by the board of appeals in the~~
13 ~~performance of an official function~~ shall be made available to
14 the public in compliance with ~~Act No. 442 of the Public Acts of~~
15 ~~1976~~ THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO
16 15.246.

17 (6) IF A GOVERNMENTAL SUBDIVISION HAS DESIGNATED A PUBLIC
18 AGENT AS THE ENFORCING AGENCY FOR RESIDENTIAL CONSTRUCTION, AN
19 OWNER OF A RESIDENTIAL STRUCTURE WHO HAS BEEN DENIED A BUILDING
20 PERMIT OR HAS BEEN SERVED WITH A NOTICE OF VIOLATION MAY APPEAL
21 THE DECISION BY EITHER OF THE FOLLOWING METHODS:

22 (A) BY APPEALING TO THE BOARD OF APPEALS UNDER SUBSECTION
23 (2). THE BOARD OF APPEALS SHALL CONVENE WITHIN 10 DAYS FROM THE
24 DATE IT RECEIVES AN APPEAL UNDER THIS SUBSECTION. IF THE BOARD
25 OF APPEALS IS NOT ABLE TO CONVENE WITHIN THE 10 DAYS, THE ENFORC-
26 ING AGENCY SHALL APPOINT A BOARD OF SURVEY AS PROVIDED UNDER THIS
27 SUBSECTION.

1 (B) BY REQUESTING IN WRITING TO THE ENFORCING AGENCY THAT A
2 BOARD OF SURVEY BE APPOINTED TO REVIEW THE DECISION.

3 (7) IF A BOARD OF SURVEY IS APPOINTED UNDER SUBSECTION (6),
4 THE BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS:

5 (A) A REPRESENTATIVE OF THE ENFORCING AGENCY.

6 (B) THE OWNER, OR THE OWNER'S AUTHORIZED REPRESENTATIVE.

7 (C) A PERSON AGREED TO BY THE ENFORCING AGENCY AND THE OWNER
8 WHO IS REGISTERED UNDER THE BUILDING OFFICIALS AND INSPECTORS
9 REGISTRATION ACT, 1986 PA 54, MCL 338.2301 TO 338.2313. THE COM-
10 PENSATION FOR THIS MEMBER SHALL BE PAID BY THE APPELLANT.

11 (8) A BOARD OF SURVEY SHALL ISSUE A REPORT OF ITS FINDING
12 WITHIN 10 DAYS OF THE DATE THE BOARD IS CONVENED UNDER SUBSECTION
13 (6). THE WRITTEN REPORT SHALL AFFIRM OR MODIFY THE DENIAL OR
14 NOTICE AND INCLUDE THE REASONS FOR THE BOARD'S DECISION. THE
15 REPORT SHALL ALSO INCLUDE WHAT ACTION MAY BE TAKEN TO CORRECT ANY
16 VIOLATIONS AND ALTERNATIVE MEANS AVAILABLE FOR COMPLIANCE WITH
17 THE CODE. A CERTIFIED COPY OF THE REPORT SHALL BE FILED WITH THE
18 ENFORCING AGENCY AND BECOMES PART OF THE PERMIT RECORDS FOR THE
19 PROPERTY.

20 (9) THE DECISION OF A BOARD OF SURVEY MAY BE APPEALED AS
21 PROVIDED UNDER SECTION 16 OR TO THE CIRCUIT COURT FOR THE COUNTY
22 IN WHICH THE PROPERTY IS LOCATED.

23 Sec. 22. (1) The legislative body of a governmental subdi-
24 vision shall establish reasonable fees to be charged by the gov-
25 ernmental subdivision for acts and services performed by the
26 enforcing agency or construction board of appeals ~~pursuant to~~
27 UNDER this act, ~~which~~ THAT fees shall ~~be intended to~~ bear a

1 reasonable relation to the cost, including overhead, to the
2 governmental subdivision of the acts and services, including ~~—~~
3 ~~without limitation~~ BUT NOT LIMITED TO, ~~those services and acts~~
4 ~~as, in case of an enforcing agency,~~ THE issuance of building
5 permits, examination of plans and specifications, inspection of
6 construction undertaken pursuant to a building permit, ~~and~~ the
7 issuance of certificates of use and occupancy, and ~~—, in case of~~
8 ~~a board of appeals,~~ hearing appeals in accordance with this
9 act. The enforcing agency shall collect the fees established
10 under this subsection.

11 (2) To accomplish the objectives of ~~this section and~~ this
12 act, a state construction code fund is created. The director,
13 ~~of labor,~~ after approval by the commission and following a
14 public hearing held by the commission, shall establish reasonable
15 fees to be charged by the commission for acts and services per-
16 formed by the commission including ~~—, without limitation~~ BUT NOT
17 LIMITED TO, inspection of plans and specifications, issuance of
18 certificates of acceptability, testing and evaluation of new pro-
19 ducts, methods and processes of construction or alteration, issu-
20 ance of building permits, inspection of construction undertaken
21 pursuant to a building permit, the issuance of certificates of
22 use and occupancy, and hearing of appeals. Fees established by
23 the department shall ~~be intended to~~ bear a reasonable relation
24 to the cost, including overhead, of the service or act. Until
25 the director ~~of labor~~ establishes fees ~~pursuant to~~ UNDER this
26 act, the fees established ~~pursuant to~~ UNDER this subsection
27 shall remain in effect.

1 (3) The state treasurer shall be the custodian of the fund
2 and may invest the surplus of the fund in investments ~~as in the~~
3 ~~state treasurer's judgment~~ THAT are in the best interest of the
4 fund. Earnings from those investments shall be credited to the
5 fund. The state treasurer shall notify the director and the leg-
6 islature of interest credited and the balance of the fund as of
7 September 30 of each year. The director shall supervise and
8 administer the fund. Fees received by the department and money
9 collected under this act shall be deposited in the state con-
10 struction code fund and ~~shall be~~ appropriated by the legisla-
11 ture for the operation of the bureau of construction codes, and
12 indirect overhead expenses in the department. ~~However, this~~
13 ~~restricted fund shall not be appropriated for the bureau of con-~~
14 ~~struction code's performance evaluation program and complaint~~
15 ~~investigation program. The performance evaluation program and~~
16 ~~complaint investigations mandated in this act shall be funded by~~
17 ~~appropriations from the general fund.~~

18 (4) Funds ~~which~~ THAT are unexpended at the end of each
19 fiscal year shall ~~be returned to~~ REMAIN IN the state construc-
20 tion code fund.

21 (5) A self-supporting fund shall be established within the
22 commission to provide for the purchase and sale of codes and
23 standards to the general public.