

**SENATE BILL NO. 1374**

December 2, 1998, Introduced by Senator STILLE and referred to the Committee on Human Resources, Labor and Veterans Affairs.

A bill to amend 1972 PA 230, entitled "State construction code act of 1972," by amending the title and sections 2, 3, 7, 8, 9, 9a, and 22 (MCL 125.1502, 125.1503, 125.1507, 125.1508, 125.1509, 125.1509a, and 125.1522), the title as amended by 1995 PA 270, section 2 as amended by 1998 PA 42, section 3 as amended by 1984 PA 189, section 8 as amended by 1994 PA 128, section 9 as amended by 1994 PA 22, and section 9a as added and section 22 as amended by 1980 PA 371.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1

TITLE

2

An act to create a construction code commission and pre-

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scribe its functions; to authorize the commission to promulgate

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rules with recommendations from each affected board relating to

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the construction, alteration, demolition, occupancy, and use of

1 buildings and structures; to prescribe energy conservation  
2 standards for the construction of certain buildings; to provide  
3 for statewide approval of premanufactured units; to provide for  
4 the testing of new devices, materials, and techniques for the  
5 construction of buildings and structures; to define the classes  
6 of buildings and structures affected by the act; ~~to provide that~~  
7 ~~governmental subdivisions may with exceptions elect not to be~~  
8 ~~subject to certain parts of the act;~~ to provide for administra-  
9 tion and enforcement of the act; to create a state construction  
10 code fund; to prohibit certain conduct; to establish PENALTIES,  
11 remedies, and sanctions for violations of the act; to repeal acts  
12 and parts of acts; and to provide an appropriation.

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

14       (a) "Agricultural or agricultural purposes" means of, or  
15 pertaining to, or connected with, or engaged in agriculture or  
16 tillage which is characterized by the act or business of culti-  
17 vating or using land and soil for the production of crops for the  
18 use of animals or humans, and includes, but is not limited to,  
19 purposes related to agriculture, farming, dairying, pasturage,  
20 horticulture, floriculture, viticulture, and animal and poultry  
21 husbandry.

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

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

6 (d) "Board of appeals" means the construction board of  
7 appeals of a governmental subdivision provided for in section  
8 14.

9 (e) "Boards" means the state plumbing and electrical admin-  
10 istrative boards and the barrier free design board created in  
11 section 5 of 1966 PA 1, MCL 125.1355.

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

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

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

1 (i) "Chief elected official" means the chairperson of the  
2 county board of commissioners, the city mayor, the village  
3 president, or the township supervisor.

4 (j) "Code" means the state construction code provided for in  
5 section 4 or a part ~~thereof~~ OF THAT CODE of limited application  
6 ~~,~~ and includes a modification of or amendment to the code.

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

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

12 (m) "Construction regulation" means a law, act, rule,  
13 ~~resolution,~~ regulation, ~~ordinance,~~ or code, general or spe-  
14 cial, or compilation thereof, ~~heretofore or hereafter~~ enacted  
15 or adopted BEFORE OR AFTER JANUARY 1, 1973, by this state ~~or a~~  
16 ~~county, city, village, or township~~ including a department,  
17 board, bureau, commission, or other agency thereof, relating to  
18 the design, construction, or use of buildings and structures and  
19 the installation of equipment in the building or structure.  
20 Construction regulation does not include a zoning ordinance or  
21 rule issued pursuant to a zoning ordinance and related to  
22 zoning.

23 (n) "Department" means the department of ~~labor~~ CONSUMER  
24 AND INDUSTRY SERVICES.

25 (o) "Director" means the director of ~~labor~~ THE DEPARTMENT  
26 or an authorized representative of the director.

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

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

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

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

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

22 (u) "Mobile home" means a vehicular, portable structure  
23 built on a chassis and designed to be used without a permanent  
24 foundation as a dwelling when connected to required utilities and  
25 which is, or is intended to be, attached to the ground, to  
26 another structure, or to a utility system on the same premises  
27 for more than 30 consecutive days.

1 (v) "Other laws and ordinances" means other laws and  
2 ordinances —, whether enacted by this state or by a county,  
3 city, village, or township and the rules issued ~~thereunder~~  
4 UNDER THOSE LAWS AND ORDINANCES.

5 (w) "Owner" means the owner of the freehold of the premises  
6 or lesser estate in the premises, a mortgagee or vendee in pos-  
7 session, an assignee of rents, receiver, executor, trustee,  
8 lessee, or any other person, sole proprietorship, partnership,  
9 association, or corporation directly or indirectly in control of  
10 a building, structure, or real property or his or her duly autho-  
11 rized agent.

12 (x) "Person with disabilities" means a individual whose  
13 physical characteristics have a particular relationship to that  
14 individual's ability to be self-reliant in the individual's move-  
15 ment throughout and use of the building environment.

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

22 (z) "Structure" means that which is built or constructed, an  
23 edifice or building of any kind, or a piece of work artificially  
24 built up or composed of parts joined together in some definite  
25 manner. Structure does not include a structure incident to the  
26 use for agricultural purposes of the land on which the structure  
27 is located and does not include works of heavy civil construction

1 including, ~~without limitation~~ BUT NOT LIMITED TO, a highway,  
 2 bridge, dam, reservoir, lock, mine, harbor, dockside port facili-  
 3 ty, an airport landing facility and facilities for the generation  
 4 or transmission, or distribution of electricity. Structure  
 5 ~~shall be construed as though followed by the words~~ INCLUDES THE  
 6 MEANING "or part or parts of the structure and all equipment in  
 7 the structure" unless the context clearly ~~indicates otherwise~~  
 8 REQUIRES A DIFFERENT MEANING.

9 (2) Unless the context clearly indicates otherwise, refer-  
 10 ences to this act, or to this act and the code, ~~shall~~ refer to  
 11 this act and rules promulgated pursuant to this act including the  
 12 code.

13 Sec. 3. (1) The state construction code commission is cre-  
 14 ated and consists of the state fire marshal or the state fire  
 15 marshal's designee and the chairpersons of the barrier free  
 16 design board, the electrical administrative board, the state  
 17 plumbing board, and the board of mechanical rules, who shall be  
 18 permanent members, and 12 residents of the state to be appointed  
 19 by the governor with the advice and consent of the senate.  
 20 Appointed members of the commission shall include 1 person from  
 21 each of the fields of industrial management, architecture, pro-  
 22 fessional engineering, building contracting, organized labor,  
 23 premanufactured building, and 3 members representing municipal  
 24 building inspection, 1 of whom ~~enforces this act and the code~~  
 25 IS AN INSPECTOR IN A TOWNSHIP, 1 of whom ~~enforces the building~~  
 26 ~~officials and code administrators building code~~ IS AN INSPECTOR  
 27 IN A CITY OR VILLAGE, and 1 of whom ~~enforces the international~~

~~1 conference of building officials building code~~ IS AN INSPECTOR  
2 IN A COUNTY; 2 persons from the general public; and a licensed  
3 residential builder. A member of the commission shall be  
4 appointed for a term of 2 years, except that a vacancy shall be  
5 filled for the unexpired portion of the term. A member of the  
6 commission may be removed from office by the governor for ineffi-  
7 ciency, neglect of duty, or misconduct or malfeasance in office.  
8 A member of the commission who has a pecuniary interest in a  
9 matter before the commission shall disclose the interest before  
10 the commission takes action in the matter, which disclosures  
11 shall be made a matter of record in its official proceedings.  
12 Each member of the commission, except the state fire marshal or  
13 the state fire marshal's designee, shall receive compensation and  
14 actual expenses incurred by the member in the performance of the  
15 duties as a member of the commission. The per diem compensation  
16 of the members and the schedule for reimbursement of expenses  
17 shall be established annually by the legislature. An appointed  
18 member of the commission shall not serve more than 3 consecutive  
19 terms.

20 (2) Nine members of the commission constitute a quorum.  
21 Except as otherwise provided in the commission's bylaws, action  
22 may be taken by the commission by vote of a majority of the mem-  
23 bers present at a meeting. Meetings of the commission may be  
24 called by the chairperson or by 3 members on 10 days' written  
25 notice. Not less than 1 meeting shall be held each calendar  
26 quarter. A meeting of the commission may be held anywhere in  
27 this state.



1 (3) The commission shall elect 1 member as chairperson,  
2 another as vice-chairperson, and other officers as it determines  
3 appropriate, for the terms and with the duties and powers as the  
4 commission determines. The chairperson and vice-chairperson of  
5 the commission shall be elected from those members appointed to  
6 the commission by the governor.

7 (4) The commission ~~shall be~~ IS within the department ~~of~~  
8 ~~labor,~~ but ~~it~~ shall exercise its statutory functions indepen-  
9 dently of the ~~head of the department~~ DIRECTOR, except that bud-  
10 geting, personnel, and procurement functions of the commission  
11 shall be performed under the direction and supervision of the  
12 director. ~~of labor.~~

13 (5) The business which the commission may perform shall be  
14 conducted at a public meeting of the commission held in compli-  
15 ance with the open meetings act, ~~Act No. 267 of the Public Acts~~  
16 ~~of 1976, as amended, being sections 15.261 to 15.275 of the~~  
17 ~~Michigan Compiled Laws~~ 1976 PA 267, MCL 15.261 TO 15.275.  
18 Public notice of the time, date, and place of the meeting shall  
19 be given in the manner required by ~~Act No. 267 of the Public~~  
20 ~~Acts of 1976, as amended~~ THE OPEN MEETINGS ACT, 1976 PA 267, MCL  
21 15.261 TO 15.275.

22 (6) A writing prepared, owned, used, in the possession of,  
23 or retained by the commission in the performance of an official  
24 function shall be made available to the public in compliance with  
25 the freedom of information act, ~~Act No. 442 of the Public Acts~~  
26 ~~of 1976, as amended, being sections 15.231 to 15.246 of the~~  
27 ~~Michigan Compiled Laws~~ 1976 PA 442, MCL 15.231 TO 15.246.

1       Sec. 7. (1) After consultation and with the approval of  
2 the commission, the director ~~of labor~~ shall appoint an execu-  
3 tive director of the commission and may DO THE FOLLOWING:

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

7       (b) Appoint or use experts, consultants, technical advisers,  
8 and advisory committees for assistance and recommendations rela-  
9 tive to preparation and promulgation of the code and to assist  
10 the commission and the executive director in carrying out this  
11 act.

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

15       (2) The director ~~of labor~~ shall cooperate with agencies of  
16 the federal government, may enter into contracts to receive  
17 funds, and may receive grants from the federal government to  
18 carry out the purposes of this act.

19       Sec. 8. (1) This act and the code apply throughout the  
20 state. ~~, except that a governmental subdivision may elect to~~  
21 ~~exempt itself from certain parts of this act and the code by~~  
22 ~~adopting and enforcing a nationally recognized model building~~  
23 ~~code or other nationally recognized model codes. It is not nec-~~  
24 ~~essary for a governmental subdivision to elect to exempt itself~~  
25 ~~from every part of the code promulgated by the commission in~~  
26 ~~order to preserve its exemption election as to 1 or more~~  
27 ~~nationally recognized model codes. A governmental subdivision~~

~~1 may make this election by the passage of an ordinance adopting by  
2 reference or otherwise without amendment a nationally recognized  
3 model building code or other nationally recognized model codes.  
4 A county ordinance adopted pursuant to this act shall be adopted  
5 by the county board of commissioners and shall be signed by the  
6 chairperson of the county board of commissioners and certified by  
7 the county clerk. A governmental subdivision that elects not to  
8 be governed by certain parts of this act and the code shall  
9 review and update its codes by amending its ordinance at least  
10 once every 3 years by adopting without amendment all changes to  
11 those codes and submitting a certified copy of the amended ordi-  
12 nance to the commission. However, a governmental subdivision  
13 adopting nationally recognized model codes may approve amendments  
14 to those codes by ordinance. The amendments shall become effec-  
15 tive 90 days after passage of the ordinance and 90 days after a  
16 certified copy of the ordinance is delivered to the commission,  
17 unless the commission determines after a public hearing that the  
18 codes, as amended, do not adequately protect the health, safety,  
19 or welfare of the people of the governmental subdivision, or that  
20 the amendments tend to unnecessarily increase construction costs;  
21 restrict the use of new materials, products, or methods of con-  
22 struction; provide preferential treatment to types or classes of  
23 materials, products, or methods of construction; or obstruct the  
24 substantive uniformity of building codes within a region or  
25 locality in the state.~~

26       (2) Within 10 days after ~~December 30, 1980~~ THE EFFECTIVE  
27 DATE OF THE AMENDATORY ACT THAT AMENDED THIS SUBSECTION, the

1 executive director shall provide a notice of intent form to all  
2 governmental subdivisions administering and enforcing a nation-  
3 ally recognized model code OTHER THAN THE CODE ESTABLISHED BY THE  
4 COMMISSION UNDER THIS ACT. This form shall set forth the date  
5 return receipt is required, which date shall not be less than 60  
6 days after receipt. The chief elected official of the governmen-  
7 tal subdivision that receives this notice shall indicate on the  
8 form the intention of the governmental subdivision as to whether  
9 it shall ~~continue to~~ administer and enforce ~~its~~ THE code and  
10 transmit this notice to the executive director within the pre-  
11 scribed period. If a governmental subdivision fails to submit a  
12 notice of intent ~~to continue~~ to administer and enforce ~~its~~  
13 THE code within the date set forth in the notice, the executive  
14 director shall send a notice by registered mail to the clerk of  
15 that governmental subdivision. The registered notice shall indi-  
16 cate that the governmental subdivision has 15 additional days in  
17 which to submit a notice of intent ~~to continue~~ to administer  
18 and enforce ~~its~~ THE code. If the governmental subdivision does  
19 not respond by the end of the 15 additional days, it shall be  
20 conclusively presumed that the governmental subdivision does not  
21 intend ~~to continue~~ to administer and enforce ~~its~~ THE code,  
22 and the executive director shall assume the responsibility for  
23 administering and enforcing this act and the code in that govern-  
24 mental subdivision, unless the county within which that govern-  
25 mental subdivision is located has submitted a notice of intent to  
26 continue to administer and enforce this act and the code.  
27 Governmental subdivisions may provide by agreement for joint

1 enforcement of ~~another nationally recognized model~~ THE code.  
2 ~~adopted pursuant to subsection (1).~~

3       ~~(3) A county that was administering and enforcing this act~~  
4 ~~and the code pursuant to section 9(1) on December 30, 1980, and~~  
5 ~~has submitted a notice of intent to continue to administer and~~  
6 ~~enforce the code to the executive director pursuant to section 9,~~  
7 ~~after December 30, 1980, may exempt itself pursuant to subsection~~  
8 ~~(1) by the passage of an ordinance adopting by reference or oth-~~  
9 ~~erwise without amendment a nationally recognized model building~~  
10 ~~code or other nationally recognized model codes. However, that~~  
11 ~~action shall not take effect until 90 days after passage of an~~  
12 ~~ordinance to that effect. Before the effective date of this~~  
13 ~~action and the effective date of the ordinance, a county that~~  
14 ~~proposes to adopt an ordinance to this effect shall file the pro-~~  
15 ~~posed ordinance for approval pursuant to subsection (1) with the~~  
16 ~~commission. The commission shall review the proposed ordinance.~~  
17 ~~If the commission does not approve or disapprove the proposed~~  
18 ~~ordinance within 90 days after it is filed with the commission,~~  
19 ~~the proposed ordinance shall be considered approved unless the~~  
20 ~~county grants the commission additional time to consider the pro-~~  
21 ~~posed ordinance. The executive director shall notify a county~~  
22 ~~that elects to exempt itself pursuant to subsection (1) of all~~  
23 ~~governmental subdivisions within their jurisdiction that have not~~  
24 ~~submitted a notice of intent to continue to administer and~~  
25 ~~enforce its code. It is the responsibility of that county to~~  
26 ~~administer and enforce that code for all of the governmental~~  
27 ~~subdivisions within the county that have not submitted a notice~~

~~1 of intent to continue to administer and enforce its code within  
2 its jurisdiction. A structure commenced under an effective code  
3 shall be completed under that code. A county that elects to  
4 exempt itself in accordance with this subsection may exercise the  
5 option to administer and enforce this act and the code pursuant  
6 to section 9(1). However, the exercise of this election to  
7 administer and enforce this act and the code shall not take  
8 effect until 6 months after passage of an ordinance to that  
9 effect.~~

10       (3) ~~(4)~~ A governmental subdivision that has elected to  
11 assume responsibility for the administration and enforcement of  
12 this act and the code, and has submitted a notice of intent to  
13 continue to administer and enforce the code to the executive  
14 director pursuant to section 9, after ~~December 30, 1980~~ THE  
15 EFFECTIVE DATE OF THE AMENDATORY ACT THAT AMENDED THIS  
16 SUBSECTION, may reverse that election. ~~and exempt itself pursu-~~  
17 ~~ant to subsection (1) by the passage of an ordinance adopting by~~  
18 ~~reference or otherwise without amendment a nationally recognized~~  
19 ~~model building code or other nationally recognized model codes.~~  
20 ~~However, that action shall not take effect until 90 days after~~  
21 ~~passage of an ordinance to that effect. Before the effective~~  
22 ~~date of this action and the effective date of the ordinance, a~~  
23 ~~governmental subdivision that proposes to adopt an ordinance to~~  
24 ~~this effect shall file the proposed ordinance for approval pursu-~~  
25 ~~ant to subsection (1) with the commission. The commission shall~~  
26 ~~review the proposed ordinance. If the commission does not~~  
27 ~~approve or disapprove the proposed ordinance within 90 days after~~

~~1 it is filed with the commission, the proposed ordinance shall be  
2 considered approved unless the governmental subdivision grants  
3 the commission additional time to consider the proposed  
4 ordinance. A structure commenced under an effective code shall  
5 be completed under that code. A governmental subdivision that  
6 elects to exempt itself in accordance with this subsection may  
7 exercise the option to make itself subject to this act and the  
8 code pursuant to section 9(1). However, the exercise of this  
9 election to be subject to this act and the code shall not take  
10 effect until 6 months after passage of an ordinance to that  
11 effect.~~

12       (4) ~~(5)~~ A governmental subdivision that, BEFORE THE EFFEC-  
13 TIVE DATE OF THE AMENDATORY ACT THAT AMENDED THIS SUBSECTION, has  
14 elected to exempt itself pursuant to subsection (1) may reverse  
15 that election, making itself subject to the act and the code.  
16 However, that action shall not take effect until 60 days after  
17 passage of an ordinance to that effect. A structure commenced  
18 under an effective code shall be completed under that code. ~~A  
19 governmental subdivision that elects to make itself subject to  
20 the code in accordance with this subsection may exercise the  
21 option to exempt itself pursuant to subsection (1) not later than  
22 3 years after its administration and enforcement of the code.  
23 However, that exemption shall not take effect until 1 year after  
24 passage of an ordinance to that effect.~~

25       (5) ~~(6)~~ A governmental subdivision that, before  
26 ~~December 30, 1980,~~ THE EFFECTIVE DATE OF THE AMENDATORY ACT  
27 THAT AMENDED THIS SUBSECTION, has not administered and enforced

1 either this act and the code or another nationally recognized  
2 model code may elect to ~~exempt itself from certain parts of~~  
3 ENFORCE this act and the code pursuant to subsection (1) by the  
4 passage of an ordinance to that effect. A governmental subdivi-  
5 sion that makes this election after ~~December 30, 1980~~ THE  
6 EFFECTIVE DATE OF THE AMENDATORY ACT THAT AMENDED THIS SUBSECTION  
7 shall submit, in addition to the ordinance, an application to the  
8 commission for approval to administer and enforce that code  
9 within its jurisdiction. This application shall be made on the  
10 proper form to be provided by the commission. The standards for  
11 approval shall include, but not be limited to, the certification  
12 by the governmental subdivision that the enforcing agency is  
13 qualified by experience or training to administer and enforce  
14 ~~that nationally recognized model~~ THE code and all related acts  
15 and rules, that agency personnel are provided as necessary,  
16 administrative services are provided, plan review services are  
17 provided, and timely field inspection services shall be  
18 provided. The executive director shall seek additional informa-  
19 tion if the executive director considers it necessary. The com-  
20 mission shall render a decision on the application for approval  
21 to administer and enforce ~~that~~ THE code that has been adopted  
22 and transmit its findings to that governmental subdivision within  
23 90 days of receipt of the application. The commission shall doc-  
24 ument its reasons if the commission disapproves an application.  
25 A governmental subdivision that receives a disapproval may resub-  
26 mit its application for approval. Upon receipt of approval from  
27 the commission for the administration and enforcement of ~~that~~



1 ~~adopted~~ THE code, the governmental subdivision shall administer  
2 and enforce ~~that~~ THE code within its jurisdiction pursuant to  
3 the provisions of its approved application.

4       (6) ~~-(7)-~~ The ~~state construction~~ code or any of its sec-  
5 tions shall take effect 6 months after the code's initial  
6 promulgation. The 6-month delay does not apply to rules promul-  
7 gated to implement sections 13a, 13b, 19, and 21 and the require-  
8 ments of barrier free design and energy conservation of this act  
9 and code. ~~A governmental subdivision may not exempt itself from~~  
10 ~~the requirements of this section, section 9(8) or (10), or sec-~~  
11 ~~tion 9a, 10, 13a, 13b, 14, 15, 20, 21a, 22(1), 23, or 23a. The~~  
12 ~~6-month delay does not apply to amendments to the code or any of~~  
13 ~~the code's sections after the initial promulgation. A govern-~~  
14 ~~mental subdivision that elects to exempt itself from this act and~~  
15 ~~the code may do so within 6 months after the promulgation of the~~  
16 ~~code in the manner provided in subsection (1), except that any~~  
17 ~~amendments the governmental subdivision adopts at that time are~~  
18 ~~subject to review by the commission as set forth in subsection~~  
19 ~~(1) within 120 days after a copy of the adopted amendments is~~  
20 ~~delivered to the commission by certified mail with return receipt~~  
21 ~~requested.~~

22       (8) ~~A governmental subdivision that elects to exempt itself~~  
23 ~~from certain parts of this act and the code pursuant to subsec-~~  
24 ~~tion (1) and is enforcing its code within its jurisdiction pursu-~~  
25 ~~ant to subsection (1) may rescind that ordinance by which it~~  
26 ~~elected to exempt itself from certain parts of this act and the~~  
27 ~~code, and transfer the responsibility for the administration and~~

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

~~11 (9) Locally adopted codes do not apply to public or nonpub-  
12 lic schools within the governmental subdivision without concur-  
13 rence by the school authorities having jurisdiction.~~

~~14 (7) (10) Sections 10, 13a, 13b, 19, 21, 21a, and 23a, sub-  
15 section (13), and other provisions of this act and code directly  
16 relating to the provisions of sections 10, 13a, 13b, 19, 21, 21a,  
17 and 23a, subsection (13), and provisions of the code relating to  
18 the requirements of barrier free design, energy conservation,  
19 and, except as provided in subsection (11), for plans submitted  
20 for approval after January 1, 1994 the type and number of plumb-  
21 ing fixtures for men and women required in an assembly building  
22 with an occupancy of more than 150 are effective throughout the  
23 state without local modifications notwithstanding the exception  
24 of subsections (1) to (9). The standards for premanufactured  
25 housing shall not be less than the standards required for nonpre-  
26 manufactured housing, except that mobile homes shall be  
27 considered to have complied with this requirement by compliance~~

1 with the state code provisions adopting a nationally recognized  
2 mobile home code. As used in this subsection, "assembly  
3 building" means a theater, sports arena, stadium, food service  
4 establishment with or without a liquor license, exhibition hall,  
5 library, recreation center, passenger terminal, and outdoor  
6 assembly structure which includes an outdoor grandstand, bleach-  
7 er, colosseum, stadium, amusement park structure, and fair or  
8 carnival structure.

9 ~~(11) With respect to the type and number of plumbing fix-~~  
10 ~~tures required for men and women in an assembly building pursuant~~  
11 ~~to subsection (10), the executive director, in his or her sole~~  
12 ~~discretion, may exempt from the effective date provision those~~  
13 ~~projects for which plans were near finalization before January 1,~~  
14 ~~1994, but were submitted after that date.~~

15 (8) ~~(12)~~ The commission may limit the application of a  
16 part of the code to include or exclude the following:

17 (a) Specified classes or types of buildings or structures,  
18 according to use, or other distinctions as may make differentia-  
19 tion or separate classification or regulation necessary, proper,  
20 or desirable. The commission shall consider the specific prob-  
21 lems of the construction or alteration of a single family,  
22 owner-occupied recreational dwelling that is located in a  
23 sparsely populated area and that is to be occupied on a part-time  
24 basis.

25 (b) Specified areas of the state based on size, population  
26 density, special conditions prevailing in the area, or other

1 factors as may make differentiation or separate classification or  
2 regulation necessary, proper, or desirable.

3       (9) ~~(13)~~ A building or structure that has baby changing  
4 stations in the women's restrooms shall have baby changing sta-  
5 tions in the men's restrooms.

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.

11       A county ordinance adopted pursuant to this act shall be  
12 adopted by the county board of commissioners and shall be signed  
13 by the chairperson of the county board of commissioners and cer-  
14 tified by the county clerk.

15       (2) A governmental subdivision that has assumed the respon-  
16 sibility for administering and enforcing this act and the code  
17 may, through its chief legal officer, issue a complaint and  
18 obtain a warrant for a violation of this act or the code and  
19 prosecute the violation with the same power and authority it pos-  
20 sesses in prosecuting a local ordinance violation. If pursuant  
21 to section 23, a governmental subdivision has by ordinance desig-  
22 nated a violation of the act or code as a municipal civil infrac-  
23 tion, the governmental subdivision may issue a citation or munic-  
24 ipal ordinance violation notice pursuant to chapter 87 of the  
25 revised judicature act of 1961, ~~Act No. 236 of the Public Acts~~  
26 ~~of 1961, being sections 600.8701 to 600.8733 of the Michigan~~  
27 ~~Compiled Laws~~ 1961 PA 236, MCL 600.8701 TO 600.8733, for a

1 violation of the act or code. Unless otherwise provided by local  
2 law or ordinance, the legislative body of a governmental subdivi-  
3 sion responsible for administration and enforcement of this act  
4 and the code shall designate an enforcing agency that shall dis-  
5 charge the responsibilities of the governmental subdivision under  
6 this act. Governmental subdivisions may provide by agreement for  
7 joint enforcement of this act.

8 (3) Subject to the other provisions of this act, an enforc-  
9 ing agency is any official or agent of a governmental subdivision  
10 qualified by experience or training to perform the duties associ-  
11 ated with construction code administration and enforcement.

12 (4) Before January 10, 1981, the executive director shall  
13 provide each governmental subdivision administering and enforcing  
14 this act and the code with a notice of intent form. This form  
15 shall set forth the date return receipt is required, which date  
16 shall not be less than 60 days. The chief elected official of  
17 the governmental subdivision that receives this notice shall  
18 indicate on the form the intention of the governmental subdivi-  
19 sion as to whether it shall continue to administer and enforce  
20 this act and the code and transmit this notice to the executive  
21 director within the prescribed period. If a governmental subdi-  
22 vision fails to submit a notice of intent to continue to adminis-  
23 ter and enforce this act and the code within the date set forth  
24 in the notice, the executive director shall send a notice by reg-  
25 istered mail to the clerk of that governmental subdivision. This  
26 notice shall indicate that the governmental subdivision has 15  
27 additional days in which to submit a notice of intent to continue

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

11 (5) A county that is administering and enforcing this act  
12 and the code on December 30, 1980 and that submits a notice of  
13 intent to continue to administer and enforce this act and the  
14 code pursuant to subsection (4) is responsible for the adminis-  
15 tration and enforcement of this act and the code for each govern-  
16 mental subdivision within the county that does not submit a  
17 notice of intent to continue to administer and enforce this act  
18 and the code or another nationally recognized model code within  
19 its jurisdiction. The executive director shall notify the county  
20 of those governmental subdivisions that do not submit a notice of  
21 intent.

22 (6) A governmental subdivision that, before December 30,  
23 1980, did not administer and enforce either this act and the code  
24 ~~or another nationally recognized model code~~ may elect to assume  
25 the responsibility for the administration and enforcement of this  
26 act and the code pursuant to subsection (1) by the passage of an  
27 ordinance to that effect. A governmental subdivision that makes

1 this election after December 30, 1980 shall submit, in addition  
2 to the ordinance, an application to the commission for approval  
3 to administer and enforce this act and the code within its  
4 jurisdiction. This application shall be made on the proper form  
5 to be provided by the commission. The standards for approval  
6 shall include, but not be limited to, the certification by the  
7 governmental subdivision that the enforcing agency is qualified  
8 by experience or training to administer and enforce this act and  
9 the code and all related acts and rules, that agency personnel  
10 are provided as necessary, that administrative services are pro-  
11 vided, that plan review services are provided, and that timely  
12 field inspection services will be provided. The executive direc-  
13 tor shall seek additional information if the executive director  
14 considers it necessary. The commission shall render a decision  
15 on the application for approval to administer and enforce this  
16 act and the code and transmit its findings to the governmental  
17 subdivision within 90 days of receipt of the application. The  
18 commission shall document its reasons, if the commission disap-  
19 proves an application. A governmental subdivision that receives  
20 a disapproval may resubmit its application for approval. Upon  
21 receipt of approval from the commission for the administration  
22 and enforcement of this act and the code, the governmental subdi-  
23 vision shall administer and enforce this act and the code within  
24 its jurisdiction pursuant to the provisions of this act and the  
25 application.

26 (7) A governmental subdivision that elects to administer and  
27 enforce this act and the code within its jurisdiction by the

1 adoption of an ordinance may rescind that ordinance and transfer  
2 the responsibility for the administration and enforcement of this  
3 act and the code to the executive director. The executive direc-  
4 tor shall assume the responsibility for administering and enforc-  
5 ing this act and the code in that governmental subdivision,  
6 unless the county within which that governmental subdivision is  
7 located has submitted a notice of intent to continue to adminis-  
8 ter and enforce the code. However, that action shall not take  
9 effect until 12 months after the passage of an ordinance to that  
10 effect. A structure commenced under an effective code shall be  
11 completed under that code.

12 (8) The executive director is responsible for administration  
13 and enforcement of this act and the code for buildings and struc-  
14 tures that are not under the responsibility of an enforcing  
15 agency in those governmental subdivisions that elect to adminis-  
16 ter and enforce this act and the code. ~~or another nationally~~  
17 ~~recognized model code.~~ A building or structure owned by the  
18 state shall not be erected, remodeled, or reconstructed in the  
19 state after December 30, 1980, except school buildings or facili-  
20 ties or institutions of higher education as described in section  
21 4 of article VIII of the state constitution of 1963, until writ-  
22 ten approval of the plans and specifications has been obtained  
23 from the bureau of construction codes located within the depart-  
24 ment of labor indicating that the state owned facilities shall be  
25 designed and constructed in conformance with the state construc-  
26 tion code. This subsection does not apply to any state owned  
27 facility for which construction commenced before December 30,



1 1980. The bureau of construction codes shall be the lead agency  
2 in the coordination and implementation of this subsection. The  
3 bureau of construction codes shall perform required plan reviews  
4 and inspections as required by the state construction code. Each  
5 department shall secure required plan approvals and permits from  
6 the bureau. Fees charged by the bureau for permits shall be in  
7 accordance with the commission's approved schedule of fees.  
8 State departments and institutions may allow local inspectors to  
9 inspect the construction of state owned facilities. However, an  
10 inspection conducted by a local inspector shall be of an advisory  
11 nature only.

12 (9) This section does not affect the responsibilities of the  
13 commission for administration and enforcement of this act pursu-  
14 ant to other sections of this act, or responsibilities pursuant  
15 to the fire prevention code, ~~Act No. 207 of the Public Acts of~~  
16 ~~1941, as amended, being sections 29.1 to 29.33 of the Michigan~~  
17 ~~Compiled Laws~~ 1941 PA 207, MCL 29.1 TO 29.34, except sections 6  
18 and 7 of ~~Act No. 207 of the Public Acts of 1941, as amended,~~  
19 ~~being sections 29.6 and 29.7 of the Michigan Compiled Laws; Act~~  
20 ~~No. 306 of the Public Acts of 1937, as amended, being sections~~  
21 ~~388.851 to 388.855a of the Michigan Compiled Laws~~ THE FIRE PRE-  
22 VENTION CODE, 1941 PA 207, MCL 29.6 AND 29.7; 1937 PA 306, MCL  
23 388.851 TO 388.855A; the fire fighters training council act of  
24 1966, ~~Act No. 291 of the Public Acts of 1966, as amended, being~~  
25 ~~sections 29.361 to 29.377 of the Michigan Compiled Laws; Act~~  
26 ~~No. 9 of the Public Acts of the First Extra Session of 1942, as~~  
27 ~~amended, being sections 419.201 to 419.205 of the Michigan~~

1 ~~Compiled Laws~~ 1966 PA 291, MCL 29.361 TO 29.377; 1942 PA (1ST EX  
2 SESS) 9, MCL 419.201 TO 419.205; parts 215 and 217 of the public  
3 health code, ~~Act No. 368 of the Public Acts of 1978, as amended,~~  
4 ~~being sections 333.21501 to 333.21799e of the Michigan Compiled~~  
5 ~~Laws~~ 1978 PA 368, MCL 333.21501 TO 333.21799E; and section 58 of  
6 the social welfare act, ~~Act No. 280 of the Public Acts of 1939,~~  
7 ~~as amended, being section 400.58 of the Michigan Compiled Laws~~  
8 1939 PA 280, MCL 400.58.

9 (10) Pursuant to parts 215 and 217 of ~~Act No. 368 of the~~  
10 ~~Public Acts of 1978, as amended~~ THE PUBLIC HEALTH CODE, 1978 PA  
11 368, MCL 333.21501 TO 333.21799E, the directors of the  
12 department, ~~of labor, public~~ DEPARTMENT OF COMMUNITY health,  
13 and DEPARTMENT OF state police, or their designees, shall develop  
14 consistent construction standards for hospitals and nursing  
15 homes. These standards shall ensure that consistent, uniform,  
16 and equitable construction requirements and state supervision of  
17 the requirements are achieved and that unnecessary duplication is  
18 avoided. The commission shall delegate plan review and approval  
19 of health facility construction plans to the department of  
20 COMMUNITY health. This subsection does not preclude a state  
21 agency or a governmental subdivision from conducting plan reviews  
22 or inspections necessary to ensure compliance with approved con-  
23 struction plans.

24 (11) Except as otherwise provided in this act, this act does  
25 not limit or restrict existing powers or authority of governmen-  
26 tal subdivisions, and this act shall be enforced by governmental  
27 subdivisions in the manner prescribed by local law or ordinance.

1 To the extent not inconsistent with this act, local laws and  
2 ordinances relating to administration and enforcement of con-  
3 struction regulations enacted before the effective date of the  
4 code by or for a governmental subdivision are applicable to  
5 administration and enforcement of the code in that governmental  
6 subdivision.

7       Sec. 9a. (1) The executive director, as prescribed in this  
8 section, may conduct a performance evaluation of an enforcing  
9 agency to assure that the administration and enforcement of  
10 ~~either a nationally recognized model code or~~ this act and the  
11 code is being done pursuant to either section 8 or section 9. A  
12 performance evaluation may only be conducted either at the  
13 request of the local enforcing agency or upon the receipt of a  
14 written complaint. If a performance evaluation is to be con-  
15 ducted upon the receipt of a written complaint, the executive  
16 director shall first refer the written complaint to the affected  
17 enforcing agency requesting a written response within 10 days.  
18 If the local enforcing agency fails to provide a written  
19 response, or if the response is considered inadequate, the execu-  
20 tive director shall consult with the commission and request  
21 approval to conduct the performance evaluation. The executive  
22 director shall submit a written recommendation to the commission  
23 and shall send a copy to the affected enforcing agency, along  
24 with a reasonable notice of the commission meeting at which the  
25 recommendation will be presented. The decision of the commission  
26 to proceed with a performance evaluation shall be made at a  
27 public meeting. This decision shall be mailed to the enforcing

1 agency 10 days in advance of conducting the performance  
2 evaluation.

3 (2) When conducting a performance evaluation of an enforcing  
4 agency, the executive director may request that the local enforc-  
5 ing agency accompany the executive director or other state  
6 inspectors on inspections. The inspections shall be for the  
7 enforcement of this act and the code. ~~or another nationally rec-~~  
8 ~~ognized model code.~~ The enforcing agency shall maintain all  
9 official records and documents relating to applications for per-  
10 mits, inspection records including correction notices, orders to  
11 stop construction, and certificates of use and occupancy. The  
12 enforcing agency shall make available for review all official  
13 records between 8 a.m. and 5 p.m. on business days.

14 (3) Upon completion of a performance evaluation, the execu-  
15 tive director shall report the findings and any recommendations  
16 to the commission and the local enforcing agency. The commission  
17 may issue a notice of intent to withdraw the responsibility for  
18 the administration and enforcement of this act and the code ~~, or~~  
19 ~~a nationally recognized model building code, or other nationally~~  
20 ~~recognized model codes~~ from a governmental subdivision after  
21 receiving the results of a performance evaluation. The notice  
22 shall include the right to appeal within 30 business days after  
23 receipt of the notice of intent to withdraw the responsibility.  
24 The notice shall also include the findings of the executive  
25 director, after completion of a performance evaluation, that the  
26 enforcing agency of that governmental subdivision has failed to  
27 follow the duties recognized under this act, the code, or its

1 ordinance. ~~, or that the enforcing agency has failed in the~~  
2 ~~administration and enforcement of other nationally recognized~~  
3 ~~model codes adopted by that governmental subdivision.~~ Failure by  
4 the enforcing agency, or the chief elected official of that gov-  
5 ernmental subdivision to request a hearing within 30 business  
6 days after receipt of the notice of intent to withdraw the  
7 responsibility shall be considered to exhaust the enforcing  
8 agency's administrative remedies and the notice shall be consid-  
9 ered a final order of the commission under ~~Act No. 306 of the~~  
10 ~~Public Acts of 1969, as amended~~ THE ADMINISTRATIVE PROCEDURES  
11 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328. The executive  
12 director shall assume responsibility for the administration and  
13 enforcement of this act and the code, unless the county within  
14 which that governmental subdivision is located has submitted a  
15 notice of intent to continue to administer and enforce this act  
16 and the code, when the notice is considered a final order of the  
17 commission. A structure commenced under an effective code shall  
18 be completed under that code.

19 (4) If an enforcing agency or the chief elected official of  
20 the governmental subdivision transmits an appeal of the notice of  
21 intent to withdraw the responsibility issued under subsection  
22 (3), the commission chairperson shall request the office of hear-  
23 ings to appoint a hearings officer. The hearings officer shall  
24 conduct a hearing of the appeal pursuant to ~~Act No. 306 of the~~  
25 ~~Public Acts of 1969, as amended~~ THE ADMINISTRATIVE PROCEDURES  
26 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, and issue a  
27 proposed decision which shall be sent to the affected parties.

1 The proposed decision shall become the final order issued by the  
2 commission, unless exceptions are filed by a party within 30 days  
3 after receipt of the proposed decision. The commission shall  
4 review the proposed decision when exceptions are filed.

5 (5) The commission in reviewing a proposed decision may  
6 affirm, modify, reverse, or remand the proposed decision. When  
7 the commission affirms, modifies, reverses, or remands a proposed  
8 decision, the decision of the commission shall be in writing and  
9 contain the findings of fact and conclusions of law upon which  
10 its decision is based. Other than in a case of remand, the  
11 period for seeking judicial review of the commission's decision  
12 under section 104 of ~~Act No. 306 of the Public Acts of 1969, as~~  
13 ~~amended, being section 24.304 of the Michigan Compiled Laws~~ THE  
14 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.304,  
15 shall begin to run upon receipt by the parties of the  
16 commission's written decision.

17 Sec. 22. (1) The legislative body of a governmental subdi-  
18 vision shall establish reasonable fees to be charged by the gov-  
19 ernmental subdivision for acts and services performed by the  
20 enforcing agency or construction board of appeals pursuant to  
21 this act, which fees shall be intended to bear a reasonable rela-  
22 tion to the cost, including overhead, to the governmental subdi-  
23 vision of the acts and services, including, without limitation,  
24 those services and acts as, in case of an enforcing agency, issu-  
25 ance of building permits, examination of plans and specifica-  
26 tions, inspection of construction undertaken pursuant to a  
27 building permit, and the issuance of certificates of use and

1 occupancy, and, in case of a board of appeals, hearing appeals in  
2 accordance with this act. The enforcing agency shall collect the  
3 fees established under this subsection.

4 (2) To accomplish the objectives of this section and this  
5 act, a state construction code fund is created. The director,  
6 ~~of labor,~~ after approval by the commission and following a  
7 public hearing held by the commission, shall establish reasonable  
8 fees to be charged by the commission for acts and services per-  
9 formed by the commission including, without limitation, inspec-  
10 tion of plans and specifications, issuance of certificates of  
11 acceptability, testing and evaluation of new products, methods  
12 and processes of construction or alteration, issuance of building  
13 permits, inspection of construction undertaken pursuant to a  
14 building permit, the issuance of certificates of use and occupan-  
15 cy, and hearing of appeals. Fees established by the department  
16 shall be intended to bear a reasonable relation to the cost,  
17 including overhead, of the service or act. Until the director of  
18 labor establishes fees pursuant to this act, the fees established  
19 pursuant to this subsection shall remain in effect. The state  
20 treasurer shall be the custodian of the fund and may invest the  
21 surplus of the fund in investments as in the state treasurer's  
22 judgment are in the best interest of the fund. Earnings from  
23 those investments shall be credited to the fund. The state trea-  
24 surer shall notify the director and the legislature of interest  
25 credited and the balance of the fund as of September 30 of each  
26 year. The director shall supervise and administer the fund.  
27 Fees received by the department and money collected under this

1 act shall be deposited in the state construction code fund and  
2 shall be appropriated by the legislature for the operation of the  
3 bureau of construction codes, and indirect overhead expenses in  
4 the department. However, this restricted fund shall not be  
5 appropriated for the bureau of construction code's performance  
6 evaluation program and complaint investigation program. The per-  
7 formance evaluation program and complaint investigations mandated  
8 in this act shall be funded by appropriations from the general  
9 fund. Funds which are unexpended at the end of each fiscal year  
10 shall be returned to the state construction code fund. A  
11 self-supporting fund shall be established within the commission  
12 to provide for the purchase and sale of codes and standards to  
13 the general public.