

SENATE BILL No. 150

February 2, 2005, Introduced by Senator KUIPERS and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

A bill to amend 1986 PA 54, entitled "Building officials and inspectors registration act," by amending the title and sections 2, 3, 4, 6, 7, 8, 10, 12, and 13 (MCL 338.2302, 338.2303, 338.2304, 338.2306, 338.2307, 338.2308, 338.2310, 338.2312, and 338.2313), section 3 as amended by 1998 PA 50, and by adding sections 2a, 8a, 8b, 8c, 8d, 8e, 8f, and 8g; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to regulate and register building officials, plan reviewers, building inspectors, electrical inspectors, mechanical inspectors, and plumbing inspectors; to prescribe ~~the~~ **CERTAIN** powers and duties of ~~the~~ **CERTAIN** state ~~construction code~~

1 ~~commission~~ **AGENCIES AND DEPARTMENTS**; to create ~~a building~~
 2 ~~officials advisory board~~ **CERTAIN BOARDS**; to require the approval
 3 of educational and training programs for building officials, plan
 4 reviewers, and inspectors; to provide for the establishment and
 5 disposition of **CERTAIN** fees; to provide for the promulgation of
 6 rules; and to prescribe **REMEDIES, SANCTIONS, AND** penalties.

7 Sec. 2. As used in this act:

8 (a) "Adopted" means a properly passed rule or ordinance.

9 (b) "Advisory board" means the building officials advisory
 10 board created pursuant to section 3.

11 (c) "Approved" means reviewed and found acceptable by the
 12 commission.

13 (d) "Building official" means a ~~construction~~ code
 14 enforcement person working as an inspector ~~—~~ or plan reviewer, or
 15 actively engaged in the administration and enforcement of adopted
 16 building, electrical, mechanical, or plumbing codes, or any
 17 combination of these codes.

18 **(E) "CENSURE" MEANS AN EXPRESSION OF DISAPPROVAL OF A**
 19 **REGISTRANT'S PROFESSIONAL CONDUCT, WHICH CONDUCT IS NOT NECESSARILY**
 20 **A VIOLATION OF THIS ACT OR A RULE PROMULGATED OR AN ORDER ISSUED**
 21 **UNDER THIS ACT.**

22 **(F)** ~~(e)~~ "Code" means the state construction code provided
 23 for in section 4 of the **STILLE-DEROSSETT-HALE SINGLE** state
 24 construction code act, ~~of 1972, Act No. 230 of the Public Acts of~~
 25 ~~1972, being section 125.1504 of the Michigan Compiled Laws~~ **1972 PA**
 26 **230, MCL 125.1504**, or a part of that code ~~which~~ **THAT** is of
 27 limited application. ~~—, and includes a modification of or amendment~~

1 to the code, or a nationally recognized model building code or
2 other nationally recognized model code adopted by a governmental
3 subdivision pursuant to section 8 of the state construction code
4 act of 1972, being section 125.1508 of the Michigan Compiled Laws.

5 (G) "CODE CHANGE CYCLE" MEANS THE PUBLICATION BY A NATIONALLY
6 RECOGNIZED CODE WRITING BODY OF A NEW EDITION OF A BASIC CODE THAT
7 INCLUDES ALL APPROVED CHANGES TO THE BASIC CODE SINCE THE PREVIOUS
8 EDITION. CODE CHANGE CYCLE DOES NOT INCLUDE CHANGES TO THE BASIC
9 CODE APPROVED AND PUBLISHED IN PERIODIC SUPPLEMENTS TO THE CODE.

10 (H) ~~(f)~~ "Commission" means the state construction code
11 commission as established in section ~~3~~ 3A of the **STILLE-**
12 **DEROSSETT-HALE SINGLE** state construction code act, ~~of 1972, Act~~
13 ~~No. 230 of the Public Acts of 1972, being section 125.1503 of the~~
14 ~~Michigan Compiled Laws~~ 1972 PA 230, MCL 125.1503A.

15 (I) "COMPETENCE" MEANS A DEGREE OF EXPERTISE THAT ENABLES A
16 PERSON TO ENGAGE IN AN OCCUPATION AT A LEVEL MEETING OR EXCEEDING
17 MINIMAL STANDARDS OF ACCEPTABLE PRACTICE FOR THE OCCUPATION.

18 (J) "COMPLAINT" MEANS AN ORAL OR WRITTEN GRIEVANCE.

19 (K) "COMPLAINANT" MEANS A PERSON WHO HAS FILED A COMPLAINT
20 WITH THE DEPARTMENT ALLEGING THAT A PERSON HAS VIOLATED THIS ACT OR
21 A RULE PROMULGATED OR AN ORDER ISSUED UNDER THIS ACT. IF A
22 COMPLAINT IS MADE BY THE DEPARTMENT, THE DIRECTOR OF THE DEPARTMENT
23 SHALL DESIGNATE 1 OR MORE EMPLOYEES OF THE DEPARTMENT TO ACT AS THE
24 COMPLAINANT.

25 (l) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND ECONOMIC
26 GROWTH.

27 (M) "DISCIPLINARY BOARD" MEANS THE DISCIPLINARY BOARD CREATED

1 **PURSUANT TO SECTION 8B.**

2 (N) ~~(g)~~ "Education or training program" means formal or
3 informal courses, seminars, correspondence programs, and other
4 teaching aids for building officials, plan reviewers, and
5 inspectors ~~which~~ **THAT** have been approved. ~~by the commission.~~

6 (O) ~~(h)~~ "Enforcing agency" means ~~an enforcing agency~~ **THAT**
7 **TERM** as defined in section ~~2~~ **2A** of the **STILLE-DEROSSETT-HALE**
8 **SINGLE STATE** construction code act, ~~of 1972, Act No. 230 of the~~
9 ~~Public Acts of 1972, being section 125.1502 of the Michigan~~
10 ~~Compiled Laws~~ **1972 PA 230, MCL 125.1502A.**

11 ~~(i)~~ "Inspector" means ~~the person responsible for the~~
12 ~~administration and enforcement of the construction of buildings,~~
13 ~~structures, or appurtenances under the requirements of the~~
14 ~~applicable building, electrical, mechanical, or plumbing code~~
15 ~~administered and enforced within the jurisdiction of the employing~~
16 ~~enforcing agency employing the person.~~

17 ~~(j)~~ "Practical construction experience" means ~~experience in~~
18 ~~construction related trades or code administration and enforcement~~
19 ~~which is found to be acceptable to the commission.~~

20 ~~(k)~~ "Plan reviewer" means ~~a person engaged in the practice of~~
21 ~~examining construction documents for the purpose of determining~~
22 ~~compliance with applicable codes.~~

23 ~~(l)~~ "Provisional registration" means ~~a building official, plan~~
24 ~~reviewer, or inspector who is registered subject to attaining the~~
25 ~~amount of training, education, and experience required by the~~
26 ~~appropriate board and the commission.~~

27 ~~(m)~~ "Registered" means ~~a building official, plan reviewer, or~~

1 ~~inspector who is registered under this act.~~

2 ~~—— (n) "Test" means a method of determining the qualifications of~~
 3 ~~a person seeking registration as a building official, plan~~
 4 ~~reviewer, or inspector under this act. Tests may be written, oral,~~
 5 ~~practical, or a combination of written, oral, and practical.~~
 6 ~~Completion of educational or training programs which have been~~
 7 ~~approved by the commission may be substituted for appropriate tests~~
 8 ~~or portions of tests.~~

9 ~~—— (o) "Code change cycle" means the publication by a nationally~~
 10 ~~recognized code writing body of a new edition of a basic code which~~
 11 ~~includes all approved changes to the basic code since the previous~~
 12 ~~edition. Code change cycle does not include changes to the basic~~
 13 ~~code approved and published in annual supplements to the code.~~

14 **SEC. 2A. AS USED IN THIS ACT:**

15 (A) "GENERAL PUBLIC" MEANS EACH INDIVIDUAL RESIDING IN THIS
 16 STATE WHO IS 18 YEARS OF AGE OR OLDER OTHER THAN A PERSON OR THE
 17 SPOUSE OF A PERSON WHO IS REGISTERED IN THE OCCUPATION OR WHO HAS A
 18 MATERIAL FINANCIAL INTEREST IN THE OCCUPATION BEING REGULATED BY
 19 THE SPECIFIC LAW IN WHICH THE TERM IS USED.

20 (B) "GOOD MORAL CHARACTER" MEANS GOOD MORAL CHARACTER AS
 21 DEFINED IN SECTION 1 OF 1974 PA 381, MCL 338.41.

22 (C) "GOVERNMENTAL SUBDIVISION" MEANS THAT TERM AS DEFINED IN
 23 SECTION 2A OF THE STILLE-DEROSSETT-HALE SINGLE STATE CONSTRUCTION
 24 CODE ACT, 1972 PA 230, MCL 125.1502A.

25 (D) "GROSS NEGLIGENCE" MEANS THE INTENTIONAL FAILURE TO
 26 PERFORM A MANIFEST DUTY THAT AFFECTS THE LIFE OR PROPERTY OF
 27 ANOTHER, OR BOTH.

1 (E) "INCOMPETENCE" MEANS A DEPARTURE FROM, OR A FAILURE TO
2 CONFORM TO, MINIMAL STANDARDS OF ACCEPTABLE PRACTICE FOR THE
3 OCCUPATION.

4 (F) "INSPECTOR" MEANS THE PERSON RESPONSIBLE FOR THE
5 ADMINISTRATION AND ENFORCEMENT OF THE CONSTRUCTION OF BUILDINGS,
6 STRUCTURES, OR APPURTENANCES UNDER THE REQUIREMENTS OF THE
7 APPLICABLE BUILDING, ELECTRICAL, MECHANICAL, OR PLUMBING CODE
8 ADMINISTERED AND ENFORCED WITHIN THE JURISDICTION OF THE ENFORCING
9 AGENCY EMPLOYING THE PERSON.

10 (G) "KNOWLEDGE AND SKILL" MEANS INFORMATION, EDUCATION, AND
11 PRACTICAL EXPERIENCE, AND FACILITY IN APPLYING THAT INFORMATION,
12 EDUCATION, AND PRACTICAL EXPERIENCE.

13 (H) "LIMITATION" MEANS A CONDITION, STRICTURE, CONSTRAINT,
14 RESTRICTION, OR PROBATION ATTACHED TO A REGISTRATION RELATIVE TO
15 THE SCOPE OF PRACTICE, INCLUDING, BUT NOT LIMITED TO, THE
16 FOLLOWING:

17 (i) A REQUIREMENT THAT THE REGISTRANT PERFORM ONLY SPECIFIED
18 FUNCTIONS OF THE REGISTRANT'S OCCUPATION.

19 (ii) A REQUIREMENT THAT THE REGISTRANT PERFORM THE REGISTRANT'S
20 OCCUPATION ONLY FOR A SPECIFIED PERIOD OF TIME.

21 (iii) A REQUIREMENT WHICH REASONABLY ASSURES A REGISTRANT'S
22 COMPETENCE TO PERFORM THE REGISTRANT'S OCCUPATION.

23 (iv) A REQUIREMENT THAT THE REGISTRANT BE DIRECTLY SUPERVISED
24 IN THE PERFORMANCE OF REGISTRANT'S DUTIES FOR A SPECIFIED PERIOD OF
25 TIME.

26 (v) A REQUIREMENT THAT A REGISTRANT FILE REPORTS WITH THE
27 DEPARTMENT AT INTERVALS AS DETERMINED BY THE DEPARTMENT.

1 (I) "NEGLIGENCE" MEANS A FAILURE TO EXERCISE THAT DEGREE OF
2 CARE RENDERED APPROPRIATE BY THE PARTICULAR CIRCUMSTANCES AND THAT
3 AN INDIVIDUAL OF ORDINARY PRUDENCE IN THE SAME SITUATION AND WITH
4 EQUAL EXPERIENCE WOULD NOT HAVE OMITTED.

5 (J) "PRACTICAL CONSTRUCTION EXPERIENCE" MEANS APPROVED
6 EXPERIENCE IN CONSTRUCTION RELATED TRADES OR CODE ADMINISTRATION
7 AND ENFORCEMENT CONFORMING TO THIS ACT AND THE CODE.

8 (K) "PLAN REVIEWER" MEANS A PERSON ENGAGED IN THE EXAMINATION
9 OF CONSTRUCTION DOCUMENTS FOR THE PURPOSE OF DETERMINING COMPLIANCE
10 WITH APPLICABLE CODES.

11 (L) "PROVISIONAL REGISTRATION" MEANS A BUILDING OFFICIAL, PLAN
12 REVIEWER, OR INSPECTOR WHO IS REGISTERED SUBJECT TO ATTAINING THE
13 AMOUNT OF TRAINING, EDUCATION, AND EXPERIENCE REQUIRED BY THE
14 APPROPRIATE BOARD AND THE COMMISSION.

15 (M) "PUBLISHED INTERPRETATION" MEANS AN ARTICLE OR TECHNICAL
16 BULLETIN ON THE MEANING AND APPLICATION OF THE CODE, A SECTION OR
17 SUBSECTION OF THE CODE, OR A REFERENCED STANDARD WITHIN THE CODE
18 PUBLISHED EITHER IN PRINT FORM OR ELECTRONIC MEDIA BY THE BUREAU OF
19 CONSTRUCTION CODES. PUBLISHED INTERPRETATION INCLUDES A FORMAL
20 DECISION BY THE COMMISSION ON THE MEANING AND APPLICATION OF THE
21 CODE, A SECTION OR SUBSECTION OF THE CODE, OR A REFERENCED STANDARD
22 WITHIN THE CODE. PUBLISHED INTERPRETATION DOES NOT INCLUDE AN
23 INTERPRETATION ISSUED BY THE INTERNATIONAL CODE COUNCIL, THE
24 NATIONAL FIRE PROTECTION ASSOCIATION OR ITS COMPONENT
25 ORGANIZATIONS, OR ANY OTHER ORGANIZATIONS OR INDIVIDUALS THAT
26 DEVELOP OR COMMENT ON CODES OR STANDARDS FOR PUBLIC OR PRIVATE USE.
27 (N) "REGISTRANT" MEANS A BUILDING OFFICIAL, PLAN REVIEWER, OR

1 INSPECTOR WHO IS REGISTERED UNDER THIS ACT.

2 (O) "RESPONDENT" MEANS A PERSON AGAINST WHOM A COMPLAINT HAS
3 BEEN FILED AND MAY BE A PERSON REQUIRED TO BE REGISTERED.

4 (P) "TEST" MEANS A METHOD OF DETERMINING THE QUALIFICATIONS OF
5 A PERSON SEEKING REGISTRATION AS A BUILDING OFFICIAL, PLAN
6 REVIEWER, OR INSPECTOR UNDER THIS ACT.

7 Sec. 3. (1) The building officials advisory board is created
8 in the department ~~of labor~~ to assist the commission in
9 establishing standards and criteria for the training and
10 qualifications of building officials.

11 (2) The advisory board shall consist of 9 members appointed by
12 the commission. ~~Of those members first appointed, 3 shall be~~
13 ~~appointed for a term of 1 year, 3 shall be appointed for a term of~~
14 ~~2 years, and 3 shall be appointed for a term of 3 years.~~ The
15 advisory board shall consist of the following:

16 (a) ~~A~~ **THREE** building ~~official~~ **OFFICIALS** who ~~enforces~~
17 **ENFORCE** the **CODE**. ~~building officials and code administrators basic~~
18 ~~building code.~~

19 ~~—— (b) A building official who enforces the uniform building~~
20 ~~code.~~

21 ~~—— (c) A building official who enforces the Michigan building~~
22 ~~code.~~

23 (B) ~~(d)~~ Two members of the general public, 1 of whom shall
24 be a person with 1 or more disabilities.

25 (C) ~~(e)~~ A ~~registered~~ **LICENSED** architect or **PROFESSIONAL**
26 engineer.

27 (D) ~~(f)~~ A ~~building contractor~~ **LICENSED RESIDENTIAL**

1 **BUILDER.**

2 (E) ~~—(g)—~~ A building trades journey worker from a recognized
3 apprentice course.

4 (F) ~~—(h)—~~ A representative of small business.

5 (3) Of the 3 building officials appointed pursuant to
6 subsection (2) (a), ~~—(b), and (c),—~~ 1 shall represent a county, 1
7 shall represent a city, and 1 shall represent a township or
8 village.

9 Sec. 4. (1) The commission shall promote effective and uniform
10 enforcement of ~~—construction—~~ codes in the state by improving the
11 competence of building officials, plan reviewers, and inspectors.

12 (2) The advisory board, barrier free design board, the
13 electrical administrative board, the board of mechanical rules, and
14 the state plumbing board shall participate in and work with the
15 commission to establish both of the following:

16 (a) Minimum training and experience standards, qualifications,
17 and classifications of responsibility applicable to persons engaged
18 in the enforcement of codes ~~—,~~ and plan reviews.

19 (b) Minimum criteria for the approval of ~~—educational—~~
20 **EDUCATION** or training programs and tests.

21 (3) **TESTS MAY BE WRITTEN, ORAL, PRACTICAL, OR A COMBINATION OF**
22 **WRITTEN, ORAL, AND PRACTICAL. COMPLETION OF EDUCATIONAL OR TRAINING**
23 **PROGRAMS THAT HAVE BEEN APPROVED MAY BE SUBSTITUTED FOR APPROPRIATE**
24 **TESTS OR PORTIONS OF TESTS.**

25 (4) ~~—(3)—~~ The commission may review and approve prepared
26 ~~educational and~~ **EDUCATION OR** training programs, tests, and
27 instructors. The examination and evaluation of ~~—training and~~

1 ~~educational~~ **EDUCATION OR TRAINING** programs, instructors, and tests
 2 shall include, but not be limited to:

3 (a) ~~Construction code~~ **CODE** administration.

4 (b) Specialty aspects of code program parts, including all of
 5 the following:

6 (i) Prohibited appliances.

7 (ii) Premanufactured units.

8 (iii) Approval of materials, products, and methods.

9 (iv) Barrier free design.

10 (v) ~~Energy conservation~~ **MICHIGAN UNIFORM ENERGY CODE**.

11 (c) Inspection techniques.

12 (d) Communication skills.

13 (e) Human and public relations.

14 (f) Report writing.

15 (g) Plans and specifications reading.

16 (h) Pertinent laws, ordinances, rules, **PUBLISHED**

17 **INTERPRETATIONS**, and policies.

18 (i) Construction practices.

19 (5) ~~(4)~~ If the commission finds that the proposed

20 ~~educational~~ **EDUCATION** or training ~~courses or~~ programs are

21 ~~acceptable~~ **APPROVED** under minimum requirements established under

22 this section, the commission shall ~~give approval to~~ **APPROVE** the

23 ~~courses or~~ **EDUCATION OR TRAINING** programs for a limited period of

24 time and with appropriate qualifications as the commission

25 prescribes.

26 (6) ~~(5)~~ A board listed in ~~section 4(2)~~ **SUBSECTION (2)**

27 shall recommend to the commission criteria for approval ~~which~~

1 ~~THAT~~ relate to the board's function and ~~are~~ **AS** required by
2 ~~section 4(2)~~ **SUBSECTION (2)**. The commission shall give
3 consideration to any submission by a board ~~—~~ but ~~the commission~~
4 ~~shall have~~ **HAS** final responsibility for the approval of **EDUCATION**
5 **OR** training ~~standards and~~ programs.

6 Sec. 6. (1) Application for registration as a building
7 official, plan reviewer, or inspector shall be ~~made~~ **SUBMITTED** to
8 the appropriate board listed in section 4(2) and to the commission
9 along with the fee prescribed in section 13.

10 ~~—— (2) Any person who on the effective date of this act has been~~
11 ~~engaged in the business of a building official, plan reviewer, or~~
12 ~~inspector for a period of 3 years shall, upon furnishing the~~
13 ~~appropriate board listed in section 4(2) with satisfactory evidence~~
14 ~~of having been so engaged, be registered if the person makes~~
15 ~~application to the commission within 6 months after the effective~~
16 ~~date of this act, and pays the fee prescribed in section 13.~~

17 ~~—— (3) Any person who, on the effective date of this act, has~~
18 ~~been engaged in the business of a building official, plan reviewer,~~
19 ~~or inspector for a period of less than 3 years shall, upon~~
20 ~~furnishing the board with satisfactory evidence of having been so~~
21 ~~engaged, be provisionally registered if the person makes~~
22 ~~application to the commission within 6 months after the effective~~
23 ~~date of this act and pays the fee prescribed in section 13.~~

24 ~~—— (4) Any person who, on the effective date of this act, has~~
25 ~~been engaged in the business of a building official, plan reviewer,~~
26 ~~or inspector for 3 of the 5 years immediately preceding the date of~~
27 ~~application shall, upon furnishing the appropriate board listed in~~

1 ~~section 4(2) with satisfactory evidence of having been so engaged,~~
2 ~~be registered, if the person makes application to the commission~~
3 ~~and pays the fee prescribed in section 13.~~

4 (2) ~~—(5)—~~ The commission may issue an initial registration
5 for a period of more or less than 3 years for the purpose of
6 allowing subsequent registration renewal to coincide with the code
7 change cycle.

8 Sec. 7. (1) ~~—A—~~ **EXCEPT AS OTHERWISE PROVIDED FOR IN SECTION**
9 **6(2), A** registered building official, plan reviewer, or inspector
10 shall renew the registration at periods ~~of not less than 3 years~~
11 ~~after the date of initial issue. The renewal shall~~ **THAT** coincide
12 with the code change cycle ~~of the code which~~ **THAT** the person is
13 enforcing in that jurisdiction.

14 (2) Reregistration or renewal of an initial registration or
15 provisional registration shall be based upon a determination, by
16 the appropriate board listed in section 4(2) , of the applicant's
17 familiarity with changes to the applicable codes administered and
18 enforced within the jurisdiction of the enforcing agency employing
19 the applicant and pertinent laws, and **THE PRESENTATION OF**
20 satisfactory evidence of attending local in-service ~~training and~~
21 education **OR TRAINING** programs on an ongoing basis.

22 (3) **THE COMMISSION SHALL NOT WAIVE OR DIMINISH THE EXPERIENCE**
23 **REQUIREMENTS ESTABLISHED BY THIS ACT OR BY RULES PROMULGATED UNDER**
24 **THIS ACT RELATIVE TO AN APPLICANT FOR REGISTRATION AND SHALL NOT**
25 **EXTEND ANY TIME PERIODS ESTABLISHED BY THIS ACT OR BY RULES**
26 **PROMULGATED UNDER THIS ACT REGARDING THE FILING OF AN APPLICATION**
27 **OR THE COMPLETION OF THE REQUIRED HOURS OF ATTENDANCE OF EDUCATION**

1 OR TRAINING PROGRAMS.

2 Sec. 8. This act does not supersede the requirements
3 applicable to inspectors contained in ~~Act No. 266 of the Public~~
4 ~~Acts of 1929, being sections 338.901 to 338.917 of the Michigan~~
5 ~~Compiled Laws, or Act No. 217 of the Public Acts of 1956, being~~
6 ~~sections 338.881 to 338.892 of the Michigan Compiled Laws~~ THE
7 STATE PLUMBING ACT, 2002 PA 733, MCL 338.3511 TO 338.3569, OR THE
8 ELECTRICAL ADMINISTRATIVE ACT, 1956 PA 217, MCL 338.881 TO 338.892.

9 SEC. 8A. A PERSON SUBJECT TO THIS ACT WHO COMMITS 1 OR MORE OF
10 THE FOLLOWING IS SUBJECT TO THE SANCTIONS OR PENALTIES PRESCRIBED
11 IN SECTION 8E:

12 (A) PRACTICES FRAUD OR DECEIT TO OBTAIN A REGISTRATION OR
13 REREGISTRATION.

14 (B) PRACTICES FRAUD, DECEIT, OR DISHONESTY IN THE PERFORMANCE
15 OF HIS OR HER DUTIES.

16 (C) FAILS TO PERFORM HIS OR HER DUTIES IN A PROFESSIONAL
17 MANNER.

18 (D) FAILS TO PERFORM HIS OR HER DUTIES IN A TIMELY MANNER.

19 (E) FAILS TO APPLY THE CODE IN A CONSISTENT AND UNIFORM
20 MANNER.

21 (F) FAILS TO FOLLOW OR ENFORCE A PUBLISHED INTERPRETATION.

22 (G) DEMONSTRATES A LACK OF GOOD MORAL CHARACTER.

23 (H) COMMITS AN ACT THAT DEMONSTRATES INCOMPETENCE.

24 (I) COMMITS AN ACT THAT DEMONSTRATES NEGLIGENCE IN THE
25 PERFORMANCE OF HIS OR HER DUTIES.

26 (J) COMMITS AN ACT OF GROSS NEGLIGENCE IN THE PERFORMANCE OF
27 HIS OR HER DUTIES.

1 (K) VIOLATES A PROVISION OF THIS ACT OR A RULE PROMULGATED
2 UNDER THIS ACT.

3 (L) VIOLATES A PROVISION OF THE CODE, THE STILLE-DEROSSETT-HALE
4 SINGLE STATE CONSTRUCTION CODE ACT, 1972 PA 230, MCL 125.1501 TO
5 125.1531, OR A RULE PROMULGATED UNDER THE THAT ACT.

6 (M) COMMITS AN ACT THAT CONSTITUTES A CONFLICT OF INTEREST AS
7 DESCRIBED IN SECTION 10.

8 (N) EXERCISES POOR JUDGMENT IN THE PERFORMANCE OF HIS OR HER
9 DUTIES.

10 (O) ACCEPTS A GRATUITY OR OTHER VALUABLE CONSIDERATION FOR THE
11 PERFORMANCE OF HIS OR HER DUTY FROM OTHER THAN THE ENFORCING AGENCY
12 THAT EMPLOYS HIM OR HER.

13 (P) FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS ACT.

14 (Q) FAILS TO RESPOND TO A CITATION ISSUED UNDER THIS ACT.

15 (R) VIOLATES OR FAILS TO COMPLY WITH AN ORDER ISSUED BY THE
16 DISCIPLINARY BOARD, INCLUDING A STIPULATION, SETTLEMENT AGREEMENT,
17 OR A CITATION.

18 (S) PERFORMS THE DUTIES OF A BUILDING OFFICIAL, PLAN REVIEWER,
19 OR INSPECTOR WITHOUT A VALID REGISTRATION.

20 SEC. 8B. (1) THE DISCIPLINARY BOARD IS CREATED WITHIN THE
21 DEPARTMENT TO DETERMINE WHETHER AN INDIVIDUAL HAS VIOLATED THIS
22 ACT, A RULE PROMULGATED UNDER THIS ACT, OR AN ORDER ISSUED UNDER
23 THIS ACT AND TO DETERMINE THE APPROPRIATE DISCIPLINE FOR EACH
24 VIOLATION.

25 (2) THE DISCIPLINARY BOARD SHALL CONSIST OF 33 MEMBERS
26 APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE
27 SENATE. OF THOSE MEMBERS FIRST APPOINTED, 1 FROM EACH SUBDIVISION

1 SHALL BE APPOINTED FOR A TERM OF 1 YEAR, 1 FROM EACH SUBDIVISION
2 SHALL BE APPOINTED FOR A TERM OF 2 YEARS, AND 1 FROM EACH
3 SUBDIVISION SHALL BE APPOINTED FOR A TERM OF 3 YEARS. ALL
4 SUBSEQUENT APPOINTMENTS SHALL BE FOR A TERM OF 3 YEARS. THE
5 DISCIPLINARY BOARD SHALL CONSIST OF THE FOLLOWING:

6 (A) THREE BUILDING OFFICIALS REGISTERED UNDER THIS ACT.

7 (B) THREE RESIDENTIAL BUILDERS LICENSED UNDER ARTICLE 24 OF
8 THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2401 TO 339.2412.

9 (C) THREE ELECTRICAL INSPECTORS REGISTERED UNDER THIS ACT.

10 (D) THREE ELECTRICAL CONTRACTORS LICENSED UNDER THE ELECTRICAL
11 ADMINISTRATIVE ACT, 1956 PA 217, MCL 338.881 TO 338.892.

12 (E) THREE PLUMBING INSPECTORS REGISTERED UNDER THIS ACT.

13 (F) THREE PLUMBERS LICENSED UNDER THE STATE PLUMBING ACT, 2002
14 PA 733, MCL 338.3511 TO 338.3569.

15 (G) THREE PLAN REVIEWERS LICENSED UNDER THIS ACT.

16 (H) THREE ARCHITECTS LICENSED UNDER ARTICLE 20 OF THE
17 OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2001 TO 339.2014.

18 (I) THREE MECHANICAL INSPECTORS REGISTERED UNDER THIS ACT.

19 (J) THREE MECHANICAL CONTRACTORS REGISTERED UNDER THE FORBES
20 MECHANICAL CONTRACTORS ACT, 1984 PA 192, MCL 338.971 TO 338.988.

21 (K) THREE MEMBERS OF THE GENERAL PUBLIC WITH KNOWLEDGE AND
22 SKILL OF THE CODE. NOT MORE THAN 1 MEMBER OF THE GENERAL PUBLIC MAY
23 BE AFFILIATED WITH A LABOR ORGANIZATION.

24 (3) THE DISCIPLINARY BOARD SHALL BE DIVIDED INTO 5 PANELS.
25 EACH PANEL SHALL HEAR COMPLAINTS RELATIVE TO ITS PART OF THE CODE.
26 A MEMBER OF THE GENERAL PUBLIC SHALL CHAIR EACH PANEL. THE PANELS
27 SHALL BE COMPRISED AS FOLLOWS:

1 (A) THE BUILDING CODE PANEL SHALL CONSIST OF THE 3 BUILDING
2 OFFICIALS, THE 3 RESIDENTIAL BUILDERS, AND THE 3 MEMBERS OF THE
3 GENERAL PUBLIC.

4 (B) THE ELECTRICAL CODE PANEL SHALL CONSIST OF THE 3
5 ELECTRICAL INSPECTORS, THE 3 ELECTRICAL CONTRACTORS, AND THE 3
6 MEMBERS OF THE GENERAL PUBLIC.

7 (C) THE PLUMBING PANEL SHALL CONSIST OF THE 3 PLUMBING
8 INSPECTORS, THE 3 PLUMBERS, AND THE 3 MEMBERS OF THE GENERAL
9 PUBLIC.

10 (D) THE PLAN REVIEW PANEL SHALL CONSIST OF THE 3 PLAN
11 REVIEWERS, THE 3 ARCHITECTS, AND THE 3 MEMBERS OF THE GENERAL
12 PUBLIC.

13 (E) THE MECHANICAL PANEL SHALL CONSIST OF THE 3 MECHANICAL
14 INSPECTORS, THE 3 MECHANICAL CONTRACTORS, AND THE 3 MEMBERS OF THE
15 GENERAL PUBLIC.

16 SEC. 8C. (1) A COMPLAINT THAT ALLEGES THAT A PERSON HAS
17 VIOLATED THIS ACT, A RULE PROMULGATED UNDER THIS ACT, OR AN ORDER
18 ISSUED UNDER THIS ACT SHALL BE LODGED WITH THE DEPARTMENT NOT LATER
19 THAN 18 MONTHS AFTER THE ALLEGED VIOLATION OCCURS. THE DEPARTMENT
20 OF ATTORNEY GENERAL, THE DEPARTMENT, A LICENSING BOARD, OR ANY
21 OTHER PERSON MAY FILE A COMPLAINT. THE COMPLAINT SHALL DESCRIBE IN
22 WRITING TO THE DEPARTMENT THE FACTUAL BASIS FOR THE ALLEGATION. THE
23 DEPARTMENT SHALL FORWARD A COPY OF THE COMPLAINT TO THE ENFORCING
24 AGENCY THAT EMPLOYS THE RESPONDENT.

25 (2) THE DEPARTMENT SHALL PRESUME THE INNOCENCE OF THE
26 RESPONDENT THROUGHOUT THE PROCEEDINGS UNTIL THE APPROPRIATE PANEL
27 OF THE DISCIPLINARY BOARD AS DESCRIBED IN SECTION 8B(3) HOLDS A

1 HEARING AND MAKES ITS FINDINGS OF FACT AND CONCLUSIONS OF LAW. THE
2 RESPONDENT HAS THE BURDEN OF REFUTING EVIDENCE PRESENTED BY THE
3 COMPLAINANT DURING THE PROCESS.

4 (3) THE ENFORCING AGENCY THAT EMPLOYS THE RESPONDENT MAY
5 APPEAR AS A PARTY OF INTEREST AT ANY PROCEEDINGS RESULTING FROM THE
6 COMPLAINT.

7 SEC. 8D. (1) A PANEL OF THE DISCIPLINARY BOARD AS DESCRIBED IN
8 SECTION 8B(3) SHALL CONDUCT ITS HEARINGS IN ACCORDANCE WITH THE
9 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
10 24.328.

11 (2) EACH PANEL OF THE DISCIPLINARY BOARD SHALL RENDER ITS
12 WRITTEN DECISION WITHIN 30 BUSINESS DAYS AFTER THE HEARING.

13 SEC. 8E. (1) THE APPROPRIATE PANEL OF THE DISCIPLINARY BOARD
14 AS DESCRIBED IN SECTION 8B(3) MAY RECOMMEND THAT 1 OR MORE OF THE
15 FOLLOWING SANCTIONS OR PENALTIES BE IMPOSED UPON AN INDIVIDUAL WHO
16 VIOLATES THIS ACT, A RULE PROMULGATED UNDER THIS ACT, OR AN ORDER
17 ISSUED UNDER THIS ACT:

18 (A) CENSURE AN INDIVIDUAL.

19 (B) PLACE LIMITATIONS ON A REGISTRATION.

20 (C) SUSPEND A REGISTRATION.

21 (D) REVOKE A REGISTRATION.

22 (E) DENY A FUTURE REGISTRATION OR DENY REREGISTRATION FOR A
23 STATED PERIOD OF TIME.

24 (F) ORDER RESTITUTION AND COSTS TO A COMPLAINANT.

25 (G) ORDER A CIVIL FINE NOT TO EXCEED \$10,000.00 PER VIOLATION,
26 TO BE PAID TO THE DEPARTMENT.

27 (H) PLACE AN INDIVIDUAL ON PROBATION WITH AUTOMATIC PENALTIES

1 OR SANCTIONS ASSESSED FOR ANY SUBSEQUENT VIOLATION.

2 (2) AFTER REVIEWING THE DECISION OF THE PANEL OF THE
3 DISCIPLINARY BOARD, THE DIRECTOR OF THE DEPARTMENT SHALL ENTER AN
4 ORDER IMPOSING 1 OR MORE OF THE PENALTIES DESCRIBED IN SUBSECTION
5 (1) OR SHALL DISMISS THE COMPLAINT.

6 (3) A PERSON WHO ACTS AS A BUILDING OFFICIAL, PLAN REVIEWER,
7 OR INSPECTOR WITHOUT A VALID REGISTRATION IS GUILTY OF A
8 MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$5,000.00 OR
9 IMPRISONMENT FOR NOT MORE THAN 93 DAYS, OR BOTH.

10 SEC. 8F. (1) A PARTY OR AN INTERESTED PERSON MAY APPEAL AN
11 ORDER ISSUED PURSUANT TO A DECISION OF A PANEL OF THE DISCIPLINARY
12 BOARD TO THE COMMISSION WITHIN 10 BUSINESS DAYS AFTER THE DIRECTOR
13 OF THE DEPARTMENT HAS ISSUED HIS OR HER ORDER. THE APPEAL SHALL BE
14 HEARD DE NOVO BY THE COMMISSION.

15 (2) THE DECISION OF THE PANEL OF THE DISCIPLINARY BOARD IS
16 CONSIDERED FINAL IF NOT APPEALED TO THE COMMISSION WITHIN THE TIME
17 PERIOD PRESCRIBED IN SUBSECTION (1) AND IS CONSIDERED AN EXHAUSTION
18 OF ALL ADMINISTRATIVE REMEDIES.

19 SEC. 8G. THE REMEDIES UNDER THIS ACT ARE CUMULATIVE AND
20 INDEPENDENT. THE USE OF 1 REMEDY BY A PERSON DOES NOT BAR THE USE
21 OF OTHER LAWFUL REMEDIES BY THAT PERSON OR THE USE OF A LAWFUL
22 REMEDY BY ANOTHER PERSON.

23 Sec. 10. (1) Performing instructional duties for educational
24 purposes and providing contractual inspection and consulting
25 services in ~~construction~~ code enforcement ~~shall~~ ARE not ~~be~~
26 considered conflicts of interest.

27 (2) An inspector ~~shall~~ IS not ~~be~~ permitted to inspect his

1 or her own work in a governmental subdivision. ~~As used in this~~
 2 ~~subsection and subsection (3), "governmental subdivision" means~~
 3 ~~governmental subdivision as defined in section 2(1)(t) of the state~~
 4 ~~construction code act of 1972, Act No. 230 of the Public Acts of~~
 5 ~~1972, being section 125.1502 of the Michigan Compiled Laws.~~

6 (3) A BUILDING OFFICIAL OR INSPECTOR SHALL NOT SERVE ON A
 7 ZONING BOARD OR PLANNING BOARD IN ANY GOVERNMENTAL SUBDIVISION IN
 8 WHICH HE OR SHE PERFORMS INSPECTION AND CONSULTING SERVICES.

9 (4) ~~(3)~~ A governmental subdivision may establish additional
 10 requirements and restrictions in the selection and hiring of
 11 ~~construction code enforcement~~ BUILDING officials, inspectors, and
 12 plan reviewers.

13 (5) ~~(4)~~ This act shall not be construed to limit or
 14 restrict the type of internal administrative organization an
 15 enforcing agency may choose, or to limit or otherwise affect the
 16 authority of the enforcing agency to dismiss or suspend a building
 17 official, inspector, or plan reviewer at its discretion.

18 Sec. 12. ~~(1) Subject to subsection (2), after 1 year after~~
 19 ~~the effective date of this act, a person shall not be appointed or~~
 20 ~~employed as a building official, inspector, or plan reviewer by an~~
 21 ~~enforcing agency, unless the person is registered under this act~~
 22 ~~and the rules promulgated under this act.~~

23 (1) ~~(2) Any~~ A person who ~~, after the effective date of~~
 24 ~~this act,~~ becomes employed by a governmental subdivision as a
 25 building official, plan reviewer, or inspector shall within 30 days
 26 of employment ~~make application~~ APPLY to the commission for
 27 provisional registration. Upon furnishing ~~the board with~~

1 satisfactory evidence of being so employed by a governmental
 2 subdivision and **UPON** payment of the fees prescribed in section 13,
 3 the ~~person~~ **COMMISSION** shall ~~be provisionally registered~~ **ISSUE A**
 4 **PROVISIONAL REGISTRATION TO THE PERSON.**

5 (2) ~~(3)~~ If the commission determines that an applicant for
 6 registration does not qualify for registration, the applicant shall
 7 be notified of that fact in writing and may appeal an adverse
 8 decision in the manner provided by ~~Act No. 306 of the Public Acts~~
 9 ~~of 1969, being sections 24.201 to 24.328 of the Michigan Compiled~~
 10 ~~Laws~~ **THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL**
 11 **24.201 TO 24.328.**

12 Sec. 13. (1) The commission shall charge fees for registration
 13 **AND REREGISTRATION** of building officials, inspectors, and plan
 14 reviewers and for the examination and evaluation of **EDUCATION OR**
 15 training ~~and educational~~ programs. ~~and courses.~~ An applicant
 16 for registration **OR REREGISTRATION** shall pay a **PER-YEAR**
 17 registration fee ~~of \$10.00 a year to the commission for each year~~
 18 ~~the registration covers~~ **EQUAL TO THE PER-YEAR FEE PAID BY THE**
 19 **LICENSED OCCUPATION WHOSE WORK HE OR SHE IS INSPECTING.**

20 (2) ~~Fees~~ **ADDITIONAL FEES** established by the commission **FOR**
 21 **TESTS AND EVALUATION OF EDUCATION OR TRAINING PROGRAMS** shall bear a
 22 reasonable relation to the cost for conducting **THE TESTS AND**
 23 **EDUCATION OR** training ~~and educational~~ programs. ~~and courses.~~

24 (3) Fees received by the commission pursuant to this act shall
 25 be deposited in the state construction code fund created by section
 26 22 of the **STILLE-DEROSSETT-HALE SINGLE** state construction code act,
 27 ~~of 1972, Act No. 230 of the Public Acts of 1972, being section~~

1 ~~125.1522 of the Michigan Compiled Laws~~ **1972 PA 230, MCL 125.1522.**

2 Enacting section 1. Section 9 of the building officials and

3 inspectors registration act, 1986 PA 54, MCL 338.2309, is repealed.