

HOUSE BILL No. 6585

December 1, 2010, Introduced by Rep. Melton and referred to the Committee on Regulatory Reform.

A bill to amend 1972 PA 230, entitled "Stille-DeRossett-Hale single state construction code act," by amending sections 2a and 8b (MCL 125.1502a and 125.1508b), section 2a as added by 1999 PA 245 and section 8b as amended by 2006 PA 192.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

1 husbandry.

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

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

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

14 (e) "Boards" means the state plumbing **BOARD CREATED IN SECTION**
15 **13 OF THE STATE PLUMBING ACT, 2002 PA 733, MCL 338.3523**, board of
16 mechanical rules **CREATED IN SECTION 3 OF THE FORBES MECHANICAL**
17 **CONTRACTORS ACT, 1984 PA 192, MCL 338.973**, and ~~electrical~~
18 administrative boards **BOARD CREATED IN SECTION 2 OF THE ELECTRICAL**
19 **ADMINISTRATIVE ACT, 1956 PA 217, MCL 338.882**, and the barrier free
20 design board created in section 5 of 1966 PA 1, MCL 125.1355.

21 (f) "Building" means a combination of materials, whether
22 portable or fixed, forming a structure affording a facility or
23 shelter for use or occupancy by persons, animals, or property.
24 Building does not include a building, whether temporary or
25 permanent, incidental to the use for agricultural purposes of the
26 land on which the building is located if it is not used in the
27 business of retail trade. Building includes ~~the meaning "or A part~~

1 or parts of the building and all equipment in the building "—unless
2 the context clearly requires a different meaning.

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

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

8 (i) "Chief elected official" means the chairperson of the
9 county board of commissioners, the city mayor, the village
10 president, or the township supervisor.

11 (j) "Code" means the state construction code provided for in
12 section 4 or a part of that code of limited application and
13 includes a modification of or amendment to the code.

14 (k) "Commission" means the state construction code commission
15 created by section ~~3~~3A.

16 (l) "Construction" means the construction, erection,
17 reconstruction, alteration, conversion, demolition, repair, moving,
18 or equipping of buildings or structures.

19 (m) "Construction regulation" means a law, act, rule,
20 regulation, or code, general or special, or compilation thereof,
21 enacted or adopted before or after January 1, 1973, by this state
22 including a department, board, bureau, commission, or other agency
23 thereof, relating to the design, construction, or use of buildings
24 and structures and the installation of equipment in the building or
25 structure. Construction regulation does not include a zoning
26 ordinance or rule issued pursuant to a zoning ordinance and related
27 to zoning.

1 (n) "Cost-effective", in reference to section 4(3)(f) and (g),
2 means, using the existing energy efficiency standards and
3 requirements as the base of comparison, the economic benefits of
4 the proposed energy efficiency standards and requirements will
5 exceed the economic costs of the requirements of the proposed rules
6 based upon an incremental multiyear analysis. All of the following
7 provisions apply:

8 (i) The analysis shall take into consideration the perspective
9 of a typical first-time home buyer.

10 (ii) The analysis shall consider benefits and costs over a 7-
11 year time period.

12 (iii) The analysis shall not assume fuel price increases in
13 excess of the assumed general rate of inflation.

14 (iv) The analysis shall assure that the buyer of a home who
15 qualifies to purchase the home before the addition of the energy
16 efficient standards would still qualify to purchase the same home
17 after the additional cost of the energy-saving construction
18 features.

19 (v) The analysis shall assure that the costs of principal,
20 interest, taxes, insurance, and utilities will not be greater after
21 the inclusion of the proposed cost of the additional energy-saving
22 construction features required by the proposed energy efficiency
23 rules as opposed to the provisions of the existing energy
24 efficiency rules.

25 (o) "Department" means the department of ~~consumer and industry~~
26 ~~services~~**ENERGY, LABOR, AND ECONOMIC GROWTH.**

27 (p) "Director" means the director of the department or an

1 authorized representative of the director.

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

7 (r) "Enforcing agency" means the enforcing agency, in
8 accordance with section 8a or 8b, which is responsible for
9 administration and enforcement of the code within a governmental
10 subdivision, except for the purposes of section 19 enforcing agency
11 means the agency in a governmental unit **OR THE PRIVATE AGENCY TO**
12 **WHICH THE GOVERNMENTAL UNIT HAS DELEGATED CERTAIN MINISTERIAL**
13 **DUTIES. AN ENFORCING AGENCY IS** principally responsible for the
14 administration and enforcement of applicable construction
15 regulations. **IN THE CASE OF A PRIVATE AGENCY POSSESSING DELEGATED**
16 **DUTIES FROM THE GOVERNMENTAL UNIT, THE GOVERNMENTAL SUBDIVISION OR**
17 **AN OFFICIAL WITHIN THE GOVERNMENTAL SUBDIVISION HAS FINAL AUTHORITY**
18 **OVER ANY ACTION TAKEN OR DECISION MADE BY THE PRIVATE AGENCY.**

19 (s) "Equipment" means plumbing, heating, electrical,
20 ventilating, air conditioning, and refrigerating equipment.

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

25 (u) "Mobile home" means a vehicular, portable structure built
26 on a chassis pursuant to the national manufactured housing
27 construction and safety standards act of 1974, title VI of the

1 housing and community development act of 1974, Public Law 93-383,
2 ~~42 U.S.C.—USC~~ 5401 to 5426, and designed to be used without a
3 permanent foundation as a dwelling when connected to required
4 utilities and which is, or is intended to be, attached to the
5 ground, to another structure, or to a utility system on the same
6 premises for more than 30 consecutive days.

7 (v) "Other laws and ordinances" means other laws and
8 ordinances whether enacted by this state or by a county, city,
9 village, or township and the rules issued under those laws and
10 ordinances.

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

17 (x) "Person with disabilities" means an individual whose
18 physical characteristics have a particular relationship to that
19 individual's ability to be self-reliant in the individual's
20 movement throughout and use of the building environment.

21 (y) "Premanufactured unit" means an assembly of materials or
22 products intended to comprise all or part of a building or
23 structure, and which is assembled at other than the final location
24 of the unit of the building or structures by a repetitive process
25 under circumstances intended to ~~insure~~ **ENSURE** uniformity of quality
26 and material content. Premanufactured unit includes a mobile home.

27 (z) "Structure" means that which is built or constructed, an

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

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

15 Sec. 8b. (1) Except as otherwise provided in this section, the
16 director is responsible for administration and enforcement of this
17 act and the code. A governmental subdivision may by ordinance
18 assume responsibility for administration and enforcement of this
19 act within its political boundary. A county ordinance adopted
20 pursuant to this act shall be adopted by the county board of
21 commissioners and shall be signed by the chairperson of the county
22 board of commissioners and certified by the county clerk.

23 (2) A governmental subdivision that has assumed the
24 responsibility for administering and enforcing this act and the
25 code may, through its chief legal officer, issue a complaint and
26 obtain a warrant for a violation of this act or the code and
27 prosecute the violation with the same power and authority it

1 possesses in prosecuting a local ordinance violation. If, pursuant
2 to section 23, a governmental subdivision has by ordinance
3 designated a violation of the act or code as a municipal civil
4 infraction, the governmental subdivision may issue a citation or
5 municipal ordinance violation notice pursuant to chapter 87 of the
6 revised judicature act of 1961, 1961 PA 236, MCL 600.8701 to
7 600.8735, for a violation of the act or code. Unless otherwise
8 provided by local law or ordinance, the legislative body of a
9 governmental subdivision responsible for administration and
10 enforcement of this act and the code shall designate an enforcing
11 agency that shall discharge the responsibilities of the
12 governmental subdivision under this act. Governmental subdivisions
13 may provide by agreement for joint enforcement of this act.

14 (3) Subject to the other provisions of this act, an enforcing
15 agency is any official **AGENT** or **DELEGATED** agent of a governmental
16 subdivision that is registered under the building officials and
17 inspectors registration act, 1986 PA 54, MCL 338.2301 to 338.2313,
18 qualified by experience or training to perform the duties
19 associated with construction code administration and enforcement.

20 (4) Before December 28, 1999, the director shall provide each
21 governmental subdivision administering and enforcing this act and
22 the code with a notice of intent form. This form shall set forth
23 the date return receipt is required, which date shall not be less
24 than 60 days. The chief elected official of the governmental
25 subdivision that receives this notice shall indicate on the form
26 the intention of the governmental subdivision as to whether it
27 shall continue to administer and enforce this act and the code and

1 transmit this notice to the director within the prescribed period.
2 If a governmental subdivision fails to submit a notice of intent to
3 continue to administer and enforce this act and the code within the
4 date set forth in the notice, the director shall send a notice by
5 registered mail to the clerk of that governmental subdivision. This
6 notice shall indicate that the governmental subdivision has 15
7 additional days in which to submit a notice of intent to continue
8 to administer and enforce this act and the code. If the
9 governmental subdivision does not respond by the end of the 15
10 additional days, ~~it shall be conclusively presumed that the~~
11 ~~governmental subdivision does~~ **SHALL** not ~~intend to~~ continue to
12 administer and enforce this act and the code, and the director
13 shall assume the responsibility for administering and enforcing
14 this act and the code in that governmental subdivision, unless the
15 county within which the governmental subdivision is located submits
16 a notice of intent to continue to administer and enforce this act
17 and the code.

18 (5) A county that is administering and enforcing this act and
19 the code on December 28, 1999 and that submits a notice of intent
20 to continue to administer and enforce this act and the code
21 pursuant to subsection (4) is responsible for the administration
22 and enforcement of this act and the code for each governmental
23 subdivision within the county that does not submit a notice of
24 intent to continue to administer and enforce this act and the code.
25 The director shall notify the county of those governmental
26 subdivisions that do not submit a notice of intent.

27 (6) A governmental subdivision that, before December 28, 1999,

1 did not administer and enforce this act and the code may elect to
2 assume the responsibility for the administration and enforcement of
3 this act and the code pursuant to subsection (1) by the passage of
4 an ordinance to that effect. A governmental subdivision that makes
5 this election after December 28, 1999 shall submit, in addition to
6 the ordinance, an application to the commission for approval to
7 administer and enforce this act and the code within its
8 jurisdiction. This application shall be made on the proper form to
9 be provided by the commission. The standards for approval shall
10 include, but not be limited to, the certification by the
11 governmental subdivision that the enforcing agency is qualified by
12 experience or training to administer and enforce this act and the
13 code and all related acts and rules, that agency personnel are
14 provided as necessary, that administrative services are provided,
15 that plan review services are provided, and that timely field
16 inspection services will be provided. The director shall seek
17 additional information if the director considers it necessary. The
18 commission shall render a decision on the application for approval
19 to administer and enforce this act and the code and transmit its
20 findings to the governmental subdivision within 90 days of receipt
21 of the application. The commission shall document its reasons, if
22 the commission disapproves an application. A governmental
23 subdivision that receives a disapproval may resubmit its
24 application for approval. Upon receipt of approval from the
25 commission for the administration and enforcement of this act and
26 the code, the governmental subdivision shall administer and enforce
27 this act and the code, **THROUGH AN ENFORCING AGENCY**, within its

1 jurisdiction pursuant to the provisions of this act and the
2 application.

3 (7) A governmental subdivision that elects to administer and
4 enforce this act and the code within its jurisdiction by the
5 adoption of an ordinance may rescind that ordinance and transfer
6 the responsibility for the administration and enforcement of this
7 act and the code to the director. The director shall assume the
8 responsibility for administering and enforcing this act and the
9 code in that governmental subdivision, unless the county within
10 which that governmental subdivision is located has submitted a
11 notice of intent to continue to administer and enforce the code.
12 However, that action shall not take effect until 12 months after
13 the passage of an ordinance to that effect. A structure commenced
14 under an effective code shall be completed under that code.

15 (8) The director is responsible for administration and
16 enforcement of this act and the code for buildings and structures
17 that are not under the responsibility of an enforcing agency in
18 those governmental subdivisions that elect to administer and
19 enforce this act and the code. A building or structure owned by the
20 state shall not be erected, remodeled, or reconstructed in the
21 state, except school buildings or facilities or institutions of
22 higher education as described in section 4 of article VIII of the
23 state constitution of 1963, until written approval of the plans and
24 specifications has been obtained from the bureau of construction
25 codes and safety located within the department indicating that the
26 state owned facilities shall be designed and constructed in
27 conformance with the state construction code. The bureau of

1 construction codes and safety shall be the lead agency in the
2 coordination and implementation of this subsection. The bureau of
3 construction codes and safety 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. State
8 departments and institutions may allow local inspectors to inspect
9 the construction of state owned facilities. However, an inspection
10 conducted by a local inspector shall be of an advisory nature only.

11 (9) This section does not affect the responsibilities of the
12 commission for administration and enforcement of this act under
13 other sections of this act, or responsibilities under the fire
14 prevention code, 1941 PA 207, MCL 29.1 to 29.33; 1937 PA 306, MCL
15 388.851 to 388.855a; the firefighters training council act, ~~of~~
16 ~~1966,~~ 1966 PA 291, MCL 29.361 to 29.377; 1942 (1st Ex Sess) PA 9,
17 MCL 419.201 to 419.205; parts 215 and 217 of the public health
18 code, 1978 PA 368, MCL 333.21501 to **333.21571 AND 333.21701 TO**
19 **333.21799e**; and section 58 of the social welfare act, 1939 PA 280,
20 MCL 400.58.

21 (10) Pursuant to parts 215 and 217 of the public health code,
22 1978 PA 368, MCL 333.21501 **TO 333.21571 AND 333.21701** to
23 333.21799e, the director shall develop consistent construction
24 standards for hospitals and nursing homes. These standards shall
25 ensure that consistent, uniform, and equitable construction
26 requirements and state supervision of the requirements are
27 achieved. This subsection does not ~~preclude~~ **PROHIBIT** a state agency

1 or a governmental subdivision from conducting plan reviews or
2 inspections necessary to ensure compliance with approved
3 construction plans.

4 (11) Except as otherwise provided in this act, this act does
5 not limit or restrict existing powers or authority of governmental
6 subdivisions, and this act shall be enforced by governmental
7 subdivisions in the manner prescribed by local law or ordinance. To
8 the extent not inconsistent with this act, local laws and
9 ordinances relating to administration and enforcement of
10 construction regulations enacted before the effective date of the
11 code by or for a governmental subdivision are applicable to
12 administration and enforcement of the code in that governmental
13 subdivision.