

Act No. 135  
Public Acts of 1989  
Approved by the Governor  
June 29, 1989  
Filed with the Secretary of State  
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**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1989**

Introduced by Rep. Ouwinga

# **ENROLLED HOUSE BILL No. 4006**

AN ACT to amend the title and sections 8 and 10 of Act No. 230 of the Public Acts of 1972, entitled as amended "An act to create a construction code commission and prescribe its functions; to authorize the commission to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to provide for statewide approval of pre-manufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide that governmental subdivisions may with exceptions elect not to be subject to certain parts of this act; to provide for administration and enforcement of the act; to create a state construction code fund; to establish remedies and fix penalties for violations of the act; to repeal certain acts and parts of acts; and to provide an appropriation," section 8 as amended by Act No. 241 of the Public Acts of 1988, being sections 125.1508 and 125.1510 of the Michigan Compiled Laws; and to add section 23a.

*The People of the State of Michigan enact:*

Section 1. The title and sections 8 and 10 of Act No. 230 of the Public Acts of 1972, section 8 as amended by Act No. 241 of the Public Acts of 1988, being sections 125.1508 and 125.1510 of the Michigan Compiled Laws, are amended and section 23a is added to read as follows:

## **TITLE**

An act to create a construction code commission and prescribe its functions; to authorize the commission to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to provide for statewide approval of premanufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide that governmental subdivisions may with exceptions elect not to be subject to certain parts of this act; to provide for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish remedies and fix penalties for violations of the act; to repeal certain acts and parts of acts; and to provide an appropriation.

Sec. 8. (1) This act and the code are applicable throughout the state except that a governmental subdivision may elect to exempt itself from certain parts of this act and the code by adopting and enforcing a nationally recognized model building code or other nationally recognized model codes. It shall not be necessary for a governmental subdivision to elect to exempt itself from every part of the code promulgated by the commission in order to preserve its exemption election as to 1 or more nationally recognized model codes. A governmental subdivision may make this election by the passage of an ordinance adopting by reference or otherwise without amendment a nationally recognized model building code or other nationally recognized model codes. A county ordinance adopted pursuant to this act shall be adopted by the county board of commissioners and shall be signed by the chairperson of the county board of commissioners and certified by the county clerk. A

governmental subdivision which elects not to be governed by certain parts of this act and the code shall review and update its codes by amending its ordinance at least once every 3 years by adopting without amendment all changes to those codes and submitting a certified copy of the amended ordinance to the commission. However, a governmental subdivision adopting nationally recognized model codes may approve amendments to those codes by ordinance. The amendments shall become effective 90 days after passage of the ordinance and 90 days after a certified copy of the ordinance is delivered to the commission, unless the commission determines after a public hearing that the codes, as amended, do not adequately protect the health, safety, or welfare of the people of the governmental subdivision, or that the amendments tend to unnecessarily increase construction costs or restrict the use of new materials, products, or methods of construction or provide preferential treatment to types or classes of materials, products, or methods of construction, or that the amendment obstructs the substantive uniformity of building codes within a region or locality in the state.

(2) Within 10 days after the effective date of this subsection, the executive director shall provide a notice of intent form to all governmental subdivisions administering and enforcing a nationally recognized model code. This form shall set forth the date return receipt is required, which date shall not be less than 60 days after receipt. The chief elected official of the governmental subdivision that receives this notice shall indicate on the form the intention of the governmental subdivision as to whether it shall continue to administer and enforce its code and transmit this notice to the executive director within the prescribed period. If a governmental subdivision fails to submit a notice of intent to continue to administer and enforce its code within the date set forth in the notice, the executive director shall send a notice by registered mail to the clerk of that governmental subdivision. The registered notice shall indicate that the governmental subdivision shall have 15 additional days in which to submit a notice of intent to continue to administer and enforce its code. If the governmental subdivision does not respond by the end of the 15 additional days, it shall be conclusively presumed that the governmental subdivision does not intend to continue to administer and enforce its code and the executive director shall assume the responsibility for administering and enforcing this act and the code in that governmental subdivision, unless the county within which that governmental subdivision is located has submitted a notice of intent to continue to administer and enforce this act and the code. Governmental subdivisions may provide by agreement for joint enforcement of another nationally recognized model code adopted pursuant to subsection (1).

(3) A county which was administering and enforcing this act and the code pursuant to section 9(1) on December 30, 1980, and has submitted a notice of intent to continue to administer and enforce the code to the executive director pursuant to section 9, after December 30, 1980, may exempt itself pursuant to subsection (1) by the passage of an ordinance adopting by reference or otherwise without amendment a nationally recognized model building code or other nationally recognized model codes. However, that action shall not take effect until 90 days after passage of an ordinance to that effect. Before the effective date of this action and the effective date of the ordinance, the county which proposes to adopt an ordinance to this effect shall file the proposed ordinance for approval pursuant to subsection (1) with the commission. The commission shall review the proposed ordinance. If the commission does not approve or disapprove the proposed ordinance within 90 days after it is filed with the commission, the proposed ordinance shall be considered approved unless the county grants the commission additional time to consider the proposed ordinance. The executive director shall notify a county which elects to exempt itself pursuant to subsection (1) of all governmental subdivisions within their jurisdiction that have not submitted a notice of intent to continue to administer and enforce its code. It shall be the responsibility of that county to administer and enforce that code for all of the governmental subdivisions within the county which have not submitted a notice of intent to continue to administer and enforce its code within its jurisdiction. A structure commenced under an effective code shall be completed under that code. A county which elects to exempt itself in accordance with this subsection may exercise the option to administer and enforce this act and the code pursuant to section 9(1). However, the exercise of this election to administer and enforce this act and the code shall not take effect until 6 months after passage of an ordinance to that effect.

(4) A governmental subdivision which has elected to assume responsibility for the administration and enforcement of this act and the code, and has submitted a notice of intent to continue to administer and enforce the code to the executive director pursuant to section 9, after December 30, 1980, may reverse that election and exempt itself pursuant to subsection (1) by the passage of an ordinance adopting by reference or otherwise without amendment a nationally recognized model building code or other nationally recognized model codes. However, that action shall not take effect until 90 days after passage of an ordinance to that effect. Before the effective date of this action and the effective date of the ordinance, the governmental subdivision which proposes to adopt an ordinance to this effect shall file the proposed ordinance for approval pursuant to subsection (1) with the commission. The commission shall review the proposed ordinance. If the commission does not approve or disapprove the proposed ordinance within 90 days after it is filed with the commission, the proposed ordinance shall be considered approved unless the governmental subdivision grants the commission additional time to consider the proposed ordinance. A structure commenced under an effective code shall be completed under that code. A governmental subdivision which elects to exempt itself in accordance with this subsection may exercise the option to make itself subject to this act and the code pursuant to section 9(1).

However, the exercise of this election to be subject to this act and the code shall not take effect until 6 months after passage of an ordinance to that effect.

(5) A governmental subdivision which has elected to exempt itself pursuant to subsection (1) may reverse that election, making itself subject to the act and the code. However, that action shall not take effect until 60 days after passage of an ordinance to that effect. A structure commenced under an effective code shall be completed under that code. A governmental subdivision which elects to make itself subject to the code in accordance with this subsection may exercise the option to exempt itself pursuant to subsection (1) not later than 3 years subsequent to its administration and enforcement of the code. However, that exemption shall not take effect until 1 year after passage of an ordinance to that effect.

(6) A governmental subdivision which, before December 30, 1980, has not administered and enforced either this act and the code or another nationally recognized model code may elect to exempt itself from certain parts of this act and the code pursuant to subsection (1), by the passage of an ordinance to that effect. A governmental subdivision which makes this election after December 30, 1980 shall submit, in addition to the ordinance, an application to the commission for approval to administer and enforce that code within its jurisdiction. This application shall be made on the proper form to be provided by the commission. The standards for approval shall include, but not be limited to, the certification by the governmental subdivision that the enforcing agency is qualified by experience or training to administer and enforce that nationally recognized model code and all related acts and rules, that agency personnel are provided as necessary, administrative services are provided, plan review services are provided, and timely field inspection services shall be provided. The executive director shall seek additional information if the executive director considers it necessary. The commission shall render a decision on the application for approval to administer and enforce that code which has been adopted and transmit its findings to that governmental subdivision within 90 days of receipt of the application. The commission shall document its reasons if the commission disapproves an application. A governmental subdivision which receives a disapproval may resubmit its application for approval. Upon receipt of approval from the commission for the administration and enforcement of that adopted code, the governmental subdivision shall administer and enforce that code within its jurisdiction pursuant to the provisions of its approved application.

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

(8) A governmental subdivision which elects to exempt itself from certain parts of this act and the code pursuant to subsection (1) and is enforcing its code within its jurisdiction pursuant to subsection (1) may rescind that ordinance by which it elected to exempt itself from certain parts of this act and the code, and transfer the responsibility for the administration and enforcement of this act and the code within the governmental subdivision to the executive director. The executive director shall assume the responsibility for administering and enforcing this act and the code in that governmental subdivision, unless the county within which that governmental subdivision is located has submitted a notice of intent to continue to administer and enforce the code. However, that action shall not take effect until 12 months after the passage of an ordinance to that effect. A structure commenced under an effective code shall be completed under that code.

(9) Locally adopted codes shall not apply to public or nonpublic schools within the governmental subdivision without concurrence by the school authorities having jurisdiction.

(10) Sections 10, 13a, 13b, 19, 21, and 23a, other provisions of this act and code directly relating to the provisions of sections 10, 13a, 13b, 19, 21, and 23a, and provisions of the code relating to the requirements of barrier free design and energy conservation shall be effective throughout the state without local modifications notwithstanding the exception of subsections (1) to (9). The standards for premanufactured housing shall not be less than the standards required for nonpremanufactured housing except that mobile homes shall be considered to have complied with this requirement by compliance with the state code provisions adopting a nationally recognized mobile home code.

(11) The commission may limit the application of a part of the code to include or exclude the following:

(a) Specified classes or types of buildings or structures, according to use, or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable. The commission shall consider the specific problems of the construction or alteration of a single family, owner-occupied recreational dwelling, which is located in a sparsely populated area and which is to be occupied on a part-time basis.

(b) Specified areas of the state based on size, population density, special conditions prevailing in the area, or other factors as may make differentiation or separate classification or regulation necessary, proper, or desirable.

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

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

(3) A person licensed or required to be licensed as a residential builder or residential maintenance and alteration contractor under the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.101 to 339.2721 of the Michigan Compiled Laws, a master or journeyman plumber pursuant to Act No. 266 of the Public Acts of 1929, being sections 338.901 to 338.917 of the Michigan Compiled Laws, an electrical contractor or master or journeyman electrician pursuant to the electrical administrative act, Act No. 217 of the Public Acts of 1956, being sections 338.881 to 338.892 of the Michigan Compiled Laws, or pursuant to a local ordinance, or as a mechanical contractor pursuant to the forbes mechanical contractors act, Act No. 192 of the Public Acts of 1984, being sections 338.971 to 338.988 of the Michigan Compiled Laws, who applies for a building permit to perform work on a residential building or a residential structure shall, in addition to any other information required pursuant to this act, provide on the building permit application all of the following information:

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

(b) One of the following:

(i) The name of each carrier providing worker's disability compensation insurance to the applicant if the applicant is required to be insured pursuant to the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws.

(ii) The reasons for exemption from the requirement to be insured pursuant to Act No. 317 of the Public Acts of 1969, if the applicant is not required to be insured pursuant to Act No. 317 of the Public Acts of 1969.

(c) One of the following:

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

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

(d) One of the following:

(i) The Michigan employment security commission employer number, if the applicant is required to make contributions pursuant to the Michigan employment security act, Act No. 1 of the Public Acts of the extra session of 1936, being sections 421.1 to 421.73 of the Michigan Compiled Laws.

(ii) If the applicant is not required to make contributions, the reasons for exemptions from the requirement to make contributions pursuant to Act No. 1 of the Public Acts of the extra session of 1936.

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

"Section 23a of the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being section 125.1523a of the Michigan Compiled Laws, prohibits a person from conspiring to circumvent the licensing requirements of this state relating to persons who are to perform work on a residential building or a residential structure. Violators of section 23a are subjected to civil fines."

(5) The application for a building permit shall be filed with the enforcing agency and the application and any other writing prepared, owned, used, in the possession of, or retained by the enforcing agency in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. An application shall not be removed from the custody of the enforcing agency after a building permit has been issued.

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

(7) Notwithstanding this section, a building permit is not required for ordinary repairs of a building and structure.

Sec. 23a. (1) In addition to any other penalties or remedies provided by law, a person who is required to be licensed as a residential builder or residential maintenance and alteration contractor, or as a master or journeyman plumber, an electrical contractor or master or journeyman electrician, or a mechanical contractor shall not perform work on a residential building or a residential structure without first obtaining a license. A person who violates this section is responsible for a civil violation, and shall be fined not less than \$100.00 or more than \$500.00.

(2) The prosecuting attorney of the county in which the residential building or residential structure is located or the attorney general may enforce this section.

Section 2. This amendatory act shall take effect October 1, 1989.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.