

# HOUSE BILL No. 5916

June 21, 1990, Introduced by Reps. Dolan, Miller, Honigman, Law, Crandall, Bender, London, Fitzgerald, Leland, Sparks, Allen, Harrison, Jacobetti, Gire, DeMars, Pitoniak, Kosteva, Emmons, Perry Bullard, Gubow, Muxlow and Brown and referred to the Committee on Civil Rights.

A bill to amend section 8 of Act No. 230 of the Public Acts of 1972, entitled as amended  
"State construction code act of 1972,"  
as amended by Act No. 135 of the Public Acts of 1989, being section 125.1508 of the Michigan Compiled Laws; and to add section 13c.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 8 of Act No. 230 of the Public Acts of  
2 1972, as amended by Act No. 135 of the Public Acts of 1989, being  
3 section 125.1508 of the Michigan Compiled Laws, is amended and  
4 section 13c is added to read as follows:

5       Sec. 8. (1) This act and the code are applicable throughout  
6 the state except that a governmental subdivision may elect to  
7 exempt itself from certain parts of this act and the code by  
8 adopting and enforcing a nationally recognized model building

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

1 classes of materials, products, or methods of construction, or  
2 that the amendment obstructs the substantive uniformity of build-  
3 ing codes within a region or locality in the state.

4 (2) Within 10 days after ~~the effective date of this~~  
5 ~~subsection~~ DECEMBER 30, 1980, the executive director shall pro-  
6 vide a notice of intent form to all governmental subdivisions  
7 administering and enforcing a nationally recognized model code.  
8 This form shall set forth the date return receipt is required,  
9 which date shall not be less than 60 days after receipt. The  
10 chief elected official of the governmental subdivision that  
11 receives this notice shall indicate on the form the intention of  
12 the governmental subdivision as to whether it shall continue to  
13 administer and enforce its code and transmit this notice to the  
14 executive director within the prescribed period. If a governmen-  
15 tal subdivision fails to submit a notice of intent to continue to  
16 administer and enforce its code within the date set forth in the  
17 notice, the executive director shall send a notice by registered  
18 mail to the clerk of that governmental subdivision. The regis-  
19 tered notice shall indicate that the governmental subdivision  
20 shall have 15 additional days in which to submit a notice of  
21 intent to continue to administer and enforce its code. If the  
22 governmental subdivision does not respond by the end of the 15  
23 additional days, it shall be conclusively presumed that the gov-  
24 ernmental subdivision does not intend to continue to administer  
25 and enforce its code and the executive director shall assume the  
26 responsibility for administering and enforcing this act and the  
27 code in that governmental subdivision, unless the county within

1 which that governmental subdivision is located has submitted a  
2 notice of intent to continue to administer and enforce this act  
3 and the code. Governmental subdivisions may provide by agreement  
4 for joint enforcement of another nationally recognized model code  
5 adopted pursuant to subsection (1).

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

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

13 (4) A governmental subdivision which has elected to assume  
14 responsibility for the administration and enforcement of this act  
15 and the code, and has submitted a notice of intent to continue to  
16 administer and enforce the code to the executive director pursu-  
17 ant to section 9, after December 30, 1980, may reverse that elec-  
18 tion and exempt itself pursuant to subsection (1) by the passage  
19 of an ordinance adopting by reference or otherwise without amend-  
20 ment a nationally recognized model building code or other nation-  
21 ally recognized model codes. However, that action shall not take  
22 effect until 90 days after passage of an ordinance to that  
23 effect. Before the effective date of this action and the effec-  
24 tive date of the ordinance, the governmental subdivision which  
25 proposes to adopt an ordinance to this effect shall file the pro-  
26 posed ordinance for approval pursuant to subsection (1) with the  
27 commission. The commission shall review the proposed ordinance.

1 If the commission does not approve or disapprove the proposed  
2 ordinance within 90 days after it is filed with the commission,  
3 the proposed ordinance shall be considered approved unless the  
4 governmental subdivision grants the commission additional time to  
5 consider the proposed ordinance. A structure commenced under an  
6 effective code shall be completed under that code. A governmen-  
7 tal subdivision which elects to exempt itself in accordance with  
8 this subsection may exercise the option to make itself subject to  
9 this act and the code pursuant to section 9(1). However, the  
10 exercise of this election to be subject to this act and the code  
11 shall not take effect until 6 months after passage of an ordi-  
12 nance to that effect.

13 (5) A governmental subdivision which has elected to exempt  
14 itself pursuant to subsection (1) may reverse that election,  
15 making itself subject to the act and the code. However, that  
16 action shall not take effect until 60 days after passage of an  
17 ordinance to that effect. A structure commenced under an effec-  
18 tive code shall be completed under that code. A governmental  
19 subdivision which elects to make itself subject to the code in  
20 accordance with this subsection may exercise the option to exempt  
21 itself pursuant to subsection (1) not later than 3 years subse-  
22 quent to 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 (6) A governmental subdivision which, before December 30,  
26 1980, has not administered and enforced either this act and the  
27 code or another nationally recognized model code may elect to

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

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

19       (8) A governmental subdivision which elects to exempt itself  
20 from certain parts of this act and the code pursuant to subsec-  
21 tion (1) and is enforcing its code within its jurisdiction pursu-  
22 ant to subsection (1) may rescind that ordinance by which it  
23 elected to exempt itself from certain parts of this act and the  
24 code, and transfer the responsibility for the administration and  
25 enforcement of this act and the code within the governmental sub-  
26 division to the executive director. The executive director shall  
27 assume the responsibility for administering and enforcing this

1 act and the code in that governmental subdivision, unless the  
2 county within which that governmental subdivision is located has  
3 submitted a notice of intent to continue to administer and  
4 enforce the code. However, that action shall not take effect  
5 until 12 months after the passage of an ordinance to that  
6 effect. A structure commenced under an effective code shall be  
7 completed under that code.

8 (9) Locally adopted codes shall not apply to public or non-  
9 public schools within the governmental subdivision without con-  
10 currence by the school authorities having jurisdiction.

11 (10) Sections 10, 13a, 13b, 13C, 19, 21, and 23a, other pro-  
12 visions of this act and code directly relating to the provisions  
13 of sections 10, 13a, 13b, 13C, 19, 21, and 23a, and provisions of  
14 the code relating to the requirements of barrier free design and  
15 energy conservation shall be effective throughout the state with-  
16 out local modifications notwithstanding the exception of subsec-  
17 tions (1) to (9). The standards for premanufactured housing  
18 shall not be less than the standards required for nonpremanufac-  
19 tured housing except that mobile homes shall be considered to  
20 have complied with this requirement by compliance with the state  
21 code provisions adopting a nationally recognized mobile home  
22 code.

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

25 (a) Specified classes or types of buildings or structures,  
26 according to use, or other distinctions as may make  
27 differentiation or separate classification or regulation

1 necessary, proper, or desirable. The commission shall consider  
2 the specific problems of the construction or alteration of a  
3 single family, owner-occupied recreational dwelling, which is  
4 located in a sparsely populated area and which is to be occupied  
5 on a part-time basis.

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

10 SEC. 13C. THE COMMISSION SHALL PROMULGATE RULES REGULATING  
11 THE TYPE AND NUMBER OF PLUMBING FIXTURES REQUIRED IN BUILDINGS TO  
12 ENSURE EQUAL SPEED OF ACCESS TO REST ROOM FACILITIES FOR MEN AND  
13 WOMEN.