

SENATE BILL No. 106

February 19, 1991, Introduced by Senators CONROY, KOIVISTO, CHERRY and BERRYMAN and referred to the Committee on Local Government and Reapportionment.

A bill to amend the title and sections 9, 23, and 29 of Act No. 230 of the Public Acts of 1972, entitled as amended "State construction code act of 1972," sections 9 and 23 as amended by Act No. 371 of the Public Acts of 1980, being sections 125.1509, 125.1523, and 125.1529 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 9, 23, and 29 of Act
2 No. 230 of the Public Acts of 1972, sections 9 and 23 as amended
3 by Act No. 371 of the Public Acts of 1980, being sections
4 125.1509, 125.1523, and 125.1529 of the Michigan Compiled Laws,
5 are amended to read as follows:

1 TITLE

2 An act to create a construction code commission and pre-
3 scribe its functions; to authorize the commission to promulgate
4 rules with recommendations from each affected board relating to
5 the construction, alteration, demolition, occupancy, and use of
6 buildings and structures; to provide for statewide approval of
7 premanufactured units; to provide for the testing of new devices,
8 materials, and techniques for the construction of buildings and
9 structures; to define the classes of buildings and structures
10 affected by the act; to provide that governmental subdivisions
11 may with exceptions elect not to be subject to certain parts of
12 ~~this~~ THE act; to provide for administration and enforcement of
13 the act; to create a state construction code fund; to prohibit
14 certain conduct; to establish remedies and ~~fix penalties~~
15 SANCTIONS for violations of the act; to repeal certain acts and
16 parts of acts; and to provide an appropriation.

17 Sec. 9. (1) Except as otherwise provided in this section,
18 the executive director is responsible for administration and
19 enforcement of this act and the code. A governmental subdivision
20 may by ordinance assume responsibility for administration and
21 enforcement of this act within its political boundary. ~~The~~
22 ~~requirements of section 11(m) of Act No. 156 of the Public Acts~~
23 ~~of 1851, as amended, relating to the submission of a county ordi-~~
24 ~~nance, act, or regulation for approval or disapproval by the gov-~~
25 ~~ernor and deposit with the secretary of state, shall not apply to~~
26 ~~county ordinances adopted pursuant to this act.~~ A county
27 ordinance adopted pursuant to this act shall be adopted by the

1 county board of commissioners and shall be signed by the
2 chairperson of the county board of commissioners and certified by
3 the county clerk.

4 (2) A governmental subdivision ~~which~~ THAT has assumed the
5 responsibility for administering and enforcing this act and the
6 code may ISSUE A MUNICIPAL CIVIL INFRACTION CITATION OR MAY
7 through its chief legal officer issue a complaint and obtain a
8 warrant for a violation of this act or the code. ~~and~~ THE GOV-
9 ERNMENTAL SUBDIVISION MAY prosecute the violation with the same
10 power and authority it possesses in prosecuting a local ordinance
11 violation. Unless otherwise provided by local law or ordinance,
12 the legislative body of a governmental subdivision responsible
13 for administration and enforcement of this act and the code shall
14 designate an enforcing agency that shall discharge the responsi-
15 bilities of the governmental subdivision under this act.
16 Governmental subdivisions may provide by agreement for joint
17 enforcement of this act.

18 (3) Subject to the other provisions of this act, an enforc-
19 ing agency ~~shall be~~ IS any official or agent of a governmental
20 subdivision qualified by experience or training to perform the
21 duties associated with construction code administration and
22 enforcement.

23 (4) ~~Within 10 days after the effective date of this~~
24 ~~subsection~~ BEFORE JANUARY 10, 1981, the executive director shall
25 provide ~~all~~ EACH governmental ~~subdivisions~~ SUBDIVISION admin-
26 istering and enforcing this act and the code with a notice of
27 intent form. This form shall set forth the date return receipt

1 is required, which date shall not be less than 60 days. The
2 chief elected official of the governmental subdivision that
3 receives this notice shall indicate on the form the intention of
4 the governmental subdivision as to whether it shall continue to
5 administer and enforce this act and the code and transmit this
6 notice to the executive director within the prescribed period.
7 If a governmental subdivision fails to submit a notice of intent
8 to continue to administer and enforce this act and the code
9 within the date set forth in the notice, the executive director
10 shall send a notice by registered mail to the clerk of that gov-
11 ernmental subdivision. ~~The registered~~ THIS notice shall indi-
12 cate that the governmental subdivision ~~shall have~~ HAS 15 addi-
13 tional days in which to submit a notice of intent to continue to
14 administer and enforce this act and the code. If the governmen-
15 tal subdivision does not respond by the end of the 15 additional
16 days, it shall be conclusively presumed that the governmental
17 subdivision does not intend to continue to administer and enforce
18 this act and the code and the executive director shall assume the
19 responsibility for administering and enforcing this act and the
20 code in that governmental subdivision, unless the county within
21 which the governmental subdivision is located ~~has submitted~~
22 SUBMITS a notice of intent to continue to administer and enforce
23 this act and the code.

24 (5) A county ~~which~~ THAT is administering and enforcing
25 this act and the code on ~~the effective date of this subsection,~~
26 ~~and has submitted~~ DECEMBER 30, 1980 AND THAT SUBMITS a notice of
27 intent to continue to administer and enforce this act and the

1 code pursuant to subsection (4) ~~shall be~~ IS responsible for the
2 administration and enforcement of this act and the code for ~~all~~
3 ~~of the~~ EACH governmental ~~subdivisions~~ SUBDIVISION within the
4 county ~~which have not submitted~~ THAT DOES NOT SUBMIT a notice
5 of intent to continue to administer and enforce this act and the
6 code or another nationally recognized model code within its
7 jurisdiction. The executive director shall notify the county of
8 those governmental subdivisions that ~~have~~ DO not ~~submitted~~
9 SUBMIT a notice of intent.

10 (6) A governmental subdivision ~~which~~ THAT, before ~~the~~
11 ~~effective date of this subsection, has not administered and~~
12 ~~enforced~~ DECEMBER 30, 1980, DID NOT ADMINISTER AND ENFORCE
13 either this act and the code or another nationally recognized
14 model code may elect to assume the responsibility for the admin-
15 istration and enforcement of this act and the code pursuant to
16 subsection (1) by the passage of an ordinance to that effect. A
17 governmental subdivision ~~which~~ THAT makes this election after
18 ~~the effective date of this subsection~~ DECEMBER 30, 1980 shall
19 submit, in addition to the ordinance, an application to the com-
20 mission for approval to administer and enforce this act and the
21 code within its jurisdiction. This application shall be made on
22 the proper form to be provided by the commission. The standards
23 for approval shall include, but not be limited to, the certifica-
24 tion by the governmental subdivision that the enforcing agency is
25 qualified by experience or training to administer and enforce
26 this act and the code and all related acts and rules, that agency
27 personnel are provided as necessary, THAT administrative services

1 are provided, THAT plan review services are provided, and THAT
2 timely field inspection services will be provided. The executive
3 director shall seek additional information ~~when~~ IF the execu-
4 tive director considers it necessary. The commission shall
5 render a decision on the application for approval to administer
6 and enforce this act and the code and transmit its findings to
7 ~~that~~ THE governmental subdivision within 90 days of receipt of
8 the application. The commission shall document its reasons, if
9 the commission disapproves an application. A governmental subdi-
10 vision ~~which~~ THAT receives a disapproval may resubmit its
11 application for approval. Upon receipt of approval from the com-
12 mission for the administration and enforcement of this act and
13 the code, the governmental subdivision shall administer and
14 enforce this act and the code within its jurisdiction pursuant to
15 the provisions of this act and the application.

16 (7) A governmental subdivision ~~which has elected~~ THAT
17 ELECTS to administer and enforce this act and the code within its
18 jurisdiction by the adoption of an ordinance may rescind that
19 ordinance and transfer the responsibility for the administration
20 and enforcement of this act and the code to the executive
21 director. The executive director shall assume the responsibility
22 for administering and enforcing this act and the code in that
23 governmental subdivision, unless the county within which that
24 governmental subdivision is located has submitted a notice of
25 intent to continue to administer and enforce the code. However,
26 that action shall not take effect until 12 months after the

1 passage of an ordinance to that effect. A structure commenced
2 under an effective code shall be completed under that code.

3 (8) The executive director is responsible for administration
4 and enforcement of this act and the code ~~in those governmental~~
5 ~~subdivisions~~ for buildings and structures ~~which~~ THAT are not
6 under the responsibility of an enforcing agency in those govern-
7 mental subdivisions which elect to administer and enforce this
8 act and the code or another nationally recognized model code. A
9 building or structure owned by the state shall not be erected,
10 remodeled, or reconstructed in the state after ~~the effective~~
11 ~~date of this subsection~~ DECEMBER 30, 1980, except school build-
12 ings or facilities or institutions of higher education as
13 ~~defined~~ DESCRIBED in section 4 of article ~~8~~ VIII of the state
14 constitution of 1963, until written approval of the plans and
15 specifications has been obtained from the bureau of construction
16 codes located within the department of labor indicating that the
17 state owned facilities shall be designed and constructed in con-
18 formance with the state construction code. ~~and all pertinent~~
19 ~~sections.~~ This subsection ~~shall~~ DOES not apply to any state
20 owned facility for which construction ~~has~~ commenced before ~~the~~
21 ~~effective date of this subsection~~ DECEMBER 30, 1980. The bureau
22 of construction codes shall be the lead agency in the coordina-
23 tion and implementation of this subsection. The bureau of con-
24 struction codes shall perform ~~all~~ required plan reviews and
25 inspections as required by the state construction code. Each
26 department shall secure ~~all~~ required plan approvals and permits
27 from the bureau. Fees charged by the bureau for permits shall be

1 in accordance with the commission's approved schedule of fees.
2 State departments and institutions may allow local inspectors to
3 inspect the construction of state owned facilities. However, an
4 inspection conducted by a local inspector shall be of an advisory
5 nature only.

6 (9) This section ~~shall~~ DOES not affect the responsibili-
7 ties of the commission for administration and enforcement of this
8 act pursuant to other sections of this act, or RESPONSIBILITIES
9 pursuant to THE FIRE PREVENTION CODE, Act No. 207 of the Public
10 Acts of 1941, as amended, being sections 29.1 to ~~29.25~~ 29.33 of
11 the Michigan Compiled Laws, except sections 6 and 7 of Act
12 No. 207 of the Public Acts of 1941, as amended, being sections
13 29.6 and 29.7 of the Michigan Compiled Laws; ~~Act No. 327 of the~~
14 ~~Public Acts of 1947, as amended, being sections 29.201 to 29.330~~
15 ~~of the Michigan Compiled Laws;~~ Act No. 306 of the Public Acts of
16 1937, as amended, being sections 388.851 to 388.855a of the
17 Michigan Compiled Laws; THE FIRE FIGHTERS TRAINING COUNCIL ACT OF
18 1966, Act No. 291 of the Public Acts of 1966, as amended, being
19 sections 29.361 to 29.377 of the Michigan Compiled Laws; Act
20 No. 9 of the Public Acts of the First Extra Session of 1942, as
21 amended, being sections 419.201 to 419.205 of the Michigan
22 Compiled Laws; parts 215 and 217 of THE PUBLIC HEALTH CODE, Act
23 No. 368 of the Public Acts of 1978, as amended, being sections
24 333.21501 to 333.21799e of the Michigan Compiled Laws; and sec-
25 tion 58 of THE SOCIAL WELFARE ACT, Act No. 280 of the Public Acts
26 of 1939, as amended, being section 400.58 of the Michigan
27 Compiled Laws.

1 (10) Pursuant to parts 215 and 217 of Act No. 368 of the
2 Public Acts of 1978, as amended, the directors of the department
3 of labor, public health, and state police, or their designees,
4 shall develop consistent construction standards for hospitals and
5 nursing homes. These standards shall assure that consistent,
6 uniform, and equitable construction requirements and state super-
7 vision ~~thereof~~ OF THE REQUIREMENTS are achieved and that unnec-
8 essary duplication is avoided. The commission shall delegate
9 plan review and approval of health facility construction plans to
10 the department of health. This subsection ~~shall~~ DOES not pre-
11 clude a state agency or a governmental subdivision from conduct-
12 ing plan reviews or inspections necessary to assure compliance
13 with approved construction plans.

14 (11) Except as otherwise provided in this act, this act does
15 not limit or restrict existing powers or authority of governmen-
16 tal subdivisions, and this act shall be enforced by governmental
17 subdivisions in the manner prescribed by local law or ordinance.
18 To the extent not inconsistent with this act, local laws and
19 ordinances relating to administration and enforcement of con-
20 struction regulations enacted before the effective date of the
21 code by or for a governmental subdivision are applicable to
22 administration and enforcement of the code in that governmental
23 subdivision.

24 Sec. 23. (1) A person or corporation, including an offi-
25 cer, director, or employee of a corporation, or a governmental
26 official or agent charged with the responsibility of issuing
27 permits or inspecting buildings or structures, who ~~commits~~ DOES

1 any of the following ~~acts shall be fined~~ IS GUILTY OF A
2 MISDEMEANOR PUNISHABLE BY A FINE OF not more than \$500.00 ~~—~~ or
3 ~~imprisoned~~ IMPRISONMENT for not more than 90 days, or both:

4 (a) Knowingly violates this act or the code and the rules
5 for the enforcement of this act or code.

6 (b) Knowingly constructs or builds a structure or building
7 in violation of a condition of a building permit.

8 (c) Knowingly fails to comply with an order issued by an
9 enforcing agency, a construction board of appeals, a board, or
10 the commission pursuant to this act.

11 (d) Knowingly makes a false or misleading written statement,
12 or knowingly omits required information or a statement in an
13 inspection report, application, petition, request for approval,
14 or appeal to an enforcing agency, a construction board of
15 appeals, a board, or the commission.

16 (e) Knowingly refuses entry or access to an inspector law-
17 fully authorized to inspect any premises, building, or structure
18 pursuant to this act.

19 (f) Unreasonably interferes with an authorized inspection.

20 (g) Knowingly issues, fails to issue, causes to be issued,
21 or assists in the issuance of a certificate, permit, or license
22 in violation of this act or a rule promulgated under this act or
23 other applicable laws.

24 (h) Having a duty to report violations of this act or a rule
25 promulgated under this act or other applicable laws, knowingly
26 conceals a violation.

1 (2) With respect to subsection (1)(c), a person is guilty of
2 a separate offense for each day that the person fails to comply
3 with a stop construction order validly issued by an enforcing
4 agency and for each week that the person fails to comply with any
5 other order validly issued by an enforcing agency. With respect
6 to subsection (1)(a) or (d), a person is guilty of a separate
7 offense for each knowing violation of this act or a rule promul-
8 gated under this act and for each false or misleading written
9 statement or omission of required information or statement know-
10 ingly made in an application, petition, request for approval, or
11 appeal to an enforcing agency, a construction board of appeals, a
12 board, or the commission. With respect to subsection (1)(b), a
13 person is guilty of a separate offense for each knowing violation
14 of a condition of a building permit.

15 (3) A governmental subdivision having the responsibility of
16 administering and enforcing this act ~~which~~ THAT also prosecutes
17 a violation of this act ~~shall be allowed to~~ MAY retain a fine
18 imposed upon JUDGMENT OR conviction.

19 Sec. 29. Except as otherwise provided in this act,
20 ~~nothing contained herein shall be construed as abrogating or~~
21 ~~impairing~~ THIS ACT DOES NOT ABROGATE OR IMPAIR the power of a
22 governmental subdivision or enforcing agency to enforce the pro-
23 visions of the code or any other applicable construction regula-
24 tions, or to prevent violations or ~~punish~~ IMPOSE SANCTIONS ON
25 violators. ~~thereof.~~

1 Section 2. This amendatory act shall not take effect unless
2 Senate Bill No. 96
3 of the 86th Legislature is enacted into law.