

Act No. 161
Public Acts of 1993
Approved by the Governor
September 15, 1993
Filed with the Secretary of State
September 16, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. Dolan, Alley, Gire, Gubow, Dalman, Bullard, Bender, Stallworth, Jaye, Middleton, Vorva, Ciaramitaro, Gernaat, Dobb, McBryde, Brackenridge, Gilmer, Bobier, Brown, Stille and Pitoniak

ENROLLED HOUSE BILL No. 4120

AN ACT to amend section 8 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 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 the 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 sanctions for violations of the act; to repeal certain acts and parts of acts; and to provide an appropriation," as amended by Act No. 135 of the Public Acts of 1989, being section 125.1508 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

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

Sec. 8. (1) This act and the code apply 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 is not 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 that 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; restrict the use of new materials, products, or methods of construction; provide preferential treatment to types or classes of materials, products, or methods of construction; or obstruct the substantive uniformity of building codes within a region or locality in the state.

(2) Within 10 days after December 30, 1980, 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 has 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 that 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, a county that 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 that 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 is the responsibility of that county to administer and enforce that code for all of the governmental subdivisions within the county that 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 that 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 that 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, a governmental subdivision that 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 that 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 that 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 that 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 after 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 that 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 that 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 that 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 that 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 take 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) or (10), or section 9a, 10, 13a, 13b, 14, 15, 20, 22(1), 23, or 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 that 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 that 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 do 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, subsection (13), and other provisions of this act and code directly relating to the provisions of sections 10, 13a, 13b, 19, 21, and 23a, subsection (13), and provisions of the code relating to the requirements of barrier free design, energy conservation, and, except as provided in subsection (11), for plans submitted for approval after January 1, 1994 the type and number of plumbing fixtures for men and women required in an assembly building with an occupancy of more than 150 are 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. As used in this subsection, "assembly building" means a theater, sports arena, stadium, food service establishment with or without a liquor license, exhibition hall, library, recreation center, passenger terminal, and outdoor assembly structure which includes an outdoor grandstand, bleacher, colosseum, stadium, amusement park structure, and fair or carnival structure.

(11) With respect to the type and number of plumbing fixtures required for men and women in an assembly building pursuant to subsection (10), the executive director, in his or her sole discretion, may exempt from the effective date provision those projects for which plans were near finalization before January 1, 1994, but were submitted after that date.

(12) 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 that is located in a sparsely populated area and that 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.

(13) A building or structure that has baby changing stations in the women's restrooms shall have baby changing stations in the men's restrooms.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.