

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

Introduced by Rep. Porreca

ENROLLED HOUSE BILL No. 4143

AN ACT to amend sections 2, 8, and 28 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," sections 2 and 28 as amended by Act No. 371 of the Public Acts of 1980 and section 8 as amended by Act No. 135 of the Public Acts of 1989, being sections 125.1502, 125.1508, and 125.1528 of the Michigan Compiled Laws; to add section 8a; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

Section 1. Sections 2, 8, and 28 of Act No. 230 of the Public Acts of 1972, sections 2 and 28 as amended by Act No. 371 of the Public Acts of 1980 and section 8 as amended by Act No. 135 of the Public Acts of 1989, being sections 125.1502, 125.1508, and 125.1528 of the Michigan Compiled Laws, are amended and section 8a is added to read as follows:

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

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

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

- (c) "Barrier free design" means design complying with legal requirements for architectural designs that eliminate the type of barriers and hindrances that deter handicappers from having access to and free mobility in and around a building or structure.
- (d) "Board of appeals" means the construction board of appeals of a governmental subdivision provided for in section 14.
- (e) "Boards" means the state plumbing and electrical administrative boards and the barrier free design board provided for in Act No. 1 of the Public Acts of 1966, as amended, being sections 125.1351 to 125.1356 of the Michigan Compiled Laws.
- (f) "Building" means a combination of materials, whether portable or fixed, forming a structure affording a facility or shelter for use or occupancy by persons, animals, or property. The term does not include a building incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade. The term shall be construed as though followed by the words "or part or parts of the building and all equipment in the building" unless the context clearly requires a different meaning.
- (g) "Building envelope" means the elements of a building that enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.
- (h) "Business day" means a day of the year, exclusive of a Saturday, Sunday, or legal holiday.
- (i) "Chief elected official" means the chairperson of the county board of commissioners, the city mayor, the village president, or the township supervisor.
- (j) "Code" means the state construction code provided for in section 4 or a part thereof of limited application, and includes a modification of or amendment to the code.
- (k) "Commission" means the state construction code commission created by section 3.
- (l) "Construction" means the construction, erection, reconstruction, alteration, conversion, demolition, repair, moving, or equipping of buildings or structures.
- (m) "Construction regulation" means a law, act, rule, resolution, regulation, ordinance, or code, general or special, or compilation thereof, before or after enacted or adopted by this state or a county, city, village, or township including a department, board, bureau, commission, or other agency thereof, relating to the design, construction, or use of buildings and structures and the installation of equipment in the building or structure. Construction regulation does not include a zoning ordinance or rule issued pursuant to a zoning ordinance and related to zoning.
- (n) "Department" means the department of labor.
- (o) "Director" means the director of labor or an authorized representative of the director.
- (p) "Energy conservation" means the efficient use of energy by providing building envelopes with high thermal resistance and low air leakage, and the selection of energy efficient mechanical, electrical service, and illumination systems, equipment, devices, or apparatus.
- (q) "Enforcing agency" means the enforcing agency, in accordance with section 8 or 9, that is responsible for administration and enforcement of a nationally recognized model code or this act and the code within a governmental subdivision. Except for the purposes of section 19, enforcing agency means the agency in a governmental unit principally responsible for the administration and enforcement of applicable construction regulations.
- (r) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating equipment.
- (s) "Executive director" means the director of the bureau of construction codes as set forth under section 7.
- (t) "Governmental subdivision" means a county, city, village, or township that in accordance with section 8 or 9 has assumed responsibility for the administration and enforcement of a nationally recognized model code or this act and the code within its jurisdiction.
- (u) "Handicapper" means a person whose physical characteristics have a particular relationship to that person's ability to be self-reliant in the person's movement throughout and use of the building environment.
- (v) "Mobile home" means a vehicular, portable structure built on a chassis and designed to be used without a permanent foundation as a dwelling when connected to required utilities and that is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than 30 consecutive days.
- (w) "Other laws and ordinances" means other laws and ordinances, whether enacted by this state or by a county, city, village, or township and the rules issued thereunder.
- (x) "Owner" means the owner of the freehold of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property or his or her duly authorized agent.
- (y) "Premanufactured unit" means an assembly of materials or products intended to comprise all or part of a building or structure, and that is assembled at other than the final location of the unit of the building or structures by a

repetitive process under circumstances intended to insure uniformity of quality and material content. Premanufactured unit includes a mobile home.

(z) "School building" means a structure in which 6 or more pupils receive instruction. School building also means a structure owned, leased, or under the control of a public or private K to 12 school system or a community college or junior college established under section 7 of article VIII of the state constitution of 1963 or part 25 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being sections 380.1601 to 380.1607 of the Michigan Compiled Laws. School building does not include a dwelling unit or a structure owned, leased, or under the control of a college or university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

(aa) "Structure" means that which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner. Structure does not include a structure incident to the use for agricultural purposes of the land on which the structure is located and does not include works of heavy civil construction, including, but not limited to, a highway, bridge, dam, reservoir, lock, mine, harbor, dockside port facility, an airport landing facility and facilities for the generation, transmission, or distribution of electricity. Structure shall be construed as though followed by the words "or part or parts of the structure and all equipment in the structure" unless the context clearly indicates otherwise.

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

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 take effect 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; that the amendments unnecessarily increase construction costs or restrict the use of new materials, products, or methods of construction; that the amendments provide preferential treatment to types or classes of materials, products, or methods of construction; or that the amendments obstruct 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 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, the 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, the 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 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 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 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 8a, 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 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) Sections 8a, 10, 13a, 13b, 19, 21, and 23a, other provisions of this act and code directly relating to the provisions of sections 8a, 10, 13a, 13b, 19, 21, and 23a, and provisions of the code relating to the requirements of barrier free design and energy conservation 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.

(10) 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.

Sec. 8a. (1) Except as provided in section 8 and subsection (3), the executive director is responsible for the administration and enforcement of this act and the code in each school building in this state.

(2) Except as provided in subsection (3), the bureau of construction codes shall perform for school buildings all plan reviews and inspections required by the code and shall be the enforcing agency for this act. Except as provided in subsection (3), a school building shall not be constructed, remodeled, or reconstructed in this state after the effective date of the amendatory act that added this section until written approval of the plans and specifications is obtained from the bureau of construction codes indicating that the school building will be designed and constructed in conformance with the code. This subsection does not apply to any school building for which construction has commenced before the effective date of the amendatory act that added this section.

(3) The executive director shall delegate the responsibility for the administration and enforcement of this act to the applicable enforcing agency if both the school board and the governing body of the governmental subdivision have annually certified to the construction code commission, in a manner prescribed by the commission, that full-time code officials, inspectors, and plan reviewers registered under the building officials and inspectors registration act, Act No. 54 of the Public Acts of 1986, being sections 338.2301 to 338.2313 of the Michigan Compiled Laws, will conduct plan reviews and inspections of school buildings.

(4) This section does not affect the responsibilities of the state fire marshal pursuant to the fire prevention code, Act No. 207 of the Public Acts of 1941, being sections 29.1 to 29.33 of the Michigan Compiled Laws.

(5) The plans and specifications for a school building or remodeling project with construction costs that exceed \$15,000.00 shall be prepared and the construction supervised by a state licensed architect or professional engineer employed by, or under contract with, the school board.

(6) The architect or professional engineer under subsection (5) who prepares the plans and specifications or who supervises the construction of any school building shall be responsible for determining the building is resistant to fire and constructed in a workerlike manner, according to the plans and specifications.

Sec. 28. (1) Any provision of section 34 of Act No. 18 of the Public Acts of the Extra Session of 1933, being section 125.684 of the Michigan Compiled Laws; Act No. 266 of the Public Acts of 1929, as amended, being sections 338.901 to 338.917 of the Michigan Compiled Laws; Act No. 222 of the Public Acts of 1901, as amended, being sections 338.951 to 338.965 of the Michigan Compiled Laws; the electrical administrative act, Act No. 217 of the Public Acts of 1956, as amended, being sections 338.881 to 338.892 of the Michigan Compiled Laws; and any other public act of this state that is inconsistent or conflicts with this act is superseded to the extent of the inconsistency or conflict.

(2) This act shall not be construed to repeal, amend, supersede, or otherwise affect the powers and duties presently exercised under the air pollution act, Act No. 348 of the Public Acts of 1965, as amended, being sections 336.11 to 336.36 of the Michigan Compiled Laws; Part 124 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.12401 to 333.12434 of the Michigan Compiled Laws; the Michigan occupational safety and health act, Act No. 154 of the Public Acts of 1974, as amended, being sections 408.1001 to 408.1094 of the Michigan Compiled Laws; the boiler act

of 1965, Act No. 290 of the Public Acts of 1965, as amended, being sections 408.751 to 408.776 of the Michigan Compiled Laws; or Act No. 227 of the Public Acts of 1967, as amended, being sections 408.801 to 408.824 of the Michigan Compiled Laws.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 407 of the 87th Legislature is enacted into law.

Section 3. Act No. 306 of the Public Acts of 1937, being sections 388.851 to 388.855a of the Michigan Compiled Laws, is repealed.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.

