

Act No. 61
Public Acts of 1993
Approved by the Governor
June 17, 1993
Filed with the Secretary of State
June 17, 1993

STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993

Introduced by Senators Conroy, Schwarz, Arthurhultz, Cherry, Berryman, Stabenow, Honigman, Hart,
Kelly, Koivisto and Faxon

ENROLLED SENATE BILL No. 358

AN ACT to amend the title and sections 9, 23, and 29 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 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," 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:

Section 1. The title and sections 9, 23, and 29 of Act No. 230 of the Public Acts 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, are amended 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 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.

Sec. 9. (1) Except as otherwise provided in this section, the executive director is responsible for administration and enforcement of this act and the code. A governmental subdivision may by ordinance assume responsibility for administration and enforcement of this act within its political boundary. 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.

(2) A governmental subdivision that has assumed the responsibility for administering and enforcing this act and the code may issue a municipal civil infraction citation or may through its chief legal officer issue a complaint and obtain a warrant for a violation of this act or the code. The governmental subdivision may prosecute the violation with the same power and authority it possesses in prosecuting a local ordinance violation. Unless otherwise provided by local law or ordinance, the legislative body of a governmental subdivision responsible for administration and enforcement of this act and the code shall designate an enforcing agency that shall discharge the responsibilities of the governmental subdivision under this act. Governmental subdivisions may provide by agreement for joint enforcement of this act.

(3) Subject to the other provisions of this act, an enforcing agency is any official or agent of a governmental subdivision qualified by experience or training to perform the duties associated with construction code administration and enforcement.

(4) Before January 10, 1981, the executive director shall provide each governmental subdivision administering and enforcing this act and the code with a notice of intent form. This form shall set forth the date return receipt is required, which date shall not be less than 60 days. 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 this act and the 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 this act and the 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. This 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 this act and the 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 this act and the 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 the governmental subdivision is located submits a notice of intent to continue to administer and enforce this act and the code.

(5) A county that is administering and enforcing this act and the code on December 30, 1980 and that submits a notice of intent to continue to administer and enforce this act and the code pursuant to subsection (4) is responsible for the administration and enforcement of this act and the code for each governmental subdivision within the county that does not submit a notice of intent to continue to administer and enforce this act and the code or another nationally recognized model code within its jurisdiction. The executive director shall notify the county of those governmental subdivisions that do not submit a notice of intent.

(6) A governmental subdivision that, before December 30, 1980, did not administer and enforce either this act and the code or another nationally recognized model code may elect to assume the responsibility for the administration and enforcement 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 this act and the 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 this act and the code and all related acts and rules, that agency personnel are provided as necessary, that administrative services are provided, that plan review services are provided, and that timely field inspection services will 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 this act and the code and transmit its findings to the 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 this act and the code, the governmental subdivision shall administer and enforce this act and the code within its jurisdiction pursuant to the provisions of this act and the application.

(7) A governmental subdivision that elects to administer and enforce this act and the code within its jurisdiction by the adoption of an ordinance may rescind that ordinance and transfer the responsibility for the administration and enforcement of this act and the code 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.

(8) The executive director is responsible for administration and enforcement of this act and the code for buildings and structures that are not under the responsibility of an enforcing agency in those governmental subdivisions that elect to administer and enforce this act and the code or another nationally recognized model code. A building or structure owned by the state shall not be erected, remodeled, or reconstructed in the state after December 30, 1980, except school buildings or facilities or institutions of higher education as described in section 4 of article VIII of the state constitution of 1963, until written approval of the plans and specifications has been obtained from the bureau of

construction codes located within the department of labor indicating that the state owned facilities shall be designed and constructed in conformance with the state construction code. This subsection does not apply to any state owned facility for which construction commenced before December 30, 1980. The bureau of construction codes shall be the lead agency in the coordination and implementation of this subsection. The bureau of construction codes shall perform required plan reviews and inspections as required by the state construction code. Each department shall secure required plan approvals and permits from the bureau. Fees charged by the bureau for permits shall be in accordance with the commission's approved schedule of fees. State departments and institutions may allow local inspectors to inspect the construction of state owned facilities. However, an inspection conducted by a local inspector shall be of an advisory nature only.

(9) This section does not affect the responsibilities of the commission for administration and enforcement of this act pursuant to other sections of this act, or responsibilities pursuant to the fire prevention code, Act No. 207 of the Public Acts of 1941, as amended, being sections 29.1 to 29.33 of the Michigan Compiled Laws, except sections 6 and 7 of Act No. 207 of the Public Acts of 1941, as amended, being sections 29.6 and 29.7 of the Michigan Compiled Laws; Act No. 306 of the Public Acts of 1937, as amended, being sections 388.851 to 388.855a of the Michigan Compiled Laws; the fire fighters training council act of 1966, Act No. 291 of the Public Acts of 1966, as amended, being sections 29.361 to 29.377 of the Michigan Compiled Laws; Act No. 9 of the Public Acts of the First Extra Session of 1942, as amended, being sections 419.201 to 419.205 of the Michigan Compiled Laws; parts 215 and 217 of the public health code, Act No. 368 of the Public Acts of 1978, as amended, being sections 333.21501 to 333.21799e of the Michigan Compiled Laws; and section 58 of the social welfare act, Act No. 280 of the Public Acts of 1939, as amended, being section 400.58 of the Michigan Compiled Laws.

(10) Pursuant to parts 215 and 217 of Act No. 368 of the Public Acts of 1978, as amended, the directors of the department of labor, public health, and state police, or their designees, shall develop consistent construction standards for hospitals and nursing homes. These standards shall ensure that consistent, uniform, and equitable construction requirements and state supervision of the requirements are achieved and that unnecessary duplication is avoided. The commission shall delegate plan review and approval of health facility construction plans to the department of health. This subsection does not preclude a state agency or a governmental subdivision from conducting plan reviews or inspections necessary to ensure compliance with approved construction plans.

(11) Except as otherwise provided in this act, this act does not limit or restrict existing powers or authority of governmental subdivisions, and this act shall be enforced by governmental subdivisions in the manner prescribed by local law or ordinance. To the extent not inconsistent with this act, local laws and ordinances relating to administration and enforcement of construction regulations enacted before the effective date of the code by or for a governmental subdivision are applicable to administration and enforcement of the code in that governmental subdivision.

Sec. 23. (1) A person or corporation, including an officer, director, or employee of a corporation, or a governmental official or agent charged with the responsibility of issuing permits or inspecting buildings or structures, who does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 90 days, or both:

- (a) Knowingly violates this act or the code or a rule for the enforcement of this act or code.
- (b) Knowingly constructs or builds a structure or building in violation of a condition of a building permit.
- (c) Knowingly fails to comply with an order issued by an enforcing agency, a construction board of appeals, a board, or the commission pursuant to this act.
- (d) Knowingly makes a false or misleading written statement, or knowingly omits required information or a statement in an inspection report, application, petition, request for approval, or appeal to an enforcing agency, a construction board of appeals, a board, or the commission.
- (e) Knowingly refuses entry or access to an inspector lawfully authorized to inspect any premises, building, or structure pursuant to this act.
- (f) Unreasonably interferes with an authorized inspection.
- (g) Knowingly issues, fails to issue, causes to be issued, or assists in the issuance of a certificate, permit, or license in violation of this act or a rule promulgated under this act or other applicable laws.
- (h) Having a duty to report violations of this act or a rule promulgated under this act or other applicable laws, knowingly conceals a violation.

(2) With respect to subsection (1)(c), a person is guilty of a separate offense for each day that the person fails to comply with a stop construction order validly issued by an enforcing agency and for each week that the person fails to comply with any other order validly issued by an enforcing agency. With respect to subsection (1)(a) or (d), a person is guilty of a separate offense for each knowing violation of this act or a rule promulgated under this act and for each false or misleading written statement or omission of required information or statement knowingly made in an application, petition, request for approval, or appeal to an enforcing agency, a construction board of appeals, a board, or the

commission. With respect to subsection (1)(b), a person is guilty of a separate offense for each knowing violation of a condition of a building permit.

(3) If a governmental subdivision has the responsibility of administering and enforcing this act and prosecutes a violation of this act, the governmental subdivision may retain a fine imposed upon judgment or conviction.

Sec. 29. Except as otherwise provided in this act, this act does not abrogate or impair the power of a governmental subdivision or enforcing agency to enforce the provisions of the code or any other applicable construction regulations, or to prevent violations or impose sanctions on violators.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 348 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.