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Senate Bill 463 (as enrolled)  
Sponsor: Senator Leon Stille  
Senate Committee: Local, Urban and State Affairs  
House Committee: Regulatory Reform

**PUBLIC ACT 245 of 1999**

Date Completed: 6-16-00

### **RATIONALE**

Under the State Construction Code Act, the State Construction Code Commission is required to prepare and promulgate the State Construction Code, which consists of rules governing the construction, use, and occupation of buildings. The Act specifies that the Code applies throughout the State, except a local government may exempt itself from certain parts of the Act and the Code by adopting a nationally recognized model building code. Model codes include the Building Officials and Code Administrators (BOCA) Code and the Uniform Building Code compiled by the International Conference of Building Officials. Furthermore, a local government that adopts a nationally recognized model code may approve amendments to it. Some people believe, however, that permitting a local government to adopt and amend a nationally recognized model building code has resulted in a lack of uniformity of building codes across the State. It has been suggested, instead, that only one building code be enforced statewide.

### **CONTENT**

**The bill amended the State Construction Code Act to rename it the "Stille-DeRossett-Hale Single State Construction Code Act" and to provide for statewide application of the Act and the State Construction Code. The bill specifies, however, that the statewide code applies to the plumbing, electrical, mechanical, and building codes (in the Administrative Code) only upon the effective date of a particular code update promulgated after October 15, 1999.**

In addition, until the rules promulgated after October 15, 1999, to update each code take effect, the plumbing, electrical, mechanical, and building codes are subject to the Act's definition section (MCL 125.1502), and those sections on the State Construction Code Commission (MCL 125.1503), the statewide application of the Act and the Code and a local government's exemption from certain parts of the Act and the Code (MCL 125.1508), enforcement of the Act and the Code (MCL 125.1509), and

performance evaluations (MCL 125.1509a). These sections will be repealed on the effective date of the last rules updating these codes after October 15, 1999. (The bill reenacts provisions similar to the sections that will be repealed, without references to local enforcement.)

Under the Act, the Commission is required to promulgate the Code, and the Code consists of nationally recognized model building codes, other nationally recognized model codes and standards, and amendments, additions, or deletions to the building code or other codes and standards as the Commission determines appropriate. Under the bill, this continues to be true until the application of the bill's new provisions on the State Construction Code Commission, the statewide application of the Code, the Code's administration and enforcement, and a performance evaluation of an enforcing agency. (Under the bill, however, the Director of the Department of Consumer and Industry Services, rather than the Commission, is responsible for promulgating the Code and determining appropriate codes and standards.) After the date that the sections of the Act cited above are repealed, the Code will consist of the International Residential Code, the International Building Code, the International Mechanical Code, the International Plumbing Code published by the International Code Council, the National Electrical Code published by the National Fire Prevention Association, and the Michigan Uniform Energy Code with amendments, additions, or deletions as the Director determines appropriate.

The bill also makes changes to several of the reenacted provisions, as described below. Except in regard to the Construction Code Commission, the amendments described below took effect on December 28, 1999.

#### **Construction Code Commission**

Previously, the State Construction Code Commission included, among others, three members representing

municipal building inspection, one of whom enforced the Act and the Code, one of whom enforced the BOCA code, and one of whom enforced the international conference of building officials building code. The bill retains three members representing municipal building inspection, but does not designate the specific members.

### Appeals

The Act specifies certain provisions that apply throughout the State without local modifications. The bill adds to these, the Act's provisions on appeals to the State Construction Code Commission (MCL 125.1516), the effect of appeals on stop construction orders (MCL 125.1517), and claims of appeals filed with the Court of Appeals (MCL 125.1518).

### Agricultural Buildings

The bill states that, notwithstanding the Act's provisions on building permit applications, a permit is not required for a building that is 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 bill also specifies that the term "building" does not include a building, "whether temporary or permanent", 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.

### Stairwell Geometry

Notwithstanding any provision in the Act and until the promulgation of the complete building code update after October 15, 1999, the bill specifies that a governmental subdivision may not enforce a requirement for stairwell geometry in occupancies in use group R-3 structures and within dwelling units in occupancies in use group R-2 structures that differ from the stairwell geometry described in the bill.

("Stairwell geometry" refers to the configuration of a stairwell of a building in which the maximum riser height is eight and one-quarter inches (210 mm), the minimum tread depth is nine inches (229 mm), and a one-inch (25 mm) nosing on stairwells with solid risers. "Use group R-2 structures" means all multiple-family dwellings having more than two dwelling units including, but not limited to, boarding houses and similar buildings arranged for shelter and sleeping accommodations in which the occupants are primarily not transient in nature and dormitory facilities that accommodate more than five persons over two and one-half years of age. "Use group R-3 structures" means all buildings arranged for occupancy as one-family or two-family dwelling units including, but not limited to, not more than five lodgers or boarders per family; multiple single-family

dwellings where each unit has an independent means of egress and is separated by a two-hour fire separation assembly; and a child care facility that accommodates up to five children of any age.)

### Cost-Effective Energy Efficiency

The Act specifies that the Code is designed to effectuate the Act's general purposes and certain objectives and standards, including providing standards and requirements for cost-effective energy efficiency that took effect April 1, 1997; and, upon periodic review, continuing to seek ever-improving, cost-effective energy efficiencies.

Under the bill, "cost effective", in reference to the above provisions, means, using the existing energy efficiency standards and requirements as the base of comparison, the economic benefits of the proposed energy efficiency standards and requirements will exceed the economic costs of the requirements of the proposed rules based on an incremental multiyear analysis. The analysis must do the following: take into consideration the perspective of a typical first-time home buyer; consider benefits and costs over a seven-year time period; not assume fuel price increases in excess of the assumed general rate of inflation; assure that the buyer who qualifies to purchase a home before the addition of the energy efficient standards still qualifies to purchase the same home after the additional cost of the energy-saving construction features; and, assure that the costs of principal, interest, taxes, insurance, and utilities will not be greater after the inclusion of the proposed cost of the additional energy-saving construction features required by the proposed energy efficiency rules as opposed to the provisions of the existing energy efficiency rules.

### Local Fees

The Act requires the legislative body of a governmental subdivision to establish reasonable fees to be charged by the governmental subdivision for acts and services performed by the enforcing agency or construction board of appeals. The fees must bear a reasonable relation to the cost, including overhead, to the governmental subdivision of the acts and services. The enforcing agency must collect the fees established under the these provisions. Under the bill, the legislative body of a governmental subdivision may use the fees generated under these provisions only for the operation of the enforcing agency and/or the construction board of appeals, and may not use the fees for any other purpose.

### Performance Evaluation Program

The Act provides for the creation of a State Construction Code Fund, which is funded by fees for

services performed by the Construction Code Commission and is used to accomplish the Act's objectives. The bill deleted provisions that prohibited the Fund from being appropriated for the Bureau of Construction Code's performance evaluation program and complaint investigation program, and that required these programs to be funded by appropriations from the General Fund.

#### Other Provisions

The bill specifies that an enforcing agency is any official or agent of a governmental subdivision that is registered under the Building Officials and Inspectors Registration Act.

Under the bill, the Code must provide, where appropriate, for standards involving location and construction of ratwalls that are not less than those standards that existed on the bill's effective date.

MCL 125.1501 et al.

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

Since the Act has permitted local governments to exempt themselves from the State Construction Code and adopt, as well as amend, a nationally recognized model code, a builder who was constructing similar homes in two communities, for example, was subject to two different construction codes. While a builder may have wanted to construct homes that followed a standard design, modifications often have had to be made to comply with various local building codes. The lack of uniform construction requirements has resulted in increased construction costs and delays in the completion of some construction projects. The bill requires a statewide application of the State Construction Code. As a result, builders will have to comply with only one code, regardless of a development's location in the State. A uniform construction code will provide for more consistent enforcement, and may reduce costs not only for developers but also for local governments. Until now, a local government that elected not to be governed by certain parts of the Act and the Code has had to review and update its code at least once every three years. Under the bill, the State will be responsible for reviewing and updating the statewide code.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

#### **Supporting Argument**

Under the Act, a person may appeal a decision of a construction board of appeals to the State Construction Code Commission. The Attorney General ruled in 1998 (Opinion No. 6994) that the Act does not authorize appeals to the Commission from a board of appeals of a local government that exempted itself from enforcing the State Code. Under the bill, the right of appeal to the Commission applies to builders throughout the State, whether they are working under the State Code or a locally adopted national code.

#### **Opposing Argument**

Under the Act, local governments have been able to modify a construction code to address local construction conditions, such as snow loads on roofs. By requiring the statewide application of a construction code, the bill prevents local governments from making modifications to a building code that are appropriate for their communities.

**Response:** According to officials at the Department of Consumer and Industry Services, many of the changes local governments have made to a national code have not been substantially different from the requirements found in the State Code. In its building foundation requirements, for example, the State Code already takes into consideration the variety of soil conditions found across the State. The State also provides for various winter conditions and snow accumulations in regard to snow load requirements for roofs. In addition, many construction restrictions that builders must follow, such as the use of brick instead of aluminum siding on homes, are not the result of construction code limitations, but are imposed by private developers. Furthermore, the bill does not end local enforcement of construction codes. Local governments still have the option of creating or maintaining a building department.

Legislative Analyst: L. Arasim

#### **FISCAL IMPACT**

This bill may result in savings at the local level as local governments have been required to update their codes every three years. This bill transfers that responsibility to the State, therefore reducing an administrative burden on local governments.

Fiscal Analyst: M. Tyszkiewicz