

Act No. 164
Public Acts of 2001
Approved by the Governor
November 6, 2001
Filed with the Secretary of State
November 7, 2001
EFFECTIVE DATE: November 7, 2001

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Reps. DeRossett and Woronchak

ENROLLED HOUSE BILL No. 4771

AN ACT to amend 1972 PA 230, entitled "An act to create a construction code commission and prescribe its functions; to authorize the director to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to prescribe energy conservation standards for the construction of certain buildings; 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 for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish penalties, remedies, and sanctions for violations of the act; to repeal acts and parts of acts; and to provide an appropriation," by amending section 16 (MCL 125.1516).

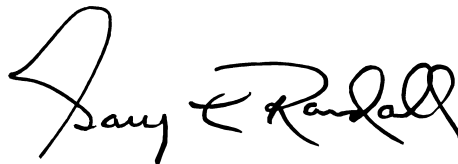
The People of the State of Michigan enact:

Sec. 16. (1) An interested person, or the interested person's authorized agent, may appeal a decision of a board of appeals to the commission within 10 business days after filing of the decision with the enforcing agency or, in case of an appeal because of failure of a board of appeals to act within the prescribed time, at any time before filing of the decision. The hearing of an appeal based on the denial of a request for a variance by a board of appeals is within the sole discretion of the commission. If deciding an appeal, the commission may act either as a whole or by a panel of 3 or more of the commission members designated by the commission's chairperson to hear and decide the appeal. A majority of a panel constitutes a quorum and a decision by a panel requires concurrence of at least a majority of the panel's members. If an appeal has been presented to the commission within the time prescribed, the appeal shall be heard de novo by the commission. The commission may affirm, modify, or reverse a decision of the board of appeals or the enforcing agency. Except if modified or reversed by a court of competent jurisdiction, a decision of the commission made under this section is binding on the applicant and the affected board of appeals and enforcing agency. An appeal to the commission shall be decided within 30 days after receipt of the appeal by the commission. A copy of the decision and a statement of reasons for the decision shall be sent to the applicant and filed with the affected board of appeals and enforcing agency within 5 business days after the making of the decision. A record of decisions made by the commission under this section, properly indexed, shall be kept in the office of the commission, and be open to public inspection during business hours in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) Notwithstanding subsection (1), the executive director of the commission shall refer an appeal to the commission under subsection (1) which in the executive director's judgment relates principally to a mechanical, plumbing, electrical, or barrier free design matter to the appropriate board. The board shall hear and decide the appeal in the same manner as an appeal is heard and decided by the commission under this section, except that a board shall meet as a whole and not in a panel. A person aggrieved by a decision of a board on any appeal under this subsection may petition the commission to review the decision. The commission shall act on the petition within 5 business days after receipt, and

may grant the petition at the commission's discretion except that the commission shall grant the petition if it appears that the appeal involves a question of major significance to the people of this state and that the case of the appellant has substantial merit. If the commission grants the petition, the commission acting as a whole shall review the decision in accordance with a procedure established by the commission's rules.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.