

HOUSE BILL No. 5223

November 4, 2003, Introduced by Reps. Huizenga, McConico, Tobocman, Gaffney, Howell and Daniels and referred to the Committee on Judiciary.

A bill to amend 1972 PA 230, entitled "Stille-DeRossett-Hale single state construction code act," by amending sections 8b, 23, and 23a (MCL 125.1508b, 125.1523, and 125.1523a), section 8b as added by 1999 PA 245, section 23 as amended by 1994 PA 22, and section 23a as added by 1989 PA 135.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8b. (1) Except as otherwise provided in this section,
2 the director is responsible for administration and enforcement of
3 this act and the code. A governmental subdivision may by
4 ordinance assume responsibility for administration and
5 enforcement of this act within its political boundary. A county
6 ordinance adopted pursuant to this act shall be adopted by the
7 county board of commissioners and shall be signed by the
8 chairperson of the county board of commissioners and certified by
9 the county clerk.

1 (2) A governmental subdivision that has assumed the
2 responsibility for administering and enforcing this act and the
3 code may, through its chief legal officer, issue a complaint and
4 obtain a warrant for a violation of this act or the code and
5 prosecute the violation with the same power and authority it
6 possesses in prosecuting a local ordinance violation. If,
7 pursuant to section 23, a governmental subdivision has by
8 ordinance designated a violation of the act or code as a
9 municipal civil infraction, the governmental subdivision may
10 issue a citation or municipal ordinance violation notice pursuant
11 to chapter 87 of the revised judicature act of 1961, 1961 PA 236,
12 MCL 600.8701 to 600.8735, for a violation of the act or code.
13 **If, pursuant to section 23, a governmental subdivision has by**
14 **ordinance designated a violation of this act or the code as a**
15 **quality of life violation, the governmental subdivision may issue**
16 **and serve upon an alleged violator a written violation notice as**
17 **provided by statute or ordinance.** Unless otherwise provided by
18 local law or ordinance, the legislative body of a governmental
19 subdivision responsible for administration and enforcement of
20 this act and the code shall designate an enforcing agency that
21 shall discharge the responsibilities of the governmental
22 subdivision under this act. Governmental subdivisions may
23 provide by agreement for joint enforcement of this act.

24 (3) Subject to the other provisions of this act, an enforcing
25 agency is any official or agent of a governmental subdivision
26 that is registered under the building officials and inspectors
27 registration act, 1986 PA 54, MCL 338.2301 to 338.2313, qualified

1 by experience or training to perform the duties associated with
2 construction code administration and enforcement.

3 (4) Before ~~the effective date of this section~~ **December 28,**
4 **1999**, the director shall provide each governmental subdivision
5 administering and enforcing this act and the code with a notice
6 of intent form. This form shall set forth the date return
7 receipt is required, which date shall not be less than 60 days.
8 The chief elected official of the governmental subdivision that
9 receives this notice shall indicate on the form the intention of
10 the governmental subdivision as to whether it shall continue to
11 administer and enforce this act and the code and transmit this
12 notice to the director within the prescribed period. If a
13 governmental subdivision fails to submit a notice of intent to
14 continue to administer and enforce this act and the code within
15 the date set forth in the notice, the director shall send a
16 notice by registered mail to the clerk of that governmental
17 subdivision. This notice shall indicate that the governmental
18 subdivision has 15 additional days in which to submit a notice of
19 intent to continue to administer and enforce this act and the
20 code. If the governmental subdivision does not respond by the
21 end of the 15 additional days, it shall be conclusively presumed
22 that the governmental subdivision does not intend to continue to
23 administer and enforce this act and the code and the director
24 shall assume the responsibility for administering and enforcing
25 this act and the code in that governmental subdivision, unless
26 the county within which the governmental subdivision is located
27 submits a notice of intent to continue to administer and enforce

1 this act and the code.

2 (5) A county that is administering and enforcing this act and
3 the code on ~~the effective date of this section~~ **December 28,**
4 **1999** and that submits a notice of intent to continue to
5 administer and enforce this act and the code pursuant to
6 subsection (4) is responsible for the administration and
7 enforcement of this act and the code for each governmental
8 subdivision within the county that does not submit a notice of
9 intent to continue to administer and enforce this act and the
10 code. The director shall notify the county of those governmental
11 subdivisions that do not submit a notice of intent.

12 (6) A governmental subdivision that, before ~~the effective~~
13 ~~date of this section~~ **December 28, 1999**, did not administer and
14 enforce this act and the code may elect to assume the
15 responsibility for the administration and enforcement of this act
16 and the code pursuant to subsection (1) by the passage of an
17 ordinance to that effect. A governmental subdivision that makes
18 this election after ~~the effective date of this section~~ **December**
19 **28, 1999** shall submit, in addition to the ordinance, an
20 application to the commission for approval to administer and
21 enforce this act and the code within its jurisdiction. This
22 application shall be made on the proper form to be provided by
23 the commission. The standards for approval shall include, but
24 not be limited to, the certification by the governmental
25 subdivision that the enforcing agency is qualified by experience
26 or training to administer and enforce this act and the code and
27 all related acts and rules, that agency personnel are provided as

1 necessary, that administrative services are provided, that plan
2 review services are provided, and that timely field inspection
3 services will be provided. The director shall seek additional
4 information if the director considers it necessary. The
5 commission shall render a decision on the application for
6 approval to administer and enforce this act and the code and
7 transmit its findings to the governmental subdivision within 90
8 days of receipt of the application. The commission shall
9 document its reasons, if the commission disapproves an
10 application. A governmental subdivision that receives a
11 disapproval may resubmit its application for approval. Upon
12 receipt of approval from the commission for the administration
13 and enforcement of this act and the code, the governmental
14 subdivision shall administer and enforce this act and the code
15 within its jurisdiction pursuant to the provisions of this act
16 and the application.

17 (7) A governmental subdivision that elects to administer and
18 enforce this act and the code within its jurisdiction by the
19 adoption of an ordinance may rescind that ordinance and transfer
20 the responsibility for the administration and enforcement of this
21 act and the code to the director. The director shall assume the
22 responsibility for administering and enforcing this act and the
23 code in that governmental subdivision, unless the county within
24 which that governmental subdivision is located has submitted a
25 notice of intent to continue to administer and enforce the code.
26 However, that action shall not take effect until 12 months after
27 the passage of an ordinance to that effect. A structure

1 commenced under an effective code shall be completed under that
2 code.

3 (8) The director is responsible for administration and
4 enforcement of this act and the code for buildings and structures
5 that are not under the responsibility of an enforcing agency in
6 those governmental subdivisions that elect to administer and
7 enforce this act and the code. A building or structure owned by
8 the state shall not be erected, remodeled, or reconstructed in
9 the state, except school buildings or facilities or institutions
10 of higher education as described in section 4 of article VIII of
11 the state constitution of 1963, until written approval of the
12 plans and specifications has been obtained from the bureau of
13 construction codes located within the department indicating that
14 the state owned facilities shall be designed and constructed in
15 conformance with the state construction code. The bureau of
16 construction codes shall be the lead agency in the coordination
17 and implementation of this subsection. The bureau of
18 construction codes shall perform required plan reviews and
19 inspections as required by the state construction code. Each
20 department shall secure required plan approvals and permits from
21 the bureau. Fees charged by the bureau for permits shall be in
22 accordance with the commission's approved schedule of fees.
23 State departments and institutions may allow local inspectors to
24 inspect the construction of state owned facilities. However, an
25 inspection conducted by a local inspector shall be of an advisory
26 nature only.

27 (9) This section does not affect the responsibilities of the

1 commission for administration and enforcement of this act under
2 other sections of this act, or responsibilities under the fire
3 prevention code, 1941 PA 207, MCL 29.1 to 29.34, except sections
4 6 and 7 of the fire prevention code, 1941 PA 207, MCL 29.6 and
5 29.7; 1937 PA 306, MCL 388.851 to 388.855a; the fire fighters
6 training council act of 1966, 1966 PA 291, MCL 29.361 to 29.377;
7 1942 (1st Ex Sess) PA 9, MCL 419.201 to 419.205; parts 215 and
8 217 of the public health code, 1978 PA 368, MCL 333.21501 to
9 333.21799e; and section 58 of the social welfare act, 1939
10 PA 280, MCL 400.58.

11 (10) Pursuant to parts 215 and 217 of the public health code,
12 1978 PA 368, MCL 333.21501 to 333.21799e, the director shall
13 develop consistent construction standards for hospitals and
14 nursing homes. These standards shall ensure that consistent,
15 uniform, and equitable construction requirements and state
16 supervision of the requirements are achieved. This subsection
17 does not preclude a state agency or a governmental subdivision
18 from conducting plan reviews or inspections necessary to ensure
19 compliance with approved construction plans.

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

1 are applicable to administration and enforcement of the code in
2 that governmental subdivision.

3 Sec. 23. (1) Except as provided in subsection (3), a person
4 or corporation, including an officer, director, or employee of a
5 corporation, or a governmental official or agent charged with the
6 responsibility of issuing permits or inspecting buildings or
7 structures, who does any of the following is guilty of a
8 misdemeanor punishable by a fine of not more than \$500.00 or
9 imprisonment for not more than 90 days, or both:

10 (a) Knowingly violates this act or the code or a rule for the
11 enforcement of this act or code.

12 (b) Knowingly constructs or builds a structure or building in
13 violation of a condition of a building permit.

14 (c) Knowingly fails to comply with an order issued by an
15 enforcing agency, a construction board of appeals, a board, or
16 the commission pursuant to this act.

17 (d) Knowingly makes a false or misleading written statement,
18 or knowingly omits required information or a statement in an
19 inspection report, application, petition, request for approval,
20 or appeal to an enforcing agency, a construction board of
21 appeals, a board, or the commission.

22 (e) Knowingly refuses entry or access to an inspector
23 lawfully authorized to inspect any premises, building, or
24 structure pursuant to this act.

25 (f) Unreasonably interferes with an authorized inspection.

26 (g) Knowingly issues, fails to issue, causes to be issued, or
27 assists in the issuance of a certificate, permit, or license in

1 violation of this act or a rule promulgated under this act or
2 other applicable laws.

3 (h) Having a duty to report violations of this act or a rule
4 promulgated under this act or other applicable laws, knowingly
5 conceals a violation.

6 (2) With respect to subsection (1)(c), a person is guilty of
7 a separate offense for each day that the person fails to comply
8 with a stop construction order validly issued by an enforcing
9 agency and for each week that the person fails to comply with any
10 other order validly issued by an enforcing agency. With respect
11 to subsection (1)(a) or (d), a person is guilty of a separate
12 offense for each knowing violation of this act or a rule
13 promulgated under this act and for each false or misleading
14 written statement or omission of required information or
15 statement knowingly made in an application, petition, request for
16 approval, or appeal to an enforcing agency, a construction board
17 of appeals, a board, or the commission. With respect to
18 subsection (1)(b), a person is guilty of a separate offense for
19 each knowing violation of a condition of a building permit.

20 (3) If a governmental subdivision has the responsibility of
21 administering and enforcing this act and prosecutes a violation
22 of this act, the governmental subdivision may retain a fine
23 imposed upon conviction. If a governmental subdivision has the
24 responsibility of administering and enforcing this act, the
25 governmental subdivision may by ordinance ~~designate~~ **do either**
26 **of the following:**

27 (a) **Designate** a violation described in subsection (1) or (2)

1 as a municipal civil infraction and provide a civil fine for the
2 violation. The governmental subdivision may retain the civil
3 fine imposed upon judgment.

4 **(b) Designate a violation described in subsection (1) or (2)**
5 **as a quality of life violation and impose a civil fine or other**
6 **sanction authorized by law if the governmental subdivision**
7 **establishes an administrative hearings bureau pursuant to statute**
8 **to adjudicate and impose sanctions for qualify of life**
9 **violations. The governmental subdivision may retain the civil**
10 **fine imposed by the bureau. A governmental subdivision shall not**
11 **designate a violation described in subsection (1) or (2) as both**
12 **a municipal civil infraction and a quality of life violation.**

13 Sec. 23a. (1) In addition to any other penalties or
14 remedies provided by law, a person who is required to be licensed
15 as a residential builder or residential maintenance and
16 alteration contractor, or as a master or journeyman plumber, an
17 electrical contractor or master or journeyman electrician, or a
18 mechanical contractor shall not perform work on a residential
19 building or a residential structure without first obtaining a
20 license. A person who violates this section is responsible for a
21 civil violation, and shall be fined not less than \$100.00 or more
22 than \$500.00.

23 (2) The prosecuting attorney of the county in which the
24 residential building or residential structure is located or the
25 attorney general may enforce this section.

26 **(3) If a governmental subdivision has the responsibility of**
27 **administering and enforcing this act and prosecutes a violation**

1 of this section, the governmental subdivision may retain a fine
2 imposed upon conviction. If a governmental subdivision has the
3 responsibility of administering and enforcing this act, the
4 governmental subdivision may by ordinance do either of the
5 following:

6 (a) Designate the violation described in this section as a
7 municipal civil infraction and provide a civil fine for the
8 violation. The governmental subdivision may retain the civil
9 fine imposed upon judgment.

10 (b) Designate the violation described in this section as a
11 quality of life violation and impose a civil fine or other
12 sanction authorized by law if the governmental subdivision
13 establishes an administrative hearings bureau pursuant to statute
14 to adjudicate and impose sanctions for quality of life
15 violations. The governmental subdivision may retain the civil
16 fine imposed by the bureau. A governmental subdivision shall not
17 designate the violation described in this section as both a
18 municipal civil infraction and a quality of life violation.