

HOUSE BILL No. 6140

September 9, 2004, Introduced by Rep. Stakoe and referred to the Committee on Regulatory Reform.

A bill to amend 1986 PA 54, entitled
"Building officials and inspectors registration act,"
by amending section 10 (MCL 338.2310).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10. (1) Performing instructional duties for
2 educational purposes and providing contractual inspection and
3 consulting services in ~~construction~~ code enforcement ~~shall~~
4 **are** not ~~be~~ considered conflicts of interest.

5 ~~(2) An inspector shall not be permitted to inspect his or~~
6 ~~her own work in a governmental subdivision. As used in this~~
7 ~~subsection and subsection (3), "governmental subdivision" means~~
8 ~~governmental subdivision as defined in section 2(1)(t) of the~~
9 ~~state construction code act of 1972, Act No. 230 of the Public~~
10 ~~Acts of 1972, being section 125.1502 of the Michigan Compiled~~
11 ~~Laws.~~

1 (2) ~~-(3)-~~ A governmental subdivision may establish
2 additional requirements and restrictions in the selection and
3 hiring of ~~construction~~ code enforcement officials, inspectors,
4 and plan reviewers.

5 (3) ~~-(4)-~~ This act ~~shall~~ **does** not ~~be construed to~~ limit
6 or restrict the type of internal administrative organization an
7 enforcing agency may choose ~~—, or to—~~ **and does not** limit or
8 otherwise affect the authority of the enforcing agency to dismiss
9 or suspend a building official, inspector, or plan reviewer at
10 its discretion.

11 (4) A registrant shall not perform any activities for which
12 he or she is registered on any project if he or she has a
13 conflict of interest described in subsection (5).

14 (5) Each of the following circumstances is considered a
15 conflict of interest under this section:

16 (a) A registrant is directly or indirectly connected with a
17 business in which he or she is employed or acting as an
18 inspector, plan reviewer, or building official regarding that
19 business.

20 (b) A registrant has an interest directly or indirectly in
21 any written or verbal contract affecting the construction of any
22 building or structure or the furnishing of materials, appliances,
23 equipment, or labor affecting the construction of the building or
24 structure.

25 (c) A registrant has a personal ownership interest in all, or
26 a portion of, the business entity performing the work in the
27 construction of a building or structure for which the registrant

1 is making decisions in the administration and enforcement of
2 codes or standards.

3 (d) A registrant conducts inspections in a construction
4 project in which the registrant or the construction company
5 employing him or her sought work on the construction project.

6 (6) Within 30 days after a conflict of interest described in
7 subsection (5) is identified by, or reported to, an enforcing
8 agency, the enforcing agency shall report the claim of conflict
9 of interest to the chief elected official of the governmental
10 subdivision, or his or her designee, and request an investigation
11 of the claim. Within 30 days after receipt of a report filed
12 under this subsection, the chief elected official, or his or her
13 designee, shall conduct an investigation and file a report of the
14 findings to the bureau of construction codes and fire safety.

15 (7) If the investigation of the enforcing agency determines
16 the existence of a conflict of interest described in subsection
17 (5), the enforcing agency shall remove the registrant from the
18 responsibility of administering and enforcing the codes on the
19 specific project in which a conflict of interest has been
20 determined.

21 (8) Upon receipt of information by the bureau of construction
22 codes and fire safety that an enforcing agency has failed to
23 investigate a facially valid claim of conflict of interest or has
24 failed to take appropriate action under subsection (7) within 30
25 days after its receipt, the bureau of construction codes and fire
26 safety shall conduct a performance evaluation of the enforcing
27 agency and report its findings in writing to the commission

1 pursuant to section 9b of the code.

2 (9) If a person alleges that an enforcing agency has failed
3 to investigate a facially valid claim of conflict of interest or
4 alleges that the enforcing agency has failed to remove the
5 registrant from the responsibility of administering and enforcing
6 codes on a specific project when the enforcing agency had
7 determined that a conflict of interest exists, that person may
8 file a complaint with the bureau of construction codes and fire
9 safety requesting a performance evaluation. Upon the receipt of
10 a facially valid complaint filed pursuant to this subsection, the
11 bureau of construction codes and fire safety shall conduct a
12 performance evaluation and report the finding in writing to the
13 commission.

14 (10) If the commission determines that an enforcing agency
15 has failed to investigate a facially valid claim or failed to
16 take appropriate action against a registrant based upon a
17 determination of conflict of interest, the commission shall issue
18 a notice of intent to withdraw code enforcement responsibility
19 from the enforcing agency on the basis of failure to administer
20 and enforce the code and this act. An enforcing agency may
21 appeal the decision of the commission made under this subsection
22 pursuant to the provisions of the code.

23 (11) As used in this section, "governmental subdivision"
24 means that term as defined in section 2a of the code.

25 Enacting section 1. This amendatory act does not take
26 effect unless all of the following bills of the 92nd Legislature
27 are enacted into law:

1 (a) Senate Bill No. _____ or House Bill No. 6141 (request
2 no. 05947'03 a).

3 (b) Senate Bill No. _____ or House Bill No. 6142 (request
4 no. 05947'03 b).

5 (c) Senate Bill No. _____ or House Bill No. 6143 (request
6 no. 05947'03 c).