

# SENATE BILL No. 1200

May 13, 2004, Introduced by Senators CROPSEY, KUIPERS, McMANUS, BROWN and ALLEN and referred to the Committee on Commerce and Labor.

A bill to amend 1972 PA 230, entitled  
"Stille-DeRossett-Hale single state construction code act,"  
by amending sections 14 and 16 (MCL 125.1514 and 125.1516),  
section 16 as amended by 2001 PA 164.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 14. (1) A construction board of appeals for each  
2 governmental subdivision enforcing the code shall be created  
3 consisting of not less than 3 nor more than 7 members, as  
4 determined by the governing body of the governmental  
5 subdivision. Unless otherwise provided by local law or  
6 ordinance, the members of the board of appeals shall be appointed  
7 for 2-year terms by the chief executive officer of a city,  
8 village, or township and the chairperson of the county board of  
9 commissioners of a county. A member of the board of appeals  
10 shall be qualified by experience or training to perform the

1 duties of members of the board of appeals. A person may serve on  
2 the board of appeals of more than 1 governmental subdivision. If  
3 an enforcing agency refuses to grant an application for a  
4 building permit, or if the enforcing agency makes any other  
5 decision pursuant or related to this act, or the code, an  
6 interested person, or the person's authorized agent, may appeal  
7 in writing to the board of appeals **or to the commission.** The  
8 board of appeals shall hear the appeal and render and file its  
9 decision with a statement of reasons for the decision with the  
10 enforcing agency from whom the appeal was taken not more than 30  
11 days after submission of the appeal. ~~Failure~~ **In the case of an**  
12 **appeal to the board of appeals, failure** by the board of appeals  
13 to hear an appeal and file a decision within the time limit is a  
14 denial of the appeal for purposes of authorizing the institution  
15 of an appeal to the commission. A copy of the decision and  
16 statement of the reasons for the decision shall be delivered or  
17 mailed, before filing, to the party taking the appeal.

18 (2) This act does not prevent a governmental subdivision  
19 from granting its board of appeals additional powers or duties  
20 not inconsistent with this act, or from establishing procedures  
21 to be followed by its board of appeals ~~insofar~~ **so long** as the  
22 procedures do not conflict with this act. Except as otherwise  
23 provided by this act ~~—~~ or by other laws or ordinances, a board  
24 of appeals may by rules establish its own procedures.

25 (3) The business which the board of appeals may perform  
26 shall be conducted at a public meeting of the board of appeals  
27 held in compliance with ~~Act No. 267 of the Public Acts of 1976~~

1 **the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.** Public  
2 notice of the time, date, and place of the meeting shall be given  
3 in the manner required by ~~Act No. 267 of the Public Acts of~~  
4 ~~1976~~ **the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.**

5 (4) A record of decisions made by the board of appeals,  
6 properly indexed, and any other writing prepared, owned, used, in  
7 the possession of, or retained by the board of appeals in the  
8 performance of an official function shall be made available to  
9 the public in compliance with ~~Act No. 442 of the Public Acts of~~  
10 ~~1976~~ **the freedom of information act, 1976 PA 442, MCL 15.231 to**  
11 **15.246.**

12 Sec. 16. (1) An interested person, or the interested  
13 person's authorized agent, may appeal a decision of a board of  
14 appeals to the commission within 10 business days after filing of  
15 the decision with the enforcing agency or, in case of an appeal  
16 because of failure of a board of appeals to act within the  
17 prescribed time, at any time before filing of the decision. **An**  
18 **interested person, or the interested person's authorized agent,**  
19 **has a right to directly appeal to the commission the refusal of**  
20 **an enforcing agency to grant an application for a building permit**  
21 **or other decision related to this act.** The hearing of an appeal  
22 based on the denial of a request for a variance by a board of  
23 appeals is within the sole discretion of the commission. If  
24 deciding an appeal, the commission may act either as a whole or  
25 by a panel of 3 or more of the commission members designated by  
26 the commission's chairperson to hear and decide the appeal. A  
27 majority of a panel constitutes a quorum and a decision by a

1 panel requires concurrence of at least a majority of the panel's  
2 members. If an appeal has been presented to the commission  
3 within the time prescribed, the appeal shall be heard de novo by  
4 the commission. The commission **shall issue a written decision**  
5 **and** may affirm, modify, or reverse a decision of the board of  
6 appeals or the enforcing agency, **if applicable**. Except if  
7 modified or reversed by a court of competent jurisdiction, a  
8 decision of the commission made under this section is binding on  
9 the applicant and the affected board of appeals and enforcing  
10 agency. An appeal to the commission shall be decided within 30  
11 days after receipt of the appeal by the commission. A copy of  
12 the decision and a statement of reasons for the decision shall be  
13 sent to the applicant and filed with the affected board of  
14 appeals and enforcing agency within 5 business days after the  
15 making of the decision. A record of decisions made by the  
16 commission under this section, properly indexed, shall be kept in  
17 the office of the commission, and be open to public inspection  
18 during business hours in compliance with the freedom of  
19 information act, 1976 PA 442, MCL 15.231 to 15.246.

20 (2) Notwithstanding subsection (1), the executive director  
21 of the commission shall refer an appeal to the commission under  
22 subsection (1) which in the executive director's judgment relates  
23 principally to a mechanical, plumbing, electrical, or barrier  
24 free design matter to the appropriate board. The board shall  
25 hear and decide the appeal in the same manner as an appeal is  
26 heard and decided by the commission under this section, except  
27 that a board shall meet as a whole and not in a panel. A person

1 aggrieved by a decision of a board on any appeal under this  
2 subsection may petition the commission to review the decision.  
3 The commission shall act on the petition within 5 business days  
4 after receipt, and may grant the petition at the commission's  
5 discretion except that the commission shall grant the petition if  
6 it appears that the appeal involves a question of major  
7 significance to the people of this state and that the case of the  
8 appellant has substantial merit. If the commission grants the  
9 petition, the commission acting as a whole shall review the  
10 decision in accordance with a procedure established by the  
11 commission's rules.