



HOUSE BILL No. 4904

May 25, 1995, Introduced by Rep. Cropsey and referred to the Committee on Regulatory Affairs.

A bill to amend section 9 of Act No. 230 of the Public Acts of 1972, entitled as amended

"State construction code act of 1972,"

as amended by Act No. 22 of the Public Acts of 1994, being section 125.1509 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 9 of Act No. 230 of the Public Acts of
2 1972, as amended by Act No. 22 of the Public Acts of 1994, being
3 section 125.1509 of the Michigan Compiled Laws, is amended to
4 read as follows:

5 Sec. 9. (1) Except as otherwise provided in this section,
6 the executive director is responsible for administration and
7 enforcement of this act and the code. A governmental subdivision
8 may by ordinance assume responsibility for administration and
9 enforcement of this act within its political boundary. A county

1 ordinance adopted pursuant to this ~~act~~ SUBSECTION shall be
2 adopted by the county board of commissioners, ~~and shall be~~
3 signed by the chairperson of the county board of commissioners,
4 and certified by the county clerk.

5 (2) A governmental subdivision that has assumed the respon-
6 sibility for administering and enforcing this act and the code
7 may through its chief legal officer issue a complaint and obtain
8 a warrant for a violation of this act or the code and prosecute
9 the violation ~~with the same power and authority it possesses~~ IN
10 THE SAME MANNER AS in prosecuting a local ordinance violation.
11 If pursuant to section 23, a governmental subdivision has by
12 ordinance designated a violation of ~~the~~ THIS act or code as a
13 municipal civil infraction, the governmental subdivision may
14 issue a citation or municipal ordinance violation notice pursuant
15 to chapter 87 of the revised judicature act of 1961, Act No. 236
16 of the Public Acts of 1961, being sections 600.8701 to 600.8733
17 of the Michigan Compiled Laws. ~~, for a violation of the act or~~
18 ~~code.~~ Unless otherwise provided by local law or ordinance, the
19 legislative body of a governmental subdivision responsible for
20 administration and enforcement of this act and the code shall
21 designate an enforcing agency ~~that shall~~ TO discharge the
22 responsibilities of the governmental subdivision under this act.
23 Governmental subdivisions may provide by agreement for joint
24 enforcement of this act.

25 (3) Subject to the other provisions of this act, an enforc-
26 ing agency is ~~any~~ AN official or agent of a governmental
27 subdivision qualified by experience or training. ~~to perform the~~

1 ~~duties associated with construction code administration and~~
2 ~~enforcement.~~ THE AGENCY OR PUBLIC OFFICIAL ACTING AS THE AGENCY
3 TO ADMINISTER AND ENFORCE THE CODE IS THE FINAL DECISION MAKING
4 AUTHORITY WITHIN THE GOVERNMENTAL SUBDIVISION FOR THE ISSUANCE
5 AND REVOCATION OF PERMITS, CORRECTION NOTICES, CERTIFICATES OF
6 OCCUPANCY, STOP WORK NOTICES, AND OTHER ACTIONS PROVIDED BY THIS
7 ACT AND THE CODE. FOR EACH TRADE THAT THE GOVERNMENTAL SUBDIVI-
8 SION ADMINISTERS, THE AGENCY OR PUBLIC OFFICIAL SHALL EITHER BE
9 REGISTERED UNDER THE BUILDING OFFICIALS AND INSPECTORS REGISTRA-
10 TION ACT, ACT NO. 54 OF THE PUBLIC ACTS OF 1986, BEING
11 SECTIONS 338.2301 TO 338.2313 OF THE MICHIGAN COMPILED LAWS, OR
12 MAKE ITS DECISIONS BASED ON THE TECHNICAL ADVICE AND ASSISTANCE
13 OF REGISTERED INSPECTORS AND PLAN REVIEWERS.

14 ~~(4) Before January 10, 1981, the executive director shall~~
15 ~~provide each governmental subdivision administering and enforcing~~
16 ~~this act and the code with a notice of intent form. This form~~
17 ~~shall set forth the date return receipt is required, which date~~
18 ~~shall not be less than 60 days. The chief elected official of~~
19 ~~the governmental subdivision that receives this notice shall~~
20 ~~indicate on the form the intention of the governmental subdivi-~~
21 ~~sion as to whether it shall continue to administer and enforce~~
22 ~~this act and the code and transmit this notice to the executive~~
23 ~~director within the prescribed period. If a governmental subdi-~~
24 ~~vision fails to submit a notice of intent to continue to adminis-~~
25 ~~ter and enforce this act and the code within the date set forth~~
26 ~~in the notice, the executive director shall send a notice by~~
27 ~~registered mail to the clerk of that governmental subdivision.~~

~~This notice shall indicate that the governmental subdivision has 15 additional days in which to submit a notice of intent to continue to administer and enforce this act and the code. If the governmental subdivision does not respond by the end of the 15 additional days, it shall be conclusively presumed that the governmental subdivision does not intend to continue to administer and enforce this act and the code and the executive director shall assume the responsibility for administering and enforcing this act and the code in that governmental subdivision, unless the county within which the governmental subdivision is located submits a notice of intent to continue to administer and enforce this act and the code.~~

(4) ~~(5)~~ A county that is administering and enforcing this act and the code ~~on December 30, 1980 and that submits a notice of intent to continue to administer and enforce this act and the code pursuant to subsection (4)~~ is responsible for the administration and enforcement of this act and the code for each governmental subdivision within the county ~~that does not submit a notice of intent to continue to~~ THAT DOES NOT administer and enforce this act and the code or another nationally recognized model code within its jurisdiction. ~~The executive director shall notify the county of those governmental subdivisions that do not submit a notice of intent.~~

(5) ~~(6)~~ A governmental subdivision that ~~before~~ December 30, 1980, ~~did~~ DOES not administer and enforce ~~either~~ this act and the code or another nationally recognized model code may elect to assume the responsibility for the administration and

1 enforcement of this act and the code pursuant to subsection (1)
2 by the passage of an ordinance. ~~to that effect.~~ A governmental
3 subdivision that makes this election after ~~December 30, 1980~~
4 shall submit, in addition to the ordinance, an application to the
5 commission for approval to administer and enforce this act and
6 the code within its jurisdiction. This application shall be made
7 on the proper form to be provided by the commission. The stan-
8 dards for approval shall include, but not be limited to, the cer-
9 tification by the governmental subdivision that the enforcing
10 agency is qualified by experience or training to administer and
11 enforce this act and the code and all related acts and rules,
12 that agency personnel are provided as necessary, that administra-
13 tive services are provided, that plan review services are pro-
14 vided, and that timely field inspection services ~~will be~~ ARE
15 provided. The executive director ~~shall seek~~ MAY REQUEST addi-
16 tional information if ~~the executive director~~ HE OR SHE consid-
17 ers it necessary.

18 (6) The commission shall render a decision on the applica-
19 tion for approval to administer and enforce this act and the code
20 and transmit its findings to the governmental subdivision within
21 90 days ~~of~~ AFTER receipt of the application. ~~The commission~~
22 ~~shall document its reasons, if~~ IF the commission disapproves an
23 application, THE COMMISSION SHALL DOCUMENT ITS REASONS. A gov-
24 ernmental subdivision that receives a disapproval may resubmit
25 its application for approval. Upon receipt of approval from the
26 commission for the administration and enforcement of this act and
27 the code, the governmental subdivision shall administer and

1 enforce this act and the code within its jurisdiction. ~~pursuant~~
2 ~~to the provisions of this act and the application.~~

3 (7) A governmental subdivision that elects to administer and
4 enforce this act and the code within its jurisdiction by the
5 adoption of an ordinance may rescind that ordinance and transfer
6 the responsibility for the administration and enforcement of this
7 act and the code to the executive director. The executive direc-
8 tor shall assume the responsibility for administering and enforc-
9 ing this act and the code in that governmental subdivision,
10 unless the county within which that governmental subdivision is
11 located ~~has submitted a notice of intent to continue~~ IS
12 AUTHORIZED to administer and enforce the code. However, that
13 action shall not take effect until 12 months after the passage of
14 an ordinance to that effect. A structure commenced under an
15 effective code shall be completed under that code.

16 (8) The executive director is responsible for administration
17 and enforcement of this act and the code for buildings and struc-
18 tures that are not under the responsibility of an enforcing
19 agency in those governmental subdivisions that elect to adminis-
20 ter and enforce this act and the code or another nationally rec-
21 ognized model code. A building or structure owned by the state
22 shall not be erected, remodeled, or reconstructed in the state,
23 ~~after December 30, 1980,~~ except school buildings ~~or~~ AND
24 facilities or institutions of higher education as described in
25 section 4 of article VIII of the state constitution of 1963,
26 until written approval of the plans and specifications has been
27 obtained from the bureau of construction codes located within the

1 department of labor indicating that the state owned facilities
2 shall be designed and constructed in conformance with the state
3 construction code. ~~This subsection does not apply to any state~~
4 ~~owned facility for which construction commenced before~~
5 ~~December 30, 1980.~~ The bureau of construction codes ~~shall be~~
6 IS the lead agency in the coordination and implementation of this
7 subsection. The bureau of construction codes shall perform
8 required plan reviews and inspections as required by the state
9 construction code. Each department shall secure required plan
10 approvals and permits from the bureau. Fees charged by the
11 bureau for permits shall be in accordance with the commission's
12 approved schedule of fees. State departments and institutions
13 may allow local inspectors to inspect the construction of state
14 owned facilities. ~~However, an~~ AN inspection conducted by a
15 local inspector ~~shall be~~ IS of an advisory nature only.

16 (9) This section does not affect the responsibilities of the
17 commission for administration and enforcement of this act
18 ~~pursuant to~~ UNDER ANY other sections of this act, or
19 ~~responsibilities pursuant to~~ UNDER the fire prevention code,
20 Act No. 207 of the Public Acts of 1941, ~~as amended,~~ being sec-
21 tions 29.1 to 29.33 of the Michigan Compiled Laws, except sec-
22 tions 6 and 7 of Act No. 207 of the Public Acts of 1941, ~~as~~
23 ~~amended,~~ being sections 29.6 and 29.7 of the Michigan Compiled
24 Laws, ~~—~~ OR AFFECT THE COMMISSION'S RESPONSIBILITIES UNDER Act
25 No. 306 of the Public Acts of 1937, ~~as amended,~~ being sections
26 388.851 to 388.855a of the Michigan Compiled Laws, ~~—~~ the fire
27 fighters training council act of 1966, Act No. 291 of the Public

1 Acts of 1966, ~~as amended,~~ being sections 29.361 to 29.377 of
2 the Michigan Compiled Laws, ~~—~~ Act No. 9 of the Public Acts of
3 the First Extra Session of 1942, ~~as amended,~~ being sections
4 419.201 to 419.205 of the Michigan Compiled Laws, ~~—~~ parts 215
5 and 217 of the public health code, Act No. 368 of the Public
6 Acts of 1978, ~~as amended,~~ being sections 333.21501 to
7 333.21799e of the Michigan Compiled Laws, ~~—~~ and section 58 of
8 the social welfare act, Act No. 280 of the Public Acts of 1939,
9 ~~as amended,~~ being section 400.58 of the Michigan Compiled
10 Laws.

11 (10) Pursuant to parts 215 and 217 of Act No. 368 of the
12 Public Acts of 1978, ~~as amended,~~ the directors of the
13 ~~department~~ DEPARTMENTS of labor, public health, and state
14 police ~~—~~ or their designees ~~—~~ shall develop consistent con-
15 struction standards for hospitals and nursing homes. These stan-
16 dards shall ensure that consistent, uniform, and equitable con-
17 struction requirements and state supervision of the
18 ~~requirements~~ CONSTRUCTION are achieved and that unnecessary
19 duplication is avoided. The commission shall delegate plan
20 review and approval of health facility construction plans to the
21 department of health. This subsection does not preclude a state
22 agency or a governmental subdivision from conducting plan reviews
23 or inspections necessary to ensure compliance with approved con-
24 struction plans.

25 (11) Except as otherwise provided in this act, this act does
26 not limit or restrict existing powers or authority of
27 governmental subdivisions ~~—~~ and this act shall be enforced by

1 governmental subdivisions in the manner prescribed by local law
2 or ordinance. To the extent not inconsistent with this act,
3 local laws and ordinances relating to THE administration and
4 enforcement of construction regulations enacted before ~~the~~
5 ~~effective date of the code by or for~~ JANUARY 1, 1973 BY a gov-
6 ernmental subdivision ~~are applicable~~ APPLY to THE administra-
7 tion and enforcement of the code in that governmental
8 subdivision.