



HOUSE BILL No. 5262

October 17, 1995, Introduced by Reps. Cropsey, Voorhees, Dalman, McBryde, DeMars, McNutt, Geiger, Horton and Llewellyn and referred to the Committee on Regulatory Affairs.

A bill to amend sections 9 and 14 of Act No. 230 of the Public Acts of 1972, entitled as amended "State construction code act of 1972," section 9 as amended by Act No. 22 of the Public Acts of 1994, being sections 125.1509 and 125.1514 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 9 and 14 of Act No. 230 of the Public
2 Acts of 1972, section 9 as amended by Act No. 22 of the Public
3 Acts of 1994, being sections 125.1509 and 125.1514 of the
4 Michigan Compiled Laws, are amended to 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~~ SHALL ADMINISTER AND ENFORCE this act and the
8 code.

1 (2) A governmental subdivision may by ordinance assume
2 responsibility for administration and enforcement of this act
3 within its political boundary. A county ordinance adopted
4 ~~pursuant to~~ UNDER this ~~act~~ SUBSECTION shall be adopted by the
5 county board of commissioners, ~~and shall be~~ signed by the
6 chairperson of the county board of commissioners, and certified
7 by the county clerk.

8 (3) ~~(2)~~ A governmental subdivision that has assumed the
9 responsibility for administering and enforcing this act and the
10 code may through its chief legal officer issue a complaint and
11 obtain a warrant for a violation of this act or the code and
12 prosecute the violation ~~with the same power and authority it~~
13 ~~possesses~~ IN THE SAME MANNER in prosecuting a local ordinance
14 violation. If ~~pursuant to~~ UNDER section 23, a governmental
15 subdivision has by ordinance designated a violation of ~~the~~ THIS
16 act or code as a municipal civil infraction, the governmental
17 subdivision may issue a citation or municipal ordinance violation
18 notice ~~pursuant to~~ UNDER chapter 87 of the revised judicature
19 act of 1961, Act No. 236 of the Public Acts of 1961, being sec-
20 tions 600.8701 to 600.8733 of the Michigan Compiled Laws. ~~for~~
21 ~~a violation of the act or code.~~ Unless otherwise provided by
22 local law or ordinance, the legislative body of a governmental
23 subdivision responsible for administration and enforcement of
24 this act and the code shall designate an enforcing agency ~~that~~
25 ~~shall~~ TO discharge the responsibilities of the governmental sub-
26 division under this act. Governmental subdivisions may provide
27 by agreement for joint enforcement of this act.

1 (4) ~~(3) Subject to the other provisions of this act, an~~ AN
2 enforcing agency is any official or PUBLIC agent of a governmen-
3 tal subdivision. ~~qualified by experience or training to perform~~
4 ~~the duties associated with construction code administration and~~
5 ~~enforcement.~~ THE OFFICIAL OR PUBLIC AGENT ACTING AS THE ENFORC-
6 ING AGENCY TO ADMINISTER AND ENFORCE THE CODE IS THE FINAL DECI-
7 SION MAKING AUTHORITY WITHIN THE GOVERNMENTAL SUBDIVISION FOR THE
8 ISSUANCE AND REVOCATION OF PERMITS, CORRECTION NOTICES, CERTIFI-
9 CATES OF OCCUPANCY, STOP WORK NOTICES, AND OTHER SIMILAR
10 ACTIONS. THE DECISION OF THE OFFICIAL OR PUBLIC AGENT IS APPEAL-
11 ABLE TO THE CONSTRUCTION BOARD OF APPEALS UNDER SECTION 14.

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

~~1 to administer and enforce this act and the code. If the
2 governmental subdivision does not respond by the end of the 15
3 additional days, it shall be conclusively presumed that the gov-
4 ernmental subdivision does not intend to continue to administer
5 and enforce this act and the code and the executive director
6 shall assume the responsibility for administering and enforcing
7 this act and the code in that governmental subdivision, unless
8 the county within which the governmental subdivision is located
9 submits a notice of intent to continue to administer and enforce
10 this act and the code.~~

11 (5) THE GOVERNMENTAL SUBDIVISION IN ADMINISTERING THE CODE
12 SHALL BASE ITS DECISION ON EITHER OF THE FOLLOWING:

13 (A) AN OFFICIAL OR PUBLIC AGENT THAT IS REGISTERED UNDER THE
14 BUILDING OFFICIALS AND INSPECTORS REGISTRATION ACT, ACT NO. 54 OF
15 THE PUBLIC ACTS OF 1986, BEING SECTIONS 338.2301 TO 338.2313 OF
16 THE MICHIGAN COMPILED LAWS.

17 (B) THE TECHNICAL ADVICE AND ASSISTANCE OF A PRIVATE ENTITY
18 OR INDIVIDUAL WHO IS A REGISTERED INSPECTOR OR PLAN REVIEWER.

19 (6) AN OFFICIAL OR PUBLIC AGENT SHALL NOT BE DIRECTLY OR
20 INDIRECTLY AN OFFICER, DIRECTOR, STOCKHOLDER, OR EMPLOYEE OF ANY
21 PRIVATE ENTITY OR INDIVIDUAL PROVIDING THE GOVERNMENTAL SUBDIVI-
22 SION WITH ADMINISTRATIVE, PLAN REVIEW, OR FIELD INSPECTION SERV-
23 ICES OR TECHNICAL ADVICE AND ASSISTANCE. AN OFFICIAL OR PUBLIC
24 AGENT SHALL NOT RECEIVE DIRECTLY OR INDIRECTLY ANY FEE, PERQUI-
25 SITE, REWARD, EMOLUMENT, OR OTHER COMPENSATION OR FINANCIAL BENE-
26 FIT FROM ANY PRIVATE ENTITY OR INDIVIDUAL PROVIDING THE

1 GOVERNMENTAL SUBDIVISION WITH ADMINISTRATIVE, PLAN REVIEW, OR
2 FIELD INSPECTION SERVICES OR TECHNICAL ADVICE AND ASSISTANCE.

3 (7) ~~-(5)-~~ A county that is administering and enforcing this
4 act and the code ~~on December 30, 1980 and that submits a notice~~
5 ~~of intent to continue to administer and enforce this act and the~~
6 ~~code pursuant to subsection (4)~~ is responsible for the adminis-
7 tration and enforcement of this act and the code for each govern-
8 mental subdivision within the county that does not ~~submit a~~
9 ~~notice of intent to continue to~~ administer and enforce this act
10 and the code or another nationally recognized model code within
11 its jurisdiction. ~~The executive director shall notify the~~
12 ~~county of those governmental subdivisions that do not submit a~~
13 ~~notice of intent.~~

14 (8) ~~-(6)-~~ A governmental subdivision that ~~, before~~
15 ~~December 30, 1980, did~~ DOES not administer and enforce ~~either~~
16 this act and the code or another nationally recognized model code
17 may elect to assume the responsibility for the administration and
18 enforcement of this act and the code pursuant to subsection ~~-(1)-~~
19 (2) by the passage of an ordinance. ~~to that effect.~~ A govern-
20 mental subdivision that makes this election ~~after December 30,~~
21 ~~1980~~ shall submit, in addition to the ordinance, an application
22 to the commission for approval to administer and enforce this act
23 and the code within its jurisdiction. ~~This application shall be~~
24 ~~made on the proper form to be provided by the commission.~~ The
25 standards for approval shall include, but not be limited to, the
26 certification by the governmental subdivision that the enforcing
27 agency is qualified by experience or training to administer and

1 enforce this act and the code and all related acts and rules,
2 that agency personnel are provided as necessary, that administra-
3 tive services are provided, that plan review services are pro-
4 vided, and that timely field inspection services will be
5 provided. The executive director ~~shall seek~~ MAY REQUEST addi-
6 tional information if the executive director considers it
7 necessary.

8 (9) The commission shall render a decision on the applica-
9 tion for approval to administer and enforce this act and the code
10 and transmit its findings to the governmental subdivision within
11 90 days ~~of~~ AFTER receipt of the application. ~~The commission~~
12 ~~shall document its reasons, if~~ IF the commission disapproves an
13 application, THE COMMISSION SHALL DOCUMENT ITS REASONS. A gov-
14 ernmental subdivision that receives a disapproval may resubmit
15 its application for approval. Upon receipt of approval from the
16 commission for the administration and enforcement of this act and
17 the code, the governmental subdivision shall administer and
18 enforce this act and the code within its jurisdiction. ~~pursuant~~
19 ~~to the provisions of this act and the application.~~

20 (10) ~~(7)~~ A governmental subdivision that elects to admin-
21 ister and enforce this act and the code within its jurisdiction
22 by the adoption of an ordinance may rescind that ordinance and
23 transfer the responsibility for the administration and enforce-
24 ment of this act and the code to the executive director. The
25 executive director shall assume the responsibility for adminis-
26 tering and enforcing this act and the code in that governmental
27 subdivision, unless the county within which that governmental

1 subdivision is located ~~has submitted a notice of intent to~~
2 ~~continue~~ IS AUTHORIZED to administer and enforce the code.
3 However, that action shall not take effect until 12 months after
4 the passage of an ordinance to that effect. A structure com-
5 menced under an effective code shall be completed under that
6 code.

7 (11) ~~(8)~~ The executive director is responsible for admin-
8 istration and enforcement of this act and the code for buildings
9 and structures that are not under the responsibility of an
10 enforcing agency in those governmental subdivisions that elect to
11 administer and enforce this act and the code or another nation-
12 ally recognized model code. A building or structure owned by the
13 state shall not be erected, remodeled, or reconstructed in the
14 state, ~~after December 30, 1980,~~ except school buildings ~~or~~
15 AND facilities or institutions of higher education as described
16 in section 4 of article VIII of the state constitution of 1963,
17 until written approval of the plans and specifications has been
18 obtained from the bureau of construction codes located within the
19 department of labor indicating that the state owned facilities
20 shall be designed and constructed in conformance with the state
21 construction code. ~~This subsection does not apply to any state~~
22 ~~owned facility for which construction commenced before~~
23 ~~December 30, 1980.~~ The bureau of construction codes ~~shall be~~
24 IS the lead agency in the coordination and implementation of this
25 subsection. The bureau of construction codes shall perform
26 required plan reviews and inspections as required by the state
27 construction code. Each department shall secure required plan

1 approvals and permits from the bureau. Fees charged by the
2 bureau for permits shall be in accordance with the commission's
3 approved schedule of fees. State departments and institutions
4 may allow local inspectors to inspect the construction of state
5 owned facilities. ~~However, an~~ AN inspection conducted by a
6 local inspector ~~shall be~~ IS of an advisory nature only.

7 (12) ~~(9)~~ This section does not affect the responsibilities
8 of the commission for administration and enforcement of this act
9 ~~pursuant to~~ UNDER ANY other sections of this act, ~~or responsi-~~
10 ~~bilities pursuant to~~ UNDER the fire prevention code, Act No. 207
11 of the Public Acts of 1941, ~~as amended,~~ being sections 29.1 to
12 29.33 of the Michigan Compiled Laws, except sections 6 and 7 of
13 Act No. 207 of the Public Acts of 1941, ~~as amended,~~ being sec-
14 tions 29.6 and 29.7 of the Michigan Compiled Laws, ~~—~~ OR AFFECT
15 THE COMMISSION'S RESPONSIBILITIES UNDER Act No. 306 of the Public
16 Acts of 1937, ~~as amended,~~ being sections 388.851 to 388.855a of
17 the Michigan Compiled Laws, ~~—~~ the fire fighters training coun-
18 cil act of 1966, Act No. 291 of the Public Acts of 1966, ~~as~~
19 ~~amended,~~ being sections 29.361 to 29.377 of the Michigan
20 Compiled Laws, ~~—~~ Act No. 9 of the Public Acts of the First
21 Extra Session of 1942, ~~as amended,~~ being sections 419.201 to
22 419.205 of the Michigan Compiled Laws, ~~—~~ parts 215 and 217 of
23 the public health code, Act No. 368 of the Public Acts of 1978,
24 ~~as amended,~~ being sections 333.21501 to 333.21799e of the
25 Michigan Compiled Laws, ~~—~~ and section 58 of the social welfare
26 act, Act No. 280 of the Public Acts of 1939, ~~as amended,~~ being
27 section 400.58 of the Michigan Compiled Laws.

1 (13) ~~(+10)~~ Pursuant to parts 215 and 217 of Act No. 368 of
 2 the Public Acts of 1978, ~~as amended,~~ the directors of the
 3 ~~department~~ DEPARTMENTS of labor, public health, and state
 4 police, or their designees, shall develop consistent construction
 5 standards for hospitals and nursing homes. These standards shall
 6 ensure that consistent, uniform, and equitable construction
 7 requirements and state supervision of the ~~requirements~~
 8 CONSTRUCTION are achieved and that unnecessary duplication is
 9 avoided. The commission shall delegate plan review and approval
 10 of health facility construction plans to the department of
 11 health. This subsection does not preclude a state agency or a
 12 governmental subdivision from conducting plan reviews or inspec-
 13 tions necessary to ensure compliance with approved construction
 14 plans.

15 (14) ~~(++)~~ Except as otherwise provided in this act, this
 16 act does not limit or restrict existing powers or authority of
 17 governmental subdivisions, and this act shall be enforced by gov-
 18 ernmental subdivisions in the manner prescribed by local law or
 19 ordinance. To the extent not inconsistent with this act, local
 20 laws and ordinances relating to administration and enforcement of
 21 construction regulations enacted before ~~the effective date of~~
 22 ~~the code by or for~~ JANUARY 1, 1973 BY a governmental subdivision
 23 ~~are applicable~~ APPLY to administration and enforcement of the
 24 code in that governmental subdivision.

25 Sec. 14. (1) A construction board of appeals for each gov-
 26 ernmental subdivision enforcing the code shall be created
 27 consisting of ~~not less than~~ 3 ~~nor more than~~ TO 7 members, as

1 determined by the ~~governing body of the~~ governmental
2 subdivision. Unless otherwise provided by local law or ordi-
3 nance, the members of the board of appeals shall be appointed for
4 2-year terms by the chief executive officer of a city, village,
5 ~~or township, and the chairperson of the county board of com-~~
6 ~~missioners of a~~ OR county. A member of the board of appeals
7 shall be qualified by experience or training to perform the
8 duties of members of the board of appeals ~~. A person~~ AND may
9 serve on the board of appeals of more than 1 governmental
10 subdivision.

11 (2) If an enforcing agency refuses to grant ~~an application~~
12 ~~for~~ a building permit ~~,~~ or ~~if the enforcing agency~~ makes
13 ~~any other~~ AN ADVERSE decision, ~~pursuant or related to this~~
14 ~~act, or the code, an interested person, or the person's autho-~~
15 ~~rized agent,~~ THE AFFECTED PERSON may appeal in writing to the
16 board of appeals. ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (3),
17 THE board of appeals shall hear the appeal and ~~render and~~ file
18 its decision, with a statement of reasons for the decision, with
19 the enforcing agency ~~from whom the appeal was taken not more~~
20 ~~than~~ WITHIN 30 days after ~~submission~~ THE FILING of the
21 appeal. ~~Failure~~ EXCEPT AS PROVIDED IN SUBSECTION (3), FAILURE
22 by the board of appeals to ~~hear an appeal and~~ file a decision
23 within ~~the time limit~~ 30 DAYS is CONSIDERED a denial of the
24 appeal for purposes ~~of authorizing the institution~~ of an appeal
25 to the commission. A copy of the decision and statement of the
26 reasons for the decision shall be delivered or mailed, before
27 filing, to the party taking the appeal.

1 (3) FOR RESIDENTIAL CONSTRUCTION, THE TIME PERIOD WITHIN
2 WHICH THE BOARD OF APPEALS MUST ACT UNDER SUBSECTION (2) SHALL BE
3 10 DAYS. IF THE BOARD DOES NOT ACT WITHIN THE 10 DAYS, THE
4 APPEAL SHALL BE CONSIDERED GRANTED.

5 (4) ~~(2)~~ This act does not prevent a governmental subdivi-
6 sion from granting its board of appeals additional powers or
7 duties not inconsistent with this act, or from establishing pro-
8 cedures to be followed by its board of appeals ~~insofar as the~~
9 ~~procedures~~ THAT do not conflict with this act. ~~Except as oth-~~
10 ~~erwise provided by this act, or by other laws or ordinances, a~~ A
11 board of appeals may by rules establish its own procedures.

12 (5) ~~(3)~~ The ~~business which the~~ board of appeals ~~may~~
13 ~~perform shall be conducted at a public meeting of the board of~~
14 ~~appeals held in compliance~~ SHALL COMPLY with THE OPEN MEETINGS
15 ACT, Act No. 267 of the Public Acts of 1976, BEING SECTIONS
16 15.261 TO 15.275 OF THE MICHIGAN COMPILED LAWS. ~~Public notice~~
17 ~~of the time, date, and place of the meeting shall be given in the~~
18 ~~manner required by Act No. 267 of the Public Acts of 1976.~~

19 (6) ~~(4)~~ A record of decisions made by the board of appeals
20 ~~, properly indexed, and any other writing prepared, owned, used,~~
21 ~~in the possession of, or retained by the board of appeals in the~~
22 ~~performance of an official function~~ shall be made available to
23 the public in compliance with THE FREEDOM OF INFORMATION ACT, Act
24 No. 442 of the Public Acts of 1976, BEING SECTIONS 15.231 TO
25 15.246 OF THE MICHIGAN COMPILED LAWS.