



HOUSE BILL No. 4933

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July 13, 1993, Introduced by Reps. Varga, Parks, Points, Hood, Llewellyn and DeMars and referred to the Committee on Consumers.

A bill to amend section 8 of Act No. 230 of the Public Acts of 1972, entitled as amended
"State construction code act of 1972,"
as amended by Act No. 135 of the Public Acts of 1989, being
section 125.1508 of the Michigan Compiled Laws; and to add section 13c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 8 of Act No. 230 of the Public Acts of
2 1972, as amended by Act No. 135 of the Public Acts of 1989, being
3 section 125.1508 of the Michigan Compiled Laws, is amended and
4 section 13c is added to read as follows:

5 Sec. 8. (1) This act and the code are applicable throughout
6 the state except that a governmental subdivision may elect to
7 exempt itself from certain parts of this act and the code by
8 adopting and enforcing a nationally recognized model building

1 code or other nationally recognized model codes. It ~~shall~~ IS
2 not ~~be~~ necessary for a governmental subdivision to elect to
3 exempt itself from every part of the code promulgated by the com-
4 mission in order to preserve its exemption election as to 1 or
5 more nationally recognized model codes. A governmental subdivi-
6 sion may make this election by the passage of an ordinance adopt-
7 ing by reference or otherwise without amendment a nationally rec-
8 ognized model building code or other nationally recognized model
9 codes. A county ordinance adopted pursuant to this act shall be
10 adopted by the county board of commissioners and shall be signed
11 by the chairperson of the county board of commissioners and cer-
12 tified by the county clerk. A governmental subdivision ~~which~~
13 THAT elects not to be governed by certain parts of this act and
14 the code shall review and update its codes by amending its ordi-
15 nance at least once every 3 years by adopting without amendment
16 all changes to those codes and submitting a certified copy of the
17 amended ordinance to the commission. However, a governmental
18 subdivision adopting nationally recognized model codes may
19 approve amendments to those codes by ordinance. The amendments
20 ~~shall~~ become effective 90 days after passage of the ordinance
21 and 90 days after a certified copy of the ordinance is delivered
22 to the commission, unless the commission determines after a
23 public hearing that the codes, as amended, do not adequately pro-
24 tect the health, safety, or welfare of the people of the govern-
25 mental subdivision, or that the amendments tend to unnecessarily
26 increase construction costs or restrict the use of new materials,
27 products, or methods of construction or provide preferential

1 treatment to types or classes of materials, products, or methods
2 of construction, or that the ~~amendment obstructs~~ AMENDMENTS
3 OBSTRUCT the substantive uniformity of building codes within a
4 region or locality in the state.

5 (2) ~~Within 10 days after the effective date of this~~
6 ~~subsection,~~ BY OCTOBER 19, 1978, the executive director shall
7 provide a notice of intent form to all governmental subdivisions
8 administering and enforcing a nationally recognized model code.
9 This form shall set forth the date return receipt is required,
10 which date shall not be less than 60 days after receipt. The
11 chief elected official of the governmental subdivision that
12 receives this notice shall indicate on the form the intention of
13 the governmental subdivision as to whether it shall continue to
14 administer and enforce its code and transmit this notice to the
15 executive director within the prescribed period. If a governmen-
16 tal subdivision fails to submit a notice of intent to continue to
17 administer and enforce its code within the date set forth in the
18 notice, the executive director shall send a notice by registered
19 mail to the clerk of that governmental subdivision. The regis-
20 tered notice shall indicate that the governmental subdivision
21 ~~shall have~~ HAS 15 additional days in which to submit a notice
22 of intent to continue to administer and enforce its code. If the
23 governmental subdivision does not respond by the end of the 15
24 additional days, it ~~shall be~~ IS conclusively presumed that the
25 governmental subdivision does not intend to continue to adminis-
26 ter and enforce its code and the executive director shall assume
27 the responsibility for administering and enforcing this act and

1 the code in that governmental subdivision, unless the county
2 within which that governmental subdivision is located has submit-
3 ted a notice of intent to continue to administer and enforce this
4 act and the code. Governmental subdivisions may provide by
5 agreement for joint enforcement of another nationally recognized
6 model code adopted pursuant to subsection (1).

7 (3) A county ~~which~~ THAT was administering and enforcing
8 this act and the code pursuant to section 9(1) on December 30,
9 1980, and has submitted a notice of intent to continue to admin-
10 ister and enforce the code to the executive director pursuant to
11 section 9, after December 30, 1980, may exempt itself pursuant to
12 subsection (1) by the passage of an ordinance adopting by refer-
13 ence or otherwise without amendment a nationally recognized model
14 building code or other nationally recognized model codes.

15 However, that action ~~shall~~ DOES not take effect until 90 days
16 after passage of an ordinance to that effect. Before the effec-
17 tive date of this action and the effective date of the ordinance,
18 the county ~~which~~ THAT proposes to adopt an ordinance to this
19 effect shall file the proposed ordinance for approval pursuant to
20 subsection (1) with the commission. The commission shall review
21 the proposed ordinance. If the commission does not approve or
22 disapprove the proposed ordinance within 90 days after it is
23 filed with the commission, the proposed ordinance ~~shall be~~ IS
24 considered approved unless the county grants the commission addi-
25 tional time to consider the proposed ordinance. The executive
26 director shall notify a county which elects to exempt itself
27 pursuant to subsection (1) of all governmental subdivisions

1 within their jurisdiction that have not submitted a notice of
2 intent to continue to administer and enforce its code. It ~~shall~~
3 ~~be~~ IS the responsibility of that county to administer and
4 enforce that code for all of the governmental subdivisions within
5 the county ~~which~~ THAT have not submitted a notice of intent to
6 continue to administer and enforce its code within its
7 jurisdiction. A structure commenced under an effective code
8 shall be completed under that code. A county ~~which~~ THAT elects
9 to exempt itself in accordance with this subsection may exercise
10 the option to administer and enforce this act and the code pursu-
11 ant to section 9(1). However, the exercise of this election to
12 administer and enforce this act and the code ~~shall~~ DOES not
13 take effect until 6 months after passage of an ordinance to that
14 effect.

15 (4) A governmental subdivision ~~which~~ THAT has elected to
16 assume responsibility for the administration and enforcement of
17 this act and the code, and has submitted a notice of intent to
18 continue to administer and enforce the code to the executive
19 director pursuant to section 9, after December 30, 1980, may
20 reverse that election and exempt itself pursuant to subsection
21 (1) by the passage of an ordinance adopting by reference or oth-
22 erwise without amendment a nationally recognized model building
23 code or other nationally recognized model codes. However, that
24 action ~~shall~~ DOES not take effect until 90 days after passage
25 of an ordinance to that effect. Before the effective date of
26 this action and the effective date of the ordinance, the
27 governmental subdivision ~~which~~ THAT proposes to adopt an

1 ordinance to this effect shall file the proposed ordinance for
2 approval pursuant to subsection (1) with the commission. The
3 commission shall review the proposed ordinance. If the commis-
4 sion does not approve or disapprove the proposed ordinance within
5 90 days after it is filed with the commission, the proposed ordi-
6 nance ~~shall be~~ IS considered approved unless the governmental
7 subdivision grants the commission additional time to consider the
8 proposed ordinance. A structure commenced under an effective
9 code shall be completed under that code. A governmental subdivi-
10 sion ~~which~~ THAT elects to exempt itself in accordance with this
11 subsection may exercise the option to make itself subject to this
12 act and the code pursuant to section 9(1). However, the exercise
13 of this election to be subject to this act and the code shall not
14 take effect until 6 months after passage of an ordinance to that
15 effect.

16 (5) A governmental subdivision ~~which~~ THAT has elected to
17 exempt itself pursuant to subsection (1) may reverse that elec-
18 tion, making itself subject to the act and the code. However,
19 that action shall not take effect until 60 days after passage of
20 an ordinance to that effect. A structure commenced under an
21 effective code shall be completed under that code. A governmen-
22 tal subdivision ~~which~~ THAT elects to make itself subject to the
23 code in accordance with this subsection may exercise the option
24 to exempt itself pursuant to subsection (1) not later than 3
25 years subsequent to its administration and enforcement of the
26 code. However, that exemption ~~shall~~ DOES not take effect until
27 1 year after passage of an ordinance to that effect.

1 (6) A governmental subdivision ~~which~~ THAT, before
2 December 30, 1980, has not administered and enforced either this
3 act and the code or another nationally recognized model code may
4 elect to exempt itself from certain parts of this act and the
5 code pursuant to subsection (1), by the passage of an ordinance
6 to that effect. A governmental subdivision ~~which~~ THAT makes
7 this election after December 30, 1980 shall submit, in addition
8 to the ordinance, an application to the commission for approval
9 to administer and enforce that code within its jurisdiction.
10 This application shall be made on the proper form to be provided
11 by the commission. The standards for approval ~~shall~~ include,
12 but ARE not ~~be~~ limited to, the certification by the governmen-
13 tal subdivision that the enforcing agency is qualified by
14 experience or training to administer and enforce that nationally
15 recognized model code and all related acts and rules, that agency
16 personnel are provided as necessary, administrative services are
17 provided, plan review services are provided, and timely field
18 inspection services ~~shall~~ WILL be provided. The executive
19 director shall seek additional information if the executive
20 director considers it necessary. The commission shall render a
21 decision on the application for approval to administer and
22 enforce that code ~~which~~ THAT has been adopted and transmit its
23 findings to that governmental subdivision within 90 days of
24 receipt of the application. The commission shall document its
25 reasons if the commission disapproves an application. A govern-
26 mental subdivision ~~which~~ THAT receives a disapproval may
27 resubmit its application for approval. Upon receipt of approval

1 from the commission for the administration and enforcement of
2 that adopted code, the governmental subdivision shall administer
3 and enforce that code within its jurisdiction pursuant to the
4 provisions of its approved application.

5 (7) The state construction code or any of its sections shall
6 go into effect 6 months after the code's initial promulgation.
7 The 6-month delay does not apply to rules promulgated to imple-
8 ment sections 13a, 13b, 13C, 19, and 21 and the requirements of
9 barrier free design and energy conservation of this act and
10 code. A governmental subdivision may not exempt itself from the
11 requirements of this section, section 9(8) and (10), and sections
12 9a, 10, 13a, 13b, 13C, 14, 15, 20, 22(1), 23, and 23a. The
13 6-month delay does not apply to amendments to the code or any of
14 the code's sections after the initial promulgation. A governmen-
15 tal subdivision ~~which~~ THAT elects to exempt itself from this
16 act and the code may do so within 6 months after the promulgation
17 of the code in the manner provided in subsection (1), except that
18 any amendments the governmental subdivision adopts at that time
19 are subject to review by the commission as set forth in subsec-
20 tion (1) within 120 days after a copy of the adopted amendments
21 is delivered to the commission by certified mail with return
22 receipt requested.

23 (8) A governmental subdivision ~~which~~ THAT elects to exempt
24 itself from certain parts of this act and the code pursuant to
25 subsection (1) and is enforcing its code within its jurisdiction
26 pursuant to subsection (1) may rescind that ordinance by which it
27 elected to exempt itself from certain parts of this act and the

1 code, and transfer the responsibility for the administration and
2 enforcement of this act and the code within the governmental sub-
3 division to the executive director. The executive director shall
4 assume the responsibility for administering and enforcing this
5 act and the code in that governmental subdivision, unless the
6 county within which that governmental subdivision is located has
7 submitted a notice of intent to continue to administer and
8 enforce the code. However, that action ~~shall~~ DOES not take
9 effect until 12 months after the passage of an ordinance to that
10 effect. A structure commenced under an effective code shall be
11 completed under that code.

12 (9) Locally adopted codes ~~shall~~ DO not apply to public or
13 nonpublic schools within the governmental subdivision without
14 concurrence by the school authorities having jurisdiction.

15 (10) Sections 10, 13a, 13b, 13C, 19, 21, and 23a, other pro-
16 visions of this act and code directly relating to the provisions
17 of sections 10, 13a, 13b, 13C, 19, 21, and 23a, and provisions of
18 the code relating to the requirements of barrier free design and
19 energy conservation ~~shall be~~ ARE effective throughout the state
20 without local modifications notwithstanding the exception of sub-
21 sections (1) to (9). The standards for premanufactured housing
22 shall not be less than the standards required for nonpremanufac-
23 tured housing except that mobile homes shall be considered to
24 have complied with this requirement by compliance with the state
25 code provisions adopting a nationally recognized mobile home
26 code.

1 (11) The commission may limit the application of a part of
2 the code to include or exclude the following:

3 (a) Specified classes or types of buildings or structures,
4 according to use, or other distinctions as may make differentia-
5 tion or separate classification or regulation necessary, proper,
6 or desirable. The commission shall consider the specific prob-
7 lems of the construction or alteration of a single family,
8 owner-occupied recreational dwelling ~~which~~ THAT is located in
9 a sparsely populated area and ~~which~~ THAT is to be occupied on a
10 part-time basis.

11 (b) Specified areas of the state based on size, population
12 density, special conditions prevailing in the area, or other fac-
13 tors as may make differentiation or separate classification or
14 regulation necessary, proper, or desirable.

15 SEC. 13C. (1) AS USED IN THIS SECTION:

16 (A) "BOARD AND ROOM FACILITY" MEANS A RESIDENTIAL BUILDING
17 THAT DOES NOT PROVIDE SEPARATE COOKING FACILITIES FOR INDIVIDUAL
18 OCCUPANTS AND THAT IS ARRANGED FOR THE SHELTER AND SLEEPING
19 ACCOMMODATIONS FOR 3 OR MORE NONTRANSIENT INDIVIDUALS. BOARD AND
20 ROOM FACILITY DOES NOT INCLUDE ANY OF THE FOLLOWING:

21 (i) A RESIDENTIAL FACILITY FOR STUDENTS ATTENDING A COLLEGE
22 OR UNIVERSITY.

23 (ii) AN ADULT FOSTER CARE FACILITY REGULATED UNDER THE ADULT
24 FOSTER CARE FACILITY LICENSING ACT, ACT NO. 218 OF THE PUBLIC
25 ACTS OF 1979, BEING SECTIONS 400.701 TO 400.737 OF THE MICHIGAN
26 COMPILED LAWS.

1 (iii) A NURSING HOME LICENSED UNDER ARTICLE 17 OF THE PUBLIC
2 HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING
3 SECTIONS 333.20101 TO 333.22260 OF THE MICHIGAN COMPILED LAWS.

4 (iv) A HOME FOR THE AGED LICENSED UNDER ARTICLE 17 OF ACT
5 NO. 368 OF THE PUBLIC ACTS OF 1978.

6 (v) A COUNTY INFIRMARY REGULATED UNDER THE SOCIAL WELFARE
7 ACT, ACT NO. 280 OF THE PUBLIC ACTS OF 1939, BEING SECTIONS 400.1
8 TO 400.119B OF THE MICHIGAN COMPILED LAWS.

9 (vi) A CHILD CARING INSTITUTION, CHILDREN'S CAMP, OR FOSTER
10 FAMILY GROUP HOME LICENSED OR APPROVED UNDER ACT NO. 116 OF THE
11 PUBLIC ACTS OF 1973, BEING SECTIONS 722.111 TO 722.128 OF THE
12 MICHIGAN COMPILED LAWS.

13 (vii) A BED AND BREAKFAST REGULATED UNDER SECTION 4B.

14 (viii) A HOTEL OR MOTEL.

15 (ix) A PRIVATE DWELLING AS THAT TERM IS DEFINED IN SECTION 2
16 OF THE HOUSING LAW OF MICHIGAN, ACT NO. 167 OF THE PUBLIC ACTS OF
17 1917, BEING SECTION 125.402 OF THE MICHIGAN COMPILED LAWS.

18 (B) "OPERATOR" MEANS A PERSON WHO HAS CHARGE, CARE, CONTROL,
19 OR MANAGEMENT OF A BOARD AND ROOM FACILITY.

20 (C) "OWNER" MEANS A PERSON WHO KNOWS THAT A RESIDENTIAL
21 BUILDING IN WHICH THAT PERSON HAS A LEGAL OR EQUITABLE INTEREST
22 IS BEING USED AS A BOARD AND ROOM FACILITY, REGARDLESS OF WHETHER
23 THE PERSON HAS POSSESSION OF THE FACILITY. OWNER INCLUDES AN
24 EXECUTOR, ADMINISTRATOR, TRUSTEE, OR GUARDIAN OF THE ESTATE OF AN
25 OWNER OF A RESIDENTIAL BUILDING IF THE EXECUTOR, ADMINISTRATOR,
26 TRUSTEE, OR GUARDIAN KNOWS THAT THE RESIDENTIAL BUILDING IS BEING
27 USED AS A BOARD AND ROOM FACILITY.

1 (D) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
2 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

3 (2) AN ENFORCING AGENCY SHALL INSPECT A BOARD AND ROOM
4 FACILITY AFTER RECEIVING A COMPLAINT ALLEGING AN UNSAFE CONDITION
5 IN THAT BOARD AND ROOM FACILITY, AND SHALL DETERMINE WHETHER THE
6 BOARD AND ROOM FACILITY IS IN COMPLIANCE WITH THIS ACT AND WITH
7 SECTION 12204 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE
8 PUBLIC ACTS OF 1978, BEING SECTION 333.12204 OF THE MICHIGAN
9 COMPILED LAWS.

10 (3) IF, FOLLOWING AN INSPECTION DESCRIBED IN SUBSECTION (2),
11 AN ENFORCING AGENCY DETERMINES THAT A BOARD AND ROOM FACILITY IS
12 NOT IN COMPLIANCE WITH THIS ACT OR SECTION 12204 OF THE PUBLIC
13 HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, THE ENFORC-
14 ING AGENCY SHALL ISSUE AN ORDER TO REMEDY THE NONCOMPLIANCE AND
15 SERVE THE ORDER UPON THE OPERATOR OF THE BOARD AND ROOM FACILITY
16 AND, IF KNOWN, THE OWNER OF THE RESIDENTIAL BUILDING IN WHICH THE
17 BOARD AND ROOM FACILITY IS SITUATED.

18 Section 2. This amendatory act shall not take effect unless
19 House Bill No. 4849 of the 87th Legislature is enacted into law.