

HOUSE BILL No. 4206

February 3, 2005, Introduced by Rep. Stakoe and referred to the Committee on Local Government and Urban Policy.

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 educational
2 purposes and providing contractual inspection and consulting
3 services in ~~construction~~ code enforcement ~~shall~~ **ARE** not ~~be~~
4 considered conflicts of interest.

5 ~~-(2) An inspector shall not be permitted to inspect his or her~~
6 ~~own work in a governmental subdivision. As used in this subsection~~
7 ~~and subsection (3), "governmental subdivision" means governmental~~
8 ~~subdivision as defined in section 2(1)(t) of the state construction~~

1 ~~code act of 1972, Act No. 230 of the Public Acts of 1972, being~~
2 ~~section 125.1502 of the Michigan Compiled Laws.~~

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

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

13 (4) **A REGISTRANT SHALL NOT PERFORM ANY ACTIVITIES FOR WHICH HE**
14 **OR SHE IS REGISTERED ON ANY PROJECT IF HE OR SHE HAS A CONFLICT OF**
15 **INTEREST DESCRIBED IN SUBSECTION (5).**

16 (5) **EACH OF THE FOLLOWING CIRCUMSTANCES IS CONSIDERED A**
17 **CONFLICT OF INTEREST UNDER THIS SECTION:**

18 (A) **A REGISTRANT IS DIRECTLY OR INDIRECTLY CONNECTED WITH A**
19 **BUSINESS IN WHICH HE OR SHE IS EMPLOYED OR ACTING AS AN INSPECTOR,**
20 **PLAN REVIEWER, OR BUILDING OFFICIAL REGARDING THAT BUSINESS.**

21 (B) **A REGISTRANT HAS AN INTEREST DIRECTLY OR INDIRECTLY IN ANY**
22 **WRITTEN OR VERBAL CONTRACT AFFECTING THE CONSTRUCTION OF ANY**
23 **BUILDING OR STRUCTURE OR THE FURNISHING OF MATERIALS, APPLIANCES,**
24 **EQUIPMENT, OR LABOR AFFECTING THE CONSTRUCTION OF THE BUILDING OR**
25 **STRUCTURE.**

26 (C) **A REGISTRANT HAS A PERSONAL OWNERSHIP INTEREST IN ALL, OR**
27 **A PORTION OF, THE BUSINESS ENTITY PERFORMING THE WORK IN THE**

1 CONSTRUCTION OF A BUILDING OR STRUCTURE FOR WHICH THE REGISTRANT IS
2 MAKING DECISIONS IN THE ADMINISTRATION AND ENFORCEMENT OF CODES.

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 OF
9 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 UNDER
12 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 STILLE-DEROSSETT-HALE SINGLE STATE
2 CONSTRUCTION CODE ACT, 1972 PA 230, MCL 125.1509B.

3 (9) IF A PERSON ALLEGES THAT AN ENFORCING AGENCY HAS FAILED TO
4 INVESTIGATE A FACIALLY VALID CLAIM OF CONFLICT OF INTEREST OR
5 ALLEGES THAT THE ENFORCING AGENCY HAS FAILED TO REMOVE THE
6 REGISTRANT FROM THE RESPONSIBILITY OF ADMINISTERING AND ENFORCING
7 CODES ON A SPECIFIC PROJECT WHEN THE ENFORCING AGENCY HAD
8 DETERMINED THAT A CONFLICT OF INTEREST EXISTS, THAT PERSON MAY FILE
9 A COMPLAINT WITH THE BUREAU OF CONSTRUCTION CODES AND FIRE SAFETY
10 REQUESTING A PERFORMANCE EVALUATION. UPON THE RECEIPT OF A FACIALLY
11 VALID COMPLAINT FILED PURSUANT TO THIS SUBSECTION, THE BUREAU OF
12 CONSTRUCTION CODES AND FIRE SAFETY SHALL CONDUCT A PERFORMANCE
13 EVALUATION AND REPORT THE FINDING IN WRITING TO THE COMMISSION.

14 (10) IF THE COMMISSION DETERMINES THAT AN ENFORCING AGENCY HAS
15 FAILED TO INVESTIGATE A FACIALLY VALID CLAIM OR FAILED TO TAKE
16 APPROPRIATE ACTION AGAINST A REGISTRANT BASED UPON A DETERMINATION
17 OF CONFLICT OF INTEREST, THE COMMISSION SHALL ISSUE A NOTICE OF
18 INTENT TO WITHDRAW CODE ENFORCEMENT RESPONSIBILITY FROM THE
19 ENFORCING AGENCY ON THE BASIS OF FAILURE TO ADMINISTER AND ENFORCE
20 THE CODE AND THIS ACT. AN ENFORCING AGENCY MAY APPEAL THE DECISION
21 OF THE COMMISSION MADE UNDER THIS SUBSECTION PURSUANT TO THE
22 PROVISIONS OF THE STILLE-DEROSSETT-HALE SINGLE STATE CONSTRUCTION
23 CODE ACT, 1972 PA 230, MCL 125.1501 TO 125.1531.

24 (11) AS USED IN THIS SECTION, "GOVERNMENTAL SUBDIVISION" MEANS
25 THAT TERM AS DEFINED IN SECTION 2A OF THE STILLE-DEROSSETT-HALE
26 SINGLE STATE CONSTRUCTION CODE ACT, 1972 PA 230, MCL 125.1502A.

27 Enacting section 1. This amendatory act does not take effect

1 unless all of the following bills of the 93rd Legislature are
2 enacted into law:

3 (a) Senate Bill No.____ or House Bill No. 4207(request no.
4 00169'05 a).

5 (b) Senate Bill No.____ or House Bill No. 4208(request no.
6 00169'05 b).

7 (c) Senate Bill No.____ or House Bill No. 4209(request no.
8 00169'05 c).