

Act No. 409
Public Acts of 2016
Approved by the Governor
January 3, 2017
Filed with the Secretary of State
January 4, 2017
EFFECTIVE DATE: April 4, 2017

**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Senators Schmidt, Schuitmaker, Horn, MacGregor, Zorn and Knollenberg

ENROLLED SENATE BILL No. 965

AN ACT to amend 1972 PA 230, entitled “An act to create a construction code commission and prescribe its functions; to authorize the director to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to prescribe energy conservation standards for the construction of certain buildings; to provide for statewide approval of premanufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish penalties, remedies, and sanctions for violations of the act; to repeal acts and parts of acts; and to provide an appropriation,” by amending sections 2a, 8b, 9, 10, and 28 (MCL 125.1502a, 125.1508b, 125.1509, 125.1510, and 125.1528), sections 2a and 10 as amended by 2013 PA 125, section 8b as amended by 2006 PA 192, section 9 as added by 2012 PA 103, and section 28 as amended by 2014 PA 9.

The People of the State of Michigan enact:

Sec. 2a. (1) As used in this act:

(a) “Agricultural or agricultural purposes” means of, or pertaining to, or connected with, or engaged in agriculture or tillage that is characterized by the act or business of cultivating or using land and soil for the production of crops for the use of animals or humans, and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.

(b) “Agricultural product” means a farm product as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(c) “Application for a building permit” means an application for a building permit submitted to an enforcing agency pursuant to this act and plans, specifications, surveys, statements, and other material submitted to the enforcing agency together or in connection with the application.

(d) “Barrier free design” means design complying with legal requirements for architectural designs that eliminate the type of barriers and hindrances that deter persons with disabilities from having access to and free mobility in and around a building or structure.

(e) “Board of appeals” means the construction board of appeals of a governmental subdivision provided for in section 14.

(f) “Boards” means the state plumbing board created in section 13 of former 2002 PA 733, the board of mechanical rules created in section 3 of former 1984 PA 192, the electrical administrative board created in section 2 of former 1956 PA 217, and the barrier free design board created in section 5 of 1966 PA 1, MCL 125.1355.

(g) “Building” means a combination of materials, whether portable or fixed, forming a structure affording a facility or shelter for use or occupancy by individuals, animals, or property. Building does not include a building, whether temporary or permanent, incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade. Building includes a part or parts of the building and all equipment in the building unless the context clearly requires a different meaning.

(h) “Building envelope” means the elements of a building that enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.

(i) “Building official” means an individual who is employed by a governmental subdivision and is charged with the administration and enforcement of the code and who is registered in compliance with article 10 of the skilled trades regulation act, MCL 339.6001 to 339.6023. This individual may also be an employee of a private organization.

(j) “Business day” means a day of the year, exclusive of a Saturday, Sunday, or legal holiday.

(k) “Chief elected official” means the chairperson of the county board of commissioners, the city mayor, the village president, or the township supervisor.

(l) “Code” means the state construction code provided for in section 4 or a part of that code of limited application and includes a modification of or amendment to the code.

(m) “Commission” means the state construction code commission created by section 3a.

(n) “Construction” means the construction, erection, reconstruction, alteration, conversion, demolition, repair, moving, or equipping of buildings or structures.

(o) “Construction regulation” means a law, act, rule, regulation, or code, general or special, or a compilation thereof, enacted or adopted by this state including a department, board, bureau, commission, or other agency of this state, relating to the design, construction, or use of and the installation of equipment in buildings and structures. Construction regulation does not include a zoning ordinance or rule issued pursuant to a zoning ordinance and related to zoning.

(p) “Cost-effective”, in reference to section 4(3)(f) and (g), means, using the existing energy efficiency standards and requirements as the base of comparison, the economic benefits of the proposed energy efficiency standards and requirements will exceed the economic costs of the requirements of the proposed rules based upon an incremental multiyear analysis that meets all of the following requirements:

(i) Considers the perspective of a typical first-time home buyer.

(ii) Considers benefits and costs over a 7-year time period.

(iii) Does not assume fuel price increases in excess of the assumed general rate of inflation.

(iv) Ensures that the buyer of a home who would qualify to purchase the home before the addition of the energy efficient standards will still qualify to purchase the same home after the additional cost of the energy-saving construction features.

(v) Ensures that the costs of principal, interest, taxes, insurance, and utilities will not be greater after the inclusion of the proposed cost of the additional energy-saving construction features required by the proposed energy efficiency rules than under the provisions of the existing energy efficiency rules.

(q) “Department” means the department of licensing and regulatory affairs.

(r) “Director” means the director of the department or an authorized representative of the director.

(s) “Energy conservation” means the efficient use of energy by providing building envelopes with high thermal resistance and low air leakage, and the selection of energy efficient mechanical, electrical service, and illumination systems, equipment, devices, or apparatus.

(t) “Enforcing agency” means the governmental agency that, in accordance with section 8a or 8b, is responsible for administration and enforcement of the code within a governmental subdivision. However, for the purposes of section 19, enforcing agency means the agency in a governmental unit principally responsible for the administration and enforcement of applicable construction regulations.

(u) “Equipment” means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating equipment.

(v) “Governmental subdivision” means a county, city, village, or township that, in accordance with section 8a or 8b, has assumed responsibility for administration and enforcement of this act and the code within its jurisdiction.

(w) “Mobile home” means a vehicular, portable structure that meets all of the following requirements:

(i) Is built on a chassis pursuant to the national manufactured housing construction and safety standards act of 1974, 42 USC 5401 to 5426.

(ii) Is designed to be used without a permanent foundation as a dwelling when connected to required utilities.

(iii) Is or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than 30 consecutive days.

(x) “Other laws and ordinances” means other laws and ordinances whether enacted by this state or by a county, city, village, or township and the rules issued under those laws and ordinances.

(y) "Owner" means the owner of the freehold of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, or lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property or his or her duly authorized agent.

(z) "Person with disabilities" means an individual whose physical characteristics limit that individual's ability to be self-reliant in the individual's movement throughout and use of the building environment.

(aa) "Premanufactured unit" means an assembly of materials or products intended to comprise all or part of a building or structure, and that is assembled at other than the final location of the unit of the building or structure by a repetitive process under circumstances intended to ensure uniformity of quality and material content. Premanufactured unit includes a mobile home.

(bb) "Structure" means that which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner. Structure does not include a structure incident to the use for agricultural purposes of the land on which the structure is located and does not include works of heavy civil construction including, but not limited to, a highway, bridge, dam, reservoir, lock, mine, harbor, dockside port facility, an airport landing facility and facilities for the generation, transmission, or distribution of electricity. Structure includes a part or parts of the structure and all equipment in the structure unless the context clearly requires a different meaning.

(2) Unless the context clearly indicates otherwise, a reference to this act, or to this act and the code, means this act and rules promulgated pursuant to this act including the code.

Sec. 8b. (1) Except as otherwise provided in this section, the director is responsible for administration and enforcement of this act and the code. A governmental subdivision may by ordinance assume responsibility for administration and enforcement of this act within its political boundary. A county ordinance adopted pursuant to this act shall be adopted by the county board of commissioners and shall be signed by the chairperson of the county board of commissioners and certified by the county clerk.

(2) A governmental subdivision that has assumed the responsibility for administering and enforcing this act and the code may, through its chief legal officer, issue a complaint and obtain a warrant for a violation of this act or the code and prosecute the violation with the same power and authority it possesses in prosecuting a local ordinance violation. If pursuant to section 23, a governmental subdivision has by ordinance designated a violation of the act or code as a municipal civil infraction, the governmental subdivision may issue a citation or municipal ordinance violation notice pursuant to chapter 87 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8701 to 600.8735, for a violation of the act or code. Unless otherwise provided by local law or ordinance, the legislative body of a governmental subdivision responsible for administration and enforcement of this act and the code shall designate an enforcing agency that shall discharge the responsibilities of the governmental subdivision under this act. Governmental subdivisions may provide by agreement for joint enforcement of this act.

(3) Subject to the other provisions of this act, an enforcing agency is any official or agent of a governmental subdivision that is registered under article 10 of the skilled trades regulation act, MCL 339.6001 to 339.6023, and qualified by experience or training to perform the duties associated with construction code administration and enforcement.

(4) Before December 28, 1999, the director shall provide each governmental subdivision administering and enforcing this act and the code with a notice of intent form. This form shall set forth the date return receipt is required, which date shall not be less than 60 days. The chief elected official of the governmental subdivision that receives this notice shall indicate on the form the intention of the governmental subdivision as to whether it shall continue to administer and enforce this act and the code and transmit this notice to the director within the prescribed period. If a governmental subdivision fails to submit a notice of intent to continue to administer and enforce this act and the code within the date set forth in the notice, the director shall send a notice by 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 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.

(5) A county that is administering and enforcing this act and the code on December 28, 1999 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 administer and enforce this act and the code. The director shall notify the county of those governmental subdivisions that do not submit a notice of intent.

(6) A governmental subdivision that, before December 28, 1999, did not administer and enforce this act and the code may elect to assume the responsibility for the administration and enforcement of this act and the code pursuant to

subsection (1) by the passage of an ordinance to that effect. A governmental subdivision that makes this election after December 28, 1999 shall submit, in addition to the ordinance, an application to the commission for approval to administer and enforce this act and the code within its jurisdiction. This application shall be made on the proper form to be provided by the commission. The standards for approval shall include, but not be limited to, the certification by the governmental subdivision that the enforcing agency is qualified by experience or training to administer and enforce this act and the code and all related acts and rules, that agency personnel are provided as necessary, that administrative services are provided, that plan review services are provided, and that timely field inspection services will be provided. The director shall seek additional information if the director considers it necessary. The commission shall render a decision on the application for approval to administer and enforce this act and the code and transmit its findings to the governmental subdivision within 90 days of receipt of the application. The commission shall document its reasons, if the commission disapproves an application. A governmental subdivision that receives a disapproval may resubmit its application for approval. Upon receipt of approval from the commission for the administration and enforcement of this act and the code, the governmental subdivision shall administer and enforce this act and the code within its jurisdiction pursuant to the provisions of this act and the application.

(7) A governmental subdivision that elects to administer and enforce this act and the code within its jurisdiction by the adoption of an ordinance may rescind that ordinance and transfer the responsibility for the administration and enforcement of this act and the code to the director. The director shall assume the responsibility for administering and enforcing this act and the code in that governmental subdivision, unless the county within which that governmental subdivision is located has submitted a notice of intent to continue to administer and enforce the code. However, that action shall not take effect until 12 months after the passage of an ordinance to that effect. A structure commenced under an effective code shall be completed under that code.

(8) The director is responsible for administration and enforcement of this act and the code for buildings and structures that are not under the responsibility of an enforcing agency in those governmental subdivisions that elect to administer and enforce this act and the code. A building or structure owned by the state shall not be erected, remodeled, or reconstructed in the state, except school buildings or facilities or institutions of higher education as described in section 4 of article VIII of the state constitution of 1963, until written approval of the plans and specifications has been obtained from the bureau of construction codes and safety located within the department indicating that the state owned facilities shall be designed and constructed in conformance with the state construction code. The bureau of construction codes and safety shall be the lead agency in the coordination and implementation of this subsection. The bureau of construction codes and safety shall perform required plan reviews and inspections as required by the state construction code. Each department shall secure required plan approvals and permits from the bureau. Fees charged by the bureau for permits shall be in accordance with the commission's approved schedule of fees. State departments and institutions may allow local inspectors to inspect the construction of state owned facilities. However, an inspection conducted by a local inspector shall be of an advisory nature only.

(9) This section does not affect the responsibilities of the commission for administration and enforcement of this act under other sections of this act, or responsibilities under the fire prevention code, 1941 PA 207, MCL 29.1 to 29.33; 1937 PA 306, MCL 388.851 to 388.855a; the firefighters training council act of 1966, 1966 PA 291, MCL 29.361 to 29.377; 1942 (1st Ex Sess) PA 9, MCL 419.201 to 419.205; parts 215 and 217 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21799e; and section 58 of the social welfare act, 1939 PA 280, MCL 400.58.

(10) Pursuant to parts 215 and 217 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21799e, the director shall develop consistent construction standards for hospitals and nursing homes. These standards shall ensure that consistent, uniform, and equitable construction requirements and state supervision of the requirements are achieved. This subsection does not preclude a state agency or a governmental subdivision from conducting plan reviews or inspections necessary to ensure compliance with approved construction plans.

(11) Except as otherwise provided in this act, this act does not limit or restrict existing powers or authority of governmental subdivisions, and this act shall be enforced by governmental subdivisions in the manner prescribed by local law or ordinance. To the extent not inconsistent with this act, local laws and ordinances relating to administration and enforcement of construction regulations enacted before the effective date of the code by or for a governmental subdivision are applicable to administration and enforcement of the code in that governmental subdivision.

Sec. 9. (1) A governmental subdivision may contract with a private organization to do 1 or more of the following on behalf of the enforcing agency:

- (a) Receive applications for building permits.
- (b) Receive payments of fees and fines on behalf of the governmental subdivision.
- (c) Perform plan reviews using plan reviewers registered under article 10 of the skilled trades regulation act, MCL 339.6001 to 339.6023.
- (d) Perform inspections using inspectors registered under article 10 of the skilled trades regulation act, MCL 339.6001 to 339.6023.
- (e) Approve temporary service utilities.

- (f) Make determinations that structures or equipment are unsafe.
- (g) Process and deliver correction notices.
- (h) In emergency situations, issue orders to connect or disconnect utilities.
- (i) In emergency situations, issue orders to vacate premises.
- (j) Process and deliver any of the following after its issuance has been approved by the building official:
 - (i) In nonemergency situations, orders to connect or disconnect utilities.
 - (ii) In nonemergency situations, orders to vacate premises.
 - (iii) Building permits.
 - (iv) Temporary or permanent certificates of use and occupancy.
 - (v) Orders to suspend, revoke, or cancel a building permit or certificate of occupancy.
 - (vi) Violation notices.
 - (vii) Notices to appear or show cause.
 - (viii) Stop work orders.
 - (ix) Orders to remedy noncompliance.

(2) Unless the governmental subdivision has a conflict of interest ordinance that applies to a contract under subsection (1), such a contract entered into or renewed after April 20, 2012 shall include or incorporate by reference conflict of interest provisions.

Sec. 10. (1) Except as otherwise provided in the code, before construction of a building or structure, the owner, or the owner's builder, architect, engineer, or agent, shall submit an application in writing to the appropriate enforcing agency for a building permit. The application shall be on a form prescribed by the commission and shall be accompanied by payment of the fee established by the enforcing agency. The application shall contain a detailed statement in writing, verified by affidavit of the individual making it, of the specifications for the building or structure, and full and complete copies of the plans drawn to scale of the proposed work. A site plan showing the dimensions, and the location of the proposed building or structure and other buildings or structures on the same premises, shall be submitted with the application. The application shall state in full the name and residence, by street and number, of the owner in fee of the land on which the building or structure will be constructed, and the purposes for which it will be used.

(2) If construction is proposed to be undertaken by a person other than the owner of the land in fee, the statement shall contain the full name and residence, by street and number, of the owner and also of the person proposing the construction. The affidavit shall state that the specifications and plans are true and complete and contain a correct description of the building or structure, lot or parcel, and proposed work. The statements and affidavits may be made by an owner, or the owner's attorney, agent, engineer, architect, or builder, by the person who proposes to make the construction or alteration, or by that person's agent, engineer, architect, or builder. A person shall not be recognized as the agent, attorney, engineer, architect, or builder of another person unless the person seeking recognition files with the enforcing agency a written instrument, which shall be an architectural, engineering, or construction contract, power of attorney, or letter of authorization signed by that other person designating the person seeking recognition as the agent, attorney, architect, engineer, or builder and, in case of a residential builder or maintenance and alteration contractor, architect, or engineer, setting forth the license number of the person seeking recognition and the expiration date of the license.

(3) A person licensed or required to be licensed as a residential builder or residential maintenance and alteration contractor under the occupational code, 1980 PA 299, MCL 339.101 to 339.2919, a plumbing contractor or master or journeyman plumber under article 11 of the skilled trades regulation act, MCL 339.6101 to 339.6133, an electrical contractor, master electrician, or electrical journeyman under article 7 of the skilled trades regulation act, MCL 339.5701 to 339.5739, or pursuant to a local ordinance, or a mechanical contractor under article 8 of the skilled trades regulation act, MCL 339.5801 to 339.5819, who applies for a building permit to perform work on a residential building or a residential structure shall, in addition to any other information required pursuant to this act, provide on the building permit application all of the following information:

- (a) The occupational license number of the applicant and the expiration date of the occupational license.
- (b) One of the following:

(i) The name of each carrier providing worker's disability compensation insurance to the applicant if the applicant is required to be insured pursuant to the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(ii) The reasons for exemption from the requirement to be insured if the applicant is not required to be insured under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(c) One of the following:

(i) The employer identification number, if the applicant is required to have an employer identification number pursuant to section 6109 of the internal revenue code, 26 USC 6109.

(ii) The reasons for exemption from the requirement to have an employer identification number pursuant to section 6109 of the internal revenue code of 1986, 26 USC 6109, if the applicant is not required to have an employer identification number pursuant to that section.

(d) One of the following:

(i) The Michigan employment security commission employer number, if the applicant is required to make contributions pursuant to the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(ii) If the applicant is not required to make contributions, the reasons for exemptions from the requirement to make contributions under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(4) The building permit application form shall contain the following statement in 8-point boldfaced type immediately above the location for the applicant's signature:

"Section 23a of the state construction code act of 1972, 1972 PA 230, MCL 125.1523a, prohibits a person from conspiring to circumvent the licensing requirements of this state relating to persons who are to perform work on a residential building or a residential structure. Violators of section 23a are subjected to civil fines."

(5) The application for a building permit shall be filed with the enforcing agency and the application and any other writing prepared, owned, used, in the possession of, or retained by the enforcing agency in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. An application shall not be removed from the custody of the enforcing agency after a building permit has been issued.

(6) This section shall be construed to allow the imposition of requirements in the code, or in other laws or ordinances, for additional permits for particular kinds of work, including plumbing and electrical, or in other specified situations. The requirements of the code may provide for issuance of construction permits for certain of the systems of a structure and allow construction to commence on those systems approved under that permit even though the design and approval of all the systems of the structure have not been completed and subsequent construction permits have not been issued.

(7) A building permit is not required for ordinary repairs of a building or structure.

(8) A building permit is not required for a building incidental to the use for agricultural purposes of the land on which the building is located if the building is not used in the business of retail trade.

(9) A qualifying roadside stand is exempt from the plumbing fixture requirements of this act and the code and is not required to have electric power. However, a qualifying roadside stand that has electric power must comply with the electrical code. This subsection does not exempt a qualifying roadside stand from a requirement to obtain a building permit. As used in this subsection, "qualifying roadside stand" means a roadside stand that meets all of the following requirements:

(a) Is used only for seasonal retail trade in agricultural products.

(b) At least 50% of the agricultural products offered for sale at the roadside stand are produced on a farm that is owned or controlled by the person who owns the roadside stand.

(c) Is not larger than 400 square feet.

(d) Is securely anchored to the ground.

(10) A tent that meets the requirements of subsection (9)(a), (b), and (c) is exempt from this act and the code.

Sec. 28. (1) Any provision of any of the following that is inconsistent or in conflict with this act is superseded to the extent of the inconsistency or conflict:

(a) Section 34 of 1933 (Ex Sess) PA 18, MCL 125.684.

(b) Article 11 of the skilled trades regulation act, MCL 339.6101 to 339.6133.

(c) Article 7 of the skilled trades regulation act, MCL 339.5701 to 339.5739.

(d) Except as otherwise provided in this section, any other public act.

(2) Any provision of this act that is inconsistent or in conflict with the Michigan fireworks safety act, 2011 PA 256, MCL 28.451 to 28.471, as it relates to the retail sale of consumer fireworks and low-impact fireworks, as those terms are defined in that act, is superseded to the extent of the inconsistency or conflict.

(3) This act does not repeal, amend, supersede, or otherwise affect the powers and duties under any of the following:

(a) Part 55 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5501 to 324.5542.

(b) Part 124 of the public health code, 1978 PA 368, MCL 333.12401 to 333.12434.

(c) The Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(d) Article 9 of the skilled trades regulation act, MCL 339.5901 to 339.5947.

(e) 1967 PA 227, MCL 408.801 to 408.824.

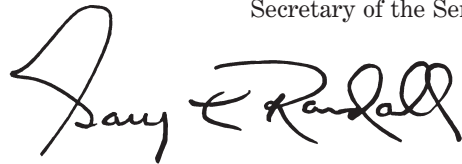
(f) 1937 PA 306, MCL 388.851 to 388.855a.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 963 of the 98th Legislature is enacted into law.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor