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STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF CONSTRUCTION CODES

PUBLIC HEARING

Administrative Rules for Construction Code - Part 10, Michigan
Uniform Energy Code Rule Set 2021-48 LR

702 West Kalamazoo Street, Lansing, Michigan

Thursday, February 22, 2024, 9:08 a.m.

RECORDED BY: Marcy A. Klingshirn, CER 6924
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APPEARANCES:

For the Department of
Licensing and
Regulatory Affairs:

TONY WILLIAMSON
Departmental Analyst
Bureau of Construction Code
PO Box 30254
Lansing, Michigan 48909
(517) 243-9100
williamsont5@michigan.gov

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1 Lansing, Michigan

2 Thursday, February 22, 2024 - 9:08 a.m.

3 MR. WILLIAMSON: Good morning, everybody. We will
4 now proceed with starting. My name is Tony Williamson, and
5 I am a departmental analyst for the Bureau of Code
6 Construction in the Department of Licensing and Regulatory
7 Affairs, and I will be conducting this hearing today.

8 This is a public hearing on proposed
9 administration of rules entitled "Part 10 Michigan Uniform
10 Code - Rule Set 2021-48 LR." We are conducting this hearing
11 under the authority of the Administrative Procedure Act,
12 Public Act 306 of 1969, on behalf of the Department of
13 Licensing and Regulatory Affairs, Bureau of Construction
14 Code. We are calling this hearing to order at 9:09 a.m. on
15 February 22nd, 2024, at the Michigan Library & Historical
16 Center, First Floor Forum, 702 West Kalamazoo Street,
17 Lansing, Michigan 48915.

18 Notice of public hearing was published in the
19 Michigan Register, Issue 2-2024, on February 15th, 2024, and
20 in the following newspaper of general circulation: The
21 Morning Sun and Oakland Press on February 1st, 2024; and the
22 Mining Journal on January 31st, 2024.

23 Please know we are here today to receive comments
24 or suggestions on the proposed rules. Please make sure that
25 they relate directly to the proposed rules and reasons why

1 the changes would be in the public interest. If you wish to
2 speak, make sure you have signed in and indicated that you
3 wish to speak. We will call on speakers in the order in
4 which names are listed on the sign-in sheet. Each speaker
5 is limited to three minutes and only allowed one time to
6 speak during the public hearing.

7 For those making comments today, please clearly
8 state and spell your name slowly for the record, and if you
9 are speaking on behalf of an organization, please identify
10 that organization as well.

11 If you have already submitted comments to the
12 Department in writing or by mail, those comments will be
13 considered in the same manner as the comments made during
14 the public hearing today. If you have written comments, you
15 may submit them directly to me. The Department will also
16 accept written comments postmarked or e-mailed until
17 2-22-2024 at 5:00 p.m. Thank you.

18 I will now call the first speaker, Bob Filka.

19 BOB FILKA

20 MR. BOB FILKA: Lots of paper for you, Tony.

21 MR. WILLIAMSON: Okay. Thank you.

22 MR. BOB FILKA: And that's the summer of
23 everything.

24 I'm Bob Filka. I'm the CEO of the Home Builders
25 Association of Michigan representing roughly 5,000 builders,

1 contractors, and others providing services in the
2 residential construction space across the state.

3 Most important thing I want to point out today,
4 and some people in the audience might be surprised, but in
5 that stack we are offering a proposed change, an alternative
6 proposal that actually we just had a report done by the Home
7 Innovation Research Labs report on our proposed changes that
8 show our proposed changes would increase energy efficiency
9 in the state from the current code by 13.6 percent, which,
10 interestingly enough, compares to your own proposal's data
11 suggesting that what you're proposing by the 2021 IECC is
12 improving that by 10.7 percent.

13 So I want the record to show the Home Builders
14 Association is not opposed to improving energy efficiency
15 standards in the state. In fact, we are suggesting our
16 proposal goes beyond what is being proposed by the state and
17 we would encourage the department to seriously consider it
18 and we've -- you know, I think there's been some concerns
19 raised by the department suggesting that you have to adopt
20 the model code. There is nothing in statute that requires
21 that.

22 I would also like to point out that, as I stated
23 at the last public hearing in July, and nothing has changed
24 from what the state proposed last year other than some
25 modifications to the regulatory impact statement, that

1 Michigan has a law that requires a seven-year simple payback
2 for any proposed energy efficiency changes. The Department
3 of Energy -- U.S. Department of Energy's own analysis of
4 what this could -- what your proposal could mean for
5 Michigan indicated that there's a 12-year simple payback
6 under the proposed 2021 IECC. So I will again reiterate
7 that the proposal that the State is promulgating at this
8 point unless it's amended is in violation of that state law,
9 the seven year payback.

10 Lastly, I'd like to just ask a question. Can I
11 ask a question?

12 MR. WILLIAMSON: No. This proceeding is
13 one-sided.

14 MR. BOB FILKA: So the Administrative Procedures
15 Act which requires the ability to interact and ask questions
16 is not being followed here in this instance?

17 MR. WILLIAMSON: We don't give comments back to
18 your questions through this proceeding. For --

19 MR. BOB FILKA: Okay. Well, then I will just
20 simply point out that we FOIA'd the State on the documents
21 that it said it used to develop this proposal and we were
22 told that LARA was not in possession of any of those dozen
23 documents. So my question would be, for the record, would
24 be --

25 MR. WILLIAMSON: Time, sir.

1 MR. BOB FILKA: Okay. Thank you.

2 MR. WILLIAMSON: Thank you. Grace Michienzi.

3 GRACE MICHIEZI

4 MS. GRACE MICHIEZI: Sorry, I'm pretty short.
5 I'm going to submit my written comment via e-mail, but I
6 just want to give a few comments verbally. So thank you to
7 the Bureau of Construction Codes for the opportunity to --
8 to speak in support of the proposed rule set. My name is
9 Grace Michienzi. Do you need me to spell it?

10 MR. WILLIAMSON: Sure.

11 MS. GRACE MICHIEZI: Okay. It's G-R-A-C-E and
12 last name is M-I-C-H-I-E-N-Z-I. I'm the senior director of
13 policy with the Michigan Energy Innovation Business Council
14 or Michigan EIBC. We're a business trade organization
15 representing over 160 companies across advanced energy
16 including energy efficiency, electric vehicles, renewables,
17 demand response, and more. Our mission is to grow
18 Michigan's advanced energy economy by fostering
19 opportunities for innovation and business growth.

20 Updating our building codes is one of the greatest
21 tools this state has to make necessary advancements in
22 energy efficiency and other energy technologies in the
23 state. Because of this, Michigan EIBC strongly supports
24 LARA's decision to include significant and necessary energy
25 efficiency improvements in this code.

1 The 2021 residential edition of the International
2 Energy Conservation Code represents approximately a 10.7
3 percent improvement in efficiency through more efficient
4 thermal envelopes, improved mechanical system efficiency,
5 improved lighting, and other cost effective improvements
6 compared to the 2015 code. Implementing the residential
7 IECC will save Michigan residents money on their energy
8 bills, continue to support the growing industry in advanced
9 energy efficiency, and advance the work in future proofing
10 Michigan's building stock.

11 Research completed by the Pacific Northwest
12 National Laboratory for the Department of Energy showed that
13 updating the 2021 IECC is cost effective. A 10.7 percent
14 improvement in energy efficiency equates to \$327 in annual
15 utility bill savings for the average Michigan home and the
16 study showed that the average life cycle cost savings of
17 implementing the 2021 IECC is over \$4,000. The study
18 appropriately balances both incremental costs of
19 construction against longer term energy savings over a
20 30-year period.

21 Additionally, the research suggests that in its
22 just -- its first year of implementation, the 2021 IECC will
23 save Michigan homes statewide about 3.8 million in energy
24 cost savings. Updating to more energy efficient codes is
25 cost effective and will result in increased affordability in

1 terms of year to year household costs rather than solely the
2 initial sale.

3 I also just want to say Michigan EIBC strongly
4 supports the BCC's decision to pull back the code regarding
5 the drafting errors that were issued and we encourage the
6 BCC to also open up the 2024 code shortly after the
7 conclusion of this one. That's all.

8 MR. WILLIAMSON: Thank you.

9 JAN CULBERTSON

10 MS. JAN CULBERTSON: Good morning. I'm Jan
11 Culbertson, J-A-N C-U-L-B-E-R-T-S-O-N, and I'm here
12 representing two organizations, one, AIA Michigan and the
13 Michigan 2030 Districts which exist in Detroit, Ann Arbor,
14 Grand Rapids, and an emerging district in Lansing. First of
15 all, I will submit written comments.

16 I do want to say that both organizations support
17 the adoption of the proposed Michigan Uniform Energy Code
18 Part 10. And we note that you did add appendix RB which is
19 an important addition. However, we would like to also
20 propose that you include appendix RC which will improve
21 building efficiency resilience and is easier to implement
22 due to recent legislation and utility renewable power
23 programs.

24 I want to point out that onsite renewable energy
25 increases building efficiency, especially if you compare

1 source energy and site energy. ENERGY START Portfolio
2 Manager actually uses a 2.8 versus 1.1 for source versus
3 site energy which means you are generating 2.8 times the
4 energy if you are not using onsite renewable energy. Very
5 important energy efficiency.

6 The pieces of the legislation and renewable power
7 programs, the distributed energy cap has been increased from
8 one percent to 2 -- 10 percent, enabling the growth of
9 onsite solar and the amount of onsite solar generation has
10 been increased to 1 -- 110 percent of a building's annual
11 energy use, enabling larger systems. As an option to onsite
12 renewable power, which is offered in this appendix, an
13 example is MIGreenPower which is DTE's current green power
14 program, which actually reduces the kilowatt hour price for
15 anyone enrolled. In addition, several utilities have now
16 established residential time of day rates and some -- most
17 of those overlap with solar generation and peak electricity
18 demand, resulting in additional savings for customers who
19 have onsite renewable power.

20 In addition, Michigan will be eligible for over
21 \$1.7 million in additional federal funds for code
22 implementation and education with the adoption of Appendix
23 RC. These funds are made specifically for the adoption and
24 education and implementation of that appendices.

25 I -- I just want to say that installers are

1 reporting a seven to nine-year payback depending on
2 orientation and an 8 to 12 percent internal rate of return
3 over 25 years. Onsite solar systems can be financed with
4 low interest loans from Michigan state or installed through
5 a power purchase agreement with no capital up front cost.
6 Thank you very much.

7 MR. WILLIAMSON: Thank you.

8 MS. JAN CULBERTSON: I'll submit these to you.

9 MR. WILLIAMSON: Thank you.

10 MS. JAN CULBERTSON: Thank you.

11 MR. WILLIAMSON: Jason Vandever.

12 JASON VANDEVER

13 MR. JASON VANDEVER: I'm Jason Vandever, J-A-S-O-N
14 V-A-N-D-EVER, with North American Insulation Manufacturers
15 Association. I'm here to testify to encourage Michigan to
16 adopt the 2021 as listed in the rule sets. Certainly a lot
17 of times I'm testifying in opposition to the builders, but I
18 want to give credit to the builders here today who have gone
19 through the Home Innovation Research Lab and come up with a
20 builder, a package for you to consider. I would encourage
21 you if you do consider the builder package -- so a couple of
22 things to think about.

23 One, the 2021 IECC as published already has ready-
24 to-go software that's needed for permit and plan review
25 compliance. That software off-the-shelf, whether it's

1 Ekotrope or REM/Rate or REScheck, is up and ready to go for
2 the 2021 IECC as published. And then so -- so that's --
3 that's -- that would be an advantage that the builders could
4 use day one. Hey, we can show compliance with ready to go,
5 off-the-shelf software.

6 If you are to consider the builder's package, I
7 think making it an alternative compliance path would
8 certainly be a way to go. That way, the -- because when
9 you're -- when you're looking at the funding from the
10 Inflation Reduction Act and other federal funds, the --
11 they're going to use the Pacific Northwest National Lab
12 calculations and HIRL, the Home Innovation Research Lab's
13 cost and energy savings are oftentimes -- don't -- let's say
14 they just don't always align. They're -- they're typically
15 a little higher as far as energy savings and a little lower
16 as far -- far as cost. So that would -- that would resolve
17 that potential issue making it an alternative compliance
18 path. And that's all I have.

19 MR. WILLIAMSON: Thank you. Don Nelson?

20 MR. KEITH NELSON: I'm going to take Don's. I'm
21 Keith. Do you want me to wait for me or -- he's not going
22 to talk.

23 MR. WILLIAMSON: All right. Don Nelson is not
24 going to talk. All right.

25 MR. DON NELSON: Is Keith next?

1 MR. KEITH NELSON: No.

2 MR. WILLIAMSON: No. You were first, sir.

3 MR. DON NELSON: Okay.

4 DON NELSON

5 MR. DON NELSON: Don Nelson, D-O-N N-E-L-S-O-N. I
6 spent 43 years promoting energy efficient construction and
7 making it easier, as easy I can for builders. And my one
8 complaint about the 2021 International Energy Conservation
9 Code is that it focuses all on insulation. There's no
10 credit given for appliance efficiencies and other
11 efficiencies in the house. It's all based on R-value which
12 I don't think serves the industry as well as it could. My
13 son Keith will elaborate on that point when it's his turn.

14 MR. WILLIAMSON: Thank you, sir. Keith Nelson,
15 it's your turn now.

16 KEITH NELSON

17 MR. KEITH NELSON: Keith Nelson, DR Nelson &
18 Associates. K-E-I-T-H N-E-L-S-O-N. Just as my dad said,
19 for over 40 years been promoting energy efficiency and
20 working with builders on air sealing and techniques to
21 deliver cost effective homes for their end users that are
22 efficient and don't have drafts.

23 A couple things with the 2021 IEC's -- 2021 IECC
24 specifically are 405.2, items one and two; and 405.4.2.
25 Both of these rules remove credit for reduced air leakage

1 and remove credit for high efficiency furnaces. As this
2 code is, you can put an 80 percent furnace in or a 98
3 percent efficient furnace in. The code views it as the same
4 and that's why we want to strike these two items from the
5 code council, or from the IECC's 2021 book. One of them is
6 air leakage as well. It reduces credit for air leakage. So
7 we're de-incentivizing builders for air tightness and high
8 efficiency equipment and all the focus is on R-value which
9 has been proven once you get to minimum levels of
10 insulation, there's significant diminished returns.

11 For example, going from R-38 to a ceiling to R-60
12 in a ceiling might save a homeowner a dollar to two dollars
13 a month. It might cost the builder \$1,000 to build. So,
14 and that cost is just going to be passed along to the end
15 user, the homeowner that purchases that home.

16 So we're for the advancement of the codes, but in
17 ways that make economical sense and that aren't geared
18 toward special interests like insulation lobbies that
19 clearly got their way in this code. Thank you.

20 MR. WILLIAMSON: Thank you, sir. Andy Kosick.

21 ANDY KOSICK

22 MR. ANDY KOSICK: Yes. I'm Andy Kosick. I -- I
23 am currently actually president of the Home Builders
24 Association of Midland, but I am speaking as myself today
25 because my comments are a little each way.

1 So I think my -- my comments are more around
2 process at this point. I stand at a strange position of
3 being for homebuilding, but also being in favor of energy
4 efficiency and improved building performance. I think there
5 are a lot of issues pressing on housing right now from
6 energy efficiency, energy transition around electrification,
7 and the need for housing. And I think balancing all these
8 things is really important. I think there's some issues
9 around this from a process perspective that are frustrating,
10 and I think I'm going to spend most of my time with that
11 here.

12 Basically I'm for improving efficiency, but
13 there's a lot of ways to do that and do that effectively and
14 that's at a performance standpoint, not prescriptively. And
15 there's a lot of argument over the prescriptive nature of
16 the code and perhaps we should focus more on getting there
17 in a more -- you know, finding the best way to do that.

18 I think the issue I -- I want to point out the
19 most right now that Bob didn't spend much time with is this
20 process seems really strange. We're here talking about the
21 2020 IECC which doesn't even affect residential housing in
22 the state because the resident -- International -- the
23 Residential Energy Code is what actually is what the
24 residential housing pays attention to. So the process here
25 is very strange. And I'll go far as to say the people --

1 the process of promulgating this code seems to be coming
2 from a place of, like, minimal competency. I'll be the one
3 to say that.

4 The -- the other problem is if we put this code
5 through and it just ends up tied up in the courts, that
6 doesn't do anybody any good. Even if I want more energy
7 efficiency, putting these things forward in a way that
8 doesn't have them be implemented smoothly and carried out
9 effectively, doesn't make a lot of sense. So I just think
10 there's a handful of issues to be concer- -- concerned with
11 around this. If the code goes forward and it just ends up
12 in lawsuits, I don't think that makes any sense for anyone.

13 And I guess I will just leave it broadly with I
14 think it might be a really good move at this point to skip
15 2021, look at the 2024, and maybe figure out how to make
16 this happen in a way that makes a logistical sense within
17 the law and everything. So I'll leave it at that.

18 MR. WILLIAMSON: All right. Thank you. Thank
19 you. Sonya -- Sonya Pouncy.

20 SONYA POUNCY

21 MS. SONYA POUNCY: Good morning. My name is
22 Sonya, S-O-N-Y-A, Pouncy, P as in Paul, O-U-N as in Nancy, C
23 as in cat, Y. I'm speaking at this moment on behalf of
24 myself as a homeowner in the state of Michigan.

25 My understanding is that we are looking at

1 adopting a new code that -- and we are looking to exclude
2 provisions for zero energy. As a Michigan homeowner, I know
3 that a number of people are looking to improve the
4 performance of their homes and zero energy is one of the
5 things that people are considering. I think that it is
6 important that we include this as an alternate path of
7 compliance for those that choose to -- to use it. We have
8 within our code currently other options for people to use.
9 So we have prescriptive. We have performance paths. I
10 think this is an important pathway to consider. Thank you.

11 MR. WILLIAMSON: Thank you. Chris McTaggart.

12 CHRIS MCTAGGART

13 MR. CHRIS MCTAGGART: Hello. Morning. So I was
14 here for the last hearing a couple years ago when we were
15 talking about changing the energy code here in Michigan. My
16 role here in the state is that I own a company called
17 Building Efficiency Resources. We are a resonant quality
18 assurance provider and we work with a lot of energy raters
19 throughout the state who are working with builders in
20 implementing the current Michigan energy code.

21 So while my company -- we're generally advocates
22 for energy efficiency and improvements to building energy
23 codes, I am here to make testimony basically in encouraging
24 whatever changes are made to the energy code at the state
25 level, whether it's adoption of the version of the 2021 IECC

1 or looking to the 2024, or potentially even, you know,
2 keeping us closer to where we are with the current version
3 of the 2015 IECC, it's very critical that the State removes
4 the weakening amendment that was included in the 2015 IECC
5 as it pertains to the location of ducts for the reference
6 home within the performance path, section R405.

7 Michigan has a unique outlier addition to its
8 version of the 2015 IECC that specifically amends the
9 location of the ducts for the reference home in this
10 performance approach that ends up resulting in completely
11 unreasonable savings for homes that are following the
12 performance path and comparing a proposed home to the
13 reference home.

14 In Michigan, most of our homes are built on
15 conditioned basements and as a result most of the ductwork
16 is naturally kept with inside condition space anyways. The
17 way that the 2015 amended version of the Michigan code reads
18 is that if you're using the performance path of the code,
19 the reference home has 100 percent of ductwork located in an
20 unconditioned attic, therefore unlocking potentially 20 to
21 30 percent savings for a proposed home just by building a
22 home normally the way that a builder would. This is a
23 completely unnatural amendment to the 2015 IECC and it has
24 basically weakened our current code to the point where it is
25 actually sub-2009 in terms of actual performance.

1 So if you're making a change, please make the
2 change to remove that weakened amendment, whatever version
3 of the code we choose to stay on. And I do have a little
4 writeup I'd like to present for this. Thank you.

5 MR. WILLIAMSON: Thank you. That's conclude our
6 list of signed in speakers. We will now proceed to the
7 closing of the hearing. If there are no further comments at
8 this time, I hereby declare this hearing closed. The record
9 will remain open until 2-22-2024 at 5:00 p.m. for any other
10 comments you may wish to share about the proposed rules.
11 Thank you for attending.

12 (Proceedings concluded at 9:34 a.m.)
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CERTIFICATE

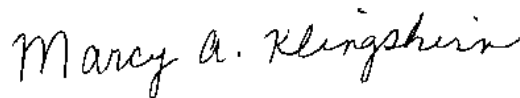
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I, Marcy A. Klingshirn, a Certified Electronic Recorder and Notary Public within and for the State of Michigan, do hereby certify:

That this transcript, consisting of 20 pages, is a complete, true, and correct record given in this case on February 22nd, 2024.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am not interested in the outcome of this matter, financial or otherwise.

IN WITNESS THEREOF, I have hereunto set my hand this 23rd day of February, 2024.



Marcy A. Klingshirn, CER 6924
Notary Public, State of Michigan
County of Eaton
My commission expires: March 30, 2029