



HOUSE BILL No. 4787

May 13, 1993, Introduced by Reps. Joe Young, Jr., Jaye, Points, Rocca, Varga, Curtis, Wetters, Shepich, Schroer and Pitoniak and referred to the Committee on State Affairs.

A bill to amend sections 2001 and 2014 of Act No. 299 of the Public Acts of 1980, entitled as amended

"Occupational code,"

as amended by Act No. 103 of the Public Acts of 1992, being sections 339.2001 and 339.2014 of the Michigan Compiled Laws; and to add sections 2015, 2016, 2017, 2018, 2019, and 2020.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2001 and 2014 of Act No. 299 of the
2 Public Acts of 1980, as amended by Act No. 103 of the Public Acts
3 of 1992, being sections 339.2001 and 339.2014 of the Michigan
4 Compiled Laws, are amended and sections 2015, 2016, 2017, 2018,
5 2019, and 2020 are added to read as follows:

6 Sec. 2001. As used in this article:

7 (a) "Architect" means a person who, by reason of knowledge
8 of mathematics, the physical sciences, and the principles of

1 architectural design, acquired by professional education and
2 practical experience, is qualified to engage in the practice of
3 architecture.

4 (B) "DESIGN PROFESSIONAL" MEANS AN ARCHITECT, PROFESSIONAL
5 ENGINEER, OR PROFESSIONAL SURVEYOR WHO IS LICENSED PURSUANT TO
6 THIS ARTICLE.

7 (C) "DESIGN PROFESSION" MEANS THE PRACTICE OF A DESIGN
8 PROFESSIONAL.

9 (D) ~~(b)~~ "Firm" means a sole proprietorship, partnership,
10 or corporation through which a person licensed under this article
11 offers or provides a service to the public.

12 (E) ~~(c)~~ "Person" means a natural person notwithstanding
13 section 105(5).

14 (F) ~~(d)~~ "Person in responsible charge" means a person
15 licensed under this article who determines technical questions of
16 design and policy; advises the client; supervises and is in
17 responsible charge of the work of subordinates; is the person
18 whose professional skill and judgment are embodied in the plans,
19 designs, plats, surveys, and advice involved in the services; and
20 who supervises the review of material and completed phases of
21 construction.

22 (G) ~~(e)~~ "Practice of architecture" means professional
23 services, such as consultation, investigation, evaluation, plan-
24 ning, design, or review of material and completed phases of work
25 in construction, alteration, or repair in connection with a
26 public or private structure, building, equipment, works, or

1 project when the professional service requires the application of
2 a principle of architecture or architectural design.

3 (H) ~~(f)~~ "Practice of professional surveying" means provid-
4 ing professional services such as consultation, investigation,
5 testimony, evaluation, planning, mapping, assembling, and inter-
6 preting reliable scientific measurements and information relative
7 to the location, size, shape, or physical features of the earth,
8 improvements on the earth, the space above the earth, or any part
9 of the earth, and the utilization and development of these facts
10 and interpretations into an orderly survey map, plan, report,
11 description, or project. The practice of professional surveying
12 includes all of the following:

13 (i) Land surveying which is the surveying of an area for its
14 correct determination or description for its conveyance, or for
15 the establishment or reestablishment of a land boundary and the
16 designing or design coordination of the plotting of land and the
17 subdivision of land.

18 (ii) Geodetic surveying which includes surveying for deter-
19 mination of the size and shape of the earth both horizontally and
20 vertically and the precise positioning of points on the earth
21 utilizing angular and linear measurements through spatially ori-
22 ented spherical geometry.

23 (iii) Utilizing and managing land information systems
24 through establishment of datums and local coordinate systems and
25 points of reference.

26 (iv) Engineering and architectural surveying for design and
27 construction layout of infrastructure.

1 (v) Cartographic surveying for the making of maps, including
2 topographic and hydrographic mapping.

3 (I) ~~(g)~~ "Practice of professional engineering" means
4 professional services, such as consultation, investigation, evaluation,
5 ation, planning, design, or review of material and completed
6 phases of work in construction, alteration, or repair in connection
7 tion with a public or private utility, structure, building,
8 machine, equipment, process, work, or project, when the professional
9 sional service requires the application of engineering principles
10 or data.

11 (J) ~~(h)~~ "Principal" means a sole proprietor, partner, or
12 the president, vice-president, secretary, treasurer, or director
13 of a corporation.

14 (K) ~~(i)~~ "Professional engineer" means a person who, by
15 reason of knowledge of mathematics, the physical sciences, and
16 the principles of engineering, acquired by professional education
17 and practical experience, is qualified to engage in the practice
18 of professional engineering.

19 (L) ~~(j)~~ "Professional surveyor" means a person who, by
20 reason of knowledge of law, mathematics, physical sciences, and
21 techniques of measuring acquired by professional education and
22 practical experience, is qualified to engage in the practice of
23 professional surveying.

24 (M) ~~(k)~~ "Services" means professional service offered or
25 provided by an architect in the practice of architecture, a pro-
26 fessional engineer in the practice of professional engineering,

1 or a professional surveyor in the practice of professional
2 surveying.

3 Sec. 2014. A person is subject to the penalties set forth
4 in article 6 who commits 1 of the following:

5 (a) ~~Uses~~ USING the term "architect", "professional
6 engineer", "land surveyor", "professional surveyor", or a similar
7 term in connection with the person's name unless the person is
8 licensed in the appropriate practice under this article.

9 (b) Presenting or attempting to use as the person's own the
10 license or seal of another.

11 (c) Attempting to use an expired, suspended, or revoked
12 license.

13 (d) Using the words "architecture", "professional
14 engineering", "land surveying", "professional surveying", or a
15 similar term in a firm name without authorization by the appro-
16 priate board.

17 (e) Submitting to a public official of this state or a
18 political subdivision of this state for approval, a permit or a
19 plan for filing as a public record, a specification, a report, or
20 a land survey which does not bear 1 or more seals of a licensee
21 as required by this article. This subdivision does not apply to
22 a public work costing less than \$15,000.00 or a residential
23 building containing not more than 3,500 square feet of calculated
24 floor area.

25 (F) ENGAGING IN OR ATTEMPTING TO ENGAGE IN THE PRACTICE OF
26 ARCHITECTURE, PROFESSIONAL ENGINEERING, OR PROFESSIONAL SURVEYING

1 OR USING THE TITLE DESIGNATED IN THIS ARTICLE WITHOUT POSSESSING
2 A LICENSE ISSUED BY THE DEPARTMENT FOR THAT DESIGN PROFESSION,
3 (G) PRACTICING ARCHITECTURE, PROFESSIONAL ENGINEERING, OR
4 PROFESSIONAL SURVEYING WITH A FIRM NOT COMPLYING WITH THIS
5 ARTICLE.

6 SEC. 2015. (1) THE DEPARTMENT, UPON RECEIPT OF A COMPLAINT,
7 SHALL IMMEDIATELY BEGIN ITS INVESTIGATION OF THE ALLEGATIONS
8 FOUND IN THE COMPLAINT AGAINST A LICENSEE OR UNLICENSED PERSON
9 AND SHALL OPEN A CORRESPONDENCE FILE. THE DEPARTMENT SHALL MAKE
10 A WRITTEN ACKNOWLEDGMENT OF THE COMPLAINT WITHIN 30 DAYS AFTER
11 RECEIPT OF THE COMPLAINT TO THE PERSON MAKING THE COMPLAINT.

12 (2) IF THE COMPLAINT IS MADE BY THE DEPARTMENT, THE DIRECTOR
13 SHALL DESIGNATE 1 OR MORE EMPLOYEES OF THE DEPARTMENT TO ACT AS
14 THE PERSON MAKING THE COMPLAINT.

15 SEC. 2016. (1) WITHIN 30 DAYS AFTER RECEIVING A COMPLAINT,
16 THE DEPARTMENT SHALL SELECT NOT MORE THAN 3 DESIGN PROFESSIONALS
17 FROM A ROSTER OF DESIGN PROFESSIONALS ESTABLISHED BY THE APPRO-
18 PRIATE BOARD WHO HAVE CONTRACTED WITH THE DEPARTMENT TO CONDUCT
19 INVESTIGATIONS. THE INVESTIGATION SHALL BE MADE BY DESIGN PRO-
20 FESSIONALS FROM THE DESIGN PROFESSIONS TO WHICH THE COMPLAINT
21 PERTAINS. THE DESIGN PROFESSIONALS SHALL BE COMPENSATED AND
22 REIMBURSED BY THE DEPARTMENT FOR THEIR EXPENSES.

23 (2) PAYMENT BY THE DEPARTMENT TO DESIGN PROFESSIONALS FOR
24 THE PURPOSE OF INVESTIGATING A COMPLAINT SHALL BE MADE FROM THE
25 DESIGN PROFESSIONAL ENFORCEMENT FUND ESTABLISHED PURSUANT TO THIS
26 ARTICLE.

1 (3) AN INDIVIDUAL DESIGN PROFESSIONAL CONDUCTING THE
2 INVESTIGATION OR MAKING THE ALLEGATIONS OF A COMPLAINT SHALL BE
3 IMMUNE FROM CIVIL LIABILITY EXCEPT FOR HARM HE OR SHE INTENTION-
4 ALLY CAUSES OR WHICH IS CAUSED BY HIS OR HER GROSS NEGLIGENCE.

5 SEC. 2017. (1) AN INVESTIGATION SHALL BE COMPLETED WITHIN
6 60 DAYS AFTER THE COMPLAINT IS RECEIVED BY THE DEPARTMENT. THE
7 DESIGN PROFESSIONALS CONDUCTING THE INVESTIGATION SHALL, WITHIN
8 60 DAYS AFTER THE DEPARTMENT RECEIVES THE COMPLAINT, REPORT TO
9 THE DIRECTOR AND THE ATTORNEY GENERAL ON THE STATUS OF THE
10 INVESTIGATION. IF FOR GOOD CAUSE SHOWN, AN INVESTIGATION CANNOT
11 BE COMPLETED WITHIN 60 DAYS, THE DIRECTOR MAY EXTEND THE TIME IN
12 WHICH THE INVESTIGATION SHALL BE COMPLETED AND A REPORT FILED.

13 (2) IF THE REPORT OF THE DESIGN PROFESSIONALS CONDUCTING THE
14 INVESTIGATION DOES NOT DISCLOSE A VIOLATION OF THIS ACT OR A RULE
15 PROMULGATED OR AN ORDER ISSUED UNDER THIS ACT, THE COMPLAINT
16 SHALL BE CLOSED BY THE DEPARTMENT. THE REASONS FOR CLOSING THE
17 COMPLAINT SHALL BE FORWARDED TO THE RESPONDENT AND THE
18 COMPLAINANT. THE COMPLAINANT MAY PROVIDE ADDITIONAL INFORMATION
19 TO REOPEN THE COMPLAINT.

20 (3) IF THE REPORT OF THE DESIGN PROFESSIONALS CONDUCTING THE
21 INVESTIGATION DISCLOSES EVIDENCE OF A VIOLATION OF THIS ACT OR A
22 RULE PROMULGATED OR AN ORDER ISSUED UNDER THIS ACT, THE DEPART-
23 MENT OR THE DEPARTMENT OF ATTORNEY GENERAL SHALL PREPARE THE
24 APPROPRIATE ACTION AGAINST THE RESPONDENT WHICH MAY BE ANY OF THE
25 FOLLOWING:

26 (A) A FORMAL COMPLAINT.

1 (B) A CEASE AND DESIST ORDER.

2 (C) A NOTICE OF SUMMARY SUSPENSION.

3 (D) A CITATION.

4 SEC. 2018. (1) AFTER AN INVESTIGATION HAS BEEN CONDUCTED,
5 THE DIRECTOR MAY ORDER A LICENSED OR UNLICENSED PERSON TO CEASE
6 AND DESIST FROM A VIOLATION OF THIS ACT OR A RULE PROMULGATED OR
7 AN ORDER ISSUED UNDER THIS ACT.

8 (2) A PERSON ORDERED TO CEASE AND DESIST SHALL BE ENTITLED
9 TO A HEARING BEFORE THE DEPARTMENT IF A WRITTEN REQUEST FOR A
10 HEARING IS FILED WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE
11 ORDER. THE ATTORNEY GENERAL OR HIS OR HER DESIGNEE SHALL REPRESENT
12 THE DEPARTMENT AT THE HEARING.

13 (3) UPON A VIOLATION OF A CEASE AND DESIST ORDER ISSUED
14 UNDER THIS ACT, THE DEPARTMENT OF THE ATTORNEY GENERAL SHALL
15 APPLY TO THE CIRCUIT COURT OF THIS STATE TO RESTRAIN AND ENJOIN,
16 TEMPORARILY OR PERMANENTLY, OR BOTH, A PERSON FROM VIOLATING A
17 CEASE AND DESIST ORDER.

18 SEC. 2019. THE ATTORNEY GENERAL SHALL APPOINT SPECIAL
19 ASSISTANT ATTORNEYS GENERAL TO PERFORM THE LEGAL SERVICES
20 REQUIRED BY THIS ARTICLE. PAYMENT FOR THE LEGAL SERVICES
21 REQUIRED OF THIS ARTICLE SHALL BE MADE FROM THE DESIGN PROFESSIONAL
22 ENFORCEMENT FUND.

23 SEC. 2020. (1) IN ADDITION TO AN ACTION WHICH MAY BE
24 BROUGHT BY THE DEPARTMENT UNDER SECTION 605, A PERSON MAY BRING A
25 CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION TO ENJOIN THE
26 UNAUTHORIZED PRACTICE OF ARCHITECTURE, PROFESSIONAL ENGINEERING,
27 OR PROFESSIONAL SURVEYING.

1 (2) A PERSON THAT BRINGS AN ACTION TO ENJOIN THE
2 UNAUTHORIZED PRACTICE OF ARCHITECTURE, PROFESSIONAL ENGINEERING,
3 OR PROFESSIONAL SURVEYING AND PREVAILS IN THAT ACTION SHALL BE
4 AWARDED BY THE COURT THE COSTS AND ACTUAL ATTORNEY FEES INCURRED
5 IN PURSUING THE ACTION.

6 (3) THE UNLICENSED PRACTICE OF ARCHITECTURE, PROFESSIONAL
7 ENGINEERING, AND PROFESSIONAL SURVEYING SHALL BE RECOGNIZED BY
8 THE LEGISLATURE AS IMPOSING A PARTICULAR, IMMEDIATE, AND IRREPA-
9 RABLE HARM TO THE HEALTH AND SAFETY OF THE PEOPLE OF THIS STATE.

10 Section 2. This amendatory act shall not take effect unless
11 Senate Bill No. _____ or House Bill No. 4788 (request
12 no. 02159'93 a) of the 87th Legislature is enacted into law.