

## **AMEND OCCUPATIONAL LICENSING REQUIREMENTS RELATED TO RESIDENTIAL MAINTENANCE AND ALTERATION CONTRACTORS**

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**House Bill 4281 (Proposed H-1, Draft 1 substitute)**

**House Bill 4282 (Proposed H-1, Draft 1 substitute)**

**Sponsor: Rep. Ray A. Franz**

**Committee: Regulatory Reform**

**Complete to 10-21-15**

### **SUMMARY:**

House Bills 4281 and 4282, taken together, would modify requirements relating to the types of work that can be performed without having to obtain a residential builder's or residential maintenance and alteration contractor's license, as well as other changes detailed below. The bills are tie-barred, meaning neither take effect unless both are enacted into law. Both would take effect 90 days after the date they were enacted into law.

#### **House Bill 4281**

HB 4281 would amend Section 39 of the State License Fee Act by modifying how the monies in the Builders Enforcement Fund could be used. The fund is currently used exclusively for enforcement purposes under the Occupational Code. Under the bill, not more than 30% could be used for enforcement purposes and not more than 70% of the money could be used to issue grants to a statewide residential building and trade association for workforce development and outreach programs related to the residential building industry.

#### **House Bill 4282**

HB 4282 would amend Sections 2403 and 2404b of the Occupational Code by allowing certain activities to be performed without a license if the amount of work falls under a certain dollar amount.

Currently, a license is not needed by a person working on one undertaking or project by one or more contracts, if the aggregate contract price for labor, material, and any other item is less than \$600. **The bill would raise the dollar amount to \$4,000 from \$600 for the entire undertaking or project.**

(This exemption does not apply if the construction work is only a part of a larger or major operation, whether undertaken by the same or a different residential builder or residential maintenance and alteration contractor, or in which a division of the operation is made in contracts of lower amounts to evade licensing under the act.)

Other current exemptions include:

- An authorized representative of the United States government, Michigan, or a county, township, city, village, or other political subdivision of Michigan.
- An owner of property, with reference to a structure on the property for the owner's own use and occupancy.
- An owner of rental property, with reference to the maintenance and alteration of that rental property.
- An officer of a court acting within the terms of the officer's office.
- A person other than the salesperson who engages solely in the business of performing work and services under contract with a residential builder or a residential maintenance and alteration contractor licensed under this article.
- An electrical contractor who is licensed under the Electrical Administrative Act. This exemption applies only to the electrical installation, electrical maintenance, or electrical repair work performed by the electrical contractor.
- A plumbing contractor licensed under PA 266 of 1929 [NOTE: this law was repealed in 2003 by PA 733 of 2002, the State Plumbing Act. The bill would correct the reference]. This exemption applies only to plumbing installation, plumbing maintenance, or plumbing repair work performed by the plumbing contractor.
- A mechanical contractor who is licensed under the Mechanical Contractors Act. This exemption applies only to mechanical installation, mechanical maintenance, or mechanical repair work performed by the mechanical contractor.

The bill would make mostly technical changes to these provisions that would not change the current meaning, except as noted above.

HB 4282 also would add a requirement that an individual applying for an initial license as a residential maintenance and alteration contractor that is applicable to one or more crafts or trades successfully complete five hours of pre-licensure courses that are pertinent to each of those crafts or trades. Individuals would be ineligible to receive an initial license until this is completed, unless they are otherwise exempt.

Further, the bill would add the term, "Michigan Residential Code," which would mean the Michigan Residential Code promulgated by the director of the Department of Licensing and Regulatory Affairs under the Stille-Derossett-Hale Single State Construction Code Act.

## **FISCAL IMPACT:**

The bill would not have a direct fiscal impact on the Department of Licensing and Regulatory Affairs (LARA). Historically, LARA has expended an average of approximately 14.0% of the balance within the Builder Enforcement Fund (Fund) on enforcement activities, well less than the 30.0% of the money within the Fund capped under the bill (although, not less than 30.0% appropriated from the Fund, which is discussed along with other potential problems below).

However, the revisions to the conditions placed on the expenditure of money with the Fund could potentially cause unintended consequences. Specifically, the condition pertaining to

the maximum percentages appropriated from the fund would seem to require the Legislature to appropriate precisely 30.0% for builder enforcement and precisely 70.0% for builder workforce development since the total appropriation from the Fund in a given year would be 100.0%, and any allocation other than 30/70 would result in more than the maximum percentage being appropriated for either enforcement or workforce development. Yet, the Legislature would only seem to be required to appropriate the maximum percentages to enforcement and workforce development; upon closer reading, it appears that the revisions would actually remove the restriction on the purposes for which money within the Fund may be expended (e.g., 0.0% is "not more than" 30.0% or 70.0%) and there is no language explicitly restricting expenditures to the purposes described in the section. Consequently, money within the Fund would be available for expenditure on purposes unrelated to builder enforcement or workforce development.

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