

# HOUSE BILL No. 4282

March 4, 2015, Introduced by Reps. Franz, Glenn, Kelly, Somerville, Lauwers and Goike and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending sections 411, 601, 2401, 2402, 2403, 2404, 2404b,  
2404c, 2407, 2410, 2411, and 2412 (MCL 339.411, 339.601, 339.2401,  
339.2402, 339.2403, 339.2404, 339.2404b, 339.2404c, 339.2407,  
339.2410, 339.2411, and 339.2412), section 411 as amended by 2014  
PA 265, section 601 as amended by 2008 PA 319, section 2401 as  
amended by 1991 PA 166, section 2402 as amended by 2007 PA 157,  
section 2403 as amended by 1984 PA 191, section 2404 as amended and  
section 2404c as added by 2014 PA 176, section 2404b as amended by  
2014 PA 175, section 2407 as amended by 1988 PA 463, section 2411  
as amended by 2010 PA 151, and section 2412 as amended by 2007 PA  
155.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 411. (1) Subject to subsection (2), a person that fails  
2 to renew a license or registration on or before the expiration date  
3 shall not practice the occupation, operate, or use the title of  
4 that occupation after the expiration date printed on the license or  
5 registration. A license or registration shall lapse on the day  
6 after the expiration date.

7       (2) A person that fails to renew a license or registration on  
8 or before the expiration date is permitted to renew the license or  
9 registration by payment of the required license or registration fee  
10 and a late renewal fee within 60 days after the expiration date.

11       (3) Except as otherwise provided in this act, **THE DEPARTMENT**  
12 **MAY RENEW THE LICENSE OR REGISTRATION OF** a person that ~~fails~~**FAILED**  
13 to renew a license or registration within the time period ~~set forth~~  
14 **DESCRIBED** in subsection (2) ~~may be relicensed or reregistered~~  
15 without examination and without ~~meeting~~**REQUIRING ANY** additional  
16 education or training requirements in force at the time of **THE**  
17 **RENEWAL** application ~~for relicensure or reregistration~~ if all of the  
18 following conditions are met:

19       (a) The person applies within 3 years after the expiration  
20 date of the last license or registration.

21       (b) The person pays an application processing fee, the late  
22 renewal fee, and the per year license or registration fee for the  
23 upcoming licensure or registration period, subject to subsection  
24 (8).

25       (c) ~~Any~~**THE PERSON SATISFIES ANY** penalties or conditions  
26 imposed by disciplinary action in this state or any other  
27 jurisdiction. ~~have been satisfied.~~

1 (d) The person submits proof of having completed the  
2 equivalent of 1 year of continuing education within the 12 months  
3 immediately preceding the date of application or as otherwise  
4 provided in a specific article or by rule, if continuing education  
5 is required of licensees or registrants under a ~~THE~~ specific  
6 article **APPLICABLE TO THE PERSON'S LICENSE OR REGISTRATION**.

7 (4) Except as otherwise provided in this act, **THE DEPARTMENT**  
8 **MAY RELICENSE OR REREGISTER** a person ~~may be relicensed or~~  
9 ~~reregistered~~ subsequent to 3 or more years after the expiration  
10 date of the **PERSON'S** last license or registration if the person  
11 shows that the person meets the requirements for licensure or  
12 registration ~~as~~ established by the department in rules or  
13 procedures. ~~, which~~ **THE RULES OR PROCEDURES** may require **THAT** a  
14 person ~~to~~ **MUST** pass all or part of a required examination, ~~to~~  
15 complete continuing education requirements, or ~~to~~ meet current  
16 education or training requirements.

17 (5) Unless otherwise provided in this act, a person that seeks  
18 reinstatement of a license or registration shall file an  
19 application on a form provided by the department, pay the  
20 application processing fee, and file a petition to the department  
21 and the appropriate board stating reasons for reinstatement and  
22 including evidence that the person can and is likely to serve the  
23 public in the regulated activity with competence and in conformance  
24 with all other requirements prescribed by law, rule, or an order of  
25 the department or board. The procedure for conducting the review of  
26 a petition for reinstatement is prescribed in article 5. If  
27 approved for reinstatement, the person shall pay the per year

1 license or registration fee for the upcoming license or  
2 registration period if appropriate, in addition to completing any  
3 requirements imposed under section 203(2).

4 (6) ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTIONS (7) AND (10), THE**  
5 department shall issue an initial or renewal license or  
6 registration ~~not later than~~ **WITHIN** 90 days after the applicant  
7 files a completed application. ~~The~~ **AN** application is considered  
8 received on the date the application is received by any agency or  
9 department of this state. If the application is considered  
10 incomplete by the department, the department shall notify the  
11 applicant in writing, or make information electronically available  
12 **TO THE APPLICANT**, within 30 days after ~~receipt of~~ **THE DEPARTMENT**  
13 **RECEIVES** the incomplete application, describing the deficiency and  
14 requesting the additional information. The 90-day period **DESCRIBED**  
15 **IN THIS SUBSECTION** is tolled from the date the department notifies  
16 the applicant of a deficiency until the date the requested  
17 information is received by the department. ~~The~~ **A** determination ~~of~~  
18 ~~the completeness of~~ **BY THE DEPARTMENT THAT** an application **IS**  
19 **COMPLETE** does not operate as an approval of the application for the  
20 license or registration and does not confer eligibility ~~of~~ **ON** an  
21 applicant ~~determined~~ **THE DEPARTMENT DETERMINES IS** otherwise  
22 ineligible for issuance of a license or registration.

23 (7) Notwithstanding the time periods described in subsection  
24 (6), ~~in the case of~~ **FOR** a real estate broker ~~and~~ **OR** associate  
25 broker licensed under article 25, the time period for approval by  
26 the department of a completed application is 30 days and the time  
27 period for notification sent in writing, or made electronically

1 available, by the department to the applicant regarding an  
2 incomplete application is 15 days after ~~the receipt of the~~  
3 application **IS RECEIVED** by any agency or department of this state.

4 (8) If the department fails to issue or deny a license or  
5 registration within the time required ~~by~~ **UNDER** this section, the  
6 department shall return the license or registration fee, and shall  
7 reduce the license or registration fee for the applicant's next  
8 renewal application, if any, by 15%. A failure to issue or deny a  
9 license or registration within the time required under this section  
10 does not allow the department to otherwise delay the processing of  
11 the application, and the department shall place that application,  
12 when completed, in sequence with other completed applications  
13 received at that same time. The department shall not discriminate  
14 against an applicant in the processing of an application based on  
15 the fact that the license or registration fee was refunded or  
16 discounted under this subsection.

17 (9) The director shall submit a report by December 1 of each  
18 year to the standing committees and appropriations subcommittees of  
19 the senate and house of representatives concerned with occupational  
20 issues. The director shall include all of the following information  
21 in the report concerning the preceding fiscal year:

22 (a) The number of initial and renewal applications the  
23 department received and completed within the 90-day time period  
24 described in subsection (6) and the 30-day time period described in  
25 subsection (7).

26 (b) The number of applications denied by the department.

27 (c) The number of applicants **THAT WERE** not issued a license or

1 registration within the applicable time period and the amount of  
2 money returned to licensees and registrants under subsection (8).

3 (10) Subsection (6) does not apply to a license or  
4 registration for any of the following:

5 (a) A certified public accountant and registered accountant  
6 under article 7.

7 (b) An agency non-owner manager of a collection agency under  
8 article 9.

9 (c) A barber, student barber, student instructor, or barber  
10 instructor under article 11.

11 (d) An employment and consulting agent of a personnel agency  
12 under article 10.

13 (e) A cosmetologist, manicurist, natural hair culturist,  
14 esthetician, electrologist, instructor, or registered student under  
15 article 12.

16 (f) A hearing aid salesperson and trainee under article 13.

17 (g) A mortuary science licensee, embalmer, or resident trainee  
18 in mortuary science under article 18.

19 (h) An individual architect, surveyor, or engineer under  
20 article 20.

21 (i) An individual landscape architect under article 22.

22 (j) An individual residential builder ~~and alteration and~~  
23 ~~maintenance contractor or a salesperson for a residential builder~~  
24 ~~and alteration and maintenance contractor~~ under article 24.

25 (k) A real estate salesperson under article 25.

26 (l) A real estate appraiser under article 26.

27 (11) Notwithstanding any provision in this act to the

1 contrary, an individual or qualifying officer who is a licensee or  
2 registrant under this act and who is mobilized for military duty in  
3 the armed forces of the United States by the president of the  
4 United States is temporarily exempt from any renewal license fee,  
5 continuing education requirements, or other related requirements of  
6 this act applicable to that license or registration. It is the  
7 obligation of the licensee or registrant to inform the department  
8 by written or electronic mail of the desire to exercise the  
9 temporary exemption under this subsection. If ~~the~~ <sup>A</sup> licensee  
10 applying for the temporary exemption is the individual responsible  
11 for supervision and oversight of licensed activities, the licensee  
12 shall provide notice of arrangements for adequate provision of that  
13 supervision and oversight to the department. The licensee or  
14 registrant shall accompany the request with proof, as determined by  
15 the department, to verify the mobilized duty status. If it receives  
16 a request for a temporary exemption under this subsection, the  
17 department shall make a determination of the requestor's status and  
18 grant the temporary exemption after verification of mobilized duty  
19 status under this subsection. A temporary exemption is valid until  
20 90 days after the licensee's or registrant's release from the  
21 mobilized duty on which the exemption was based, but shall not  
22 exceed 36 months from the date of expiration of the license or  
23 registration.

24 (12) As used in this section, "completed application" means an  
25 application that is complete on its face and submitted with any  
26 applicable licensing or registration fees and any other  
27 information, records, approval, security, or similar item required

1 by law or rule from a local unit of government, a federal agency,  
2 or a private entity but not from another department or agency of  
3 this state.

4 Sec. 601. (1) A person shall not engage in or attempt to  
5 engage in the practice of an occupation regulated under this act or  
6 use a title designated in this act unless the person possesses a  
7 license or registration issued by the department for the  
8 occupation.

9 (2) A school, institution, or person shall not operate or  
10 attempt to operate a barber college, school of cosmetology, or real  
11 estate school unless the school, institution, or person is licensed  
12 or approved by the department.

13 (3) Subject to section 411, a person whose license or  
14 registration is suspended, revoked, or lapsed, as determined by the  
15 records of the department, is considered unlicensed or  
16 unregistered.

17 (4) Except as otherwise provided for in **SUBSECTION (6),**  
18 **SUBSECTION (7), OR** section 735, a person, school, or institution  
19 that violates subsection (1) or (2) is guilty of a misdemeanor,  
20 punishable by a fine of not more than \$500.00, or imprisonment for  
21 not more than 90 days, or both.

22 (5) Except as otherwise provided for in **SUBSECTION (6),**  
23 **SUBSECTION (7), OR** section 735, a person, school, or institution  
24 that violates subsection (1) or (2) a second or any subsequent time  
25 is guilty of a misdemeanor, punishable by a fine of not more than  
26 \$1,000.00, or imprisonment for not more than 1 year, or both.

27 (6) ~~Notwithstanding subsections (4) and (5), a A person not~~



~~licensed~~ **THAT VIOLATES SUBSECTION (1) BY ENGAGING IN THE OCCUPATION**  
**OF RESIDENTIAL BUILDER WITHOUT A LICENSE** under article 24 ~~as a~~  
~~residential builder or a residential maintenance and alteration~~  
~~contractor who violates subsection (1) or (2) is guilty as follows~~  
**OF 1 OR MORE OF THE FOLLOWING:**

(a) ~~In the case of~~ **IF THE VIOLATION IS** a first offense, a  
 misdemeanor punishable by a fine of not less than \$5,000.00 or more  
 than \$25,000.00, or imprisonment for not more than 1 year, or both.

(b) ~~In the case of~~ **IF THE VIOLATION IS** a second or subsequent  
 offense, a misdemeanor punishable by a fine of not less than  
 \$5,000.00 or more than \$25,000.00, or imprisonment for not more  
 than 2 years, or both.

(c) ~~In the case of an offense that~~ **IF THE VIOLATION** causes  
 death or serious injury, a felony punishable by a fine of not less  
 than \$5,000.00 or more than \$25,000.00, or imprisonment for not  
 more than 4 years, or both.

(7) ~~Notwithstanding subsections (4) and (5), a~~ **A person not**  
~~licensed under article 20 as an~~ **THAT VIOLATES SUBSECTION (1) BY**  
**ENGAGING IN THE OCCUPATION OF** architect, professional engineer, or  
 professional land surveyor ~~who violates subsection (1) or (2)~~  
**WITHOUT A LICENSE UNDER ARTICLE 20** is guilty ~~as follows~~ **OF 1 OR**  
**MORE OF THE FOLLOWING:**

(a) ~~In the case of~~ **IF THE VIOLATION IS** a first offense, a  
 misdemeanor punishable by a fine of not less than \$5,000.00 or more  
 than \$25,000.00 or imprisonment for not more than 93 days, or both.

(b) ~~In the case of~~ **IF THE VIOLATION IS** a second or subsequent  
 offense, a misdemeanor punishable by a fine of not less than

1 \$5,000.00 or more than \$25,000.00 or imprisonment for not more than  
2 1 year, or both.

3 (c) ~~In the case of an offense that~~ **IF THE VIOLATION** causes  
4 death or serious injury, a felony punishable by a fine of not less  
5 than \$5,000.00 or more than \$25,000.00 or imprisonment for not more  
6 than 4 years, or both.

7 (8) ~~Any~~ **A PENALTY FOR A** violation of this act shall include a  
8 requirement that restitution be made, based upon proofs submitted  
9 to and findings made by the trier of fact as provided by law.

10 (9) Notwithstanding the existence and pursuit of any other  
11 remedy, an affected person may maintain **AN** injunctive action to  
12 restrain or prevent a person from violating subsection (1) or (2).  
13 If successful in obtaining injunctive relief, the affected person  
14 ~~shall be~~ **IS** entitled to actual costs and attorney fees.

15 (10) This act does not apply to a person engaging in or  
16 practicing the following:

17 (a) Interior design.

18 (b) Residential building design. As used in this subdivision,  
19 "residential building design" means the rendering of residential  
20 design services for a detached 1- and 2-family residence building  
21 by a person ~~exempted from the requirements of~~ **WHO IS EXEMPT FROM**  
22 **THIS ARTICLE UNDER** section 2012.

23 (c) Any activity for which the person is licensed under the  
24 state plumbing act, 2002 PA 733, MCL 338.3511 to 338.3569.

25 (d) Any activity for which the person is licensed under the  
26 Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to  
27 338.988.

1 (e) Any activity for which the person is licensed under the  
2 electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892.

3 (11) As used in subsection (9), "affected person" means a  
4 person directly affected by the actions of a person suspected of  
5 violating subsection (1) or (2) and includes, but is not limited  
6 to, a licensee or registrant, a board established ~~pursuant to~~ **UNDER**  
7 this act, the department, a person ~~who~~ **THAT** has utilized the  
8 services of the person engaging in or attempting to engage in an  
9 occupation regulated under this act or using a title designated by  
10 this act without being licensed or registered by the department, or  
11 a private association composed primarily of members of the  
12 occupation in which the person is engaging in or attempting to  
13 engage in or in which the person is using a title designated under  
14 this act without being registered or licensed by the department.

15 (12) An investigation may be conducted under article 5 to  
16 enforce this section. A person ~~who~~ **THAT** violates this section ~~shall~~  
17 ~~be~~ **IS** subject to this section and sections 506, 602, and 606.

18 (13) The department, the attorney general, or a county  
19 prosecutor may utilize forfeiture as a remedy in the manner  
20 ~~provided for~~ **DESCRIBED** in section 606.

21 (14) The remedies under this section are independent and  
22 cumulative. The use of 1 remedy by a person ~~shall~~ **DOES** not bar the  
23 use of other lawful remedies by that person or the use of a lawful  
24 remedy by another person.

25 (15) An interior designer may perform services in connection  
26 with the design of interior spaces including preparation of  
27 documents relative to finishes, systems furniture, furnishings,

1 fixtures, equipment, and interior partitions that do not affect the  
2 building mechanical, structural, electrical, or fire safety  
3 systems.

4 (16) ~~Upon entering~~ **IF A COURT ENTERS** a conviction under  
5 subsection (4), (5), or (6), a ~~THE~~ court ~~entering the conviction~~  
6 shall notify, by mail, facsimile transmission, or electronic mail,  
7 the bureau of commercial services at the department **OF THE**  
8 **CONVICTION.**

9 Sec. 2401. As used in this article:

10 (A) **"MICHIGAN RESIDENTIAL CODE" MEANS THE MICHIGAN RESIDENTIAL**  
11 **CODE PROMULGATED BY THE DIRECTOR UNDER SECTION 4 OF THE STILLE-**  
12 **DEROSSETT-HALE SINGLE STATE CONSTRUCTION CODE ACT, 1972 PA 230, MCL**  
13 **125.1504.**

14 (B) ~~(a)~~ "Residential builder" means a person engaged in the  
15 construction of a residential structure or a combination  
16 residential and commercial structure who, for a fixed sum, price,  
17 fee, percentage, valuable consideration, or other compensation,  
18 other than wages for personal labor only, undertakes with another  
19 or offers to undertake or purports to have the capacity to  
20 undertake with another for the erection, construction, replacement,  
21 repair, alteration, or an addition to, subtraction from,  
22 improvement, wrecking of, or demolition of, a residential structure  
23 or combination residential and commercial structure; a person who  
24 manufactures, assembles, constructs, deals in, or distributes a  
25 residential or combination residential and commercial structure  
26 ~~which~~ **THAT** is prefabricated, preassembled, precut, packaged, or  
27 shell housing; or a person who erects a residential structure or

1 combination residential and commercial structure ~~except~~ **THAT IS NOT**  
 2 for the person's own use and occupancy on the person's property.

3 ~~—— (b) "Residential maintenance and alteration contractor" means~~  
 4 ~~a person who, for a fixed sum, price, fee, percentage, valuable~~  
 5 ~~consideration, or other compensation, other than wages for personal~~  
 6 ~~labor only, undertakes with another for the repair, alteration, or~~  
 7 ~~an addition to, subtraction from, improvement of, wrecking of, or~~  
 8 ~~demolition of a residential structure or combination residential~~  
 9 ~~and commercial structure, or building of a garage, or laying of~~  
 10 ~~concrete on residential property, or who engages in the purchase,~~  
 11 ~~substantial rehabilitation or improvement, and resale of a~~  
 12 ~~residential structure, engaging in that activity on the same~~  
 13 ~~structure more than twice in 1 calendar year, except in the~~  
 14 ~~following instances:~~

15 ~~—— (i) If the work is for the person's own use and occupancy.~~

16 ~~—— (ii) If the rehabilitation or improvement work of residential~~  
 17 ~~type property or a structure is contracted for, with, or hired~~  
 18 ~~entirely to be done and performed for the owner by a person~~  
 19 ~~licensed under this article.~~

20 ~~—— (iii) If work is performed by a person employed by the owner to~~  
 21 ~~perform work for which the person is licensed by the state.~~

22 (c) "Residential structure" means a premises used or intended  
 23 to be used for a residence purpose, and related facilities  
 24 appurtenant to the premises ~~,~~ **THAT ARE** used or intended to be used  
 25 ~~,~~ as an adjunct of residential occupancy.

26 ~~—— (d) "Salesperson" means an employee or agent, other than a~~  
 27 ~~qualifying officer, of a licensed residential builder or~~

~~residential maintenance and alteration contractor, who for a salary, wage, fee, percentage, commission, or other consideration, sells or attempts to sell, negotiates or attempts to negotiate, solicits for or attempts to solicit for, obtains or attempts to obtain a contract or commitment for, or furnishes or attempts or agrees to furnish, the goods and services of a residential builder or residential maintenance and alteration contractor, except a person working for a licensed residential builder or residential maintenance and alteration contractor who makes sales which are occasional and incidental to the person's principal employment.~~

(D) ~~(e)~~—"Wages" means money paid or to be paid on an hourly or daily basis by an owner, lessor, or occupant of a residential structure or combination residential and commercial structure as consideration for the performance of personal labor on the structure by a person who does not perform or promise to perform the labor for any other fixed sum, price, fee, percentage, valuable consideration, or other compensation and who does not furnish or agree to furnish the material or supplies required to be used in the performance of the labor or an act defined in subdivision (a). ~~or (b).~~

Sec. 2402. ~~(1) A residential builders' and maintenance and alteration contractors' board is created. Of the 9 member board, 4 members shall be~~ **THE BOARD SHALL CONSIST OF 9 INDIVIDUALS, AS FOLLOWS:**

**(A) SIX INDIVIDUALS WHO ARE** licensed residential builders. ~~7 and 2 members shall be licensed maintenance and alteration contractors.~~

1        ~~(B) (2) Of the members~~ **THREE INDIVIDUALS** representing the  
 2 general public, at least 1 ~~member shall be~~ **OF WHOM IS** registered  
 3 under the building officials and inspectors registration act, 1986  
 4 PA 54, MCL 338.2301 to 338.2313.

5        Sec. 2403. **(1)** Notwithstanding article 6, a person may engage  
 6 in the business of or act in the capacity of a residential builder  
 7 ~~or a residential maintenance and alteration contractor or~~  
 8 ~~salesperson~~ in this state without having a license, if the person  
 9 is 1 of the following:

10        (a) An authorized representative of the United States  
 11 government, this state, or a county, township, city, village, or  
 12 other political subdivision of this state.

13        (b) An owner of property ~~, with reference to~~ **ENGAGED IN**  
 14 **CONSTRUCTION OF** a structure on the ~~THAT~~ property for the owner's  
 15 own use and occupancy.

16        (c) An owner of rental property ~~, with reference to the~~  
 17 **ENGAGED IN** maintenance and alteration of that rental property.

18        (d) An officer of a court acting within the ~~terms~~ **SCOPE** of the  
 19 ~~officer's~~ **THAT** office.

20        (e) A person ~~other than the salesperson~~ who engages solely in  
 21 the business of performing work and services under contract with a  
 22 residential builder ~~or a residential maintenance and alteration~~  
 23 ~~contractor~~ licensed under this article.

24        (f) A person working on 1 undertaking or project by 1 or more  
 25 contracts, **IF** the aggregate contract price for ~~which~~ **THE** labor,  
 26 material, and any other item **FOR THE UNDERTAKING OR PROJECT** is less  
 27 than ~~\$600.00. This~~ **\$10,000.00. THE** exemption **DESCRIBED IN THIS**

**SUBDIVISION** does not apply if the work of a construction 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 amounts less than ~~\$600.00,~~ **\$10,000.00**, to evade this act.

(g) An electrical contractor ~~who~~ **THAT** is licensed under ~~Act No. 217 of the Public Acts of 1956, as amended, being sections 338.881 to 338.892 of the Michigan Compiled Laws~~ **THE ELECTRICAL ADMINISTRATIVE ACT, 1956 PA 217, MCL 338.881 TO 338.892.** ~~This~~ **THE** exemption **DESCRIBED IN THIS SUBDIVISION** applies only to the electrical installation, electrical maintenance, or electrical repair work performed by the electrical contractor.

(h) A plumbing contractor licensed under ~~Act No. 266 of the Public Acts of 1929, as amended, being sections 338.901 to 338.917 of the Michigan Compiled Laws~~ **THE STATE PLUMBING ACT, 2002 PA 733, MCL 338.3511 TO 338.3569.** ~~This~~ **THE** exemption **DESCRIBED IN THIS SUBDIVISION** applies only to plumbing installation, plumbing maintenance, or plumbing repair work performed by the plumbing contractor.

(i) A mechanical contractor who is licensed under the **FORBES** mechanical contractors act, **1984 PA 192, MCL 338.971 TO 338.988.** ~~This~~ **THE** exemption **DESCRIBED IN THIS SUBDIVISION** applies only to mechanical installation, mechanical maintenance, or mechanical repair work performed by the mechanical contractor.

**(2) THIS SECTION DOES NOT PROHIBIT A PERSON FROM ENGAGING IN ANY OF THE FOLLOWING, FOR A FIXED SUM, PRICE, FEE, PERCENTAGE,**



1 VALUABLE CONSIDERATION, OR OTHER COMPENSATION, WHETHER ON HIS OR  
2 HER OWN OR AS A SUBCONTRACTOR FOR A RESIDENTIAL BUILDER:

3 (A) THE REPAIR OF, ALTERATION OF, ADDITION TO, SUBTRACTION  
4 FROM, IMPROVEMENT OF, WRECKING OF, OR DEMOLITION OF A RESIDENTIAL  
5 STRUCTURE, COMMERCIAL STRUCTURE, OR COMBINATION RESIDENTIAL AND  
6 COMMERCIAL STRUCTURE.

7 (B) THE BUILDING OF A GARAGE.

8 (C) THE LAYING OF CONCRETE ON COMMERCIAL OR RESIDENTIAL  
9 PROPERTY.

10 (D) THE CONSTRUCTION, ALTERATION, OR REPAIR OF ANY  
11 APPURTENANCE OF RESIDENTIAL OR COMMERCIAL PROPERTY.

12 (E) THE PURCHASE, SUBSTANTIAL REHABILITATION OR IMPROVEMENT,  
13 AND RESALE OF A RESIDENTIAL OR COMMERCIAL STRUCTURE.

14 (F) ANY OF THE FOLLOWING CRAFTS AND TRADES: CARPENTRY,  
15 CONCRETE, SWIMMING POOL INSTALLATION, BASEMENT WATERPROOFING,  
16 EXCAVATION, INSULATION WORK, MASONRY WORK, PAINTING AND DECORATING,  
17 ROOFING, SIDING AND GUTTERS INSTALLATION, SCREEN OR STORM SASH  
18 INSTALLATION, TILE AND MARBLE WORK, AND HOUSE WRECKING.

19 Sec. 2404. (1) Except as provided in section 2404c, the  
20 department may require an applicant, a licensee, or each partner,  
21 trustee, director, officer, member, or shareholder of an applicant  
22 or licensee to submit evidence of good moral character.

23 (2) Before the department issues a license, an applicant shall  
24 submit a copy of his or her operator's license or state personal  
25 identification card to the department. The department may use the  
26 license or card only for proof of identity of the applicant.

27 (3) ~~(2)~~—Except as provided in section 2404c, the department

1 shall require that an applicant for a license under this article  
2 pass an examination that establishes that the applicant has a fair  
3 knowledge of the obligations of a residential builder or  
4 residential maintenance and alteration contractor to the public and  
5 the applicant's principal, and the statutes relating to the  
6 applicant's licensure.

7 ~~—— (3) Except as provided in section 2404c, the department may~~  
8 ~~issue a residential maintenance and alteration contractor's license~~  
9 ~~to an individual who applies for the license and who qualifies for~~  
10 ~~the license by passing the examination. A license authorizes the~~  
11 ~~licensee, according to the applicant's qualifications, crafts, and~~  
12 ~~trades, to engage in the activities of a residential maintenance~~  
13 ~~and alteration contractor. A license includes the following crafts~~  
14 ~~and trades: carpentry; concrete; swimming pool installation;~~  
15 ~~waterproofing a basement; excavation; insulation work; masonry~~  
16 ~~work; painting and decorating; roofing; siding and gutters; screen~~  
17 ~~or storm sash installation; tile and marble work; and house~~  
18 ~~wrecking. A license shall specify the particular craft or trade for~~  
19 ~~which the licensee is qualified. This subsection does not prohibit~~  
20 ~~a specialty contractor from taking and executing a contract~~  
21 ~~involving the performance of the craft or trade for which the~~  
22 ~~contractor holds a license and 1 or more other crafts or trades if~~  
23 ~~the performance of the work in the other craft or trade is~~  
24 ~~incidental and supplemental to the performance of work in the craft~~  
25 ~~or trade for which the specialty contractor is licensed.~~

26 (4) A residential builder ~~or residential maintenance and~~  
27 ~~alteration contractor~~ shall maintain a place of business in this

1 state. If a residential builder ~~or residential maintenance and~~  
2 ~~alteration contractor~~ maintains more than 1 place of business in  
3 this state, the department shall issue a branch office license to  
4 the builder ~~or contractor~~ for each place of business maintained by  
5 the builder. ~~or contractor.~~

6 (5) The department shall issue the license of a residential  
7 builder ~~and residential maintenance and alteration contractor~~ for a  
8 ~~period~~ **TERM** of 3 years. ~~in duration.~~

9 (6) An applicant for renewal of a residential builder ~~or~~  
10 ~~maintenance and alteration contractor~~ license shall state to the  
11 department that he or she has a current copy of the Michigan  
12 residential code and meets the appropriate requirements regarding  
13 continuing competency described in this article or rules  
14 promulgated under this article.

15 (7) A licensee shall maintain documentation, for at least 5  
16 years, of activities that meet the continuing competency  
17 requirements under this article.

18 Sec. 2404b. (1) Beginning June 1, 2008, an applicant for  
19 initial licensure either as a residential builder ~~or as a~~  
20 ~~residential maintenance and alteration contractor~~ must successfully  
21 complete the prelicensure course of study requirements under this  
22 subsection to obtain a license unless he or she is exempt from  
23 those requirements under this section. All of the following apply  
24 for purposes of this subsection:

25 (a) If an individual who holds a residential builder ~~or a~~  
26 ~~residential maintenance and alteration contractor~~ license, or an  
27 individual who held a license as a qualifying officer of a licensed

1 residential builder, ~~or residential maintenance and alteration~~  
2 ~~contractor~~, on June 1, 2008 is renewing a license, he or she is  
3 exempt from the requirement of successfully completing prelicensure  
4 courses described in this subsection.

5 (b) If an individual is applying for a license or relicensure  
6 as a residential builder, ~~or residential maintenance and alteration~~  
7 ~~contractor~~, he or she is exempt from the requirement of  
8 successfully completing prelicensure courses described in this  
9 subsection if all of the following are met:

10 (i) His or her application is submitted before the expiration  
11 of the 18-month period beginning on ~~the effective date of the~~  
12 ~~amendatory act that added this subdivision.~~ **SEPTEMBER 16, 2014.**  
13 This subdivision does not apply to applications that are submitted  
14 after that 18-month period.

15 (ii) He or she held an individual license as a residential  
16 builder, ~~or residential maintenance and alteration contractor~~, or  
17 held a license as a qualifying officer of a licensed residential  
18 builder, ~~or residential maintenance and alteration contractor~~, at  
19 any time within the 9-year period preceding his or her application.

20 (c) Unless he or she is exempt under subdivision (a) or (b),  
21 an applicant shall not receive an initial license under this act  
22 unless he or she successfully completed 60 hours of approved  
23 prelicensure courses that include at least 6 hours of courses in  
24 each of the following areas of competency:

25 (i) Business management, estimating, and job costing.

26 (ii) Design and building science.

27 (iii) Contracts, liability, and risk management.

1 (iv) Marketing and sales.

2 (v) Project management and scheduling.

3 (vi) The current Michigan residential code.

4 (vii) Construction safety standards promulgated under the  
5 Michigan occupational safety and health act, 1974 PA 154, MCL  
6 408.1001 to 408.1094.

7 (2) All of the following apply to an individual license under  
8 this article, as applicable:

9 (a) Subject to subdivision (b), if the individual licensee  
10 obtained his or her initial license as a residential builder ~~or a~~  
11 ~~residential maintenance and alteration contractor~~ on or after  
12 January 1, 2009, he or she must successfully complete at least 21  
13 hours of activities that demonstrate continuing competence in each  
14 3-year license cycle, including both of the following:

15 (i) At least 3 hours of activities that demonstrate continuing  
16 competency in each calendar year, during the first 6 calendar years  
17 of licensure.

18 (ii) At least 3 hours of activities designed to develop a  
19 licensee's understanding and ability to apply state building codes  
20 and laws relating to the licensed occupation, safety, and changes  
21 in construction and business management laws.

22 (b) If an individual licensee described in subdivision (a) was  
23 exempt from the prelicensure course requirements of subsection (1)  
24 under subsection (1)(b) when he or she obtained his or her initial  
25 license as a residential builder, ~~or residential maintenance and~~  
26 ~~alteration contractor~~, the hours of activities that he or she must  
27 complete in the first year of his or her first 3-year license cycle

1 under subdivision (a) must include successful completion of at  
2 least 1 hour of codes, 1 hour of safety, and 1 hour of legal issues  
3 described in this subsection.

4 (c) If the licensee was initially licensed as a licensed  
5 residential builder, or ~~residential maintenance and alteration~~  
6 ~~contractor~~, or held a license as a qualifying officer of a licensed  
7 residential builder, or ~~residential maintenance and alteration~~  
8 ~~contractor~~, before January 1, 2009, he or she has held a license  
9 for not more than two 3-year license cycles, and the department has  
10 not taken disciplinary action against him or her for a violation of  
11 this act or a rule promulgated under this act, he or she must  
12 successfully complete at least 3 hours of activities that  
13 demonstrate continuing competency in each 3-year license cycle that  
14 includes at least 1 hour of codes, 1 hour of safety, and 1 hour of  
15 legal issues described in this subsection.

16 (d) If the licensee has held a license for more than two 3-  
17 year license cycles, and the department has not taken disciplinary  
18 action against him or her for a violation of this act or a rule  
19 promulgated under this act, he or she must successfully complete at  
20 least 3 hours of activities demonstrating continuing competency in  
21 each license cycle that includes 1 hour of codes, 1 hour of safety,  
22 and 1 hour of legal issues as described in this subsection.

23 (3) In addition to the requirements of subsection (2), if the  
24 department has taken disciplinary action against a licensee for a  
25 violation of this act or a rule promulgated under this act, the  
26 licensee must successfully complete, during the next complete  
27 license cycle, at least 3 and not more than 21 hours of activities

1 that demonstrate the development of continuing competency during  
2 that next license cycle as determined appropriate by order of the  
3 department. At least 3 hours of the continuing competency must  
4 include 1 hour of codes, 1 hour of safety, and 1 hour of legal  
5 issues as described in subsection (2).

6 (4) Any construction code update courses approved by the  
7 bureau of construction codes and any fire safety or workplace  
8 safety courses approved or sponsored by the department are also  
9 considered appropriate for fulfilling the continuing competency  
10 requirements of this section. The department may, by rule, amend,  
11 supplement, update, substitute, or determine equivalency regarding  
12 any courses or alternate activities for developing continuing  
13 competency described in this section.

14 (5) The subject matter of the prelicensure and continuing  
15 competency activities required under this section may be offered by  
16 a high school, an intermediate school district, a community  
17 college, a university, the bureau of construction codes, the  
18 Michigan occupational safety and health administration, a trade  
19 association, or any other proprietary school that is licensed by  
20 the department.

21 (6) The department shall promulgate rules to provide for the  
22 following:

23 (a) Requirements other than those listed in subsection (4) for  
24 determining that a course meets the minimum criteria for developing  
25 and maintaining continuing competency.

26 (b) Requirements for acceptable courses offered at seminars  
27 and conventions by trade associations, research institutes, risk

1 management entities, manufacturers, suppliers, governmental  
2 agencies other than those named in subsection (4), consulting  
3 agencies, or other entities.

4 (c) Acceptable distance learning.

5 (d) Alternate forms of continuing competency, including  
6 comprehensive testing, participation in mentoring programs,  
7 research, participation in code hearings conducted by the  
8 ~~international code council~~, **INTERNATIONAL CODE COUNCIL**, and  
9 publication of articles in trade journals or regional magazines as  
10 an expert in the field. The alternate forms shall be designed to  
11 maintain and improve the licensee's ability to perform the  
12 occupation with competence and shall prescribe proofs that are  
13 necessary to demonstrate that the licensee has fulfilled the  
14 requirements of continuing competency.

15 (7) Each licensee may select approved courses in his or her  
16 subject matter area or specialty. A licensee's service as a  
17 lecturer or discussion leader in an approved course shall count  
18 toward his or her continuing competency requirements under this  
19 section. Alternate forms of continuing competency may be earned and  
20 documented as promulgated in rules by the department.

21 (8) The department may audit a predetermined percentage of  
22 licensees who renew in a year for compliance with the requirements  
23 of this section. Failure to comply with the audit or the  
24 requirements shall result in the investigation of a complaint  
25 initiated by the department, and the licensee is subject to the  
26 penalties prescribed in this act.

27 (9) Before ~~the effective date of the amendatory act that added~~



~~subsection (10),~~ **SEPTEMBER 16, 2014**, a licensed residential builder or residential alteration and maintenance contractor may apply for inactive status by completing an application, made available by the department, in which he or she declares that he or she is no longer actively engaged in the practice authorized by his or her license and temporarily intends to suspend activity authorized by his or her license. If a completed application is submitted, the department shall designate the licensee as inactive and note that status on records available to the public. A licensee who is designated as inactive must have a current copy of the Michigan residential code and is exempt from the continuing competency requirements imposed under this section, but must still pay the per-year license fee. An inactive licensee may activate his or her license by submitting an application to the department requesting activation of the license. If the department activates an inactive license, the licensee must complete at least 1 credit hour of activities that demonstrate continuing competency for that calendar year.

(10) An individual licensee who applied for and was designated inactive under subsection (9) before ~~the effective date of this subsection~~ **SEPTEMBER 14, 2014** may remain in inactive status after that effective date by complying with the requirements of subsection (9). A licensee who remains in inactive status ~~after the effective date of this subsection~~ **ON OR AFTER SEPTEMBER 14, 2014** is exempt from the continuing competency requirements of this section while he or she remains in inactive status. ~~A licensee~~ **AN INDIVIDUAL WHO IS LICENSED AS A RESIDENTIAL BUILDER AND IS**

1 **DESIGNATED INACTIVE UNDER SUBSECTION (9)** may activate his or her  
2 license by submitting an application to the department requesting  
3 activation of the license. If his or her license is activated, the  
4 licensee must complete at least 1 credit hour of activities that  
5 demonstrate continuing competency for that calendar year.

6 (11) Subject to subsection (13), an applicant for initial  
7 licensure as a residential builder ~~or residential maintenance and~~  
8 ~~alteration contractor~~ is exempt from the requirements of subsection  
9 (1) if he or she meets all of the following:

10 (a) Served in the armed forces.

11 (b) While serving in the armed forces, was engaged in the  
12 erection, construction, replacement, repair, alteration, or  
13 demolition of buildings or other structures.

14 (c) Was separated from service in the armed forces, and  
15 provides to the department a form DD214, form DD215, or any other  
16 form that is satisfactory to the department that demonstrates that  
17 he or she was separated from that service, with an honorable  
18 character of service or under honorable conditions (general)  
19 character of service.

20 (d) Has, and provides with his or her application an affidavit  
21 signed by a commanding officer, supervisor, or military superior  
22 with direct knowledge of the applicant's service that he or she  
23 has, entry-level experience in or basic knowledge of each of the  
24 areas of competency described in subsection ~~(1)(a) to (g)~~. **(1) (C) (i)**  
25 **TO (vii) .**

26 (12) If an applicant who otherwise meets the requirements of  
27 subsection (11) does not have entry-level experience in or basic

1 knowledge of each of the areas of competency described in  
2 subsection ~~(1) (a) to (g),~~ **(1) (C) (i) TO (vii)**, he or she may provide  
3 with his or her application an affidavit signed by a commanding  
4 officer, supervisor, or military superior with direct knowledge of  
5 the applicant's service that states in which of those areas of  
6 competency the applicant has entry-level experience or basic  
7 knowledge, and the department may in its discretion grant the  
8 applicant credit toward the 60-hour prelicensure education  
9 requirement of subsection (1) based on that experience or  
10 knowledge.

11 (13) If an applicant for initial licensure as a residential  
12 builder ~~or residential maintenance and alteration contractor~~  
13 described in subsection (11) does not pass the examination for that  
14 license the first time he or she takes the examination, that  
15 applicant may not retake the examination until he or she  
16 successfully completes a prelicensure course of study described in  
17 subsection (1).

18 (14) As used in the section, "armed forces" means that term as  
19 defined in section 2 of the veteran right to employment services  
20 act, 1994 PA 39, MCL 35.1092.

21 Sec. 2404c. All of the following apply to an individual who is  
22 applying for a license or relicensure as a residential builder, ~~or~~  
23 ~~residential maintenance and alteration contractor,~~ who was a  
24 qualifying officer on December 21, 2007, and who was subsequently  
25 denied an individual license because of financial instability:

26 (a) The department shall determine whether the applicant  
27 should receive a license under this article and what requirements

1 described in section 2404 the applicant must meet to qualify for  
2 that license.

3 (b) In making its determination under subdivision (a), the  
4 department shall consider the information it receives under section  
5 2404(1) concerning the good moral character of the applicant and  
6 other persons described in section 2404(1), shall determine whether  
7 the applicant is required to pass an examination under section  
8 2404(2) or (3) or 2405(1), and may require that the applicant meet  
9 other requirements to qualify for a license.

10 (c) The applicant shall certify that he or she successfully  
11 completed at least 3 hours of activities that demonstrate  
12 continuing competency, that include 1 hour of codes, 1 hour of  
13 safety, and 1 hour of legal issues described in section 2404b(2),  
14 in the 12 months immediately preceding the date of application.

15 Sec. 2407. (1) A salesperson shall be licensed in the employ  
16 of only 1 residential builder. ~~or maintenance and alteration~~  
17 ~~contractor.~~ If a salesperson desires to change employment from 1  
18 residential builder ~~or maintenance and alteration contractor to~~  
19 another, the license shall be forwarded to the department and  
20 application made for a transfer and the issuance of a new license  
21 under the salesperson's new employer.

22 (2) An application for a salesperson's license shall be  
23 submitted by the employing residential builder. ~~or residential~~  
24 ~~maintenance and alteration contractor.~~

25 Sec. 2410. A person or qualifying officer for a corporation or  
26 member of a partnership or other business association who currently  
27 holds a residential builder ~~or maintenance and alteration~~

~~contractor license shall~~ **IS** not be required to repeat an examination for that license ~~when making application~~ **IF HE OR SHE IS APPLYING** for an additional license. ~~However, a maintenance and alteration contractor who currently holds a license and makes application for a residential builders' license shall be required to take an examination for that license.~~

Sec. 2411. (1) A **PERSON MUST FILE A** complaint ~~filed~~ under this section or article 5 ~~, or both, shall be made~~ within 18 months after the latest of the following regarding **CLOSING OF THE PURCHASE OF** a residential structure or a combination of residential and commercial structure ~~as follows:~~ **OR THE ISSUANCE OF AN OCCUPANCY OR TEMPORARY OCCUPANCY CERTIFICATE FOR THAT STRUCTURE.**

~~—— (a) In the case of a maintenance and alteration contract:~~

~~—— (i) Completion.~~

~~—— (ii) Occupancy.~~

~~—— (iii) Purchase.~~

~~—— (b) In the case of a project requiring an occupancy permit:~~

~~—— (i) Issuance of the certificate of occupancy or temporary certificate of occupancy.~~

~~—— (ii) Closing.~~

(2) A licensee or applicant who commits 1 or more of the following is subject to the penalties ~~set forth in~~ **UNDER** article 6:

(a) ~~Abandonment without legal excuse of~~ **ABANDONING** a contract, construction project, or operation engaged in or undertaken by the licensee, **WITHOUT LEGAL EXCUSE.**

(b) ~~Diversion of funds~~ **IF MONEY** or property **IS** received for ~~prosecution or completion of~~ **ALL OR PART OF** a specific construction

1 project or operation, or for a specified purpose in the prosecution  
 2 ~~or~~ completion of **ALL OR PART OF** a construction project or  
 3 operation, ~~and the funds or property~~ **DIVERTING THE** application or  
 4 use ~~for~~ **OF THAT MONEY OR PROPERTY TO** any other construction project  
 5 or operation, obligation, or purposes.

6 (c) ~~Failure~~ **FAILING** to account for or remit money coming into  
 7 the person's possession that belongs to others.

8 (d) ~~A willful departure~~ **WILLFULLY DEPARTING** from or ~~disregard~~  
 9 ~~of~~ **DISREGARDING** plans or specifications in a material respect and  
 10 prejudicial to another, without consent of the owner or an  
 11 authorized representative and without the consent of the person  
 12 entitled to have the particular construction project or operation  
 13 completed in accordance with the plans and specifications.

14 (e) ~~A willful violation of~~ **WILLFULLY VIOLATING** the building  
 15 laws of this state or of a political subdivision of this state.

16 ~~—— (f) In a residential maintenance and alteration contract,~~  
 17 ~~failure to furnish to a lender the purchaser's signed completion~~  
 18 ~~certificate executed upon completion of the work to be performed~~  
 19 ~~under the contract.~~

20 ~~—— (g) If a licensed residential builder or licensed residential~~  
 21 ~~maintenance and alteration contractor, failure~~

22 **(F) FAILING** to notify the department within 10 days of a  
 23 change in the control or direction of the business of the licensee  
 24 resulting from a change in the licensee's partners, directors,  
 25 officers, or trustees, or a change in the control or direction of  
 26 the business of the licensee resulting from any other occurrence or  
 27 event.

~~—— (h) Failure to deliver to the purchaser the entire agreement of the parties including any finance or other charge arising out of or incidental to the agreement if the agreement involves repair, alteration, or addition to, subtraction from, improvement of, wrecking of, or demolition of a residential structure or combination of residential and commercial structure, building of a garage, laying of concrete on residential property, or manufacture, assembly, construction, sale, or distribution of a residential or combination residential and commercial structure that is prefabricated, preassembled, precut, packaged, or shell housing.~~

~~—— (i) If a salesperson, failure to pay over immediately upon receipt money received by the salesperson, in connection with a transaction governed by this article to the residential builder or residential maintenance and alteration contractor under whom the salesperson is licensed.~~

(G) ~~(j)~~ Aiding or abetting an unlicensed person to evade this article, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, allowing **AN UNLICENSED PERSON TO USE** one's license, ~~to be used by an unlicensed person,~~ or acting as or being an ostensible licensed residential builder ~~or licensed residential maintenance and alteration contractor~~ for an undisclosed person who ~~does or shall control or direct~~ **CONTROLS OR DIRECTS**, or who may have the right to control or direct, directly or indirectly, the operations of a ~~THE~~ licensee.

(H) ~~(k)~~ Acceptance of **IF A PERSON IS A SALESPERSON, ACCEPTING** a commission, bonus, or other valuable consideration ~~by a salesperson~~ for the sale of goods or the performance of service

1 specified in the article from a person other than the residential  
 2 builder ~~or residential maintenance and alteration contractor~~ under  
 3 whom the person is licensed.

4 (I) ~~(I)~~ Becoming insolvent, filing a bankruptcy action,  
 5 becoming subject to a receivership, assigning for the benefit of  
 6 creditors, failing to satisfy judgments or liens, or failing to pay  
 7 an obligation as it becomes due in the ordinary course of business.

8 (J) ~~(m) Workmanship not meeting~~ **ENGAGING IN WORKMANSHIP THAT**  
 9 **DOES NOT MEET** the standards of the Michigan residential code. ~~as~~  
 10 ~~promulgated under the Stille DeRossett Hale single state~~  
 11 ~~construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.~~

12 (3) The department shall conduct a review ~~upon~~ **IF IT RECEIVES**  
 13 notice that ~~the~~ **A** licensee has violated the asbestos abatement  
 14 contractors licensing act, 1986 PA 135, MCL 338.3101 to 338.3319.  
 15 The department may suspend or revoke that person's license for a  
 16 knowing violation of the asbestos abatement contractors licensing  
 17 act, 1986 PA 135, MCL 338.3101 to 338.3319.

18 (4) Notwithstanding article 5, the following apply to  
 19 administrative proceedings regarding workmanship under subsection  
 20 ~~(2) (m)~~ **(2) (J) :**

21 (a) A complaint submitted by an owner ~~shall~~ **MUST** describe in  
 22 writing to the department the factual basis for the allegation. The  
 23 homeowner shall send a copy of the initial complaint to the  
 24 licensee ~~concurrent with the submission of~~ **AT THE SAME TIME THE**  
 25 **OWNER SUBMITS** the complaint to the department.

26 (b) The department shall presume the innocence of the licensee  
 27 throughout the proceeding until the administrative law hearing



1 examiner finds otherwise in a determination of findings of fact and  
 2 conclusions of law under article 5. The licensee has the burden of  
 3 refuting evidence submitted by a person during the administrative  
 4 hearing. The licensee also has the burden of proof regarding the  
 5 reason deficiencies were not corrected.

6 (c) ~~Upon receipt of~~ **IF THE DEPARTMENT RECEIVES** a building  
 7 inspection report issued to the department by a state or local  
 8 building enforcement official authorized to do so under the Stille-  
 9 DeRossett-Hale single state construction code act, 1972 PA 230, MCL  
 10 125.1501 to 125.1531, ~~which~~ **AND THE** report verifies or confirms the  
 11 substance of the complaint, the department shall send by certified  
 12 mail a copy of the verified complaint to the licensee. If the  
 13 department does not send a copy of the verified complaint within 30  
 14 days after ~~receipt of~~ **IT RECEIVES** the building inspection report,  
 15 the department shall not assess a fine against the licensee under  
 16 article 6, but the department may pursue restitution, license  
 17 suspension, or other remedies provided under this act.

18 (d) A licensee may contractually provide for an alternative  
 19 dispute resolution procedure to resolve complaints filed with the  
 20 department. ~~The procedure shall be conducted by a~~ **ALL OF THE**  
 21 **FOLLOWING APPLY TO A DISPUTE RESOLUTION PROCEDURE DESCRIBED IN THIS**  
 22 **SUBDIVISION:**

23 (i) A neutral third party ~~for determining~~ **SHALL CONDUCT THE**  
 24 **PROCEDURE AND DETERMINE** the rights and responsibilities of the  
 25 parties. ~~and shall be initiated by the~~

26 (ii) **THE** licensee ~~, who~~ shall **INITIATE THE PROCEDURE AND**  
 27 provide notice of the initiation of the procedure to the

1 complainant by certified mail ~~not less than~~ **AT LEAST** 30 days before  
2 the commencement of that procedure.

3 **(iii) The NEUTRAL THIRD PARTY SHALL CONDUCT THE** procedure ~~shall~~  
4 ~~be conducted~~ at a location mutually agreed to by the parties.

5 (e) The department shall not initiate a proceeding against a  
6 licensee under this subsection if the licensee has contractually  
7 provided for an alternative dispute resolution procedure **UNDER**  
8 **SUBDIVISION (D) AND** that **PROCEDURE** has not been utilized and  
9 completed, unless ~~it is determined~~ **THE DEPARTMENT DETERMINES** that  
10 the licensee has not complied with a decision or order issued as a  
11 result of that alternative dispute resolution procedure, ~~that~~ **THE**  
12 alternative dispute resolution procedure was not fully completed  
13 within 90 days after the filing of the complaint with the  
14 department, or ~~an~~ **THE** alternative dispute resolution procedure  
15 ~~meeting the requirements of~~ **PROVIDED BY THE LICENSEE UNDER**  
16 subdivision (d) is not available to the complainant.

17 (f) ~~The~~ **SUBJECT TO SUBDIVISION (G), THE** complainant ~~shall~~  
18 ~~demonstrate that~~ **DOES ALL OF THE FOLLOWING:**

19 **(i) DEMONSTRATES THAT THE COMPLAINANT PROVIDED** notice ~~has been~~  
20 ~~provided to the licensee describing reasonable times and dates that~~  
21 **THE WORKMANSHIP THAT IS THE SUBJECT OF THE COMPLAINT.**

22 **(ii) DEMONSTRATES THAT THE COMPLAINANT MADE** the residential  
23 structure ~~was~~ **ACCESSIBLE TO THE LICENSEE AT REASONABLE TIMES AND**  
24 **DATES** for any needed repairs. ~~and~~

25 **(iii) PROVIDES** proof acceptable to the department that the  
26 **LICENSEE DID NOT MAKE** repairs ~~were not made~~ within 60 days after  
27 the ~~sending of~~ **COMPLAINANT SENT** the notice. ~~This subdivision~~

1           (G) SUBDIVISION (F) does not apply if the department  
2 determines ~~a necessity~~ **IT IS NECESSARY** to safeguard the structure  
3 or to protect the occupant's health and safety. ~~and, in such case,~~  
4 **IF IT MAKES A DETERMINATION UNDER THIS SUBDIVISION**, the department  
5 may utilize any remedy available under section 504(3).

6           (H) ~~(g)~~ If the owner and licensee have agreed contractually on  
7 mutually acceptable performance guidelines relating to workmanship,  
8 ~~the department shall consider those guidelines in its evaluation of~~  
9 ~~a complaint. The guidelines shall be~~ **AND THE GUIDELINES ARE**  
10 consistent with the Stille-DeRossett-Hale single state construction  
11 code act, 1972 PA 230, MCL 125.1501 to 125.1531, **THE DEPARTMENT**  
12 **SHALL CONSIDER THOSE GUIDELINES IN EVALUATING THE COMPLAINT.**

13           (5) If the licensee or respondent fails to appear or  
14 participate in or defend any action, the board shall issue an order  
15 granting by default the relief requested, based ~~upon~~ **ON** proofs  
16 submitted to and findings made by the hearing examiner after a  
17 contested case.

18           (6) As used in this section, "verified complaint" means a  
19 complaint in which all or a portion of the allegations ~~have been~~  
20 **ARE** confirmed by an affidavit of the state or local building  
21 official.

22           Sec. 2412. (1) A person or qualifying officer for a  
23 corporation or member of a residential builder ~~or residential~~  
24 ~~maintenance and alteration contractor~~ shall not bring or maintain  
25 an action in a court of this state for the collection of  
26 compensation for the performance of an act or contract for which a  
27 license is required by this article without alleging and proving

1 that the person was licensed under this article during the  
2 performance of the act or contract.

3 (2) Failure of the person ~~bringing~~ **THAT BRINGS** a complaint  
4 against a licensee to utilize a contractually provided alternative  
5 dispute resolution procedure ~~shall be~~ **IS** an affirmative defense to  
6 an action brought in a court of this state against a licensee under  
7 this article.

8 (3) A person or qualifying officer for a corporation or a  
9 member of a residential builder ~~or residential maintenance and~~  
10 ~~alteration contractor~~ shall not impose or take any legal or other  
11 action to impose a lien on real property unless that person was  
12 licensed under this article during the performance of the act or  
13 contract.

14 (4) A prosecuting attorney and the attorney general may bring  
15 an action for a civil violation in a court of competent  
16 jurisdiction against a person not licensed under this article that  
17 has violated section 601(1) or (2). The court shall assess a civil  
18 fine, to be paid to the prosecuting attorney or the attorney  
19 general bringing the action, of not less than \$5,000.00 and not  
20 more than \$25,000.00, ~~aside from~~ **IN ADDITION TO** any civil damages  
21 or restitution **ORDERED BY THE COURT.**

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

24 Enacting section 2. This amendatory act does not take effect  
25 unless Senate Bill No. \_\_\_\_ or House Bill No. 4281 (request no.  
26 00068'15 a) of the 98th Legislature is enacted into law.