

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5284

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending sections 2404 and 2405 (MCL 339.2404 and 339.2405),
section 2404 as amended by 2010 PA 151 and section 2405 as amended
by 2007 PA 157, and by adding section 2404c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2404. (1) ~~The~~**EXCEPT AS PROVIDED IN SECTION 2404C, THE**
2 department may require an applicant, **A** licensee, or each partner,
3 trustee, director, officer, member, or shareholder **OF AN APPLICANT**
4 **OR LICENSEE** to submit evidence of good moral character. ~~—and~~
5 ~~financial stability. Before the issuance of~~**DEPARTMENT ISSUES** a
6 license, an applicant shall submit a copy of ~~an~~**HIS OR HER**
7 operator's license or state personal identification card ~~—to be~~

~~used by the department.~~ **THE DEPARTMENT MAY USE THE LICENSE OR CARD**
only for proof of identity of the applicant.

(2) ~~The~~ **EXCEPT AS PROVIDED IN SECTION 2404C, THE** department
shall require **THAT** an applicant for a license ~~to~~ **UNDER THIS ARTICLE**
pass an examination ~~establishing~~ **THAT ESTABLISHES** that the
applicant has a fair knowledge of the obligations of a residential
builder or residential maintenance and alteration contractor to the
public and the applicant's principal, and the statutes relating to
the applicant's licensure.

(3) ~~The~~ **EXCEPT AS PROVIDED IN SECTION 2404C, THE** department ~~7~~
~~upon application,~~ may issue a residential maintenance and
alteration contractor's license to ~~an applicant who, upon~~
~~examination,~~ **AN INDIVIDUAL WHO APPLIES FOR THE LICENSE AND WHO**
qualifies for ~~a~~ **THE** license ~~, which~~ **BY PASSING THE EXAMINATION. A**
LICENSE authorizes the licensee, according to the applicant's
qualifications, crafts, and trades, to engage in the activities of
a residential maintenance and alteration contractor. A license
includes the following crafts and trades: carpentry; concrete;
swimming pool installation; waterproofing a basement; excavation;
insulation work; masonry work; painting and decorating; roofing;
siding and gutters; screen or storm sash installation; tile and
marble work; and house wrecking. ~~The~~ **A** license shall specify the
particular craft or trade for which the licensee ~~has~~ **IS** qualified.
This subsection does not prohibit a specialty contractor from
taking and executing a contract involving the ~~use of~~ **2 PERFORMANCE**
OF THE CRAFT OR TRADE FOR WHICH THE CONTRACTOR HOLDS A LICENSE AND
1 or more **OTHER** crafts or trades if the performance of the work in

1 the **OTHER** craft or trade ~~other than the craft for which the person~~
 2 ~~is licensed~~ is incidental and supplemental to the performance of
 3 work in the craft **OR TRADE** for which the specialty contractor is
 4 licensed.

5 (4) A residential builder or residential maintenance and
 6 alteration contractor shall maintain a place of business in this
 7 state. If a residential builder or residential maintenance and
 8 alteration contractor maintains more than 1 place of business
 9 ~~within~~ **IN** this state, **THE DEPARTMENT SHALL ISSUE** a branch office
 10 license ~~shall be issued~~ to the builder or contractor for each place
 11 of business ~~so~~ maintained **BY THE BUILDER OR CONTRACTOR**.

12 (5) ~~Beginning the license cycle after December 21, 2007, the~~
 13 **THE** department shall issue the license of a residential builder and
 14 residential maintenance and alteration contractor for a period of 3
 15 years in duration. ~~Beginning December 21, 2007, an~~

16 (6) **AN** applicant for renewal of a residential builder or
 17 maintenance and alteration contractor license shall state **TO THE**
 18 **DEPARTMENT** that he or she has a current copy of the Michigan
 19 residential code and ~~has fulfilled~~ **MEETS** the appropriate
 20 requirements regarding continuing competency **DESCRIBED IN THIS**
 21 **ARTICLE OR RULES PROMULGATED UNDER THIS ARTICLE**.

22 (7) ~~(6) Beginning December 21, 2007, a~~ **A** licensee shall
 23 maintain documentation, for at least 5 years, of activities ~~meeting~~
 24 **THAT MEET** the continuing competency requirements ~~as prescribed~~
 25 under this article.

26 **SEC. 2404C. ALL OF THE FOLLOWING APPLY TO AN INDIVIDUAL WHO IS**
 27 **APPLYING FOR A LICENSE OR RELICENSURE AS A RESIDENTIAL BUILDER OR**

1 RESIDENTIAL MAINTENANCE AND ALTERATION CONTRACTOR, WHO WAS A
2 QUALIFYING OFFICER ON DECEMBER 21, 2007, AND WHO WAS SUBSEQUENTLY
3 DENIED AN INDIVIDUAL LICENSE BECAUSE OF FINANCIAL INSTABILITY:

4 (A) THE DEPARTMENT SHALL DETERMINE WHETHER THE APPLICANT
5 SHOULD RECEIVE A LICENSE UNDER THIS ARTICLE AND WHAT REQUIREMENTS
6 DESCRIBED IN SECTION 2404 THE APPLICANT MUST MEET TO QUALIFY FOR
7 THAT LICENSE.

8 (B) IN MAKING ITS DETERMINATION UNDER SUBDIVISION (A), THE
9 DEPARTMENT SHALL CONSIDER THE INFORMATION IT RECEIVES UNDER SECTION
10 2404(1) CONCERNING THE GOOD MORAL CHARACTER OF THE APPLICANT AND
11 OTHER PERSONS DESCRIBED IN SECTION 2404(1), SHALL DETERMINE WHETHER
12 THE APPLICANT IS REQUIRED TO PASS AN EXAMINATION UNDER SECTION
13 2404(2) OR (3) OR 2405(1), AND MAY REQUIRE THAT THE APPLICANT MEET
14 OTHER REQUIREMENTS TO QUALIFY FOR A LICENSE.

15 (C) THE APPLICANT SHALL CERTIFY THAT HE OR SHE SUCCESSFULLY
16 COMPLETED AT LEAST 3 HOURS OF ACTIVITIES THAT DEMONSTRATE
17 CONTINUING COMPETENCY, THAT INCLUDE 1 HOUR OF CODES, 1 HOUR OF
18 SAFETY, AND 1 HOUR OF LEGAL ISSUES DESCRIBED IN SECTION 2404B(2),
19 IN THE 12 MONTHS IMMEDIATELY PRECEDING THE DATE OF APPLICATION.

20 Sec. 2405. (1) ~~If a license is applied for by~~ SUBJECT TO
21 SECTION 2404C, IF a corporation, partnership, association, limited
22 liability company, or other entity APPLIES FOR A LICENSE, the
23 applicant shall designate 1 of its officers, partners, OR members ~~7~~
24 or ITS managing agent as a qualifying officer. ~~who, upon taking and~~
25 ~~passing the examination, and upon meeting all~~ A QUALIFYING OFFICER
26 WHO TAKES AND PASSES THE EXAMINATION AND MEETS ANY other
27 requirements of this article ~~7~~ is entitled to a license to act for

1 the corporation, partnership, association, limited liability
2 company, or other entity. ~~The~~ **A** qualifying officer shall also
3 obtain and maintain a license under this article as an individual.
4 ~~The~~ **A** qualifying officer ~~shall be~~ **IS** responsible for exercising the
5 supervision or control of the building or construction operations
6 necessary to secure full compliance with this article and the rules
7 promulgated under this article. ~~A~~ **THE DEPARTMENT SHALL NOT ISSUE A**
8 license ~~shall not be issued~~ to a corporation, partnership,
9 association, limited liability company, or other entity unless each
10 partner, trustee, director, officer, **OR** member, and ~~a~~ **EACH** person
11 ~~exercising~~ **THAT EXERCISES** control **OVER THE ENTITY**, is at least 18
12 years of age ~~—~~and meets the requirements for a license under this
13 article other than those relating to knowledge and experience. If
14 an individual licensee is also a qualifying officer, the **DEPARTMENT**
15 **SHALL INCLUDE THE** individual's name and license number ~~shall be~~
16 ~~listed~~ on any license issued to the individual as a qualifying
17 officer. ~~In the case of~~ **IF THE DEPARTMENT ISSUES** a license ~~issued~~
18 under this subsection ~~—each~~ **TO AN** officer, partner, member, or
19 managing agent, whether or not he or she is the qualifying officer,
20 **THAT INDIVIDUAL** shall provide a copy of his or her operator's
21 license or state personal identification card to the department.
22 ~~for use by the~~ **THE** department **SHALL USE THE LICENSE OR CARD** only
23 for identification purposes. A licensee granted inactive status
24 under section 2404b is not eligible to serve as a qualifying
25 officer.

26 (2) The license of a corporation, partnership, association,
27 limited liability company, or other entity ~~shall be~~ **IS** suspended

1 when a license or license application of a qualifying officer,
 2 partner, trustee, director, officer, **OR** member, or a person
 3 ~~exercising~~ **THAT EXERCISES** control of the corporation, partnership,
 4 association, limited liability company, or other entity, is
 5 suspended, revoked, or denied. The suspension shall remain in force
 6 until the board determines that the disability created by the
 7 suspension, revocation, or denial ~~has been~~ **IS** removed.

8 (3) ~~A suspension, revocation, or denial of a license of an~~
 9 ~~individual shall suspend, revoke, or deny any other license held or~~
 10 ~~applied for by that individual issued under this article. A~~
 11 ~~suspension, revocation, or denial of a license by the department~~
 12 ~~shall suspend, revoke, or deny any other license held or applied~~
 13 ~~for under this article by the qualifying officer~~ **IF AN INDIVIDUAL'S**
 14 **LICENSE UNDER THIS ARTICLE IS SUSPENDED, REVOKED, OR DENIED BY THE**
 15 **BOARD, ANY OTHER LICENSE ISSUED OR APPLIED FOR UNDER THIS ARTICLE**
 16 **IS SUSPENDED, REVOKED, OR DENIED. IF THE LICENSE** of a corporation,
 17 partnership, association, limited liability company, or other
 18 entity ~~whose license is~~ suspended, revoked, or denied, **ANY OTHER**
 19 **LICENSE ISSUED TO OR APPLIED FOR BY THE QUALIFYING OFFICER OF THAT**
 20 **ENTITY IS SUSPENDED, REVOKED, OR DENIED.**

21 (4) If the qualifying officer of a licensee ceases to be its
 22 qualifying officer, the license is suspended. However, ~~upon~~ **ON**
 23 request, the department may permit the license to remain in force
 24 for a reasonable time to permit the qualification of a new
 25 qualifying officer.

26 Enacting section 1. This amendatory act does not take effect
 27 unless House Bill No. 4582 of the 97th Legislature is enacted into

1 law.