

**SUBSTITUTE FOR
SENATE BILL NO. 158**

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending sections 103, 104, 105, 213, and 2404b (MCL 339.103,
339.104, 339.105, 339.213, and 339.2404b), section 103 as amended
by 1994 PA 257, section 104 as amended by 2020 PA 372, section 105
as amended by 2016 PA 502, section 213 as amended by 2014 PA 149,
and section 2404b as amended by 2014 PA 175, and by adding section
217.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 103. (1) "Armed forces" means the United States Army, Air
2 Force, Navy, Marine Corps, Space Force, or Coast Guard or other
3 military force designated by Congress as a part of the Armed Forces
4 of the United States, including the reserve components.



(2) ~~(1)~~ "Board" means, in each article ~~which~~**that** deals with a specific occupation, the agency created in that article composed principally of members of the regulated occupation. In all other contexts, board means each agency created under this act.

(3) ~~(2)~~ "Censure" means an expression of disapproval of a licensee's or registrant's professional conduct, which conduct is not necessarily a violation of this act or a rule promulgated or an order issued under this act.

(4) ~~(3)~~ "Competence" means a degree of expertise ~~which~~**that** enables a person to engage in an occupation at a level ~~which~~**that** meets or exceeds minimal standards of acceptable practice for the occupation.

(5) ~~(4)~~ "Complaint" means an oral or written grievance.

(6) ~~(5)~~ "Controlled substance" means a drug, substance, or immediate precursor as set forth in section 7212, 7214, 7216, 7218, or 7220 of the public health code, ~~Act No. 368 of the Public Acts of 1978, being sections~~**1978 PA 368, MCL 333.7212, 333.7214, 333.7216, 333.7218, and 333.7220, of the Michigan Compiled Laws, not excluded ~~pursuant to~~**under** section 7227 of ~~Act No. 368 of the Public Acts of 1978, being section~~**the public health code, 1978 PA 368, MCL 333.7227. of the Michigan Compiled Laws.****

Sec. 104. (1) "Department" means the department of licensing and regulatory affairs.

(2) "Dependent" means a spouse, surviving spouse, child under 26 years of age, or surviving child under 26 years of age.

(3) ~~(2)~~ "Director" means the director of the department or his or her authorized representative.

(4) ~~(3)~~ "Disability" means an infirmity that prevents a board member from performing a duty assigned to the board member.



(5) ~~(4)~~ "Files" means the records, memoranda, opinions, minutes, and similar written materials that were formerly in the physical dominion of a board abolished by this act and the records, memoranda, opinions, minutes, and similar written materials of a board created under this act.

(6) ~~(5)~~ "Formal complaint" means a document that states the charges of each alleged violation and is prepared by the department or the department of attorney general after a complaint is received by the department.

(7) ~~(6)~~ "General public" means each individual residing in this state who is 18 years of age or older, other than an individual or the spouse of an individual who is licensed or registered in the occupation or who has a material financial interest in the occupation regulated under the specific article in which the term is used.

(8) ~~(7)~~ "Good moral character" means ~~good moral character that~~ **term** as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.

(9) ~~(8)~~ "Incompetence" means a departure from, or a failure to conform to, minimal standards of acceptable practice for an occupation.

(10) ~~(9)~~ "Knowledge and skill" means the information, education, practical experience, and the facility in applying that information, education, and practical experience.

Sec. 105. (1) "License" means the document issued to a person under this act that enables the person to use a designated title and practice an occupation, which practice would otherwise be prohibited by this act. License includes a document issued by the department that permits a school, institution, or person to offer



1 training or education in an occupation or that permits the
2 operation of a facility, establishment, or institution in which an
3 occupation is practiced. License includes a permit or approval.

4 (2) "Licensee" means ~~any~~**either** of the following, as
5 applicable:

6 (a) In articles 1 to 6, a person that is licensed or required
7 to be licensed under this act.

8 (b) In a specific article of this act, a person that is
9 licensed or required to be licensed under that article.

10 (3) "Limitation" means a condition, stricture, constraint,
11 restriction, or probation attached to a license or registration
12 relative to the scope of practice, including the following:

13 (a) A requirement that the licensee or registrant perform only
14 specified functions of the licensee's or registrant's occupation.

15 (b) A requirement that the licensee or registrant perform the
16 licensee's or registrant's occupation only for a specified period
17 of time.

18 (c) A requirement that the licensee or registrant perform the
19 licensee's or registrant's occupation only within a specified
20 geographical area.

21 (d) A requirement that restitution be made or certain work be
22 performed before a license or registration is issued, renewed, or
23 reinstated.

24 (e) A requirement that a financial statement certified by an
25 individual who is licensed as a certified public accountant be
26 filed with the department at regular intervals.

27 (f) A requirement that reasonably ~~assures~~**ensures** a licensee's
28 or registrant's competence to perform the licensee's or
29 registrant's occupation.



1 (g) A requirement that an attorney review all contracts of a
2 licensee or registrant.

3 (h) A requirement that a licensee or registrant have on file
4 with the department a bond that is issued by a surety insurer
5 approved by the department or cash in an amount determined by the
6 department.

7 (i) A requirement that a licensee or registrant deposit money
8 received in an escrow account ~~which~~**that** can be disbursed only
9 under certain conditions as determined by the licensee or
10 registrant and another party.

11 (j) A requirement that a licensee or registrant file reports
12 with the department at intervals determined by the department.

13 (4) "Occupation" means a field of endeavor regulated under
14 this act.

15 (5) "Person" means any of the following:

16 (a) An individual.

17 (b) A sole proprietorship, partnership, association,
18 corporation, limited liability company, or common law trust.

19 (c) A combination of persons described in subdivision (a) or
20 (b).

21 (d) A department, board, school, institution, establishment,
22 or governmental entity.

23 (6) "Physical dominion" means control and possession.

24 (7) "Physician" means that term as defined in sections 17001
25 and 17501 of the public health code, 1978 PA 368, MCL 333.17001 and
26 333.17501.

27 (8) "Probation" means a sanction that permits a board to
28 evaluate over a period of time a licensee's or registrant's fitness
29 to practice an occupation regulated under this act.



(9) "Public access" means the right of a person to view and copy files under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) "Registrant" means a person that is registered under this act.

(11) "Registration" means the document issued to a person under this act that enables the person to use a designated title, which use would be otherwise prohibited by this act.

(12) "Rule" means a rule promulgated under this act and under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(13) "State" means the District of Columbia or a commonwealth, state, or territory of the United States.

(14) "Uniformed services" means the Commissioned Corps of the United States Public Health Service and the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

(15) "Veteran" means that term as defined in section 1 of 1965 PA 190, MCL 35.61.

Sec. 213. (1) If a person has not previously been denied a license or a certificate of registration or had a license or a certificate of registration revoked or suspended, the department may grant a nonrenewable temporary license or certificate of registration to an applicant for licensure or registration or transfer of licensure or registration under any of articles 7 to ~~29.~~**26a.** If approved by a board, a temporary license or certificate of registration issued under this subsection is valid until 1 or more of the following occurs:

(a) The results of the next scheduled examination are available.



(b) The results of the next required evaluation procedure are available.

(c) A license or certificate of registration is issued.

(d) The next examination date of an examination for licensure or registration in the applicable occupation, if the applicant does not take the examination.

(e) The applicant fails to meet the requirements for a license or certificate of registration.

(f) A change in employment is made.

(2) In addition to a temporary license or certificate of registration under subsection (1), ~~beginning 90 days after the effective date of the amendatory act that added this subsection,~~ **September 9, 2014**, the department shall grant a temporary license or certificate of registration for an occupation under this act to an applicant who meets ~~all~~ **both** of the following:

(a) He or she provides proof acceptable to the department that he or she is ~~married to~~ **a dependent of** a member of the armed forces, ~~who is on active duty. As used in this subdivision, "armed forces" means that term as defined in section 2 of the veteran right to employment services act, 1994 PA 39, MCL 35.1092.a~~ **dependent of a member of the uniformed services, or a dependent of a veteran.**

(b) He or she provides proof acceptable to the department that he or she holds a current license in good standing, or a current registration in good standing, in that occupation, issued by an equivalent licensing department, board, or authority, as determined by the department, **in consultation with the board**, in another state of the United States, ~~the District of Columbia, Puerto Rico, the United States Virgin Islands, another territory or protectorate of~~



1 ~~the United States, or a foreign country.~~

2 ~~(c) He or she provides proof acceptable to the department that~~
 3 ~~his or her spouse is assigned to a duty station in this state and~~
 4 ~~that he or she is also assigned to a duty station in this state~~
 5 ~~under his or her spouse's permanent change of station orders.~~

6 (3) A temporary license or registration issued under
 7 subsection (2) is valid for 6 months and may be renewed for 1
 8 additional 6-month term if the department determines the temporary
 9 licensee or registrant continues to meet the requirements of
 10 subsection (2) and needs additional time to fulfill the
 11 requirements for initial licensure or registration in this state.
 12 The department may place a limitation on a temporary license or
 13 certificate of registration granted under this section.

14 **Sec. 217. (1) Subject to subsection (2), the department shall**
 15 **issue a license or a certificate of registration for an occupation**
 16 **under this act without examination to an individual who**
 17 **demonstrates to the satisfaction of the department that he or she**
 18 **meets all of the following at the time of application:**

19 (a) Provides proof that the individual is 1 of the following:

20 (i) A member in the armed forces or uniformed services.

21 (ii) A veteran.

22 (iii) A dependent of a member in the armed forces, a member of
 23 the uniformed services, or a veteran.

24 (b) Holds a valid license or registration in that occupation
 25 from an equivalent licensing department, board, or authority, as
 26 determined by the department, in at least 1 other state of the
 27 United States. For each license or registration described in this
 28 subdivision that he or she holds, all of the following must be met:

29 (i) The license or registration is in good standing and he or



1 she has held that license or registration for at least 1 year.

2 (ii) There were minimum education requirements and, if
3 applicable, work experience requirements in effect for licensure or
4 registration in the other state, and the other state verifies that
5 he or she met those requirements for licensure or registration in
6 that state.

7 (iii) If the other state required an examination for licensure
8 or registration, he or she passed the examination.

9 (c) Has not had a license or registration revoked, and has not
10 voluntarily surrendered a license or registration, in any other
11 state of the United States or a foreign country while under
12 investigation for unprofessional conduct.

13 (d) Has not had discipline imposed by any equivalent licensing
14 department, board, or authority in another state of the United
15 States. If another state of the United States has taken
16 disciplinary action against the applicant, the department shall
17 determine if the cause for the action was corrected and the matter
18 resolved. If the matter has not been resolved by that other state,
19 the department shall not issue or deny a license or registration
20 until the matter is resolved.

21 (e) Does not have a complaint, allegation, or investigation
22 pending before an equivalent licensing department, board, or
23 authority in another state of the United States or a foreign
24 country that relates to unprofessional conduct. If the applicant
25 has any complaints, allegations, or investigations pending, the
26 department shall suspend the application process and shall not
27 issue or deny a license or registration to the applicant until the
28 complaint, allegation, or investigation is resolved.

29 (f) Pays all applicable fees.



1 (g) Is of good moral character.

2 (h) Meets the age requirement of that occupation under this
3 act, if applicable.

4 (2) If the department determines that the issuance of a
5 license or a certificate of registration under subsection (1) for
6 an occupation under this act may result in a violation of a federal
7 oversight or licensing guideline for that occupation, the
8 department shall not issue a license or a certificate of
9 registration.

10 (3) This section does not prevent the department from issuing
11 a temporary license under section 213, a courtesy license under
12 section 1806a, or issuing a license under section 726, 1108(2),
13 1211, 1806(9), 2013, 2209, or 2623.

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

21 (a) If an individual who holds a residential builder or a
22 residential maintenance and alteration contractor license, or an
23 individual who held a license as a qualifying officer of a licensed
24 residential builder or residential maintenance and alteration
25 contractor, on June 1, 2008 is renewing a license, he or she is
26 exempt from the requirement of successfully completing prelicensure
27 courses described in this subsection.

28 (b) If an individual is applying for a license or relicensure
29 as a residential builder or residential maintenance and alteration



1 contractor, he or she is exempt from the requirement of
 2 successfully completing prelicensure courses described in this
 3 subsection if all of the following are met:

4 (i) His or her application is submitted before the expiration
 5 of the 18-month period beginning on ~~the effective date of the~~
 6 ~~amendatory act that added this subdivision.~~ **September 16, 2014.**

7 This subdivision does not apply to applications that are submitted
 8 after that 18-month period.

9 (ii) He or she held an individual license as a residential
 10 builder or residential maintenance and alteration contractor, or
 11 held a license as a qualifying officer of a licensed residential
 12 builder or residential maintenance and alteration contractor, at
 13 any time within the 9-year period preceding his or her application.

14 (c) Unless he or she is exempt under subdivision (a) or (b),
 15 an applicant ~~shall~~ **must** not receive an initial license under this
 16 act unless he or she successfully completed 60 hours of approved
 17 prelicensure courses that include at least 6 hours of courses in
 18 each of the following areas of competency:

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

20 (ii) Design and building science.

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

22 (iv) Marketing and sales.

23 (v) Project management and scheduling.

24 (vi) The current Michigan ~~residential code.~~ **Residential Code.**

25 (vii) Construction safety standards promulgated under the
 26 Michigan occupational safety and health act, 1974 PA 154, MCL
 27 408.1001 to 408.1094.

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



1 (a) Subject to subdivision (b), if the individual licensee
2 obtained his or her initial license as a residential builder or a
3 residential maintenance and alteration contractor on or after
4 January 1, 2009, he or she must successfully complete at least 21
5 hours of activities that demonstrate continuing competence in each
6 3-year license cycle, including both of the following:

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

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

14 (b) If an individual licensee described in subdivision (a) was
15 exempt from the prelicensure course requirements of subsection (1)
16 under subsection (1)(b) when he or she obtained his or her initial
17 license as a residential builder or residential maintenance and
18 alteration contractor, the hours of activities that he or she must
19 complete in the first year of his or her first 3-year license cycle
20 under subdivision (a) must include successful completion of at
21 least 1 hour of codes, 1 hour of safety, and 1 hour of legal issues
22 described in this subsection.

23 (c) If the licensee was initially licensed as a licensed
24 residential builder or residential maintenance and alteration
25 contractor, or held a license as a qualifying officer of a licensed
26 residential builder or residential maintenance and alteration
27 contractor, before January 1, 2009, he or she has held a license
28 for not more than two 3-year license cycles, and the department has
29 not taken disciplinary action against him or her for a violation of



1 this act or a rule promulgated under this act, he or she must
2 successfully complete at least 3 hours of activities that
3 demonstrate continuing competency in each 3-year license cycle that
4 includes at least 1 hour of codes, 1 hour of safety, and 1 hour of
5 legal issues described in this subsection.

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

13 (3) In addition to the requirements of subsection (2), if the
14 department has taken disciplinary action against a licensee for a
15 violation of this act or a rule promulgated under this act, the
16 licensee must successfully complete, during the next complete
17 license cycle, at least 3 and not more than 21 hours of activities
18 that demonstrate the development of continuing competency during
19 that next license cycle as determined appropriate by order of the
20 department. At least 3 hours of the continuing competency must
21 include 1 hour of codes, 1 hour of safety, and 1 hour of legal
22 issues as described in subsection (2).

23 (4) Any construction code update courses approved by the
24 bureau of construction codes and any fire safety or workplace
25 safety courses approved or sponsored by the department are also
26 considered appropriate for fulfilling the continuing competency
27 requirements of this section. The department may, by rule, amend,
28 supplement, update, substitute, or determine equivalency regarding
29 any courses or alternate activities for developing continuing



1 competency described in this section.

2 (5) The subject matter of the prelicensure and continuing
3 competency activities required under this section may be offered by
4 a high school, an intermediate school district, a community
5 college, a university, the bureau of construction codes, the
6 Michigan occupational safety and health administration, a trade
7 association, or any other proprietary school that is licensed by
8 the department.

9 (6) The department shall promulgate rules to provide for the
10 following:

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

14 (b) Requirements for acceptable courses offered at seminars
15 and conventions by trade associations, research institutes, risk
16 management entities, manufacturers, suppliers, governmental
17 agencies other than those named in subsection (4), consulting
18 agencies, or other entities.

19 (c) Acceptable distance learning.

20 (d) Alternate forms of continuing competency, including
21 comprehensive testing, participation in mentoring programs,
22 research, participation in code hearings conducted by the
23 ~~international code council~~, **International Code Council**, and
24 publication of articles in trade journals or regional magazines as
25 an expert in the field. The alternate forms ~~shall~~**must** be designed
26 to maintain and improve the licensee's ability to perform the
27 occupation with competence and ~~shall~~**must** prescribe proofs that are
28 necessary to demonstrate that the licensee has fulfilled the
29 requirements of continuing competency.



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

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

(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~~**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



1 hour of activities that demonstrate continuing competency for that
2 calendar year.

3 (10) An individual licensee who applied for and was designated
4 inactive under subsection (9) before ~~the effective date of this~~
5 ~~subsection~~ **September 16, 2014** may remain in inactive status after
6 that ~~effective date~~ by complying with the requirements of
7 subsection (9). A licensee who remains in inactive status after ~~the~~
8 ~~effective date of this subsection~~ **September 16, 2014** is exempt from
9 the continuing competency requirements of this section while he or
10 she remains in inactive status. A licensee may activate his or her
11 license by submitting an application to the department requesting
12 activation of the license. If his or her license is activated, the
13 licensee must complete at least 1 credit hour of activities that
14 demonstrate continuing competency for that calendar year.

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

19 (a) Served in the armed forces.

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

23 (c) Was separated from service in the armed forces, and
24 provides to the department a form DD214, form DD215, or any other
25 form that is satisfactory to the department that demonstrates that
26 he or she was separated from that service, with an honorable
27 character of service or under honorable conditions (general)
28 character of service.

29 (d) Has, and provides with his or her application an affidavit



signed by a commanding officer, supervisor, or military superior with direct knowledge of the applicant's service that he or she has, entry-level experience in or basic knowledge of each of the areas of competency described in subsection ~~(1)(a) to (g)~~. **(1)(c)**.

(12) If an applicant who otherwise meets the requirements of subsection (11) does not have entry-level experience in or basic knowledge of each of the areas of competency described in subsection ~~(1)(a) to (g)~~, **(1)(c)**, he or she may provide with his or her application an affidavit signed by a commanding officer, supervisor, or military superior with direct knowledge of the applicant's service that states in which of those areas of competency the applicant has entry-level experience or basic knowledge, and the department may in its discretion grant the applicant credit toward the 60-hour prelicensure education requirement of subsection (1) based on that experience or knowledge.

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

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

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

Enacting section 2. This amendatory act does not take effect



1 unless all of the following bills of the 101st Legislature are
2 enacted into law:

3 (a) Senate Bill No.____ or House Bill No.____ (request no.
4 01673'21).

5 (b) Senate Bill No.____ or House Bill No.____ (request no.
6 01674'21).

