

# HOUSE BILL No. 5679

April 10, 1990, Introduced by Reps. Gire, DeBeaussaert, Barns, DeMars, Law and London and referred to the Committee on Consumers.

A bill to amend section 2411 of Act No. 299 of the Public Acts of 1980, entitled "Occupational code," as amended by Act No. 6 of the Public Acts of 1990, being section 339.2411 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2411 of Act No. 299 of the Public Acts  
2 of 1980, as amended by Act No. 6 of the Public Acts of 1990,  
3 being section 339.2411 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5 Sec. 2411. (1) A complaint filed ~~as prescribed in~~ UNDER  
6 article 5 shall be made within ~~18 months~~ 3 YEARS after comple-  
7 tion, occupancy, or purchase, whichever occurs later, of a  
8 residential or a combination of residential and commercial  
9 structure.

1       (2) A licensee or applicant who commits 1 or more of the  
2 following shall be subject to the penalties ~~set forth~~ PROVIDED  
3 FOR in article 6:

4       (a) Abandonment without legal excuse of a contract, con-  
5 struction project, or operation engaged in or undertaken by the  
6 licensee.

7       (b) Diversion of funds or property received for prosecution  
8 or completion of a specific construction project or operation, or  
9 for a specified purpose in the prosecution or completion of a  
10 construction project or operation, and the funds or property  
11 application ~~or use~~ ARE USED for any other construction project  
12 or operation, obligation, or ~~purposes~~ PURPOSE.

13       (c) Failure to account for or remit money coming into the  
14 person's possession which belongs to others.

15       (d) A willful departure from or disregard of plans or speci-  
16 fications in a material respect and prejudicial to another, with-  
17 out consent of the owner or an authorized representative and  
18 without the consent of the person entitled to have the particular  
19 construction project or operation completed in accordance with  
20 the plans and specifications.

21       (e) A willful violation of the building laws of the state or  
22 of a political subdivision of the state.

23       (f) In a maintenance and alteration contract, failure to  
24 furnish to a lender the purchaser's signed completion certificate  
25 executed upon completion of the work to be performed under the  
26 contract.

1 (g) ~~if~~ FAILURE OF a licensed residential builder or  
2 licensed maintenance and alteration contractor ~~, failure~~ to  
3 notify the department within 10 days of a change in the control  
4 or direction of the business of the licensee resulting from a  
5 change in the licensee's partners, directors, officers, or trust-  
6 ees, or a change in the control or direction of the business of  
7 the licensee resulting from any other occurrence or event.

8 (h) Failure to deliver to the purchaser the entire agreement  
9 of the parties including finance and any other charge arising out  
10 of or incidental to the agreement when the agreement involves  
11 repair, alteration, ~~or~~ addition, ~~to,~~ subtraction, ~~from,~~  
12 improvement, ~~of,~~ movement, ~~of,~~ wrecking, ~~of,~~ or demolition  
13 of a residential structure or combination of residential and com-  
14 mercial structure, ~~or~~ building of a garage, ~~or~~ laying of con-  
15 crete on residential property, or THE manufacture, assembly, con-  
16 struction, sale, or distribution of a residential or combination  
17 residential and commercial structure which is prefabricated, pre-  
18 assembled, precut, packaged, or shell housing.

19 (i) ~~if~~ FAILURE OF a salesperson ~~, failure~~ to pay over  
20 immediately upon receipt money received by the salesperson, in  
21 connection with a transaction governed by this article to the  
22 residential builder or residential maintenance and alteration  
23 contractor under whom the salesperson is licensed.

24 (j) Aiding or abetting an unlicensed person to evade this  
25 article, ~~or~~ knowingly combining or conspiring with, ~~or~~ acting  
26 as agent, partner, or associate for an unlicensed person, ~~or~~  
27 allowing one's license to be used by an unlicensed person, or

1 acting as or being an ostensible licensed residential builder or  
2 licensed residential maintenance and alteration contractor for an  
3 undisclosed person who, ~~does or shall control or direct, or who~~  
4 ~~may have~~ DIRECTLY OR INDIRECTLY, CONTROLS OR DIRECTS OR HAS the  
5 right to control or direct ~~, directly or indirectly,~~ the opera-  
6 tions of a licensee.

7 (k) ~~Acceptance of~~ ACCEPTING a commission, bonus, or other  
8 valuable consideration by a salesperson for the sale of goods or  
9 the performance of service specified in ~~the~~ THIS article from a  
10 person other than the residential builder or residential mainte-  
11 nance and alteration contractor under whom the person is  
12 licensed.

13 (l) Becoming insolvent, filing ~~a~~ FOR bankruptcy, ~~action,~~  
14 becoming subject to ~~a~~ receivership, ~~assigning for the benefit~~  
15 ~~of creditors,~~ failing to satisfy judgments or liens, or failing  
16 to pay an obligation as it becomes due in the ordinary course of  
17 business.

18 (m) ~~Poor~~ PERFORMING POOR workmanship or workmanship not  
19 meeting the standards of the custom or trade verified by a build-  
20 ing code enforcement official.

21 (3) The department shall suspend or revoke the license of a  
22 person licensed under this article whose failure to pay a lien  
23 claimant results in a payment being made from the homeowner con-  
24 struction lien recovery fund pursuant to the construction lien  
25 act, Act No. 497 of the Public Acts of 1980, being sections  
26 570.1101 to 570.1305 of the Michigan Compiled Laws, regardless of  
27 whether the person was performing services as a licensee under

1 this article, ~~—~~ under the electrical administrative act, Act  
2 No. 217 of the Public Acts of 1956, as amended, being sections  
3 338.881 to 338.892 of the Michigan Compiled Laws, ~~—~~ or under  
4 Act No. 266 of the Public Acts of 1929, as amended, being sec-  
5 tions 338.901 to 338.917 of the Michigan Compiled Laws. The  
6 license shall not be renewed nor shall a new license be issued  
7 until the licensee has repaid in full to the fund the amount paid  
8 out OF THE FUND, plus the costs of litigation and interest at the  
9 rate set by section 6013 of the revised judicature act of 1961,  
10 Act No. 236 of the Public Acts of 1961, as amended, being sec-  
11 tion 600.6013 of the Michigan Compiled Laws.

12 (4) The department shall conduct ~~a review~~ AN INVESTIGATION  
13 upon notice by the department of public health that the licensee  
14 has violated the asbestos abatement contractors licensing act,  
15 Act No. 135 of the Public Acts of 1986, being sections 338.3101  
16 to 338.3319 of the Michigan Compiled Laws, or sections 57 to 60f  
17 of the Michigan occupational safety and health act, Act No. 154  
18 of the Public Acts of 1974, being sections 408.1057 to 408.1060f  
19 of the Michigan Compiled Laws and may suspend or revoke that  
20 person's license for a knowing violation of those acts.