

# SENATE BILL No. 53

January 23, 2003, Introduced by Senator KUIPERS and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending sections 2401 and 2404 (MCL 339.2401 and 339.2404),  
section 2401 as amended by 1991 PA 166 and section 2404 as  
amended by 1988 PA 463.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2401. As used in this article:

2       (a) "Residential builder" means a person engaged in the  
3 construction of a residential structure or a combination  
4 residential and commercial structure who, for a fixed sum, price,  
5 fee, percentage, valuable consideration, or other compensation,  
6 other than wages for personal labor only, undertakes with another  
7 or offers to undertake or purports to have the capacity to  
8 undertake with another for the erection, construction,  
9 replacement, repair, alteration, or an addition to, subtraction

1 from, improvement, wrecking of, or demolition of, a residential  
2 structure or combination residential and commercial structure; a  
3 person who manufactures, assembles, constructs, deals in, or  
4 distributes a residential or combination residential and  
5 commercial structure which is prefabricated, preassembled,  
6 precut, packaged, or shell housing; or a person who erects a  
7 residential structure or combination residential and commercial  
8 structure except for the person's own use and occupancy on the  
9 person's property. **Residential builder does not include a person**  
10 **who does any of the following:**

11 (i) Provides or installs concrete or clay pavers, bricks,  
12 wood, plastic, aggregates, polyesters, blocks, or natural or  
13 artificial stone for purposes of commercial or residential  
14 patios, walkways, driveways, retaining or decorative walls,  
15 terraces, gazebos, arbors, lattice, seawalls, or planters.

16 (ii) Constructs planter or other walls not exceeding 24  
17 inches above grade if no mortar, concrete, or adhesive is  
18 utilized in the process.

19 (iii) Constructs freestanding improvements or structures not  
20 attached to a building, home, garage, office building, or  
21 swimming pool.

22 (b) "Residential maintenance and alteration contractor" means  
23 a person who, for a fixed sum, price, fee, percentage, valuable  
24 consideration, or other compensation, other than wages for  
25 personal labor only, undertakes with another for the repair,  
26 alteration, or an addition to, subtraction from, improvement of,  
27 wrecking of, or demolition of a residential structure or

1 combination residential and commercial structure, or building of  
2 a garage, or laying of concrete on residential property, or who  
3 engages in the purchase, substantial rehabilitation or  
4 improvement, and resale of a residential structure, engaging in  
5 that activity on the same structure more than twice in 1 calendar  
6 year, except ~~in~~ **under** the following ~~instances~~ **circumstances**:

7 (i) ~~If the~~ **The** work is for the person's own use and  
8 occupancy.

9 (ii) ~~If the~~ **The** rehabilitation or improvement work of  
10 residential type property or a structure is contracted for, with,  
11 or hired entirely to be done and performed for the owner by a  
12 person licensed under this article.

13 (iii) ~~If~~ **The** work is performed by a person employed by the  
14 owner to perform work for which the person is licensed by the  
15 state.

16 (iv) **The work involves activities described in subdivision**  
17 **(a)(i), (ii), or (iii).**

18 (c) "Residential structure" means a premises used or intended  
19 to be used for a residence purpose and related facilities  
20 appurtenant to the premises, used or intended to be used, as an  
21 adjunct of residential occupancy.

22 (d) "Salesperson" means an employee or agent, other than a  
23 qualifying officer, of a licensed residential builder or  
24 residential maintenance and alteration contractor, who for a  
25 salary, wage, fee, percentage, commission, or other  
26 consideration, sells or attempts to sell, negotiates or attempts  
27 to negotiate, solicits for or attempts to solicit for, obtains or

1 attempts to obtain a contract or commitment for, or furnishes or  
2 attempts or agrees to furnish, the goods and services of a  
3 residential builder or residential maintenance and alteration  
4 contractor, except a person working for a licensed residential  
5 builder or residential maintenance and alteration contractor who  
6 makes sales ~~which~~ **that** are occasional and incidental to the  
7 person's principal employment.

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

18 Sec. 2404. (1) The department may require an applicant,  
19 licensee, or each partner, trustee, director, officer, member, or  
20 shareholder to submit evidence of good moral character and  
21 financial stability. Before the issuance of a license, an  
22 applicant shall submit any amount required to be paid under the  
23 construction lien act, ~~Act No. 497 of the Public Acts of 1980,~~  
24 ~~being sections 570.1101 to 570.1305 of the Michigan Compiled~~  
25 ~~Laws~~ **1980 PA 497, MCL 570.1101 to 570.1305.**

26 (2) The department shall require an applicant for a license  
27 to pass an examination establishing that the applicant has a fair

1 knowledge of the obligations of a residential builder or  
 2 residential maintenance and alteration contractor to the public  
 3 and the applicant's principal, and the statutes relating to the  
 4 applicant's licensure.

5 (3) The department, upon application, may issue a residential  
 6 maintenance and alteration contractor's license to an applicant  
 7 who, upon examination, qualifies for a license ~~—, which shall~~  
 8 ~~authorize~~ **authorizing** the licensee, according to the applicant's  
 9 qualifications, crafts, and trades, to engage in the activities  
 10 of a residential maintenance and alteration contractor. A  
 11 license shall include the following crafts and trades:

12 ~~carpentry; concrete; swimming~~

13 (a) **Carpentry.**

14 (b) **Concrete.**

15 (c) **Swimming** pool installation. ~~—; waterproofing~~

16 (d) **Waterproofing** a basement. ~~—; excavation; insulation~~

17 (e) **Excavation.**

18 (f) **Insulation** work. ~~—; masonry work; painting~~

19 (g) **Painting** and decorating. ~~—; roofing; siding~~

20 (h) **Roofing.**

21 (i) **Siding** and gutters. ~~—; screen~~

22 (j) **Screen** or storm sash installation. ~~—; tile~~

23 (k) **Tile** and marble work. ~~—; and house~~

24 (l) **House** wrecking.

25 (m) **Masonry** work other than activities described in section  
 26 2401(a)(i), (ii), or (iii).

27 (4) The **residential maintenance and alteration contractor's**

1 license **issued under subsection (3)** shall specify the particular  
2 craft or trade for which the licensee has qualified. ~~This~~  
3 **Subsection (3) and this** subsection ~~shall~~ do not prohibit a  
4 specialty contractor from taking and executing a contract  
5 involving the use of 2 or more crafts or trades if the  
6 performance of the work in the craft or trade, other than in  
7 which the person is licensed, is incidental and supplemental to  
8 the performance of work in the craft for which the specialty  
9 contractor is licensed.

10       **(5) —(4)—** A residential builder or residential maintenance  
11 and alteration contractor shall maintain a place of business in  
12 this state. If a residential builder or residential maintenance  
13 and alteration contractor maintains more than 1 place of business  
14 within this state, **the department shall issue** a branch office  
15 license ~~shall be issued~~ to the builder or contractor for each  
16 place of business. ~~so maintained.~~