

SENATE BILL No. 961

January 18, 2006, 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 section 2401 (MCL 339.2401), as amended by 1991 PA 166.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2401. As used in this article:

2 (A) "DRY-STACK WALLS" MEANS WALLS CONSTRUCTED OF PAVERS,
3 BRICKS, WOOD, PLASTIC, AGGREGATES, POLYESTERS, BLOCKS, OR NATURAL
4 OR ARTIFICIAL STONE, WITHOUT MORTAR, CONCRETE, OR ADHESIVES FOR
5 OTHER THAN THE TOP COURSE.

6 (B) ~~—(a)—~~ "Residential builder" means a person engaged in the
7 construction of a residential structure or a combination
8 residential and commercial structure who, for a fixed sum, price,

1 fee, percentage, valuable consideration, or other compensation,
2 other than wages for personal labor only, undertakes with another
3 or offers to undertake or purports to have the capacity to
4 undertake with another for the erection, construction, replacement,
5 repair, alteration, or an addition to, subtraction from,
6 improvement, wrecking of, or demolition of, a residential structure
7 or combination residential and commercial structure; a person who
8 manufactures, assembles, constructs, deals in, or distributes a
9 residential or combination residential and commercial structure
10 which is prefabricated, preassembled, precut, packaged, or shell
11 housing; or a person who erects a residential structure or
12 combination residential and commercial structure except for the
13 person's own use and occupancy on the person's property.

14 **RESIDENTIAL BUILDER DOES NOT INCLUDE A PERSON WHO DOES ANY OF THE**
15 **FOLLOWING EXTERIOR WORK:**

16 (i) PROVIDES OR INSTALLS PAVERS, BRICKS, WOOD, PLASTIC,
17 AGGREGATES, POLYESTERS, BLOCKS, OR NATURAL OR ARTIFICIAL STONE FOR
18 PURPOSES OF CONSTRUCTING PATIOS, WALKWAYS, OR DRIVEWAYS, WITHOUT
19 MORTAR, CONCRETE, OR ADHESIVES.

20 (ii) CONSTRUCTS DRY-STACK WALLS NOT EXCEEDING 24 INCHES ABOVE
21 GRADE.

22 (iii) CONSTRUCTS FREESTANDING DECORATIVE IMPROVEMENTS, SUCH AS
23 GAZEBOS, ARBORS, OR LATTICE, NOT ATTACHED TO A RESIDENTIAL
24 STRUCTURE, AND FOR WHICH A BUILDING PERMIT IS NOT REQUIRED BY THE
25 STATE OR A GOVERNMENTAL SUBDIVISION.

26 (C) ~~(b)~~ "Residential maintenance and alteration contractor"
27 means a person who, for a fixed sum, price, fee, percentage,

1 valuable consideration, or other compensation, other than wages for
 2 personal labor only, undertakes with another for the repair,
 3 alteration, or an addition to, subtraction from, improvement of,
 4 wrecking of, or demolition of a residential structure or
 5 combination residential and commercial structure, or building of a
 6 garage, or laying of concrete on residential property, or who
 7 engages in the purchase, substantial rehabilitation or improvement,
 8 and resale of a residential structure, engaging in that activity on
 9 the same structure more than twice in 1 calendar year, except ~~in~~
 10 **UNDER** the following ~~instances~~ **CIRCUMSTANCES:**

11 (i) ~~If the~~ **THE** work is for the person's own use and
 12 occupancy.

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

17 (iii) ~~If~~ **THE** work is performed by a person employed by the
 18 owner to perform work for which the person is licensed by the
 19 state.

20 (iv) **THE WORK INVOLVES ACTIVITIES DESCRIBED IN SUBDIVISION**
 21 **(B) (i), (ii), OR (iii).**

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

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

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

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