

HOUSE BILL No. 5832

February 17, 2010, Introduced by Rep. Durhal and referred to the Committee on Appropriations.

A bill to amend 1984 PA 192, entitled
"Forbes mechanical contractors act,"
by amending sections 6, 11, and 16 (MCL 338.976, 338.981, and
338.986), section 6 as amended by 2004 PA 271 and section 11 as
amended by 1990 PA 5.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) Upon the filing of an application on a form
2 prescribed by the department and payment of the examination fee
3 prescribed in section 10, the department shall conduct examinations
4 to establish the qualifications and competency of applicants
5 seeking licensing for the category for which the application is
6 submitted and shall issue licenses to those who pass the
7 examinations and pay the initial issuance fee, except as otherwise
8 provided for in this act. An applicant who seeks licensure in more

1 than 1 work classification listed in subsection (3) on a single
2 application shall only be required to pay 1 examination fee and 1
3 initial issuance fee as provided in section 10. ~~A person applying~~
4 ~~for a license under this act shall also pay the amount required to~~
5 ~~be paid under the construction lien act, 1980 PA 497, MCL 570.1101~~
6 ~~to 570.1305, which amount shall be paid to the department for~~
7 ~~deposit in the homeowner construction lien recovery fund. A person~~
8 ~~is not required to pay more than \$50.00 in an assessment period~~
9 ~~under that act, regardless of the number of licenses applied for or~~
10 ~~held.~~

11 (2) An applicant is not considered eligible for examination
12 unless the applicant is of good moral character, as defined in
13 **SECTION 1 OF** 1974 PA 381, MCL 338.41, ~~to 338.47,~~ and has a minimum
14 of 3 years of experience or an equivalent of that experience
15 acceptable to the board, upon proper showing to the department, in
16 1 or more of the work classifications listed in subsection (3).

17 (3) A contractor's license obtained shall be classified and
18 limited as 1 or more of the following:

- 19 (a) Hydronic heating and cooling and process piping.
- 20 (b) HVAC equipment.
- 21 (c) Ductwork.
- 22 (d) Refrigeration.
- 23 (e) Limited service, heating or refrigeration.
- 24 (f) Unlimited service, heating or refrigeration.
- 25 (g) Fire suppression.
- 26 (h) Specialty.

27 Sec. 11. (1) The department may investigate the activities of

1 a licensee related to the licensee's activities as a contractor.
2 The department may hold hearings, administer oaths, and order
3 relevant testimony to be taken and shall report its findings to the
4 board. The board shall proceed under section 16 if the board finds
5 that any of the following grounds exist:

6 (a) The practice of fraud or deceit in obtaining a license
7 under this act.

8 (b) The practice of fraud or deceit in the performance of work
9 for which a license is required under this act.

10 (c) An act of gross negligence.

11 (d) The practice of false advertising.

12 (e) An act ~~which~~ **THAT** demonstrates incompetence.

13 (f) A violation of this act or **A** rule promulgated under this
14 act.

15 ~~—— (2) The board, upon recommendation of the department, shall~~
16 ~~suspend or revoke the license of any person whose failure to pay a~~
17 ~~lien claimant results in a payment being made from the homeowner~~
18 ~~construction lien recovery fund pursuant to the construction lien~~
19 ~~act, Act No. 497 of the Public Acts of 1980, being sections~~
20 ~~570.1101 to 570.1305 of the Michigan Compiled Laws. The license~~
21 ~~shall not be renewed, nor shall a new license be issued until the~~
22 ~~person whose license has been suspended or revoked under this~~
23 ~~subsection has repaid in full to the fund the amount paid out plus~~
24 ~~the costs of litigation and interest at the rate set by section~~
25 ~~6013 of the revised judicature act of 1961, Act No. 236 of the~~
26 ~~Public Acts of 1961, being section 600.6013 of the Michigan~~
27 ~~Compiled Laws.~~

1 (2) ~~(3)~~ The department shall conduct a review upon notice by
 2 the department of public health that the licensee has violated the
 3 asbestos abatement contractors licensing act, ~~Act No. 135 of the~~
 4 ~~Public Acts of 1986, being sections~~ **1986 PA 135, MCL 338.3101 to**
 5 **338.3319,** ~~of the Michigan Compiled Laws, or sections 57 to 60f of~~
 6 ~~the Michigan occupational safety and health act, Act No. 154 of the~~
 7 ~~Public Acts of 1974, being sections 408.1057 to 408.1060f of the~~
 8 ~~Michigan Compiled Laws~~ and may suspend or revoke that person's
 9 license for a knowing violation of ~~these acts~~ **THAT ACT.**

10 (3) ~~(4)~~ A revocation, suspension, or other sanction set forth
 11 in subsection ~~(3)~~ **(2)** or section 16 shall be imposed only after a
 12 hearing has been conducted pursuant to the administrative
 13 procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~
 14 ~~being sections~~ **1969 PA 306, MCL 24.201 to 24.328.** ~~of the Michigan~~
 15 ~~Compiled Laws.~~

16 (4) ~~(5)~~ The installation, alteration, or servicing of heating,
 17 cooling, ventilating, or refrigerating equipment or systems shall
 18 not be performed under a license that has been suspended, revoked,
 19 or has expired. A license, other than a license issued under this
 20 act, shall not be recognized for securing permits to install,
 21 alter, or service heating, cooling, ventilating, or refrigerating
 22 equipment or systems.

23 Sec. 16. After finding the existence of 1 or more of the
 24 grounds for board action described in section 11(1) and after an
 25 opportunity for a hearing, the board ~~, except as provided in~~
 26 ~~section 11(2),~~ shall impose 1 or more of the following sanctions
 27 for each violation:

1 (a) Suspension of the license issued under this act.

2 (b) Denial of the license required under this act.

3 (c) Revocation of the license issued under this act.

4 (d) A requirement that restitution be made.

5 Enacting section 1. This amendatory act does not take effect

6 unless Senate Bill No. _____ or House Bill No. 5830(request no.

7 04360'09 *) of the 95th Legislature is enacted into law.