

Legislative Analysis



PRE-LICENSURE EDUCATION REQUIREMENTS FOR RESIDENTIAL BUILDERS AND CONTRACTORS

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House Bill 4582
Public Act 175 of 2014
Sponsor: Rep. Frank D. Foster

House Bill 5284
Public Act 176 of 2014
Sponsor: Rep. Marilyn Lane

House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Complete to 8-22-14

A SUMMARY OF HOUSE BILLS 4582 AND 5284 AS ENACTED

House Bill 4582 amends Article 24 of the Occupational Code to allow certain additional individuals to obtain a license as a residential builder, or residential maintenance and alteration contractor, without completing the pre-licensure educational courses that are usually required. This new exemption would apply to an individual who held a license at any time within the previous nine years, so long as that individual applies before January 16, 2016, which is 18 months after the bill takes effect.

House Bill 5284 amends Article 24 of the Occupational Code by modifying the requirements and process for certain individuals applying for licensure or re-licensure as residential builders or maintenance and alteration contractors.

The two bills were tie-barred and have both been signed into law as PA 175 of 2014 and PA 176 of 2014, respectively.

HB 4582

Prior to the passage of HB 4582 and 5284, applicants for initial licensure as a residential builder or residential maintenance and alteration contractor had to successfully complete the pre-licensure course of study in order to obtain a license (see ***Background Information***). However, the requirement did not apply to individuals who held licenses as of June 1, 2008, and were renewing that license. (That date is when the pre-licensure course of study requirements took effect.)

House Bill 4582 extends the exemption so pre-licensure requirements would also not apply to those applying for licensure or re-licensure and have held a license at any time within the nine-year period preceding the application as a residential builder or residential maintenance and alteration contractor, or who have held a license as a qualifying officer of a licensed residential builder or residential maintenance and alteration contractor. However, this would only apply for applications submitted within 18 months after this bill takes effect.

Under the Occupational Code, the Department of Licensing and Regulatory Affairs (LARA) cannot issue an *initial* license unless the applicant has completed the required 60 hours of pre-licensure courses. The bill provides an exemption from this requirement.

The bill requires individuals to successfully complete at least three hours of activities demonstrating continuing competency in each three-year license cycle, including one hour each on codes, safety, and legal issues, if (1) they were initially licensed as a residential builder or residential maintenance and alteration contractor, or held a license as a qualifying officer of a licensed residential builder or residential maintenance and alteration contractor, before January 1, 2009; (2) have held the license for six years or less; and (3) have not been determined by the department to have violated the Occupational Code or a rule promulgated under the code.

Applying for inactive status

Additionally, the bill allows licensees who had applied for and were designated inactive before the bill's effective date to remain in inactive status after the bill's effective date by complying with the requirements of subsection 9 of the bill. [Under subsection 9, licensees may apply for inactive status by applying to the department and declaring that they are no longer actively engaged in the practice authorized by the license and will temporarily suspend activity. Inactive licensees are exempt from the continuing competency requirements but must still pay annual license fees.] Following the bill's passage, licensees on inactive status are now exempt from the continuing competency requirements while on inactive status and can activate a license by applying to the department. Once activated, the licensee has to complete at least one credit hour of activities that demonstrate continuing competency for that calendar year.

Approved courses

The bill removes references to specific education courses that were considered to "demonstrate the development of continuing competency" and were incorporated by reference. Now, any courses approved by the Bureau of Construction Codes or the Department of Licensing and Regulatory Affairs would be considered appropriate for fulfilling continuing competency requirements.

HB 4582 also removed a provision that allowed LARA to waive the requirement of membership in a local, state, or national trade association.

MCL 339.2404b

House Bill 5284

House Bill 5284 adds a new Section 2404c to apply to an individual applying for a license or for relicensure as a residential builder or residential maintenance and alteration contractor, who was a qualifying officer on December 21, 2007, but was subsequently denied an individual license because of financial instability.

In that instance, the Department of Licensing and Regulatory Affairs (LARA) must determine whether the applicant should receive a license and what requirements the applicant must meet to qualify for a license. In making its determination, the department would consider information concerning the good moral character of the applicant (any partner, trustee, director, officer, member, or shareholder), must determine if the applicant needs to pass an examination, and could require the applicant to meet other requirements to qualify for a license. The applicant would have to certify that he or she successfully completed at least three hours of activities that demonstrate continue competency, that include one hour of codes, one hour of safety, and one hour of legal issues, in the 12 months immediately preceding the date of application.

Also, Section 2404 previously said that department may require an applicant, a licensee, or each partner, trustee, director, officer, member, or shareholder to submit evidence of good moral character and financial stability. The bill would remove the term "financial stability."

In addition, the bill also amends the list of crafts and trades included in a residential maintenance and alteration contractor's license by adding *door installation and window or exterior door replacement*, and *cabinetry installation* to that list.

The bill clarifies that if an individual's license under Article 24 is suspended, revoked, or denied by the board, any other licenses issued or applied for under the article would be suspended, revoked, or denied. The same is now true of a license of a corporation, partnership, association, limited liability company, or other entity.

MCL 339.2404 and 339.2405

FISCAL IMPACT:

These bills would not have a significant fiscal impact on the Bureau of Commercial Services.

BACKGROUND INFORMATION:

Previous requirements:

Prior to the bills' passage, applicants for initial licensure as a residential builder or residential maintenance and alteration contractor had to successfully complete a pre-licensure course of study in order to obtain a license. Applicants were required to complete 60 hours of approved pre-licensure courses, with at least 6 hours of courses in each of the following areas:

- Business management, estimating, and job costing;
- Design and building space;
- Contracts, liability, and risk management;
- Marketing and sales;

- Project management and scheduling;
- The current Michigan Residential Code; and
- Construction safety standards promulgated under the Michigan Occupational Safety and Health Act.

Individuals who received licensure on or after January 1, 2009, had to successfully complete at least 3 hours of activities demonstrating continuing competency each calendar year for the first 6 years of licensure, and 21 hours in each 3-year time period after the issuance of the license. At least 3 hours must be devoted to activities designed to develop a licensee's understanding and ability to apply state building codes and laws relating to the licensed occupation, safety, and changes in construction and business laws. For licensees who have been licensed for more than 6 years, at least three hours must be spent on activities demonstrating continuing competency, including one hour of codes, one hour of safety, and one hour on legal issues.

Additional hours of activity must be completed by licensees that have been found in violation of the Occupational Code or rules promulgated under its authority.

Exemptions

The following individuals were previously exempt from the pre-licensure course of study requirements:

- Licensees holding a residential builder or a residential maintenance and alteration contractor license on January 1, 2009, when applying for re-licensure.
- Members of the armed forces meeting the following requirements [Note: this exemption was added by Public Act 169 of 2013 and did not take effect until February 12, 2014]:
 - Engaged in the erection, construction, replacement, repair, alteration, or demolition of buildings or structures during the time of service.
 - Separated from service and have provided satisfactory documentation to LARA demonstrating that separation from service was with an honorable character of service or under honorable conditions.
 - Has an affidavit signed by a commanding officer, supervisor, or military superior with direct knowledge of the applicant's service that the applicant has entry-level experience in or basic knowledge of each of the competency areas described above that is provided with the application.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.