

# HOUSE BILL No. 4582

April 17, 2013, Introduced by Rep. Foster and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending section 2404b (MCL 339.2404b), as added by 2007 PA 157.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2404b. (1) ~~Beginning the effective date of the amendatory~~  
2 ~~act that added this section, applicants for initial licensure~~  
3 ~~either JUNE 1, 2008, THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO AN~~  
4 ~~INDIVIDUAL APPLYING FOR AN INITIAL INDIVIDUAL LICENSE as a~~  
5 ~~residential builder or as a residential maintenance and alteration~~  
6 ~~contractor shall successfully complete a prelicensure course of~~  
7 ~~study as prescribed by this subsection. Licensees holding UNLESS HE~~  
8 ~~OR SHE HAS SUCCESSFULLY COMPLETED THE PRELICENSURE COURSE OF STUDY~~  
9 ~~REQUIREMENTS OF THIS SUBSECTION OR IS EXEMPT FROM THOSE~~  
10 ~~REQUIREMENTS UNDER THIS SUBSECTION. ALL OF THE FOLLOWING APPLY FOR~~  
11 ~~PURPOSES OF THIS SUBSECTION:~~

1           (A) IF a residential builder or ~~a~~ residential maintenance and  
2 alteration contractor WHO HELD AN INDIVIDUAL license, OR AN  
3 INDIVIDUAL WHO HELD A LICENSE AS A QUALIFYING OFFICER OF A LICENSED  
4 RESIDENTIAL BUILDER OR RESIDENTIAL MAINTENANCE AND ALTERATION  
5 CONTRACTOR, on ~~the effective date of the amendatory act that added~~  
6 ~~this section that are~~ JUNE 1, 2008 IS renewing a ~~THAT~~ license, in  
7 ~~the capacity of an individual or qualifying officer, or both, are~~  
8 HE OR SHE IS exempt from the requirement of successfully completing  
9 prelicensure courses described in this subsection. ~~The department~~  
10 ~~shall require an applicant not exempted under this subsection to~~

11           (B) IF AN INDIVIDUAL IS APPLYING FOR A LICENSE OR RELICENSURE  
12 AS A RESIDENTIAL BUILDER OR RESIDENTIAL MAINTENANCE AND ALTERATION  
13 CONTRACTOR, AND HE OR SHE HELD AN INDIVIDUAL LICENSE AS A  
14 RESIDENTIAL BUILDER OR RESIDENTIAL MAINTENANCE AND ALTERATION  
15 CONTRACTOR, OR HELD A LICENSE AS A QUALIFYING OFFICER OF A LICENSED  
16 RESIDENTIAL BUILDER OR RESIDENTIAL MAINTENANCE AND ALTERATION  
17 CONTRACTOR, AT ANY TIME WITHIN THE 9-YEAR PERIOD PRECEDING HIS OR  
18 HER APPLICATION, THAT INDIVIDUAL IS EXEMPT FROM THE REQUIREMENT OF  
19 SUCCESSFULLY COMPLETING PRELICENSURE COURSES DESCRIBED IN THIS  
20 SUBSECTION.

21           (C) UNLESS HE OR SHE IS EXEMPT UNDER SUBDIVISION (A) OR (B),  
22 AN APPLICANT SHALL NOT RECEIVE AN INITIAL LICENSE UNDER THIS ACT  
23 UNLESS HE OR SHE successfully ~~complete~~ COMPLETES 60 hours of  
24 approved prelicensure courses ~~consisting of~~ **THAT INCLUDE** at least 6  
25 hours of courses in each of the following areas of competency:

26           (i) ~~(a)~~ Business management, estimating, and job costing.

27           (ii) ~~(b)~~ Design and building science.

(iii) ~~(e)~~ Contracts, liability, and risk management.

(iv) ~~(d)~~ Marketing and sales.

(v) ~~(e)~~ Project management and scheduling.

(vi) ~~(f)~~ The current Michigan residential code.

(vii) ~~(g)~~ Construction safety standards promulgated under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(2) ~~Beginning the calendar year after the effective date of the amendatory act that added this section, a person obtaining initial licensure under this article~~ **IN THE 2009 CALENDAR YEAR, THE FOLLOWING APPLY TO AN INDIVIDUAL LICENSEE UNDER THIS ARTICLE, AS APPLICABLE:**

**(A) IF THE INDIVIDUAL LICENSEE OBTAINED HIS OR HER INITIAL LICENSE as a residential builder or a residential maintenance and alteration contractor shall** **ON OR AFTER JANUARY 1, 2009, HE OR SHE MUST successfully complete not less than** **AT LEAST 21 HOURS OF ACTIVITIES THAT DEMONSTRATE CONTINUING COMPETENCE IN EACH 3-YEAR LICENSE CYCLE, INCLUDING BOTH OF THE FOLLOWING:**

**(i) AT LEAST 3 hours of activities demonstrating** ~~THAT DEMONSTRATE continuing competency per~~ **IN EACH** calendar year ~~7~~ during the first 6 calendar years of licensure. ~~7 and 21 hours per 3-year time period since the issuance of his or her license.~~

**(ii) At least 3 hours shall be devoted to those** ~~OF~~ activities designed to develop ~~a~~ **AN INDIVIDUAL** licensee's understanding and ability to apply state building codes and laws relating to the licensed occupation, safety, and changes in construction and business management laws. ~~A licensee who~~

(B) IF THE INDIVIDUAL LICENSEE WAS INITIALLY LICENSED AS A LICENSED 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, HE OR SHE HAS HELD A LICENSE FOR 6 YEARS OR LESS, AND THE DEPARTMENT HAS NOT DETERMINED IN A FINAL ORDER THAT HE OR SHE HAS VIOLATED THIS ACT OR A RULE PROMULGATED UNDER THIS ACT, HE OR SHE MUST SUCCESSFULLY COMPLETE AT LEAST 3 HOURS OF ACTIVITIES THAT DEMONSTRATE CONTINUING COMPETENCY IN EACH 3-YEAR LICENSE CYCLE THAT INCLUDES AT LEAST 1 HOUR OF CODES, 1 HOUR OF SAFETY, AND 1 HOUR OF LEGAL ISSUES DESCRIBED IN THIS SUBSECTION.

(C) IF THE INDIVIDUAL LICENSEE has held a license for more than 6 years ~~or who has not been determined by~~ AND the department HAS NOT DETERMINED in a final order ~~to have~~ THAT HE OR SHE HAS violated this act or a rule ~~adopted~~ PROMULGATED under this act, ~~shall~~ HE OR SHE MUST successfully complete at least 3 hours of activities demonstrating continuing competency ~~per~~ IN EACH license cycle ~~to include~~ THAT INCLUDES AT LEAST 1 hour of codes, 1 hour of safety, and 1 hour of legal issues as described in this subsection.

(3) ~~In the case of a licensee who has been determined by~~ IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (2), IF the department DETERMINES in a final order ~~to have~~ THAT AN INDIVIDUAL LICENSEE HAS violated this act or a rule ~~adopted~~ PROMULGATED under this act, he or she ~~shall~~ MUST successfully complete, during the next complete license cycle, ~~up to~~ AT LEAST 3 AND NOT MORE THAN 21 hours of activities that demonstrate the development of continuing

1 competency during that next license cycle, as determined  
2 appropriate by order of the department. ~~at~~ **AT** least 3 hours of  
3 that continuing competency ~~to~~ **MUST** include 1 hour of codes, 1 hour  
4 of safety, and 1 hour of legal issues as described in subsection  
5 (2) .

6 (4) ~~As activities that demonstrate the development of~~  
7 ~~continuing competency, the education courses described in section~~  
8 ~~3, pages 3-6 through 3-58 of the January 2005 edition of the~~  
9 ~~publication "NAHB University of Housing, Blueprint for Success",~~  
10 ~~published by the national association of home builders, and taught~~  
11 ~~by instructors meeting the requirements of section 4, pages 4-5~~  
12 ~~through 4-9 of the January 2005 edition of "NAHB University of~~  
13 ~~Housing, Blueprint for Success", are considered approved, are~~  
14 ~~considered appropriate for fulfilling the prelicensure and~~  
15 ~~continuing competency requirements of subsections (1), (2), and~~  
16 ~~(3), and are incorporated by reference. A licensee may take any~~  
17 ~~courses equivalent to those courses incorporated by reference by~~  
18 ~~this subsection. Updates to the courses described in this~~  
19 ~~subsection or equivalent courses are acceptable unless the~~  
20 ~~department determines that the courses do not provide a means of~~  
21 ~~developing and maintaining continuing competency for those~~  
22 ~~applicants or licensees who successfully fulfill the course~~  
23 ~~requirements. Any construction code update courses approved by the~~  
24 ~~bureau of construction codes, as well as~~ **AND ANY** fire safety or  
25 workplace safety courses approved or sponsored by the department,  
26 ~~are also~~ considered appropriate for fulfilling the continuing  
27 competency requirements of this subsection. The department may, by

rule, amend, supplement, update, substitute, or determine equivalency regarding any courses or alternate activities for developing continuing competency described in this subsection.

~~———— (5) The department may waive the requirement of membership in a local, state, or national trade association contained in the instructor standards of section 4, pages 4-5 through 4-9 of the January 2005 edition of the publication "NAHB University of Housing, Blueprint for Success", published by the national association of home builders, and incorporated by reference. By rule, the department may amend, supplement, update, substitute, or determine equivalency regarding the standards in this subsection and shall establish instructor qualifications for courses not incorporated by reference in subsection (4).~~

(5) ~~(6)~~—The subject matter of the prelicensure and continuing competency activities **REQUIRED UNDER THIS SECTION** may be offered by a high school, **AN** intermediate school district, **A** community college, **A** university, **THE** bureau of construction codes, **THE** Michigan occupational safety and health administration, **A** trade association, or a proprietary school licensed by the department, ~~as meeting the subject matter qualifications described in subsection (4) and the instructional qualifications described in subsection (5).~~ **AS DETERMINED BY THE DEPARTMENT.**

(6) ~~(7)~~—The department shall promulgate rules to provide for the following:

(a) Requirements other than those listed in subsection (4) for determining that a course meets the minimum criteria for developing and maintaining continuing competency.

1 (b) Requirements for acceptable courses offered at seminars  
2 and conventions by trade associations, research institutes, risk  
3 management entities, manufacturers, suppliers, governmental  
4 agencies other than those named in subsection (4), consulting  
5 agencies, or other entities.

6 (c) Acceptable distance learning.

7 (d) Alternate forms of continuing competency, including  
8 comprehensive testing, participation in mentoring programs,  
9 research, participation in code hearings conducted by the  
10 international code council, and publication of articles in a trade  
11 journal or regional magazine as an expert in the field. The  
12 alternate forms shall be designed to maintain and improve ~~the~~**AN**  
13 **INDIVIDUAL** licensee's ability to perform the occupation with  
14 competence and shall prescribe proofs that are necessary to  
15 demonstrate that ~~the licensee~~**HE OR SHE** has fulfilled the  
16 requirements of continuing competency.

17 (7) ~~(8) Each~~**AN INDIVIDUAL** licensee may select approved  
18 courses in his or her subject matter area or specialty. ~~Service~~**AN**  
19 **INDIVIDUAL'S SERVICE** as a lecturer or discussion leader in an  
20 approved course shall ~~be counted toward the~~**COUNT TOWARD HIS OR HER**  
21 continuing competency ~~requirements of~~**OBLIGATIONS UNDER** this  
22 section. ~~Alternate~~**AN INDIVIDUAL MAY EARN AND DOCUMENT ANY**  
23 **ALTERNATIVE** forms of continuing competency ~~may be earned and~~  
24 ~~documented as promulgated in rules by the department.~~

25 (8) ~~(9)~~The department may audit a predetermined percentage of  
26 licensees who renew in a year for compliance with the requirements  
27 of this section. Failure to comply with the audit or the

1 requirements shall result in the investigation of a complaint  
2 initiated by the department, and the licensee is subject to the  
3 penalties prescribed in this act.

4       (9) ~~(10) A licensee~~ **BEFORE THE EFFECTIVE DATE OF THE**  
5 **AMENDATORY ACT THAT ADDED SUBSECTION (10), AN INDIVIDUAL WHO IS**  
6 **LICENSED** as a residential builder or residential alteration and  
7 maintenance contractor may apply for inactive status by completing  
8 an application, made available by the department, in which he or  
9 she declares that he or she is no longer actively engaged in the  
10 practice authorized by his or her license and temporarily intends  
11 to suspend activity authorized by his or her license. ~~Upon~~  
12 ~~submission of a~~ **WHEN HE OR SHE SUBMITS THE** completed application,  
13 the department shall designate the licensee as inactive and note  
14 that status on records available to the public. A licensee  
15 designated as inactive must have a current copy of the Michigan  
16 residential code and is exempt from the continuing competency  
17 requirements imposed under this section, but must still pay the  
18 per-year license fee. An inactive licensee may activate his or her  
19 license by submitting an application to the department requesting  
20 activation of the license. ~~Upon activation of a~~ **IF HIS OR HER**  
21 **license IS ACTIVATED**, the licensee must complete at least 1 credit  
22 hour of **ACTIVITIES THAT DEMONSTRATE** continuing competency for that  
23 calendar year.

24       (10) **AN INDIVIDUAL LICENSEE WHO APPLIED FOR AND WAS DESIGNATED**  
25 **INACTIVE UNDER SUBSECTION (9) BEFORE THE EFFECTIVE DATE OF THIS**  
26 **SUBSECTION MAY REMAIN IN INACTIVE STATUS AFTER THAT EFFECTIVE DATE**  
27 **BY COMPLYING WITH THE REQUIREMENTS OF SUBSECTION (9). A LICENSEE**



1 WHO REMAINS IN INACTIVE STATUS AFTER THE EFFECTIVE DATE OF THIS  
2 SUBSECTION IS EXEMPT FROM THE CONTINUING COMPETENCY REQUIREMENTS OF  
3 THIS SECTION WHILE HE OR SHE REMAINS IN INACTIVE STATUS. A LICENSEE  
4 MAY ACTIVATE HIS OR HER LICENSE BY SUBMITTING AN APPLICATION TO THE  
5 DEPARTMENT REQUESTING ACTIVATION OF THE LICENSE. IF HIS OR HER  
6 LICENSE IS ACTIVATED, THE LICENSEE MUST COMPLETE AT LEAST 1 CREDIT  
7 HOUR OF ACTIVITIES THAT DEMONSTRATE CONTINUING COMPETENCY FOR THAT  
8 CALENDAR YEAR.