

Act No. 169
Public Acts of 2013
Approved by the Governor
November 12, 2013
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STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013

Introduced by Reps. Rendon, Abed, Banks, Brown, Brunner, Cotter, Crawford, Darany, Dianda, Durhal, Faris, Farrington, Franz, Glardon, Graves, Greimel, Haugh, Haveman, Heise, Hooker, Hovey-Wright, Jenkins, Johnson, Kelly, Kesto, Kivela, Knezek, Kosowski, Kowall, Kurtz, Lamonte, Lane, Lauwers, LaVoy, Lipton, Lori, MacGregor, MacMaster, McCann, O'Brien, Outman, Pettalia, Poleski, Potvin, Price, Pscholka, Roberts, Robinson, Rutledge, Santana, Schor, Segal, Slavens, Smiley, Somerville, Stallworth, Stamas, Tlaib, VerHeulen, Victory, Yanez, Yonker and Zorn

ENROLLED HOUSE BILL No. 4756

AN ACT to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations and to regulate certain persons and activities relative to those occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to provide immunity from certain civil liability for certain entities and certain related occupations under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 2404b (MCL 339.2404b), as added by 2007 PA 157.

The People of the State of Michigan enact:

Sec. 2404b. (1) Beginning June 1, 2008, an applicant for initial licensure either as a residential builder or as a residential maintenance and alteration contractor must successfully complete a precensure course of study as required under this subsection to obtain a license. A licensee that holds a residential builder or a residential maintenance and alteration contractor license on June 1, 2008 and is renewing a license in the capacity of an individual or qualifying officer, or both, is exempt from the requirement of successfully completing precensure courses described in this subsection. Subject to subsections (11), (12), and (13), the department shall require an applicant who is not exempt under this subsection to successfully complete 60 hours of approved precensure courses consisting of at least 6 hours of courses in each of the following areas of competency:

- (a) Business management, estimating, and job costing.
- (b) Design and building science.
- (c) Contracts, liability, and risk management.
- (d) Marketing and sales.
- (e) Project management and scheduling.
- (f) The current Michigan residential code.

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

(2) An individual who receives his or her initial license under this article as a residential builder or a residential maintenance and alteration contractor on or after January 1, 2009 shall successfully complete at least 3 hours of activities demonstrating continuing competency in each calendar year, during the first 6 calendar years of licensure, and 21 hours in each 3-year time period after the issuance of his or her license. At least 3 hours shall be devoted to those 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 management laws. A licensee who has held a license for more than 6 years or who has not been the subject of a final order under subsection (3), at least 3 hours of activities demonstrating continuing competency in each license cycle that includes 1 hour of codes, 1 hour of safety, and 1 hour of legal issues as described in this subsection.

(3) If the department has determined in a final order that a licensee has violated this act or a rule adopted under this act, the licensee must successfully complete, during the next complete license cycle, up to 21 hours of activities that demonstrate the development of continuing competency during that next license cycle as determined appropriate by order of the department, that includes at least 1 hour of codes, 1 hour of safety, and 1 hour of legal issues as described in subsection (2).

(4) As activities that demonstrate the development of continuing competency, the education courses described in section 3, pages 3-6 to 3-58 of the January 2005 edition of the publication "NAHB University of Housing, Blueprint for Success", published by the national association of home builders, and taught by instructors meeting the requirements of section 4, pages 4-5 through 4-9 of the January 2005 edition of "NAHB University of Housing, Blueprint for Success", are considered approved, are considered appropriate for fulfilling the prelicensure and continuing competency requirements of subsections (1), (2), and (3), and are incorporated by reference. A licensee may take any courses equivalent to those courses incorporated by reference by this subsection. Updates to the courses described in this subsection or equivalent courses are acceptable unless the department determines that the courses do not provide a means of developing and maintaining continuing competency for those applicants or licensees who successfully fulfill the course requirements. Any construction code update courses approved by the bureau of construction codes and any fire safety or workplace safety courses approved or sponsored by the department are also considered appropriate for fulfilling the continuing 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 to 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).

(6) The subject matter of the prelicensure and continuing competency activities 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 that is licensed by the department as meeting the subject matter qualifications described in subsection (4) and the instructional qualifications described in subsection (5).

(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.

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

(c) Acceptable distance learning.

(d) Alternate forms of continuing competency, including comprehensive testing, participation in mentoring programs, research, participation in code hearings conducted by the international code council, and publication of articles in trade journals or regional magazines as an expert in the field. The alternate forms shall be designed to maintain and improve the licensee's ability to perform the occupation with competence and shall prescribe proofs that are necessary to demonstrate that the licensee has fulfilled the requirements of continuing competency.

(8) Each licensee may select approved courses in his or her subject matter area or specialty. Service as a lecturer or discussion leader in an approved course shall be counted toward the continuing competency requirements of this section. Alternate forms of continuing competency may be earned and documented as promulgated in rules by the department.

(9) The department may audit a predetermined percentage of licensees who renew in a year for compliance with the requirements of this section. Failure to comply with the audit or the requirements shall result in the investigation of a complaint initiated by the department, and the licensee is subject to the penalties prescribed in this act.

(10) A licensed residential builder or residential alteration and maintenance contractor may apply for inactive status by completing an application, made available by the department, in which he or she declares that he or she is no longer actively engaged in the practice authorized by his or her license and temporarily intends to suspend activity authorized by his or her license. If a completed application is submitted, the department shall designate the licensee as inactive and note that status on records available to the public. A licensee who is designated as inactive must have a current copy of the Michigan residential code and is exempt from the continuing competency requirements imposed under this section, but must still pay the per-year license fee. An inactive licensee may activate his or her license by submitting an application to the department requesting activation of the license. If the department activates an inactive license, the licensee must complete at least 1 credit hour of continuing competency for that calendar year.

(11) Subject to subsection (13), an applicant for initial licensure as a residential builder or residential maintenance and alteration contractor is exempt from the requirements of subsection (1) if he or she meets all of the following:

(a) Served in the armed forces.

(b) While serving in the armed forces, was engaged in the erection, construction, replacement, repair, alteration, or demolition of buildings or other structures.

(c) Was separated from service in the armed forces, and provides to the department a form DD214, form DD215, or any other form that is satisfactory to the department that demonstrates that he or she was separated from that service, with an honorable character of service or under honorable conditions (general) character of service.

(d) Has, and provides with his or her application an affidavit signed by a commanding officer, supervisor, or military superior with direct knowledge of the applicant's service that he or she has, entry-level experience in or basic knowledge of each of the areas of competency described in subsection (1)(a) to (g).

(12) If an applicant who otherwise meets the requirements of subsection (11) does not have entry-level experience in or basic knowledge of each of the areas of competency described in subsection (1)(a) to (g), he or she may provide with his or her application an affidavit signed by a commanding officer, supervisor, or military superior with direct knowledge of the applicant's service that states in which of those areas of competency the applicant has entry-level experience or basic knowledge, and the department may in its discretion grant the applicant credit toward the 60-hour prelicensure education requirement of subsection (1) based on that experience or knowledge.

(13) If an applicant for initial licensure as a residential builder or residential maintenance and alteration contractor described in subsection (11) does not pass the examination for that license the first time he or she takes the examination, that applicant may not retake the examination until he or she successfully completes a prelicensure course of study described in subsection (1).

(14) As used in the section, "armed forces" means that term as defined in section 2 of the veteran right to employment services act, 1994 PA 39, MCL 35.1092.

Enacting section 1. This amendatory act takes effect upon the expiration of 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

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Governor