

# SENATE BILL No. 1012

June 1, 2016, Introduced by Senator O'BRIEN and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending sections 2403 and 2404b (MCL 339.2403 and 339.2404b),  
section 2403 as amended by 1984 PA 191 and section 2404b as amended  
by 2014 PA 175.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2403. Notwithstanding article 6, a person may engage in  
2       the business of or act in the capacity of a residential builder or  
3       a residential maintenance and alteration contractor or salesperson  
4       in this state without having a license, if the person is 1 of the  
5       following:

6           (a) An authorized representative of the United States  
7       government, this state, or a county, township, city, village, or

1 other political subdivision of this state.

2 (b) An owner of property ~~, with reference to~~ **ENGAGED IN**  
3 **CONSTRUCTION OF** a structure on the property for the owner's own use  
4 and occupancy.

5 (c) An owner of rental property ~~, with reference to the~~  
6 **ENGAGED IN** maintenance and alteration of that rental property.

7 (d) An officer of a court acting within the ~~terms~~ **SCOPE** of the  
8 ~~officer's~~ **THAT** office.

9 (e) A person, other than the salesperson, who engages solely  
10 in the business of performing work and services under contract with  
11 a residential builder or a residential maintenance and alteration  
12 contractor licensed under this article.

13 (f) A person working on 1 undertaking or project by 1 or more  
14 contracts, **IF** the aggregate contract price for ~~which~~ **THE** labor,  
15 material, and any other item ~~is less than \$600.00. This~~ **FOR THE**  
16 **UNDERTAKING OR PROJECT IS \$4,000.00 OR LESS. THE** exemption  
17 **DESCRIBED IN THIS SUBDIVISION** does not apply if the work of a  
18 construction is only a part of a larger or major operation, whether  
19 undertaken by the same or a different residential builder or  
20 residential maintenance and alteration contractor, or in which a  
21 division of the operation is made in contracts of amounts ~~less than~~  
22 ~~\$600.00,~~ **OF \$4,000.00 OR LESS,** to evade this act.

23 (g) An electrical contractor ~~who~~ **THAT** is licensed under ~~Act~~  
24 ~~No. 217 of the Public Acts of 1956, as amended, being sections~~  
25 ~~338.881 to 338.892 of the Michigan Compiled Laws. This exemption~~  
26 **THE ELECTRICAL ADMINISTRATIVE ACT, 1956 PA 217, MCL 338.881 TO**  
27 **338.892. THE EXEMPTION DESCRIBED IN THIS SUBDIVISION** applies only

1 to the electrical installation, electrical maintenance, or  
2 electrical repair work performed by the electrical contractor.

3 (h) A plumbing contractor **THAT IS** licensed under ~~Act No. 266~~  
4 ~~of the Public Acts of 1929, as amended, being sections 338.901 to~~  
5 ~~338.917 of the Michigan Compiled Laws. This exemption~~ **THE STATE**  
6 **PLUMBING ACT, 2002 PA 733, MCL 338.3511 TO 338.3569. THE EXEMPTION**  
7 **DESCRIBED IN THIS SUBDIVISION** applies only to plumbing  
8 installation, plumbing maintenance, or plumbing repair work  
9 performed by the plumbing contractor.

10 (i) A mechanical contractor ~~who~~ **THAT** is licensed under the  
11 ~~mechanical contractors act. This exemption~~ **FORBES MECHANICAL**  
12 **CONTRACTORS ACT, 1984 PA 192, MCL 338.971 TO 338.988. THE EXEMPTION**  
13 **DESCRIBED IN THIS SUBDIVISION** applies only to mechanical  
14 installation, mechanical maintenance, or mechanical repair work  
15 performed by the mechanical contractor.

16 Sec. 2404b. (1) Beginning June 1, 2008, an applicant for  
17 initial licensure either as a residential builder or as a  
18 residential maintenance and alteration contractor must successfully  
19 complete the prelicensure course of study requirements under this  
20 subsection to obtain a license unless he or she is exempt from  
21 those requirements under this section. All of the following apply  
22 for purposes of this subsection:

23 (a) If an individual who holds a residential builder or a  
24 residential maintenance and alteration contractor license, or an  
25 individual who held a license as a qualifying officer of a licensed  
26 residential builder or residential maintenance and alteration  
27 contractor, on June 1, 2008 is renewing a license, he or she is

1 exempt from the requirement of successfully completing prelicensure  
2 courses described in this subsection.

3 (b) If an individual is applying for a license or relicensure  
4 as a residential builder or residential maintenance and alteration  
5 contractor, he or she is exempt from the requirement of  
6 successfully completing prelicensure courses described in this  
7 subsection if all of the following are met:

8 (i) His or her application is submitted before the expiration  
9 of the 18-month period beginning ~~on the effective date of the~~  
10 ~~amendatory act that added this subdivision.~~ **SEPTEMBER 16, 2014.**

11 This subdivision does not apply to applications that are submitted  
12 after that 18-month period.

13 (ii) He or she held an individual license as a residential  
14 builder or residential maintenance and alteration contractor, or  
15 held a license as a qualifying officer of a licensed residential  
16 builder or residential maintenance and alteration contractor, at  
17 any time within the 9-year period preceding his or her application.

18 (c) Unless he or she is exempt under subdivision (a) or (b),  
19 an applicant **FOR AN INITIAL LICENSE AS A RESIDENTIAL BUILDER** shall  
20 not receive an initial license under this act unless he or she  
21 successfully completed 60 hours of approved prelicensure courses  
22 that include at least 6 hours of courses in each of the following  
23 areas of competency:

24 (i) Business management, estimating, and job costing.

25 (ii) Design and building science.

26 (iii) Contracts, liability, and risk management.

27 (iv) Marketing and sales.

1 (v) Project management and scheduling.

2 (vi) The current Michigan residential code.

3 (vii) Construction safety standards promulgated under the  
4 Michigan occupational safety and health act, 1974 PA 154, MCL  
5 408.1001 to 408.1094.

6 (D) UNLESS HE OR SHE IS EXEMPT UNDER SUBDIVISION (A) OR (B),  
7 AN APPLICANT FOR AN INITIAL LICENSE AS A RESIDENTIAL MAINTENANCE  
8 AND ALTERATION CONTRACTOR THAT IS APPLICABLE TO 1 OR MORE CRAFTS OR  
9 TRADES SHALL NOT RECEIVE AN INITIAL LICENSE UNDER THIS ACT UNLESS  
10 HE OR SHE SUCCESSFULLY COMPLETED 5 HOURS OF PRELICENSURE COURSES  
11 THAT ARE PERTINENT TO EACH OF THOSE CRAFTS OR TRADES.

12 (2) All of the following apply to an individual license under  
13 this article, as applicable:

14 (a) Subject to subdivision (b), if the individual licensee  
15 obtained his or her initial license as a residential builder or a  
16 residential maintenance and alteration contractor on or after  
17 January 1, 2009, he or she must successfully complete at least 21  
18 hours of activities that demonstrate continuing competence in each  
19 3-year license cycle, including both of the following:

20 (i) At least 3 hours of activities that demonstrate continuing  
21 competency in each calendar year, during the first 6 calendar years  
22 of licensure.

23 (ii) At least 3 hours of activities designed to develop a  
24 licensee's understanding and ability to apply state building codes  
25 and laws relating to the licensed occupation, safety, and changes  
26 in construction and business management laws.

27 (b) If an individual licensee described in subdivision (a) was

1 exempt from the prelicensure course requirements of subsection (1)  
2 under subsection (1)(b) when he or she obtained his or her initial  
3 license as a residential builder or residential maintenance and  
4 alteration contractor, the hours of activities that he or she must  
5 complete in the first year of his or her first 3-year license cycle  
6 under subdivision (a) must include successful completion of at  
7 least 1 hour of codes, 1 hour of safety, and 1 hour of legal issues  
8 described in this subsection.

9 (c) If the licensee was initially licensed as a licensed  
10 residential builder or residential maintenance and alteration  
11 contractor, or held a license as a qualifying officer of a licensed  
12 residential builder or residential maintenance and alteration  
13 contractor, before January 1, 2009, he or she has held a license  
14 for not more than two 3-year license cycles, and the department has  
15 not taken disciplinary action against him or her for a violation of  
16 this act or a rule promulgated under this act, he or she must  
17 successfully complete at least 3 hours of activities that  
18 demonstrate continuing competency in each 3-year license cycle that  
19 includes at least 1 hour of codes, 1 hour of safety, and 1 hour of  
20 legal issues described in this subsection.

21 (d) If the licensee has held a license for more than two 3-  
22 year license cycles, and the department has not taken disciplinary  
23 action against him or her for a violation of this act or a rule  
24 promulgated under this act, he or she must successfully complete at  
25 least 3 hours of activities demonstrating continuing competency in  
26 each license cycle that includes 1 hour of codes, 1 hour of safety,  
27 and 1 hour of legal issues as described in this subsection.

1           (3) In addition to the requirements of subsection (2), if the  
2 department has taken disciplinary action against a licensee for a  
3 violation of this act or a rule promulgated under this act, the  
4 licensee must successfully complete, during the next complete  
5 license cycle, at least 3 and not more than 21 hours of activities  
6 that demonstrate the development of continuing competency during  
7 that next license cycle as determined appropriate by order of the  
8 department. At least 3 hours of the continuing competency must  
9 include 1 hour of codes, 1 hour of safety, and 1 hour of legal  
10 issues as described in subsection (2).

11           (4) Any construction code update courses approved by the  
12 bureau of construction codes and any fire safety or workplace  
13 safety courses approved or sponsored by the department are also  
14 considered appropriate for fulfilling the continuing competency  
15 requirements of this section. The department may, by rule, amend,  
16 supplement, update, substitute, or determine equivalency regarding  
17 any courses or alternate activities for developing continuing  
18 competency described in this section.

19           (5) The subject matter of the prelicensure and continuing  
20 competency activities required under this section may be offered by  
21 a high school, an intermediate school district, a community  
22 college, a university, the bureau of construction codes, the  
23 Michigan occupational safety and health administration, a trade  
24 association, or any other proprietary school that is licensed by  
25 the department.

26           (6) The department shall promulgate rules to provide for the  
27 following:

1 (a) Requirements, other than those ~~listed~~**DESCRIBED** in  
2 subsection (4), for determining that a course meets the minimum  
3 criteria for developing and maintaining continuing competency.

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

9 (c) Acceptable distance learning.

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

20 (7) Each licensee may select approved courses in his or her  
21 subject matter area or specialty. A licensee's service as a  
22 lecturer or discussion leader in an approved course shall count  
23 toward his or her continuing competency requirements under this  
24 section. Alternate forms of continuing competency may be earned and  
25 documented as promulgated in rules by the department.

26 (8) The department may audit a predetermined percentage of  
27 licensees who renew in a year for compliance with the requirements



1 of this section. Failure to comply with the audit or the  
2 requirements shall result in the investigation of a complaint  
3 initiated by the department, and the licensee is subject to the  
4 penalties prescribed in this act.

5 (9) Before ~~the effective date of the amendatory act that added~~  
6 ~~subsection (10),~~ **SEPTEMBER 16, 2014**, a licensed residential builder  
7 or residential alteration and maintenance contractor may apply for  
8 inactive status by completing an application, made available by the  
9 department, in which he or she declares that he or she is no longer  
10 actively engaged in the practice authorized by his or her license  
11 and temporarily intends to suspend activity authorized by his or  
12 her license. If a completed application is submitted, the  
13 department shall designate the licensee as inactive and note that  
14 status on records available to the public. A licensee who is  
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. If the department activates an inactive  
21 license, the licensee must complete at least 1 credit hour of  
22 activities that demonstrate continuing competency for that calendar  
23 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~~ **SEPTEMBER 16, 2014** may remain in inactive status after  
27 that effective date by complying with the requirements of

1 subsection (9). A licensee who remains in inactive status ~~after the~~  
2 ~~effective date of this subsection~~ **ON OR AFTER SEPTEMBER 16, 2014** is  
3 exempt from the continuing competency requirements of this section  
4 while he or she remains in inactive status. A licensee may activate  
5 his or her license by submitting an application to the department  
6 requesting activation of the license. If his or her license is  
7 activated, the licensee must complete at least 1 credit hour of  
8 activities that demonstrate continuing competency for that calendar  
9 year.

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

14 (a) Served in the armed forces.

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

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

24 (d) Has, and provides with his or her application an affidavit  
25 signed by a commanding officer, supervisor, or military superior  
26 with direct knowledge of the applicant's service that he or she  
27 has, entry-level experience in or basic knowledge of each of the

1 areas of competency described in subsection ~~(1)(a) to (g)~~ **(1) (C) (i)**  
2 **TO (vii) .**

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

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

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

25 **(15) AS USED IN THIS SECTION AND SECTION 2404, "MICHIGAN**  
26 **RESIDENTIAL CODE" MEANS THE MICHIGAN RESIDENTIAL CODE PROMULGATED**  
27 **BY THE DIRECTOR UNDER SECTION 4 OF THE STILLE-DEROSSETT-HALE SINGLE**

1   **STATE CONSTRUCTION CODE ACT, 1972 PA 230, MCL 125.1504.**

2           Enacting section 1. This amendatory act takes effect 90 days  
3 after the date it is enacted into law.

4           Enacting section 2. This amendatory act does not take effect  
5 unless Senate Bill No. 1011

6                   of the 98th Legislature is enacted into law.