

# Legislative Analysis



## **RESIDENTIAL PAINTERS: ELIMINATE CONTRACTOR LICENSE**

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**House Bill 4608 (reported from committee w/o amendment)**

**Sponsor: Rep. Jeffrey R. Noble**

**Committee: Regulatory Reform**

**Complete to 6-12-17**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 527 of 2018)*

**BRIEF SUMMARY:** Under the bill, a person would no longer have to obtain a license as a residential maintenance and alteration contractor in order to engage in the craft or trade of painting and decorating.

**FISCAL IMPACT:** House Bill 4608 would have an indeterminate, though likely minor, effect on the Department of Licensing and Regulatory Affairs. The bill would have the practical effect of no longer requiring maintenance and alteration (M & A) contractors to be licensed for the "painting and decorating" specialty trade. As a result, the Department of Licensing and Regulatory Affairs would lose revenues associated with the licensure of this activity. As of May 2017, there are 425 licensees (both individuals and companies) that are licensed exclusively to be M & A contractors in the specialty trade of painting and decorating. Individuals and companies both pay a \$195 initial license application fee and a \$150 license renewal fee every three years. Over the course of the three-year license cycle, the Department would be expected to lose \$63,750 dollars in license renewal fees. The amount of revenue lost for initial licensure would depend on the number of applications received in a given year. The Department would likely experience modest budgetary savings due to decreased administrative costs for licensing.

### **THE APPARENT PROBLEM:**

Michigan is said to be one of just a handful of states that require a person who paints the exterior or interiors of residential property to be licensed as a contractor. To get that license, the individual must first complete a 60-hour educational course and then pass an exam. The course and each component of the exam cost more than \$100, thus requiring a person to expend several hundred dollars before being able to begin earning a living.

Reportedly, the requirement for home painters to be licensed contractors was spurred by a rise in painting scams, particularly in Detroit, almost two decades ago. Individuals were setting up corporations, doing poor or incomplete work but taking people's money, shutting the businesses down, and then opening up another business a short time later. The requirement to complete 60 hours of training and an exam apparently were intended to weed out would-be scam artists. However, many people—both consumers hiring painters and people working as painters—are unaware that it is unlawful to do so if the painter is not a licensed contractor. Some feel the current pre-license educational requirement and licensing requirement do little to improve safety for painters or consumers and are seeking to repeal the provision requiring home painters to be licensed as a maintenance and alteration contractor.

## ***THE CONTENT OF THE BILL:***

House Bill 4608 would amend the Occupational Code to delete painting and decorating from the list of crafts and trades for which a person is authorized to engage in under a residential maintenance and alteration contractor license.

A maintenance and alteration contractor is licensed to perform only specific trades and services, though a specialty contractor may take and execute a contract involving the performance of the craft or trade for which the license specifies and one or more other crafts or trades as long as the performance of that other craft or trade is incidental and supplemental to the work performed under the contractor's license. The license must specify the particular craft or trade for which the licensee is qualified by including the letter corresponding to the specific craft or trade. Currently, a license includes the following crafts and trades:

- Carpentry (A)
- Concrete (B)
- Swimming pool installation (S)
- Waterproofing a basement (T)
- Excavation (D)
- Insulation work (G)
- Masonry work (I)
- Painting and decorating (J)
- Roofing (M)
- Siding and gutters (K)
- Screen or storm sash installation (N)
- Tile and marble work (P)
- House wrecking (R)

The bill would take effect 90 days after enactment.

MCL 339.2404

## ***ARGUMENTS:***

### ***For:***

Most states do not require a person painting or hanging wallpaper in residential properties to be a licensed contractor. In fact, most people may not even know Michigan requires home painters to be licensed. Or that persons offering painting services to commercial properties do not need to be licensed. Enactment of the bill will remove an unnecessary and burdensome obstacle to starting and maintaining a business in the state and enable those entrepreneurs to put the dollars currently spent on license fees into growing their businesses. Most painters learn on the job, not from an online course offered by a vendor that may not even cover wallpapering and most business owners voluntarily seek out information to build their expertise in order to offer a quality service to customers. Much of the information painters need to safely and correctly paint various surfaces can be

learned from veteran painters, and information is available from many sources. In addition, federal laws are clear about how to proceed with older homes that most likely have a layer of paint containing lead. Thus, many feel the requirement to license residential painters as maintenance and alteration contractors is outdated and does little to protect homeowners from scam artists and sloppy workers. Further, if painters are no longer licensed by the state, a property owner who suffers damage or harm can sue the painter under provisions of the Michigan Consumer Protection Act and can recover actual damages or \$250, whichever is greater, as well as reasonable attorney fees.

***Against:***

Even if painting frauds aren't as prevalent as in the past, there are still good reasons to require that home painters be licensed. First of all, completing the necessary pre-license and continuing educational courses helps reassure consumers that the painter knows the trade and has the knowledge needed to do a job correctly and safely. Though federal laws require that lead paint in older homes be abated by workers skilled in the proper removal, many people, including some who would offer professional home painting services, are not aware of the federal requirements. Similar to lead, mold sometimes needs mold remediation from a specialist as well. In addition, a painter who is a licensed contractor understands safety and liability issues and is more likely to have insurance in case of an accident on the job or damage to the homeowner's property. Stories on the Internet warn property owners of the risk of being sued by unlicensed painters that are not covered by workers' compensation insurance who fall off ladders. The point is, the pre-license training and exam process may increase the expertise of a person wishing to start a painting business, even though it requires some upfront time and money before a business can be launched. Licensing sanctions, such as revocation of the license, also protect consumers by getting unqualified persons out of the business.

***POSITIONS:***

A representative of the Home Builders Association of Michigan testified in support of the bill. (5-24-17)

The Michigan Freedom Fund indicated support for the bill. (5-24-17)

The Michigan AFL-CIO indicated opposition to the bill. (5-24-17)

The International Union of Painters and Allied Trades indicated opposition to the bills. (5-24-17)

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