

# SENATE BILL No. 340

April 27, 2017, 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 2016 PA 412 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 a license under this article, if the person  
5 is 1 of the following:

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

9       (b) An owner of property, ~~with reference to a~~ **PERFORMING WORK**

1 ON A structure on the property for the owner's own use and  
2 occupancy.

3 (c) An owner of rental property, ~~with reference to the~~  
4 **PERFORMING** maintenance and alteration ~~of WORK ON~~ that rental  
5 property.

6 (d) An officer of a court who is acting within the scope of  
7 that office.

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

12 (f) A person that is working on 1 undertaking or project by 1  
13 or more contracts, if the aggregate contract price for the labor,  
14 material, and any other items for the undertaking or project is  
15 ~~less than \$600.00.~~ **\$3,000.00 OR LESS.** The exemption described in  
16 this subdivision does not apply if the work of a construction is  
17 only a part of a larger or major operation, whether undertaken by  
18 the same or a different residential builder or residential  
19 maintenance and alteration contractor, or in which a division of  
20 the operation is made in contracts of amounts ~~less than \$600.00, OF~~  
21 **\$3,000.00 OR LESS,** to evade this act.

22 (g) An electrical contractor that is licensed under article 7  
23 of the skilled trades regulation act, MCL 339.5701 to 339.5739. The  
24 exemption described in this subdivision applies only to the  
25 electrical installation, electrical maintenance, or electrical  
26 repair work that is performed by the electrical contractor.

27 (h) A plumbing contractor that is licensed under article 11 of

1 the skilled trades regulation act, MCL 339.6101 to 339.6133. The  
2 exemption described in this subdivision applies only to plumbing  
3 installation, plumbing maintenance, or plumbing repair work that is  
4 performed by the plumbing contractor.

5 (i) A mechanical contractor that is licensed under article 8  
6 of the skilled trades regulation act, MCL 339.5801 to 339.5819. The  
7 exemption described in this subdivision applies only to mechanical  
8 installation, mechanical maintenance, or mechanical repair work  
9 that is performed by the mechanical contractor.

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

17 (a) If an individual who holds a residential builder or a  
18 residential maintenance and alteration contractor license, or an  
19 individual who held a license as a qualifying officer of a licensed  
20 residential builder or residential maintenance and alteration  
21 contractor, on June 1, 2008 is renewing a license, he or she is  
22 exempt from the requirement of successfully completing prelicensure  
23 courses described in this subsection.

24 (b) If an individual is applying for a license or relicensure  
25 as a residential builder or residential maintenance and alteration  
26 contractor, he or she is exempt from the requirement of  
27 successfully completing prelicensure courses described in this

subsection if all of the following are met:

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

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

(ii) He or she held an individual license 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, at any time within the 9-year period preceding his or her application.

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

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

(ii) Design and building science.

(iii) Contracts, liability, and risk management.

(iv) Marketing and sales.

(v) Project management and scheduling.

(vi) The current Michigan residential code.

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

**(D) UNLESS HE OR SHE IS EXEMPT UNDER SUBDIVISION (A) OR (B),**

1 AN APPLICANT FOR AN INITIAL LICENSE AS A RESIDENTIAL MAINTENANCE  
2 AND ALTERATION CONTRACTOR THAT IS APPLICABLE TO 1 OR MORE CRAFTS OR  
3 TRADES SHALL NOT RECEIVE AN INITIAL LICENSE UNDER THIS ACT UNLESS  
4 HE OR SHE SUCCESSFULLY COMPLETED 5 HOURS OF PRELICENSURE COURSES  
5 THAT ARE PERTINENT TO EACH OF THOSE CRAFTS OR TRADES.

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

8 (a) Subject to subdivision (b), if the individual licensee  
9 obtained his or her initial license as a residential builder or a  
10 residential maintenance and alteration contractor on or after  
11 January 1, 2009, he or she must successfully complete at least 21  
12 hours of activities that demonstrate continuing competence in each  
13 3-year license cycle, including both of the following:

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

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

21 (b) If an individual licensee described in subdivision (a) was  
22 exempt from the prelicensure course requirements of subsection (1)  
23 under subsection (1)(b) when he or she obtained his or her initial  
24 license as a residential builder or residential maintenance and  
25 alteration contractor, the hours of activities that he or she must  
26 complete in the first year of his or her first 3-year license cycle  
27 under subdivision (a) must include successful completion of at

1 least 1 hour of codes, 1 hour of safety, and 1 hour of legal issues  
2 described in this subsection.

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

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

22 (3) In addition to the requirements of subsection (2), if the  
23 department has taken disciplinary action against a licensee for a  
24 violation of this act or a rule promulgated under this act, the  
25 licensee must successfully complete, during the next complete  
26 license cycle, at least 3 and not more than 21 hours of activities  
27 that demonstrate the development of continuing competency during

1 that next license cycle as determined appropriate by order of the  
2 department. At least 3 hours of the continuing competency must  
3 include 1 hour of codes, 1 hour of safety, and 1 hour of legal  
4 issues as described in subsection (2).

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

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

20 (6) The department shall promulgate rules to provide for the  
21 following:

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

25 (b) Requirements for acceptable courses offered at seminars  
26 and conventions by trade associations, research institutes, risk  
27 management entities, manufacturers, suppliers, governmental

1 agencies other than those ~~named~~ **DESCRIBED** in subsection (4),  
2 consulting agencies, or other entities.

3 (c) Acceptable distance learning.

4 (d) Alternate forms of continuing competency, including  
5 comprehensive testing, participation in mentoring programs,  
6 research, participation in code hearings conducted by the  
7 ~~international code council~~, **INTERNATIONAL CODE COUNCIL**,

8 **PARTICIPATION IN CODE COMMITTEES AND HEARINGS CONDUCTED BY THIS**

9 **STATE**, and publication of articles in trade journals or regional  
10 magazines as an expert in the field. The alternate forms shall be  
11 designed to maintain and improve the licensee's ability to perform  
12 the occupation with competence and shall prescribe proofs that are  
13 necessary to demonstrate that the licensee has fulfilled the  
14 requirements of continuing competency.

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

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

27 (9) Before ~~the effective date of the amendatory act that added~~



~~subsection (10),~~ **SEPTEMBER 16, 2014**, 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 activities that demonstrate continuing competency for that calendar year.

(10) An individual licensee who applied for and was designated inactive under subsection (9) before ~~the effective date of this subsection~~ **SEPTEMBER 16, 2014** may remain in inactive status after that effective date by complying with the requirements of subsection (9). A licensee who remains in inactive status ~~after the effective date of this subsection~~ **ON OR AFTER SEPTEMBER 16, 2014** is exempt from the continuing competency requirements of this section while he or she remains in inactive status. A licensee may activate his or her license by submitting an application to the department

1 requesting activation of the license. If his or her license is  
2 activated, the licensee must complete at least 1 credit hour of  
3 activities that demonstrate continuing competency for that calendar  
4 year.

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

9 (a) Served in the armed forces.

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

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

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

25 (12) If an applicant who otherwise meets the requirements of  
26 subsection (11) does not have entry-level experience in or basic  
27 knowledge of each of the areas of competency described in

1 subsection ~~(1)(a) to (g)~~, **(1)(C)(i) TO (vii)**, he or she may provide  
2 with his or her application an affidavit signed by a commanding  
3 officer, supervisor, or military superior with direct knowledge of  
4 the applicant's service that states in which of those areas of  
5 competency the applicant has entry-level experience or basic  
6 knowledge, and the department may in its discretion grant the  
7 applicant credit toward the 60-hour prelicensure education  
8 requirement of subsection (1) based on that experience or  
9 knowledge.

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

17 (14) As used in the section, "armed forces" means ~~that term as~~  
18 ~~defined in section 2 of the veteran right to employment services~~  
19 ~~act, 1994 PA 39, MCL 35.1092.~~ **THE ARMED FORCES OF THE UNITED STATES.**

20 **(15) AS USED IN THIS SECTION AND SECTION 2404, "MICHIGAN**  
21 **RESIDENTIAL CODE" MEANS THE MICHIGAN RESIDENTIAL CODE PROMULGATED**  
22 **BY THE DIRECTOR UNDER SECTION 4 OF THE STILLE-DEROSSETT-HALE SINGLE**  
23 **STATE CONSTRUCTION CODE ACT, 1972 PA 230, MCL 125.1504.**

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

26 Enacting section 2. This amendatory act does not take effect  
27 unless Senate Bill No. 339

1 of the 99th Legislature is enacted into law.