

Legislative Analysis



COMBINATION RESIDENTIAL AND COMMERCIAL STRUCTURES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 986 (S-1) as referred to second House committee

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

Sponsor: Sen. Ed McBroom

1st House Committee: Regulatory Reform

2nd House Committee: Ways and Means

Senate Committee: Regulatory Reform

Complete to 12-15-20

SUMMARY:

Senate Bill 986 would amend the Occupational Code to change definitions and provisions pertaining to those who build, repair, or maintain **residential structures**. Specifically, the bill would remove a reference to *combination residential and commercial structures* so that a person engaged in constructing, manufacturing, or erecting a combination residential and commercial structure would not have to obtain a license as a residential builder, and a person that repairs or rehabilitates a combination residential and commercial structure would not have to obtain a license as a residential maintenance and alteration contractor.

Residential structure would be redefined to mean one or both of the following:

- A detached one- or two-family dwelling, and all related facilities appurtenant to that dwelling, used or intended to be used as an adjunct of residential occupancy.
- A townhouse of not more than three stories above the grade plane in height with a separate means of egress, and all related facilities appurtenant to that townhouse, used or intended to be used as an adjunct of residential occupancy.

References to *combination residential and commercial structures* would also be removed from provisions pertaining to complaints and a penalty for failure to deliver to the purchaser the entire agreement of the parties.

In addition, the bill states that it is the intent of the legislature that the changes to the definitions apply retroactively beginning six years before the bill's effective date.

MCL 339.2401 and 339.2411

BRIEF DISCUSSION:

Senate Bill 986 would close a loophole in law that includes combination residential and commercial structures in the term "residential structure" in the Occupational Code. Commercial builders have the training and expertise to construct complex structures that contain many stories and may contain both businesses and apartments or condominiums, such as mixed-use properties where stores and businesses occupy the lower levels and living units occupy upper floors. Such mixed-use structures should not be lumped together with one- and two-family dwellings in definitions that apply to smaller residences. The bill would effectively clarify that commercial builders would not need to be licensed as a residential builder or residential maintenance and alteration contractor to build or rehabilitate a mixed-use property.

The bill's revisions would also be in line with the Construction Lien Act and the residential building code, both of which refer to a residential structure as being no more than two residential units (e.g., a duplex). The bill would also enable lawsuits to go forward for more recent incidents in which commercial builders and their subcontractors were not fully paid for completed work for larger mixed-use projects by clients who then refused to pay on the basis that the commercial builder was not a licensed residential builder.

FISCAL IMPACT:

Senate Bill 986 would not have an appreciable fiscal impact on any unit of state or local government.

POSITIONS:

A representative of McCarthy & Smith Construction testified in support of the bill. (12-1-20)

Associated General Contractors indicated support for the bill. (12-1-20)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marcus Coffin

■ 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.