

# SENATE BILL NO. 986

June 25, 2020, Introduced by Senator MCBROOM and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 2401 and 2403 (MCL 339.2401 and 339.2403), section 2401 as amended by 1991 PA 166 and section 2403 as amended by 2016 PA 412.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1 Sec. 2401. As used in this article:
- 2 (a) "Residential builder" means ~~a~~**any of the following:**
- 3 **(i) A** person engaged in the construction of a residential

1 structure ~~or a combination residential and commercial structure~~  
 2 ~~who, that~~, for a fixed sum, price, fee, percentage, valuable  
 3 consideration, or other compensation, other than wages for personal  
 4 labor only, undertakes with another or offers to undertake, or  
 5 purports to have the capacity to undertake with another, for the  
 6 erection, construction, replacement, repair, alteration, or ~~an~~  
 7 addition to, subtraction from, improvement, wrecking of, or  
 8 demolition of, a residential structure. ~~or combination residential~~  
 9 ~~and commercial structure; a~~

10 (ii) A person ~~who that~~ manufactures, assembles, constructs,  
 11 deals in, or distributes a residential ~~or combination residential~~  
 12 ~~and commercial structure which that~~ is prefabricated, preassembled,  
 13 precut, packaged, or shell ~~housing; or a housing.~~

14 (iii) A person ~~who that~~ erects a residential structure ~~or~~  
 15 ~~combination residential and commercial structure~~ except for the  
 16 person's own use and occupancy on the person's property.

17 (b) "Residential maintenance and alteration contractor" means  
 18 a person ~~who, that~~, for a fixed sum, price, fee, percentage,  
 19 valuable consideration, or other compensation, other than wages for  
 20 personal labor only, ~~undertakes~~ **does any of the following:**

21 (i) **Undertakes** with another for the repair, alteration, or ~~an~~  
 22 addition to, subtraction from, improvement of, wrecking of, or  
 23 demolition of a residential structure, ~~or combination residential~~  
 24 ~~and commercial structure,~~ or building of a garage, or laying of  
 25 concrete on residential property. ~~, or who engages~~

26 (ii) **Engages** in the purchase, substantial rehabilitation or  
 27 improvement, and resale of a residential ~~structure, engaging~~  
 28 **structure or property and engages** in that activity on the same  
 29 structure more than twice in 1 calendar year, except in the

1 following instances:

2 (A) ~~(i)~~—If the work is for the person's own use and occupancy.

3 (B) ~~(ii)~~—If the rehabilitation or improvement work ~~of~~ **on the**  
 4 residential ~~type~~ property or a structure is contracted for, with,  
 5 or hired entirely to be done and performed for the owner by a  
 6 person licensed under this article.

7 (C) ~~(iii)~~—If work is performed by a person employed by the owner  
 8 to perform work for which the person is licensed by the state.

9 (c) "Residential structure" means a premises used or intended  
 10 to be used for a residence purpose and related facilities  
 11 appurtenant to the premises, used or intended to be used, as an  
 12 adjunct of residential occupancy.

13 (d) "Salesperson" means an employee or agent, other than a  
 14 qualifying officer, of a licensed residential builder or  
 15 residential maintenance and alteration contractor, who for a  
 16 salary, wage, fee, percentage, commission, or other consideration,  
 17 sells or attempts to sell, negotiates or attempts to negotiate,  
 18 solicits for or attempts to solicit for, obtains or attempts to  
 19 obtain a contract or commitment for, or furnishes or attempts or  
 20 agrees to furnish, the goods and services of a residential builder  
 21 or residential maintenance and alteration contractor, except a  
 22 ~~person~~ **an individual** working for a licensed residential builder or  
 23 residential maintenance and alteration contractor who makes sales  
 24 ~~which~~ **that** are occasional and incidental to the ~~person's~~  
 25 **individual's** principal employment.

26 (e) "Wages" means money paid or to be paid on an hourly or  
 27 daily basis by an owner, lessor, or occupant of a residential  
 28 structure ~~or combination residential and commercial structure~~ as  
 29 consideration for the performance of personal labor on the

1 structure by ~~a person~~ **an individual** who does not perform or promise  
2 to perform the labor for any other fixed sum, price, fee,  
3 percentage, valuable consideration, or other compensation and who  
4 does not furnish or agree to furnish the material or supplies  
5 required to be used in the performance of the labor or an act  
6 ~~defined~~ **described** in subdivision (a) or (b).

7       Sec. 2403. Notwithstanding article 6, a person may engage in  
8 the business of or act in the capacity of a residential builder or  
9 a residential maintenance and alteration contractor or salesperson  
10 in this state without a license under this article, if the person  
11 is 1 of the following:

12       (a) An authorized representative of the United States  
13 government, this state, or a county, township, city, village, or  
14 other political subdivision of this state.

15       (b) An owner of property, with reference to a structure on the  
16 property for the owner's own use and occupancy.

17       (c) An owner of rental property, with reference to the  
18 maintenance and alteration of that rental property.

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

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

25       (f) A person that is working on 1 undertaking or project by 1  
26 or more contracts, if the aggregate contract price for the labor,  
27 material, and any other items for the undertaking or project is  
28 less than \$600.00. The exemption described in this subdivision does  
29 not apply if the work of a construction is only a part of a larger

1 or major operation, whether undertaken by the same or a different  
2 residential builder or residential maintenance and alteration  
3 contractor, or in which a division of the operation is made in  
4 contracts of amounts less than \$600.00, to evade this act.

5 (g) An electrical contractor that is licensed under article 7  
6 of the skilled trades regulation act, **2016 PA 407**, MCL 339.5701 to  
7 339.5739. The exemption described in this subdivision applies only  
8 to the electrical installation, electrical maintenance, or  
9 electrical repair work that is performed by the electrical  
10 contractor.

11 (h) A plumbing contractor that is licensed under article 11 of  
12 the skilled trades regulation act, **2016 PA 407**, MCL 339.6101 to  
13 339.6133. The exemption described in this subdivision applies only  
14 to plumbing installation, plumbing maintenance, or plumbing repair  
15 work that is performed by the plumbing contractor.

16 (i) A mechanical contractor that is licensed under article 8  
17 of the skilled trades regulation act, **2016 PA 407**, MCL 339.5801 to  
18 339.5819. The exemption described in this subdivision applies only  
19 to mechanical installation, mechanical maintenance, or mechanical  
20 repair work that is performed by the mechanical contractor.

21 **(j) Beginning on the effective date of the amendatory act that**  
22 **added this subdivision, a general contractor, design-builder, or**  
23 **construction manager engaged in the construction of a residential**  
24 **group R-1, R-2, R-3, R-4 structure, or a mixed occupancy structure,**  
25 **as those terms are defined in the Michigan building code. This**  
26 **subdivision is retroactive for a period of 6 years immediately**  
27 **preceding the effective date of the amendatory act that added this**  
28 **subdivision.**

29 **(k) Beginning on the effective date of the amendatory act that**

1 added this subdivision, a person that engages in the business of  
2 performing work and services under contract with a general  
3 contractor, design-builder, or construction manager that is engaged  
4 in the construction of a residential group R-1, R-2, R-3, R-4  
5 structure, or a mixed occupancy structure, as those terms are  
6 defined in the Michigan building code. This subdivision is  
7 retroactive for a period of 6 years immediately preceding the  
8 effective date of the amendatory act that added this subdivision.

9 Enacting section 1. It is the intent of the legislature that  
10 section 2403 (j) and (k) of the occupational code 1980 PA 299, MCL  
11 339.2403 as amended in this amendatory act apply retroactively for  
12 a period of 6 years immediately preceding the effective date of  
13 this amendatory act.