

# SENATE BILL NO. 312

March 24, 2021, Introduced by Senators BULLOCK and BIZON and referred to the Committee of the Whole.

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending sections 103, 104, 105, 213, and 2404b (MCL 339.103, 339.104, 339.105, 339.213, and 339.2404b), section 103 as amended by 1994 PA 257, section 104 as amended by 2020 PA 372, section 105 as amended by 2016 PA 502, section 213 as amended by 2014 PA 149, and section 2404b as amended by 2014 PA 175, and by adding section 217.

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

1       Sec. 103. (1) **"Armed forces"** means the United States Army, Air  
2       **Force, Navy, Marine Corps, Space Force, or Coast Guard or other**  
3       **military force designated by Congress as a part of the Armed Forces**  
4       **of the United States, including the reserve components.**

5       (2) ~~(1)~~ "Board" means, in each article ~~which~~ **that** deals with a  
6       specific occupation, the agency created in that article composed  
7       principally of members of the regulated occupation. In all other  
8       contexts, board means each agency created under this act.

9       (3) ~~(2)~~ "Censure" means an expression of disapproval of a  
10      licensee's or registrant's professional conduct, which conduct is  
11      not necessarily a violation of this act or a rule promulgated or an  
12      order issued under this act.

13      (4) ~~(3)~~ "Competence" means a degree of expertise ~~which~~ **that**  
14      enables a person to engage in an occupation at a level ~~which~~ **that**  
15      meets or exceeds minimal standards of acceptable practice for the  
16      occupation.

17      (5) ~~(4)~~ "Complaint" means an oral or written grievance.

18      (6) ~~(5)~~ "Controlled substance" means a drug, substance, or  
19      immediate precursor as set forth in section 7212, 7214, 7216, 7218,  
20      or 7220 of the public health code, ~~Act No. 368 of the Public Acts~~  
21      ~~of 1978, being sections~~ **1978 PA 368, MCL 333.7212, 333.7214,**  
22      **333.7216, 333.7218, and 333.7220, of the Michigan Compiled Laws,**  
23      not excluded ~~pursuant to~~ **under** section 7227 of ~~Act No. 368 of the~~  
24      ~~Public Acts of 1978, being section~~ **the public health code, 1978 PA**  
25      **368, MCL 333.7227. of the Michigan Compiled Laws.**

26      Sec. 104. (1) "Department" means the department of licensing  
27      and regulatory affairs.

28      (2) **"Dependent" means a spouse, surviving spouse, child under**

1   **26 years of age, or surviving child under 26 years of age.**

2           (3) ~~(2)~~—"Director" means the director of the department or his  
3 or her authorized representative.

4           (4) ~~(3)~~—"Disability" means an infirmity that prevents a board  
5 member from performing a duty assigned to the board member.

6           (5) ~~(4)~~—"Files" means the records, memoranda, opinions,  
7 minutes, and similar written materials that were formerly in the  
8 physical dominion of a board abolished by this act and the records,  
9 memoranda, opinions, minutes, and similar written materials of a  
10 board created under this act.

11           (6) ~~(5)~~—"Formal complaint" means a document that states the  
12 charges of each alleged violation and is prepared by the department  
13 or the department of attorney general after a complaint is received  
14 by the department.

15           (7) ~~(6)~~—"General public" means each individual residing in  
16 this state who is 18 years of age or older, other than an  
17 individual or the spouse of an individual who is licensed or  
18 registered in the occupation or who has a material financial  
19 interest in the occupation regulated under the specific article in  
20 which the term is used.

21           (8) ~~(7)~~—"Good moral character" means ~~good moral character that~~  
22 **term** as defined in, and determined under, 1974 PA 381, MCL 338.41  
23 to 338.47.

24           (9) ~~(8)~~—"Incompetence" means a departure from, or a failure to  
25 conform to, minimal standards of acceptable practice for an  
26 occupation.

27           (10) ~~(9)~~—"Knowledge and skill" means the information,  
28 education, practical experience, and the facility in applying that  
29 information, education, and practical experience.

1       Sec. 105. (1) "License" means the document issued to a person  
2 under this act that enables the person to use a designated title  
3 and practice an occupation, which practice would otherwise be  
4 prohibited by this act. License includes a document issued by the  
5 department that permits a school, institution, or person to offer  
6 training or education in an occupation or that permits the  
7 operation of a facility, establishment, or institution in which an  
8 occupation is practiced. License includes a permit or approval.

9       (2) "Licensee" means ~~any~~**either** of the following, as  
10 applicable:

11       (a) In articles 1 to 6, a person that is licensed or required  
12 to be licensed under this act.

13       (b) In a specific article of this act, a person that is  
14 licensed or required to be licensed under that article.

15       (3) "Limitation" means a condition, stricture, constraint,  
16 restriction, or probation attached to a license or registration  
17 relative to the scope of practice, including the following:

18       (a) A requirement that the licensee or registrant perform only  
19 specified functions of the licensee's or registrant's occupation.

20       (b) A requirement that the licensee or registrant perform the  
21 licensee's or registrant's occupation only for a specified period  
22 of time.

23       (c) A requirement that the licensee or registrant perform the  
24 licensee's or registrant's occupation only within a specified  
25 geographical area.

26       (d) A requirement that restitution be made or certain work be  
27 performed before a license or registration is issued, renewed, or  
28 reinstated.

29       (e) A requirement that a financial statement certified by an

1 individual who is licensed as a certified public accountant be  
2 filed with the department at regular intervals.

3 (f) A requirement that reasonably ~~assures~~**ensures** a licensee's  
4 or registrant's competence to perform the licensee's or  
5 registrant's occupation.

6 (g) A requirement that an attorney review all contracts of a  
7 licensee or registrant.

8 (h) A requirement that a licensee or registrant have on file  
9 with the department a bond that is issued by a surety insurer  
10 approved by the department or cash in an amount determined by the  
11 department.

12 (i) A requirement that a licensee or registrant deposit money  
13 received in an escrow account ~~which~~**that** can be disbursed only  
14 under certain conditions as determined by the licensee or  
15 registrant and another party.

16 (j) A requirement that a licensee or registrant file reports  
17 with the department at intervals determined by the department.

18 (4) "Occupation" means a field of endeavor regulated under  
19 this act.

20 (5) "Person" means any of the following:

21 (a) An individual.

22 (b) A sole proprietorship, partnership, association,  
23 corporation, limited liability company, or common law trust.

24 (c) A combination of persons described in subdivision (a) or  
25 (b).

26 (d) A department, board, school, institution, establishment,  
27 or governmental entity.

28 (6) "Physical dominion" means control and possession.

29 (7) "Physician" means that term as defined in sections 17001

1 and 17501 of the public health code, 1978 PA 368, MCL 333.17001 and  
2 333.17501.

3 (8) "Probation" means a sanction that permits a board to  
4 evaluate over a period of time a licensee's or registrant's fitness  
5 to practice an occupation regulated under this act.

6 (9) "Public access" means the right of a person to view and  
7 copy files under the freedom of information act, 1976 PA 442, MCL  
8 15.231 to 15.246.

9 (10) "Registrant" means a person that is registered under this  
10 act.

11 (11) "Registration" means the document issued to a person  
12 under this act that enables the person to use a designated title,  
13 which use would be otherwise prohibited by this act.

14 (12) "Rule" means a rule promulgated under this act and under  
15 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201  
16 to 24.328.

17 (13) "State" means the District of Columbia or a commonwealth,  
18 state, or territory of the United States.

19 (14) **"Uniformed services" means the Commissioned Corps of the**  
20 **United States Public Health Service and the National Oceanic and**  
21 **Atmospheric Administration Commissioned Officer Corps.**

22 (15) **"Veteran" means that term as defined in section 1 of 1965**  
23 **PA 190, MCL 35.61.**

24 Sec. 213. (1) If a person has not previously been denied a  
25 license or a certificate of registration or had a license or a  
26 certificate of registration revoked or suspended, the department  
27 may grant a nonrenewable temporary license or certificate of  
28 registration to an applicant for licensure or registration or  
29 transfer of licensure or registration under any of articles 7 to

29.—26a. If approved by a board, a temporary license or certificate of registration issued under this subsection is valid until 1 or more of the following occurs:

(a) The results of the next scheduled examination are available.

(b) The results of the next required evaluation procedure are available.

(c) A license or certificate of registration is issued.

(d) The next examination date of an examination for licensure or registration in the applicable occupation, if the applicant does not take the examination.

(e) The applicant fails to meet the requirements for a license or certificate of registration.

(f) A change in employment is made.

(2) In addition to a temporary license or certificate of registration under subsection (1), beginning ~~90 days after the effective date of the amendatory act that added this subsection,~~ **September 9, 2014**, the department shall grant a temporary license or certificate of registration for an occupation under this act to an applicant who meets ~~all~~ **both** of the following:

(a) He or she provides proof acceptable to the department that he or she is ~~married to~~ **a dependent of** a member of the armed forces, ~~who is on active duty. As used in this subdivision, "armed forces" means that term as defined in section 2 of the veteran right to employment services act, 1994 PA 39, MCL 35.1092.~~ **a dependent of a member of the uniformed services, or a dependent of a veteran.**

(b) He or she provides proof acceptable to the department that he or she holds a current license in good standing, or a current

1 registration in good standing, in that occupation, issued by an  
 2 equivalent licensing department, board, or authority, as determined  
 3 by the department, **in consultation with the board**, in another state  
 4 of the United States, ~~the District of Columbia, Puerto Rico, the~~  
 5 ~~United States Virgin Islands, another territory or protectorate of~~  
 6 ~~the United States, or a foreign country.~~

7 ~~(c) He or she provides proof acceptable to the department that~~  
 8 ~~his or her spouse is assigned to a duty station in this state and~~  
 9 ~~that he or she is also assigned to a duty station in this state~~  
 10 ~~under his or her spouse's permanent change of station orders.~~

11 (3) A temporary license or registration issued under  
 12 subsection (2) is valid for 6 months and may be renewed for 1  
 13 additional 6-month term if the department determines the temporary  
 14 licensee or registrant continues to meet the requirements of  
 15 subsection (2) and needs additional time to fulfill the  
 16 requirements for initial licensure or registration in this state.  
 17 The department may place a limitation on a temporary license or  
 18 certificate of registration granted under this section.

19 **Sec. 217. (1) Subject to subsection (2), the department shall**  
 20 **issue a license or a certificate of registration for an occupation**  
 21 **under this act without examination to an individual who**  
 22 **demonstrates to the satisfaction of the department that he or she**  
 23 **meets all of the following at the time of application:**

24 (a) Provides proof that the individual is 1 of the following:

25 (i) A member of the armed forces or uniformed services.

26 (ii) A veteran.

27 (iii) A dependent of a member of the armed forces, a member of  
 28 the uniformed services, or a veteran.

29 (b) Holds a valid license or registration in that occupation



1 from an equivalent licensing department, board, or authority, as  
2 determined by the department, in at least 1 other state of the  
3 United States. For each license or registration described in this  
4 subdivision that he or she holds, all of the following must be met:

5 (i) The license or registration is in good standing and he or  
6 she has held that license or registration for at least 1 year.

7 (ii) There were minimum education requirements and, if  
8 applicable, work experience requirements in effect for licensure or  
9 registration in the other state, and the other state verifies that  
10 he or she met those requirements for licensure or registration in  
11 that state.

12 (iii) If the other state required an examination for licensure  
13 or registration, he or she passed the examination.

14 (c) Has not had a license or registration revoked, and has not  
15 voluntarily surrendered a license or registration, in any other  
16 state of the United States or a foreign country while under  
17 investigation for unprofessional conduct.

18 (d) Has not had discipline imposed by any equivalent licensing  
19 department, board, or authority in another state of the United  
20 States. If another state of the United States has taken  
21 disciplinary action against the applicant, the department shall  
22 determine if the cause for the action was corrected and the matter  
23 resolved. If the matter has not been resolved by that other state,  
24 the department shall not issue or deny a license or registration  
25 until the matter is resolved.

26 (e) Does not have a complaint, allegation, or investigation  
27 pending before an equivalent licensing department, board, or  
28 authority in another state of the United States or a foreign  
29 country that relates to unprofessional conduct. If the applicant

1 has any complaints, allegations, or investigations pending, the  
2 department shall suspend the application process and shall not  
3 issue or deny a license or registration to the applicant until the  
4 complaint, allegation, or investigation is resolved.

5 (f) Pays all applicable fees.

6 (g) Is of good moral character.

7 (h) Meets the age requirement of that occupation under this  
8 act, if applicable.

9 (2) If the department determines that the issuance of a  
10 license or a certificate of registration under subsection (1) for  
11 an occupation under this act may result in a violation of a federal  
12 oversight or licensing guideline for that occupation, the  
13 department shall not issue a license or a certificate of  
14 registration.

15 (3) This section does not prevent the department from issuing  
16 a temporary license under section 213, a courtesy license under  
17 section 1806a, or issuing a license under section 726, 1108(2),  
18 1211, 1806(9), 2013, 2209, or 2623.

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

26 (a) If an individual who holds a residential builder or a  
27 residential maintenance and alteration contractor license, or an  
28 individual who held a license as a qualifying officer of a licensed  
29 residential builder or residential maintenance and alteration

1 contractor, on June 1, 2008 is renewing a license, he or she is  
2 exempt from the requirement of successfully completing prelicensure  
3 courses described in this subsection.

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

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

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

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

19 (c) Unless he or she is exempt under subdivision (a) or (b),  
20 an applicant ~~shall~~ **must** not receive an initial license under this  
21 act unless he or she successfully completed 60 hours of approved  
22 prelicensure courses that include at least 6 hours of courses in  
23 each of the following 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.

28 (v) Project management and scheduling.

29 (vi) The current Michigan ~~residential code.~~ **Residential Code.**

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

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

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

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

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

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

28 (c) If the licensee was initially licensed as a licensed  
29 residential builder or residential maintenance and alteration

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

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

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

28 (4) Any construction code update courses approved by the  
29 bureau of construction codes and any fire safety or workplace

1 safety courses approved or sponsored by the department are also  
2 considered appropriate for fulfilling the continuing competency  
3 requirements of this section. The department may, by rule, amend,  
4 supplement, update, substitute, or determine equivalency regarding  
5 any courses or alternate activities for developing continuing  
6 competency described in this section.

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

14 (6) The department shall promulgate rules to provide for the  
15 following:

16 (a) Requirements other than those listed in subsection (4) for  
17 determining that a course meets the minimum criteria for developing  
18 and maintaining continuing competency.

19 (b) Requirements for acceptable courses offered at seminars  
20 and conventions by trade associations, research institutes, risk  
21 management entities, manufacturers, suppliers, governmental  
22 agencies other than those named in subsection (4), consulting  
23 agencies, or other entities.

24 (c) Acceptable distance learning.

25 (d) Alternate forms of continuing competency, including  
26 comprehensive testing, participation in mentoring programs,  
27 research, participation in code hearings conducted by the  
28 ~~international code council~~, **International Code Council**, and  
29 publication of articles in trade journals or regional magazines as

1 an expert in the field. The alternate forms ~~shall~~**must** be designed  
2 to maintain and improve the licensee's ability to perform the  
3 occupation with competence and ~~shall~~**must** prescribe proofs that are  
4 necessary to demonstrate that the licensee has fulfilled the  
5 requirements of continuing competency.

6 (7) Each licensee may select approved courses in his or her  
7 subject matter area or specialty. A licensee's service as a  
8 lecturer or discussion leader in an approved course ~~shall~~**must**  
9 count toward his or her continuing competency requirements under  
10 this section. Alternate forms of continuing competency may be  
11 earned and documented as promulgated in rules by the department.

12 (8) The department may audit a predetermined percentage of  
13 licensees who renew in a year for compliance with the requirements  
14 of this section. Failure to comply with the audit or the  
15 requirements ~~shall result~~**results** in the investigation of a  
16 complaint initiated by the department, and the licensee is subject  
17 to the penalties prescribed in this act.

18 (9) Before ~~the effective date of the amendatory act that added~~  
19 ~~subsection (10),~~**September 16, 2014**, a licensed residential builder  
20 or residential alteration and maintenance contractor may apply for  
21 inactive status by completing an application, made available by the  
22 department, in which he or she declares that he or she is no longer  
23 actively engaged in the practice authorized by his or her license  
24 and temporarily intends to suspend activity authorized by his or  
25 her license. If a completed application is submitted, the  
26 department shall designate the licensee as inactive and note that  
27 status on records available to the public. A licensee who is  
28 designated as inactive must have a current copy of the Michigan  
29 ~~residential code~~**Residential Code** and is exempt from the continuing

1 competency requirements imposed under this section, but must still  
2 pay the per-year license fee. An inactive licensee may activate his  
3 or her license by submitting an application to the department  
4 requesting activation of the license. If the department activates  
5 an inactive license, the licensee must complete at least 1 credit  
6 hour of activities that demonstrate continuing competency for that  
7 calendar year.

8 (10) An individual licensee who applied for and was designated  
9 inactive under subsection (9) before ~~the effective date of this~~  
10 ~~subsection~~ **September 16, 2014** may remain in inactive status after  
11 that ~~effective date~~ by complying with the requirements of  
12 subsection (9). A licensee who remains in inactive status after ~~the~~  
13 ~~effective date of this subsection~~ **September 16, 2014** is exempt from  
14 the continuing competency requirements of this section while he or  
15 she remains in inactive status. A licensee may activate his or her  
16 license by submitting an application to the department requesting  
17 activation of the license. If his or her license is activated, the  
18 licensee must complete at least 1 credit hour of activities that  
19 demonstrate continuing competency for that calendar year.

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

24 (a) Served in the armed forces.

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

28 (c) Was separated from service in the armed forces, and  
29 provides to the department a form DD214, form DD215, or any other



1 form that is satisfactory to the department that demonstrates that  
2 he or she was separated from that service, with an honorable  
3 character of service or under honorable conditions (general)  
4 character of service.

5 (d) Has, and provides with his or her application an affidavit  
6 signed by a commanding officer, supervisor, or military superior  
7 with direct knowledge of the applicant's service that he or she  
8 has, entry-level experience in or basic knowledge of each of the  
9 areas of competency described in subsection ~~(1) (a) to (g)~~. **(1) (c)**.

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

22 (13) If an applicant for initial licensure as a residential  
23 builder or residential maintenance and alteration contractor  
24 described in subsection (11) does not pass the examination for that  
25 license the first time he or she takes the examination, that  
26 applicant may not retake the examination until he or she  
27 successfully completes a prelicensure course of study described in  
28 subsection (1).

29 ~~(14) As used in the section, "armed forces" means that term as~~

1 ~~defined in section 2 of the veteran right to employment services~~  
2 ~~act, 1994 PA 39, MCL 35.1092.~~

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

5 Enacting section 2. This amendatory act does not take effect  
6 unless all of the following bills of the 101st Legislature are  
7 enacted into law:

8 (a) House Bill No. 4376.

9 (b) House Bill No. 4377.