

SENATE BILL No. 974

November 5, 2009, Introduced by Senators BIRKHOLZ, BASHAM, BARCIA, OLSHOVE and CLARKE and referred to the Committee on Commerce and Tourism.

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 303a and 601 (MCL 339.303a and 339.601), section 303a as amended by 2006 PA 489 and section 601 as amended by 2008 PA 319, and by adding article 28; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 303a. The terms provided for in this act shall commence
2 on the following dates:

3	Accountancy	July 1
4	Architects	April 1
5	Auctioneers	October 1
6	Barbers	October 1
7	Collection agencies	July 1

1	Community planners	July 1
2	Cosmetology	January 1
3	Employment agencies	October 1
4	Foresters	April 1
5	Hearing aid dealers	October 1
6	INTERIOR DESIGN	JANUARY 1
7	Land surveyors	April 1
8	Landscape architects	July 1
9	Mortuary science	July 1
10	Professional engineers	April 1
11	Real estate appraisers	July 1
12	Real estate brokers and salespersons	July 1
13	Residential builders	April 1

14 Sec. 601. (1) A person shall not engage in or attempt to
15 engage in the practice of an occupation regulated under this act
16 or use a title designated in this act unless the person possesses
17 a license or registration issued by the department for the
18 occupation.

19 (2) A school, institution, or person shall not operate or
20 attempt to operate a barber college, school of cosmetology, or
21 real estate school unless the school, institution, or person is
22 licensed or approved by the department.

23 (3) Subject to section 411, a person whose license or
24 registration is suspended, revoked, or lapsed, as determined by
25 the records of the department, is considered unlicensed or
26 unregistered.

27 (4) Except as otherwise provided for in section 735, a
28 person, school, or institution that violates subsection (1) or

1 (2) is guilty of a misdemeanor, punishable by a fine of not more
2 than \$500.00, or imprisonment for not more than 90 days, or both.

3 (5) Except as otherwise provided for in section 735, a
4 person, school, or institution that violates subsection (1) or
5 (2) a second or any subsequent time is guilty of a misdemeanor,
6 punishable by a fine of not more than \$1,000.00, or imprisonment
7 for not more than 1 year, or both.

8 (6) Notwithstanding subsections (4) and (5), a person not
9 licensed under article 24 as a residential builder or a
10 residential maintenance and alteration contractor who violates
11 subsection (1) or (2) is guilty as follows:

12 (a) In the case of a first offense, a misdemeanor punishable
13 by a fine of not less than \$5,000.00 or more than \$25,000.00, or
14 imprisonment for not more than 1 year, or both.

15 (b) In the case of a second or subsequent offense, a
16 misdemeanor punishable by a fine of not less than \$5,000.00 or
17 more than \$25,000.00, or imprisonment for not more than 2 years,
18 or both.

19 (c) In the case of an offense that causes death or serious
20 injury, a felony punishable by a fine of not less than \$5,000.00
21 or more than \$25,000.00, or imprisonment for not more than 4
22 years, or both.

23 (7) Notwithstanding subsections (4) and (5), a person not
24 licensed under article 20 as an architect, professional engineer,
25 or professional land surveyor who violates subsection (1) or (2)
26 is guilty as follows:

27 (a) In the case of a first offense, a misdemeanor punishable

1 by a fine of not less than \$5,000.00 or more than \$25,000.00 or
2 imprisonment for not more than 93 days, or both.

3 (b) In the case of a second or subsequent offense, a
4 misdemeanor punishable by a fine of not less than \$5,000.00 or
5 more than \$25,000.00 or imprisonment for not more than 1 year, or
6 both.

7 (c) In the case of an offense that causes death or serious
8 injury, a felony punishable by a fine of not less than \$5,000.00
9 or more than \$25,000.00 or imprisonment for not more than 4
10 years, or both.

11 (8) Any violation of this act shall include a requirement
12 that restitution be made, based upon proofs submitted to and
13 findings made by the trier of fact as provided by law.

14 (9) Notwithstanding the existence and pursuit of any other
15 remedy, an affected person may maintain injunctive action to
16 restrain or prevent a person from violating subsection (1) or
17 (2). If successful in obtaining injunctive relief, the affected
18 person shall be entitled to actual costs and attorney fees.

19 (10) This act does not apply to a person engaging in or
20 practicing the following:

21 ~~—(a) Interior design.~~

22 **(A)** ~~(b)~~ Residential building design. As used in this
23 subdivision, "residential building design" means the rendering of
24 residential design services for a detached 1- and 2-family
25 residence building by a person exempted from the requirements of
26 section 2012.

27 **(B)** ~~(c)~~ Any activity for which the person is licensed under

1 the state plumbing act, 2002 PA 733, MCL 338.3511 to 338.3569.

2 (C) ~~(d)~~—Any activity for which the person is licensed under
3 the Forbes mechanical contractors act, 1984 PA 192, MCL 338.971
4 to 338.988.

5 (D) ~~(e)~~—Any activity for which the person is licensed under
6 the electrical administrative act, 1956 PA 217, MCL 338.881 to
7 338.892.

8 (11) As used in subsection (9), "affected person" means a
9 person directly affected by the actions of a person suspected of
10 violating subsection (1) or (2) and includes, but is not limited
11 to, a licensee or registrant, a board established pursuant to
12 this act, the department, a person who has utilized the services
13 of the person engaging in or attempting to engage in an
14 occupation regulated under this act or using a title designated
15 by this act without being licensed or registered by the
16 department, or a private association composed primarily of
17 members of the occupation in which the person is engaging in or
18 attempting to engage in or in which the person is using a title
19 designated under this act without being registered or licensed by
20 the department.

21 (12) An investigation may be conducted under article 5 to
22 enforce this section. A person who violates this section shall be
23 subject to this section and sections 506, 602, and 606.

24 (13) The department, the attorney general, or a county
25 prosecutor may utilize forfeiture as a remedy in the manner
26 provided for in section 606.

27 (14) The remedies under this section are independent and

1 cumulative. The use of 1 remedy by a person shall not bar the use
 2 of other lawful remedies by that person or the use of a lawful
 3 remedy by another person.

4 ~~—— (15) An interior designer may perform services in connection~~
 5 ~~with the design of interior spaces including preparation of~~
 6 ~~documents relative to finishes, systems furniture, furnishings,~~
 7 ~~fixtures, equipment, and interior partitions that do not affect~~
 8 ~~the building mechanical, structural, electrical, or fire safety~~
 9 ~~systems.~~

10 (15) ~~(16)~~ Upon entering a conviction under subsection (4),
 11 (5), or (6), a court entering the conviction shall notify, by
 12 mail, facsimile transmission, or electronic mail, the bureau of
 13 commercial services at the department.

14 ARTICLE 28

15 SEC. 2801. AS USED IN THIS ARTICLE:

16 (A) "INTERIOR DESIGN SERVICES" MEANS SERVICES IN CONNECTION
 17 WITH THE DESIGN OF INTERIOR SPACES AND MAY INVOLVE THE DESIGN AND
 18 PREPARATION OF CONSTRUCTION DOCUMENTS AND SPECIFICATIONS FOR THE
 19 ALTERATION OR CONSTRUCTION OF AN INTERIOR SPACE, ROOM, OR AREA OF
 20 A BUILDING OR STRUCTURE DESIGNED FOR HUMAN HABITATION OR
 21 OCCUPANCY, INCLUDING THE DELINEATION OF NON-LOAD-BEARING BUILDING
 22 PARTITIONS, MATERIALS, FINISHES, FURNITURE, FIXTURES, LIGHTING,
 23 EQUIPMENT, SWITCHES, OUTLETS, AND RELATED NONSTRUCTURAL
 24 DEMOLITION.

25 (B) "INTERIOR DESIGNER" MEANS A PERSON PERFORMING INTERIOR
 26 DESIGN SERVICES. INTERIOR DESIGN SERVICES ARE RENDERED AFTER
 27 DESIGN EFFECTS OF THOSE SERVICES HAVE ALREADY BEEN INCORPORATED,

1 BY THE MICHIGAN BUILDING CODE ADOPTED UNDER THE STILLE-DEROSSETT-
2 HALE SINGLE STATE CONSTRUCTION CODE ACT, 1972 PA 230, MCL
3 125.1501 TO 125.1531, INTO THE BASIC DESIGN OF A BUILDING'S OR
4 STRUCTURE'S STRUCTURAL FRAME AND ELECTRICAL, PLUMBING, FIRE
5 SAFETY, AND MECHANICAL SYSTEMS. INTERIOR DESIGN SERVICES CAN
6 INCORPORATE COLLABORATION WITH OTHER REGISTERED DESIGN
7 PROFESSIONALS AND THEIR DESIGN SERVICES, IF NECESSARY, AND CAN BE
8 INCORPORATED IN THE SUBMISSION OF THE CONSTRUCTION DOCUMENTS.

9 SEC. 2803. (1) THERE IS CREATED A BOARD OF INTERIOR DESIGN.

10 (2) THE TERMS OF THE BOARD MEMBERS AND THEIR QUALIFICATIONS
11 ARE AS PRESCRIBED BY ARTICLE 3.

12 SEC. 2805. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
13 (2), A PERSON SHALL NOT USE A TERM OR TITLE "LICENSED INTERIOR
14 DESIGNER", "INTERIOR DESIGNER", OR OTHER TERM OR TITLE CONNOTING
15 LICENSURE UNDER THIS ARTICLE UNLESS LICENSED UNDER THIS ARTICLE.

16 (2) THIS ARTICLE DOES NOT PROHIBIT AN INDIVIDUAL CERTIFIED
17 OR OTHERWISE QUALIFIED OR APPROVED BY A PRIVATE ORGANIZATION FROM
18 USING A TERM OR TITLE COPYRIGHTED OR OTHERWISE PROTECTED UNDER
19 LAW BY THE CERTIFYING ORGANIZATION SO LONG AS THE USE DOES NOT
20 CONNOTE LICENSURE UNDER THIS ARTICLE.

21 SEC. 2807. (1) AN INDIVIDUAL SHALL NOT PROVIDE OR OFFER TO
22 PROVIDE INTERIOR DESIGN SERVICES UNLESS LICENSED UNDER THIS
23 ARTICLE OR EXEMPT FROM LICENSURE UNDER SUBSECTION (2).

24 (2) THE FOLLOWING ARE EXEMPT FROM LICENSURE UNDER THIS
25 ARTICLE:

26 (A) A PERSON LICENSED UNDER ANOTHER REGULATED OR LICENSED
27 OCCUPATION OR PROFESSION WHO IS ENGAGING IN INTERIOR DESIGN

1 SERVICES THAT ARE WITHIN THE SCOPE OF PRACTICE OF THAT PERSON'S
2 OCCUPATION OR PROFESSION SO LONG AS HE OR SHE DOES NOT HOLD
3 HIMSELF OR HERSELF OUT AS AN INTERIOR DESIGNER.

4 (B) AN OWNER OR EMPLOYEE OF A RETAIL ESTABLISHMENT PROVIDING
5 INTERIOR DESIGN SERVICES ON THE PREMISES OF A RETAIL
6 ESTABLISHMENT OR IN THE FURTHERANCE OF A RETAIL SALE, SO LONG AS
7 HE OR SHE DOES NOT ADVERTISE, OR REPRESENT HIMSELF OR HERSELF, AS
8 AN INTERIOR DESIGNER.

9 (C) A PERSON ENGAGING IN INTERIOR DESIGN SERVICES ON
10 PROPERTY OWNED OR LEASED BY THAT PERSON SO LONG AS HE OR SHE DOES
11 NOT HOLD HIMSELF OR HERSELF OUT AS AN INTERIOR DESIGNER.

12 (D) A PERSON ENGAGING IN INTERIOR DESIGN SERVICES WITHOUT
13 COMPENSATION ON PROPERTY OF ANOTHER PERSON SO LONG AS HE OR SHE
14 DOES NOT HOLD HIMSELF OR HERSELF OUT AS AN INTERIOR DESIGNER.

15 (E) A PERSON PROVIDING INTERIOR DESIGN SERVICES FOR
16 RESIDENTIAL PURPOSES, SO LONG AS HE OR SHE DOES NOT HOLD HIMSELF
17 OR HERSELF OUT AS AN INTERIOR DESIGNER.

18 (F) AN INDIVIDUAL ENGAGING IN INTERIOR DESIGN SERVICES
19 WITHOUT A LICENSE BUT UNDER THE SUPERVISION OF 1 OR MORE
20 LICENSEES SOLELY FOR THE PURPOSE OF OBTAINING THE EXPERIENCE
21 REQUIRED UNDER SECTION 2809(3) OR (4).

22 SEC. 2809. (1) AN APPLICANT FOR LICENSURE UNDER THIS ARTICLE
23 SHALL SUBMIT A COMPLETED APPLICATION TO THE DEPARTMENT ON A FORM
24 SUPPLIED BY THE DEPARTMENT AND PAY THE APPROPRIATE APPLICATION
25 AND PER-YEAR LICENSE FEE. EXCEPT AS OTHERWISE PROVIDED IN THIS
26 SECTION, THE APPLICANT SHALL MEET THE EXAMINATION REQUIREMENTS OF
27 SUBSECTION (3).

1 (2) UPON APPROVAL OF AN APPLICATION PROPERLY SUBMITTED, THE
2 DEPARTMENT SHALL ISSUE A LICENSE ONLY TO AN INDIVIDUAL. THE
3 LICENSE SHALL BE FOR A TERM OF 3 YEARS.

4 (3) BEGINNING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
5 ADDED THIS ARTICLE AND UNTIL THE EXPIRATION OF 1 YEAR AFTER THAT
6 EFFECTIVE DATE, THE DEPARTMENT SHALL ISSUE A LICENSE TO AN
7 INDIVIDUAL THAT SUBMITS, BY AFFIDAVIT, PROOF OF 6 YEARS OF
8 COMBINED EDUCATION AND EXPERIENCE IN PROVIDING INTERIOR DESIGN
9 SERVICES, WITH AT LEAST 2 OF THOSE 6 YEARS BEING PRACTICAL
10 EXPERIENCE. A PERSON ON THE LIST COMPILED UNDER FORMER SECTION
11 601A IS ELIGIBLE FOR A LICENSE UNDER THIS ACT IF HE OR SHE
12 APPLIES FOR LICENSURE WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF
13 THE AMENDATORY ACT THAT ADDED THIS ARTICLE AND PAYS THE
14 APPROPRIATE LICENSE FEE.

15 (4) FOR APPLICANTS NOT APPLYING FOR LICENSURE UNDER
16 SUBSECTION (3), THE MOST CURRENT EXAMINATION OFFERED BY THE
17 NATIONAL COUNCIL FOR INTERIOR DESIGN QUALIFICATION AND THE
18 EDUCATION, EXPERIENCE, AND OTHER QUALIFICATIONS TO SIT FOR THAT
19 EXAMINATION ARE ADOPTED BY REFERENCE. THE BOARD AND DIRECTOR, BY
20 PROMULGATION OF A RULE, MAY ADOPT ANOTHER VERSION OF THE NATIONAL
21 COUNCIL FOR INTERIOR DESIGN QUALIFICATION EXAMINATION AND THE
22 EDUCATION, EXPERIENCE, AND OTHER QUALIFICATIONS TO SIT FOR THAT
23 EXAMINATION OR ANOTHER EXAMINATION CONSIDERED BY THE BOARD TO BE
24 THE EQUIVALENT OF THE MOST RECENT NATIONAL COUNCIL FOR INTERIOR
25 DESIGN QUALIFICATION EXAMINATION AND THE EDUCATION, EXPERIENCE,
26 AND OTHER QUALIFICATIONS TO SIT FOR THAT EXAMINATION.

27 SEC. 2811. THE DEPARTMENT SHALL ISSUE A LICENSE TO AN

1 INDIVIDUAL FROM ANOTHER JURISDICTION, STATE, OR COUNTRY UPON A
2 DETERMINATION OF THE BOARD THAT THE OTHER JURISDICTION, STATE, OR
3 COUNTRY HAS SUBSTANTIALLY SIMILAR REQUIREMENTS FOR LICENSURE AND
4 ALLOWS RECIPROCITY TO MICHIGAN LICENSEES.

5 SEC. 2813. THE DIRECTOR, IN CONSULTATION WITH THE BOARD AND
6 BY ADOPTION OF A RULE, SHALL ESTABLISH STANDARDS OF CONDUCT FOR
7 LICENSED INTERIOR DESIGNERS.

8 SEC. 2815. BEGINNING THE LICENSE RENEWAL CYCLE AFTER THE
9 EFFECTIVE DATE OF THE RULES PROMULGATED UNDER THIS SECTION, THE
10 DIRECTOR SHALL REQUIRE A DEMONSTRATION OF CONTINUING PROFESSIONAL
11 COMPETENCE FOR RENEWAL OF A LICENSE UNDER THIS ARTICLE.

12 SEC. 2817. (1) AN INDIVIDUAL, UPON BEING LICENSED, SHALL
13 OBTAIN A SEAL AUTHORIZED BY THE BOARD BEARING THE LICENSEE'S NAME
14 AND A LEGEND INDICATING "LICENSED INTERIOR DESIGNER".

15 (2) A PLAN, REPORT, OR SPECIFICATION ISSUED BY A LICENSEE
16 SHALL BE SEALED WHEN FILED WITH A PUBLIC AUTHORITY.

17 SEC. 2819. A PERSON WHO VIOLATES THIS ARTICLE OR RULES
18 PROMULGATED UNDER THIS ARTICLE OR WHO DOES 1 OR MORE OF THE
19 FOLLOWING IS SUBJECT TO THE PENALTIES SET FORTH IN ARTICLE 6:

20 (A) PRESENTS OR ATTEMPTS TO USE, AS THE PERSON'S OWN, THE
21 LICENSE OR SEAL OF ANOTHER.

22 (B) USES A TERM PROTECTED BY THIS ARTICLE WITHOUT BEING
23 LICENSED UNDER THIS ARTICLE.

24 (C) SUBMITS TO A PUBLIC OFFICIAL IN THIS STATE OR A
25 POLITICAL SUBDIVISION OF THIS STATE FOR APPROVAL A PERMIT OR A
26 PLAN, REPORT, OR SPECIFICATION FOR FILING AS A PUBLIC RECORD THAT
27 DOES NOT BEAR A SEAL OF A LICENSEE AS REQUIRED BY THIS ARTICLE.

1 Enacting section 1. Section 601a of the occupational code,
2 1980 PA 299, MCL 339.601a, is repealed.

3 Enacting section 2. This amendatory act does not take effect
4 unless all of the following bills of the 95th Legislature are
5 enacted into law:

6 (a) Senate Bill No. 976.

7

8 (b) Senate Bill No. 975.

9