May 28, 2020. Introduced by Reps. Maddock, Steven Johnson, Green, Wozniak, Reilly, Hornberger, Eisen, O'Malley, Meerman, Rendon, Bellino and Markkanen and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled "Occupational code,"
by amending sections 303a, 411, and 601 (MCL 339.303a, 339.411, and 339.601), sections 303a and 411 as amended by 2014 PA 265 and section 601 as amended by 2016 PA 412; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 303a. The term of office of a member of a board appointed under this article shall commence on 1 of the following dates, as
applicable:

Accountancy
Architects
Barbers
Collection agencies
Cosmetology
Employment agencies
Hearing aid dealers
Land surveyors
Landscape architects
Mortuary science
Professional engineers
Real estate appraisers
Real estate brokers and salespersons
Residential builders

Sec. 411. (1) Subject to subsection (2), a person that fails to renew a license or registration on or before the expiration date shall not practice the occupation, operate, or use the title of that occupation after the expiration date printed on the license or registration. A license or registration shall lapse on the day after the expiration date.

(2) A person that fails to renew a license or registration on or before the expiration date is permitted to renew the license or registration by payment of the required license or registration fee and a late renewal fee within 60 days after the expiration date.

(3) Except as otherwise provided in this act, a person that fails to renew a license or registration within the time period set forth in subsection (2) may be relicensed or reregistered without examination and without meeting additional education or training
requirements in force at the time of application for relicensure or reregistration if all of the following conditions are met:

(a) The person applies within 3 years after the expiration date of the last license or registration.

(b) The person pays an application processing fee, the late renewal fee, and the per year license or registration fee for the upcoming licensure or registration period, subject to subsection (8).

(c) Any penalties or conditions imposed by disciplinary action in this state or any other jurisdiction have been satisfied.

(d) The person submits proof of having completed the equivalent of 1 year of continuing education within the 12 months immediately preceding the date of application or as otherwise provided in a specific article or by rule, if continuing education is required of licensees or registrants under a specific article.

(4) Except as otherwise provided in this act, a person may be relicensed or reregistered subsequent to 3 or more years after the expiration date of the last license or registration if the person shows that the person meets the requirements for licensure or registration as established by the department in rules or procedures, which may require a person to pass all or part of a required examination, to complete continuing education requirements, or to meet current education or training requirements.

(5) Unless otherwise provided in this act, a person that seeks reinstatement of a license or registration shall file an application on a form provided by the department, pay the application processing fee, and file a petition to the department and the appropriate board stating reasons for reinstatement and
including evidence that the person can and is likely to serve the public in the regulated activity with competence and in conformance with all other requirements prescribed by law, rule, or an order of the department or board. The procedure for conducting the review of a petition for reinstatement is prescribed in article 5. If approved for reinstatement, the person shall pay the per year license or registration fee for the upcoming license or registration period if appropriate, in addition to completing any requirements imposed under section 203(2).

(6) The department shall issue an initial or renewal license or registration not later than 90 days after the applicant files a completed application. The application is considered received on the date the application is received by any agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled from the date the department notifies the applicant of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license or registration and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license or registration.

(7) Notwithstanding the time periods described in subsection (6), in the case of a real estate broker and associate broker licensed under article 25, the time period for approval by the department of a completed application is 30 days and the time
period for notification sent in writing, or made electronically available, by the department to the applicant regarding an incomplete application is 15 days after the receipt of the application by any agency or department of this state.

(8) If the department fails to issue or deny a license or registration within the time required by this section, the department shall return the license or registration fee, and shall reduce the license or registration fee for the applicant's next renewal application, if any, by 15%. A failure to issue or deny a license or registration within the time required under this section does not allow the department to otherwise delay the processing of the application, and the department shall place that application, when completed, in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of an application based on the fact that the license or registration fee was refunded or discounted under this subsection.

(9) The director shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with occupational issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 90-day time period described in subsection (6) and the 30-day time period described in subsection (7).

(b) The number of applications denied by the department.

(c) The number of applicants not issued a license or registration within the applicable time period and the amount of
money returned to licensees and registrants under subsection (8).

(10) Subsection (6) does not apply to a license or registration for any of the following:

(a) A certified public accountant and registered accountant under article 7.

(b) An agency non-owner manager of a collection agency under article 9.

(c) A barber, student barber, student instructor, or barber instructor under article 11.

(d) An employment and consulting agent of a personnel agency under article 10.

(e) A cosmetologist, manicurist, natural hair culturist, esthetician, electrologist, instructor, or registered student under article 12.

(f) A hearing aid salesperson and trainee under article 13.

(g) A mortuary science licensee, embalmer, or resident trainee in mortuary science under article 18.

(h) An individual architect, surveyor, or engineer under article 20.

(i) An individual landscape architect under article 22.

(j) An individual residential builder and alteration and maintenance contractor or a salesperson for a residential builder and alteration and maintenance contractor under article 24.

(k) A real estate salesperson under article 25.

(l) A real estate appraiser under article 26.

(11) Notwithstanding any provision in this act to the contrary, an individual or qualifying officer who is a licensee or registrant under this act and who is mobilized for military duty in
the armed forces of the United States by the president of the United States is temporarily exempt from any renewal license fee, continuing education requirements, or other related requirements of this act applicable to that license or registration. It is the obligation of the licensee or registrant to inform the department by written or electronic mail of the desire to exercise the temporary exemption under this subsection. If the licensee applying for the temporary exemption is the individual responsible for supervision and oversight of licensed activities, the licensee shall provide notice of arrangements for adequate provision of that supervision and oversight to the department. The licensee or registrant shall accompany the request with proof, as determined by the department, to verify the mobilized duty status. If it receives a request for a temporary exemption under this subsection, the department shall make a determination of the requestor's status and grant the temporary exemption after verification of mobilized duty status under this subsection. A temporary exemption is valid until 90 days after the licensee's or registrant's release from the mobilized duty on which the exemption was based, but shall not exceed 36 months from the date of expiration of the license or registration.

(12) As used in this section, "completed application" means an application that is complete on its face and submitted with any applicable licensing or registration fees and any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state.

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

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

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

(4) Except as otherwise provided for in section 735, a person, school, or institution that violates subsection (1) or (2) is guilty of a misdemeanor, punishable by a fine of not more than $500.00, or imprisonment for not more than 90 days, or both.

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

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

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

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

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

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

(a) In the case of a first offense, a misdemeanor punishable by a fine of not less than $5,000.00 or more than $25,000.00 or imprisonment for not more than 93 days, or both.

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

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

(8) If a trier of fact finds that a person has violated this act, the trier of fact shall require that person to make restitution, based on proofs submitted to and findings made by the trier of fact as provided by law.

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

(10) This act does not apply to a person that is engaging in or practicing any of the following:

(a) Interior design.

(b) Residential building design. As used in this subdivision, "residential building design" means the rendering of residential design services for a detached 1- and 2-family residence building by a person that is exempt from the requirements of section 2012.

(c) Any activity for which the person is licensed under article 11 of the skilled trades regulation act, 2016 PA 407, MCL 339.6101 to 339.6133.

(d) Any activity for which the person is licensed under article 8 of the skilled trades regulation act, 2016 PA 407, MCL 339.5801 to 339.5819.

(e) Any activity for which the person is licensed under article 7 of the skilled trades regulation act, 2016 PA 407, MCL 339.5701 to 339.5739.

(11) As used in subsection (9), "affected person" means a person that is directly affected by the actions of a person suspected of violating subsection (1) or (2) and includes, but is not limited to, a licensee or registrant, a board established under this act, the department, a person that utilizes the services of the person that is engaging in or attempting to engage in an occupation that is regulated under this act or using a title that is designated by this act without being licensed or registered by the department, or a private association that is composed primarily of members of the occupation in which the person is engaging in or attempting to engage in or in which the person is using a title designated under this act without being registered or licensed by
the department.

(12) An investigation may be conducted under article 5 to enforce this section. A person that violates this section is subject to this section and sections 506, 602, and 606.

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

(14) The remedies under this section are independent and cumulative. The use of 1 remedy by a person does not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

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

(16) At the time a court enters a conviction under subsection (4), (5), or (6), the court shall notify, by mail, facsimile transmission, or electronic mail, the department of the conviction.

Enacting section 1. Articles 11 and 12 of the occupational code, 1980 PA 299, MCL 339.1101 to 339.1218, are repealed.

Enacting section 2. This amendatory act takes effect 90 days after the date it is enacted into law.