

HOUSE BILL No. 6136

May 28, 2002, Introduced by Rep. Kuipers and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 2401 and 2404 (MCL 339.2401 and 339.2404), section 2401 as amended by 1991 PA 166 and section 2404 as amended by 1988 PA 463.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2401. As used in this article:

2 (a) "Residential builder" means a person engaged in the con-
3 struction of a residential structure or a combination residential
4 and commercial structure who, for a fixed sum, price, fee, per-
5 centage, valuable consideration, or other compensation, other
6 than wages for personal labor only, undertakes with another or
7 offers to undertake or purports to have the capacity to undertake
8 with another for the erection, construction, replacement, repair,
9 alteration, or an addition to, subtraction from, improvement,

1 wrecking of, or demolition of, a residential structure or
2 combination residential and commercial structure; a person who
3 manufactures, assembles, constructs, deals in, or distributes a
4 residential or combination residential and commercial structure
5 which is prefabricated, preassembled, precut, packaged, or shell
6 housing; or a person who erects a residential structure or combi-
7 nation residential and commercial structure except for the
8 person's own use and occupancy on the person's property.

9 RESIDENTIAL BUILDER DOES NOT INCLUDE A PERSON WHO DOES ANY OF THE
10 FOLLOWING:

11 (i) PROVIDES OR INSTALLS CONCRETE OR CLAY PAVERS, BRICKS,
12 WOOD, PLASTIC, AGGREGATES, POLYESTERS, BLOCKS, OR NATURAL OR
13 ARTIFICIAL STONE FOR PURPOSES OF COMMERCIAL OR RESIDENTIAL
14 PATIOS, WALKWAYS, DRIVEWAYS, RETAINING OR DECORATIVE WALLS, TER-
15 RACES, GAZEBOS, ARBORS, LATTICE, SEAWALLS, OR PLANTERS.

16 (ii) CONSTRUCTS PLANTER OR OTHER WALLS NOT EXCEEDING 24
17 INCHES ABOVE GRADE WHERE NO MORTAR, CONCRETE, OR ADHESIVE IS UTI-
18 LIZED IN THE PROCESS.

19 (iii) CONSTRUCTS FREESTANDING IMPROVEMENTS OR STRUCTURES NOT
20 ATTACHED TO A BUILDING, HOME, GARAGE, OFFICE BUILDING, OR SWIM-
21 MING POOL.

22 (b) "Residential maintenance and alteration contractor"
23 means a person who, for a fixed sum, price, fee, percentage,
24 valuable consideration, or other compensation, other than wages
25 for personal labor only, undertakes with another for the repair,
26 alteration, or an addition to, subtraction from, improvement of,
27 wrecking of, or demolition of a residential structure or

1 combination residential and commercial structure, or building of
2 a garage, or laying of concrete on residential property, or who
3 engages in the purchase, substantial rehabilitation or improve-
4 ment, and resale of a residential structure, engaging in that
5 activity on the same structure more than twice in 1 calendar
6 year, except ~~in~~ UNDER the following ~~instances~~ CIRCUMSTANCES:

7 (i) ~~If the~~ THE work is for the person's own use and
8 occupancy.

9 (ii) ~~If the~~ THE rehabilitation or improvement work of res-
10 idential type property or a structure is contracted for, with, or
11 hired entirely to be done and performed for the owner by a person
12 licensed under this article.

13 (iii) ~~If~~ THE work is performed by a person employed by the
14 owner to perform work for which the person is licensed by the
15 state.

16 (iv) THE WORK INVOLVES ACTIVITIES DESCRIBED IN SUBDIVISION
17 (A)(i), (ii), OR (iii).

18 (c) "Residential structure" means a premises used or
19 intended to be used for a residence purpose and related facili-
20 ties appurtenant to the premises, used or intended to be used, as
21 an adjunct of residential occupancy.

22 (d) "Salesperson" means an employee or agent, other than a
23 qualifying officer, of a licensed residential builder or residen-
24 tial maintenance and alteration contractor, who for a salary,
25 wage, fee, percentage, commission, or other consideration, sells
26 or attempts to sell, negotiates or attempts to negotiate,
27 solicits for or attempts to solicit for, obtains or attempts to

1 obtain a contract or commitment for, or furnishes or attempts or
2 agrees to furnish, the goods and services of a residential
3 builder or residential maintenance and alteration contractor,
4 except a person working for a licensed residential builder or
5 residential maintenance and alteration contractor who makes sales
6 which are occasional and incidental to the person's principal
7 employment.

8 (e) "Wages" means money paid or to be paid on an hourly or
9 daily basis by an owner, lessor, or occupant of a residential
10 structure or combination residential and commercial structure as
11 consideration for the performance of personal labor on the struc-
12 ture by a person who does not perform or promise to perform the
13 labor for any other fixed sum, price, fee, percentage, valuable
14 consideration, or other compensation and who does not furnish or
15 agree to furnish the material or supplies required to be used in
16 the performance of the labor or an act defined in subdivision (a)
17 or (b).

18 Sec. 2404. (1) The department may require an applicant,
19 licensee, or each partner, trustee, director, officer, member, or
20 shareholder to submit evidence of good moral character and finan-
21 cial stability. Before the issuance of a license, an applicant
22 shall submit any amount required to be paid under the construc-
23 tion lien act, ~~Act No. 497 of the Public Acts of 1980, being~~
24 ~~sections 570.1101 to 570.1305 of the Michigan Compiled Laws~~ 1980
25 PA 497, MCL 570.1101 TO 570.1305.

26 (2) The department shall require an applicant for a license
27 to pass an examination establishing that the applicant has a fair

1 knowledge of the obligations of a residential builder or
 2 residential maintenance and alteration contractor to the public
 3 and the applicant's principal, and the statutes relating to the
 4 applicant's licensure.

5 (3) The department, upon application, may issue a residen-
 6 tial maintenance and alteration contractor's license to an appli-
 7 cant who, upon examination, qualifies for a license ~~which~~
 8 ~~shall authorize~~ AUTHORIZING the licensee, according to the
 9 applicant's qualifications, crafts, and trades, to engage in the
 10 activities of a residential maintenance and alteration
 11 contractor. A license shall include the following crafts and
 12 trades: ~~carpentry; concrete; swimming~~

13 (A) CARPENTRY.

14 (B) CONCRETE.

15 (C) SWIMMING pool installation. ~~waterproofing~~

16 (D) WATERPROOFING a basement. ~~excavation; insulation~~

17 (E) EXCAVATION.

18 (F) INSULATION work. ~~masonry work; painting~~

19 (G) PAINTING and decorating. ~~roofing; siding~~

20 (H) ROOFING.

21 (I) SIDING and gutters. ~~screen~~

22 (J) SCREEN or storm sash installation. ~~tile~~

23 (K) TILE and marble work. ~~and house~~

24 (L) HOUSE wrecking.

25 (M) MASONRY WORK OTHER THAN ACTIVITIES DESCRIBED IN SECTION

26 2401(A)(i), (ii), OR (iii).

1 (4) The RESIDENTIAL MAINTENANCE AND ALTERATION CONTRACTOR'S
2 license ISSUED UNDER SUBSECTION (3) shall specify the particular
3 craft or trade for which the licensee has qualified. ~~This~~
4 SUBSECTION (3) AND THIS subsection ~~shall~~ DO not prohibit a spe-
5 cialty contractor from taking and executing a contract involving
6 the use of 2 or more crafts or trades if the performance of the
7 work in the craft or trade, other than in which the person is
8 licensed, is incidental and supplemental to the performance of
9 work in the craft for which the specialty contractor is
10 licensed.

11 (5) ~~(4)~~ A residential builder or residential maintenance
12 and alteration contractor shall maintain a place of business in
13 this state. If a residential builder or residential maintenance
14 and alteration contractor maintains more than 1 place of business
15 within this state, THE DEPARTMENT SHALL ISSUE a branch office
16 license ~~shall be issued~~ to the builder or contractor for each
17 place of business. ~~so maintained.~~