

HOUSE BILL No. 4076

January 27, 2005, Introduced by Rep. Accavitti and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled "Occupational code," by amending section 303a (MCL 339.303a), as amended by 1995 PA 183, and by adding article 14.

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 Athletic board of control	April 1
6 Barbers	October 1
7 Collection agencies	July 1
8 Community planners	July 1

1	Cosmetology	January 1
2	Employment agencies	October 1
3	Foresters	April 1
4	Hearing aid dealers	October 1
5	HOME INSPECTORS	JULY 1
6	Land surveyors	April 1
7	Landscape architects	July 1
8	Marriage counselors	October 1
9	Mortuary science	July 1
10	Nursing home administrators	January 1
11	Professional engineers	April 1
12	Real estate appraisers	July 1
13	Real estate brokers and salespersons	July 1
14	Residential builders	April 1
15	Social workers	October 1

ARTICLE 14

17 **SEC. 1401. AS USED IN THIS ARTICLE:**

18 (A) "ACCESSORIES" MEANS APPLIANCES THAT ARE FIXTURES IN THE
19 RESIDENCE. ACCESSORIES INCLUDE BUILT-IN APPLIANCES AND VACUUM
20 SYSTEMS BUT DO NOT INCLUDE A SECURITY SYSTEM.

21 (B) "CLIENT" MEANS THE PERSON ON WHOSE BEHALF A HOME
22 INSPECTOR IS ACTING.

23 (C) "ELECTRICAL SYSTEM" MEANS THE TOTAL SYSTEM IN A
24 RESIDENCE THAT FACILITATES THE FLOW OF ELECTRICITY BEGINNING WITH
25 THE MAIN PANEL AND EXTENDING TO THE SUBPANELS AND INCLUDING
26 BRANCH CIRCUITS, AND DIRECTLY WIRED ELECTRICAL AND LIGHTING
27 FIXTURES.

28 (D) "FOUNDATION" MEANS 1 OR MORE OF THE FOLLOWING UPON WHICH
29 A RESIDENCE IS PLACED:

1 (i) SLAB.

2 (ii) CRAWL SPACE.

3 (iii) BASEMENT.

4 (iv) PIERS.

5 (E) "HEATING AND AIR CONDITIONING SYSTEM" MEANS A SEPARATE
6 OR COMBINED SYSTEM USED TO DISTRIBUTE OR RADIATE HEAT OR COOL AIR
7 THROUGHOUT ALL OR PART OF A RESIDENCE. THE RADIATION OR
8 DISTRIBUTION OF HEAT MAY BE ACCOMPLISHED BY MEANS OF A CENTRAL
9 HEAT SOURCE OR THERMOSTATICALLY CONTROLLED HEAT SOURCES IN 1 OR
10 MORE ROOMS OF A RESIDENCE. AIR CONDITIONING DOES NOT INCLUDE A
11 UNIT MOUNTED IN A WALL OR A WINDOW UNLESS THE UNIT UTILIZES DUCTS
12 TO DISTRIBUTE THE AIR.

13 (F) "HOME INSPECTOR" MEANS A PERSON ENGAGED IN, OR OFFERING
14 TO ENGAGE IN, THE BUSINESS OF PROVIDING HOME INSPECTION SERVICES
15 BUT DOES NOT INCLUDE ANY OF THE FOLLOWING:

16 (i) A PERSON ACTING ON BEHALF OF A LOCAL, STATE, OR FEDERAL
17 GOVERNMENTAL UNIT OR AGENCY CONDUCTING AN INSPECTION OR
18 INVESTIGATION CONCERNING COMPLIANCE WITH EITHER OR BOTH OF THE
19 FOLLOWING:

20 (A) HEALTH OR SAFETY LAWS OR REGULATIONS.

21 (B) CONSTRUCTION OR BUILDING LAWS, CODES, OR REGULATIONS.

22 (ii) A PERSON LICENSED, REGISTERED, OR CERTIFIED UNDER 1 OR
23 MORE OF THE FOLLOWING WHILE CONDUCTING AN INSPECTION THAT IS
24 REASONABLY RELATED TO A TASK OR PROSPECTIVE TASK WITHIN THE SCOPE
25 OF LICENSURE, REGISTRATION, OR CERTIFICATION:

26 (A) ARTICLE 20.

27 (B) ARTICLE 24.

1 (C) ARTICLE 25.

2 (D) ARTICLE 26.

3 (E) THE STATE PLUMBING ACT, 2002 PA 733, MCL 338.3511 TO
4 338.3569.

5 (F) THE ELECTRICAL ADMINISTRATIVE ACT, 1956 PA 217, MCL
6 338.881 TO 338.892.

7 (G) THE FORBES MECHANICAL CONTRACTORS ACT, 1984 PA 192, MCL
8 338.971 TO 338.988.

9 (G) "HOME INSPECTION SERVICES" MEANS SERVICES PROVIDED TO A
10 CLIENT, FOR CONSIDERATION, THAT ARE DESIGNED TO IDENTIFY AND
11 DISCLOSE THE FUNCTIONAL CONDITION OF THE MAJOR SYSTEMS AND
12 ACCESSORIES IN A RESIDENCE AT THE TIME OF THE INSPECTION. HOME
13 INSPECTION SERVICES DO NOT INCLUDE AN INSPECTION DESIGNED ONLY TO
14 DISCLOSE ANY OF THE FOLLOWING:

15 (i) COMPLIANCE WITH LOCAL, STATE, OR FEDERAL BUILDING OR
16 CONSTRUCTION LAWS, CODES, OR REGULATIONS.

17 (ii) COMPLIANCE WITH LOCAL, STATE, OR FEDERAL HEALTH AND
18 SAFETY LAWS OR REGULATIONS.

19 (iii) THE PRESENCE OR ABSENCE OF PESTS, TERMITES, OR OTHER
20 VERMIN OR DAMAGE RESULTING FROM THE PRESENCE OF PESTS, TERMITES,
21 OR VERMIN.

22 (H) "MAJOR DEFICIENCY" MEANS A DEFECT IN 1 OR MORE MAJOR
23 SYSTEMS OR ACCESSORIES THAT MAY CAUSE THE REASONABLE LIKELIHOOD
24 OF HARM TO THE SAFETY OF THE OCCUPANTS SO AS TO REQUIRE THEIR
25 EVACUATION OF THE RESIDENCE FOR MORE THAN 3 DAYS OR THAT MAY
26 RESULT IN THE REASONABLE LIKELIHOOD OF A MAJOR SYSTEM OR
27 ACCESSORY BECOMING NONOPERATIONAL.

1 (I) "MAJOR SYSTEM" MEANS ANY 1 OF THE FOLLOWING:

2 (i) ELECTRICAL SYSTEM.

3 (ii) HEATING AND AIR CONDITIONING SYSTEM.

4 (iii) PLUMBING SYSTEM.

5 (iv) STRUCTURE AND FOUNDATION.

6 (J) "PLUMBING SYSTEM" MEANS THAT SYSTEM REGULATING THE
7 INWARD AND OUTWARD FLOW OF WATER AND SEWAGE IN A RESIDENCE AND
8 INCLUDES, BUT IS NOT LIMITED TO, WATER HEATERS, FIXTURES,
9 FAUCETS, VALVES, AND PIPES. PLUMBING DOES NOT INCLUDE WELLS,
10 SEPTIC SYSTEMS, WATER SOFTENERS, OR SUMP PUMPS UNLESS INCLUDED IN
11 WRITING IN THE CONTRACT FOR HOME INSPECTION SERVICES.

12 (K) "RESIDENCE" MEANS A BUILDING USED PRIMARILY FOR FAMILY
13 LIVING QUARTERS AND DESIGNED FOR OCCUPANCY OF NOT MORE THAN 4
14 FAMILIES IN SEPARATE LIVING QUARTERS.

15 (L) "STRUCTURE" MEANS THE WALLS, WINDOWS, DOORS, AND ROOF ON
16 THE EXTERIOR OF A RESIDENCE AND THE WALLS, CEILINGS, FLOORS,
17 WINDOWS, AND DOORS ON THE INTERIOR OF A RESIDENCE.

18 SEC. 1402. THERE IS CREATED A HOME INSPECTORS BOARD.

19 SEC. 1403. (1) BEGINNING THE EFFECTIVE DATE OF THE RULES
20 PROMULGATED BY THE DEPARTMENT UNDER SUBSECTION (2), AN INDIVIDUAL
21 SHALL NOT PROVIDE, OR OFFER TO PROVIDE, HOME INSPECTION SERVICES
22 UNLESS LICENSED UNDER THIS ARTICLE OR UNLESS THE INDIVIDUAL OR
23 SERVICES ARE EXEMPTED FROM LICENSURE UNDER THIS ARTICLE AS
24 DESCRIBED IN SECTION 1401(F)(i) OR (ii). AN INDIVIDUAL SHALL NOT
25 USE THE TERM "HOME INSPECTOR" OR ANY OTHER SIMILAR TITLE THAT
26 CONNOTES LICENSURE UNDER THIS ARTICLE.

27 (2) WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF THIS

1 ARTICLE, THE DEPARTMENT SHALL PROMULGATE RULES TO SET MINIMUM
2 STANDARDS FOR EDUCATION AND EXPERIENCE REGARDING ELIGIBILITY FOR
3 LICENSURE UNDER THIS ARTICLE. THE DEPARTMENT, IN CONSULTATION
4 WITH THE BOARD, MAY PROMULGATE RULES TO SET STANDARDS FOR
5 EXAMINATION OF APPLICANTS WHO DO NOT MEET THE EDUCATION AND
6 EXPERIENCE STANDARDS DESCRIBED IN THE RULES PROMULGATED UNDER
7 THIS SUBSECTION.

8 (3) THE DEPARTMENT SHALL LICENSE AN INDIVIDUAL AS A HOME
9 INSPECTOR IF THE INDIVIDUAL IS LICENSED OR OTHERWISE REGULATED IN
10 ANOTHER STATE THAT HAS SUBSTANTIALLY THE SAME STANDARDS FOR
11 LICENSURE AS THIS STATE, AS DETERMINED BY THE BOARD, AND THAT
12 OFFERS RECIPROCITY TO LICENSEES IN THIS STATE.

13 SEC. 1404. (1) BEGINNING THE EFFECTIVE DATE OF THIS ARTICLE,
14 AN INDIVIDUAL PROVIDING OR OFFERING TO PROVIDE HOME INSPECTION
15 SERVICES SHALL COMPLY WITH THE REQUIREMENTS OF THIS SECTION AND
16 SECTION 1405.

17 (2) A HOME INSPECTOR WHO ENTERS INTO A CONTRACT FOR HOME
18 INSPECTION SERVICES THAT IS NOT IN CONFORMANCE WITH THIS ARTICLE
19 IS SUBJECT TO AN ACTION FOR DAMAGES BROUGHT BY THE CLIENT OR
20 SUSPENSION OR REVOCATION OF HIS OR HER LICENSE, OR BOTH.

21 (3) A HOME INSPECTOR SHALL INSPECT THOSE MAJOR SYSTEMS AND
22 ACCESSORIES OF A RESIDENCE THAT ARE THE SUBJECT OF A CONTRACT FOR
23 HOME INSPECTION SERVICES ONLY TO THE EXTENT THAT THOSE MAJOR
24 SYSTEMS AND ACCESSORIES ARE READILY ACCESSIBLE AND VISIBLE TO THE
25 HOME INSPECTOR. A HOME INSPECTOR SHALL INDICATE IN WRITING ANY
26 ACCESSORY OR MAJOR SYSTEM, OR ANY PART OF AN ACCESSORY OR MAJOR
27 SYSTEM, THAT WAS NOT ABLE TO BE INSPECTED AND THE REASONS FOR THE

1 INABILITY TO INSPECT.

2 (4) A HOME INSPECTOR WHO INSPECTS A RESIDENCE SHALL NOT
3 REPAIR OR OFFER TO REPAIR A RESIDENCE THAT WAS THE SUBJECT OF
4 HOME INSPECTION SERVICES PROVIDED BY THAT HOME INSPECTOR UNLESS
5 THE REPAIR IS PURSUANT TO A HOME WARRANTY PROVIDED BY THE HOME
6 INSPECTOR.

7 (5) THE HOME INSPECTOR SHALL DISCLOSE WHETHER HE OR SHE, AN
8 EMPLOYEE OR AGENT, OR AN IMMEDIATE FAMILY MEMBER HAS AN OWNERSHIP
9 INTEREST IN THE RESIDENCE BEING INSPECTED.

10 (6) A HOME INSPECTOR SHALL DISCLOSE WHETHER HE OR SHE, AN
11 EMPLOYEE OR AGENT, OR AN IMMEDIATE FAMILY MEMBER IS A MEMBER OF A
12 BOARD OF DIRECTORS OF, OR AN OFFICER OF, AN ENTITY THAT HAS AN
13 OWNERSHIP INTEREST IN THE RESIDENCE BEING INSPECTED.

14 (7) A HOME INSPECTOR SHALL FURNISH TO THE CLIENT A DOCUMENT
15 ENTITLED "DISCLOSURE STATEMENT", WHICH SHALL BE PRESENTED AT THE
16 TIME THE WRITTEN HOME INSPECTION REPORT IS CONVEYED TO THE CLIENT
17 AND SHALL CONTAIN, AT A MINIMUM, BOTH OF THE FOLLOWING:

18 (A) THE SCOPE OF THE HOME INSPECTION SERVICES WITH A
19 DETAILED DESCRIPTION OF THE MAJOR SYSTEMS AND ACCESSORIES TO BE
20 INSPECTED, THE TYPE OF MAJOR DEFICIENCIES THE HOME INSPECTION IS
21 DESIGNED TO REVEAL, AND ITEMS THAT ARE EXCLUDED FROM COVERAGE
22 UNDER THE CONTRACT OF HOME INSPECTION SERVICES.

23 (B) A STATEMENT THAT A HOME INSPECTOR INSPECTING A
24 PARTICULAR RESIDENCE SHALL NOT REPAIR OR OFFER TO REPAIR A
25 RESIDENCE THAT WAS THE SUBJECT OF HOME INSPECTION SERVICES
26 PROVIDED BY THAT HOME INSPECTOR UNLESS THE REPAIR IS PURSUANT TO
27 A HOME WARRANTY PROVIDED BY THE HOME INSPECTOR.

1 SEC. 1405. (1) A CONTRACT FOR HOME INSPECTION SERVICES SHALL
2 BE IN WRITING, EXECUTED BY THE HOME INSPECTOR AND EITHER THE
3 CLIENT OR THE CLIENT'S AGENT, AND IN CONFORMANCE WITH SUBSECTION
4 (4). A COPY OF THE EXECUTED CONTRACT FOR HOME INSPECTION SERVICES
5 SHALL BE PROVIDED TO THE CLIENT AT THE TIME OF ITS EXECUTION.

6 (2) ALL TERMS OF THE CONTRACT FOR HOME INSPECTION SERVICES
7 SHALL BE CONTAINED IN THE WRITTEN CONTRACT EXCEPT THAT CONDITIONS
8 OF THE RESIDENCE AFFECTING THE HOME INSPECTOR'S ABILITY TO
9 CONDUCT A HOME INSPECTION SHALL BE NOTED IN A SEPARATE DOCUMENT
10 ATTACHED TO THE CONTRACT. ANY CHANGES OR MODIFICATIONS OF THE
11 TERMS OF THE CONTRACT FOR HOME INSPECTION SERVICES SHALL BE
12 REDUCED TO WRITING.

13 (3) UNLESS OTHERWISE INDICATED IN WRITING, THE PURCHASER OF
14 A RESIDENCE BEING INSPECTED IS CONSIDERED THE CLIENT IN THE CASE
15 OF A HOME INSPECTION CONDUCTED AS PART OF A SALE OF THE
16 RESIDENCE.

17 (4) THE FOLLOWING SHALL BE CONTAINED IN A CONTRACT FOR HOME
18 INSPECTION SERVICES:

19 (A) A DESCRIPTION OF THE HOME INSPECTION SERVICES TO BE
20 PROVIDED.

21 (B) ANY DISCLAIMERS INCLUDING, BUT NOT LIMITED TO, THE
22 ABSENCE OF ANY WARRANTIES AS TO THE ADEQUACY OF FUTURE
23 PERFORMANCE OF A MAJOR SYSTEM OR ACCESSORY AND THE FACT THAT THE
24 HOME INSPECTION IS CONSIDERED A VALID ASSESSMENT OF THE CONDITION
25 OF THE RESIDENCE ONLY AS OF THE DATE THE HOME INSPECTION WAS
26 CONDUCTED.

27 (C) ANY EXCLUSION OF DEFECTS NOT REASONABLY APPARENT BY

1 VISUAL INSPECTION.

2 (D) ANY EXCLUSION OF ANY MAJOR SYSTEM OR ACCESSORY NOT
3 OPERABLE AT THE TIME OF THE CONDUCT OF THE HOME INSPECTION.

4 (5) AFTER PERFORMING HOME INSPECTION SERVICES, A HOME
5 INSPECTOR SHALL PROVIDE TO THE CLIENT A WRITTEN HOME INSPECTION
6 REPORT CONTAINING THE RESULTS OF THE HOME INSPECTION. THE HOME
7 INSPECTION REPORT SHALL INCLUDE A LIST OF THE MAJOR SYSTEMS OR
8 ACCESSORIES INSPECTED AND ANY MAJOR SYSTEMS OR ACCESSORIES NOT
9 INSPECTED. THE HOME INSPECTOR SHALL LIST IN THE REPORT ANY
10 CONDITIONS AFFECTING OR LIMITING THE ABILITY OF THE HOME
11 INSPECTOR TO PROVIDE HOME INSPECTION SERVICES PURSUANT TO THE
12 CONTRACT.

13 (6) THE HOME INSPECTION REPORT SHALL INCLUDE THE FOLLOWING
14 STATEMENTS:

15 (A) THAT DEFECTS NOT REASONABLY APPARENT BY VISUAL
16 INSPECTION ARE EXCLUDED.

17 (B) THAT A MAJOR SYSTEM OR ACCESSORY NOT OPERABLE AT THE
18 TIME OF THE CONDUCT OF THE HOME INSPECTION IS EXCLUDED.

19 (7) THE HOME INSPECTOR SHALL INDICATE IN THE WRITTEN HOME
20 INSPECTION REPORT THE FACT THAT THE HOME INSPECTION IS CONSIDERED
21 A VALID ASSESSMENT OF THE CONDITION OF THE RESIDENCE ONLY AS OF
22 THE DATE THE HOME INSPECTION WAS CONDUCTED.

23 (8) A HOME INSPECTOR SHALL RETAIN A COPY OF THE CONTRACT FOR
24 HOME INSPECTION SERVICES AND THE WRITTEN HOME INSPECTION REPORT
25 FOR AT LEAST 3 YEARS AFTER THE DATE OF THE REPORT.

26 SEC. 1406. (1) A CLIENT SUFFERING DAMAGES DUE TO A VIOLATION
27 OF THIS ARTICLE MAY BRING AN ACTION FOR DAMAGES IN A COURT OF

1 COMPETENT JURISDICTION.

2 (2) THE REMEDIES UNDER THIS ARTICLE ARE CUMULATIVE AND THE
3 USE OF 1 REMEDY DOES NOT BAR THE USE OF ANY OTHER REMEDY PROVIDED
4 BY LAW.

5 Enacting section 1. This amendatory act does not take
6 effect unless Senate Bill No.____ or House Bill No. 4077(request
7 no. 00658'05 a) of the 93rd Legislature is enacted into law.

8 Enacting section 2. This amendatory act takes effect
9 October 1, 2005.