

SENATE BILL No. 826

October 19, 2005, Introduced by Senators BASHAM, LELAND, CLARKE, JACOBS, SCOTT, OLSHOVE, CLARK-COLEMAN, CHERRY, EMERSON and BRATER and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending sections 601, 602, 605, 2404, 2405, 2411, and 2412 (MCL 339.601, 339.602, 339.605, 339.2404, 339.2405, 339.2411, and 339.2412), section 601 as amended by 1998 PA 250, section 602 as amended by 1981 PA 83, section 2404 as amended by 1988 PA 463, and sections 2411 and 2412 as amended by 2001 PA 113, and by adding section 606.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 601. (1) A person shall not engage in or attempt to
2 engage in the practice of an occupation regulated under this act or
3 use a title designated in this act unless the person possesses a

1 license or registration issued by the department for the
2 occupation.

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

7 (3) A person, school, or institution ~~which~~ **THAT** violates
8 subsection (1) or (2) is guilty of a misdemeanor ~~—~~ punishable by
9 a fine of not more than ~~—\$500.00—~~ **\$2,000.00** or imprisonment for
10 not more than ~~—90—~~ **93** days, or both.

11 (4) A person, school, or institution ~~which~~ **THAT** violates
12 subsection (1) or (2) a second or any subsequent time is guilty of
13 a misdemeanor ~~—~~ punishable, except as provided in section 735, by
14 a fine of not more than ~~—\$1,000.00—~~ **\$5,000.00** or imprisonment for
15 not more than 1 year, or both.

16 (5) Notwithstanding the existence and pursuit of any other
17 remedy, an affected person may maintain injunctive action to
18 restrain or prevent a person from violating subsection (1) or (2).
19 If successful in obtaining injunctive relief, the affected person
20 shall be entitled to actual costs and attorney fees. **AN AFFECTED**
21 **PERSON MAY ALSO BRING AN ACTION FOR A CIVIL VIOLATION IN A COURT OF**
22 **COMPETENT JURISDICTION AGAINST A PERSON NOT REGISTERED OR LICENSED**
23 **UNDER THIS ACT THAT HAS VIOLATED SUBSECTION (1) OR (2). IF THE**
24 **AFFECTED PERSON PREVAILS IN SUCH AN ACTION, THE COURT SHALL ASSESS**
25 **A CIVIL FINE, TO BE PAID TO THE DEPARTMENT, ATTORNEY GENERAL,**
26 **COUNTY PROSECUTOR, OR ATTORNEY REPRESENTING A LOCAL UNIT OF**
27 **GOVERNMENT, OF NOT LESS THAN \$5,000.00 AND NOT MORE THAN**

1 \$50,000.00.

2 (6) ~~Nothing in this~~ **THIS** act ~~shall~~ **DOES NOT** apply to a
3 person engaging in or practicing the following:

4 (a) Interior design.

5 (b) Building design.

6 (c) Any activity for which the person is licensed under ~~1929~~

7 ~~PA 266, MCL 338.901 to 338.917~~ **THE STATE PLUMBING ACT, 2002 PA**

8 **733, MCL 338.3511 TO 338.3569.**

9 (d) Any activity for which the person is licensed under the
10 Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to
11 338.988.

12 (e) Any activity for which the person is licensed under the
13 electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892.

14 (7) As used in subsection (5), "affected person" means a
15 person directly affected by the actions of a person suspected of
16 violating subsection (1) or (2) and includes, but is not limited
17 to, a board established pursuant to this act, **THE DEPARTMENT**, a
18 person who has utilized the services of the person engaging in or
19 attempting to engage in an occupation regulated under this act or
20 using a title designated by this act without being licensed or
21 registered by the department, or a private association composed
22 primarily of members of the occupation in which the person is
23 engaging in or attempting to engage in or in which the person is
24 using a title designated under this act without being registered or
25 licensed by the department.

26 ~~——(8)——~~ An investigation may be conducted under article ~~6~~ **5** to
27 enforce this section. A person who violates this section shall be

1 subject to the strictures prescribed in this section and ~~section~~
2 **SECTIONS 506, 602, AND 606.**

3 **(8) THE DEPARTMENT, THE ATTORNEY GENERAL, A COUNTY PROSECUTOR,**
4 **AND AN ATTORNEY REPRESENTING A LOCAL UNIT OF GOVERNMENT MAY UTILIZE**
5 **FORFEITURE AS A REMEDY IN THE MANNER PROVIDED FOR IN SECTION 606.**

6 (9) The remedies under this section are independent and
7 cumulative. The use of 1 remedy by a person shall not bar the use
8 of other lawful remedies by that person or the use of a lawful
9 remedy by another person.

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

16 **(11) UPON ENTERING A CONVICTION UNDER SUBSECTION (1) OR (2), A**
17 **COURT ENTERING THE CONVICTION SHALL NOTIFY THE BUREAU OF COMMERCIAL**
18 **SERVICES AT THE DEPARTMENT.**

19 Sec. 602. (1) A person, school, or institution which violates
20 a section of this act or a rule or order promulgated or issued
21 under this act shall be assessed 1 or more of the following
22 penalties:

23 (a) Placement of a limitation on a license or certificate of
24 registration for an occupation regulated under articles 8 to 25.

25 (b) Suspension of a license or certificate of registration.

26 (c) Denial of a license, certificate of registration, or
27 renewal of a license or certificate of registration.

(d) Revocation of a license or certificate of registration.

(e) ~~—A—~~ **IN THE CASE OF A PERSON LICENSED OR REGISTERED UNDER THIS ACT, A** civil fine to be paid to the department, not to exceed \$10,000.00.

(f) Censure.

(g) Probation.

(2) ~~—(h)—A~~ **ANY VIOLATION OF THIS ACT SHALL INCLUDE A** requirement that restitution be made, **BASED UPON PROOFS SUBMITTED TO, AND THE FINDING MADE BY, THE TRIER OF FACT AND AS PROVIDED BY LAW.**

Sec. 605. (1) The department may bring any appropriate action, **INCLUDING MEDIATION OR OTHER ALTERNATIVE DISPUTE RESOLUTION,** in the name of the people of this state to carry out this act and to enforce this act **AGAINST A PERSON PRACTICING WITH OR WITHOUT A LICENSE.**

(2) If the attorney general considers it necessary, the attorney general shall intervene in and prosecute all cases arising under this act.

(3) **THIS SECTION DOES NOT PROHIBIT THE DEPARTMENT FROM BRINGING ANY CIVIL, CRIMINAL, OR ADMINISTRATIVE ACTION FOR THE ENFORCEMENT OF SECTION 601.**

(4) **THE DEPARTMENT HAS STANDING TO BRING AN ADMINISTRATIVE ACTION OR TO DIRECTLY BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION REGARDING UNLICENSED PRACTICE OF AN OCCUPATION.**

SEC. 606. THE DEPARTMENT, THE ATTORNEY GENERAL, A COUNTY PROSECUTOR, AND AN ATTORNEY REPRESENTING A LOCAL UNIT OF GOVERNMENT MAY UTILIZE THE FORFEITURE PROVISIONS OF CHAPTER 47 OF THE REVISED

1 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.4701 TO 600.4709, FOR
2 ITEMS SEIZED AND DETERMINED TO BE PROCEEDS OF A CRIME, SUBSTITUTED
3 PROCEEDS OF A CRIME, OR THE INSTRUMENTALITY OF A CRIME AS THOSE
4 TERMS ARE DEFINED UNDER SECTION 4701 OF THE REVISED JUDICATURE ACT
5 OF 1961, 1961 PA 236, MCL 600.4701.

6 Sec. 2404. (1) The department may require an applicant,
7 licensee, or each partner, trustee, director, officer, member, or
8 shareholder to submit evidence of good moral character and
9 financial stability. Before the issuance of a license, an applicant
10 shall submit any amount required to be paid under the construction
11 lien act, ~~Act No. 497 of the Public Acts of 1980, being sections~~
12 ~~570.1101 to 570.1305 of the Michigan Compiled Laws~~ 1980 PA 497,
13 MCL 570.1101 TO 570.1305.

14 (2) The department shall require an applicant for a license to
15 pass an examination establishing that the applicant has a fair
16 knowledge of the obligations of a residential builder or
17 residential maintenance and alteration contractor to the public and
18 the applicant's principal, and the statutes relating to the
19 applicant's licensure.

20 (3) The department, upon application, may issue a residential
21 maintenance and alteration contractor's license to an applicant
22 who, upon examination, qualifies for a license, which shall
23 authorize the licensee according to the applicant's qualifications,
24 crafts, and trades to engage in the activities of a residential
25 maintenance and alteration contractor. A license shall include the
26 following crafts and trades: carpentry; concrete; swimming pool
27 installation; waterproofing a basement; excavation; insulation

1 work; masonry work; painting and decorating; roofing; siding and
2 gutters; screen or storm sash installation; tile and marble work;
3 and house wrecking. The license shall specify the particular craft
4 or trade for which the licensee has qualified. This subsection
5 ~~shall~~ **DOES** not prohibit a specialty contractor from taking and
6 executing a contract involving the use of 2 or more crafts or
7 trades if the performance of the work in the craft or trade, other
8 than in which the person is licensed, is incidental and
9 supplemental to the performance of work in the craft for which the
10 specialty contractor is licensed.

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

17 (5) **BEGINNING THE LICENSE CYCLE AFTER THE EFFECTIVE DATE OF**
18 **THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE DEPARTMENT SHALL**
19 **ISSUE THE LICENSE OF A RESIDENTIAL BUILDER AND RESIDENTIAL**
20 **MAINTENANCE AND ALTERATION CONTRACTOR FOR A PERIOD OF 3 YEARS IN**
21 **DURATION.**

22 (6) **A LICENSEE SHALL, AS PART OF THE CONTRACT, PROVIDE A COPY**
23 **OF HIS OR HER INDIVIDUAL LICENSE AND ANY LICENSE ISSUED TO THAT**
24 **PERSON AS A QUALIFYING OFFICER OF ANOTHER ENTITY.**

25 Sec. 2405. (1) If a license is applied for by a corporation,
26 partnership, ~~or~~ association, **OR OTHER ENTITY**, the applicant shall
27 designate 1 of its officers, partners, members, or managing agent

1 as a qualifying officer who, upon taking and passing the
2 examination, and upon meeting all other requirements of this
3 article, ~~shall be~~ **IS** entitled to a license to act for the
4 corporation, partnership, ~~or~~ association, **OR OTHER ENTITY. THE**
5 **QUALIFYING OFFICER SHALL ALSO OBTAIN A LICENSE UNDER THIS ARTICLE**
6 **AS AN INDIVIDUAL.** The qualifying officer shall be responsible for
7 exercising the supervision or control of the building or
8 construction operations necessary to secure full compliance with
9 this article and the rules promulgated under this article. A
10 license shall not be issued to a corporation, partnership, ~~or~~
11 association, **OR OTHER ENTITY** unless each partner, trustee,
12 director, officer, member, and a person exercising control is at
13 least 18 years of age, and meets the requirements for a license
14 under this article other than those relating to knowledge and
15 experience. **IF AN INDIVIDUAL LICENSEE IS ALSO A QUALIFYING OFFICER,**
16 **THE INDIVIDUAL'S NAME AND LICENSE NUMBER SHALL BE LISTED ON ANY**
17 **LICENSE ISSUED TO THE INDIVIDUAL AS A QUALIFYING OFFICER.**

18 (2) The license of a corporation, partnership, **ASSOCIATION,** or
19 other ~~association~~ **ENTITY** shall be suspended when a license or
20 license application of a qualifying officer, partner, trustee,
21 director, officer, member, or a person exercising control of the
22 corporation, partnership, **ASSOCIATION,** or other ~~association~~
23 **ENTITY** is suspended, revoked, or denied. The suspension shall
24 remain in force until the board determines that the disability
25 created by the suspension, revocation, or denial has been removed.

26 (3) A suspension, revocation, or denial of a license of an
27 individual shall suspend, revoke, or deny any other license held or

1 applied for by that individual issued under this article. A
2 suspension, revocation, or denial of a license by the department
3 ~~may~~ **SHALL** suspend, revoke, or deny any other license held or
4 applied for under this article by the qualifying officer of a
5 corporation, partnership, **ASSOCIATION**, or other ~~association~~
6 **ENTITY** whose license is suspended, revoked, or denied.

7 (4) If the qualifying officer of a licensee ceases to be its
8 qualifying officer, the license is suspended. However, upon
9 request, the department may permit the license to remain in force
10 for a reasonable time to permit the qualification of a new
11 qualifying officer.

12 Sec. 2411. (1) A complaint filed under this section or article
13 5, or both, shall be made within 18 months after completion,
14 occupancy, or purchase, whichever occurs later, of a residential
15 structure or a combination of residential and commercial structure.

16 (2) A licensee, ~~or~~ applicant, **OR PERSON REQUIRED TO BE**
17 **LICENSED UNDER THIS ARTICLE** who commits 1 or more of the following,
18 **IF APPLICABLE**, shall be subject to the penalties set forth in
19 article 6:

20 (a) Abandonment without legal excuse of a contract,
21 construction project, or operation engaged in or undertaken by the
22 licensee.

23 (b) Diversion of funds or property received for prosecution or
24 completion of a specific construction project or operation, or for
25 a specified purpose in the prosecution or completion of a
26 construction project or operation, and the funds or property
27 application or use for any other construction project or operation,

1 obligation, or purposes.

2 (c) Failure to account for or remit money coming into the
3 person's possession which belongs to others.

4 (d) A willful departure from or disregard of plans or
5 specifications in a material respect and prejudicial to another,
6 without consent of the owner or an authorized representative and
7 without the consent of the person entitled to have the particular
8 construction project or operation completed in accordance with the
9 plans and specifications.

10 (e) A willful violation of the building laws of the state or
11 of a political subdivision of the state.

12 (f) In a **RESIDENTIAL** maintenance and alteration contract,
13 failure to furnish to a lender the purchaser's signed completion
14 certificate executed upon completion of the work to be performed
15 under the contract.

16 (g) If a licensed residential builder or licensed residential
17 maintenance and alteration contractor, failure to notify the
18 department within 10 days of a change in the control or direction
19 of the business of the licensee resulting from a change in the
20 licensee's partners, directors, officers, or trustees, or a change
21 in the control or direction of the business of the licensee
22 resulting from any other occurrence or event.

23 (h) Failure to deliver to the purchaser the entire agreement
24 of the parties including finance and any other charge arising out
25 of or incidental to the agreement when the agreement involves
26 repair, alteration, or addition to, subtraction from, improvement
27 of, wrecking of, or demolition of a residential structure or

1 combination of residential and commercial structure, or building of
2 a garage, or laying of concrete on residential property, or
3 manufacture, assembly, construction, sale, or distribution of a
4 residential or combination residential and commercial structure
5 which is prefabricated, preassembled, precut, packaged, or shell
6 housing.

7 (i) If a salesperson, failure to pay over immediately upon
8 receipt money received by the salesperson, in connection with a
9 transaction governed by this article to the residential builder or
10 residential maintenance and alteration contractor under whom the
11 salesperson is licensed.

12 (j) Aiding or abetting an unlicensed person to evade this
13 article, or knowingly combining or conspiring with, or acting as
14 agent, partner, or associate for an unlicensed person, or allowing
15 one's license to be used by an unlicensed person, or acting as or
16 being an ostensible licensed residential builder or licensed
17 residential maintenance and alteration contractor for an
18 undisclosed person who does or shall control or direct, or who may
19 have the right to control or direct, directly or indirectly, the
20 operations of a licensee.

21 (k) Acceptance of a commission, bonus, or other valuable
22 consideration by a salesperson for the sale of goods or the
23 performance of service specified in the article from a person other
24 than the residential builder or residential maintenance and
25 alteration contractor under whom the person is licensed.

26 (l) Becoming insolvent, filing a bankruptcy action, becoming
27 subject to a receivership, assigning for the benefit of creditors,

1 failing to satisfy judgments or liens, or failing to pay an
2 obligation as it becomes due in the ordinary course of business.

3 (m) Poor workmanship or workmanship not meeting the standards
4 of the custom or trade verified by a building code enforcement
5 official.

6 (3) The department shall suspend or revoke the license of a
7 person licensed under this article whose failure to pay a lien
8 claimant results in a payment being made from the homeowner
9 construction lien recovery fund pursuant to the construction lien
10 act, 1980 PA 497, MCL 570.1101 to 570.1305, regardless of whether
11 the person was performing services as a licensee under this
12 article; under the electrical administrative act, 1956 PA 217, MCL
13 338.881 to 338.892; or under ~~1929 PA 266, MCL 338.901 to 338.917~~
14 **THE STATE PLUMBING ACT, 2002 PA 733, MCL 338.3511 TO 338.3569**. The
15 department shall not renew a license or issue a new license until
16 the licensee has repaid in full to the fund the amount paid out
17 plus the costs of litigation and interest at the rate set by
18 section 6013 of the revised judicature act of 1961, 1961 PA 236,
19 MCL 600.6013.

20 (4) The department shall conduct a review upon notice that the
21 licensee has violated the asbestos abatement contractors licensing
22 act, 1986 PA 135, MCL 338.3101 to 338.3319. The department may
23 suspend or revoke that person's license for a knowing violation of
24 the asbestos abatement contractors licensing act, 1986 PA 135, MCL
25 338.3101 to 338.3319.

26 (5) Notwithstanding article 5, the following apply to
27 administrative proceedings regarding workmanship under subsection

1 (2) (m) :

2 (a) A complaint submitted by an owner shall describe in
3 writing to the department the factual basis for the allegation. The
4 homeowner shall send a copy of the initial complaint to the
5 licensee concurrent with the submission of the complaint to the
6 department.

7 (b) The department shall presume the innocence of the licensee
8 throughout the proceeding until the administrative law hearing
9 examiner finds otherwise in a determination of findings of fact and
10 conclusions of law under article 5. The licensee has the burden of
11 refuting evidence submitted by a person during the administrative
12 hearing. The licensee also has the burden of proof regarding the
13 reason deficiencies were not corrected.

14 (c) Upon receipt of a building inspection report issued to the
15 department by a state or local building enforcement official
16 authorized to do so under the Stille-DeRossett-Hale single state
17 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, which
18 report verifies or confirms the substance of the complaint, the
19 department shall send by certified mail a copy of the verified
20 complaint to ~~both the complainant and~~ the licensee. Failure of
21 the department to send a copy of the verified complaint within 30
22 days of receipt of the building inspection report prevents the
23 department from assessing a fine against the licensee under article
24 6 but does not prevent the department from pursuing restitution,
25 license suspension, or other remedies provided under this act.

26 (d) A licensee may contractually provide for an alternative
27 dispute resolution procedure to resolve complaints filed with the

1 department. The procedure shall be conducted by a neutral third
2 party for determining the rights and responsibilities of the
3 parties and shall be initiated by the licensee, who shall provide
4 notice of the initiation of the procedure to the complainant by
5 certified mail not less than 30 days before the commencement of
6 that procedure. The procedure shall be conducted at a location
7 mutually agreed to by the parties.

8 (e) The department shall not initiate a proceeding against a
9 licensee under this subsection in the case of a licensee who
10 contractually provides for an alternative dispute resolution
11 procedure that has not been utilized and completed unless it is
12 determined that the licensee has not complied with a decision or
13 order issued as a result of that alternative dispute resolution
14 procedure, that alternative dispute resolution procedure was not
15 fully completed within 90 days after the filing of the complaint
16 with the department, or an alternative dispute resolution procedure
17 meeting the requirements of subdivision (D) is not available to the
18 complainant.

19 (f) The complainant shall demonstrate that notice has been
20 provided to the licensee describing reasonable times and dates that
21 the residential structure was accessible for any needed repairs and
22 proof acceptable to the department that the repairs were not made
23 within 60 days after the sending of the notice. This subdivision
24 does not apply where the department determines a necessity to
25 safeguard the structure or to protect the occupant's health and
26 safety and, in such case, the department may utilize any remedy
27 available under section 504(3)(a) through (d).

1 (g) In the case where the owner and licensee have agreed
2 contractually on mutually acceptable performance guidelines
3 relating to workmanship, the department shall consider those
4 guidelines in its evaluation of a complaint. The guidelines shall
5 be consistent with the Stille-DeRossett-Hale single state
6 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

7 **(6) IN ANY CASE WHERE THE LICENSEE OR RESPONDENT FAILS TO**
8 **APPEAR, PARTICIPATE, OR DEFEND ANY ACTION, THE BOARD SHALL ISSUE AN**
9 **ORDER GRANTING BY DEFAULT THE RELIEF REQUESTED, WITH PREJUDICE.**

10 (7) ~~—(6)—~~ As used in this section, "verified complaint" means
11 a complaint in which all or a portion of the allegations have been
12 confirmed by the building inspection report.

13 Sec. 2412. **(1) IN ANY ACTION BROUGHT IN A COURT OF THIS STATE,**
14 **RESTITUTION SHALL BE ORDERED, BASED UPON PROOFS SUBMITTED TO, AND**
15 **THE FINDING MADE BY, THE COURT AND AS PROVIDED BY LAW.**

16 **(2) ~~—(1)—~~** A person or qualifying officer for a corporation or
17 member of a residential builder or residential maintenance and
18 alteration contractor shall not bring or maintain an action in a
19 court of this state for the collection of compensation for the
20 performance of an act or contract for which a license is required
21 by this article without alleging and proving that the person was
22 licensed under this article during the performance of the act or
23 contract.

24 **(3) ~~—(2)—~~** Failure of the person bringing a complaint against a
25 licensee to utilize a contractually provided alternative dispute
26 resolution procedure shall be an affirmative defense to an action
27 brought in a court of this state against a licensee under this

1 article.

2 (4) A PERSON OR QUALIFYING OFFICER FOR A CORPORATION OR A
3 MEMBER OF A RESIDENTIAL BUILDER OR RESIDENTIAL MAINTENANCE AND
4 ALTERATION CONTRACTOR SHALL NOT IMPOSE OR TAKE ANY LEGAL OR OTHER
5 ACTION TO IMPOSE A LIEN ON REAL PROPERTY UNLESS THAT PERSON WAS
6 LICENSED UNDER THIS ARTICLE DURING THE PERFORMANCE OF THE ACT OR
7 CONTRACT.

8 (5) AN UNLICENSED PERSON WHO COMMITS ANY OF THE FOLLOWING ACTS
9 IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN
10 \$5,000.00 OR IMPRISONMENT FOR NOT MORE THAN 93 DAYS, OR BOTH:

11 (A) DIVERSION OF FUNDS OR PROPERTY RECEIVED FOR PROSECUTION OR
12 COMPLETION OF A SPECIFIC CONSTRUCTION PROJECT OR OPERATION, OR FOR
13 A SPECIFIED PURPOSE IN THE PROSECUTION OR COMPLETION OF A
14 CONSTRUCTION PROJECT OR OPERATION, AND THE FUNDS OR PROPERTY
15 APPLICATION OR USE FOR ANY OTHER CONSTRUCTION PROJECT OR OPERATION,
16 OBLIGATION, OR PURPOSES.

17 (B) FAILURE TO ACCOUNT FOR OR REMIT MONEY COMING INTO THE
18 PERSON'S POSSESSION WHICH BELONGS TO OTHERS.

19 (C) A WILLFUL DEPARTURE FROM OR DISREGARD OF PLANS OR
20 SPECIFICATIONS IN A MATERIAL RESPECT AND PREJUDICIAL TO ANOTHER,
21 WITHOUT CONSENT OF THE OWNER OR AN AUTHORIZED REPRESENTATIVE AND
22 WITHOUT THE CONSENT OF THE PERSON ENTITLED TO HAVE THE PARTICULAR
23 CONSTRUCTION PROJECT OR OPERATION COMPLETED IN ACCORDANCE WITH THE
24 PLANS AND SPECIFICATIONS.

25 (D) A WILLFUL VIOLATION OF THE BUILDING LAWS OF THE STATE OR
26 OF A POLITICAL SUBDIVISION OF THE STATE.

27 (E) IN A MAINTENANCE AND ALTERATION CONTRACT, FAILURE TO

1 FURNISH TO A LENDER THE PURCHASER'S SIGNED COMPLETION CERTIFICATE
2 EXECUTED UPON COMPLETION OF THE WORK TO BE PERFORMED UNDER THE
3 CONTRACT.

4 (F) FAILURE TO DELIVER TO THE PURCHASER THE ENTIRE AGREEMENT
5 OF THE PARTIES INCLUDING FINANCE AND ANY OTHER CHARGE ARISING OUT
6 OF OR INCIDENTAL TO THE AGREEMENT WHEN THE AGREEMENT INVOLVES
7 REPAIR, ALTERATION, OR ADDITION TO, SUBTRACTION FROM, IMPROVEMENT
8 OF, WRECKING OF, OR DEMOLITION OF A RESIDENTIAL STRUCTURE OR
9 COMBINATION OF RESIDENTIAL AND COMMERCIAL STRUCTURE, OR BUILDING OF
10 A GARAGE, OR LAYING OF CONCRETE ON RESIDENTIAL PROPERTY, OR
11 MANUFACTURE, ASSEMBLY, CONSTRUCTION, SALE, OR DISTRIBUTION OF A
12 RESIDENTIAL OR COMBINATION RESIDENTIAL AND COMMERCIAL STRUCTURE
13 WHICH IS PREFABRICATED, PREASSEMBLED, PRECUT, PACKAGED, OR SHELL
14 HOUSING.

15 (G) ACCEPTANCE OF A COMMISSION, BONUS, OR OTHER VALUABLE
16 CONSIDERATION BY A SALESPERSON FOR THE SALE OF GOODS OR THE
17 PERFORMANCE OF SERVICE SPECIFIED IN THE ARTICLE FROM A PERSON OTHER
18 THAN THE RESIDENTIAL BUILDER OR RESIDENTIAL MAINTENANCE AND
19 ALTERATION CONTRACTOR UNDER WHOM THE PERSON IS LICENSED.

20 (H) POOR WORKMANSHIP OR WORKMANSHIP NOT MEETING THE STANDARDS
21 OF THE CUSTOM OR TRADE VERIFIED BY A BUILDING CODE ENFORCEMENT
22 OFFICIAL.

23 (6) A PERSON WHO SUFFERS DAMAGES AS A RESULT OF A VIOLATION OF
24 SUBSECTION (5) BY AN UNLICENSED PERSON HAS A CAUSE OF ACTION FOR
25 DAMAGES. THE ACTION SHALL BE BROUGHT IN A COURT OF COMPETENT
26 JURISDICTION.

27 Enacting section 1. This amendatory act does not take effect

1 unless all of the following bills of the 93rd Legislature are
2 enacted into law:

3 (a) Senate Bill No. 827.

4

5 (b) Senate Bill No. 828.

6