

**SUBSTITUTE FOR
SENATE BILL NO. 312**

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending sections 103, 104, 105, 213, and 2404b (MCL 339.103,
339.104, 339.105, 339.213, and 339.2404b), section 103 as amended
by 1994 PA 257, section 104 as amended by 2020 PA 372, section 105
as amended by 2016 PA 502, section 213 as amended by 2014 PA 149,
and section 2404b as amended by 2014 PA 175, and by adding section
217.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 103. (1) "Armed forces" means the United States Army, Air
2 Force, Navy, Marine Corps, Space Force, or Coast Guard or other
3 military force designated by Congress as a part of the Armed Forces
4 of the United States, including the reserve components.

1 (2) ~~(1)~~ "Board" means, in each article ~~which~~ **that** deals with a
2 specific occupation, the agency created in that article composed
3 principally of members of the regulated occupation. In all other
4 contexts, board means each agency created under this act.

5 (3) ~~(2)~~ "Censure" means an expression of disapproval of a
6 licensee's or registrant's professional conduct, which conduct is
7 not necessarily a violation of this act or a rule promulgated or an
8 order issued under this act.

9 (4) ~~(3)~~ "Competence" means a degree of expertise ~~which~~ **that**
10 enables a person to engage in an occupation at a level ~~which~~ **that**
11 meets or exceeds minimal standards of acceptable practice for the
12 occupation.

13 (5) ~~(4)~~ "Complaint" means an oral or written grievance.

14 (6) ~~(5)~~ "Controlled substance" means a drug, substance, or
15 immediate precursor as set forth in section 7212, 7214, 7216, 7218,
16 or 7220 of the public health code, ~~Act No. 368 of the Public Acts~~
17 ~~of 1978, being sections~~ **1978 PA 368, MCL 333.7212, 333.7214,**
18 **333.7216, 333.7218, and 333.7220, of the Michigan Compiled Laws,**
19 ~~not excluded pursuant to~~ **under** section 7227 of Act No. ~~368 of the~~
20 ~~Public Acts of 1978, being section~~ **the public health code, 1978 PA**
21 **368, MCL 333.7227. of the Michigan Compiled Laws.**

22 Sec. 104. (1) "Department" means the department of licensing
23 and regulatory affairs.

24 (2) **"Dependent" means a spouse, surviving spouse, child under**
25 **26 years of age, or surviving child under 26 years of age.**

26 (3) ~~(2)~~ "Director" means the director of the department or his
27 or her authorized representative.

28 (4) ~~(3)~~ "Disability" means an infirmity that prevents a board
29 member from performing a duty assigned to the board member.

1 (5) ~~(4)~~—"Files" means the records, memoranda, opinions,
2 minutes, and similar written materials that were formerly in the
3 physical dominion of a board abolished by this act and the records,
4 memoranda, opinions, minutes, and similar written materials of a
5 board created under this act.

6 (6) ~~(5)~~—"Formal complaint" means a document that states the
7 charges of each alleged violation and is prepared by the department
8 or the department of attorney general after a complaint is received
9 by the department.

10 (7) ~~(6)~~—"General public" means each individual residing in
11 this state who is 18 years of age or older, other than an
12 individual or the spouse of an individual who is licensed or
13 registered in the occupation or who has a material financial
14 interest in the occupation regulated under the specific article in
15 which the term is used.

16 (8) ~~(7)~~—"Good moral character" means ~~good moral character~~ **that**
17 **term** as defined in, and determined under, 1974 PA 381, MCL 338.41
18 to 338.47.

19 (9) ~~(8)~~—"Incompetence" means a departure from, or a failure to
20 conform to, minimal standards of acceptable practice for an
21 occupation.

22 (10) ~~(9)~~—"Knowledge and skill" means the information,
23 education, practical experience, and the facility in applying that
24 information, education, and practical experience.

25 Sec. 105. (1) "License" means the document issued to a person
26 under this act that enables the person to use a designated title
27 and practice an occupation, which practice would otherwise be
28 prohibited by this act. License includes a document issued by the
29 department that permits a school, institution, or person to offer

1 training or education in an occupation or that permits the
2 operation of a facility, establishment, or institution in which an
3 occupation is practiced. License includes a permit or approval.

4 (2) "Licensee" means ~~any~~**either** of the following, as
5 applicable:

6 (a) In articles 1 to 6, a person that is licensed or required
7 to be licensed under this act.

8 (b) In a specific article of this act, a person that is
9 licensed or required to be licensed under that article.

10 (3) "Limitation" means a condition, stricture, constraint,
11 restriction, or probation attached to a license or registration
12 relative to the scope of practice, including the following:

13 (a) A requirement that the licensee or registrant perform only
14 specified functions of the licensee's or registrant's occupation.

15 (b) A requirement that the licensee or registrant perform the
16 licensee's or registrant's occupation only for a specified period
17 of time.

18 (c) A requirement that the licensee or registrant perform the
19 licensee's or registrant's occupation only within a specified
20 geographical area.

21 (d) A requirement that restitution be made or certain work be
22 performed before a license or registration is issued, renewed, or
23 reinstated.

24 (e) A requirement that a financial statement certified by an
25 individual who is licensed as a certified public accountant be
26 filed with the department at regular intervals.

27 (f) A requirement that reasonably ~~assures~~**ensures** a licensee's
28 or registrant's competence to perform the licensee's or
29 registrant's occupation.

1 (g) A requirement that an attorney review all contracts of a
2 licensee or registrant.

3 (h) A requirement that a licensee or registrant have on file
4 with the department a bond that is issued by a surety insurer
5 approved by the department or cash in an amount determined by the
6 department.

7 (i) A requirement that a licensee or registrant deposit money
8 received in an escrow account ~~which~~**that** can be disbursed only
9 under certain conditions as determined by the licensee or
10 registrant and another party.

11 (j) A requirement that a licensee or registrant file reports
12 with the department at intervals determined by the department.

13 (4) "Occupation" means a field of endeavor regulated under
14 this act.

15 (5) "Person" means any of the following:

16 (a) An individual.

17 (b) A sole proprietorship, partnership, association,
18 corporation, limited liability company, or common law trust.

19 (c) A combination of persons described in subdivision (a) or
20 (b).

21 (d) A department, board, school, institution, establishment,
22 or governmental entity.

23 (6) "Physical dominion" means control and possession.

24 (7) "Physician" means that term as defined in sections 17001
25 and 17501 of the public health code, 1978 PA 368, MCL 333.17001 and
26 333.17501.

27 (8) "Probation" means a sanction that permits a board to
28 evaluate over a period of time a licensee's or registrant's fitness
29 to practice an occupation regulated under this act.

1 (9) "Public access" means the right of a person to view and
2 copy files under the freedom of information act, 1976 PA 442, MCL
3 15.231 to 15.246.

4 (10) "Registrant" means a person that is registered under this
5 act.

6 (11) "Registration" means the document issued to a person
7 under this act that enables the person to use a designated title,
8 which use would be otherwise prohibited by this act.

9 (12) "Rule" means a rule promulgated under this act and under
10 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
11 to 24.328.

12 (13) "State" means the District of Columbia or a commonwealth,
13 state, or territory of the United States.

14 (14) **"Uniformed services" means the Commissioned Corps of the**
15 **United States Public Health Service and the National Oceanic and**
16 **Atmospheric Administration Commissioned Officer Corps.**

17 (15) **"Veteran" means that term as defined in section 1 of 1965**
18 **PA 190, MCL 35.61.**

19 Sec. 213. (1) If a person has not previously been denied a
20 license or a certificate of registration or had a license or a
21 certificate of registration revoked or suspended, the department
22 may grant a nonrenewable temporary license or certificate of
23 registration to an applicant for licensure or registration or
24 transfer of licensure or registration under any of articles 7 to
25 ~~29.~~**26a.** If approved by a board, a temporary license or certificate
26 of registration issued under this subsection is valid until 1 or
27 more of the following occurs:

28 (a) The results of the next scheduled examination are
29 available.

1 (b) The results of the next required evaluation procedure are
2 available.

3 (c) A license or certificate of registration is issued.

4 (d) The next examination date of an examination for licensure
5 or registration in the applicable occupation, if the applicant does
6 not take the examination.

7 (e) The applicant fails to meet the requirements for a license
8 or certificate of registration.

9 (f) A change in employment is made.

10 (2) In addition to a temporary license or certificate of
11 registration under subsection (1), beginning ~~90 days after the~~
12 ~~effective date of the amendatory act that added this subsection,~~
13 **September 9, 2014**, the department shall grant a temporary license
14 or certificate of registration for an occupation under this act to
15 an applicant who meets ~~all~~**both** of the following:

16 (a) He or she provides proof acceptable to the department that
17 he or she is ~~married to~~**a dependent of** a member of the armed
18 forces, ~~who is on active duty. As used in this subdivision, "armed~~
19 ~~forces" means that term as defined in section 2 of the veteran~~
20 ~~right to employment services act, 1994 PA 39, MCL 35.1092.a~~
21 **dependent of a member of the uniformed services, or a dependent of**
22 **a veteran.**

23 (b) He or she provides proof acceptable to the department that
24 he or she holds a current license in good standing, or a current
25 registration in good standing, in that occupation, issued by an
26 equivalent licensing department, board, or authority, as determined
27 by the department, **in consultation with the board**, in another state
28 of the United States, ~~the District of Columbia, Puerto Rico, the~~
29 ~~United States Virgin Islands, another territory or protectorate of~~

1 ~~the United States,~~ or a foreign country.

2 ~~(c) He or she provides proof acceptable to the department that~~
3 ~~his or her spouse is assigned to a duty station in this state and~~
4 ~~that he or she is also assigned to a duty station in this state~~
5 ~~under his or her spouse's permanent change of station orders.~~

6 (3) A temporary license or registration issued under
7 subsection (2) is valid for 6 months and may be renewed for 1
8 additional 6-month term if the department determines the temporary
9 licensee or registrant continues to meet the requirements of
10 subsection (2) and needs additional time to fulfill the
11 requirements for initial licensure or registration in this state.
12 The department may place a limitation on a temporary license or
13 certificate of registration granted under this section.

14 **Sec. 217. (1) Subject to subsection (2), the department shall**
15 **issue a license or a certificate of registration for an occupation**
16 **under this act without examination to an individual who**
17 **demonstrates to the satisfaction of the department that he or she**
18 **meets all of the following at the time of application:**

19 (a) Provides proof that the individual is 1 of the following:

20 (i) A member of the armed forces or uniformed services.

21 (ii) A veteran.

22 (iii) A dependent of a member of the armed forces, a member of
23 the uniformed services, or a veteran.

24 (b) Holds a valid license or registration in that occupation
25 from an equivalent licensing department, board, or authority, as
26 determined by the department, in at least 1 other state of the
27 United States. For each license or registration described in this
28 subdivision that he or she holds, all of the following must be met:

29 (i) The license or registration is in good standing and he or

1 she has held that license or registration for at least 1 year.

2 (ii) There were minimum education requirements and, if
3 applicable, work experience requirements in effect for licensure or
4 registration in the other state, and the other state verifies that
5 he or she met those requirements for licensure or registration in
6 that state.

7 (iii) If the other state required an examination for licensure
8 or registration, he or she passed the examination.

9 (iv) The requirements for licensure or registration in the
10 other state are substantially equivalent to or exceed the
11 requirements of this act and any rule promulgated under this act
12 for the license or registration.

13 (c) Has not had a license or registration revoked, and has not
14 voluntarily surrendered a license or registration, in any other
15 state of the United States or a foreign country while under
16 investigation for unprofessional conduct.

17 (d) Has not had discipline imposed by any equivalent licensing
18 department, board, or authority in another state of the United
19 States. If another state of the United States has taken
20 disciplinary action against the applicant, the department shall
21 determine if the cause for the action was corrected and the matter
22 resolved. If the matter has not been resolved by that other state,
23 the department shall not issue or deny a license or registration
24 until the matter is resolved.

25 (e) Does not have a complaint, allegation, or investigation
26 pending before an equivalent licensing department, board, or
27 authority in another state of the United States or a foreign
28 country that relates to unprofessional conduct. If the applicant
29 has any complaints, allegations, or investigations pending, the

1 department shall suspend the application process and shall not
 2 issue or deny a license or registration to the applicant until the
 3 complaint, allegation, or investigation is resolved.

4 (f) Pays all applicable fees.

5 (g) Is of good moral character.

6 (h) Meets the age requirement of that occupation under this
 7 act, if applicable.

8 (2) If the department determines that the issuance of a
 9 license or a certificate of registration under subsection (1) for
 10 an occupation under this act may result in a violation of a federal
 11 oversight or licensing guideline for that occupation, the
 12 department shall not issue a license or a certificate of
 13 registration.

14 (3) This section does not prevent the department from issuing
 15 a temporary license under section 213, a courtesy license under
 16 section 1806a, or issuing a license under section 726, 1108(2),
 17 1211, 1806(9), 2013, 2209, or 2623.

18 Sec. 2404b. (1) Beginning June 1, 2008, an applicant for
 19 initial licensure either as a residential builder or as a
 20 residential maintenance and alteration contractor must successfully
 21 complete the prelicensure course of study requirements under this
 22 subsection to obtain a license unless he or she is exempt from
 23 those requirements under this section. All of the following apply
 24 for purposes of this subsection:

25 (a) If an individual who holds a residential builder or a
 26 residential maintenance and alteration contractor license, or an
 27 individual who held a license as a qualifying officer of a licensed
 28 residential builder or residential maintenance and alteration
 29 contractor, on June 1, 2008 is renewing a license, he or she is

1 exempt from the requirement of successfully completing prelicensure
2 courses described in this subsection.

3 (b) If an individual is applying for a license or relicensure
4 as a residential builder or residential maintenance and alteration
5 contractor, he or she is exempt from the requirement of
6 successfully completing prelicensure courses described in this
7 subsection if all of the following are met:

8 (i) His or her application is submitted before the expiration
9 of the 18-month period beginning on ~~the effective date of the~~
10 ~~amendatory act that added this subdivision.~~ **September 16, 2014.**
11 This subdivision does not apply to applications that are submitted
12 after that 18-month period.

13 (ii) He or she held an individual license as a residential
14 builder or residential maintenance and alteration contractor, or
15 held a license as a qualifying officer of a licensed residential
16 builder or residential maintenance and alteration contractor, at
17 any time within the 9-year period preceding his or her application.

18 (c) Unless he or she is exempt under subdivision (a) or (b),
19 an applicant ~~shall~~ **must** not receive an initial license under this
20 act unless he or she successfully completed 60 hours of approved
21 prelicensure courses that include at least 6 hours of courses in
22 each of the following areas of competency:

23 (i) Business management, estimating, and job costing.

24 (ii) Design and building science.

25 (iii) Contracts, liability, and risk management.

26 (iv) Marketing and sales.

27 (v) Project management and scheduling.

28 (vi) The current Michigan residential code.

29 (vii) Construction safety standards promulgated under the

1 Michigan occupational safety and health act, 1974 PA 154, MCL
2 408.1001 to 408.1094.

3 (2) All of the following apply to an individual license under
4 this article, as applicable:

5 (a) Subject to subdivision (b), if the individual licensee
6 obtained his or her initial license as a residential builder or a
7 residential maintenance and alteration contractor on or after
8 January 1, 2009, he or she must successfully complete at least 21
9 hours of activities that demonstrate continuing competence in each
10 3-year license cycle, including both of the following:

11 (i) At least 3 hours of activities that demonstrate continuing
12 competency in each calendar year, during the first 6 calendar years
13 of licensure.

14 (ii) At least 3 hours of activities designed to develop a
15 licensee's understanding and ability to apply state building codes
16 and laws relating to the licensed occupation, safety, and changes
17 in construction and business management laws.

18 (b) If an individual licensee described in subdivision (a) was
19 exempt from the prelicensure course requirements of subsection (1)
20 under subsection (1)(b) when he or she obtained his or her initial
21 license as a residential builder or residential maintenance and
22 alteration contractor, the hours of activities that he or she must
23 complete in the first year of his or her first 3-year license cycle
24 under subdivision (a) must include successful completion of at
25 least 1 hour of codes, 1 hour of safety, and 1 hour of legal issues
26 described in this subsection.

27 (c) If the licensee was initially licensed as a licensed
28 residential builder or residential maintenance and alteration
29 contractor, or held a license as a qualifying officer of a licensed

1 residential builder or residential maintenance and alteration
2 contractor, before January 1, 2009, he or she has held a license
3 for not more than two 3-year license cycles, and the department has
4 not taken disciplinary action against him or her for a violation of
5 this act or a rule promulgated under this act, he or she must
6 successfully complete at least 3 hours of activities that
7 demonstrate continuing competency in each 3-year license cycle that
8 includes at least 1 hour of codes, 1 hour of safety, and 1 hour of
9 legal issues described in this subsection.

10 (d) If the licensee has held a license for more than two 3-
11 year license cycles, and the department has not taken disciplinary
12 action against him or her for a violation of this act or a rule
13 promulgated under this act, he or she must successfully complete at
14 least 3 hours of activities demonstrating continuing competency in
15 each license cycle that includes 1 hour of codes, 1 hour of safety,
16 and 1 hour of legal issues as described in this subsection.

17 (3) In addition to the requirements of subsection (2), if the
18 department has taken disciplinary action against a licensee for a
19 violation of this act or a rule promulgated under this act, the
20 licensee must successfully complete, during the next complete
21 license cycle, at least 3 and not more than 21 hours of activities
22 that demonstrate the development of continuing competency during
23 that next license cycle as determined appropriate by order of the
24 department. At least 3 hours of the continuing competency must
25 include 1 hour of codes, 1 hour of safety, and 1 hour of legal
26 issues as described in subsection (2).

27 (4) Any construction code update courses approved by the
28 bureau of construction codes and any fire safety or workplace
29 safety courses approved or sponsored by the department are also

1 considered appropriate for fulfilling the continuing competency
2 requirements of this section. The department may, by rule, amend,
3 supplement, update, substitute, or determine equivalency regarding
4 any courses or alternate activities for developing continuing
5 competency described in this section.

6 (5) The subject matter of the prelicensure and continuing
7 competency activities required under this section may be offered by
8 a high school, an intermediate school district, a community
9 college, a university, the bureau of construction codes, the
10 Michigan occupational safety and health administration, a trade
11 association, or any other proprietary school that is licensed by
12 the department.

13 (6) The department shall promulgate rules to provide for the
14 following:

15 (a) Requirements other than those listed in subsection (4) for
16 determining that a course meets the minimum criteria for developing
17 and maintaining continuing competency.

18 (b) Requirements for acceptable courses offered at seminars
19 and conventions by trade associations, research institutes, risk
20 management entities, manufacturers, suppliers, governmental
21 agencies other than those named in subsection (4), consulting
22 agencies, or other entities.

23 (c) Acceptable distance learning.

24 (d) Alternate forms of continuing competency, including
25 comprehensive testing, participation in mentoring programs,
26 research, participation in code hearings conducted by the
27 ~~international code council~~, **International Code Council**, and
28 publication of articles in trade journals or regional magazines as
29 an expert in the field. The alternate forms ~~shall~~**must** be designed

1 to maintain and improve the licensee's ability to perform the
 2 occupation with competence and ~~shall~~**must** prescribe proofs that are
 3 necessary to demonstrate that the licensee has fulfilled the
 4 requirements of continuing competency.

5 (7) Each licensee may select approved courses in his or her
 6 subject matter area or specialty. A licensee's service as a
 7 lecturer or discussion leader in an approved course ~~shall~~**must**
 8 count toward his or her continuing competency requirements under
 9 this section. Alternate forms of continuing competency may be
 10 earned and documented as promulgated in rules by the department.

11 (8) The department may audit a predetermined percentage of
 12 licensees who renew in a year for compliance with the requirements
 13 of this section. Failure to comply with the audit or the
 14 requirements ~~shall result~~**results** in the investigation of a
 15 complaint initiated by the department, and the licensee is subject
 16 to the penalties prescribed in this act.

17 (9) Before ~~the effective date of the amendatory act that added~~
 18 ~~subsection (10),~~ **September 16, 2014**, a licensed residential builder
 19 or residential alteration and maintenance contractor may apply for
 20 inactive status by completing an application, made available by the
 21 department, in which he or she declares that he or she is no longer
 22 actively engaged in the practice authorized by his or her license
 23 and temporarily intends to suspend activity authorized by his or
 24 her license. If a completed application is submitted, the
 25 department shall designate the licensee as inactive and note that
 26 status on records available to the public. A licensee who is
 27 designated as inactive must have a current copy of the Michigan
 28 residential code and is exempt from the continuing competency
 29 requirements imposed under this section, but must still pay the

1 per-year license fee. An inactive licensee may activate his or her
2 license by submitting an application to the department requesting
3 activation of the license. If the department activates an inactive
4 license, the licensee must complete at least 1 credit hour of
5 activities that demonstrate continuing competency for that calendar
6 year.

7 (10) An individual licensee who applied for and was designated
8 inactive under subsection (9) before ~~the effective date of this~~
9 ~~subsection~~ **September 16, 2014** may remain in inactive status after
10 that ~~effective date~~ by complying with the requirements of
11 subsection (9). A licensee who remains in inactive status after ~~the~~
12 ~~effective date of this subsection~~ **September 16, 2014** is exempt from
13 the continuing competency requirements of this section while he or
14 she remains in inactive status. A licensee may activate his or her
15 license by submitting an application to the department requesting
16 activation of the license. If his or her license is activated, the
17 licensee must complete at least 1 credit hour of activities that
18 demonstrate continuing competency for that calendar year.

19 (11) Subject to subsection (13), an applicant for initial
20 licensure as a residential builder or residential maintenance and
21 alteration contractor is exempt from the requirements of subsection
22 (1) if he or she meets all of the following:

23 (a) Served in the armed forces.

24 (b) While serving in the armed forces, was engaged in the
25 erection, construction, replacement, repair, alteration, or
26 demolition of buildings or other structures.

27 (c) Was separated from service in the armed forces, and
28 provides to the department a form DD214, form DD215, or any other
29 form that is satisfactory to the department that demonstrates that

1 he or she was separated from that service, with an honorable
2 character of service or under honorable conditions (general)
3 character of service.

4 (d) Has, and provides with his or her application an affidavit
5 signed by a commanding officer, supervisor, or military superior
6 with direct knowledge of the applicant's service that he or she
7 has, entry-level experience in or basic knowledge of each of the
8 areas of competency described in subsection ~~(1)(a) to (g)~~. **(1)(c)**.

9 (12) If an applicant who otherwise meets the requirements of
10 subsection (11) does not have entry-level experience in or basic
11 knowledge of each of the areas of competency described in
12 subsection ~~(1)(a) to (g)~~, **(1)(c)**, he or she may provide with his or
13 her application an affidavit signed by a commanding officer,
14 supervisor, or military superior with direct knowledge of the
15 applicant's service that states in which of those areas of
16 competency the applicant has entry-level experience or basic
17 knowledge, and the department may in its discretion grant the
18 applicant credit toward the 60-hour prelicensure education
19 requirement of subsection (1) based on that experience or
20 knowledge.

21 (13) If an applicant for initial licensure as a residential
22 builder or residential maintenance and alteration contractor
23 described in subsection (11) does not pass the examination for that
24 license the first time he or she takes the examination, that
25 applicant may not retake the examination until he or she
26 successfully completes a prelicensure course of study described in
27 subsection (1).

28 ~~(14) As used in the section, "armed forces" means that term as~~
29 ~~defined in section 2 of the veteran right to employment services~~

1 ~~act, 1994 PA 39, MCL 35.1092.~~

2 Enacting section 1. This amendatory act takes effect 90 days
3 after the date it is enacted into law.

4 Enacting section 2. This amendatory act does not take effect
5 unless all of the following bills of the 101st Legislature are
6 enacted into law:

7 (a) House Bill No. 4376.

8 (b) House Bill No. 4377.