

Act No. 6
Public Acts of 1990
Approved by the Governor
February 9, 1990
Filed with the Secretary of State
February 12, 1990

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Reps. Hickner, DeMars, Scott, Leland, Gubow, DeBeaussaert, Ciaramitaro, Berman, Gire, Randall and Emerson

ENROLLED HOUSE BILL No. 4226

AN ACT to amend section 2411 of Act No. 299 of the Public Acts of 1980, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of the department of licensing and regulation and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; and to repeal certain acts and parts of acts," as amended by Act No. 410 of the Public Acts of 1982, being section 339.2411 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 2411 of Act No. 299 of the Public Acts of 1980, as amended by Act No. 410 of the Public Acts of 1982, being section 339.2411 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 2411. (1) A complaint filed as prescribed in article 5 shall be made within 18 months after completion, occupancy, or purchase, whichever occurs later, of a residential or a combination of residential and commercial structure.

(2) A licensee or applicant who commits 1 or more of the following shall be subject to the penalties set forth in article 6:

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

(b) Diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes.

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

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

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

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

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

(h) Failure to deliver to the purchaser the entire agreement of the parties including finance and any other charge arising out of or incidental to the agreement when the agreement involves repair, alteration, or addition to, subtraction from, improvement of, movement of, wrecking of, or demolition of a residential structure or combination of residential and commercial structure, or building of a garage, or laying of concrete on residential property, or manufacture, assembly, construction, sale, or distribution of a residential or combination residential and commercial structure which is prefabricated, preassembled, precut, packaged, or shell housing.

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

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

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

(l) Becoming insolvent, filing a bankruptcy action, becoming subject to a receivership, assigning for the benefit of creditors, failing to satisfy judgments or liens, or failing to pay an obligation as it becomes due in the ordinary course of business.

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

(3) The department shall suspend or revoke the license of a person licensed under this article whose failure to pay a lien claimant results in a payment being made from the homeowner construction lien recovery fund pursuant to the construction lien act, Act No. 497 of the Public Acts of 1980, being sections 570.1101 to 570.1305 of the Michigan Compiled Laws, regardless of whether the person was performing services as a licensee under this article; under the electrical administrative act, Act No. 217 of the Public Acts of 1956, as amended, being sections 338.881 to 338.892 of the Michigan Compiled Laws; or under Act No. 266 of the Public Acts of 1929, as amended, being sections 338.901 to 338.917 of the Michigan Compiled Laws. The license shall not be renewed nor shall a new license be issued until the licensee has repaid in full to the fund the amount paid out plus the costs of litigation and interest at the rate set by section 6013 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, as amended, being section 600.6013 of the Michigan Compiled Laws.

(4) The department shall conduct a review upon notice by the department of public health that the licensee has violated the asbestos abatement contractors licensing act, Act No. 135 of the Public Acts of 1986, being sections 338.3101 to 338.3319 of the Michigan Compiled Laws, or sections 57 to 60f of the Michigan occupational safety and health act, Act No. 154 of the Public Acts of 1974, being sections 408.1057 to 408.1060f of the Michigan Compiled Laws and may suspend or revoke that person's license for a knowing violation of those acts.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.

