

HOUSE BILL No. 4226

February 16, 1989, Introduced by Reps. Hickner, DeMars, Scott, Leland, Gubow, DeBeaussaert, Ciaramitaro, Berman, Gire, Randall and Emerson and referred to the Committee on Labor.

A bill to amend section 2411 of Act No. 299 of the Public Acts of 1980, entitled "Occupational code," 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:

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

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

1 (2) A licensee or applicant who commits 1 OR MORE of the
2 following shall be subject to the penalties set forth in article
3 6:

4 (a) Abandonment without legal excuse of a contract, con-
5 struction project, or operation engaged in or undertaken by the
6 licensee.

7 (b) Diversion of funds or property received for prosecution
8 or completion of a specific construction project or operation, or
9 for a specified purpose in the prosecution or completion of a
10 construction project or operation, and the funds or property
11 application or use for any other construction project or opera-
12 tion, obligation, or purposes.

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

15 (d) A ~~wilful~~ WILLFUL departure from or disregard of plans
16 or specifications in a material respect and prejudicial to anoth-
17 er, without consent of the owner or an authorized representative
18 and without the consent of the person entitled to have the par-
19 ticular construction project or operation completed in accordance
20 with the plans and specifications.

21 (e) A ~~wilful~~ WILLFUL violation of the building laws of the
22 state or of a political subdivision of the state.

23 (f) In a maintenance and alteration contract, failure to
24 furnish to a lender ~~—~~ the purchaser's signed completion certifi-
25 cate executed upon completion of the work to be performed under
26 the contract.

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

8 (h) Failure to deliver to the purchaser the entire agreement
9 of the parties including finance and any other charge arising out
10 of or incidental to the agreement when the agreement involves
11 repair, alteration, or addition to, subtraction from, improvement
12 of, movement of, wrecking of, or demolition of a residential
13 structure or combination of residential and commercial structure,
14 or building of a garage, or laying of concrete on residential
15 property, or manufacture, assembly, construction, sale, or dis-
16 tribution of a residential or combination residential and commer-
17 cial structure which is prefabricated, preassembled, precut,
18 packaged, or shell housing.

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

24 (j) Aiding or abetting an unlicensed person to evade this
25 article, or knowingly combining or conspiring with, or acting as
26 agent, partner, or associate for an unlicensed person, or
27 allowing one's license to be used by an unlicensed person, or

1 acting as or being an ostensible licensed residential builder or
2 licensed residential maintenance and alteration contractor for an
3 undisclosed person who does or shall control or direct, or who
4 may have the right to control or direct, directly or indirectly,
5 the operations of a licensee.

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

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

15 (m) Poor workmanship or workmanship not meeting the stan-
16 dards of the custom or trade verified by a building code enforce-
17 ment official.

18 (3) The department shall suspend or revoke the license of a
19 person licensed under this article whose failure to pay a lien
20 claimant results in a payment being made from the homeowner con-
21 struction lien recovery fund pursuant to the construction lien
22 act, ACT NO. 497 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS
23 570.1101 TO 570.1305 OF THE MICHIGAN COMPILED LAWS, regardless of
24 whether the person was performing services as a licensee under
25 this article; under THE ELECTRICAL ADMINISTRATIVE ACT, Act No.
26 217 of the Public Acts of 1956, as amended, being sections
27 338.881 to 338.892 of the Michigan Compiled Laws; or under Act

1 No. 266 of the Public Acts of 1929, as amended, being sections
2 338.901 to 338.917 of the Michigan Compiled Laws. The license
3 shall not be renewed nor shall a new license be issued until the
4 licensee has repaid in full to the fund the amount paid out plus
5 the costs of litigation and interest at the rate set by section
6 6013 of THE REVISED JUDICATURE ACT OF 1961, Act No. 236 of the
7 Public Acts of 1961, as amended, being section 600.6013 of the
8 Michigan Compiled Laws.

9 (4) THE DEPARTMENT SHALL CONDUCT A REVIEW AND MAY REVOKE OR
10 SUSPEND THE LICENSE OF A LICENSEE UPON NOTICE BY THE DEPARTMENT
11 OF PUBLIC HEALTH THAT THE LICENSEE HAS VIOLATED THE ASBESTOS
12 ABATEMENT CONTRACTORS LICENSING ACT, ACT NO. 135 OF THE PUBLIC
13 ACTS OF 1986, BEING SECTIONS 338.3101 TO 338.3319 OF THE MICHIGAN
14 COMPILED LAWS, OR SECTIONS 57 TO 60F OF THE MICHIGAN OCCUPATIONAL
15 SAFETY AND HEALTH ACT, ACT NO. 154 OF THE PUBLIC ACTS OF 1974,
16 BEING SECTIONS 408.1057 TO 408.1060F OF THE MICHIGAN COMPILED
17 LAWS.