

**SUBSTITUTE FOR  
SENATE BILL NO. 826**

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending sections 601, 602, 604, 605, 2405, 2411, and 2412 (MCL  
339.601, 339.602, 339.604, 339.605, 339.2405, 339.2411, and  
339.2412), sections 601 and 602 as amended by 2005 PA 278, section  
604 as amended by 1989 PA 261, and sections 2411 and 2412 as  
amended by 2001 PA 113, and by adding sections 606 and 2404a.

**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  
4 license or registration issued by the department for the  
5 occupation.

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

5           (3) SUBJECT TO SECTION 411, A PERSON WHOSE LICENSE OR  
6 REGISTRATION IS SUSPENDED, REVOKED, OR LAPSED, AS DETERMINED BY THE  
7 RECORDS OF THE DEPARTMENT, IS CONSIDERED UNLICENSED OR  
8 UNREGISTERED.

9           (4) ~~—(3)—~~ A EXCEPT AS OTHERWISE PROVIDED FOR IN SECTION 735, A  
10 person, school, or institution that violates subsection (1) or (2)  
11 is guilty of a misdemeanor, punishable by a fine of not more than  
12 \$500.00, or imprisonment for not more than 90 days, or both.

13           (5) ~~—(4)—~~ A EXCEPT AS OTHERWISE PROVIDED FOR IN SECTION 735, A  
14 person, school, or institution that violates subsection (1) or (2)  
15 a second or any subsequent time is guilty of a misdemeanor,  
16 punishable, except as provided in section 735, by a fine of not  
17 more than \$1,000.00, or imprisonment for not more than 1 year, or  
18 both.

19           (6) NOTWITHSTANDING SUBSECTIONS (4) AND (5), A PERSON NOT  
20 LICENSED UNDER ARTICLE 24 AS A RESIDENTIAL BUILDER OR A RESIDENTIAL  
21 MAINTENANCE AND ALTERATION CONTRACTOR WHO VIOLATES SUBSECTION (1)  
22 OR (2) IS GUILTY AS FOLLOWS:

23           (A) IN THE CASE OF A FIRST OFFENSE, A MISDEMEANOR PUNISHABLE  
24 BY A FINE OF NOT LESS THAN \$5,000.00 OR MORE THAN \$25,000.00, OR  
25 IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR BOTH.

26           (B) IN THE CASE OF A SECOND OFFENSE, A MISDEMEANOR PUNISHABLE  
27 BY A FINE OF NOT LESS THAN \$5,000.00 OR MORE THAN \$25,000.00, OR

1 IMPRISONMENT FOR NOT MORE THAN 2 YEARS, OR BOTH.

2 (C) IN THE CASE OF A THIRD OR SUBSEQUENT OFFENSE, A FELONY  
3 PUNISHABLE BY A FINE OF NOT LESS THAN \$5,000.00 OR MORE THAN  
4 \$25,000.00, OR IMPRISONMENT FOR NOT MORE THAN 4 YEARS, OR BOTH.

5 (7) ANY VIOLATION OF THIS ACT SHALL INCLUDE A REQUIREMENT THAT  
6 RESTITUTION BE MADE, BASED UPON PROOFS SUBMITTED TO AND FINDINGS  
7 MADE BY THE TRIER OF FACT AS PROVIDED BY LAW.

8 (8) ~~(5)~~ Notwithstanding the existence and pursuit of any  
9 other remedy, an affected person may maintain injunctive action to  
10 restrain or prevent a person from violating subsection (1) or (2).  
11 If successful in obtaining injunctive relief, the affected person  
12 shall be entitled to actual costs and attorney fees.

13 (9) ~~(6)~~ This act does not apply to a person engaging in or  
14 practicing the following:

15 (a) Interior design.

16 (b) Building design.

17 (c) Any activity for which the person is licensed under the  
18 state plumbing act, 2002 PA 733, MCL 338.3511 to 338.3569.

19 (d) Any activity for which the person is licensed under the  
20 Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to  
21 338.988.

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

24 (10) ~~(7)~~ As used in subsection ~~(5)~~ (8), "affected person"  
25 means a person directly affected by the actions of a person  
26 suspected of violating subsection (1) or (2) and includes, but is  
27 not limited to, a licensee or registrant, a board established

1 pursuant to this act, **THE DEPARTMENT**, a person who has utilized the  
2 services of the person engaging in or attempting to engage in an  
3 occupation regulated under this act or using a title designated by  
4 this act without being licensed or registered by the department, or  
5 a private association composed primarily of members of the  
6 occupation in which the person is engaging in or attempting to  
7 engage in or in which the person is using a title designated under  
8 this act without being registered or licensed by the department.

9 (11) ~~-(8)-~~ An investigation may be conducted under article 5  
10 to enforce this section. A person who violates this section shall  
11 be subject to this section and ~~section~~ **SECTIONS 506, 602, AND**  
12 **606.**

13 (12) **THE DEPARTMENT, THE ATTORNEY GENERAL, OR A COUNTY**  
14 **PROSECUTOR MAY UTILIZE FORFEITURE AS A REMEDY IN THE MANNER**  
15 **PROVIDED FOR IN SECTION 606.**

16 (13) ~~-(9)-~~ The remedies under this section are independent and  
17 cumulative. The use of 1 remedy by a person shall not bar the use  
18 of other lawful remedies by that person or the use of a lawful  
19 remedy by another person.

20 (14) ~~-(10)-~~ An interior designer may perform services in  
21 connection with the design of interior spaces including preparation  
22 of documents relative to finishes, systems furniture, furnishings,  
23 fixtures, equipment, and interior partitions that do not affect the  
24 building mechanical, structural, electrical, or fire safety  
25 systems.

26 (15) **UPON ENTERING A CONVICTION UNDER SUBSECTION (4) OR (5), A**  
27 **COURT ENTERING THE CONVICTION SHALL NOTIFY, BY MAIL, FACSIMILE**

1 **TRANSMISSION, OR EMAIL, THE BUREAU OF COMMERCIAL SERVICES AT THE**  
2 **DEPARTMENT.**

3       Sec. 602. A person, school, or institution that violates this  
4 act or a rule or order promulgated or issued under this act shall  
5 be assessed 1 or more of the following penalties:

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

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

9       (c) Denial of a license, certificate of registration, or  
10 renewal of a license or certificate of registration.

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

12       (e) ~~An~~ **IN THE CASE OF A PERSON LICENSED OR REGISTERED UNDER**  
13 **THIS ACT AND EXCEPT AS OTHERWISE PROVIDED FOR BY THIS ACT, AN**  
14 administrative fine to be paid to the department, not to exceed  
15 \$10,000.00.

16       (f) Censure.

17       (g) Probation.

18       (h) A requirement that restitution be made, **BASED UPON PROOFS**  
19 **SUBMITTED TO AND FINDINGS MADE BY THE HEARING EXAMINER AFTER A**  
20 **CONTESTED CASE.**

21       Sec. 604. A person who violates 1 or more of the provisions of  
22 an article which regulates an occupation or who commits 1 or more  
23 of the following shall be subject to the penalties prescribed in  
24 section 602:

25       (a) Practices fraud or deceit in obtaining a license or  
26 registration.

27       (b) Practices fraud, deceit, or dishonesty in practicing an

1 occupation.

2 (c) Violates a rule of conduct of an occupation.

3 (d) Demonstrates a lack of good moral character.

4 (e) Commits an act of gross negligence in practicing an  
5 occupation.

6 (f) Practices false advertising.

7 (g) Commits an act which demonstrates incompetence.

8 (h) Violates any other provision of this act or a rule  
9 promulgated under this act for which a penalty is not otherwise  
10 prescribed.

11 (i) Fails to comply with a subpoena issued under this act.

12 (j) Fails to respond to a citation as required by section 555.

13 (k) Violates or fails to comply with a final order issued by a  
14 board, including a stipulation, settlement agreement, or a  
15 citation.

16 **(l) AIDS OR ABETS ANOTHER PERSON IN THE UNLICENSED PRACTICE OF**  
17 **AN OCCUPATION.**

18 Sec. 605. (1) The department may bring any appropriate action,  
19 **INCLUDING MEDIATION OR OTHER ALTERNATIVE DISPUTE RESOLUTION,** in the  
20 name of the people of this state to carry out this act and to  
21 enforce this act.

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

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

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

4           SEC. 606. THE DEPARTMENT, THE ATTORNEY GENERAL, AND A COUNTY  
5 PROSECUTOR MAY UTILIZE THE FORFEITURE PROVISIONS OF CHAPTER 47 OF  
6 THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.4701 TO  
7 600.4709, FOR ITEMS SEIZED AND DETERMINED TO BE PROCEEDS OF A  
8 CRIME, SUBSTITUTED PROCEEDS OF A CRIME, OR THE INSTRUMENTALITY OF A  
9 CRIME AS THOSE TERMS ARE DEFINED UNDER SECTION 4701 OF THE REVISED  
10 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.4701.

11           SEC. 2404A. A LICENSEE SHALL, AS PART OF THE CONTRACT, PROVIDE  
12 INFORMATION RELATING TO HIS OR HER INDIVIDUAL LICENSE AND TO ANY  
13 LICENSE ISSUED TO THAT PERSON AS A QUALIFYING OFFICER OF ANOTHER  
14 ENTITY.

15           Sec. 2405. (1) If a license is applied for by a corporation,  
16 partnership, ~~or~~ association, **LIMITED LIABILITY COMPANY, OR OTHER**  
17 **ENTITY**, the applicant shall designate 1 of its officers, partners,  
18 members, or managing agent as a qualifying officer who, upon taking  
19 and passing the examination, and upon meeting all other  
20 requirements of this article, ~~shall be~~ **IS** entitled to a license  
21 to act for the corporation, partnership, ~~or~~ association, **LIMITED**  
22 **LIABILITY COMPANY, OR OTHER ENTITY. THE QUALIFYING OFFICER SHALL**  
23 **ALSO OBTAIN AND MAINTAIN A LICENSE UNDER THIS ARTICLE AS AN**  
24 **INDIVIDUAL.** The qualifying officer shall be responsible for  
25 exercising the supervision or control of the building or  
26 construction operations necessary to secure full compliance with  
27 this article and the rules promulgated under this article. A

1 license shall not be issued to a corporation, partnership, ~~or~~  
2 association, **LIMITED LIABILITY COMPANY, OR OTHER ENTITY** unless each  
3 partner, trustee, director, officer, member, and a person  
4 exercising control is at least 18 years of age, and meets the  
5 requirements for a license under this article other than those  
6 relating to knowledge and experience. **IF AN INDIVIDUAL LICENSEE IS**  
7 **ALSO A QUALIFYING OFFICER, THE INDIVIDUAL'S NAME AND LICENSE NUMBER**  
8 **SHALL BE LISTED ON ANY LICENSE ISSUED TO THE INDIVIDUAL AS A**  
9 **QUALIFYING OFFICER. IN THE CASE OF A LICENSE ISSUED UNDER THIS**  
10 **SUBSECTION, EACH OFFICER, PARTNER, MEMBER, OR MANAGING AGENT,**  
11 **WHETHER OR NOT HE OR SHE IS THE QUALIFYING OFFICER, SHALL PROVIDE A**  
12 **COPY OF HIS OR HER OPERATOR'S LICENSE OR STATE PERSONAL**  
13 **IDENTIFICATION CARD TO THE DEPARTMENT FOR USE BY THE DEPARTMENT**  
14 **ONLY FOR IDENTIFICATION PURPOSES.**

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

24 (3) A suspension, revocation, or denial of a license of an  
25 individual shall suspend, revoke, or deny any other license held or  
26 applied for by that individual issued under this article. A  
27 suspension, revocation, or denial of a license by the department



1 ~~may~~ **SHALL** suspend, revoke, or deny any other license held or  
 2 applied for under this article by the qualifying officer of a  
 3 corporation, partnership, **ASSOCIATION, LIMITED LIABILITY COMPANY,**  
 4 or other ~~association~~ **ENTITY** whose license is suspended, revoked,  
 5 or denied.

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

11 Sec. 2411. (1) A complaint filed under this section or article  
 12 5, or both, shall be made within 18 months after ~~completion,~~  
 13 ~~occupancy, or purchase, whichever occurs later, of~~ **THE LATEST OF**  
 14 **THE FOLLOWING REGARDING** a residential structure or a combination of  
 15 residential and commercial structure ~~—~~ **AS FOLLOWS:**

16 (A) **IN THE CASE OF A MAINTENANCE AND ALTERATION CONTRACT:**

17 (i) **COMPLETION.**

18 (ii) **OCCUPANCY.**

19 (iii) **PURCHASE.**

20 (B) **IN THE CASE OF A PROJECT REQUIRING AN OCCUPANCY PERMIT:**

21 (i) **ISSUANCE OF THE CERTIFICATE OF OCCUPANCY OR TEMPORARY**  
 22 **CERTIFICATE OF OCCUPANCY.**

23 (ii) **CLOSING.**

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

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

1 licensee.

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

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

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

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

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

22 (g) If a licensed residential builder or licensed residential  
23 maintenance and alteration contractor, failure to notify the  
24 department within 10 days of a change in the control or direction  
25 of the business of the licensee resulting from a change in the  
26 licensee's partners, directors, officers, or trustees, or a change  
27 in the control or direction of the business of the licensee

1 resulting from any other occurrence or event.

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

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

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

27 (k) Acceptance of a commission, bonus, or other valuable

1 consideration by a salesperson for the sale of goods or the  
2 performance of service specified in the article from a person other  
3 than the residential builder or residential maintenance and  
4 alteration contractor under whom the person is licensed.

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

9 (m) ~~Poor workmanship or workmanship~~ **WORKMANSHIP** not meeting  
10 the standards of the ~~custom or trade verified by a building code~~  
11 ~~enforcement official~~ **MICHIGAN RESIDENTIAL CODE AS PROMULGATED**  
12 **UNDER THE STILLE-DEROSSETT-HALE SINGLE STATE CONSTRUCTION CODE ACT,**  
13 **1972 PA 230, MCL 125.1501 TO 125.1531.**

14 (3) The department shall suspend or revoke the license of a  
15 person licensed under this article whose failure to pay a lien  
16 claimant results in a payment being made from the homeowner  
17 construction lien recovery fund pursuant to the construction lien  
18 act, 1980 PA 497, MCL 570.1101 to 570.1305, regardless of whether  
19 the person was performing services as a licensee under this  
20 article; under the electrical administrative act, 1956 PA 217, MCL  
21 338.881 to 338.892; or under ~~1929 PA 266, MCL 338.901 to 338.917~~  
22 **THE STATE PLUMBING ACT, 2002 PA 733, MCL 338.3511 TO 338.3569.** The  
23 department shall not renew a license or issue a new license until  
24 the licensee has repaid in full to the fund the amount paid out  
25 plus the costs of litigation and interest at the rate set by  
26 section 6013 of the revised judicature act of 1961, 1961 PA 236,  
27 MCL 600.6013.

1           (4) The department shall conduct a review upon notice that the  
2 licensee has violated the asbestos abatement contractors licensing  
3 act, 1986 PA 135, MCL 338.3101 to 338.3319. The department may  
4 suspend or revoke that person's license for a knowing violation of  
5 the asbestos abatement contractors licensing act, 1986 PA 135, MCL  
6 338.3101 to 338.3319.

7           (5) Notwithstanding article 5, the following apply to  
8 administrative proceedings regarding workmanship under subsection  
9 (2) (m):

10           (a) A complaint submitted by an owner shall describe in  
11 writing to the department the factual basis for the allegation. The  
12 homeowner shall send a copy of the initial complaint to the  
13 licensee concurrent with the submission of the complaint to the  
14 department.

15           (b) The department shall presume the innocence of the licensee  
16 throughout the proceeding until the administrative law hearing  
17 examiner finds otherwise in a determination of findings of fact and  
18 conclusions of law under article 5. The licensee has the burden of  
19 refuting evidence submitted by a person during the administrative  
20 hearing. The licensee also has the burden of proof regarding the  
21 reason deficiencies were not corrected.

22           (c) Upon receipt of a building inspection report issued to the  
23 department by a state or local building enforcement official  
24 authorized to do so under the Stille-DeRossett-Hale single state  
25 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, which  
26 report verifies or confirms the substance of the complaint, the  
27 department shall send by certified mail a copy of the verified

1 complaint to ~~both the complainant and~~ the licensee. Failure of  
2 the department to send a copy of the verified complaint within 30  
3 days of receipt of the building inspection report prevents the  
4 department from assessing a fine against the licensee under article  
5 6 but does not prevent the department from pursuing restitution,  
6 license suspension, or other remedies provided under this act.

7 (d) A licensee may contractually provide for an alternative  
8 dispute resolution procedure to resolve complaints filed with the  
9 department. The procedure shall be conducted by a neutral third  
10 party for determining the rights and responsibilities of the  
11 parties and shall be initiated by the licensee, who shall provide  
12 notice of the initiation of the procedure to the complainant by  
13 certified mail not less than 30 days before the commencement of  
14 that procedure. The procedure shall be conducted at a location  
15 mutually agreed to by the parties.

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

27 (f) The complainant shall demonstrate that notice has been

1 provided to the licensee describing reasonable times and dates that  
2 the residential structure was accessible for any needed repairs and  
3 proof acceptable to the department that the repairs were not made  
4 within 60 days after the sending of the notice. This subdivision  
5 does not apply where the department determines a necessity to  
6 safeguard the structure or to protect the occupant's health and  
7 safety and, in such case, the department may utilize any remedy  
8 available under section 504(3)(a) through (d).

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

15 **(6) IN ANY CASE WHERE THE LICENSEE OR RESPONDENT FAILS TO**  
16 **APPEAR, PARTICIPATE, OR DEFEND ANY ACTION, THE BOARD SHALL ISSUE AN**  
17 **ORDER GRANTING BY DEFAULT THE RELIEF REQUESTED, BASED UPON PROOFS**  
18 **SUBMITTED TO AND FINDINGS MADE, BY THE HEARING EXAMINER AFTER A**  
19 **CONTESTED CASE.**

20 (7) ~~—(6)—~~ As used in this section, "verified complaint" means  
21 a complaint in which all or a portion of the allegations have been  
22 confirmed by ~~the building inspection report~~ **AN AFFIDAVIT OF THE**  
23 **STATE OR LOCAL BUILDING OFFICIAL.**

24 Sec. 2412. (1) A person or qualifying officer for a  
25 corporation or member of a residential builder or residential  
26 maintenance and alteration contractor shall not bring or maintain  
27 an action in a court of this state for the collection of

1 compensation for the performance of an act or contract for which a  
2 license is required by this article without alleging and proving  
3 that the person was licensed under this article during the  
4 performance of the act or contract.

5 (2) Failure of the person bringing a complaint against a  
6 licensee to utilize a contractually provided alternative dispute  
7 resolution procedure shall be an affirmative defense to an action  
8 brought in a court of this state against a licensee under this  
9 article.

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

16 (4) A PROSECUTING ATTORNEY AND THE ATTORNEY GENERAL MAY BRING  
17 AN ACTION FOR A CIVIL VIOLATION IN A COURT OF COMPETENT  
18 JURISDICTION AGAINST A PERSON NOT LICENSED UNDER THIS ARTICLE THAT  
19 HAS VIOLATED SECTION 601(1) OR (2). THE COURT SHALL ASSESS A CIVIL  
20 VIOLATION JUDGMENT, TO BE PAID TO THE PROSECUTING ATTORNEY OR THE  
21 ATTORNEY GENERAL BRINGING THE ACTION, OF NOT LESS THAN \$5,000.00  
22 AND NOT MORE THAN \$25,000.00, ASIDE FROM ANY CIVIL DAMAGES OR  
23 RESTITUTION.

24 Enacting section 1. This amendatory act does not take effect  
25 unless all of the following bills of the 93rd Legislature are  
26 enacted into law:

27 (a) Senate Bill No. 631.



- 1 (b) Senate Bill No. 632.
- 2 (c) Senate Bill No. 827.