

OCCUPATIONAL REGULATION REPEALERS

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House Bill 4376 without amendment
Sponsor: Rep. Ed McBroom

House Bills 4379-4380 without amendment
Sponsor: Rep. Hugh Crawford

House Bill 4377 without amendment
Sponsor: Rep. Tim Kelly

House Bill 4381 (Substitute H-1)
Sponsor: Rep. Hugh Crawford

House Bill 4378 (Substitute H-1)
Sponsor: Rep. Andrea LaFontaine

House Bill 4392 (Substitute H-1)
Sponsor: Rep. Harold Haugh

Committee: Regulatory Reform

Complete to 3-20-13

A SUMMARY OF HOUSE BILLS 4376-4381 AND 4392 AS REPORTED FROM COMMITTEE ON 3-19-13

Generally speaking, the bills in this package implement some of the recommendations made by the Office of Regulatory Reinvention regarding occupational licensing. Taken together the bills would deregulate the following occupations: proprietary school solicitors, professional community planners, interior designers, registered foresters, and ocularists (including ocularist apprentices).

House Bill 4376 would repeal Public Act 40 of 1963, which requires an individual operating as a *proprietary school solicitor* to obtain a permit from the State Superintendent of Public Instruction. Solicitors are responsible for recruiting potential students to proprietary schools, which are schools that provide training in a specific trade, occupation, or vocational field. Under the act, solicitors must be bonded and permits expire one year after they are issued. Proprietary schools are also required to be licensed, although this bill would not alter any of those licensing requirements.

House Bill 4377 would repeal Article 23 of the Occupational Code, which provides for the registration of *professional community planners*. The act defines community planners as persons qualified to prepare long-range proposals for the arrangement of land uses and which are intended primarily to guide government policy toward achieving orderly and coordinated development of the entire community. Currently, only individuals registered under Article 23 can use the title of community planner. The bill would also repeal Section 23 of the State Licensee Fee Act, which establishes a registration fee schedule for professional community planners. According to LARA's website there are approximately 132 professional community planners.

House Bill 4378 (H-1) would repeal Section 601a of the Occupational Code, which regulates *interior designers*. Currently, LARA is required to maintain a list of interior

designers and make it available to the state and local units of government. To be included on the list, individuals have to successfully pass the National Council of Interior Design Qualification exam. Once on the list, individuals remain there indefinitely; there is no expiration contained in statute. Aside from maintaining the list of interior designers, LARA has no further oversight of the profession. As of Fiscal Year 2011, there were 1,295 people on the list.

The bill would retain a provision allowing interior designers to perform services in connection with the design of interior spaces, including preparation of documents relative to finishes, systems furniture, furnishings, fixtures, equipment, and interior partitions that do not affect the building mechanical, structural, electrical, or fire safety systems.

House Bill 4379 would amend Part 511 (Commercial Forests) of the Natural Resources and Environmental Protection Act to eliminate reference to *registered foresters* and transfer those responsibilities to qualified foresters. Under the act, a qualified forester is someone recognized by the Department of Natural Resources (DNR) as having the education, knowledge, experience, and skills to identify, schedule, and implement appropriate forest management practices needed to achieve the purposes of Part 511, and also includes conservation district foresters. Generally speaking, under Part 511, registered foresters are hired to prepare forest management plans for land owners as part of the process of applying for a property tax exemption under the Commercial Forest Program. The bill is tie-barred to House Bills 4380 and 4381. As of Fiscal Year 2011, there were 211 registered foresters.

House Bill 4380 would amend the General Property Tax Act to eliminate reference to *registered foresters* in the operation of the Qualified Forest Program. Generally speaking, registered foresters are used to prepare forest management plans for land owners as part of the process of applying for a property tax exemption under the Qualified Forest Program. The responsibilities of registered foresters would be assumed by natural resources professionals, defined as persons recognized by the DNR as having the education, knowledge, experience, and skills to identify, schedule, and implement appropriate forest management practices need to achieve the purposes of Part 511 of NREPA, and also includes conservation district foresters. The bill is tie-barred to House Bills 4379 and 4381

House Bill 4381 (H-1) would repeal Article 21 of the Occupational Code, which provides for the *registration of foresters*. A forester is someone who by reason of knowledge of the natural sciences, mathematics, and principles of forestry, acquired through education and practical experience, is qualified to engage in the practice of professional forestry. Individuals are prohibited from using the title of registered forester unless registered under Article 21. To be eligible for registration, individuals would have to have graduated from an accredited college or university, have two or more years of forestry work experience, and be of good moral character. The bill is tie-barred to House Bills 4379 and 4380.

The bill would also repeal Section 29 of the State License Fee Act (MCL 338.2229), which establishes the registration fee schedule for foresters.

House Bill 4392 (H-1) would repeal Article 27 of the Occupational Code, which provides for the registration of *ocularists and ocularist apprentices*. Ocularism is (1) the design, fabrication, and fitting of ocular prosthetic appliances (artificial eyes); (2) the fitting of ocular prosthetic appliances; and (3) the performance of necessary procedures to provide an ocular prosthetic service for a patient in an ocularist's office or laboratory. An individual must be registered with LARA in order to use the title of ocularist or advertise as a registered ocularist. In order to be eligible for registration, an individual must be 18 years old, be a graduate of an accredited high school, be of good moral character, and one of the following: (1) successfully completed at least five years of apprenticeship training, (2) completed a prescribed course in ocularist training programs in an approved college or university, or (3) been engaged in the practice outside of the state for at least five years and been employed within the state as an ocularist for at least one year. As of Fiscal Year 2011, there were 14 registered ocularists in the state.

The bill would also repeal Section 62 of the State License Fee Act (MCL 338.2262), which establishes the registration fee schedule for ocularists and apprentice ocularists.

FISCAL IMPACT:

House Bills 4376 through 4381 and 4392 would have a positive fiscal impact on the Corporations, Securities, and Commercial Licensing Bureau (CSCLB) within the Department of Licensing and Regulatory Affairs (LARA) to the extent that the revenues collected under the occupational licensing programs are insufficient to offset the attendant administrative expenditures.

LARA anticipates that deregulation of the occupational licensing programs under House Bills 4374 through 4381 and 4398 would result in reduced payroll expenses amounting to approximately 1.0 FTE.

The following table exhibits the number of license renewals, revenues generated via fees, expenditures, and net income (loss) associated with each of the occupational licensing programs deregulated under House Bills 4374 through 4381 and 4398.

Deregulation of Select Occupational Licensing Programs										
Revenues & Expenditures (FY 10 to FY 12)--REVISED										
Occupational Licensing Program	FY 12 Licensees	FY 2010			FY 2011			FY 2012		
		Rev	Exp	Rev-Exp	Rev	Exp	Rev-Exp	Rev	Exp	Rev-Exp
Immigration Clerical Assistants	7	\$0	\$126,508	(\$126,508)	\$0	\$129,225	(\$129,225)	\$40	\$63,974	(\$63,934)
Proprietary School Solicitors	485	\$0	\$0	\$0	\$0	\$0	\$0	\$511,164	\$619,493	(\$108,329)
Community Planners	74	\$5,260	\$125,438	(\$120,178)	\$4,015	\$131,161	(\$127,146)	\$3,550	\$64,162	(\$60,612)
Interior Designers	1,269	\$60	\$122,771	(\$122,711)	\$20	\$134,052	(\$134,032)	\$40	\$68,895	(\$68,855)
Foresters	200	\$16,810	\$129,199	(\$112,389)	\$1,050	\$130,326	(\$129,276)	\$16,500	\$80,884	(\$64,384)
Ocularists	14	\$540	\$125,210	(\$124,670)	\$675	\$129,345	(\$128,670)	\$560	\$72,451	(\$71,891)
TOTAL	2,049	\$22,670	\$629,126	(\$606,456)	\$5,760	\$654,109	(\$648,349)	\$531,854	\$969,859	(\$438,005)

SOURCE: Department of Licensing and Regulatory Affairs, Office of Financial and Administrative Services

It is important to note that a substantial proportion of the expenditures exhibited in the above table consist of departmental administrative, property management, rent, and informational technology expenses, which are relatively fixed and thus would not entirely be eliminated through the deregulation of the associated occupational licensing programs, but rather reallocated amongst other occupational licensing programs within the CSCLB.

For background and fiscal information on the amount of fees collected by the Department of Licensing and Regulatory Affairs, see the following House Fiscal Agency report:

<http://www.house.mi.gov/hfa/PDFs/Occupational%20Licensing%20MEMO.pdf>

BACKGROUND INFORMATION AND DISCUSSION:

Executive Order 2011-5 created the Office of Regulatory Reinvention (ORR) and tasked it with "creating a regulatory environment and regulatory processes that are fair, efficient, and conducive to business growth and job creation through its oversight and review of current rules and regulations and proposed rulemaking and regulatory activities by all departments and agencies."

To fulfill its obligation, the ORR established Advisory Rules Committees (ARC) to review statutes and promulgated rules affecting specific areas. The Occupational Licensing ARC was formed to make recommendations to the ORR regarding potential changes to Michigan's existing occupational regulations. The ARC recommendations were based on the following seven factors contained within Executive Order 2011-5:

1. Health or safety benefits of the rules.
2. Whether the rules are mandated by any applicable constitutional or statutory provision.
3. The cost of compliance with the rules, taking into account their complexity, reporting requirements, and other factors.
4. The extent to which the rules conflict with or duplicate similar rules or regulations adopted by the state or federal government.
5. Extent to which the regulations exceed national or regional compliance requirements or other standards.
6. Date of last evaluation of the rules and the degree, if any, to which technology, economic conditions, or their factors have changed regulatory activity covered by the rules since the last evaluation.
7. Other changes or developments since implementation that demonstrate there is no continued need for the rules.

According to the ORR's recommendation, the Occupational Licensing ARC met 14 times and reviewed 8 occupations. The ORR issued its final recommendations on occupational licensing on February 17, 2012, and among other things, recommended the deregulation of several occupations. The bills in this package represent some of those recommendations.

According to testimony provided by the ORR, the occupations contained in the bills should be deregulated as a result of applying the above criteria. In support, the ORR report concludes it is difficult for the Department of Licensing and Regulatory Affairs to meet the statutory requirements of these occupations with the limited financial and staff resources it has. Additionally, the bulk of these occupations do not generate enough revenue to cover the cost of its regulations.

According to testimony, some of the occupational regulations are nothing more than title protection (ocularists, community planners), others lack a clear scope of practice with no prohibited conduct and therefore nothing for LARA to enforce (foresters), some are thought to be adequately regulated through other means (proprietary school solicitors), and some merely have a voluntary list maintained by LARA where individuals remain on the list in perpetuity without any form of renewal or continuing education. Generally speaking, the occupations in the bills also have low participation levels. As a result, it is believed the regulations provide little or no protection for the public and the occupations can be deregulated without posing undue harm to the public.

For the full text of the ORR's recommendations on occupational licensing, see:

http://www.michigan.gov/documents/lara/ORR_Occupational_Licensing_Recommendations_382437_7.pdf

POSITIONS:

Department of Licensing and Regulatory Affairs supports House Bills 4376 - 4380. (3-12-13)

Coalition for Interior Design Regulation supports House Bill 4378. (3-19-13)

Great Lakes Timber Professionals supports House Bills 4380 - 4381. (3-19-13)

Michigan Association of Timbermen supports House Bills 4380 - 4381. (3-19-13)

Michigan Forest Products Council is neutral on House Bills 4379 - 4381. (3-12-13)

Michigan Forest Association opposes House Bills 4379 - 4381. (3-19-13)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.