

**LICENSE CARPENTER
CONTRACTORS**

House Bill 4739

Sponsor: Rep. Randy Richardville
Committee: Regulatory Reform

Complete to 10-8-01

A SUMMARY OF HOUSE BILL 4739 AS INTRODUCED 5-8-01

The bill would create a new act entitled the “Carpentry Licensure Act”. This new act would establish a Board of Carpentry, create new license categories for carpenter contractors and journey carpenters, establish exemptions, set examination and license fees, and establish penalties and license sanctions for violations of the act. The bill would prohibit a person from engaging in carpentry for compensation unless he or she were licensed in the appropriate category or exempt from licensure. However, the bill would not prevent a person from performing any activities within the scope of licensure under any other licensure act.

A “carpenter contractor” would mean a person who was engaged in the business of carpentry for a fixed sum, price, fee, percentage, or other consideration of value, other than for wages for personal labor only, but would not include a governmental subdivision. A separate licensing category would be created for a “journey carpenter,” an individual other than a carpenter contractor who, as his or her principal occupation, is engaged in carpentry for a fixed sum, price, fee, percentage, or other valuable consideration. “Carpentry” would be defined as the erecting, installing, altering, repairing, servicing, or maintaining of wooden structures or their structural parts and would include, but not be limited to, all framing, decks, walls, ceilings, roofs, and components that go to make the framing of a structure complete in wood construction, including the prefabrication of any wood structure or component. Under the bill, “wood construction” and “wooden structure” would include construction methods that utilize substitute materials that include metal studs and composite framing, and finish materials that replace or are used in conjunction with traditional wood construction.

Specifically, the bill would do the following:

Exemptions. A person could engage in carpentry without a carpenter contractor or journey carpenter license only on his or her own place of residence (or a home that will become his or her place of residence when the work is completed). A friend or relative could assist the owner without being licensed as long as he or she did not receive compensation. The owner would have to secure required permits for the project, and also obtain any necessary inspections after the carpentry was completed.

Licenses. A person could not engage in carpentry for compensation unless licensed under the bill or unless he or she were acting within the scope of practice of another licensure act. Through the rule-making process, the Department of Consumer and Industry Services (DCIS), in consultation with the Board of Carpentry, could adopt rules to provide an examination and qualification procedure for license as a carpenter contractor or journey carpenter, and - not less

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than 180 days after the bill's effective date - would have to set standards for licensure for the two license categories. In the interim, the board would have to utilize the appropriate U.S. Department of Labor Bureau of Apprenticeship Training Standards for the license categories.

An applicant for licensure would have to pass a DCIS-administered examination and pay the appropriate fees. In addition, an applicant would also have to pay an amount required by the Construction Lien Act for deposit in the Homeowner Construction Lien Recovery Fund; however, he or she would not have to pay more than \$50 in an assessment period, regardless of the number of licenses applied for or held. An applicant would have to meet the "good moral character standard" as defined in Public Act 381 of 1974 (MCL 338.41 et al.). A person who had successfully completed an appropriate U.S. Department of Labor Bureau of Apprenticeship Training Program within one year of application for a journey carpenter license would not have to take the initial licensure examination.

Examination and License fees. The examination fee for either a journey carpenter or carpenter contractor license would be \$25. The initial and per-year fee for either license would be \$75. A journey carpenter license would have to be renewed annually and a carpenter contractor license would have to be renewed every three years. All licenses would expire on August 31 and would have to be renewed no later than October 31; otherwise, a person would have to apply for license reinstatement and pay the license fee. If a voided license were not renewed within three years after it was voided, the person would be subject to reexamination. Revenue from license fees and any other income received under the bill would have to be paid into the general fund for appropriation to DCIS for enforcement and administration of the bill.

Registration of license. A licensed journey carpenter or carpenter contractor who performs work in a governmental subdivision would have to register his or her license with the enforcing agency which issues permits and provides inspection services. A governmental subdivision would have to grant registration to a licensee for a fee of not more than \$15. The registration would have to be valid until the expiration date of the license.

Grandfather clause. The bill would exempt several categories of people from the examination requirements required for licensure as a journey carpenter or carpenter contractor if they met specific criteria listed in the bill, applied for licensure within one year of the bill's effective date, and paid the appropriate fees. The following people could be exempt from the examination required for licensure:

- A person who was engaged in the business of carpentry as a journey carpenter or carpenter contractor on the bill's effective date.
- A person who was licensed on the bill's effective date by a municipal licensing board as a journey carpenter or carpenter contractor.
- A person employed on the bill's effective date as a code inspector for a governmental subdivision and who had engaged in the business of a journey carpenter or carpenter contractor for three out of the five years immediately preceding the person's starting date of employment as a code inspector.

- A person who was licensed on the bill's effective date as a residential builder, or a residential maintenance and alteration contractor in the trade of carpentry or a related subject matter area under Section 2404 of the Occupational Code.

Further, DCIS could license, without examination and upon payment of the initial license fee, an applicant who is a legally authorized journey carpenter or carpenter contractor in another state or country that observes reciprocity and if the licensing requirements of the other state or country were substantially equivalent to those specified in the bill.

Board of Carpentry. The bill would create the Board of Carpentry within the DCIS. The seven-member board would have to be appointed by the governor according to criteria specified in the bill. The bill would also establish criteria for the length of terms, filling vacancies, removal of board members, election of officers, and duties and powers of the board. Members, who could serve no more than two consecutive terms, could receive per diem compensation and reimbursement for actual expenses incurred in the performance of their duties. An organizational meeting would have to be held within 60 days of the bill's effective date, quarterly meetings would have to be held annually, and special meetings could be called by the chairperson or a group of three board members. All meetings would have to be conducted according to the Open Meetings Act, and writings of the board would be available to the public under the Freedom of Information Act.

Penalties and license sanctions. A violation of the bill would result in a misdemeanor punishable by a fine of not more than \$1,000 for a first offense and \$2,000 for a second or subsequent offense, or imprisonment for not more than 90 days, or both.

The DCIS could also investigate the activities of a journey carpenter or carpenter contractor and report its findings to the Board of Carpentry. The board could levy administrative sanctions upon the following grounds:

- Practice of fraud or deceit in obtaining a license or in the performance of work requiring a journey carpenter or carpenter contractor license;
- an act of gross negligence;
- the practice of false advertising;
- an act demonstrating incompetence; or,
- a violation of the bill or rules promulgated under the bill.

After an administrative hearing, the board could suspend, deny, revoke, limit a license, and/or require that restitution be made. In addition, an administrative fine of not more than \$1,000 for a first offense and \$2,000 for a second or subsequent offense could be levied. If restitution were ordered, a person's license could be suspended until restitution was made.

If recommended by DCIS, the board could also suspend or revoke the license of a person whose failure to pay a lien claimant resulted in a payment being made from the Homeowner Construction Lien Recovery Fund as provided in the Construction Lien Act (MCL 570.1101 et al.). A license could not be renewed or a new one issued until the person repaid the fund in full.

for the amount that was paid out plus the costs of litigation and interest. Finally, after a review and administrative hearing, DCIS could suspend or revoke a person's license for a violation of the Asbestos Abatement Contractors Licensing Act (MCL 338.3101 et al.).

Local government restrictions. Beginning on the bill's effective date, a governmental subdivision could not establish or maintain local licensing requirements for journey carpentry or carpenter contractors, nor could the local unit prohibit a person licensed under the bill from engaging in the work for which he or she is licensed to perform.

Effective date. The bill would take effect January 1, 2003.

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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.