

HOUSE BILL No. 4739

May 8, 2001, Introduced by Reps. Richardville, Rocca, Switalski, Pestka, Minore, Schauer, Dennis, Gielegem, Kolb, Lipsey, Woodward, Kowall, Basham, Jacobs, Bernero and Lemmons and referred to the Committee on Regulatory Reform.

A bill to regulate persons engaged in carpentry; to create a board of carpentry; to provide for powers and duties for certain state agencies and departments; to provide for the establishing of standards; to provide for the licensing of carpenter contractors and journey carpenters; to prescribe fees; to provide for the promulgation of rules; and to prescribe remedies and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "carpentry licensure act".

3 Sec. 3. As used in this act:

4 (a) "Board" means the board of carpentry.

5 (b) "Carpenter contractor" means a person engaged in the
6 business of carpentry for a fixed sum, price, fee, percentage, or
7 other valuable consideration, other than wages for personal labor

1 only. Carpenter contractor does not include a governmental
2 subdivision.

3 (c) "Carpentry" means the erecting, installing, altering,
4 repairing, servicing, or maintaining of wooden structures or
5 their structural parts and includes, but is not limited to, all
6 framing, decks, walls, ceilings, roofs, drywall, flooring, trim,
7 and any components that go to make the framing of a structure
8 complete in wood construction, including the prefabrication of
9 any wood structure or component. For purposes of this subdivi-
10 sion, wood construction and wooden structure include construction
11 methods utilizing substitute materials including, but not limited
12 to, metal stud and composite framing and finish materials that
13 replace or are used in conjunction with traditional wood
14 construction.

15 (d) "Department" means the department of consumer and indus-
16 try services.

17 (e) "Enforcing agency" means an enforcing agency as defined
18 in section 2a of the Stille-DeRossett-Hale single state construc-
19 tion code act, 1972 PA 230, MCL 125.1502a.

20 (f) "Governmental subdivision" means a governmental subdivi-
21 sion as defined in section 2a of the Stille-DeRossett-Hale single
22 state construction code act, 1972 PA 230, MCL 125.1502a.

23 (g) "Journey carpenter" means an individual other than a
24 carpenter contractor who, as his or her principal occupation, is
25 engaged in carpentry for a fixed sum, price, fee, percentage, or
26 other valuable consideration. A carpenter contractor may also
27 act as a journey carpenter.

1 (h) "Person" means an individual, association, firm,
2 partnership, corporation, limited liability company, and other
3 legal entity but not including a governmental subdivision, col-
4 lege, or university.

5 Sec. 5. (1) There is created within the department a board
6 of carpentry consisting of 7 residents of the state to be
7 appointed by the governor with the advice and consent of the
8 senate. Appointed members shall be not less than 18 years of age
9 and qualified in their respective fields. Of the members first
10 appointed, 2 members shall have a term of 2 years, 2 members
11 shall have a term of 3 years, and 3 members shall have a term of
12 4 years. Appointed members of the board shall include all of the
13 following:

14 (a) Two members of organized labor representing carpenters
15 that are from diverse geographical locations, 1 of whom shall be
16 from the Upper Peninsula. The initial members appointed under
17 this subdivision shall be individuals required to be licensed
18 under this act, have actively been engaged in carpentry at a
19 journey carpenter level or higher for at least 3 out of the
20 5 years immediately preceding the date of appointment, and become
21 licensed under this act within 1 year after the effective date of
22 this act.

23 (b) Two members of regional carpenter contractor associa-
24 tions that are from diverse geographical locations, 1 of whom
25 shall be from the Upper Peninsula. The initial members appointed
26 under this subdivision shall be individuals required to be
27 licensed under this act, have actively been engaged in carpentry

1 contracting for at least 3 out of the 5 years immediately
2 preceding the date of appointment, and become licensed under this
3 act as a carpentry contractor within 1 year after the effective
4 date of this act.

5 (c) One licensed journey carpenter. The initial member
6 appointed under this subdivision shall be an individual required
7 to be licensed under this act, has actively been engaged in car-
8 pentry at a journey carpenter level or higher for at least 3 out
9 of the 5 years immediately preceding the date of appointment, and
10 becomes licensed under this act within 1 year after the effective
11 date of this act.

12 (d) Two members of the general public.

13 (2) Except for the initial members, a member of the board
14 shall be appointed for a term of 2 years. A vacancy shall be
15 filled for the unexpired portion of the term. A member of the
16 board may be removed from office by the governor in accordance
17 with section 10 of article V of the state constitution of 1963.
18 A member of the board who has a pecuniary interest in a matter
19 shall disclose that interest before the board takes action in the
20 matter, which disclosure shall be made a matter of record in the
21 board's official proceedings. Each member of the board shall
22 receive per diem compensation and actual expenses incurred by the
23 member in the performance of his or her duties as a member of the
24 board.

25 (3) Annually, the legislature shall fix the per diem compen-
26 sation of a member of the board. Travel or other expenses
27 incurred by a member of a board in the performance of an official

1 function shall be payable by the department pursuant to the
2 standardized travel regulations of the department of management
3 and budget. A member of the board shall not serve more than 2
4 consecutive terms.

5 (4) The board shall hold an organizational meeting within
6 60 days after the effective date of this act. At the first meet-
7 ing of each year, the board shall elect from its membership a
8 chairperson, vice-chairperson, and secretary. The chairperson,
9 vice-chairperson, and secretary shall be elected from those mem-
10 bers appointed to the board by the governor.

11 Sec. 7. (1) The board shall hold regular quarterly
12 meetings. Special meetings may be held at the call of the chair-
13 person or 3 members of the board. Written notice of a special
14 meeting shall be mailed to each member not less than 12 days
15 before the date of the meeting.

16 (2) Five members of the board shall constitute a quorum for
17 the transaction of business. An approval, decision, or ruling of
18 the board shall not become effective unless approved by 2/3 of
19 the board members attending a meeting.

20 (3) The board may request a person to appear before the
21 board to advise the board regarding the implementation of this
22 act.

23 (4) The business which the board performs shall be conducted
24 at a public meeting of the board held in compliance with the open
25 meetings act, 1976 PA 267, MCL 15.261 to 15.275, and public
26 notice of the time, date, and place of the meeting shall be given
27 in the manner required by that act.

1 (5) A writing prepared, owned, used, in the possession of,
2 or retained by the board in the performance of an official func-
3 tion shall be made available to the public in compliance with the
4 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

5 Sec. 9. (1) The board may recommend to the state construc-
6 tion code commission created in the Stille-DeRossett-Hale single
7 state construction code act, 1972 PA 230, MCL 125.1501 to
8 125.1531, the promulgation of rules necessary for the safe
9 design, construction, alteration, servicing, and inspection of
10 carpentry and any components regarding carpentry and may recom-
11 mend modifications, additions, or deletions to this act to update
12 and maintain this act as an effective and enforceable
13 instrument. The board may also recommend to the state construc-
14 tion code commission, after testing and evaluating a material,
15 product, method of manufacture, or method of construction or
16 installation for acceptability under the code that the commission
17 issue certificates of acceptability.

18 (2) The department, in consultation with the board, may
19 promulgate rules pursuant to the administrative procedures act of
20 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide an examina-
21 tion and qualification procedure for applicants for licensure
22 under this act as carpenter contractors and journey carpenters.
23 Before an examination or other test required under this act is
24 administered, the department and the board, acting jointly, shall
25 review and approve the form and content of the examination or
26 other test. Unless otherwise provided by rules promulgated by
27 the department in consultation with the board under

1 subsection (4), an individual having successfully completed an
2 appropriate United States department of labor bureau of appren-
3 ticeship training program or its equivalent acceptable to the
4 board and adopted by rule of the department, in consultation with
5 the board, within 1 year before application for a journey carpen-
6 ter license is not required to take the initial licensure
7 examination.

8 (3) Beginning the effective date of this act and until the
9 rules required to be promulgated under subsection (4) are
10 adopted, the board shall utilize the appropriate United States
11 department of labor bureau of apprenticeship training standards
12 for licensure in the categories in this act. The appropriate
13 United States department of labor bureau of apprenticeship stan-
14 dards in effect on the enactment date of this act are adopted by
15 reference.

16 (4) Not less than 180 days after the effective date of this
17 act, the department, in consultation with the board, shall
18 promulgate and adopt rules under the administrative procedures
19 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to set standards
20 for licensure for the categories prescribed in this act. The
21 department, in consultation with the board, may develop its own
22 unique standards or adopt by reference all or part of existing
23 standards developed by a private trade organization or a govern-
24 mental agency. Changes, supplementation, or amendment of the
25 standards described in this subsection shall be pursuant to rules
26 promulgated by the department in consultation with the board.

1 (5) The rules promulgated under subsection (4) shall provide
2 that the board may approve the issuance of a license in the
3 appropriate category to an applicant who demonstrates to the sat-
4 isfaction of the board that the written examination requirements
5 do not serve as an adequate basis for determining whether a par-
6 ticular person could engage in carpentry with competence.

7 Sec. 11. (1) Upon the filing of an application on a form
8 prescribed by the department and payment of the examination fee
9 prescribed in section 17, the department shall conduct examina-
10 tions to establish the qualifications and competency of appli-
11 cants not exempt from the examination requirements and seeking
12 licensing for the category for which the application is submitted
13 and, except as otherwise provided, shall issue licenses to those
14 who pass the examinations or are otherwise qualified and pay the
15 initial issuance fee.

16 (2) A person applying for a license under this act shall
17 also pay the amount required to be paid under the construction
18 lien act, 1980 PA 497, MCL 570.1101 to 570.1305, which amount
19 shall be paid to the department for deposit in the homeowner con-
20 struction lien recovery fund. A person shall not be required to
21 pay more than \$50.00 in an assessment period, regardless of the
22 number of licenses applied for or held.

23 (3) An applicant is not considered eligible for examination
24 unless the applicant is of good moral character, as defined and
25 determined under 1974 PA 381, MCL 338.41 to 338.47.

26 Sec. 13. (1) A person who, on the effective date of this
27 act, has been engaged in, or worked at, a business as a journey

1 carpenter or carpenter contractor and is required to be licensed
2 under this act shall be issued a license in a category for which
3 he or she is qualified without taking an examination upon ful-
4 filling all of the following:

5 (a) Furnishing the department with satisfactory evidence of
6 having been engaged in a business as a journey carpenter or car-
7 penter contractor for a minimum of 3 out of the 5 years immedi-
8 ately preceding the effective date of this act or furnishing the
9 department with satisfactory evidence of having successfully com-
10 pleted an appropriate United States department of labor bureau of
11 apprenticeship training program within the preceding 5 years.

12 (b) Demonstrating to the department of having the other nec-
13 essary qualifications.

14 (c) Applying within 1 year after the effective date of this
15 act.

16 (d) Paying the initial license fee prescribed in
17 section 17.

18 (2) A person who on the effective date of this act is
19 licensed by a municipal licensing board as a journey carpenter or
20 carpenter contractor may furnish the department with satisfactory
21 evidence of the municipal license. The department shall issue to
22 a person complying with this subsection the license for which the
23 person seeks licensure and for which the person is qualified
24 without examination if the person applies within 1 year after the
25 effective date of this act and pays the initial license fee pre-
26 scribed in section 17.

1 (3) A person who on the effective date of this act is
2 employed as a code inspector for a governmental subdivision and
3 has engaged in, or worked at, a business as a journey carpenter
4 or carpenter contractor for 3 out of the 5 years immediately pre-
5 ceding the date of the person's employment as a code inspector
6 may furnish the department with satisfactory evidence of the
7 employment and experience. The department shall issue to a
8 person complying with this subsection the license for which the
9 person seeks licensure and for which the person is qualified
10 without examination if the person applies within 1 year after the
11 effective date of this act and pays the initial license fee pre-
12 scribed in section 17.

13 (4) A person who on the effective date of this act is
14 licensed as a residential builder, or a residential maintenance
15 and alteration contractor in the trade of carpentry or a related
16 subject matter area, under section 2404 of the occupational code,
17 1980 PA 299, MCL 339.2404, may furnish the department with satis-
18 factory evidence of the license. The department shall issue to a
19 person complying with this subsection a license as a journey car-
20 penter or carpenter contractor without examination if the person
21 applies within 1 year after the effective date of this act and
22 pays the initial license fee prescribed in section 17.

23 (5) The department may license, without examination and upon
24 the payment of the initial license fee prescribed in section 17,
25 an applicant who is a legally authorized journey carpenter or
26 carpenter contractor in another state or country if the licensing
27 requirements of the state or country are considered by the board

1 and the department to be substantially equivalent to the
2 licensing requirements of this state and the state or country
3 observes reciprocity in regard to journey carpenters and carpen-
4 ter contractors licensed under this act.

5 (6) The holder of a license issued under this section may
6 renew the license pursuant to section 17.

7 Sec. 15. (1) A person shall not, for compensation, engage
8 in carpentry unless licensed in the appropriate category or
9 exempt from licensure under this act. This act does not prevent
10 a person from performing any activities within the scope of
11 licensure under any other licensure act.

12 (2) Beginning on the effective date of this act, a govern-
13 mental subdivision shall not establish or maintain local licens-
14 ing requirements for journey carpentry or carpenter contractors.
15 A governmental subdivision shall not prohibit a journey carpenter
16 or carpenter contractor licensed under this act from engaging in
17 the work for which the journey carpenter or carpenter contractor
18 has a license.

19 Sec. 17. (1) The examination fee for a journey carpenter's
20 or carpenter contractor's license is \$25.00. Except as otherwise
21 provided in subsection (2), the initial and per-year fee for the
22 issuance of a journey carpenter or carpenter contractor license
23 is \$75.00.

24 (2) A license issued under this act expires on August 31.
25 The department shall issue an annual license to applicants seek-
26 ing journey carpenter licensure and a 3-year license to
27 applicants seeking carpenter contractor licensure. A license is

1 renewable not later than October 31 upon application and payment
2 of the appropriate license fee. In the case of a person applying
3 for an initial or reinstatement carpenter contractor license at a
4 time other than between August 31 and October 31 of the year in
5 which the department issues renewal licenses, the department
6 shall compute and charge the license fee on a yearly pro rata
7 basis beginning in the year of the application until the last
8 year of the 3-year license cycle. All licenses not renewed are
9 void and may be reinstated only upon application for reinstatement
10 and the payment of the license fee. A person who renews his
11 or her license within 3 years after the license is voided under
12 this section is not subject to reexamination for the license.

13 (3) All fees and money received by the department for the
14 licensing of persons under this act, and any other income
15 received under this act, shall be paid into the general fund for
16 appropriation to the department for enforcement and administration
17 of this act.

18 Sec. 19. (1) The department may investigate the activities
19 of a licensee related to the licensee's activities as a journey
20 carpenter or carpenter contractor. The department may hold hearings,
21 administer oaths, and order relevant testimony to be taken
22 and shall report its findings to the board. The board shall proceed
23 under section 27 if the board finds that any of the following
24 grounds exist:

25 (a) The practice of fraud or deceit in obtaining a license
26 under this act.

1 (b) The practice of fraud or deceit in the performance of
2 work for which a license is required under this act.

3 (c) An act of gross negligence.

4 (d) The practice of false advertising.

5 (e) An act which demonstrates incompetence.

6 (f) A violation of this act or rule promulgated under this
7 act.

8 (2) The board, upon recommendation of the department, shall
9 suspend or revoke the license of any person whose failure to pay
10 a lien claimant results in a payment being made from the home-
11 owner construction lien recovery fund pursuant to the construc-
12 tion lien act, 1980 PA 497, MCL 570.1101 to 570.1305. The
13 department shall not renew the license and a new license shall
14 not be issued until the person whose license has been suspended
15 or revoked under this subsection has repaid in full to the fund
16 the amount paid out plus the costs of litigation and interest at
17 the rate set by section 6013 of the revised judicature act of
18 1961, 1961 PA 236, MCL 600.6013.

19 (3) The department shall conduct a review upon notice that
20 the licensee has violated the asbestos abatement contractors
21 licensing act, 1986 PA 135, MCL 338.3101 to 338.3319, and may
22 suspend or revoke that person's license for a knowing violation
23 of that act.

24 (4) A revocation, suspension, or other sanction set forth in
25 subsection (3) or section 27 shall be imposed only after an
26 opportunity for a hearing pursuant to the administrative
27 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

1 (5) A person required to be licensed in a category under
2 this act shall not perform carpentry under a license that has
3 been suspended or revoked or has expired.

4 Sec. 21. A journey carpenter or carpenter contractor
5 licensed under this act who performs work in a governmental sub-
6 division shall register his or her license with the enforcing
7 agency which issues permits and provides inspection services of
8 the carpenter contractor's work. The registration shall be valid
9 until the expiration date of the license. Registration shall be
10 granted by all governmental subdivisions in this state to a
11 licensee under this act upon payment of a fee not to exceed
12 \$15.00.

13 Sec. 23. (1) The owner and a friend or relative of an owner
14 of a single family dwelling that is, or upon completion becomes,
15 the owner's place of residence may personally engage in carpentry
16 in the dwelling without licensure under this act if the owner,
17 upon application for a permit, affirms that he or she is the
18 owner and occupant of the dwelling or shall become the owner and
19 occupant upon completion of the dwelling in which the carpentry
20 is done and that the applicant will perform the carpentry in the
21 dwelling for which the permit is requested.

22 (2) Any friend or relative of the owner of a residence
23 described in subsection (1) may engage in carpentry in the dwell-
24 ing as long as the activity is performed without compensation.

25 (3) The owner of a residence described in subsection (1)
26 shall apply for and secure the required permits from the
27 enforcing agency of the governmental subdivision pursuant to the

1 Stille-DeRossett-Hale single state construction code act, 1972
2 PA 230, MCL 125.1501 to 125.1531, and shall obtain the required
3 inspection after the carpentry is completed.

4 Sec. 25. A person who violates this act is guilty of a mis-
5 demeanor punishable by a fine of not more than \$1,000.00 for a
6 first offense and \$2,000.00 for a second or subsequent offense,
7 or imprisonment for not more than 90 days, or both.

8 Sec. 27. After finding the existence of 1 or more of the
9 grounds for board action described in section 19(1) and after
10 having provided an opportunity for a hearing, the board, except
11 as provided in section 19(2), shall impose 1 or more of the fol-
12 lowing sanctions on the license issued under this act for each
13 violation:

14 (a) Suspension.

15 (b) Denial.

16 (c) Revocation.

17 (d) Limitation.

18 (e) A requirement that restitution be made.

19 (f) An administrative fine of not more than \$1,000.00 for a
20 first offense and \$2,000.00 for a second or subsequent offense.

21 Sec. 29. If restitution is required to be made under
22 section 27, the department may suspend the license of the person
23 required to make the restitution until restitution is made.

24 Sec. 31. This act takes effect January 1, 2003.