

SUBSTITUTE FOR
SENATE BILL NO. 1273

A bill to amend 1980 PA 299, entitled
"Occupational code,"
(MCL 339.101 to 339.2721) by adding section 2408.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2408. (1) A RESIDENTIAL BUILDER AND A RESIDENTIAL
2 MAINTENANCE AND ALTERATION CONTRACTOR PERFORMING SERVICES WITHIN
3 THE SCOPE OF THEIR RESPECTIVE LICENSES INVOLVING ALTERATION,
4 REPAIR, OR REMODELING OF A RESIDENTIAL STRUCTURE, THE VALUE OF
5 WHICH IS MORE THAN \$600.00, INCLUDING MATERIALS AND LABOR, SHALL
6 FURNISH THE OWNER OR HIS OR HER AGENT WITH A WRITTEN CONTRACT OR
7 WRITTEN WORK ORDER. THE WRITTEN CONTRACT OR WORK ORDER SHALL, AT A
8 MINIMUM, CONTAIN THE TOTAL COST INCLUDING MATERIALS AND LABOR, ANY

1 CHARGE FOR A WRITTEN ESTIMATE, AND THE BUSINESS NAME AND STREET
2 ADDRESS OF THE LICENSEE. IF THE LICENSEE DOES NOT HAVE A BUSINESS
3 ADDRESS, THE LICENSEE SHALL SUPPLY HIS OR HER RESIDENTIAL ADDRESS.

4 (2) THE DEPARTMENT SHALL PROVIDE, OR MAKE AVAILABLE ON ITS
5 WEBSITE IN A PRINTABLE FORM, A PAMPHLET. THE PAMPHLET SHALL LIST
6 ALL REGULATED TRADES, THE TELEPHONE NUMBERS OF THE DEPARTMENT AND
7 THE CONSTRUCTION LIEN FUND, AND THE WEBSITE ADDRESSES OF THE
8 DEPARTMENT AND THE CONSTRUCTION LIEN FUND. THE PAMPHLET SHALL
9 CONTAIN SUBSTANTIALLY THE FOLLOWING IN AT LEAST 12-POINT TYPE OR
10 FONT:

11 "HOME REPAIR AND REMODELING"

12 HOW TO FIND REPUTABLE BUILDERS AND REMODELERS

13 GET THE NAMES OF BUILDERS OR REMODELERS FROM:

14 FRIENDS OR NEIGHBORS WHO HAVE HAD SATISFACTORY WORK DONE.

15 YOUR LOCAL HOMEBUILDERS ASSOCIATION.

16 PEOPLE AT LOCAL HOME IMPROVEMENT CENTERS, BUILDER SHOWS,
17 OR OPEN HOUSES.

18 LOCAL YELLOW PAGES LIST LICENSED BUILDERS WHO DO BUSINESS
19 IN YOUR COMMUNITY.

20 IF YOUR LOCAL ASSOCIATION IS AFFILIATED WITH THE MICHIGAN
21 ASSOCIATION OF HOME BUILDERS, ALL MEMBERS SHOULD BE LICENSED BY THE
22 STATE IN ORDER TO BE INCLUDED ON THEIR ROSTER.

23 MAKE SURE THEY ARE LICENSED

24 YOU SHOULD BE AWARE THAT ALL CONTRACTORS OFFERING TO DO WORK
25 WHICH TOTALS \$600 OR MORE IN LABOR AND MATERIALS MUST BE LICENSED
26 BY THE STATE.

27 A RESIDENTIAL BUILDERS LICENSE ALLOWS A CONTRACTOR TO BUILD A

1 COMPLETE RESIDENTIAL STRUCTURE AND TO DO MAINTENANCE & ALTERATION
2 (REMODELING) WORK ON A RESIDENTIAL STRUCTURE. A MAINTENANCE &
3 ALTERATION LICENSE INDICATES THAT THE HOLDER HAS MET REQUIREMENTS
4 FOR ONE OR MORE OF CERTAIN REGULATED TRADES.

5 THE TRADES FOR WHICH A MAINTENANCE & ALTERATION CONTRACTOR IS
6 QUALIFIED TO PRACTICE ARE LISTED ON THE LICENSE.

7 THE HOLDER'S STATE LICENSE MUST BE DISPLAYED IN THE PLACE OF
8 BUSINESS, AND ALL CONTRACTORS AND THEIR SALESPERSONS MUST CARRY
9 POCKET CARDS THAT YOU SHOULD ASK TO SEE. IF THEY CANNOT SHOW YOU A
10 LICENSE, CHECK THE DEPARTMENT'S LICENSE WEBSITE OR CALL THE
11 DEPARTMENT FOR VERIFICATION.

12 GET REFERENCES FROM THE CONTRACTORS YOU ARE CONSIDERING.

13 ASK FOR THE NAME AND ADDRESS OF PREVIOUS CUSTOMERS.

14 CHECK WITH THOSE PEOPLE WHO HAVE HAD WORK DONE AND ASK IF IT
15 WAS SATISFACTORY.

16 BE SURE THE CONTRACTOR HAS A PERMANENT BUSINESS LOCATION AND
17 TELEPHONE NUMBER.

18 CHECK THE CONTRACTOR'S CREDIT REPUTATION WITH LOCAL BANKS OR
19 SUPPLIERS.

20 GET ESTIMATES

21 GET ESTIMATES FROM DIFFERENT CONTRACTORS TO COMPARE PRICES.
22 REMEMBER THAT THE COST OF MATERIALS AND QUALITY OF MATERIALS WILL
23 AFFECT THE BID. A LOW BID BASED ON INFERIOR MATERIALS MAY NOT BE A
24 BARGAIN, SO CONSIDER MORE THAN THE PRICE ALONE.

25 BE SURE THAT THE ESTIMATE SPECIFIES THE TOTAL PRICE, THE TERMS
26 OF PAYMENT, THE KIND OF MATERIALS TO BE USED, AND THE ESTIMATED
27 TIME IT WILL TAKE TO COMPLETE THE JOB.

1 BE WARY OF SPECIAL PRICES BECAUSE OF LEFTOVER MATERIALS, OTHER
2 JOBS IN THE NEIGHBORHOOD, OR DISCOUNTS IF YOU AGREE TO GET OTHER
3 CUSTOMERS. THEY ARE OFTEN GIMMICKS USED TO GET YOU TO BUY.

4 GET A WRITTEN AGREEMENT AND CHANGE ORDERS

5 STATE LAW REQUIRES A WRITTEN, SIGNED AGREEMENT BETWEEN
6 BUILDERS/REMODELERS AND CUSTOMERS AND REQUIRES YOU TO GET A COPY.

7 SOME OF THE ITEMS THAT SHOULD BE COVERED BY THE AGREEMENT ARE:

8 THE COMPANY NAME, ADDRESS, AND TELEPHONE NUMBER.

9 THE FULL NAME AND LICENSE NUMBER OF THE BUILDER/CONTRACTOR
10 AND/OR THE SALESPERSON.

11 DETAILED JOB SPECIFICATIONS WHICH INCLUDE A DESCRIPTION (BRAND
12 NAMES, COLORS, GRADES, STYLES, AND MODEL NUMBERS) OF MATERIALS.

13 A LIST OF ALL COSTS SPELLED OUT CLEARLY.

14 ANY STANDARDS THAT WILL BE USED TO DETERMINE WORKMANSHIP.

15 WHETHER OR NOT AN ALTERNATIVE DISPUTE RESOLUTION MECHANISM
16 WILL BE AVAILABLE.

17 ANY PLANS OR DRAWINGS THAT ARE REQUIRED.

18 START AND COMPLETION DATES. THESE ARE ESTIMATES AND SHOULD
19 ALLOW FOR ANY REASONABLE DELAYS BUT SHOULD INCLUDE A CLAUSE
20 ALLOWING YOU TO WITHHOLD PAYMENT IF WORK SLOWS DOWN FOR NO APPARENT
21 REASON.

22 A STATEMENT THAT ALL REQUIRED BUILDING PERMITS AND VARIANCES
23 WILL BE OBTAINED BY THE CONTRACTOR BEFORE WORK IS BEGUN. THE
24 BUILDING PERMIT IS FOR YOUR PROTECTION. DISREPUTABLE AND UNLICENSED
25 CONTRACTORS WILL OFTEN TELL/ASK YOU TO APPLY FOR THE PERMIT.

26 WHEN YOU CONTACT A LICENSED BUILDER OR MAINTENANCE &
27 ALTERATION CONTRACTOR, NEVER APPLY FOR A BUILDING PERMIT IN YOUR

1 NAME. DOING SO WILL MAKE YOU RESPONSIBLE FOR ANY PROBLEMS WITH THE
2 PROJECT AND COULD ALSO MAKE YOU LEGALLY LIABLE FOR ANY INJURIES
3 THAT HAPPEN TO WORKERS.

4 VERIFY THAT THE CONTRACTOR CARRIES LIABILITY INSURANCE AND HAS
5 WORKER'S COMPENSATION COVERAGE, IN CASE OF ACCIDENTS ON THE JOB.
6 MAKE SURE THAT THE CONTRACT CONFIRMS THAT THE BUILDER HAS LIABILITY
7 AND WORKER'S COMPENSATION COVERAGE.

8 A STATEMENT OF ANY WARRANTY ON THE WORK. BE SURE THAT IT TELLS
9 WHETHER LABOR AND MATERIALS ARE GUARANTEED, AND FOR HOW LONG.

10 A STATEMENT THAT CLEANUP WILL BE DONE BY THE CONTRACTOR.

11 A PROVISION FOR CREDITS IF THERE ARE LARGE AMOUNTS OF
12 MATERIALS LEFT OVER. ON THE OTHER HAND, YOU SHOULD BE PREPARED TO
13 PAY FOR EXTRA MATERIALS IF THE PROJECT TAKES MORE THAN ANTICIPATED.
14 YOUR BUILDER SHOULD PROVIDE YOU WITH A DESCRIPTION OF THESE EXTRA
15 COSTS IN WRITING SO THAT THERE ARE NO SURPRISES ON YOUR FINAL BILL.

16 THE TERMS OF PAYMENT SHOULD BE CLEARLY STATED IN THE
17 AGREEMENT.

18 A RIGHT TO CANCEL CLAUSE. IF YOU ARE SOLICITED AND HAVE SIGNED
19 THE CONTRACT IN YOUR HOME, YOU HAVE THREE DAYS TO CANCEL THE
20 CONTRACT IF YOU CHANGE YOUR MIND. YOU MUST SEND THE CONTRACTOR A
21 REGISTERED LETTER STATING THAT YOU WISH TO CANCEL, IN COMPLIANCE
22 WITH 1971 PA 227, MCL 445.111 TO 445.117.

23 IF EVERYTHING IN THE AGREEMENT IS SATISFACTORY, THE CONTRACTOR
24 MUST SIGN AND DATE THE CONTRACT AND MUST ENSURE THAT THE HOMEOWNER
25 SIGNS AS WELL. ANY CHANGES TO THE PROJECT SHOULD ALSO BE IN WRITING
26 (CHANGE ORDERS) AND BE DATED AND INITIALED BY BOTH PARTIES.

27 PAYING THE CONTRACTOR

28 NEVER PAY FOR THE ENTIRE JOB IN ADVANCE.

1 MAKE A DEPOSIT WHEN WORK BEGINS TO COVER MATERIALS AND STARTUP
2 COSTS. PAY BY CHECK TO THE COMPANY NAME AND ALWAYS GET A RECEIPT.

3 MAKE SCHEDULED PAYMENTS AS WORK PROGRESSES. REFER TO THE
4 CONSTRUCTION LIEN RECOVERY FUND'S WEBPAGE AND TELEPHONE NUMBER IN
5 THIS PAMPHLET.

6 RESOLVING PROBLEMS

7 YOUR LOCAL INSPECTORS ARE RESPONSIBLE TO MAKE SURE YOUR
8 FINISHED JOB MEETS ALL CODES AND SAFETY STANDARDS.

9 IF YOU HAVE PROBLEMS, YOU SHOULD FIRST TRY TO RESOLVE THEM
10 DIRECTLY WITH THE CONTRACTOR BEFORE MAKING THE FINAL PAYMENT.

11 YOU MUST NOTIFY THE CONTRACTOR OF THE PROBLEM IN WRITING AND
12 GIVE THE CONTRACTOR A REASONABLE OPPORTUNITY TO DO ANY NEEDED
13 REPAIRS OR CORRECTIONS.

14 YOU MAY CONTACT THE LOCAL BUILDING INSPECTOR FOR ASSISTANCE IN
15 RESOLVING WORKMANSHIP AND CODE VIOLATIONS. IF THE SIGNED AGREEMENT
16 CONTAINS WORKMANSHIP STANDARDS, THESE WILL BE USED IN RESOLVING THE
17 COMPLAINT.

18 IF THE AGREEMENT CONTAINS AN ALTERNATIVE DISPUTE RESOLUTION
19 MECHANISM, IT MUST BE USED BEFORE THE STATE CAN CONSIDER A
20 COMPLAINT.

21 SMALL CLAIMS COURT IS ANOTHER ALTERNATIVE IF THE DISPUTE
22 INVOLVES A SUM WITHIN ITS JURISDICTION.

23 IF YOUR EFFORTS TO RESOLVE THE MATTER FAIL, OR IF YOU FEEL YOU
24 HAVE BEEN THE VICTIM OF FRAUD OR DECEIT, YOU SHOULD CONTACT THE
25 COMMERCIAL ENFORCEMENT DIVISION TO FILE A COMPLAINT. YOUR LOCAL
26 BUILDING DEPARTMENT CAN ALSO HELP WITH THIS FILING."

1 (3) THE BOARD MAY CHANGE THE CONTENT OF THE PAMPHLET THROUGH
2 RULES PROMULGATED BY THE DIRECTOR.

3 (4) A LICENSEE PERFORMING ALTERATION, REPAIR, OR REMODELING OF
4 A RESIDENTIAL STRUCTURE SHALL DO THE FOLLOWING:

5 (A) IF THE ALTERATION, REPAIR, OR REMODELING IS OF A VALUE OF
6 \$600.00 OR MORE, THE LICENSEE SHALL PROVIDE A COPY OF THE PAMPHLET
7 DESCRIBED IN SUBSECTION (2) PRIOR TO THE EXECUTION OF ANY CONTRACT.
8 THE OWNER SHALL SIGN AND DATE AN ACKNOWLEDGEMENT FORM AS FURTHER
9 DESCRIBED IN SUBSECTION (5).

10 (B) IF THE ALTERATION, REPAIR, OR REMODELING IS OF A VALUE OF
11 LESS THAN \$600.00, THE LICENSEE SHALL PROVIDE TO THE OWNER A COPY
12 OF THE PAMPHLET DESCRIBED IN SUBSECTION (2) AND IS NOT REQUIRED TO
13 PROVIDE AN ACKNOWLEDGMENT FORM.

14 (5) THE ACKNOWLEDGMENT FORM DESCRIBED IN SUBSECTION (4) (A)
15 SHALL SUBSTANTIALLY STATE THE FOLLOWING: "I, THE HOMEOWNER, HAVE
16 RECEIVED FROM THE CONTRACTOR A COPY OF "HOME REPAIR AND
17 REMODELING". THE LICENSEE OR HIS OR HER AGENT SHALL ALSO SIGN AND
18 DATE THE ACKNOWLEDGMENT FORM, WHICH SHALL INCLUDE THE NAME AND
19 ADDRESS OF THE LICENSEE. THE ACKNOWLEDGMENT FORM SHALL BE IN
20 DUPLICATE AND INCORPORATED INTO THE PAMPHLET. THE ORIGINAL
21 ACKNOWLEDGMENT FORM SHALL BE RETAINED BY THE LICENSEE AND THE
22 DUPLICATE COPY SHALL BE RETAINED WITHIN THE PAMPHLET BY THE OWNER.

23 (6) THE FAILURE OF A LICENSEE TO COMPLY WITH THE REQUIREMENTS
24 OF THIS SECTION REGARDING SUPPLYING AN OWNER WITH A CONTRACT OR
25 WORK ORDER AND PROVIDING A PAMPHLET AND, AS APPLICABLE, A SIGNED
26 ACKNOWLEDGEMENT IS CONSIDERED A VIOLATION OF THIS ARTICLE
27 PUNISHABLE ONLY BY AN ADMINISTRATIVE FINE OF NOT MORE THAN \$250.00.

1 THE ADMINISTRATIVE FINE DESCRIBED IN THIS SUBSECTION IS APPLICABLE
2 ONLY IF THE LICENSEE IS FOUND BY THE DEPARTMENT TO BE IN VIOLATION
3 OF THIS ACT REGARDING AN OFFENSE PUNISHABLE UNDER SECTION 602. THE
4 PENALTIES OF SECTION 602 DO NOT APPLY TO A VIOLATION OF THIS
5 SECTION.

6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted.