

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Senator Sanborn

ENROLLED SENATE BILL No. 1273

AN ACT to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 339.101 to 339.2721) by adding section 2408.

The People of the State of Michigan enact:

Sec. 2408. (1) A residential builder and a residential maintenance and alteration contractor performing services within the scope of their respective licenses involving alteration, repair, or remodeling of a residential structure, the value of which is more than \$600.00, including materials and labor, shall furnish the owner or his or her agent with a written contract or written work order. The written contract or work order shall, at a minimum, contain the total cost including materials and labor, any charge for a written estimate, and the business name and street address of the licensee. If the licensee does not have a business address, the licensee shall supply his or her residential address.

(2) The department shall provide, or make available on its website in a printable form, a pamphlet. The pamphlet shall list all regulated trades, the telephone numbers of the department and the construction lien fund, and the website addresses of the department and the construction lien fund. The pamphlet shall contain substantially the following in at least 12-point type or font:

HOME REPAIR AND REMODELING

How To Find Reputable Builders And Remodelers

Get the names of builders or remodelers from:

Friends or neighbors who have had satisfactory work done.

Your local homebuilders association.

People at local home improvement centers, builder shows, or open houses.

Local Yellow Pages list licensed builders who do business in your community.

If your local association is affiliated with the Michigan Association of Home Builders, all members should be licensed by the state in order to be included on their roster.

Make Sure They Are Licensed

You should be aware that all contractors offering to do work which totals \$600.00 or more in labor and materials must be licensed by the state.

A Residential Builders license allows a contractor to build a complete residential structure and to do maintenance and alteration (remodeling) work on a residential structure. A maintenance and alteration license indicates that the holder has met requirements for one or more of certain regulated trades.

The trades for which a maintenance and alteration contractor is qualified to practice are listed on the license.

The holder's state license must be displayed in the place of business, and all contractors and their salespersons must carry pocket cards that you should ask to see. If they cannot show you a license, check the department's license website or call the department for verification.

Get References From The Contractors You Are Considering

Ask for the name and address of previous customers.

Check with those people who have had work done and ask if it was satisfactory.

Be sure the contractor has a permanent business location and telephone number.

Check the contractor's credit reputation with local banks or suppliers.

Get Estimates

Get estimates from different contractors to compare prices. Remember that the cost of materials and quality of materials will affect the bid. A low bid based on inferior materials may not be a bargain, so consider more than the price alone.

Be sure that the estimate specifies the total price, the terms of payment, the kind of materials to be used, and the estimated time it will take to complete the job.

Be wary of special prices because of leftover materials, other jobs in the neighborhood, or discounts if you agree to get other customers. They are often gimmicks used to get you to buy.

Get A Written Agreement And Change Orders

State law requires a written, signed agreement between builders/remodelers and customers and requires you to get a copy.

Some of the items that should be covered by the agreement are:

The company name, address, and telephone number.

The full name and license number of the builder/contractor and/or the salesperson.

Detailed job specifications which include a description (brand names, colors, grades, styles, and model numbers) of materials.

A list of all costs spelled out clearly.

Any standards that will be used to determine workmanship.

Whether or not an alternative dispute resolution mechanism will be available.

Any plans or drawings that are required.

Start and completion dates. These are estimates and should allow for any reasonable delays but should include a clause allowing you to withhold payment if work slows down for no apparent reason.

A statement that all required building permits and variances will be obtained by the contractor before work is begun. The building permit is for your protection. Disreputable and unlicensed contractors will often tell/ask you to apply for the permit.

WHEN YOU CONTACT A LICENSED BUILDER OR MAINTENANCE AND ALTERATION CONTRACTOR, NEVER APPLY FOR A BUILDING PERMIT IN YOUR NAME. DOING SO WILL MAKE YOU RESPONSIBLE FOR ANY PROBLEMS WITH THE PROJECT AND COULD ALSO MAKE YOU LEGALLY LIABLE FOR ANY INJURIES THAT HAPPEN TO WORKERS.

Verify that the contractor carries liability insurance and has Worker's Compensation coverage, in case of accidents on the job. Make sure that the contract confirms that the builder has liability and Worker's Compensation coverage.

A statement of any warranty on the work. Be sure that it tells whether labor and materials are guaranteed, and for how long.

A statement that cleanup will be done by the contractor.

A provision for credits if there are large amounts of materials left over. On the other hand, you should be prepared to pay for extra materials if the project takes more than anticipated. Your builder should provide you with a description of these extra costs in writing so that there are no surprises on your final bill.

The terms of payment should be clearly stated in the agreement.

A right to cancel clause. If you are solicited and have signed the contract in your home, you have three days to cancel the contract if you change your mind. You must send the contractor a registered letter stating that you wish to cancel, in compliance with 1971 PA 227, MCL 445.111 to 445.117.

If everything in the agreement is satisfactory, the contractor must sign and date the contract and must ensure that the homeowner signs as well. Any changes to the project should also be in writing (change orders) and be dated and initialed by both parties.

Paying The Contractor

NEVER pay for the entire job in advance.

Make a deposit when work begins to cover materials and startup costs. Pay by check to the company name and ALWAYS get a receipt.

Make scheduled payments as work progresses. Refer to the Construction Lien Recovery Fund's webpage and telephone number in this pamphlet.

Resolving Problems

Your local inspectors are responsible to make sure your finished job meets all codes and safety standards.

If you have problems, you should first try to resolve them directly with the contractor before making the final payment.

You MUST notify the contractor of the problem in writing and give the contractor a reasonable opportunity to do any needed repairs or corrections.

You may contact the local building inspector for assistance in resolving workmanship and code violations. If the signed agreement contains workmanship standards, these will be used in resolving the complaint.

If the agreement contains an alternative dispute resolution mechanism, it must be used before the state can consider a complaint.

Small Claims Court is another alternative if the dispute involves a sum within its jurisdiction.

If your efforts to resolve the matter fail, or if you feel you have been the victim of fraud or deceit, you should contact the Commercial Enforcement Division to file a complaint. Your local building department can also help with this filing.

(3) The board may change the content of the pamphlet through rules promulgated by the director.

(4) A licensee performing alteration, repair, or remodeling of a residential structure shall do the following:

(a) If the alteration, repair, or remodeling is of a value of \$600.00 or more, the licensee shall provide a copy of the pamphlet described in subsection (2) prior to the execution of any contract. The owner shall sign and date an acknowledgement form as further described in subsection (5).

(b) If the alteration, repair, or remodeling is of a value of less than \$600.00, the licensee shall provide to the owner a copy of the pamphlet described in subsection (2) and is not required to provide an acknowledgment form.

(5) The acknowledgment form described in subsection (4)(a) shall substantially state the following: "I, the homeowner, have received from the contractor a copy of "Home Repair and Remodeling". The licensee or his or her agent shall also sign and date the acknowledgment form, which shall include the name and address of the licensee. The acknowledgment form shall be in duplicate and incorporated into the pamphlet. The original acknowledgment form shall be retained by the licensee and the duplicate copy shall be retained within the pamphlet by the owner.

(6) The failure of a licensee to comply with the requirements of this section regarding supplying an owner with a contract or work order and providing a pamphlet and, as applicable, a signed acknowledgement is considered a violation of this article punishable only by an administrative fine of not more than \$250.00. The administrative fine described in this subsection is applicable only if the licensee is found by the department to be in violation of this act regarding an offense punishable under section 602. The penalties of section 602 do not apply to a violation of this section.

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

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Gay E. Randall

Clerk of the House of Representatives

Approved

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Governor