JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

DAVID C. HOLLISTER
DIRECTOR

Senate Bill 631-2 (As Introduced)

Topic: Licensing and regulation of residential builders.

Sponsor: Senator Cassis.

Co-sponsors: Senators Basham, Barcia, Thomas, Bishop, Leland, Cherry, Emerson, Toy, and Birkholz.

Committee: Economic Development, Small Business and Regulatory Reform.

Date Introduced: June 22, 2005

Date of Summary: July 1, 2005

Senate Bill 631 amends section 3 and 39 of the "State license fee act" to alter license fees and to establish two builder's funds. The bill exempts the residential builders, residential maintenance and alteration contractors, salespersons, or branch office licensure fees from the requirement of those fees having to be paid into the general fund of the state.

The bill alters the fee for a license in one of the aforementioned occupations to $60.00 annually. The bill also adds a code book fee of $50.00 per license cycle.

The bill provides for the establishment of a builder education fund in the State Treasury administered by the Department of Labor and Economic Growth. Thirty dollars of each license fee received during that 3-year license cycle to be allocated for deposit in the builder education fund. This fund will be used for the operation of departmental programs related to education required for licensure under article 24 of the occupational code. Any surplus funds in a given fiscal year carry over to the next fiscal year.

Secondly, the bill provides for the establishment of the builder enforcement fund to be used only for the enforcement of article 24 of the occupational code regarding unlicensed activity and reimbursement of the attorney general for such related prosecutions. Thirty dollars of each license fee received by the department during that 3-year license cycle to be allocated for deposit into the builder enforcement fund. Any surplus funds in a given fiscal year carry over to the next fiscal year.

Lastly, the bill requires that a person is only obligated to pay the code book fee once per license cycle if that person is a person licensed as a residential builder or a residential maintenance and alteration contractor, as an individual and in the capacity of a qualifying officer, or who is licensed as a qualifying officer more than once.

Senate Bill 632 amends sections 601, 602, 605, 2402, 2405, and 2411 of the occupational code while adding sections 2404a and 2411a. The bill mandates that a person not licensed as a residential builder or a residential maintenance and alteration contractor who engages in or attempts to engage in the practice of an occupation regulated under the act or use a title designated in the act unless the person possesses a license or registration issued by the

department for the occupation, is guilty of a misdemeanor punishable by imprisonment for not less than 93 days or more than 1 year or a fine of not less than $5,000.00 or more than $25,000.00, or both.

The bill provides an additional possible penalty for a person, school, or institution which violates a section of the act or a rule or order promulgated or issued under the act. That additional penalty entails a civil fine to be paid to the Department of Labor and Economic Growth, not to exceed $10,000.00 in the case of a person licensed or registered under the act. In the case of a person not licensed or registered under the act who practices an occupation for which that person is not licensed, a civil fine is provided of not less than $5,000.00 or not more than $25,000.00.

The bill specifies that the department is not prohibited from bringing a civil, criminal, or administrative action for the enforcement of section 601 of the occupation code.

The bill provides that out of the existing residential builders' and maintenance and alteration contractors' board at least one of the members that represent the general public shall be registered under the building officials and inspectors registration act.

The bill requires that an applicant for licensure now must submit all of the following:

- Any amount required to be paid under the construction lien act of 1980.
- A copy of an operator's license or state personal identification card, to be used by the department only for proof of identity of the applicant.
- In the case of license renewal, proof of successful completion of continuing education.

The bill provides for a three-year license cycle for a residential builder and residential maintenance and alteration contractor beginning the license cycle for a period of three years in duration.

The bill requires that initial applicants for licensure must complete a pre-licensure course of study. Licensees that are applying for renewal of a license in the capacity of an individual or qualifying officer, or both, are exempt from this requirement. Otherwise, the applicant must successfully complete 60 hours or approved pre-licensure courses consisting of at least 6 hours of courses in each of the following:

- Business Management, estimating, and job costing.
- Design and building science.
- Contracts, liability, and risk management.
- Marketing and sales.
- Project management and scheduling.
- The current Michigan Residential Code and construction safety standards.

To be re-licensed a licensee must successfully complete at least 3 hours of continuing education per calendar year and 21 hours per license cycle since the issuance of the license or renewal. For those who obtain licensure in the second or third year of the license cycle, the 21 hours shall be

prorated. Lastly, at least one hour of courses in codes, safety, and legal issues is required to successfully completed each calendar year.

The publication "NAHB University of Housing, Blueprint for Success" published by the National Association of Home Builders, section 3, pages 3-6 through 3-58, January 2005 edition, are considered approved, appropriate, and incorporated by reference for fulfilling the pre-licensure and continuing education requirements. The bill provides that the department may approve any other equivalent course material and any updates to either incorporated course material. Additionally, construction code update courses approved by the Bureau of Construction Codes and Fire Safety, and workplace safety courses approved by the department, are considered appropriate for fulfilling the continuing education requirements. The department may determine appropriate equivalency regarding any courses described in the subsection.

The department is required to approve instructors to teach and present the pre-licensure and continuing education courses. Those instructors must meet the standards of section 4, pages 4-5 through 4-9, of the previously mentioned publication. The department may waive the requirement of membership in a local, state, or national trade association contained in the publication. The department may determine appropriate equivalency standards and shall establish instructor qualifications for courses not incorporated by reference.

The subject matter of the courses may be offered by any educational entity approved by the department. The department may also accept hours or equivalent credits for completion of the courses.

The bill requires that the department to make rules to provide for the following:

- Pre-presentation approval of continuing education courses offered by an approved educational entity that meets or exceeds the course content of continuing education courses.
- Post-presentation approval of continuing education courses offered by an approved educational entity that meets or exceeds the course content of continuing education courses.
- Approval of distance learning.

The bill provides that each licensee may select approved courses in that person's subject matter of specialty. Service as a lecturer or discussion leader in an approved course is counted toward the continuing education requirements.

The bill requires that in the case of a license applied and approved for a corporation, partnership, or association, each member, partner, managing agent, or officer, must provide a copy of his or her operator's license or state ID card for identification purposes, whether that person is a qualifying officer or not.

The bill clarifies section 2411 indicating that a complaint filed under this section or article 5, or both, shall be made within 18 months after the latest of the following regarding a residential structure or a combination of residential and commercial structure:

- Its completion.
- Its occupancy.
- Its purchase.
- The last progress payment or draw received from the owner or lender.

The bill changes the definition of “verified complaint” in which it now means that it is a complaint in which all or a portion of the allegations have been confirmed by an affidavit of the state or local building official.

Lastly, the bill requires the department to post on its website, within 30 days after the final order was issued, any final order of the board. Additionally, the department must also post on its website the number of the final orders of the board on an annual basis.

The two bills are tie-barred.