

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2021**

Introduced by Reps. Anthony, Schroeder, Martin, Bezotte, Howell, Maddock, Pohutsky and Yaroch

ENROLLED HOUSE BILL No. 4377

AN ACT to amend 2016 PA 407, entitled “An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations in the skilled trades and to regulate persons and activities relative to those occupations; to create a board for each of those occupations; to establish the powers and duties of certain state and local governmental officers and entities, including the boards created under this act; to provide for the promulgation of rules; to provide for fees; to provide for penalties and civil fines; and to repeal acts and parts of acts,” by amending sections 103, 105, 107, 219, and 417 (MCL 339.5103, 339.5105, 339.5107, 339.5219, and 339.5417), section 105 as amended by 2020 PA 370, and by adding section 223.

The People of the State of Michigan enact:

Sec. 103. As used in this act:

(a) “Administrative procedures act of 1969” means the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(b) “Armed forces” means the United States Army, Air Force, Navy, Marine Corps, Space Force, or Coast Guard or other military force designated by Congress as a part of the Armed Forces of the United States, including the reserve components.

(c) “Board” means, in each article of this act that is related to a specific occupation or occupations, the board that is created in that article and composed principally of members of the regulated occupation or occupations, or the commission or other agency that is defined in or designated as the board for purposes of that article. In this article, “board” means any board created or agency designated as a board under any other article of this act.

(d) “Board files” means the records, memoranda, opinions, minutes, and similar written materials that were formerly in the physical possession and control of a board abolished by this act and the records, memoranda, opinions, minutes, and similar written materials of a board created under this act.

(e) “Censure” means an expression of disapproval of a licensee’s or registrant’s professional conduct, whether or not the conduct is a violation of this act or a rule promulgated or an order issued under this act.

(f) “Charitable organization” means a not-for-profit tax-exempt religious, educational, or humane organization.

(g) “Citation” means that term as described in section 537.

(h) “Competence” means a degree of expertise that enables an individual to engage in an occupation at a level that meets or exceeds minimal standards of acceptable practice for the occupation.

(i) “Complaint” means an oral or written grievance.

(j) "Completed application" means an application that is complete on its face and submitted with any applicable licensing or permit fees and any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state.

(k) "Contested case hearing" means a hearing under chapter 4 of the administrative procedures act of 1969, MCL 24.271 to 24.288, as authorized under chapter 5 of the administrative procedures act of 1969, MCL 24.291 to 24.292.

(l) "Department" means the department of licensing and regulatory affairs.

(m) "Dependent" means a spouse, surviving spouse, child under 26 years of age, or surviving child under 26 years of age.

(n) "Director" means the director of the department of licensing and regulatory affairs or his or her authorized representative.

(o) "Disability" means an infirmity that prevents a board member from performing a duty assigned to the board member.

Sec. 105. As used in this act:

(a) "Enforcing agency" means that term as defined in section 2a of the Stille-DeRossett-Hale single state construction code act, MCL 125.1502a.

(b) "Formal complaint" means a document that states the charges of each alleged violation and is prepared by the department or the department of attorney general after a complaint is received by the department.

(c) "Former act" means former 1956 PA 217; former 1984 PA 192; former 1986 PA 54; former 2002 PA 733; or former 1965 PA 290, as applicable.

(d) "General public" means each individual who resides in this state and is 18 years of age or older, other than an individual or the spouse of an individual who is licensed or registered in the occupation or who has a material financial interest in the occupation that is regulated by the specific article in which the term is used.

(e) "Good moral character" means that term as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.

(f) "Governmental subdivision" means that term as defined in section 2a of the Stille-DeRossett-Hale single state construction code act, MCL 125.1502a.

(g) "Incompetence" means a departure from, or a failure to conform to, minimal standards of acceptable practice for an occupation.

(h) "Knowledge and skill" means information, education, practical experience, and the facility to apply that information, education, and practical experience.

(i) "License" includes the whole or part of a governmental permit, certificate, approval, registration, charter, or similar form of permission required under a specific article of this act.

(j) "Licensee" means a person that is issued a license under this act.

(k) "Limitation" means a condition, stricture, constraint, restriction, or probation attached to a license that relates to the scope of practice of that occupation by the licensee. The term includes, but is not limited to, any of the following:

(i) A requirement that the licensee perform only specified functions of the licensee's occupation.

(ii) A requirement that the licensee perform the licensee's occupation only for a specified period of time.

(iii) A requirement that the licensee perform the licensee's occupation only within a specified geographical area.

(iv) A requirement that restitution be made or certain work be performed before a license is issued or renewed or the licensee is relicensed.

(v) A requirement that a person file a financial statement certified by an individual who is licensed as a certified public accountant under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736, with the department at regular intervals.

(vi) A requirement that reasonably assures a licensee's competence to perform the licensee's occupation.

(vii) A requirement that all contracts of a licensee are reviewed by an attorney.

(viii) A requirement that a licensee have on file with the department a bond issued by a surety insurer that is approved by the department or cash in an amount determined by the department.

(ix) A requirement that a licensee deposit money received in an escrow account from which money may be disbursed only under certain conditions as determined by the licensee and another party.

(x) A requirement that a licensee file reports with the department at intervals determined by the department.

Sec. 107. As used in this act:

- (a) "Michigan building code" means part 4 of the state construction code, R 408.30401 to R 408.30499 of the Michigan Administrative Code.
- (b) "Michigan electrical code" means part 8 of the state construction code, R 408.30801 to R 408.30873 of the Michigan Administrative Code.
- (c) "Michigan mechanical code" means part 9A of the state construction code, R 408.30901a to R 408.30996 of the Michigan Administrative Code.
- (d) "Michigan plumbing code" means part 7 of the state construction code, R 408.30701 to R 408.30792 of the Michigan Administrative Code.
- (e) "Municipality" means a city, village, or township.
- (f) "Occupation" means a field of endeavor regulated under this act.
- (g) "Person" means an individual, sole proprietorship, partnership, association, limited liability company, corporation, or common law trust or a combination of those legal entities. Person includes a department, board, school, institution, establishment, or governmental entity.
- (h) "Probation" means a sanction that permits a board to evaluate over a period of time a licensee's fitness to practice an occupation regulated under this act while the licensee continues to practice the occupation.
- (i) "Public access" means the right of a person to view and copy files under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- (j) "Rule" means a rule promulgated under the administrative procedures act of 1969.
- (k) "State construction code" means the rules promulgated by the state construction code commission under section 4 of the Stille-DeRossett-Hale single state construction code act, MCL 125.1504, R 408.30101 to R 408.31194 of the Michigan Administrative Code, including each part of that code that is of limited application, and any modification of or amendment to those rules.
- (l) "Stille-DeRossett-Hale single state construction code act" means 1972 PA 230, MCL 125.1501 to 125.1531.
- (m) "Uniformed services" means the Commissioned Corps of the United States Public Health Service and the National Oceanic and Atmospheric Administration Commissioned Officer Corps.
- (n) "Veteran" means that term as defined in section 1 of 1965 PA 190, MCL 35.61.

Sec. 219. (1) The department may grant a nonrenewable temporary license to an individual who is applying for licensure under a specific article of this act if the individual meets both of the following:

- (a) He or she provides proof acceptable to the department that he or she holds a current license in good standing, or a current registration in good standing, in that occupation, issued by an equivalent licensing department, board, or authority, as determined by the department, in another state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, another territory or protectorate of the United States, or a foreign country.
 - (b) He or she did not previously have a license denied, revoked, or suspended.
 - (2) If approved by a board, a temporary license issued under subsection (1) is valid until 1 or more of the following occur:
 - (a) The results of the next scheduled examination are available.
 - (b) The results of the next required evaluation procedure are available.
 - (c) A license is issued.
 - (d) The next examination date of an examination for licensure in the applicable occupation, if the applicant does not take the examination.
 - (e) The applicant fails to meet the requirements for a license.
 - (f) A change in employment is made.
- (3) In addition to a temporary license under subsection (1), the department shall grant a temporary license under a specific article of this act to an individual who applies for a temporary license if the applicant meets all of the following:
- (a) He or she provides proof acceptable to the department that he or she is a dependent of a member of the armed forces, a dependent of a member of the uniformed services, or a dependent of a veteran.
 - (b) He or she provides proof acceptable to the department that he or she holds a current license in good standing, or a current registration in good standing, in the trade or occupation for which he or she is seeking a temporary license, issued by an equivalent licensing department, board, or authority, as determined by the department, in consultation with the board, in another state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, another territory or protectorate of the United States, or a foreign country.

(4) A temporary license issued under subsection (3) is valid for 6 months and may be renewed for 1 additional 6-month term if the department determines the temporary licensee continues to meet the requirements of subsection (3) and needs additional time to fulfill the requirements for initial licensure in this state.

(5) An individual must not receive more than 2 temporary licenses described in subsection (1) under a specific article of this act within a 4-year period.

(6) The department may place a limitation on a temporary license granted under this section.

Sec. 223. (1) The department shall issue a license or a certificate of registration for an occupation under this act without examination to an individual who demonstrates to the satisfaction of the department that he or she meets all of the following at the time of application:

(a) Provides proof that the individual is 1 of the following:

(i) A member of the armed forces or uniformed services.

(ii) A veteran.

(iii) A dependent of a member of the armed forces, a member of the uniformed services, or a veteran.

(b) Holds a valid license or registration in that occupation from an equivalent licensing department, board, or authority, as determined by the department, in at least 1 other state of the United States. For each license or registration described in this subdivision that he or she holds, all of the following must be met:

(i) The license or registration is in good standing and he or she has held that license or registration for at least 1 year.

(ii) There were minimum education requirements and, if applicable, work experience requirements in effect for licensure or registration in the other state, and the other state verifies that he or she met those requirements for licensure or registration in that state.

(iii) If the other state required an examination for licensure or registration, he or she passed the examination.

(iv) The requirements for licensure or registration in the other state are substantially equivalent to or exceed the requirements of this act and any rule promulgated under this act for the license or registration.

(c) Has not had a license or registration revoked, and has not voluntarily surrendered a license or registration, in any other state of the United States or a foreign country while under investigation for unprofessional conduct.

(d) Has not had discipline imposed by any equivalent licensing department, board, or authority in another state of the United States. If another state of the United States has taken disciplinary action against the applicant, the department shall determine if the cause for the action was corrected and the matter resolved. If the matter has not been resolved by that other state, the department shall not issue or deny a license or registration until the matter is resolved.

(e) Does not have a complaint, allegation, or investigation pending before an equivalent licensing department, board, or authority in another state of the United States or a foreign country that relates to unprofessional conduct. If the applicant has any complaints, allegations, or investigations pending, the department shall suspend the application process and shall not issue or deny a license or registration to the applicant until the complaint, allegation, or investigation is resolved.

(f) Pays all applicable fees.

(g) Is of good moral character.

(h) Meets the age requirement of that occupation under this act, if applicable.

(2) This section does not prevent the department from issuing a temporary license under section 219 or issuing a license under section 731(5), 907(3), or 1019(1).

Sec. 417. The department shall waive the fee for an initial license or initial registration that is otherwise required under this act, or an application processing fee charged by the department for an initial license or initial registration, if the applicant meets 1 of the following requirements:

(a) Is actively serving in the armed forces or the uniformed services.

(b) Is an individual who served in the armed forces or uniformed services and he or she provides to the department a form DD214, form DD215, or any other form that is satisfactory to the department that demonstrates he or she was separated from that service with an honorable character of service or under honorable conditions (general) character of service.

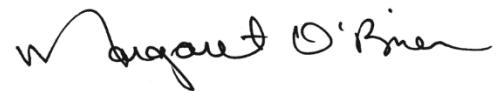
(c) Is a dependent of a member of the armed forces, a dependent of a member of the uniformed services, or a dependent of a veteran and he or she provides proof acceptable to the department that he or she is a dependent as described in this subdivision.

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

This act is ordered to take immediate effect.



Tracy E. Randall
Clerk of the House of Representatives



Margaret O'Brien
Secretary of the Senate

Approved _____

_____ Governor