



Romney Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

LICENSE CARPENTER CONTRACTORS

House Bill 6226 (Substitute H-2) House Bill 6227 as introduced First Analysis (12-3-98)

Sponsor: Rep. Michael Hanley
Committee: Regulatory Affairs

THE APPARENT PROBLEM:

Reportedly, there is little consumer protection from shoddy framing work done during home construction or renovation, especially work performed by unlicensed or out-of-state carpenters. Carpenter contractors are the only major contractor in home construction that are not required to be licensed or required to take out a city, state, or county permit. Yet, it is often the carpenter contractor who must make the plans for a project work, even if the plans do not match the basement or foundation, and who must pass information on the project to other contractors such as plumbers, electricians, masons, and roofers so that those professionals can do their jobs safely and correctly. Though technically carpenters fall under the trades and activities performed by licensed residential builders or residential maintenance and alteration contractors, it is reported that many carpenters engaging in business in Michigan are not licensed by the state. This leaves little recourse for the individual who has received a poor quality work product, as the Department of Consumer and Industry Services has authority only over persons licensed under the Occupational Code. Stories such as walls collapsing within five years of construction are not uncommon, nor are tales of people giving thousands of dollars to contractors for work that is never performed. Unless a person can get help from a local prosecutor, there is no state agency that a consumer can turn to for help. Some in the building professions believe that the situation may be helped by creating a separate carpenter contractor license for those engaged in rough carpentry, which would include installing or repairing walls, decks, ceilings, and roofs that are part of the rough framing of a residential structure.

THE CONTENT OF THE BILLS:

The bills would establish a separate license for carpenter contractors and set license fees. The bills are tie-barred to each other, and would do the following:

House Bill 6226 would amend the Occupational Code (MCL 339.2401 et al.) to remove rough carpentry from the list of crafts and trades performed by a licensed residential maintenance and alteration contractor and create a separate carpenter contractor license for those engaging in rough carpentry. A "carpenter contractor" would mean a person that was engaged in rough carpentry on a residential structure for a fixed sum, price, fee, percentage, or other consideration of value, other than for wages for personal labor only. "Rough carpentry" would be defined as the erecting, installing, altering, or repairing of walls made of wood or metal framing components, before being sheeted, and would include decks, ceilings, or roofs, and any components of decks, ceilings, or roofs that constitute the rough framing of a residential structure. A person with a valid residential builder or residential maintenance and alteration contractor license would not have to have a separate carpenter contractor license to engage in rough carpentry.

For a period of one year after the bill's effective date, the Department of Consumer and Industry Services (CIS) would have to issue a carpenter contractor license to a person who applied to the department, paid the applicable license and application fees, and demonstrated that he or she had been working as a carpenter contractor for at least 12 of the preceding 24 months. After that time, an applicant for a carpenter contractor license would also have to successfully complete a departmental examination. Carpenter contractors would be regulated by the provisions currently regulating residential builders and maintenance and alteration contractors. The bill would also change the membership and name of the Residential Builders' and Maintenance and Alteration Contractors' Board to add carpenter contractors; the board would comprise two licensed members of each profession.

House Bills 6226 and 6227 (12-3-98)

House Bill 6227 would amend the State License Fee Act (MCL 338.2239) to set the application processing fee, examination fees, and annual license fee for a carpenter contractor at the same fee structure as what is currently set for residential builders and residential maintenance and alteration contractors.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

Reportedly, some carpentry work in home construction has been performed by unqualified persons, resulting in eventual damage to homes such as interior walls collapsing within five years of being built. Currently, carpentry is included in the list of trades and crafts that comprise the activities that a person with a residential maintenance and alteration contractor's license may perform. However, many unlicensed persons are also engaging in carpentry, especially in residential home construction. Since the Department of Consumer and Industry Services can only regulate those individuals licensed under the Occupational Code, it is important that a separate license be created for those engaging in rough carpentry in home construction. The requirement in House Bill 6226 that applicants pass an examination (after a one-year period in which people currently in the profession are grandfathered in) should promote expertise in the profession. Also, if regulated, consumers could appeal to the department for help in settling disputes or in reporting shoddy work. As it is now, consumers have little recourse if taken by an unscrupulous contractor or if the contractor has performed poorly.

Against:

Though the committee-passed substitute of House Bill 6226 is an improvement over the bill as introduced, it still is problematic on several levels. Though a person with a valid residential builder or residential maintenance and alteration contractor license would not have to also be licensed as a carpenter contractor, subcontractors may still have to obtain a license. But, if the primary reasoning behind the bill is to protect consumers from shoddy work being performed by unqualified persons, the bill would do little to correct the situation. According to departmental staff, the Department of Consumer and Industry Services

receives about 1,000 complaints a year on contractors licensed under the code, and is able to process about 1,000 cases a year. However, with a backlog of 2,000 cases at the start of 1998, it does take time to resolve a case. Further, current laws lack sufficient teeth to act as much of a deterrent for unscrupulous contractors. The department can do little more than issue cease and desist orders, though they are often able to help resolve disputes between contractors and clients. Therefore, creating a license for individuals doing rough carpentry would not stop out-of-state unlicensed people from doing work in Michigan, nor would it necessarily weed out ill-trained or unskilled persons from the profession.

A better approach may be to toughen existing laws and give state departments the clout they need to enforce compliance with the statutes. Also, it cannot be said enough that government simply cannot be expected to replace the common sense of the public. Consumers simply must take the time to educate themselves before hiring a contractor to do work on their homes. It is heartbreaking to hear stories of people cheated out of savings for work that is never performed, or performed badly, but there are steps that a consumer can take to protect himself or herself. People can call the local Better Business Bureau, can check with licensing boards for licensed occupations, get a list of references of former clients to see the quality of work first hand, and so on. Consumers could also call state associations for guidelines on how to choose a competent contractor. In short, consumers must take the time to gather facts, educate themselves, and exercise judgement in choosing a contractor, whether the profession is licensed or not.

POSITIONS:

The Michigan Carpenters Union submitted testimony in support of the bill. (12-1-98)

The Department of Consumer and Industry Services does not support the bill. (12-1-98)

The Michigan Association of Home Builders opposes the bill. (12-1-98)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.