

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on  
Housing  
(AC-Ho)

(Form Updated: 11/20/2008)

**COMMITTEE NOTICES ...**

➤ Committee Reports ... CR  
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➤ Executive Sessions ... ES  
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➤ Public Hearings ... PH  
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➤ Record of Comm. Proceedings ... RCP  
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**INFORMATION COLLECTED BY COMMITTEE  
FOR AND AGAINST PROPOSAL ...**

➤ Appointments ... Appt  
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Name:

➤ Clearinghouse Rules ... CRule  
\*\*

➤ Hearing Records ... HR (bills and resolutions)  
**\*\*05hr\_ab0980\_AC-Ho\_pt01**

➤ Miscellaneous ... Misc  
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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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**2005 Assembly Bill 980**

**Assembly Substitute  
Amendment 1**

*Memo published:* February 24, 2006

*Contact:* Pam Shannon, Senior Staff Attorney (266-2680) or  
Mary Matthias, Senior Staff Attorney (266-0932)

*Assembly Bill 980* contains a number of provisions relating to building contractors and building inspectors, as follows:

1. Requires the Department of Commerce (Commerce) to promulgate rules establishing continuing education (CE) requirements and, in certain cases, examination requirements for persons seeking to obtain a building permit. The rules must specify that a person may not obtain the permit unless the person completes at least 12 hours of approved CE courses during the two calendar years preceding the calendar year in which the person applies for the permit and attends at least one professional meeting or educational seminar designed for both building contractors and building inspectors during that two-year period. The person must furnish proof of completion of these requirements to the permit issuer.
2. Requires that a person who has not previously held a certificate of financial responsibility pass an examination developed by Commerce on the CE courses required under the bill. [Under current law, a person may not obtain a building permit unless he or she annually obtains a certificate of financial responsibility showing that the person has met certain bonding and insurance requirements.]
3. Authorizes Commerce to specify different CE requirements that apply to experienced and inexperienced permit applicants and to revoke or suspend a certificate of financial responsibility if the holder fails to comply with the CE requirements, engages in dwelling construction without a permit, is convicted of a crime related to the construction of a dwelling, or has been adjudged bankrupt at least twice.
4. Changes the name of the current Contractor Financial Responsibility Council to the Contractor Certification Council and gives the council the additional responsibilities of recommending to Commerce courses that meet CE requirements and advising Commerce on the development of course examinations.

5. Requires that a person applying for a building permit must sign the statement that a municipality is currently required to provide advising the owner that certain specified consequences might occur if the owner hires a contractor who is not bonded or insured as required under current law.
6. Provides that currently-required Commerce rules on the certification of building inspectors must specify that Commerce may suspend or revoke the certification of an inspector who knowingly authorizes the issuance of a building permit to a contractor who does not comply with financial responsibility or CE requirements.
7. Contains a delayed effective date of January 1, 2007 for all provisions of the bill.

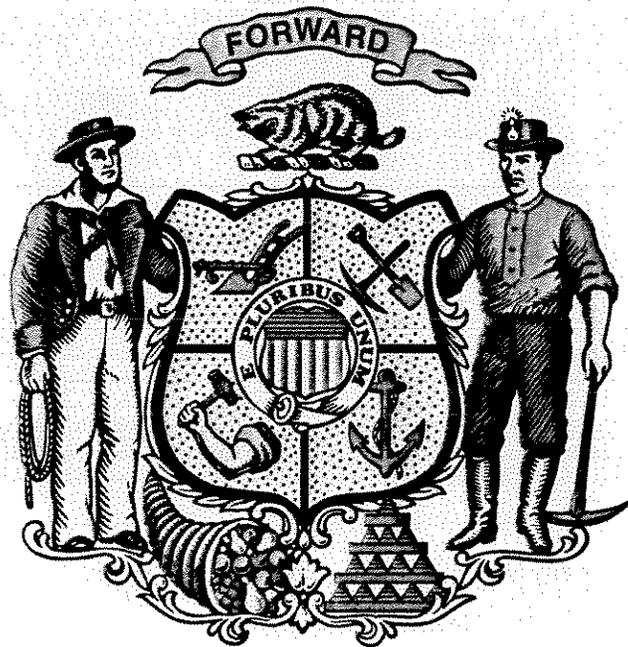
*Assembly Substitute Amendment 1* makes the following changes to the bill:

1. Provides that the newly created CE requirements and related rules do not apply to a person who holds a current Commerce-issued license (for example, a plumber's license) at the time the person obtains a building permit, if the work the person does under the permit is work for which he or she is licensed.
2. Modifies the CE requirement in the bill (12 hours in two years) to six hours annually and specifies that the CE must be relevant to the professional area of expertise of the person seeking the building permit.
3. Removes the reference to a two-year time period in the bill's provisions requiring attendance at professional meeting or educational seminars.
4. Provides that the CE rules may not require a person to take CE courses or examinations on CE courses that are not relevant to the person's professional area of expertise.
5. Makes several nonsubstantive changes suggested by Commerce to clarify provisions and eliminate redundant language.
6. Modifies the bill's effective date (January 1, 2007), to instead provide that the bill takes effect on the day after publication, except for the provisions requiring compliance with the new CE requirement, which take effect on January 1, 2008.

### Legislative History

On February 9, 2006, the Assembly Committee on Housing held a public hearing on the bill. In executive session on February 22, 2006, the committee adopted Assembly Substitute Amendment 1 and recommended passage of the bill, as amended, both on votes of Ayes, 6; and Noes, 0.

PS:ksm







**Luke Rollins**  
Director of Government Affairs

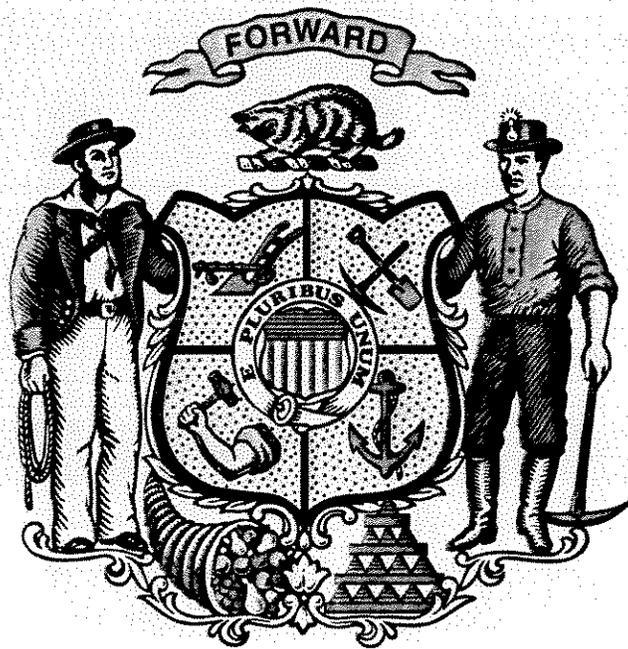
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FYI:  
• Seider/Luke send  
he will draft. L.





**Beata Kalies**  
Director of Government Relations

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**Wisconsin Federation of Cooperatives**

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Scott —  
Could  
you send  
me  
copies of  
testimony

for AB 980  
please.

Thanks.

Beata

**TO: Members of the Assembly Committee on Housing**  
**FROM: Mark Reihl, Executive Director**  
**DATE: February 9, 2006**  
**RE: AB 980**

**Wisconsin State Council  
of Carpenters**

United Brotherhood  
of Carpenters  
and Joiners of America



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The Carpenters Union supports the goals of this legislation. We believe AB 980 is a step in the right direction in helping to better protect consumers and to weed out unqualified contractors in the home building and remodeling industry. However, we also believe the bill falls short by not requiring all Wisconsin contractors in the homebuilding and remodeling industry to be registered with the Department of Commerce.

As I understand AB 980, the education requirements apply only to contractors who pull building permits. It does nothing to extend current law financial responsibility requirements and the new education requirements in AB 980 to subcontractors in the homebuilding industry. Also, it does not apply to contractors who circumvent the law by having homeowners pull the building permit. Having homeowners sign a statement indicating they understand the consequences of hiring a contractor that isn't bonded or insured is not enough to deter the unscrupulous contractor.

Further, there is another growing problem in the homebuilding and remodeling business the legislature should address – the misclassification of workers as independent contractors. Rather than pay their workers as employees, contractors are handing them 1099 tax forms and paying them as independent contractors. Contractors who misclassify their employees have a competitive advantage because they do not withhold federal and state taxes or pay unemployment or workers compensation insurance. Many of the workers being exploited in this manner are illegal immigrants who have no recourse but to accept their situation for fear of calling attention to their immigration status. We are seeing more and more instances of this illegal practice being used by framing, drywall, roofing, siding and floor covering contractors.

Misclassification is costing Wisconsin millions in uncollected taxes, unemployment insurance and workers compensation payments. A 2004 Harvard study of the construction industry in Massachusetts estimated that 14 to 24% of employers misclassify their workers at a cost of \$21 million to the state.

**One way to deter contractors from misclassifying workers as independent contractors is to require all contractors in the state of Wisconsin to register with the Department of Commerce.**

Legislation to require contractor registration is nearing completion and will be circulated for co-sponsorship and introduced shortly

I look forward to working with you to address the misclassification issue and the issues addressed by AB 980.



# Wisconsin Builders Association

*Dedicated to Preserving and Promoting the American Dream*

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**Deputy Executive Vice-President**  
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**NAHB**

## Protecting the Housing Consumer Through Better Education and Better Enforcement

The mission of the Wisconsin Builders Association™ is to provide for the creation and preservation of safe, affordable, quality housing opportunities for the people of Wisconsin. To help us in that effort, we are asking legislators to support AB 980. This bill requires builders to take continuing education classes developed by the department of Commerce. It also improves the enforcement of existing building laws.

Between 2004 and 2005, leaders of the Wisconsin Builders Association™ analyzed contractor licensing laws from every state and Canadian province. AB 980 is the result of that review. Under this proposal, builders and remodelors would have to attend one continuing education class each year.

The bill also gives the department of Commerce the authority to revoke the certification of any contractor who fails to build to the state's safety regulations, or who commits a crime relating to building. Finally, the legislation puts new emphasis on enforcement, by holding building inspectors responsible for allowing an un-certified contractor to obtain a building permit.

Consumer protection is a fundamental part of our mission, and an ongoing element of our public policy agenda. This is a complex issue with many causes and solutions. In addition to AB 980, our organization has supported these other initiatives:

- Requiring all new homes to be inspected
- Providing education for builders
- Providing home buyer education for consumers
- Establishing a clear process for resolving disputes between builders and consumers

Through these initiatives, the industry is committing tens of thousands of man-hours and over \$16 million annually to protect our customers.

Please join us in this important effort by supporting AB 980.

The next page of this communication is a summary of other consumer initiatives.

**Inspection**

In 2003 the Wisconsin Builders Association™ championed a state law requiring all new homes to be inspected by a state-licensed building expert during construction, even though this law will subject builders to additional costs (approximately \$600 per home), delays, and red tape. Prior to the passage of this law, consumers buying a home in a rural area had no assurance, other than the builders' good name, that the home met the state's standards for safety and durability.

Statewide building inspection costs the industry, conservatively, approximately \$14.4 million each year.

**Education**

The Wisconsin Builders Association™ fought for legislation that requires a portion of every building permit fee to go toward education. Each year, the law now requires \$200,000 to be dedicated to builder education, and \$600,000 to be dedicated to new home buyer education. In addition, WBA™, industry sponsors, and local affiliated associations will match or exceed this amount.

The industry is investing more than \$1.6 million annually to make sure that builders are aware of the latest building regulation changes and innovations, and, more importantly, assuring that customers understand the process and understand their rights.

**Conflict resolution**

The Wisconsin Builders Association™ is working with Representative Steve Wieckert and Senator Luther Olsen to establish a new path for problem solving between builders and customers. SB448 (and its soon-to-be-introduced Assembly companion bill) lays out a process that builders and consumers can follow to resolve disputes. The law is patterned after notice and right to cure laws that have dramatically reduced the time and legal costs of resolving construction disputes in two dozen other states.



# Wisconsin Builders Association

*Dedicated to Preserving and Promoting the American Dream*

## Proposed amendments to AB 980/SB 516

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Ted Peotter  
Wausau

**Deputy Executive Vice-President**  
Jerry Deschane



**NAHB**

The Wisconsin Builders Association has been approached by representatives of the Wisconsin department of Commerce and the Wisconsin Housing Alliance regarding changes to AB 980/SB 516. Our organization supports their requests as follows:

### Wisconsin Housing Alliance

Assembly Amendment 1, with the addition of the following language, added to line 9 after "building permit": "provided that person is performing work covered by that license."

Assembly Amendment 1 eliminates the possibility of a plumber, electrician, manufactured home installer, or many other trades of having to be "double-licensed." The additional language that we recommend assures that a plumber (or other licensed person) would need to abide by the certification requirements of AB 980 if he or she is performing work other than what he is licensed to do.

Assembly Amendment 2, as written.

Assembly Amendment 2 makes it clear that a person cannot be required to take training in a field that is not relevant to their business (for example, an insulating contractor would not have to take courses in plumbing).

### Department of Commerce

The department has proposed several changes that do not change the substance of the bill; rather they make the language clearer and easier to administer. We support these proposed changes:

- 1) On page 4, line 23, delete the words "of financial responsibility." This deletes the old current-law name of contractor certification. It is not a substantive change.
- 2) On page 5, lines 1 and 2, delete the language after "with s. 101.654." This language is redundant, since continuing education requirements are included within 101.654.
- 3) On page 5, lines 10 and 11, delete the words "financial responsibility," the semicolon (;) after the word certification and the word "education" on line eleven. This language deletes the old current-law name of contractor certification. It is not a substantive change.
- 4) On page 5, line 25 delete "12 hours" and replace with "6 hours per year" and on page 6, lines 1 and 2, delete the language following the word, "department."

This change maintains the required number of continuing education hours, but gives the department more flexibility for administering the program.

- 5) On page 6, lines 3 through 6, delete that language, and replace it with, "2. That the continuing education requirement under subd. 1 includes attendance at one or more professional meetings designed for both building contractors and building inspectors."

This change maintains the requirement that builders are required to attend at least one builder-inspector meeting, but gives the department more flexibility for administering the program.

- 6) On page 7, lines 10 and 11 revise the effective date to read as follows: "This act takes effect upon publication except for Sections 8 and 11, which take effect on January 1, 2008."

This change gives the department the authority to develop and approve continuing education courses, and to draft administrative rules, but it delays the date by which contractors are required to comply with the continuing education requirement. Simply put, the courses need to be in place before the contractors can be required to have taken them.