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Senate Bill 329 (Substitute S-3 as passed by the Senate)
Senate Bill 330 (Substitute S-3 as passed by the Senate)
Senate Bill 331 (Substitute S-3 as passed by the Senate)
Senate Bill 436 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Mike Rogers (S.B. 329, 330, & 331)
Senator Glenn D. Steil (S.B. 436)
Committee: Human Resources, Labor and Veterans Affairs

Date Completed: 4-30-97

RATIONALE

Contractors and persons in the building trades often make charitable donations of time and effort to remodel or reconstruct residences for the poor and/or the elderly. In various areas of the State, these efforts sometimes are made through nonprofit organizations that are dedicated to the rehabilitation of homes for the elderly, handicapped, or impoverished. It has been suggested that these efforts could be aided in two ways. While homeowners can obtain a building permit for certain kinds of work, it has been pointed out that under the statutes that govern mechanical, electrical, and plumbing contractors, in order for work to be performed by such contractors, one of them must obtain a permit from the local unit of government. In a situation in which several contractors may be working through a charitable organization on a rehabilitation project, rather than asking one contractor to obtain the permit, the organization sometimes asks the homeowner to obtain the permit. Reportedly, most local units under these circumstances will issue a permit to the homeowner; however, some local units have refused to allow permits for such projects unless they are obtained by a contractor. This evidently has delayed or prevented volunteers from performing scheduled work. Some people feel that in situations in which contractors have volunteered their efforts through charitable organizations, the statutes should specify that homeowners could obtain the required permits.

It also has been suggested that persons who volunteer through charitable organizations to help rehabilitate residences, without compensation, should be given some protection from legal action. Some people feel that, under these circumstances, the State should give such volunteers statutory protection by limiting their civil liability.

CONTENT

The bills would amend four separate Acts to limit the civil liability of certain contractors who performed work without compensation for a charitable organization, and to allow the owner of property on which such work was performed to obtain a construction permit. Senate Bill 329 (S-3) would amend the Forbes Mechanical Contractors Act, which provides for the licensure of heating, cooling, ventilating and refrigerating equipment installation and service contractors; Senate Bill 330 (S-3) would amend Public Act 266 of 1929, which provides for the classification and licensure of plumbers; Senate Bill 331 (S-3) would amend the Electrical Administrative Act, which provides for the licensure and regulation of electricians and electrical contractors; and Senate Bill 436 (S-1) would amend the State Construction Code Act and would pertain to residential builders.

Currently, under each of the Acts, a person must obtain a permit in order to perform certain construction or repairs. The bills provide that if the construction or repair work were performed without compensation by a licensee (under the various Acts) for or on behalf of a charitable organization, the required permit could be obtained by the owner of the property on which the work was performed. The bill would apply only to the reconstruction, renovation, or remodeling of one- or two-family dwellings. "Charitable organization" would mean a nonprofit, tax-exempt religious, benevolent, educational, philanthropic, or humane organization.

Each bill provides that a person licensed under the Act, who in good faith performed work for a charitable organization under the bill, would not be liable in a civil action brought to recover damages incurred as a result of the work performed. This exemption from liability would not apply if the

damages resulted from the licensed person's acting in a willful, wanton, or reckless manner; if the work performed were not done according to the standards that would otherwise be required of the licensee; or, if the licensee had constructive knowledge that the work performed was hazardous or dangerous.

MCL 338.977 (S.B. 329)
Proposed MCL 338.904a (S.B. 330)
MCL 338.885 (S.B. 331)
Proposed MCL 125.1510a (S.B. 436)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bills would greatly enhance the ability of charitable organizations to recruit and maintain contractors who volunteer their efforts for the renovation and rehabilitation of the residences of those who need help. Under current laws, contractors vital to rehabilitation projects may be reluctant to offer their time and efforts because of civil liability concerns. Under the bills, contractors who volunteered to perform work, without compensation, through charitable organizations would not be liable in a civil action brought to recover damages unless the damages were caused by actions that were willful, wanton, or reckless, or performed outside accepted standards. This would encourage contractors to participate in volunteer housing rehabilitation projects because it would protect contractors from negligence lawsuits; at the same time, it would protect the homeowner against a contractor who did not perform work in an accepted manner.

Further, the bills would clear up concerns that have risen over building permits for volunteer projects. Some statutes require certain contractors to obtain a permit if they are performing work on a job site, though homeowners can obtain their own permits for work that does not require an electrical, plumbing, or mechanical contractor. Because a project being performed through a charitable organization may require several contractors to be on a job site at the same time (often as a one-day event), it is logical for the organization to ask the owner of the home being worked on to obtain the required permit, rather than asking one of several contractors to obtain the permit. While most local units of government, under these circumstances, allow the homeowner to obtain the required permit,

some local units have refused issuance of permits because the statutes specify that a contractor must obtain the permit. Refusal to issue a permit can delay, or prevent, volunteers from performing work that homeowners had expected. The bills simply provide that, in those instances where work was being performed by volunteer contractors through a charitable organization, homeowners would be allowed to obtain necessary permits.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: M. Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.