



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 405 (Substitute S-4 as reported)

Sponsor: Senator Valde Garcia

Committee: Economic Development, Small Business and Regulatory Reform

CONTENT

The bill would amend the Construction Lien Act to do the following:

- Increase the maximum payment that may be made to subcontractors, suppliers, and laborers from the Homeowner Construction Lien Recovery Fund from \$75,000 to \$100,000 per residential structure.
- Require an owner or lessee to notify each subcontractor, supplier, and laborer named in a sworn statement (which a contractor must give to the owner or lessee, as described in the Act) that the statement had been received.
- Provide that an owner, lessee, or designee could not accept a full or partial unconditional or conditional waiver of lien from a person other than the lien claimant named in the waiver, without verifying its authenticity.
- Revise the requirements for recovering from the Fund on a construction lien on a residential structure despite the fact the owner or lessee filed an affidavit indicating that he or she had paid the contractor, not colluded to obtain payment from the Fund, and cooperated in the defense of the Fund.
- Prohibit the payment of interest from the Fund and payments to a supplier who did not require advance payment in certain cases in which the contractor or subcontractor was already indebted to the supplier.
- Require the Department of Labor and Economic Growth to maintain a website and post the name of contractors that failed to pay subcontractors or suppliers, resulting in payment from the Fund.

The bill is tie-barred to Senate Bill 459 (which would revise the fees for licensed contractors, allow a person to bring an action to discharge a lien recorded by an unlicensed contractor, and make other changes to the Act).

MCL 570.1110 et al.

Legislative Analyst: J.P. Finet

FISCAL IMPACT

The bill would tend to reduce payments from the Homeowner Construction Lien Recovery Fund. Although the size of payments from the Fund would increase, contractors would be required to meet more stringent criteria in order to collect from the Fund. In addition, new limits would apply to interest payments on claims, further reducing expenditures from the Fund.

The bill would revise the limit on administrative expenses of the Fund. The limit would change from 20% of the ending balance in the previous fiscal year to 20% of the average of the ending balance in the previous two fiscal years. The averaging would reduce the volatility of the limit on administrative expenses.

The bill is tie-barred to Senate Bill 459, which would stabilize the revenue for the Fund by replacing periodic assessment on licensees with a license fee of \$10 per year for each year the license is in effect.

The bill would have no impact on the State's General Fund revenue or expenditures.

The bill would have no fiscal impact on local government.

Date Completed: 5-24-06

Fiscal Analyst: Elizabeth Pratt
Maria Tyszkiewicz

Floor\sb405

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.