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Senate Bill 631 (Substitute S-3 as passed by the Senate)  
Senate Bill 632 (Substitute S-4 as passed by the Senate)  
Senate Bill 826 (Substitute S-3 as passed by the Senate)  
Senate Bill 827 (Substitute S-1 as passed by the Senate)

Sponsor: Senator Nancy Cassis (S.B. 631 & 632)  
Senator Raymond E. Basham (S.B. 826)  
Senator Hansen Clarke (S.B. 827)

Committee: Economic Development, Small Business and Regulatory Reform

Date Completed: 11-2-06

### **RATIONALE**

Some people believe that current law does not adequately ensure the competency of people who practice as licensed residential builders, or sufficiently punish those who practice without a license. Article 24 of the Occupational Code governs residential builders, residential maintenance and alteration contractors, and those who work as salespeople for residential builders and contractors. As a rule, a person may not work as a residential builder, contractor, or salesperson without a license, if the contract price for a project is \$600 or more. Although a person must pass an examination in order to be licensed under Article 24, applicants are not required to take any courses before becoming licensed, and licensees are not subject to continuing education requirements. In addition, an unlicensed person who works as a residential builder or contractor is subject to the same penalties prescribed under the Code for anyone who practices a regulated occupation without a license or registration. Practicing without a license is a misdemeanor and the maximum term of imprisonment is 90 days for a first offense or one year for a repeat violation. In addition, although the Department of Labor and Economic Growth (DLEG) may impose administrative sanctions on violators of the Code, the sanction that DLEG considers the most meaningful--denial or revocation of a license--applies only to applicants and licensees.

Various measures have been suggested to address these concerns. They include increased criminal penalties for people who practice as residential builders or contractors without a license, educational requirements for applicants and licensees under Article 24, and enhanced funding for enforcement activities.

### **CONTENT**

**Senate Bill 631 (S-3) would amend the State License Fee Act to do the following:**

- **Increase the per-year license fee for a residential builder, residential maintenance and alteration contractor, or salesperson for a builder or contractor.**
- **Implement a code book fee per license cycle of \$65 or the cost to the Department of Labor and Economic Growth to provide the code book.**
- **Create the "Builder Enforcement Fund" and provide for a one-time-only \$30 allocation from a license fee received during a single three-year license cycle for deposit into the Fund.**

**Senate Bills 632 (S-4) and 826 (S-3) would amend the Occupational Code to do the following:**

- Establish increased criminal penalties for a person who operated as a residential builder or a residential maintenance and alteration contractor without a license.
- Provide that restitution would have to be required for any violation of the Code.
- Allow DLEG, the Attorney General, and a county prosecutor to use forfeiture as a remedy.
- Revise the time period to file a complaint against a licensed residential builder or contractor.

**Senate Bill 632 (S-4) also would:**

- Require the completion of a prelicensure course of study by applicants for an initial residential builder or contractor license.
- Establish continuing education requirements for licensed residential builders and contractors.
- Require DLEG to issue three-year residential builder and contractor licenses.

**Senate Bill 826 (S-3) also would:**

- Include aiding or abetting another person in the unlicensed practice of an occupation as a violation of the Code subject to administrative sanctions.
- Allow a prosecuting attorney and the Attorney General to bring a civil action against a person not licensed under Article 24 for practicing without a license; and require the court to order a fine payable to the prosecuting attorney or the Attorney General.
- Require a licensed residential builder, as part of a contract, to provide information relating to his or her individual license and to any license issued to the person as a qualifying officer.
- Prohibit a person not licensed under Article 24 from imposing a lien on real property.

**Senate Bill 827 (S-1) would amend the Revised Judicature Act to require a court to notify DLEG of the entry of a judgment for damages against a licensed residential builder for certain**

**violations; and include a violation of the Occupational Code's licensure and registration requirement as a crime for purposes of the seizure and forfeiture of the proceeds of a crime.**

The bills all are tie-barred to each other.

**Senate Bill 631 (S-3)**

Currently, the per-year license fee for a residential builder or residential maintenance and alteration contractor, salesperson, or branch office is \$40 through September 30, 2007, or \$30 after that date. The bill would increase the fee to \$60 for the first license cycle following the bill's effective date, and \$50 for each subsequent year.

The bill also would establish a code book fee, per license cycle, of \$65 or the cost to DLEG to provide the code book. This fee would have to be allocated for providing either a Residential Code book or a Michigan Building Code book. The applicant for an initial or renewal license would have to choose the desired code book at the time of application. A person who was licensed as a residential builder or a residential maintenance and alteration contractor as an individual and in the capacity of a qualifying officer, or who was licensed as a qualifying officer more than once, would be obligated to pay the code book fee only once per license cycle.

The Builder Enforcement Fund would be created in the State Treasury and would have to be administered by DLEG. A one-time-only \$30 allocation from a builder's or contractor's \$60 license fee during a single three-year license cycle would have to be deposited into the Fund. The Department could make the \$30 allocation only once per licensee. The Department could use the Fund only for the enforcement of Article 24 of the Occupational Code regarding unlicensed activity under Sections 601(1) and 601(2) (described below), and to reimburse the Attorney General or prosecuting attorney for expenses incurred in prosecuting unlicensed practice. Any unspent balance in the Fund at the end of a fiscal year would carry forward to the next fiscal year.

## **Senate Bills 632 (S-4) and 826 (S-3)**

### **Licensing Violations**

**License/Registration Requirement.** Section 601(1) of the Code prohibits a person from engaging in or attempting to engage in the practice of an occupation regulated under the Code or using a title designated under the Code unless the person possesses a license or registration issued by DLEG for the occupation. Under Section 601(2), a school, institution, or person may not operate or attempt to operate a barber college, school of cosmetology, or real estate school unless the school, institution, or person is licensed or approved by DLEG.

(The Code governs the licensure of the following: public accounting; collection practices; personnel agencies; barbers; cosmetology; hearing aid dealers; mortuary science; architects, professional engineers, and land surveyors; foresters; landscape architects; community planners; residential builders; real estate brokers and salespersons; real estate appraisers; and optometrists.)

The bills specify that a person whose license or registration was suspended, revoked, or lapsed, as determined by DLEG records, would be considered unlicensed or unregistered.

**Criminal Penalties.** Currently, a person, school, or institution that violates the licensure or registration requirement is guilty of a misdemeanor, punishable by a maximum fine of \$500, imprisonment for up to 90 days, or both. A second or subsequent violation is a misdemeanor punishable, except as otherwise provided, by a maximum fine of \$1,000, imprisonment for up to one year, or both.

Under the bills, in the case of a person not licensed or registered under Article 24 as a residential builder or residential maintenance and alteration contractor, a first offense would be punishable by a fine of not less than \$5,000 or more than \$25,000 and/or imprisonment for up to one year. The fine for a second offense would be the same, but the maximum term would be two years. A first or second offense would continue to be a misdemeanor. A third offense would be a felony punishable by the

same fine and/or imprisonment for up to four years.

The bills would require a court entering a conviction for a violation of Section 601 to notify the DLEG Bureau of Commercial Services by mail, facsimile, or e-mail.

The bills specify that any violation of the Code would have to include a requirement that restitution be made, based upon proofs submitted to and findings made by the trier of fact as provided by law.

**Additional Sanctions.** A person, school, or institution that violates the Code or a rule or order promulgated or issued under it must be assessed one or more of the following penalties:

- Placement of a limitation on a license or certificate of registration.
- Suspension of a license or certificate of registration.
- Denial of a license, certificate of registration, or renewal of a license or certificate of registration.
- Revocation of a license or certificate of registration.
- An administrative fine to be paid to DLEG, not to exceed \$10,000.
- Censure.
- Probation.
- A requirement that restitution be made.

Under the bills, the administrative fine payable to DLEG would apply in the case of a person licensed or registered under the Code. A requirement for restitution would have to be based upon proofs submitted to and findings made by the hearing examiner after a contested case.

Senate Bill 826 (S-3) would allow the Attorney General and a prosecuting attorney to bring a court action for a civil violation against a person not licensed under Article 24 who had violated the licensing requirement. The court would have to assess a civil violation judgment, to be paid to the Attorney General or the prosecuting attorney, of at least \$5,000 but not more than \$25,000, aside from any civil damages or restitution.

**Other Provisions.** Senate Bills 632 (S-4) and 826 (S-3) would allow DLEG, the Attorney General, or a county prosecutor to use forfeiture as a remedy in a manner provided

for in Section 606. Senate Bill 826 (S-3) would add that section to authorize DLEG, the Attorney General, and a county prosecutor to use the forfeiture provisions of Chapter 47 of the Revised Judicature Act for items seized and determined to be proceeds of a crime, substituted proceeds of a crime, or the instrumentality of a crime, as those terms are defined in Chapter 47 (which Senate Bill 827 (S-1) would amend).

The Code authorizes DLEG to bring an appropriate action in the name of the people of the State to carry out and enforce the Code, and authorizes the Attorney General to intervene in and prosecute all cases arising under the Code. Under Senate Bills 632 (S-4) and 826 (S-3), an "appropriate action" could include mediation or other alternative dispute resolution. These provisions would not prohibit the Department from bringing any civil, criminal, or administrative action for the enforcement Section 601.

The bills specify that DLEG would have standing to bring an administrative action or directly to bring an action in court regarding unlicensed practice of an occupation.

Under the Code, an affected person may bring an injunctive action to restrain or prevent a person from violating the Code's licensing requirements. If successful, the affected person is entitled to actual costs and attorney fees. "Affected person" means a person directly affected by the actions of a person suspected of violating the Code's licensing requirements. The term includes, among others, a board established under the Code, and a person who has used the services of the unlicensed or unregistered person. Under the bills, the term also would include DLEG.

#### Residential Builders' Board

The Code creates the Residential Builders' and Maintenance and Alteration Contractors' Board, and requires that four of the members be licensed residential builders and two be licensed maintenance and alteration contractors. The Board also includes three public members. Under Senate Bill 632 (S-4), of the members representing the general public, at least one would have to be registered under the Building Officials and Inspectors Registration Act.

The bill would require DLEG to post on its website any final order of the Board and the date it was issued. The posting would have to occur within 30 days after the final order was issued. The Department annually would have to post on its website the number of final orders of the Board.

#### Builders' License

Under Article 24, DLEG may require an applicant, licensee, or each partner, trustee, director, officer, member, or shareholder to submit evidence of good moral character and financial stability. Before a license is issued, an applicant must submit any amount required to be paid under the Construction Lien Act. Under Senate Bill 632 (S-4), an applicant also would have to submit a copy of an operator's license or State personal identification card, to be used by DLEG only for proof of the applicant's identity. An applicant for license renewal would have to submit proof of successful completion of continuing education.

Beginning the license cycle after the bill's effective date, DLEG would have to issue the license of a residential builder and residential maintenance and alteration contractor for a period of three years in duration.

Senate Bill 826 (S-3) would require a licensee, as part of a contract, to provide information relating to his or her individual license and to any license issued to that person as a qualifying officer of another entity.

#### Prelicensure & Continuing Education

Beginning on the effective date of Senate Bill 632 (S-4), applicants for initial licensure as either a residential builder or a residential maintenance and alteration contractor would have to complete successfully a prelicensure course of study. Licensees holding a residential builder or a residential maintenance and alteration contractor license on the bill's effective date who were renewing a license in the capacity of an individual or qualifying officer, or both, would be exempt from this requirement.

The Department would have to require an applicant who was not exempted to complete successfully 60 hours of approved prelicensure courses consisting of at least

six hours of courses in each of the following areas of competency:

- Business management, estimating, and job costing.
- Design and building science.
- Contracts, liability, and risk management.
- Marketing and sales.
- Project management and scheduling.
- The current Michigan Residential Code and construction safety standards promulgated under the Michigan Occupational Safety and Health Act.

Beginning the calendar year after the bill's effective date, a person initially licensed as a residential builder or a residential maintenance and alteration contractor would have to complete successfully at least three hours of continuing education per calendar year, during the first six calendar years of licensure, and 21 hours per three-year time period since the issuance of his or her license. At least one hour of courses in codes, safety, and legal issues would have to be successfully completed each calendar year.

A license holder who held a license for more than six years, or who had not been determined by DLEG in a final order to have violated the Code or a rule, would have to complete successfully at least three hours of continuing education per license cycle, including one hour each of codes, safety, and legal issues. This requirement also would apply to an initial licensee on or after the bill's effective date who had not been determined by DLEG in a final order to have violated the Code or a rule during his or her first six years of licensure.

In the case of a licensee who had been determined by DLEG in a final order to have violated the Code or a rule and who had held a license for more than six years, he or she would have to complete successfully, during the next complete license cycle, up to 18 hours of continuing education. This would have to include at least one hour each of codes, safety, and legal issues.

The bill specifies that the education courses described in Section 3, pages 3-6 through 3-58 of the January 2005 edition of the publication "NAHB University of Housing, Blueprint for Success", published by the National Association of Home Builders, would be considered approved, would be

considered appropriate for fulfilling the prelicensure and continuing education requirements of the bill, and would be incorporated by reference. The Department could approve any courses it considered to be the equivalent of the courses incorporated by reference. The Department would have to approve any updates to the courses incorporated by reference or equivalent courses unless it determined that they did not meet the quality and standards of the NAHB courses. Any construction code update courses approved by the Bureau of Construction Codes and fire safety and workplace safety courses approved or sponsored by DLEG also would be considered appropriate for fulfilling the continuing education requirements. The Department could, by rule, amend, supplement, update, substitute, or determine equivalency regarding any courses described in these provisions.

The prelicensure and continuing education courses would have to be taught and presented by instructors approved by DLEG. Except as otherwise provided in the bill or by DLEG rule, instructors of prelicensure and continuing education would have to meet the standards of Section 4, pages 4-5 through 4-9 of the January 2005 edition of the publication "NAHB University of Housing, Blueprint for Success". The Department could waive the requirement of membership in a local, state, or national trade association contained in the NAHB standards. By rule, DLEG could amend, supplement, update, substitute, or determine equivalency regarding these standards and would have to establish instructor qualifications for courses not incorporated by reference.

The subject matter of the prelicensure and continuing education courses could be offered by a high school, intermediate school district (ISD), community college, university, trade association, or other entity approved by DLEG as meeting the subject matter qualifications and the instructional qualifications described above. The Department would have to accept hours or equivalent credits for any courses offered by a high school, ISD, community college, university, trade association, or other entity offering the prelicensure and continuing education courses that were approved by DLEG.

The Department would have to promulgate rules to provide for the following:

- Prepresentation approval of continuing education courses offered by a high school, ISD, community college, university, trade association, or other entity that met or exceeded the course content of the continuing education courses described in the bill.
- Postpresentation approval for courses offered at seminars and conventions by trade associations, research institutes, risk management entities, manufacturers, suppliers, governmental agencies, consulting agencies, or other entities. This would not prohibit applications for the prepresentation approval of these courses.
- Approval of distance learning.

Each licensee could select approved courses in his or her subject matter area or specialty. Service as a lecturer or discussion leader in an approved course would have to be counted toward the continuing education requirements.

#### Complaints against Builders

Under Article 24, a complaint must be made within 18 months after completion, occupancy, or purchase, whichever occurs later, of a residential structure or a combination of residential and commercial structure.

Under Senate Bills 632 (S-4) and 826 (S-3), in the case of a maintenance and alteration contract, a complaint would have to be made within 18 months after the latest of the following: completion, occupancy, or purchase. In the case of a project requiring an occupancy permit, a complaint would have to be made within 18 months after the later of closing or issuance of the certificate of occupancy or temporary certificate of occupancy.

Under the bills, in any case in which the licensee or respondent failed to appear, participate, or defend any action, the Board would have to issue an order granting by default the relief requested, based upon proofs submitted to and findings made by the hearing examiner after a contested case.

Currently, a licensee or applicant is subject to the penalties set forth in the Code for,

among other things, poor workmanship or workmanship not meeting the standards of the custom or trade verified by a building code enforcement official. Under the bills, instead, a licensee or applicant would be subject to penalties for workmanship not meeting the standards of the Michigan Residential Code as promulgated under the Stille-Derosset-Hale Single State Construction Code Act.

Under the Occupational Code, upon receiving a building inspection report that verifies or confirms the substance of a complaint, DLEG must send a copy of the verified complaint by certified mail to the complainant and the licensee. Under the bills, DLEG would have to send a copy of the verified complaint only to the licensee. Currently, "verified complaint" means a complaint in which all or a portion of the allegations have been confirmed by the building inspection report. The bills would refer to a complaint in which all or a portion of the allegations had been confirmed by an affidavit of the State or local building official.

#### Qualifying Officer

Under Article 24, if a corporation, partnership, or association applies for a license, the applicant must designate one of its officers, partners, members, or managing agent as a qualifying officer who, upon taking and passing the examination and meeting all other requirements of Article 24, will be entitled to a license to act for the corporation, partnership, or association. Senate Bills 632 (S-4) and 826 (S-3) would require the qualifying officer also to obtain and maintain a license under Article 24 as an individual.

In addition, if an individual licensee were also a qualifying officer, his or her name and license number would have to be listed on any license issued to the individual as a qualifying officer.

In the case of a license issued under these provisions, each officer, partner, member, or managing agent, whether or not he or she was the qualifying officer, would have to provide a copy of his or her operator's license or State personal ID card to DLEG for use by the Department only for identification purposes.

Currently, a suspension, revocation, or denial of a license by DLEG may suspend, revoke, or deny any other license held or applied for under Article 24 by the qualifying officer of a corporation, partnership, or association whose license is suspended, revoked, or denied. Under the bills, the suspension, revocation, or denial of any other license would be mandatory.

The bills would include references to a limited liability company or other entity in the provisions for licensure of a corporation, partnership, or association.

#### Lien on Real Property

Under Senate Bill 826 (S-3), a person or qualifying officer for a corporation or a member of a residential builder or residential maintenance and alteration contractor could not impose or take any legal or other action to impose a lien on real property unless that person were licensed under Article 24 during the performance of the act or contract.

#### **Senate Bill 827 (S-1)**

Under Chapter 47 of the Revised Judicature Act, property that is the proceeds or instrumentality of a crime is subject to seizure by, and forfeiture to, a local unit of government or the State. The bill would amend the definition of "crime" in Chapter 47 to include a violation of Section 601 of the Occupational Code (which prohibits a person from engaging in a regulated occupation or using a designated title without being licensed or registered under the Code).

The bill also provides that, upon entry of a judgment for damages against a licensee under Article 24 of the Occupational Code on the basis of a violation of Section 2411(2), the court would have to notify the Bureau of Commercial Services in DLEG of the entry of that judgment and would have to convey to DLEG a copy of that judgment. (Under Section 2411(2), a licensee or applicant under Article 24 who commits a violation listed in that section is subject to the penalties set forth in Article 6 of the Occupational Code. The listed violations include, for example, diversion of funds received for a construction project, a willful, unauthorized departure from the specifications in a material respect, a willful

violation of State or local building laws, and filing a bankruptcy action. Article 6 contains the penalties described in Senate Bills 632 (S-4) and 826 (S-3).)

MCL 338.2203 & 338.2239 (S.B. 631)  
339.601 et al. (S.B. 632)  
339.601 et al. (S.B. 826)  
600.4701 et al. (S.B. 827)

#### **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**

This package of legislation would enhance the professionalism of residential builders and bring a new level of respectability to the home-building industry. Presently, it is too easy for someone to obtain a residential builder's license and, once licensed, to continue practicing as a builder. Since there are no educational requirements for initial or continued licensure, all someone must do is pass an examination—which a person evidently can do after simply taking an eight-hour class given by a private provider. This does little, if anything, to ensure the competency of home builders. According to DLEG, of all the complaints filed against members of the 25 or so occupations regulated by the Department, the majority involve home builders. In addition, it is likely that many builders do not own a building code book, or know what is required by the Michigan Building Code. Although there are nearly 76,000 licensed home builders in the State, DLEG sells only about 10,000 to 15,000 code books each year.

The legislation would address this situation, in part, by establishing educational requirements for residential builders. Specifically, Senate Bill 632 (S-4) would require applicants for an initial license to pass a 60-hour prelicensure course covering subjects listed in the bill. New licensees would have to complete 21 hours of continuing education per three-year period during their first six years of licensure. People who had been licensed for over six years or had not violated the Code or a rule would have to complete at least three hours of continuing education per license cycle, and licensees who committed a violation would have to take up to 18 hours of continuing education in the next license

cycle. Both the courses and the instructors would have to meet National Association of Home Builders standards or be approved by DLEG.

Under Senate Bill 631 (S-3), every licensed residential builder would have to pay for and receive a Residential Code book or a Michigan Building Code book in each three-year license cycle. Together with the continuing education requirements, this would help ensure that all home builders kept up to date with code requirements and developments in the industry.

Senate Bill 631 (S-3) also would increase the license fee, create the Builder Enforcement Fund, and dedicate \$30 of one license fee per builder to the Fund. By giving DLEG and the Attorney General more resources to investigate unlicensed activity and prosecute violators, the bill would both reinforce the integrity of the profession and protect the public from untrained, unlicensed practitioners.

**Response:** Allocating \$30 once per builder to the Fund would generate a one-time revenue burst that would be quickly depleted. To provide meaningful protection against unlicensed activity, the bill should require a recurring allocation of a portion of the license fee to the Fund. In addition, requiring that every home builder receive a code book would be problematic for DLEG. Since it is likely that the proposed educational requirements and fee increase would reduce the number of licensees, it would be difficult for the Department to project the number of books needed, as it presently does to keep costs down. Also, since the code books are published by DLEG, increasing the number of books by four or five times would create warehousing problems.

#### **Supporting Argument**

The bills would increase penalties in various ways, which could lead to greater enforcement activity and deter prospective violators. Presently, there is little incentive for prosecutors to pursue unlicensed builders, since the maximum criminal penalty for practicing without a license is only 90 days' imprisonment and/or \$500 for a first offense, and one year and/or \$1,000 for a repeat offense—the penalty for anyone who practices a regulated occupation without a required license or registration. Although DLEG has the authority to

investigate violations and impose administrative sanctions, the Department relies on prosecutors to bring criminal charges against unlicensed builders. Since the most meaningful sanction DLEG can impose is denial or revocation of a license, the Department has little leverage against unlicensed violators.

Under Senate Bills 632 (S-4) and 826 (S-3), a person practicing as an unlicensed residential builder would be subject to a minimum fine of \$5,000 and a maximum term of imprisonment ranging from one year for a first offense to four years for a third or subsequent offense, which would be a felony. Senate Bill 826 (S-3) also would allow a prosecutor or the Attorney General to bring a civil action against an unlicensed home builder and recover between \$5,000 and \$25,000. In addition, under those bills and Senate Bill 827 (S-1), the Department, the Attorney General, and county prosecutors could use forfeiture as a remedy for the unlicensed practice of any profession. These measures would increase the incentive to bring actions against violators, as well as deny them their ill-gotten gains. Also, by requiring courts to notify DLEG of convictions, the bills could lead to increased administrative action against licensees.

#### **Supporting Argument**

The legislation would enhance consumer protection in various ways, in addition to requiring education and raising penalties. Under Senate Bills 632 (S-4) and 826 (S-3), restitution would have to be ordered for any violation of the Occupational Code. The bills also would require the Residential Builders' and Maintenance and Alteration Contractors' Board to grant the relief requested if a licensee failed to appear or respond to a complaint, and Senate Bill 632 (S-4) would require that final orders of the Board be posted on DLEG's website. In addition, under Senate Bill 826 (S-3), a home builder would have to provide information relating to his or her license as part of a contract.

Legislative Analyst: Suzanne Lowe

#### **FISCAL IMPACT**

##### **Senate Bill 631 (S-3)**

According to the Department, there were 75,935 licensed residential builders in Michigan as of September 30, 2006. The



amount of restricted revenue that was collected from this occupation for FY 2005-06 was \$3,253,000.

The bill would change the current license fee from \$40 to \$60 for the first year of the license cycle after the bill took effect and then would reduce the fee to \$50 for every other year. The bill also would change the license cycle from two years to three years. This fee increase would generate \$160 for the first license cycle, of which \$30 would be deposited into the proposed Building Enforcement Fund. This would leave \$130 for the operation of the program in the first license cycle and \$150 in all subsequent cycles. Under the current fee structure, only \$120 would be collected over a three-year cycle. These fee increases would increase revenue for the program by \$10 per licensee or \$807,500 for the first license cycle and \$30 per licensee or \$2.4 million for all subsequent cycles assuming the number of licensees remains constant.

Finally, this bill would create a new \$65 fee for the cost of a copy of the code book and mandate that each licensee purchase a code book each fee cycle. This is equal to the amount currently charged by the Department for a copy of this book and could be adjusted to reflect actual costs.

#### **Senate Bills 632 (S-4) and 826 (S-3)**

Senate Bill 632 (S-4) would create continuing education requirements for licensed builders and contractors of at least three hours per license cycle (every three years). The Department would be required to approve all courses, instructors, and participating schools. According to the Department, these additional administrative responsibilities would require it to fund and staff approximately 4.0 FTEs at a cost of approximately \$328,000 annually. This estimate reflects staffing costs only and does not include any information technology, or other overhead costs that would be attributed to these activities. These costs would be offset by the revenue generated through \$30 of the licensure fee. This \$30 would generate an additional \$2.4 million every three years, or \$807,500 annually if the number of licensees remains constant.

Revenue from these fees is used to support the costs of the Department, and carryforward authorization is currently

provided in Public Act 345 of 2006, the appropriation act for DLEG.

The proposed criminal penalties under Senate Bills 632 (S-4) and 826 (S-3) would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many people would be convicted of practicing as a residential builder or contractor without a license. To the extent that the bills would increase incarceration time for offenders, local governments would incur the costs of incarceration in local facilities, and misdemeanor probation, which vary by county. The State would incur the cost of felony probation at an average annual cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000. Additional penal fine revenue would benefit public libraries.

To the extent that the bills would increase restitution orders, local governments would incur increased administrative costs. To the extent that the bills would increase probation time for offenders who were unable to complete restitution payments during their sentence, or increase incarceration time for offenders whose probation was revoked for not making a good faith effort to comply with a restitution order, local governments would incur increased corrections costs.

The bills could result in additional workload for local prosecutors and the Attorney General, as well as increased revenue to the State and local units, related to the ability to seek civil forfeiture.

#### **Senate Bill 827 (S-1)**

The bill could result in increased administrative costs to the courts.

Fiscal Analyst: Bill Bowerman  
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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.