

## **RESIDENTIAL BUILDERS: STRENGTHEN LICENSING AND ENFORCEMENT PROVISIONS**

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**Senate Bill 450 (Substitute H-1)**  
**Senate Bill 451 without amendment**  
**Sponsor: Sen. Raymond E. Basham**

**Senate Bill 452 without amendment**  
**Senate Bill 453 (Substitute H-1)**  
**Sponsor: Sen. Nancy Cassis**  
**House Committee: Commerce**  
**Senate Committee: Economic Development and Regulatory Reform**

**Complete to 7-16-07**

## **A SUMMARY OF SENATE BILLS 450-453 AS REPORTED FROM HOUSE COMMITTEE**

Senate Bills 450 and 452 would amend Article 6 (Violations and Penalties) and Article 24 (Residential Builders) of the Occupational Code to do the following:

- Increase criminal penalties for a person who operated as a residential builder or a residential maintenance and alteration contractor *without a license*.
- 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 the completion of a precicensure course of study by applicants for an initial residential builder or contractor license.
- Establish continuing competency requirements for licensed builders and contractors.
- Allow a licensed builder or contractor to apply for inactive status.
- Require the Department of Labor and Economic Growth (DLEG) to issue three-year residential builder and contractor licenses.
- Require a licensed residential builder, as part of a contract, to provide information relating to his or her individual license and any qualifying officer license.
- Revise the time period to file a complaint against a licensed builder or contractor.
- Prohibit a person not licensed under Article 24 from imposing a lien on real property.
- Include aiding or abetting another person in the unlicensed practice of an occupation as a violation of the code subject to administrative sanctions.
- 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.

Senate Bill 451 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.

Senate Bill 453 would amend the State License Fee Act to do the following:

- Increase the per-year license fee for a builder or contractor from \$40 to \$60 for one license cycle, and prescribe a \$50 fee for subsequent years. (The fee is currently scheduled to fall to \$30 after September 30, 2007 without passage of the bill.)
- Create the "Builder Enforcement Fund" and require it to be used for the enforcement of Article 24 of the Occupation Code regarding *unlicensed* activity, and the prosecution of *unlicensed* practice.
- Make a one-time-only allocation to the Enforcement Fund of \$30 from the \$60 license fee received during a single three-year license cycle.
- Allocate to the Enforcement Fund \$5 of the \$50 license fee until the balance reached \$3 million, and reinstate the allocation when the balance fell below \$750,000.

The bills all are tie-barred to each other. For a more detailed analysis, consult the Senate Fiscal Agency analysis dated 5-22-07.

## **FISCAL IMPACT:**

Senate Bills 450 and 452. Both bills create criminal penalties, which, depending on the severity of sentences and number of convictions could increase the cost of misdemeanor incarceration and probation for local governments, and State costs for felony probation and incarceration. State costs for felony probation are estimated to be \$2,000 per prisoner per year, and felony incarceration is estimated to cost \$30,000. Additional penal fine revenue would benefit public libraries. The provision for restitution would increase administrative costs for local governments. The courts would incur increased administrative costs due to the reporting requirements in SB 450. There would be additional State administrative costs to administer the continuing education requirements created in SB 452. Five dollars of the increased builder license fees in SB 453, discussed separately, is designated to cover the continuing education administration costs. Based on a total of 78,476 licensed builders, the \$5 fee will generate an additional \$1.2 million in state restricted revenue over the three year license cycle. The \$5 allocation would be deposited in the newly-created Builder Enforcement Fund.

Senate Bill 451. The bill could result in greater court administrative costs.

Senate Bill 453. During the first three year cycle, builder license fee revenue would increase by \$4.7 million, resulting in total builder license fee revenue of \$14.2 million. During the subsequent three year cycles, builder license fee revenue would increase by

\$2.35 million, resulting in total builder license fee revenue of \$11.8 million. These estimates are based on a total of 78,476 licensed Michigan builders.

**POSITIONS:**

The Department of Labor and Economic Growth indicated support for the bills to the House Committee on Commerce. (6-27-07)

The Michigan Association of Home Builders supports the bills. (6-27-07)

The Office of the Attorney General indicated support for the bills. (6-27-07)

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Fiscal Analyst: Richard Child

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■ 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.