



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

Senate Bills 450 through 453 (as reported without amendment)

Sponsor: Senator Raymond E. Basham (S.B. 450 & 451)

Senator Nancy Cassis (S.B. 452 & 453)

Committee: Economic Development and Regulatory Reform

## **CONTENT**

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 prelicensure 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 (or \$30 after September 30, 2007) to \$60 for one license cycle, and prescribe a \$50 fee for subsequent years.
- 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 Fund of \$30 from the \$60 license fee received during a single three-year license cycle.
- Allocate to the Fund \$5 of the \$50 license fee until the Fund balance reached \$3.0 million, and reinstate the allocation when the balance fell below \$750,000.

The bills all are tie-barred to each other.

## **FISCAL IMPACT**

Senate Bills 450 and 452. The proposed criminal penalties 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, the State and local governments would incur increased corrections costs.

Due to the reporting requirement in Senate Bill 450, the courts also would incur increased administrative costs.

Senate Bill 452 would create continuing education requirements for licensed builders and contractors of at least three hours per license cycle. The Department would have to approve all courses and could conduct an audit to ensure the licensees were in compliance. An allocation of \$5 of the increased renewal fee included in Senate Bill 453 would be used to cover the Department's costs associated with these additional responsibilities. This additional revenue is estimated to generate \$1.2 million over the three-year license cycle.

Senate Bill 451. Due to the notification requirement, the bill could result in increased administrative costs for the courts.

Senate Bill 453. The bill would increase the fees paid by licensed builders and contractors from \$30 to \$60 for the first license cycle and from \$40 to \$50 annually for any renewals. The proposed Builder Enforcement Fund would receive a one-time \$2.4 million through the earmarking of \$30 from first license fee covered under the bill. In addition, of the \$10 annual increase in the renewal fees, \$5 would be deposited into the Builder Enforcement Fund and \$5 would be used to cover administrative expenses. This increase would generate another \$2.4 million over the three-year license cycle. The \$5 earmarked to the Enforcement Fund could be allocated only until the balance of the Fund reached \$3.0 million, and then it would not be allocated until the balance fell below \$750,000. These funds would be used to cover the administrative and regulatory costs that DLEG would incur and to reimburse the Attorney General or prosecuting attorney for expenses in prosecuting unlicensed activity. The bill also would provide carry-forward authorization for the balance in the Fund, which would prevent these funds from being deposited into the General Fund.

Date Completed: 5-17-07

Fiscal Analyst: Lindsay Hollander/Stephanie Yu  
Elizabeth Pratt/Maria Tyszkiewicz

### Floor'sb450

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.