



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 Bills 450 through 453 (as enacted)

PUBLIC ACTS 155-158 of 2007

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

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

Senate Committee: Economic Development and Regulatory Reform

House Committee: Commerce

Date Completed: 3-20-08

RATIONALE

Some people have considered Michigan law inadequate to ensure the competency of people who practice as licensed residential builders, or to impose appropriate penalties on 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 have not been required to take any courses before becoming licensed, and licensees have not been subject to continuing education requirements. Further, an unlicensed person working as a residential builder or contractor was subject to the same criminal penalties prescribed by the Code for anyone who practices a regulated occupation without a license or registration. 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 to address these concerns were suggested. 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 Bills 450 and 452 amended Article 6 (Violations and Penalties) and Article 24 (Residential Builders) of the Occupational Code to do the following:

- Establish increased criminal penalties for a person who operates as a residential builder or a residential maintenance and alteration contractor without a license.
- Provide that restitution must be required for any violation of the Code.
- Allow the Department of Labor and Economic Growth, 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 452 also:

- Requires applicants for an initial residential builder or contractor license to complete a prelicensure course of study.
- Requires licensed residential builders and contractors to complete continuing competency activities.
- Allows a licensed builder or contractor to apply for inactive status.

- Requires DLEG to issue three-year residential builder and contractor licenses.

Senate Bill 450 also:

- Includes aiding or abetting another person in the unlicensed practice of an occupation as a violation of the Code subject to administrative sanctions.
- Allows 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 requires the court to order a fine payable to the prosecuting attorney or the Attorney General.
- Requires 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.
- Prohibits a person not licensed under Article 24 from imposing a lien on real property.

Senate Bill 451 amends 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 amends the State License Fee Act to do the following:

- Increase the per-year license fee for a builder or contractor from \$30 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

reaches \$3.0 million, and reinstate the allocation when the balance falls below \$750,000.

The bills all were tie-barred to each other. Senate Bills 450 and 452 took effect on December 21, 2007; other than the provisions regarding criminal penalties and administrative sanctions, however, the amendments will take effect on June 1, 2008. Senate Bills 451 and 453 will take effect on June 1, 2008.

Senate Bills 450 and 452

Licensing Violations

License/Registration Requirement. Section 601(1) of the Occupational 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 bills specify that a person whose license or registration is suspended, revoked, or lapsed, as determined by DLEG records, is considered unlicensed or unregistered.

(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 salespeople; real estate appraisers; and ocularists.)

Criminal Penalties. Under the Code, 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 is 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 is same, but the maximum term is two years. These offenses continue to be misdemeanors. An offense that causes death or serious injury is a felony punishable by the same fine and/or imprisonment for up to four years.

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

The bills 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.

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 applies in the case of a person licensed or registered under the Code. A requirement for restitution must be based upon proofs submitted to and findings made by the hearing examiner after a contested case.

Beginning June 1, 2008, Senate Bill 450 allows 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 has violated the licensing requirement. The court must

to assess a civil fine, 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. 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 450 and 452, an "appropriate action" includes mediation or other alternative dispute resolution. The bills specify that these provisions do not prohibit the Department from bringing any civil, criminal, or administrative action for the enforcement Section 601.

The bills state that DLEG has 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 includes DLEG.

The bills 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 450 adds that section, effective June 1, 2008, 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 451 amends).

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 452, at least one of the members representing the general public must be registered under the Building Officials and Inspectors Registration Act.

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

These amendments take effect on June 1, 2008.

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 452, an applicant also must 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.

Beginning the license cycle after the bill's effective date, DLEG must issue the license of a residential builder and residential maintenance and alteration contractor for a three-year period. An applicant for a renewal license must state that he or she has a current copy of the Michigan Residential Code and has fulfilled the appropriate requirements regarding continuing competency.

A licensee must maintain documentation, for at least five years, of activities meeting the continuing competency requirements.

Senate Bill 450 also requires 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.

These amendments take effect on June 1, 2008.

Prelicensure & Continuing Competency

Under Senate Bill 452, the provisions described below will take effect on June 1, 2008.

Applicants for initial licensure as either a residential builder or a residential maintenance and alteration contractor must successfully complete a prelicensure course of study. Licensees holding a residential builder or contractor license on the bill's effective date who are renewing a license in the capacity of an individual or qualifying officer, or both, are exempt from this requirement.

The Department must require an applicant who is 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.
- Construction safety standards promulgated under the Michigan Occupational Safety and Health Act.

Beginning the calendar year after the bill's effective date, a person obtaining initial licensure as a residential builder or residential maintenance and alteration contractor will have to complete successfully at least three hours of activities demonstrating continuing competency each calendar year, during the first six years of licensure, and 21 hours per three-year period since his or her license was issued. At least three hours must be devoted to activities designed to develop a licensee's understanding of and ability to apply State building codes and laws relating to the licensed occupation, safety, and changes in construction and business management laws. If a licensee has held a license for more than six years or has not been determined by DLEG in a final order to have violated the Code or a rule adopted under it, he or she will have to complete successfully at least three hours of activities demonstrating continuing competency per license cycle, including one hour each of codes, safety, and legal issues.

If a licensee has been determined by DLEG in a final order to have violated the Code or a rule, he or she will have to complete successfully, during the next complete license cycle, up to 21 hours of activities demonstrating the development of continuing competency, as determined appropriate by DLEG order, including one hour each of codes, safety, and legal issues.

As activities that demonstrate the development of continuing competency, the education courses described on specific pages of the January 2005 edition of the publication "NAHB University of Housing, Blueprint for Success", published by the National Association of Home Builders, and taught by instructors meeting the requirements of that publication, will be considered approved and appropriate for fulfilling the bill's prelicensure and continuing competency requirements, and are incorporated by reference. A license may take any courses equivalent to those incorporated by reference.

Updates to these or equivalent courses will be acceptable unless DLEG determines that the courses do not provide a means of developing and maintaining continuing competency for the applicants or licensees who successfully fulfill the course requirements. Any construction code update courses approved by the Bureau of Construction Codes, as well as fire safety or workplace safety courses approved or sponsored by DLEG, also will be considered appropriate for fulfilling the continuing competency requirements. The Department, by rule, may amend, supplement, update, substitute, or determine equivalency regarding any courses or alternative activities for developing continuing competency described in these provisions.

The Department may waive the requirement of membership in a local, state, or national trade association contained in the NAHB instructor standards incorporated by reference. By rule, DLEG may amend, supplement, update, substitute, or determine equivalency regarding these standards and must establish instructor qualifications for courses not incorporated by reference.

The subject matter of the prelicensure and continuing competency activities may be offered by a high school, intermediate school district (ISD), community college, university,

or trade association, the Bureau of Construction Codes, the Michigan Occupational Safety and Health Administration, or a proprietary school licensed by DLEG as meeting the subject matter and instructional qualifications described above.

The Department must promulgate rules to provide for the following:

- Requirements other than those listed above for determining that a course meets the minimum criteria for developing and maintaining continuing competency.
- Requirements for acceptable courses offered at seminars and conventions by trade associations, research institutes, risk management entities, manufacturers, suppliers, governmental agencies other than those named above, consulting agencies, or other entities.
- Approval of distance learning.

The Department also must promulgate rules providing for alternative forms of competency, including comprehensive testing, participation in mentoring programs, research, participation in code hearings conducted by the International Code Council, and publication of articles in a trade journal or regional magazine as an expert in the field. The alternative forms must be designed to maintain and improve a licensee's ability to perform the occupation with competence and must prescribe proofs that are necessary to demonstrate that the licensee has fulfilled the requirements of continuing competency.

Each licensee may select approved courses in his or her subject matter area or specialty. Service as a lecturer or discussion leader in an approved course must be counted toward the continuing competency requirements. Alternative forms of continuing competency may be earned and documented as promulgated in DLEG rules.

The Department may audit a predetermined percentage of licensees who renew in a year for compliance with the bill's prelicensure and continuing competency requirements. Failure to comply with the audit or the requirements must result in the investigation of a complaint initiated by DLEG, and the licensee will be subject to the penalties prescribed in the Code.

Inactive Status

Under Senate Bill 452, a licensed residential builder or residential maintenance and alteration contractor may apply for inactive status by completing an application made available by DLEG. In the application, the licensee must declare that he or she is no longer actively engaged in the practice authorized by his or her license and temporarily intends to suspend authorized activity. When a completed application is submitted, DLEG must designate the licensee as inactive and note that status on records available to the public.

A licensee designated as inactive must have a current copy of the Michigan Residential Code. He or she will be exempt from the bill's continuing competency requirements, but still must pay the per-year license fee. An inactive licensee may activate his or her license by submitting an application to DLEG. Upon activation of a license, the licensee must complete at least one credit hour of continuing competency for that calendar year.

These provisions will take effect on June 1, 2008.

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 450 and 452, in the case of a maintenance and alteration contract, a complaint must 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 must be made within 18 months after the later of closing or issuance of the certificate of occupancy or temporary certificate of occupancy.

If a licensee or respondent fails to appear, participate, or defend any action, the Board must 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 will 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 Article 24, 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 will 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 refer to a complaint in which all or a portion of the allegations have been confirmed by an affidavit of the State or local building official.

These provisions will take effect on June 1, 2008.

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 450 and 452 require the qualifying officer also to obtain and maintain a license under Article 24 as an individual.

In addition, under the bills, if an individual licensee is also a qualifying officer, his or her name and license number must be listed on any license issued to the individual as a qualifying officer.

In the case of a license issued under these provisions, the bills require each officer, partner, member, or managing agent, whether or not he or she is the qualifying officer, 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 will be mandatory.

The bills specify that a licensee granted inactive status is not eligible to serve as a qualifying officer.

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

These provisions will take effect on June 1, 2008.

Lien on Real Property

Under Senate Bill 450, beginning on June 1, 2008, a person or qualifying officer for a corporation or a member of a residential builder or residential maintenance and alteration contractor may not impose or take any legal or other action to impose a lien on real property unless that person is licensed under Article 24 during the performance of the act or contract.

Senate Bill 451

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 amends the definition of "crime" in Chapter 47 to include a violation of Section 601 of the Occupational Code (the section that 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 Code on the basis of a violation of Section 2411(2), the court must notify the Bureau of Commercial Services in DLEG of the entry of that judgment and convey to DLEG a copy of the 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 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 450 and 452.)

Senate Bill 453

Currently, the per-year license fee for a residential builder or residential maintenance and alteration contractor, salesperson, or branch office is \$40. The bill increases the fee to \$60 for the first cycle of an initial or renewal license following the bill's effective date (June 1, 2008), and \$50 for each subsequent year.

The bill creates Builder Enforcement Fund in the State Treasury and requires DLEG to administer the Fund, as well as be the administrator of the Fund for audit purposes. A one-time-only \$30 allocation from a residential builder's or contractor's \$60 license fee during a single three-year license cycle must be deposited into the Fund. The Department may make the \$30 allocation only once per licensee. In the case of the \$50 license fee, \$5 must be allocated to the Fund.

If, on December 1 of any year following 2010, DLEG determines that the balance in the Fund is more than \$3.0 million, the \$5 allocation from the \$50 renewal fee due after January 1 of the following year may not be made. If, on any subsequent December 1, DLEG determines that the balance in the Fund is less than \$750,000, the \$5 allocation must resume for any renewal fee due after January 1 of the following year.

Notwithstanding Section 3 of the Act (which requires fees to be used for DLEG's operating costs), the Department may use the Fund only to enforce Article 24 of the Occupational Code regarding unlicensed activity as further described in Sections 601(1) and 601(2), to reimburse the Attorney General for the reasonable cost of services provided to DLEG, and to reimburse the Attorney General or prosecuting attorney for expenses incurred in prosecuting that unlicensed practice. Any unspent balance in the Fund at the end of a fiscal year must carry forward to the next fiscal year.

MCL 339.601 et al. (S.B. 450 & 452)
600.2975a & 600.4701 (S.B. 451)
338.2239 (S.B. 453)

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 will 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 have been no educational requirements for initial or continued licensure, all someone has had to do is pass an examination—which a person evidently could do after simply taking an eight-hour class given by a private provider. This has done 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 addresses this situation, in part, by establishing educational requirements for residential builders. Specifically, Senate Bill 452 will require applicants for an initial license to pass a 60-hour precursory course covering subjects listed in the bill. New licensees will have to complete at least three hours of continuing competency activities each year during their first six years of licensure. People who have been licensed for over six years or have not violated the Code or a rule will have to complete at least three hours of continuing competency activities per license cycle, and licensees who have committed a violation will have to complete up to 21 hours of continuing competency activities in the next license cycle. Both the activities and the instructors will have to meet National Association of Home Builders standards or be approved by DLEG. In addition, an applicant for a renewal license will have to

state that he or she has a current copy of the Michigan Residential Code.

Also, Senate Bill 453 increases the license fee, creates the Builder Enforcement Fund, and dedicates to the Fund \$30 of one license fee per builder and \$5 of each renewal fee. By giving DLEG and the Attorney General more resources to investigate unlicensed activity and prosecute violators, the bill will reinforce the integrity of the profession as well as protect the public from untrained, unlicensed practitioners.

Supporting Argument

The bills increase penalties in various ways, which may lead to greater enforcement activity and deter prospective violators. Previously, there was little incentive for prosecutors to pursue unlicensed builders, since the maximum criminal penalty for practicing without a license was 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 practitioners.

Under Senate Bills 450 and 452, a person practicing as an unlicensed residential builder is subject to a minimum fine of \$5,000 and a maximum term of imprisonment of one year for a first offense and two years for a second or subsequent offense. A violation that results in serious injury or death is a new felony with a maximum term of four years. Senate Bill 450 also allows 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 451, the Department, the Attorney General, and county prosecutors will be able to use forfeiture as a remedy for the unlicensed practice of any profession. These measures will 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 may

lead to increased administrative action against licensees.

Supporting Argument

The legislation enhances consumer protection in various ways, in addition to requiring education and raising penalties. Under Senate Bills 450 and 452, restitution must be ordered for any violation of the Occupational Code. Senate Bill 452 requires that final orders of the Residential Builders' and Maintenance and Alteration Contractors' Board be posted on DLEG's website. In addition, under Senate Bill 450, a home builder must provide information relating to his or her license as part of a contract.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bills 450 and 452

The criminal penalties under Senate Bills 450 and 452 will have an indeterminate fiscal impact on State and local government. There are no data to indicate how many people will be convicted of practicing as a residential builder or contractor without a license. To the extent that the bills increase incarceration time for offenders, local governments will incur the costs of incarceration in local facilities, and misdemeanor probation, which vary by county. The State will 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 \$33,000. Additional penal fine revenue will benefit public libraries.

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

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

In addition, Senate Bill 452 creates continuing education requirements for licensed builders and contractors of at least

three hours per license cycle. The Department will be required to approve all courses and may conduct an audit to ensure the licensees are in compliance. An allocation of \$5 of the increased renewal fee included in Senate Bill 453 will 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 may result in increased administrative costs for the courts.

Senate Bill 453

The bill increases the fees paid by licensed builders and contractors from \$40 to \$60 for the first license cycle and from \$40 to \$50 annually for any renewals. The bill also creates the Builder Enforcement Fund, which will receive \$2.4 million once through the earmarking of \$30 from the first license fee covered under the bill. In addition, the \$10 annual increase in the renewal fees will be allocated with \$5 being deposited into the Builder Enforcement Fund and \$5 being used to cover administrative expenses. This increase will generate another \$2.4 million over the three-year license cycle. The \$5 earmarked to the Enforcement Fund may be allocated only until the balance of the Fund reaches \$3.0 million, and then it will not be allocated until the balance falls below \$750,000. These funds will be used to cover the administrative and regulatory costs that the Department of Labor and Economic Growth incurs and to reimburse the Attorney General or prosecuting attorney for his or her expenses in prosecuting unlicensed activity. The bill also provides carry-forward authorization for the balance in the Fund, which will prevent these funds from being deposited into the General Fund.

Fiscal Analyst: Lindsay Hollander
Elizabeth Pratt
Maria Tyszkiewicz
Stephanie Yu

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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.