

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 817-03
Bill No.: HCS for HB 347
Subject: Contracts and Contractors; Housing; Liability
Type: Original
Date: February 22, 2005

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2006 | FY 2007 | FY 2008 |
| | | | |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2006 | FY 2007 | FY 2008 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 4 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2006 | FY 2007 | FY 2008 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|-------------------------------------|------------|------------|------------|
| FUND AFFECTED | FY 2006 | FY 2007 | FY 2008 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Oversight has not received responses for this Committee Substitute. All responses are from a previous version of the proposal. Oversight assumes the differences between the previous and current versions would not change the estimated fiscal impact.

Officials from the **Office of State Courts Administrator**, and the **Department of Economic Development; Division of Professional Registration** on behalf of the **Missouri Real Estate Commission**, assume this proposal would have no impact on their organizations.

Officials from the **Office of the Attorney General** (AGO) assume the proposal would have no impact to their organization. If the proposal were to result in an unanticipated increase in workload, or if more than one proposal is approved resulting in an increased workload, the AGO would address staffing concerns through the state budget process.

| <u>FISCAL IMPACT - State Government</u> | FY 2006 (10 Mo.) | FY 2007 | FY 2008 |
|---|---------------------|------------|------------|
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

| <u>FISCAL IMPACT - Local Government</u> | FY 2006 (10 Mo.) | FY 2007 | FY 2008 |
|---|---------------------|------------|------------|
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small Business

This proposal would impact small businesses involved in construction, ownership, and management of residential real property by imposing a specific process for resolving alleged construction defects.

DESCRIPTION

This proposal would create a process to resolve disputes arising out of alleged construction defects in residential property. A failure by the contractor to provide the required notice at the time a contract for the sale, construction, or substantial remodel of a residence would void the contractor's protection from an immediate cause of action by the homeowner. Also, if the contractor initiates an action, the homeowner's counterclaim against the contractor would not be subject to the contractor's protection created by the proposal.

A specific sequence of notices, inspections, offers, and mediation requirements would be required of the homeowner and contractor, and the owner and contractor would be required to follow the specified process to successfully resolve an alleged construction defect. Certain processes would have a limited time to be completed, but the time limit would be abated if that process is started before the time limit expires.

If immediate action by the homeowner is needed to prevent injury because of construction defects, including garage doors, that threaten the life, physical health (not including emotional or mental health) or safety of persons, the homeowner could make such repairs and include the costs of those repairs in the written notice of construction defects. No other homeowner repairs could be included in the claim.

DESCRIPTION (continued)

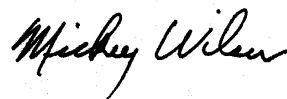
A cause of action could be brought on behalf of a homeowners' association when two or more residences have the same cause of action. Prior to filing an action, the board would provide written notice of the action to each homeowner in the association. A majority of the homeowners' association members would be required to consent in writing to proceed with an action.

The proposal would not prevent contracts between homeowners and contractors calling for binding arbitration.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General
Office of State Courts Administrator
Department of Economic Development
Division of Professional Regulation, for the
Missouri Real Estate Commission



Mickey Wilson, CPA
Director
February 22, 2005