

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 817-07  
Bill No.: SCS for HCS for HB 347  
Subject: Contracts and Contractors; Housing; Liability  
Type: Original  
Date: April 18, 2005

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTIONS

#### Homeowners Association Agreements

Officials from the **Office of State Courts Administrator** assumed there would be no fiscal impact on the Courts.

Officials from the **Office of the Attorney General** (AGO) assumed 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.

In response to a similar proposal, officials from the **Department of Economic Development - Missouri Housing Development Commission** and the **Department of Insurance** stated the proposed legislation would have no fiscal impact on their respective agencies.

ASSUMPTIONS (continued)

Residential Construction Disputes

In response to a previous version of this proposal, officials from the **Office of State Courts Administrator**, the **Department of Economic Development, Missouri Housing Development Commission**, and the **Department of Economic Development; Division of Professional Registration** on behalf of the **Missouri Real Estate Commission**, assumed the proposal would have no impact on their organizations.

Officials from the **Office of the Attorney General (AGO)** assumed 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
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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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

Homeowners Association Agreements

The proposal would require homeowners associations to amend their governing documents to eliminate any restrictive covenant which is in violation of the state's housing discrimination law.

DESCRIPTION (continued)

Residential Construction Disputes

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.

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  
    Missouri Housing Development Commission  
    Division of Professional Regulation, for the  
        Missouri Real Estate Commission  
Department of Insurance

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
April 14, 2005