

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3591-14  
Bill No.: Truly Agreed to and Finally Passed CCS for HS for HCS for SS  
for SCS for SB 1081  
Subject: Consumer Protection; Contractors and Contracts; Housing  
Type: Original  
Date: May 26, 2004

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<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>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<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 4 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Office of State Courts Administrator** and the **Office of the Attorney General** assume this proposal would have no impact on their organizations.

In response to a previous version of the proposal, officials from the **Department of Economic Development; Division of Professional Registration**, on behalf of the **Missouri Real Estate Commission (MREC)**, stated the proposal would have no impact on MREC.

<b><u>FISCAL IMPACT - State Government</u></b>	<b>FY 2005</b> (10 Mo.)	<b>FY 2006</b>	<b>FY 2007</b>
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<b><u>FISCAL IMPACT - Local Government</u></b>	<b>FY 2005</b> (10 Mo.)	<b>FY 2006</b>	<b>FY 2007</b>
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\$0

\$0

\$0

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 permit contractors to resolve claims relating to the construction or remodel of a residence, without litigation. Any civil action that does not follow the requirements of this act would be dismissed without prejudice, and following the requirements of the act would toll the statute of limitations. Contractors would provide a notice of the required procedures for resolving disputes with contractors in contracts with homeowners for the sale, construction or substantial remodel of a residence. An action could be filed if the contractor violates any of the requirements of the act.

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.

The homeowner would be required to notify the contractor of defects relating to the construction or remodel of a residence. The homeowner would then be required to wait ninety days before filing an action. During that time, the contractor would be required to respond to the claim, which may include offers to inspect the residence, remedy all or part of the claim, or deny the claim.

If the homeowner elects to allow the contractor to inspect the residence, the parties would agree on a time and place for the inspection within 14 days. The inspection would occur within 30 days from the date that the homeowner elects to allow the contractor to inspect. Within 14 days after the inspection, the contractor would provide the claimant with a written offer to fully or partially remedy the defect, make an offer of monetary settlement, or deny liability. If the contractor does not respond as required, the claimant could file suit.

DESCRIPTION (continued)

If the claimant rejects the offer, the matter would be mediated. If the claim is not resolved by mediation, the claimant could then file an action against the contractor. None of the written statements of the parties may be used in a subsequent cause of action, and the mediator may not be subpoenaed. If the action is equal to or less than the applicable small claims jurisdictional amount, the contractor must pay the first \$500 in mediation charges. Homeowners who elect to use small claims court would not have to submit to mediation under this act, and the requirements of this proposal would not apply to a subrogated insurance claim.

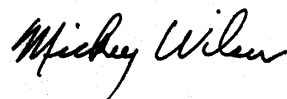
A cause of action could be brought on behalf of a homeowners' association when two or more residences have the same cause of action. Prior to filing an action, the board would provide written notice of the action to each homeowner in the association. A majority of the homeowners' association members 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 State Courts Administrator  
Office of the Attorney General  
Department of Economic Development  
Division of Professional Registration, on behalf of the  
Missouri Real Estate Commission



Mickey Wilson, CPA  
Director  
May 26, 2004