

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3443S.01I
Bill No.: SB 942
Subject: Attorney General; Boards, Commissions, Committees, and Councils; Bonds -
Surety; Civil Penalties; Commerce and Insurance, Department of; Consumer
Protection; Contracts and Contractors; Licenses - Miscellaneous; Professional
Registration and Licensing;
Type: Original
Date: January 18, 2022

Bill Summary: This proposal creates provisions related to the statewide licensing of home
improvement contractors and salespersons.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Home Improvement Fund	\$0	\$299,211	(\$404,910)
PR Fees Fund (0689)	(\$591,668)	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	(\$591,668)	\$299,211	(\$404,910)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
PR Fees Fund (0689)	3 FTE	3 FTE	3 FTE
Total Estimated Net Effect on FTE	3 FTE	3 FTE	3 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 324.1200 to 324.1242 - Licensing of Home Improvement Contractors and Salespersons

Officials from the **Department of Commerce and Insurance (DCI) – Professional Registration** assume the following:

Licensee/Revenue

13,350 Estimated Licensees (US Labor census & Home Imp Locations)
\$50 Initial License & Renewal Home Improvement Contractor Fee
2,000 Estimated Licensees (Sales locations in Missouri)
\$25 Initial License & Renewal Home Improvement Sales Fee
Biennial Renewal Cycle

- In the current language of this proposed legislation, Professional Registration assumes one license holder per corporation, firm, institution, organization, or company will register with the department.
- Projected revenue reflects fees collected for all categories of licensure
- A 3% growth rate has been estimated
- It is estimated that the collection of initial license fees will begin in FY 2024 and renewal fees will not be collected until FY 2025
- If the number of licensees largely vary from the number estimated above, the licensure fees will be adjusted accordingly

In summary, DCI assumes a revenue of \$717,500 (13,350 Licensees x \$50 Fee + 2,000 Licensees x \$25 Fee) in FY 2024 and \$21,600 in FY 2025 to the Home Improvement Fund to provide for the implementation of the changes in this proposal.

The following board-specific expenses are being calculated to determine the additional appropriation needed by the division to support the board and to assist in calculating the anticipated license and renewal fees.

Staffing-Estimated

1 FTE Principal Assistant at \$68,000/annually needed to serve as the senior executive officer of the registration agency.

1 FTE Customer Service Representative at \$30,700/annually needed to provide technical support, process applications for licensure, and respond to inquiries related to the licensure law and/or rules and regulations.

1 FTE Non Commissioned Investigator at \$46,000/annually needed to conduct investigations and inspections, serve notices, and gather information required by the board.

Complaints and Investigations

It is estimated the board will receive approximately 129 complaints. The division does not anticipate receiving any complaints until FY 2024. It is estimated 15% of the complaints filed will require field investigations with 50% requiring overnight travel. A car is needed to conduct investigations and will need to be eventually replaced based upon usage. Therefore, the vehicle cost is considered an ongoing expense and appropriation need.

In summary, DCI assumes a cost of \$591,668 in FY 2023, \$418,289 in FY 2024 and \$426,510 in FY 2025 to provide for the implementation of the changes in this proposal.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the revenue and expenses provided by DCI. Oversight assumes revenue generated to the Home Improvement Fund will be transferred to the PR Fees Fund to cover the cost of additional FTE.

Officials from the **Office of Administration - Administrative Hearing Commission**, the **Department of Revenue**, the **Department of Public Safety - Missouri Highway Patrol**, the **Office of the State Public Defender**, the **Office of the State Treasurer**, the **Missouri Office of Prosecution Services** and the **Office of the State Courts Administrator** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

SEQ CHAPTER \h \r 1

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
HOME IMPROVEMENT FUND			
<u>Revenue</u> – DCI §§324.1200-324.1242 p. 3	\$0	\$717,500	\$21,600
<u>Transfer Out</u> – to Professional Registration Fees Fund	<u>\$0</u>	<u>(\$418,289)</u>	<u>(\$426,510)</u>
ESTIMATED NET EFFECT TO THE HOME IMPROVEMENT FUND	<u>\$0</u>	<u>\$299,211</u>	<u>(\$404,910)</u>
PR FEES FUND (0689)			
<u>Transfer-in-</u> from Home Improvement Fund – DCI §§324.1200-324.1242	\$0	\$418,289	\$426,510
<u>Cost</u> – DCI §§324.1200-324.1242 p. 3-4			
Personnel Service	(\$120,917)	(\$148,002)	(\$150,962)
Fringe Benefits	(\$77,524)	(\$94,001)	(\$94,993)
Equipment and Expense	(\$248,074)	(\$27,504)	(\$28,054)
Other Fund Cost	(\$145,153)	(\$148,782)	(\$152,501)
Total Cost – DCI	<u>(\$591,668)</u>	<u>(\$418,289)</u>	<u>(\$426,510)</u>
FTE Change - DCI	3 FTE	3 FTE	3 FTE
ESTIMATED NET EFFECT TO THE PR FEES FUND (0689)	<u>(\$591,668)</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change to the PR Fees Fund (0689)	3 FTE	3 FTE	3 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Contractors or salespersons who solicit, canvass, sell, perform, or obtain a home improvement contract will now be required to have a license and could expect a direct fiscal impact as a result of this proposal.

FICAL DESCRIPTION

This act establishes the Missouri Board of Home Improvement Contractors. The Board shall consist of seven members chosen by the Governor with the advice and consent of the Senate for terms of five years.

The Board shall have powers to administer the licensure of home improvement contractors and salespersons, as provided for in the act, and to investigate violations of the act and other laws relating to a home improvement business. The Board shall educate the public on certain provisions of the act at least semiannually. (Section 324.1202)

Under this act, no contractor or salesperson shall solicit, canvass, sell, perform, or obtain a home improvement contract without a license. Such license shall not authorize any type of work or business requiring another type of license under state or local law. The act exempts certain individuals from obtaining a license, including employees of contractors, certain licensed professionals as described in the act, individuals working under a contract made prior to the effective date of the act, and individuals working under a contract with an aggregate price under five hundred dollars. (Section 324.1204)

This act establishes the Home Improvement Contractor Fund for the collection of money as provided for in the act. The application and renewal fee for a home improvement contractor license shall be fifty dollars, while the fee for a home improvement salesperson's license shall be twenty-five dollars. A home improvement contractor must also pay an additional fee of two hundred dollars or file a surety bond as described in the act. (Section 324.1206)

Licenses issued under the act shall not be assignable or transferable and shall be conspicuously posted in the licensee's place of business. Licensees shall notify the board within ten days of any change in ownership, management, address, or trade name. Duplicate licenses may be issued for lost or mutilated licenses. (Section 324.1208)

The act provides procedures for applications for contractors and salespersons. Applicants and certain agents and principals of business associations shall be fingerprinted for criminal

backgrounds checks. Applications for salesperson licenses must contain sufficient information, as prescribed by the Board, to verify compliance with applicable lien laws. (Section 324.1210)

The Board may refuse to issue a license or to renew or reinstate a license for one or more of reasons described in the act related to the license holder's or applicant's trustworthiness, competence, and duties. The Board shall give notice of the decision in writing and may file a complaint with the Administrative Hearing Commission. If the Commission finds that the grounds for such a complaint are met, the Board may impose censure, probation, suspension, or revocation of a license and may order payment of an applicable civil penalty. (Section 324.1212)

The act prohibits certain acts by contractors and salespersons, including materially deviating from the terms of a home improvement contract, fraudulent or deceptive conduct as described in the act related to such contracts and advertisements, acting as an agent to secure financing for a homeowner without complying with certain federal regulations, violating applicable statutes and regulations as described in the act, offering compensation to procure a home improvement contract, failing to perform work in a skillful and competent manner, writing into a contract a waiver of an owner's rights under the act, and receiving certain payments as described in the act.

A contractor or salesperson shall not write a waiver of an owner's rights under the act into a home improvement contract, and no act, agreement, or statement of an owner shall constitute such a waiver. (Sections 324.1214 and 324.1216)

Licenses shall give notice to owners that a home improvement contract may be cancelled until midnight on the fifth day after either making such contract or the owner receives such notice, whichever occurs later. The act provides the requirements for such cancellation to be effective. Notice shall not be required, and the cancellation procedures shall not apply, for home improvement contracts involving a bona fide emergency as described in the act. (Section 324.1218)

Home improvement contractors, salespersons, and their agents and employees shall affirmatively disclose that owners are entitled to an estimate in writing upon request, subject to a reasonable fee. (Section 324.1220)

Home improvement contractors, canvassers, and salespersons who knowingly makes false or fraudulent representations or statements as to any sale or property shall be guilty of a class A misdemeanor. (Section 324.1222)

Any person who owns, conducts, or operates a home improvement business without a license or who knowingly violates any provision of the act, other than certain fraudulent statements provided in the act, shall be guilty of a class B misdemeanor for each such violation.

A person shall be liable for a penalty up to one thousand dollars for any violation of the act, regardless of whether the violation was knowing.

The Attorney General may bring an action to restrain or prevent any violation of the act pursuant to procedures described in the act.

The Board may order a contractor to pay an owner an amount up to three times damages for any violation of the act found to be willful or to have posed a threat to the owner's health or safety. (Sections 324.1226 and 324.1238)

Home improvement contracts shall be in writing and shall contain information as described in the act. The contract shall include a notice that the property may be subject to a mechanic's lien by an unpaid contractor, subcontractor, or materialman. The contract shall also include certain notices, procedures, and restrictions, as described in the act, for payments made prior to contract completion and progress payments. (Section 324.1228)

Contractors shall fully disclose all activities, transactions, and payments related to financing a home improvement contract to the owner and shall secure an agreement in writing from all parties to the transaction. (Section 324.1230)

This act additionally provides that home improvement contracts for roofing, gutter, downspout, and siding services shall contain certain insurance information.

The act establishes certain rules and procedures related to casualty and property insurance coverage for roofing contracts, as well as other requirements specific to roofing contractors. (Section 324.1232)

Owners induced into a home improvement contract by false or fraudulent written representations or statements may recover from a contractor up to five hundred dollars, damages, and attorney's fees. A contractor may recover reasonable attorney's fees if the suit is found to lack arguable legal merit. (Section 324.1234)

Contractors may be liable for civil penalties up to one thousand dollars for any violation of the act.

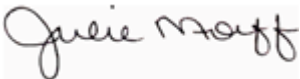
Contractors who fail to comply with the requirements provided for in the act related to payments received prior to performance or to provide a written contract in substantial compliance with the act shall be subject to a penalty of up to the greater of two hundred and fifty dollars or five percent of the aggregate contract price up to twenty-five hundred dollars. Penalties may be limited to one hundred dollars for such violations that were unintentional and resulted from a bona fide error. Courts shall consider factors as described in the act for assessing penalties for multiple violations. (Section 324.1236)

No home improvement contractor shall be exempted from existing regulations. However, after the effective date of the act, no political subdivision may enact a local law inconsistent with the provisions of the act. (Section 324.1240)

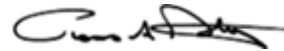
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Commerce and Insurance
Office of Administration - Administrative Hearing Commission
Department of Revenue
Department of Public Safety - Missouri Highway Patrol
Office of the State Treasurer
Office of the State Public Defender
Missouri Office of Prosecution Services
Office of the State Courts Administrator



Julie Morff
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January 18, 2022



Ross Strobe
Assistant Director
January 18, 2022