



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	H. 4086	Introduced on March 7, 2023
Author:	Sandifer	
Subject:	Residential Builders	
Requestor:	House Labor, Commerce, and Industry	
RFA Analyst(s):	Wren and Gardner	
Impact Date:	March 30, 2023	

Fiscal Impact Summary

This bill revises various definitions related to the Residential Builders Commission and adds two new classifications under residential trade contractor. The bill also adds a new felony related to violations associated with licensure by the commission. Additionally, the bill makes changes to various civil and administrative penalties imposed by the commission. The bill requires the Department of Labor, Licensing and Regulation (LLR) to institute a new tiered system for residential builders' licenses. Further, the bill makes conforming changes for licensure by the commission.

The overall expenditure impact on LLR is undetermined. However, the bill will increase Other Funds expenses of the agency by at least \$188,000 in FY 2023-24 and by at least \$184,000 each year thereafter. These expenses include salary and fringe for 3.0 FTEs to implement the provisions of the bill, miscellaneous equipment and supplies for the new FTEs, and for certified mailings for the new bond requirements. These new FTEs will be responsible for processing and tracking the new bond requirements, reviewing criminal background checks, processing and tracking continuing education requirements, processing and reviewing net worth requirements, supporting additional commission meetings and hearing panels, updating forms, and processing new license applications.

LLR further indicates that depending upon the volume of bond claims that may be adjudicated before a hearing officer or the commission, the agency may need to hire additional staff in the future, such as an investigator, disciplinary counsel, paralegal, and an advice attorney. Additionally, LLR anticipates significant IT infrastructure changes will be required to implement the provisions of the bill but cannot quantify the costs or if additional personnel will be needed at this time. The commission may also need to schedule additional meetings depending upon the number of application hearings related to the provisions of the bill. The number of additional meetings is unknown at this time. For reference, the cost of one meeting is approximately \$1,900.

This bill will have no expenditure impact on the State Law Enforcement Division (SLED), since the agency will be able to manage the additional background checks within existing appropriations and with existing staff. Further, the Revenue and Fiscal Affairs Office (RFA)

anticipates that any revenue received from the criminal background search fee that is retained by SLED will be used to offset expenses.

This bill may increase the number of cases or the duration of cases heard in summary and general sessions courts. Judicial intends to use existing resources to manage any modification in caseloads. Therefore, this bill will have no expenditure impact for Judicial.

The Department of Corrections (Corrections) anticipates being able to manage any change in the inmate population due to this bill with existing staff and within existing appropriations. For reference, Corrections reports the annual total cost per inmate in FY 2021-22 was \$32,247, of which \$30,044 was state funded, and the marginal cost per inmate was \$4,836, of which \$4,830 was state funded.

This bill will have no expenditure impact on the Prosecution Coordination Commission or the Commission on Indigent Defense since any expenses related to the provisions of the bill can be managed within existing staff and resources.

Since this bill creates a new felony with a fine and also deletes fines associated with a misdemeanor, there will be an impact in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined impact to General Fund revenue, Other Funds revenue, and local revenue due to the change in fines and fees collections in court.

Additionally, this bill removes civil penalties associated with violations related to licensure of home inspectors. The civil penalties are currently collected by the Residential Builders Commission and remitted to the State Treasurer for deposit in the General Fund. LLR does not have data on the revenue collected from civil penalties by statute. Therefore, this portion of the bill will result in an undetermined decrease in General Fund revenue.

Based upon a three-year historical average from SLED, the agency was able to retain an average of \$10,375,000 from background checks for its \$25 portion of the fee. Assuming a similar pattern in future years and since this amount is over the \$4,461,000 amount that is allocated to the General Fund, RFA anticipates that Other Funds of SLED will increase by an undetermined amount in FY 2023-24 as a result of the potential increase in background checks for licensees under the authority of the Residential Builders Commission. There would be no increase to the General Fund for this portion of the bill.

The Residential Builders Commission falls under the Division of Professional and Occupation Licensing. Proviso 81.3 of the FY 2022-23 Appropriations Act requires LLR to remit annually to the General Fund an amount equal to 10 percent of expenditures unless the board has an overall negative ending cash balance. Although the overall expenditure impact of the bill on LLR is undetermined, this portion of the bill will increase General Fund revenue by at least \$18,800 in FY 2023-24 and by at least \$18,400 each year thereafter.

In total, the impact on General Fund revenue, Other Funds revenue, and local revenue is undetermined.

Explanation of Fiscal Impact

Introduced on March 7, 2023

State Expenditure

This bill revises various definitions and makes other changes to the Residential Builders Commission, among other things.

Department of Labor, Licensing and Regulation. This bill splits the current credential classification of residential specialty contractor into two categories, residential trade contractor and residential trade registrant. The bill also adds two new classifications for foundation repair and service specialists and swimming pool installers and requires an exam for solar panel installers. This bill makes changes as to when a surety bond must be executed. Additionally, the bill specifies requirements related to a claim on the bond of a residential builder, trade contractor, or residential trade registrant. Further, this bill requires the Residential Builders Commission to institute a new tiered system for residential builders' licenses, which institutes new educational requirements. Currently, the 7,000 commission licensees and registrants are not required to complete continuing education.

LLR indicates that commission will need at least 3.0 FTEs, administrative assistant positions, to implement the provisions of the bill. These new FTEs will be responsible for processing and tracking the new bond requirements, reviewing criminal background checks, processing and tracking continuing education requirements, processing and reviewing net worth requirements, supporting additional commission meetings and hearing panels, updating forms, and processing new license applications. Salary and fringe for the new FTEs is expected to total approximately \$98,000 beginning in FY 2022-23. Additional recurring expenses for miscellaneous supplies for the FTEs are expected to total \$2,000, and nonrecurring expenses are expected to total \$4,000 for equipment. Further, LLR anticipates that the new bond requirements will affect 12,000 licensees and registrants. Mailings related to the new bond requirements are estimated at \$7 per licensee, which will total \$84,000.

LLR further indicates that depending upon the volume of bond claims that may be adjudicated before a hearing officer or the commission, the agency may need to hire additional staff in the future, such as an investigator, disciplinary counsel, paralegal, and an advice attorney. Additionally, LLR anticipates significant IT infrastructure changes will be required to implement the provisions of the bill but cannot quantify the costs or if additional personnel will be needed at this time. The commission may also need to schedule additional commission meetings depending upon the number of application hearings related to the provisions of the bill. The number of additional meetings is unknown at this time. For reference, the cost of one meeting is approximately \$1,900.

While the overall expenditure impact of this bill on LLR is undetermined, the bill will increase Other Funds expenses of the agency by at least \$188,000 in FY 2023-24 and by at least \$184,000

each year thereafter. The agency intends to request an increase in Other Funds authorization to cover the expenses.

Further, the bill repeals §40-59-560, which relates to inspection reports issued by a licensed home inspector. LLR indicates that this portion of the bill will have no cost savings on the agency or commission.

State Law Enforcement Division. This bill splits the current credential classification of residential specialty contractor into two categories, residential trade contractor and residential trade registrant. The bill also adds two new classifications for foundation repair and service specialists and swimming pool installers. Further, the bill specifies that all new applicants must supply a criminal background report that covers the states where they have resided for the last ten years. This bill will have no expenditure impact on SLED since the agency will be able to manage the additional background checks within existing appropriations and with existing staff. Further, RFA anticipates that any revenue received from the criminal background search fee that is retained by SLED will be used to offset expenses.

Judicial. This bill may increase the number of cases, or the duration of cases heard in summary and general sessions courts. Judicial intends to use existing resources to manage any modification in caseloads. Therefore, this bill will have no expenditure impact for Judicial.

Department of Corrections. This bill adds a felony offense for a person who engages or offers to engage in the business of residential building or residential trade contracting without a license or uses false information to obtain licensure for the second time in a five-year period. The felony is punishable by imprisonment up to five years, a fine of no more than \$500, or both. The Department of Corrections reports the annual total cost per inmate in FY 2021-22 was \$32,247, of which \$30,044 was state funded, and the marginal cost per inmate was \$4,836, of which \$4,830 was state funded. However, Corrections anticipates being able to manage any change in the inmate population due to this bill with existing staff and within existing appropriations.

Prosecution Coordination Commission. This bill adds a felony for a person who engages or offers to engage in the business of residential building or residential trade contracting without a license or uses false information to obtain licensure for the second time in a five-year period. The felony is punishable by imprisonment up to five years, a fine of no more than \$500, or both. The agency indicates that any expenses can be managed with existing staff and resources. Therefore, the bill will have no expenditure impact on the Prosecution Coordination Commission.

Commission on Indigent Defense. This bill adds a felony for a person who engages or offers to engage in the business of residential building or residential trade contracting without a license or uses false information to obtain licensure for the second time in a five-year period. The felony is punishable by imprisonment up to five years, a fine of no more than \$500, or both. The Commission on Indigent Defense indicates that any expenses resulting from implementation of the bill will be minimal and can be managed with existing resources. Therefore, this bill will have no expenditure impact on the agency.

State Revenue

This bill revises various definitions and makes other changes to the Residential Builders Commission, among other things. The bill also adds a new felony related to violations associated with licensure by the commission and deletes the fines and imprisonment for a misdemeanor. Additionally, the bill makes changes to various civil and administrative penalties imposed by the commission.

This bill splits the current credential classification of residential specialty contractor into two categories, residential trade contractor and residential trade registrant. The bill also adds two new classifications for foundation repair and service specialists and swimming pool installers. LLR indicates that the current biennial credential fee for residential specialty registrants is \$100, the renewal fee is \$100, and the reinstatement fee is \$290. LLR indicates that the commission could continue with these same fees for the new categories. However, the number of individuals who may seek a “residential trade contractor” credential is unknown. Therefore, the increase in Other Funds revenue of LLR for fees for the new credential is undetermined.

Also, the bill adds a felony for a person who engages or offers to engage in the business of residential building or residential trade contracting without a license or uses false information to obtain licensure for the second time in a five-year period. The felony is punishable by imprisonment up to five years, a fine of no more than \$500, or both. The bill also removes the monetary fine and imprisonment term associated with a misdemeanor related to licensure of a home inspector. Since this bill creates a new felony with a fine and also deletes fines associated with a misdemeanor, there will be an impact in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates these sections of the bill may result in an undetermined impact to General Fund revenue and Other Funds revenue due to the change in fines and fees collections in court.

The bill also removes civil penalties associated with violations related to licensure of home inspectors. The civil penalties are currently collected by the Residential Builders Commission and remitted to the State Treasurer for deposit in the General Fund. LLR does not have data on the revenue collected from civil penalties by statute. Therefore, this portion of the bill will result in an undetermined decrease in General Fund revenue.

The bill allows LLR to refer reports of violations of Articles 2 and 3 of Chapter 1, Title 40 to the Residential Builders Commission. Currently, only violations of Article 1 may be referred to the commission. This section also sets the administrative penalty for a second offense at not more than \$1,000. Administrative penalties are used by LLR to defray the administrative costs associated with investigations. LLR does not have data on administrative penalties. Therefore, the increase in Other Funds revenue of LLR for this portion of the bill is undetermined. For reference, LLR indicates that the commission collected \$141,500 in administrative penalties and fines in FY 2021-22.

The bill requires a person exempted from licensure of home inspection to register with the Residential Builders Commission in order to engage in the business of home inspection and pay a fee to the commission. The current application fee for a home inspector is \$80 and the renewal

fee is \$160, but LLR indicates that any changes to these fees for the new category of home inspectors will be established in regulation. Further, the number of licensed architects, residential builders, engineers, and general contractors who may seek registration with the commission as a home inspector is unknown. Therefore, the increase in Other Funds revenue of LLR from these fees is undetermined.

Further, the bill requires all new applicants for licensure under the Residential Builders Commission to supply a criminal background report that covers the states where they have resided for ten years. Therefore, this bill will increase the number of criminal records searches that SLED is required to perform. SLED indicates that the total cost for a criminal records search is \$51.75, of which \$25 is retained by SLED. The vendor, Identogo, receives \$13.50, and the remainder of the fee, \$13.25, is remitted to the FBI. Pursuant to Section 23-3-115(A), revenue generated by criminal records checks performed by SLED up to an amount of \$4,461,000 must be deposited in the General Fund. Any revenue over that amount is retained by SLED. Based upon a three-year historical average from SLED, the agency was able to retain an average of \$10,375,000 from background checks for its \$25 portion of the fee. Assuming a similar pattern in future years and since this amount is over the \$4,461,000 amount that is allocated to the General Fund, RFA anticipates that Other Funds of SLED will increase by an undetermined amount in FY 2023-24 as a result of the potential increase in background checks for licensees under the authority of the Residential Builders Commission. There would be no increase to the General Fund for this portion of the bill.

The Residential Builders Commission falls under the Division of Professional and Occupation Licensing. Proviso 81.3 of the FY 2022-23 Appropriations Act requires LLR to remit annually to the General Fund an amount equal to 10 percent of expenditures unless the board has an overall negative ending cash balance. Although the overall expenditure impact of the bill on LLR is undetermined, this portion of the bill will increase General Fund revenue by at least \$18,800 in FY 2023-24 and by at least \$18,400 each year thereafter.

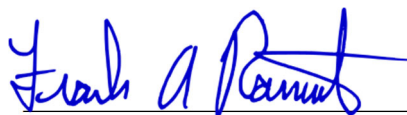
In total, the impact on General Fund revenue, Other Funds revenue, and local revenue is undetermined.

Local Expenditure

N/A

Local Revenue

Since this bill creates a new felony with a fine and also deletes fines associated with a misdemeanor, there will be an impact in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined impact to local revenue due to the change in fines and fees collections in court.



Frank A. Rainwater, Executive Director