



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [H.B. 140 of the 130th G.A.](#)

Date: May 20, 2014

Status: As Introduced

Sponsor: Rep. Patmon

Local Impact Statement Procedure Required: No

Contents: Requires the licensure of residential construction contractors under the Department of Commerce

State Fiscal Highlights

- The bill requires residential builders, residential maintenance and alteration contractors, and salespersons to be licensed by the newly created Residential Builders' and Maintenance and Alteration Contractors' Board (RBMAC Board). The RBMAC Board would be housed within the Department of Commerce (COM).
- COM would incur costs in paying the RBMAC Board members, hiring additional office and investigative staff, and administering the Residential Contractor Law. These costs would depend chiefly on the number of licensees and the rules adopted by the RBMAC Board to enforce the bill's provisions.
- Operating costs for overseeing these licenses would be paid from the Builder Enforcement Fund created by the bill. The fund would consist of residential construction contractor license fees and fine revenue.

Local Fiscal Highlights

- The number of civil cases filed in county and municipal courts may increase as a result of the bill's provisions. If so, this would increase administrative costs for these courts, although these expenses would be offset by the court costs and filing fees collected from the additional cases.

Detailed Fiscal Analysis

Background

Currently in Ohio, local governments oversee residential building contractors, while the state regulates commercial contractors through the Ohio Construction Industry Licensing Board (OCILB). Many states require residential contractors to be licensed under varying eligibility requirements and specifications, including Michigan, Tennessee, Virginia, California, and Florida among others. Other states are like Ohio and do not currently require state licensure, including Indiana, Illinois, Missouri, Pennsylvania, and others.¹

Overview of H.B. 140

The bill requires all residential builders, residential maintenance and alteration contractors, and residential salespersons (referred to collectively in this Fiscal Note as "residential construction contractors") to be licensed by the state. The bill creates the Residential Builders' and Maintenance and Alteration Contractors' Board (RBMAC Board) under the Department of Commerce (COM) to administer and enforce these new licensing requirements. The bill creates a new fund – the Builder Enforcement Fund – to receive the various fees that applicants for these licenses must pay and any fines for penalties under the new law. Not all residential contractors would need to obtain a state license from the RBMAC Board. Specifically, the bill exempts federal, state, and local government employees, among others, from the state licensure requirement. Finally, under the bill the RBMAC Board would not replace or supercede local regulation under the Residential Code of Ohio.

LSC does not currently have estimates of the number of licensees that would be regulated under the Residential Contractor Law. This makes it difficult to either estimate potential annual expenses that the RBMAC Board might incur for overseeing residential construction contractor licensure or forecast operating revenues from the triennial licenses and other sources. The actual costs for the RBMAC Board would depend on the number of licensees and the enforcement of duties required under the bill, but would likely be higher in the first two to three years of the Board's creation because of various start-up related costs, then decline to consistent expenditure levels once the operations and oversight procedures are more firmly established. Nonetheless, the license fees provided in the bill could offset some or all of the costs incurred for overseeing the licensure of residential construction contractors. The sections below provide additional fiscal analysis on the various aspects of the bill.

¹ All information on residential contractor licensing in states is according to the National Association of Home Builders.

Potential COM and RBMAC Board expenses

The bill requires that the Board consist of nine appointed members, to be paid an amount fixed by the Director of Administrative Services (DAS) in accordance with the exempt employee salary schedule for each day spent in the discharge of the member's official duties. According to DAS's classification plan booklet, the pay for the Board Member job class ranges from \$17.89 to \$59.06 per hour. The members are also to be reimbursed for their actual and necessary expenses incurred in the discharge of those duties. Considering the number of licensees to be overseen, it is likely that COM would also hire additional staff to provide administrative support and investigate complaints under the Residential Contractor Law.

In addition to new licensing requirements, the bill establishes a process for complaints to be filed and for COM to investigate the allegations of wrongdoing, including an inspection of the site that is the subject of the complaint. The bill then sets out a series of actions that can be taken against a contractor if the complaint is substantiated, including the offer for a settlement between the violator and COM or negotiation under an alternative dispute resolution procedure. Other steps include the issuance of cease and desist orders, summary license suspensions, citations and fines, and final orders. The bill allows the Attorney General to prosecute all cases in which unlicensed practice occurs. However, COM is to reimburse the Attorney General for costs of prosecuting these cases. Overall, these investigations could generate considerable workload for the new RBMAC Board.

RBMAC Board operating revenue

The bill creates the Builder Enforcement Fund to receive all residential contractor license fee revenue. Application and examination fees amount to \$85 (\$65 for the salesperson examination), while the license fee is \$50. Licenses must be renewed every three years, with costs to renew totaling \$120 per license (\$50 for salespersons). If the RBMAC Board licenses the same amount of people as OCILB did in FY 2013 (approximately 16,000 licensees in total), and half of these people hold residential salesperson licenses, then this would equal approximately \$2.0 million in revenue in the first year of enforcement (((\$135 for initial licensure fees x 8,000 residential maintenance and alteration contractor licensees) + (\$115 for initial licensure fees x 8,000 residential salesperson contractor licensees)). In this same scenario, for the first license renewal cycle and subsequently, the Builder Enforcement Fund would receive ongoing revenue of around \$1.4 million every three fiscal years (((\$120 x 8,000 residential maintenance and alteration contractor licensees) + (\$50 x 8,000 residential salesperson contractor licensees)), or approximately \$450,000 per fiscal year. However, please note that these figures are merely an exercise to provide a sense of scale for the potential revenue to the Builder Enforcement Fund as a result of the fees included in the bill. Finally, the bill gives the Board and COM the authority to assess a monetary penalty of up to \$10,000 in lieu of suspending or revoking a license. These fines would also be deposited into the Builder Enforcement Fund.

Comparison to operating costs of the Ohio Construction Industry Licensing Board

While the costs to enforce the bill's requirements is currently unknown to LSC, a comparison to the existing OCILB, which regulates commercial contractors, may provide some help in estimating annual operating costs for the RBMAC Board and COM. OCILB licenses specialty contractors in various construction-related professions who perform commercial work in Ohio, as divided into three sections: (1) the Plumbing and Hydronics Section, (2) the Electrical Section, and (3) the Heating, Ventilating and Air Conditioning (HVAC), and Refrigeration Section. At the end of FY 2013, OCILB oversaw approximately 16,000 active licenses. OCILB currently employs two investigators and seven other office employees. The Board is supported by license fees and related income that is deposited into the Industrial Compliance Operating Fund (Fund 5560). The Board collected \$1.3 million in revenue in FY 2013, while expenditures amounted to around \$780,000. For FY 2014 and FY 2015, the Board has an operating budget of \$1.2 million in each fiscal year.

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