

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION  
Revision 1

April 15, 2007

**TO:** Honorable David Swinford, Chair, House Committee on State Affairs

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1038** by Ritter (Relating to the operation of the Texas Residential Construction Commission; providing penalties.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1038, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND 1	Probable Revenue Gain from GENERAL REVENUE FUND 1
2008	(\$5,012,360)	\$5,012,360
2009	(\$4,912,360)	\$4,912,360
2010	(\$4,912,360)	\$4,912,360
2011	(\$4,912,360)	\$4,912,360
2012	(\$4,912,360)	\$4,912,360

Fiscal Year	Change in Number of State Employees from FY 2007
2008	30.0
2009	30.0
2010	30.0
2011	30.0
2012	30.0

## Fiscal Analysis

The bill would amend various sections of the Property Code and the Local Government Code, relating to the functions of the Texas Residential Construction Commission (TRCC). The bill would include in the definition of "builder" a person who had been issued a license by a political subdivision, but not by the state, to practice a trade or profession related to or affiliated with residential construction and persons who perform improvements to the interior of a home when the cost of the work exceeds \$10,000 (current threshold is \$20,000). Under the provisions of the bill, an individual who builds a home or makes a material improvement to the home with the intent to immediately sell the home and not live in it for at least a year after completion of the work would be liable as a builder under the warranty obligation for the work performed. The bill would authorize TRCC to charge late fees for late payment of any fee due to TRCC in any amount up to the amount of the fee due. The bill would specify that the Texas Star Builder certification is valid for one year and renewable on a date determined by TRCC. The bill would allow TRCC to pursue injunctive relief against non-registered builders and remodelers and would increase the grounds for disciplinary action and the disciplinary powers of the commission. The bill would authorize TRCC to issue an order to cease and desist and would allow a person to appeal the order directly to a district court. The bill would authorize TRCC to reimburse a third-party inspector for travel expenses incurred to complete an inspection regardless of whether the expenses exceed the inspection fees collected from the party requesting the inspection. The bill would require a builder to comply to follow the state-sponsored inspection and dispute resolution process prior to initiating an action for damages or other relief arising from an alleged construction defect. The bill would decrease the number of years of experience required for a person to register as a third-party inspector. The bill would authorize a party to a dispute who did not file an inspection and dispute resolution request to submit a written response to the allegations in the request and submit evidence to TRCC. The bill would prohibit TRCC from requiring a builder to reimburse fees or inspection expenses if, before the inspection, the builder made or offered to make repairs similar to those identified in the third-party inspection report. The bill would specify that builders in economically distressed areas, as defined by Water Code Section 15.001 (11), and any allegations of postconstruction defects are not exempt from TRCC's state-sponsored inspection and dispute resolution process. The bill would prohibit municipalities from issuing building permits to builders not registered with TRCC.

The bill would also require the House Committee on State Affairs to conduct an interim study regarding the feasibility of creating a fund designed to reimburse aggrieved persons who experience actual damages from a builder's actions in violation of Title 16 of the Property Code.

The bill would take effect on September 1, 2007.

## Methodology

Based on the analysis of TRCC, it is assumed the increased grounds for disciplinary action and disciplinary powers, authority to pursue injunctive relief, and cease and desist orders under the provisions of the bill would require additional staff and resources for enforcement including three Attorney IV positions (3.0 FTEs; \$71,284/year); one Attorney II (1.0 FTE; \$53,596/year); one Inspector VI (1.0 FTE; \$47,382/year); seven Investigator VII positions (7.0 FTEs; \$56,983/year); three Legal Assistant II positions (3.0 FTEs; \$47,381/year); one Administrative Assistant III (1.0 FTE; \$33,416/year); and an additional \$570,000 for costs associated with hearings and judicial actions.

Based on the analysis of TRCC, it is assumed the reduced experience requirements for third-party inspectors under the provisions of the bill would increase the number of third-party inspector applications received and would require one additional Customer Service Representative IV (1.0 FTE; \$37,596) to accommodate the increased duties.

Based on the analysis of TRCC, it is assumed the new registration requirements for builders/remodelers and projects in economically distressed areas, new requirement for builders to follow the state-sponsored inspection and dispute resolution process, and lower project cost threshold for registration of remodelers and remodeling projects would increase the number of registrations processed and the number of inspection requests received, which would require two additional Program Specialist I positions (2.0 FTEs; \$42,754/year); five Customer Service Representative IV positions (5.0 FTE; \$37,596/year); one Customer Service Representative II (1.0 FTE; \$29,779/year); one Legal Assistant II (1.0 FTE; \$47,381/year); and two Administrative Assistant III positions (2.0 FTEs; \$33,416/year).

Based on the analysis of TRCC, it is assumed two additional Program Specialist I positions (2.0 FTEs; \$42,754/year) would be required to process information and evidence received with a response to a request for inspection of an alleged construction defect and to accommodate increased disclosure requirements for the state-sponsored inspection and dispute resolution process.

Employee benefits costs associated with the 30 new positions are estimated to be \$404,506 each year (28.29 percent of salaries). Based on the analysis of TRCC, it is assumed additional costs for leasing computer equipment, software, technical support, and enhancements to the commission's database would be \$160,000 in 2008 and \$60,000 each year thereafter. It is also assumed the agency would require leased office space to accommodate the additional staff at an estimated cost of \$40,000 per year.

Based on the analysis of TRCC, it is assumed the agency would incur increased costs of \$53,000 per year for reimbursing inspector's travel expenses under the provisions of the bill. Other costs related to personnel, professional fees, reproduction charges, certified mail, TexasOnline fees, background checks, and consumables are estimated to be \$2,355,000 each year.

It is assumed TRCC would assess or increase fees sufficient to recover any additional costs associated with implementing the provisions of the bill.

**Technology**

Technology costs associated with the implementation of the bill are estimated to be \$160,000 in 2008 and \$60,000 each year thereafter for leasing computer equipment, software, technical support, and enhancements to the commission's database.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 370 Residential Construction Commission

**LBB Staff:** JOB, KJG, MW, TG