

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 18, 2007**

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

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

**IN RE: HB2721** by Thompson (Relating to consumer protection for and remedies available to a homebuyer whose home does not comply with certain warranties; providing an administrative penalty.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2721, As Introduced: 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 <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Revenue (Loss) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Change in Number of State Employees from FY 2007
2008	(\$484,119)	\$484,119	8.0
2009	(\$581,798)	\$581,798	12.0
2010	(\$581,798)	\$581,798	12.0
2011	(\$581,798)	\$581,798	12.0
2012	(\$581,798)	\$581,798	12.0

**Fiscal Analysis**

The bill would amend the Property Code relating to consumer protection and remedies available to a homebuyer whose home does not comply with certain warranties and provide for an administrative penalty.

The bill would establish administrative procedures for the Texas Real Estate Commission (TREC) which must be exhausted before a homebuyer may file suit against a contractor for construction defects or breach of warranties. TREC's executive director may set a hearing on a complaint that is not privately resolved by the homebuyer and contractor and order repairs, replacement of repurchase of

the home. TREC, in consultation with the Texas Real Estate Inspector Committee, would be authorized to adopt rules to administer and enforce the bill and to establish incidental costs and a maximum amount of incidental costs for which the buyer must be reimbursed by the contractor.

TREC would be required to publish an annual report relating to homes ordered replaced or repurchased and would be authorized to charge a reasonable fee to recover the costs of the report. TREC also would be authorized to impose administrative penalties not to exceed \$1,000 for violation of the bill or a TREC rule or order. Orders could be appealed under the Administrative Procedures Act and may be initiated in or removed to the Third Court of Appeals District on the motion of either party.

While the bill has an effective date of September 1, 2003, this analysis assumes an effective date of September 1, 2007.

### **Methodology**

According to the analysis provided by TREC, the bill would require the agency to accept and review complaints from homebuyers. TREC could receive 2,000 new complaints each year (source: number of complaints received in one quarter by the Texas Residential Services Commission). To process and review the complaints to determine which should be set for hearing would require the hiring of a total of 12 Full-Time Equivalents (FTEs) The agency estimates a need for an additional 8.0 FTEs in fiscal year 2008 and 4.0 additional FTEs in 2009-2012. According to TREC, first year staffing would allow the program to be implemented. Funding would be necessary for salaries, travel, rent, operating expenses and a toll-free telephone line. Additional start-up funding for fiscal year 2008 would be necessary for modular furniture, computers, telephones, and various supplies.

Based on the analysis of the Residential Construction Commission, the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. Costs to the Third Court of Appeals District would depend on the number of appeals initiated under the provisions of the bill.

For the purpose of this analysis, it is assumed that TREC would adjust license fees to cover any additional costs associated with the implementation of this bill.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 329 Real Estate Commission, 370 Residential Construction Commission

**LBB Staff:** JOB, KJG, MW, NV, TB