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Fiscal Note

Drafting Number: LLS 24-0192 Date: January 23, 2024
Prime Sponsors: Rep. Willford; Brown Bill Status: House Business & Labor
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Bill Topic: CONSTRUCTION PROFESSIONAL INSURANCE COVERAGE TRANSPARENCY

Summary of Fiscal Impact: [X] State Revenue [X] State Diversion [X] Local Government
[X] State Expenditure [ ] TABOR Refund [ ] Statutory Public Entity

The bill commissions a study of construction liability insurance and requires builders and sellers of new residences to disclose insurance information. It creates a General Fund diversion and increases state expenditures from FY 2024-25 to FY 2026-27. It may increase state revenue and state and local workload on an ongoing basis beginning in FY 2024-25.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$567,142 to the Department of Regulatory Agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 24-1083

Table with 5 columns: Category, Budget Year FY 2024-25, Out Year FY 2025-26, Out Year FY 2026-27. Rows include Revenue, Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Diversions (General Fund, Cash Funds, Net Diversion), and Other Budget Impacts.

## Summary of Legislation

The bill requires the Division of Insurance in the Department of Regulatory Agencies (DORA) to conduct or commission a study of construction liability insurance for construction professionals and submit a report to the General Assembly by December 31, 2026. The report must include:

- insurers offering construction liability policies in the state, including to residential property developers;
- rates and the basis for rates charged by insurers, to include five years of data, where available;
- risk factors, classifications, and coverage descriptions that insurers use to set rates;
- a comparison of rates charged in other states in the region for similar residential projects;
- policy coverage terms;
- limitations or exclusions from coverage; and
- the appropriate policy limits for a residential project with regard to the size and cost of construction.

The bill also requires builders and sellers of new residences to provide the purchasers and the county clerk and recorder's office with information regarding the property's construction liability insurance coverage. The bill creates a civil cause of action for purchasers of a new residence to file suit against sellers that violate these provisions.

## State Revenue

The bill may increase revenue to the Judicial Department beginning in FY 2024-25 from an increase in civil case filings. The fiscal note assumes that builders and sellers of new residences will comply with the law and any increase will be minimal. Revenue from filing fees is subject to TABOR.

## State Diversion

This bill diverts General Fund to the Division of Insurance Cash Fund from FY 2024-25 through FY 2026-27. This revenue diversion occurs because the bill increases costs in the Division of Insurance in the Department of Regulatory Agencies, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

## State Expenditures

The bill increases state expenditures in DORA by about \$580,000 in FY 2024-25, \$73,000 in FY 2025-26, and about \$37,000 in FY 2026-27 paid from the Division of Insurance Cash Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2**  
**Expenditures Under HB 24-1083**

	<b>FY 2024-25</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>
<b>Department of Regulatory Agencies</b>			
Personal Services	\$59,704	\$59,704	\$29,852
Operating Expenses	\$768	\$768	\$384
Capital Outlay Costs	\$6,670	-	-
Contract Study	\$500,000	-	-
Centrally Appropriated Costs <sup>1</sup>	\$12,796	\$12,796	\$6,398
<b>Total Cost</b>	<b>\$579,938</b>	<b>\$73,268</b>	<b>\$36,634</b>
<b>Total FTE</b>	<b>0.6 FTE</b>	<b>0.6 FTE</b>	<b>0.3 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Regulatory Agencies.** Starting in FY 2024-25, expenditures in DORA will increase to collect data and hire an actuarial contractor to conduct a statewide construction liability insurance study.

- **Staff.** DORA requires 0.4 FTE Actuary II beginning in FY 2024-25 to request, review, and analyze carrier data that is not currently required to be filed with the division, and to collect and analyze insurance rates in other states in the region. Additionally, 0.2 FTE Actuary II will hire and manage the contractor for the study. Staffing costs conclude in December 2026, upon delivery of the study.
- **Contract study.** DORA requires an estimated \$500,000 to hire an actuarial firm to conduct market research on construction liability insurers, determine appropriate policy limits, analyze coverage limits and exclusions, run data analyses of rates, and generate a report. Based on the level of detail required by the bill, the fiscal note assumes that a contractor will perform 1,250 hours of work at an estimated \$400 per hour. Actual costs will be determined through the contracting process.

**Judicial Department.** Trial courts in the Judicial Department may experience an increase in workload to the extent that additional civil cases are filed under the bill. The fiscal note assumes that builders and sellers of new residences will comply with the law and any increase will be minimal.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

## Local Government

Starting in FY 2024-25, workload for the county clerk and recorder's office will increase to track insurance coverage information provided by builders and sellers of new residences. This workload is expected to be minimal.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to sales occurring on or after this date.

## State Appropriations

For FY 2024-25, the bill requires an appropriation of \$567,142 and 0.6 FTE from the Division of Insurance Cash Fund to the Department of Regulatory Agencies. Of this amount, \$500,000 requires roll-forward spending authority through FY 2026-27.

## State and Local Government Contacts

Counties  
Judicial

County Clerks  
Regulatory Agencies

Information Technology

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).