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Senate Fiscal Agency  
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**SFA****BILL ANALYSIS**

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Senate Bill 351 (Substitute S-1 as reported by the Committee of the Whole)  
Sponsor: Senator Glenn D. Steil  
Committee: Human Resources and Labor

### **CONTENT**

The bill would amend Article 24 of the Occupational Code, which provides for the licensure and regulation of residential builders, to establish standards and procedures for administrative proceedings regarding workmanship complaints against residential builders.

Article 24 contains a list of actions that, if committed by a residential builder licensee or applicant, may subject the licensee or applicant to penalties specified in the Code. Among the grounds for penalties is "poor workmanship or workmanship not meeting the standards of the custom or trade verified by a building code enforcement official".

Currently, complaints are filed under Article 5 of the Code, which prescribes the powers and duties of the Department of Consumer and Industry Services (DCIS) when complaints are received, and provides for investigations of complaints, administrative hearings in disputed complaints, and determinations of penalties.

The bill specifies that, notwithstanding Article 5, the bill's provisions would apply to administrative proceedings regarding workmanship. These provisions include requirements that a complaint submitted by an owner describe in writing, to the satisfaction of the DCIS, the factual basis for the allegation; and that the DCIS presume the innocence of a licensee throughout the proceeding until the administrative law hearing examiner found otherwise in a determination of findings of fact and conclusions of law under Article 5. The licensee would have the burden of refuting evidence submitted by a person during the administrative hearing, and the burden of proof regarding the reason deficiencies were not corrected.

The bill provides that it would be an affirmative defense to an action brought in a court against a residential builder licensee that the complainant failed to use a contractually provided alternate dispute resolution.

MCL 339.2411 & 339.2412

Legislative Analyst: G. Towne

### **FISCAL IMPACT**

The bill would require the DCIS to send, by certified mail, a verified complaint to the complainant and the licensee. There would be additional costs associated with the expense of certified mail. According to the Department, the cost would be less than \$10,000 per year.

Date Completed: 4-27-01

Fiscal Analyst: M. Tyszkiewicz