

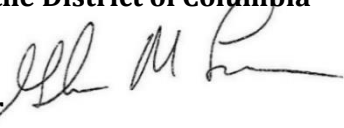
Government of the District of Columbia  
Office of the Chief Financial Officer



**Glen Lee**  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Glen Lee  
Chief Financial Officer 

**DATE:** September 17, 2024

**SUBJECT:** Fiscal Impact Statement – Construction Manager and General Contractor Licensing Amendment Act of 2024

**REFERENCE:** Bill 25-737, Draft Committee Print as provided to the Office of Revenue Analysis on August 27, 2024

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**Conclusion**

Funds are not sufficient in the fiscal year 2025 through fiscal year 2028 budget and financial plan to implement the bill. The bill's implementation will cost \$1.2 million in fiscal year 2025 and \$3.9 million over the four-year financial plan period.

**Background**

The bill establishes commercial contractors,<sup>1</sup> construction managers,<sup>2</sup> and residential contractors<sup>3</sup> as three new occupations requiring a professional license from the Department of Licensing and Consumer Protection (DLCP). Like other occupational and professional licenses issued by DLCP, these new licenses will be regulated by the newly established seven-member Board of Construction Managers and General Contractors (Board). The Board recommends legislative and regulatory needs

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<sup>1</sup> The bill defines commercial contractors as persons or entities who, for compensation or with the intent to sell, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any real property that is not residential real property.

<sup>2</sup> The bill defines construction manager as a paid person, firm, partnership, corporation, association, or other entity with the discretion and authority to plan phases of a project for construction, demolition, alteration, repair, or reconstruction of commercial or residential property.

<sup>3</sup> The bill defines residential contractors as persons or entities who, for compensation or with the intent to sell, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish residential real property.

associated with these licenses, establishes license categories and education requirements, and provides any other licensing support or structure to the industries as needed.

The bill establishes the scope of practice for construction management and general contracting. The bill also establishes what is not considered general contracting practices, including work on electrical systems, elevators, fire protection systems, refrigeration or air conditioning systems, or any other work licensed by the Board of Industrial Trades.<sup>4</sup> The bill prohibits any person from engaging in construction management or general contracting practices or using the designations "construction manager," "commercial contractor," or "residential contractor" without an applicable license. The bill enumerates several exemptions from licensure, including for work performed by federal or District government employees, material suppliers who do not perform construction or installation work, work performed directly under the supervision of a licensed contractor, work performed by a public utility, and work personally performed by the owner of a residential property.

The bill requires an applicant for a construction manager's license to also hold a commercial or residential contractor's, professional engineer's, or architect's license and not have had that license denied, suspended, or revoked within the year prior to applying for the manager's license. Applicants for a commercial or residential contractor's license must have 4,000 hours or two years of experience performing construction work on commercial properties, home improvement or construction work within the last six years, comparable experience, or a Board-approved combination of experience and education. Contractors must also pass any examinations required by the Board; comply with the bill's financial requirements; not had a license denied, suspended, or revoked in the last year; or comply with any other requirement imposed by the Board. The bill deems any applicant for a construction manager or general contractor who holds a basic business license as of the bill's effective date as eligible for the applicable professional license.

Applicants for licensure must provide financial statements that reflect that the financial well-being of the applicant meets standards set by the Board or obtain and maintain a bond to demonstrate financial responsibility. The bond must be \$25,000 for a residential contractor or an amount set by the Board for a commercial contractor. If a contractor fails to satisfy a court judgment, an aggrieved party can make a claim against the bond for monetary losses, but not interest or punitive damages. The bill requires the corporate surety to notify the Board when a claim is made against the bond, a claim is paid, and when a bond is cancelled.

The bill establishes the Residential and Commercial Contractor Guaranty and Education Fund (Fund). The Fund will receive fees charged to commercial and residential contractors established by the Mayor and any funds that may otherwise be appropriated. An aggrieved party<sup>5</sup> who has made every attempt<sup>6</sup> to force a licensed contractor to pay a court judgement can apply to the Mayor to satisfy the remaining judgement from the Fund's resources. The bill establishes a maximum amount that can be paid out of the Fund to satisfy a judgment. The maximum amount is \$10,000 in the first year after the bill's effective date and then increases \$10,000 annually until reaching a maximum of \$50,000 in the

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<sup>4</sup> Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.06(d)).

<sup>5</sup> An aggrieved party cannot be an employee, vendor, spouse, or child of the licensee; another licensee; a financial institution; or any person whose business involves real property construction and development.

<sup>6</sup> An aggrieved party must investigate whether the licensee has personal property or other assets that could be used to satisfy the judgement and provide proof of the investigation to the Board when applying for Fund resources.

fifth year after the bill's effective date and each year thereafter. The bill also caps aggregate claims against the Fund for any single transaction to \$50,000, which should be paid in proportion to the aggrieved parties' judgments. The bill establishes the Mayor's responsibilities related to applications, notice, suspending licenses, satisfying claims when funds are insufficient, and to set minimum and maximum Fund balances. The Mayor can also assess each licensee a fee of up to \$50 during any license year when the Fund's balance falls below the established minimum. The Board may also expend up to twenty percent of the Fund's resources on educational programs.

**Financial Plan Impact**

Funds are not sufficient in the fiscal year 2025 through fiscal year 2028 budget and financial plan to implement the bill. The bill's implementation will cost \$1.2 million in fiscal year 2025 and \$3.9 million over the four-year financial plan period.

There are currently nine boards within DLCP that regulate various categories of occupational and professional licenses. Each board is guided by a board administrator and supported by program staff, attorneys, and enforcement staff. DLCP believes the volume and complexity of the Board's activities and expansive nature of the industries covered requires substantial additional resources. The Board will require a board administrator, four support staff, one legislative attorney to manage regulatory and legislative needs, one board attorney, and two investigators to support enforcement. These staff members will cost \$602,000 in fiscal year 2025 and \$3.3 million over the four-year financial plan period. DLCP also requires \$600k to update its professional licensing IT system to accommodate these new licenses. It will take approximately one year for DLCP to get the new Board and licensing regime operational.

The professionals and firms covered by the bill currently obtain a basic business license, with a related endorsement. Professionals in this space accounted for an average of nearly 2,500 licenses (new and renewal) annually over the last four years. Shifting them away from the endorsement to a new license under the occupational and professional licensing regime will result in reduced revenues for DLCP's Basic Business License Fund and new revenues for the Occupations and Professions Licensing Special Account Fund. These professionals will also pay a new fee, set by the Mayor, into the new Fund to provide last-resort guarantees on court-ordered payments to aggrieved property owners. The professional license fees and the new guarantee fee are not established and we cannot reliably estimate the impact at this time. However, the revenue shift in fees from the Basic Business License Fund to the Occupations and Professions Licensing Special Account corresponds with a shift in licensing workload supported by one fund to the other, so there is limited impact on DLCP's operations.

<b>Construction Manager and General Contractor Licensing Amendment Act of 2024</b>					
<b>Bill 25-737</b>					
<b>Implementation Costs</b>					
<b>Fiscal Year 2025 – Fiscal Year 2028</b>					
<b>(\$ thousands)</b>					
	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>	<b>Total</b>
<b>Additional Staff<sup>a</sup></b>	\$602	\$870	\$889	\$909	\$3,270
<b>Technology Updates</b>	\$600	\$0	\$0	\$0	\$600
<b>Total Costs</b>	<b>\$1,202</b>	<b>\$870</b>	<b>\$889</b>	<b>\$909</b>	<b>\$3,870</b>

Table Notes

<sup>a</sup> Implementation will take approximately one year, so three new staffers will begin in fiscal year 2026.