



RIAS

The Royal Incorporation of Architects in Scotland

Aonachadh Rìoghail nan Ailtire ann an Alba

RIAS Briefing: Hypothecation and Economic Design of the Building Safety (Scotland) Bill

To: Finance and Public Administration Committee, Scottish Parliament

From: Royal Incorporation of Architects in Scotland (RIAS)

Date: 4-11-2025

Subject: Strengthening the Building Safety Levy through Economic Design and Legislative Safeguards

Introduction

RIAS welcomes the opportunity to support the Committee's scrutiny of the Building Safety (Scotland) Bill. As the professional body for architects in Scotland, we offer this note in response to Michelle Thomson MSP's query, following the recent evidence session and reference quasi-hypothecation in our submission.

While RIAS does not claim deep economic expertise, we are committed to improving the design, fairness, and effectiveness of fiscal instruments that shape Scotland's built environment. We view the Building Safety Levy as a necessary but under-optimised tool — one that could better promote safety, accountability, and innovation. Hypothecation is one element worthy of review.

1. Hypothecation: Clarifying the Economic Framework

We have reviewed our initial evidence and wish to update our view. We now believe the levy is best classified as a **weak form of hypothecation** — a fiscal arrangement where revenues are intended for a specific purpose but lack legal provision to ensure they are used accordingly.

- **Definition for Non-Specialists:**
Weak hypothecation means money raised by a tax or levy is intended for a specific purpose, but there is no legal guarantee or dedicated fund to ensure this happens.
- **Polluter Pays Principle:**
This principle suggests that those responsible for creating safety risks (e.g. developers of unsafe buildings) should bear the cost of remediation. While referenced in the Bill's intent, it is not fully realised in its design.
- **Current Provision:**
The Bill states that levy proceeds "must be used... for improving the safety of persons in or about buildings in Scotland." This is a purpose-specific direction but lacks enforceable mechanisms to ensure transparency or dedicated fund management.

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2. Hypothecation: Key Concerns for Committee Scrutiny

In relation to our description of weak hypothecation, we respectfully highlight three areas requiring further consideration:

- **Partial Coverage and Scale:**
The levy will fund only a fraction of total remediation costs — a hallmark of weak hypothecation.
 - **Weak Payer to Beneficiary Link:**
Developers may pay the levy without any connection to the buildings being remediated. Alternative models (e.g. levies on insulation product sales or insulation sector profits) arguably offer much stronger causal links e.g. causes and solutions.
 - **Lack of Fund Visibility:**
The Bill does not establish a separate fund or reporting mechanism. We assume accountability will be delivered via the Scottish Budget, but mechanisms for visibility and traceability need to be confirmed.
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3. Missed Opportunities: Incentives and Positive Behavioural Design

The Bill does not currently incentivise future safety improvements or reward good practice. This risks:

- **Rewarding Historic Non-Compliance:**
Developers using single-purpose vehicles may benefit from public subsidy.
- **Penalising Historically Compliant Firms:**
Responsible developers face the same levy burden without recognition.
- **Missing Innovation Opportunities:**
No mechanism exists to encourage higher safety standards or industry leadership in future.

It is the function of chartered architects to optimise safety measures at the design stage, including identifying the most durable materials and construction techniques. However, these proposals are frequently downgraded through value-engineering (specification cuts) in favour of solutions that meet only minimum compliance in the short term and are not optimised for maintenance, durability, upgrade potential, environmental performance, or innovation.

A more sophisticated levy design could support early-stage work on testing new products, investigating emerging risks and researching historic failures. A critical challenge is cross-compliance, including meeting higher environmental and energy standards. Incentives would strengthen the Scottish construction sector's ability to innovate whilst also seeking to identify and prevent future safety issues emerging.

Positive behavioural incentives — such as those found in the Landfill Tax and Aggregates Levy — demonstrate how fiscal tools can encourage better practice. RIAS believes the construction sector would welcome similar mechanisms in the Building Safety (Scotland) Bill, helping to shift the culture from reactive remediation to proactive safety leadership.

4. Options for Improvement (For Further Expert Consideration)

We suggest the Committee explore the following incentive mechanisms, drawing on precedents from the Landfill Tax and Aggregates Levy:

- **Performance-Based Rebates:**
Partial levy refunds for exceeding safety standards.
- **Tiered Levy Rates:**
Lower rates for projects meeting enhanced safety or environmental criteria.
- **Innovation Credits:**
Levy offsets for investment in approved R&D or pilot projects.
- **Compliance Recognition Schemes:**
Discounts for verified industry leadership.
- **Offsets for Community Grant Funds:**
Levy offsets to fund action in affected communities suffering hardship during or before remediation.

Please note that identifying the optimum incentive mechanism and its operation lies beyond RIAS's competence. These matters fall within the remit of tax or behavioural economics specialists.

5. Final Remarks

RIAS supports the principle of the levy as a fiscal necessity, given the absence of UK Treasury funding alternatives.

We regret that the scale of historic regulatory failure has made full hypothecation and strict application of the 'polluter pays' principle unfeasible.

Nonetheless, the Bill can be strengthened. We urge the Committee to consider:

- **Statutory safeguards** that are appropriate and proportionate, particularly in relation to fund allocation and reporting
- **Incentive mechanisms** to promote safety and innovation.
- **Transparent governance** to ensure industry and public confidence.

We hope this additional note assists in scrutinising the Bill and identifying areas for discussion with other interested stakeholders. We also encourage the Committee to explore whether there is scope to incentivise positive behaviour in future, in addition to raising revenues to address past failures.

Further information:

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