

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 66 (Chair, Education, Health, and Environmental Affairs
 Committee)(By Request - Departmental - Labor,
 Licensing and Regulation)

Education, Health, and Environmental Affairs

Economic Matters

**Maryland Home Improvement Commission - Membership, Quorum, Meetings,
 and Reports**

This departmental bill increases the membership of the Maryland Home Improvement Commission (MHIC) from seven to nine (by adding one consumer member and one industry or consumer member). Subject to specified conditions, the Governor must remove a member for not meeting specified attendance requirements. The bill also changes the number of members needed for a quorum or for MHIC to take action to reflect the number of members currently serving, rather than the authorized membership; however, a quorum may not be fewer than four members. The frequency with which MHIC must meet is decreased from at least once per month to at least once every two months. MHIC must report annually by December 1 to specified committees of the General Assembly (1) the attendance at each commission meeting; (2) the number of guaranty fund claims closed at each meeting; and (3) how many guaranty fund claims remain open at the end of each meeting.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances. Any expense reimbursements for additional commission members are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing, and Regulation (DLLR) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The Governor must remove a member of the commission if the member did not attend at least two-thirds of the commission meetings held during the prior year; however, the Governor may allow a member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public. When an individual is removed, the Governor must then appoint a successor.

Current Law: MHIC is responsible for protecting the public in home improvement transactions. Specifically, the commission:

- licenses home improvement contractors, subcontractors, and salespersons;
- administers an examination to applicants for licensure to test their knowledge of home improvement law and business acumen;
- processes complaints, files charges against unlicensed workers, and processes claims against licensed contractors; and
- administers the Home Improvement Guaranty Fund for the purpose of providing limited restitution – a maximum of \$20,000 per claim and \$100,000 total per contractor – to consumers who file valid claims against licensed home improvement contractors with the commission.

The Governor appoints all seven commission members, with the advice of the Secretary of Labor, Licensing, and Regulation. The Governor may remove a member for misconduct or incompetence. The chairman is appointed by the Governor with the advice of the Secretary. The members of the commission include three industry representatives, three consumer representatives, and one banking and finance representative. Commission members serve staggered four-year terms. A member of any board or commission appointed by the Governor who does not attend at least 50% of the meetings in any 12-month period is considered to have resigned.

With approval of the Secretary of Labor, Licensing, and Regulation, MHIC may appoint a home improvement hearing board. The board must consist of at least three members of the commission and include at least one industry member and one consumer member.

The commission may refer to a hearing board any charge, claim, complaint, or license application.

Applicants for a home improvement contractor license from MHIC are required to pay \$100 to the Home Improvement Guaranty Fund. If the commission finds that, because of pending claims, the amount of the fund may fall below \$250,000, the commission must additionally assess each contractor a fee of \$50. The commission may not assess a contractor more than \$150 in a calendar year.

Background: The Home Improvement Guaranty Fund was established to compensate a homeowner for the “actual loss” created by a licensed home improvement contractor. MHIC investigates each guaranty fund claim it receives to determine its validity. Investigations typically take three to five months to complete. DLLR advises that, if the commission cannot settle the matter through informal means during the investigation, the claim most likely will require a hearing at the Office of Administrative Hearings (OAH). Approximately 250 claims are awaiting adjudication at OAH; however, due to the commission’s fiscal constraints, only four claims per week receive a hearing. Thus, from the time MHIC completes its investigation, it takes about two years for a claim to be heard at OAH.

The 2010 sunset review of MHIC by the Department of Legislative Services highlighted the backlog of guaranty fund claims awaiting adjudication and accompanying legislation (Chapter 333 of 2011, HB 362) required a follow-up report from the commission and DLLR by October 1, 2012, on specified factors relating to the backlog. The report notes that the commission continues to have a large backlog of complaints, despite the average investigation time falling from 112 days in fiscal 2009 to 77 days in fiscal 2012.

DLLR advises that the bill improves MHIC’s ability to review and process guaranty fund claims, which may lead to more expeditious claim resolution in some cases and reduce the backlog of cases awaiting a hearing at OAH. Adding two members enables the commission to form three panels – instead of just two – to meet on a monthly basis to review guaranty fund claims. Reducing the number of required business meetings allows the full commission to dedicate six full meetings per year solely to reviewing and resolving claims.

Additional Comments: To the extent that a larger MHIC is able to review and process additional Home Improvement Guaranty Fund claims, nonbudgeted expenditures from and revenues to the fund may be accelerated as the backlog of cases awaiting a hearing at OAH is reduced. Any effect on the level of revenues and expenditures is expected to be minimal due to the small number of cases that can be forwarded to OAH at a time.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - January 15, 2013
ns/mcr Revised - Senate Third Reader - March 10, 2013
Revised - Enrolled Bill - April 29, 2013

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Home Improvement Commission – Membership – Quorum – Meetings

BILL NUMBER: SB 66

PREPARED BY: Department of Labor, Licensing and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.