

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 1198 (Senator Bates)
 Education, Health, and Environmental Affairs

Business Regulation - Home Improvement Contracts

This bill allows a home improvement retailer who employs a contractor to obtain the full contract price (as opposed to one-third) before or at the time of execution of a home improvement contract if specified conditions are met. The Maryland Home Improvement Commission (MHIC) must investigate related complaints and may draw on a required letter of credit posted by a retailer to satisfy a consumer’s complaint.

Fiscal Summary

State Effect: General fund revenues decrease by \$233,000 in FY 2019 from foregone general fund reversions due to higher special fund staffing costs. Future years reflect annualization and the elimination of one-time costs. Overall, special fund expenditures are not affected, as discussed below.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	(\$233,000)	(\$257,700)	(\$265,100)	(\$274,600)	(\$284,400)
Expenditure	0	0	0	0	0
Net Effect	(\$233,000)	(\$257,700)	(\$265,100)	(\$274,600)	(\$284,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: A “home improvement retailer” who employs a contractor may obtain the full contract price before or at the time of execution of the home improvement contract if

the retailer or the contractor posts an irrevocable letter of credit, payable to MHIC, of \$100,000 per store, up to \$2.0 million in total for a retailer with multiple stores.

In the event of a dispute with a home improvement retailer or a contractor employed by a home improvement retailer, a homeowner may file a complaint with MHIC against the retailer and request that MHIC draw on the retailer's letter of credit. On receipt of the complaint, MHIC must notify the retailer, investigate the complaint, and determine if the retailer is in default of the contract. If MHIC determines the retailer or contractor is in default, MHIC may, after providing notice to the retailer, draw on the letter of credit to satisfy the consumer's complaint. If MHIC draws on the letter of credit twice for the same retailer within a two-year period, the retailer is prohibited from posting a letter of credit for five years.

Current Law: A person may not demand or receive any payment for a home improvement before the home improvement contract is signed. A person may not receive a deposit of more than one-third of the home improvement contract price before or at the time of execution of the contract.

To obtain a home improvement contractor's license, in addition to other requirements, an individual must pay a Guaranty Fund assessment. The Guaranty Fund is used to compensate homeowners for actual losses that result from an act or omission by a licensed contractor. Generally, claims are limited to \$20,000 for one claimant against one contractor and \$100,000 for all claimants against one contractor. More than \$100,000 can be claimed if the contractor first reimburses the fund.

Background: MHIC issues licenses to home improvement contractors and salespersons. MHIC is mandated to pursue violators of the home improvement laws and effect remedies or file criminal charges on behalf of the public. Timely complaint resolution is critical due to the nature of the work performed. Home improvement contractors, in particular, often perform complex residential services. Many complaints involve damage to a residence that requires immediate attention.

MHIC has approximately 30,000 licensees and typically receives several hundred Guaranty Fund claims each year. There were an average of 93 Guaranty Fund claims paid annually from fiscal 2016 through 2017, with an average payment of approximately \$8,285.

State Fiscal Effect: MHIC must develop, implement, and administer a letter of credit program for home improvement retailers and their contractors. This includes conducting industry outreach, establishing a registration process, and conducting ongoing investigation and enforcement activities.

Chapter 255 of 2017 establishes the MHIC Special Fund and redirects the licensing revenue associated with MHIC from the general fund to the new special fund, effective July 1, 2018. At the end of each fiscal year, any unspent and unencumbered portion of the special fund in excess of \$100,000 reverts to the general fund.

Absent the bill, the MHIC special fund is projected to run annual surpluses of between \$440,000 and \$550,000 annually from fiscal 2019 through 2023, with corresponding general fund reversions of between \$340,000 and \$550,000 during those years. The Department of Legislative Services (DLS) projects that expenditures related to implementation of the bill are less than the projected surpluses in each fiscal year. Absent the bill, the surplus in excess of \$100,000 would be paid to the general fund as a reversion, but the bill causes some of those funds to instead be spent on implementation and not be available for reversion to the general fund. Therefore, while the costs associated with the bill do not change overall special fund expenditures, they do reduce annual general fund reversions/revenues.

Accordingly, general fund revenues decrease by the amount of expenditures from the MHIC special fund needed to implement the program, which is \$232,989 in fiscal 2019. This estimate accounts for the bill’s October 1, 2018 effective date, and reflects the cost of hiring one administrator, one administrative specialist, one investigator, and one *half-time* assistant Attorney General to administer the program. It includes salaries, fringe benefits, one-time start-up costs, travel costs, and ongoing operating expenses. It also includes \$20,000 in fiscal 2019 to develop an online registration system and \$2,000 annually for ongoing costs associated with the system.

Positions	3.5
Salaries and Fringe Benefits	\$186,498
Registration System Development	20,000
Other Operating Expenses	<u>26,491</u>
Total FY 2019 Additional Special Fund Expenditures/ Foregone General Fund Revenues	\$232,989

Future year special fund expenditures (general fund revenue decreases) reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

This estimate assumes that special fund operating surpluses are sufficiently large in each year that the entire amount of redirected special fund spending represents foregone general fund revenue. To the extent that is not the case in any particular year, the effect on general fund revenue is less.

Small Business Effect: Many businesses in the home improvement industry are small businesses and benefit from the ability to receive the full amount of a home improvement

contract price up front under the bill (instead of just one-third), which improves their cash flow. However, some small home improvement retailers and small home improvement contractors are likely financially unable to participate in the letter of credit program, which may place them at a disadvantage to the larger retailers and contractors who do participate.

Additional Information

Prior Introductions: None.

Cross File: HB 674 (Delegate W. Miller, *et al.*) - Economic Matters.

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

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