

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 1016
 Rules

(Senator Feldman)

Consumer Protection - Home Improvement Contractors - Home Improvement Contracts

This bill authorizes a contractor, including a home improvement retailer who employs or contracts with a contractor, to obtain the full contract price before or at the time of execution of a home improvement contract. To do so, the contractor must post with the Consumer Protection Division of the Office of the Attorney General (OAG) an irrevocable letter of credit, payable to the division, of \$100,000 per home improvement contract, up to \$2.0 million. In the event of a dispute with a contractor, a homeowner may file a complaint with the division and request that the division draw on the contractor’s letter of credit. Subject to notification and investigation, the division may draw on the letter of credit to satisfy the complaint if the contractor is determined to be at fault. If the division draws on a letter of credit twice within two years, the contractor is prohibited from posting a letter of credit for five years. The division is explicitly authorized to investigate a contractor who draws on a letter of credit under the bill.

Fiscal Summary

State Effect: General fund expenditures for the Consumer Protection Division of OAG increase by \$68,300 in FY 2021. Future years reflect annualization and ongoing costs. Nonbudgeted revenues and expenditures for the Home Improvement Guaranty Fund in the Maryland Department of Labor (MDL) may decrease minimally beginning in FY 2021.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	68,300	82,800	85,100	88,000	91,000
Net Effect	(\$68,300)	(\$82,800)	(\$85,100)	(\$88,000)	(\$91,000)

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law/Background: 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.

Consumer Protection Division

The Consumer Protection Division in OAG provides mediation services to consumers to help resolve complaints against businesses and health insurance carriers. The division is also responsible for enforcing the Maryland Consumer Protection Act and registering new home builders and health clubs. The division has approximately 59 full-time staff.

Maryland Home Improvement Commission

The Maryland Home Improvement Commission (MHIC) in MDL licenses home improvement contractors and salespersons, subject to specified requirements for licensure and ongoing licensee behavior. 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.

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.

MHIC licenses approximately 21,500 individuals and typically receives several hundred Guaranty Fund claims each year. The Guaranty Fund's fiscal 2019 ending balance was \$3.4 million; total claims paid in that year were \$919,000.

State Fiscal Effect: The division requires additional administrative support to implement the bill. As noted above, there are a substantial number of licensees in the home improvement industry. The bill requires the division to maintain records of the letters of credit, investigate complaints, and determine if a home improvement retailer or contractor is in default of a home improvement contract. Absent a clear funding source for these costs, it is assumed that general funds are used.

Accordingly, general fund expenditures for OAG increase by \$68,342 in fiscal 2021, which accounts for the bill's October 1, 2020 effective date. This estimate reflects the cost of hiring one administrator to oversee the program. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$61,101
Other Operating Expenses	<u>7,241</u>
Total FY 2021 State Expenditures	\$68,342

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

The bill creates an additional process through which homeowners can be compensated for losses associated with the poor performance of home improvement contractors. To that end, nonbudgeted revenues and expenditures for the Home Improvement Guaranty Fund may decrease beginning in fiscal 2021 if fewer claims are made by homeowners, paid by the fund, and then reimbursed by the affected contractors. The amount, if any, cannot be reliably estimated, but is likely minimal.

Small Business Effect: Some home improvement contractors able to post the letters of credit under the bill are likely small businesses, and, therefore, benefit from the ability to charge the full amount for a home improvement contract upfront, which improves their cash flow. Although many home improvement retailers are not small businesses, small home improvement contractors employed by them also potentially benefit from improved cash flow.

Additional Information

Prior Introductions: HB 1058 of 2017, a similar bill as introduced, passed the House with amendments, but received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

Designated Cross File: HB 1290 (Delegate Wilson) - Economic Matters.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Maryland Department of Labor; Department of Legislative Services

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rh/mcr

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