

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1135
Economic Matters

(Delegate Adams, *et al.*)

Business Regulation - Home Improvement Contracts - Deposits by Financial
Institutions

This bill authorizes a person to receive a deposit of more than one-third of a home improvement contract price before (or at) the time of the contract execution if the full amount of the deposit is financed by a financial institution.

Fiscal Summary

State Effect: Nonbudgeted revenues and expenditures for the Home Improvement Guaranty Fund may be minimally affected, as discussed below.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Current Law: A person may not demand or receive any payment for a home improvement before the home improvement contract is signed. Moreover, 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 home improvement contract.

A “financial institution” is defined as any financial institution of the type supervised under the Financial Institutions article, whether or not the institution is a Maryland-chartered bank.

Home Improvement Guaranty Fund

The Maryland Home Improvement Commission (MHIC) must establish a Home Improvement Guaranty Fund to compensate homeowners for an “actual loss” that results from an act or omission by a licensed home improvement contractor or other violations. An actual loss means the cost of restoration, repair, replacement, or completion that arises from an unworkmanlike, inadequate, or incomplete home improvement.

A new home improvement licensee must pay \$100 to the guaranty fund, and each licensee must pay \$150 upon license renewal. If the balance in the fund drops below \$250,000, each licensee is assessed a fee of \$50. Awards from the guaranty fund are capped at \$20,000 for one claimant or \$100,000 to all claimants for the acts or omissions of a single contractor. After MHIC pays a claim from the guaranty fund, the contractor against whom the claim was made must reimburse the fund for the full amount of the claim. Revenues and expenditures for the guaranty fund are nonbudgeted.

State Fiscal Effect: MHIC advises that the bill may result in higher claims against the Home Improvement Guaranty Fund. Under current law, contractors may only collect deposits of up to one-third of the contract price at the time of the contract execution. MHIC advises that the limitation on the deposit amount facilitates the use of draw schedules under which additional payments are due upon satisfactory completion of phases of the contract work. Draw schedules reduce homeowners’ potential financial loss by limiting the amount they pay for their contractor in the event that the contractor’s performance is deficient. MHIC notes that eliminating the deposit cap may reduce (or even eliminate) the use of draw schedules in home improvement contracts in the State and potentially expose consumers to larger financial losses. As a result, the guaranty fund may be subject to larger claims under the bill. To the extent this occurs under the bill, revenues and expenditures for the fund may be affected, although the overall impact of the bill is not expected to have a significant impact on the fund.

Small Business Effect: Because the bill allows for larger deposits for home improvement contracts, small home improvement businesses may meaningfully benefit as a result of the bill’s changes. However, because the Home Improvement Guaranty Fund is funded by licensing fees, any such businesses may also be subject to increased licensing fees or special assessments if larger home improvement contract deposits result in larger awards from the fund (*i.e.*, as a result of homeowners who suffer financial loss as a result of unworkmanlike, incomplete, or inadequate performance by a contractor). Contractors may also have to pay larger reimbursements to the guaranty fund if successful claims are made against them and result in payments to homeowners from the fund.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 855 (Senator Eckardt) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of Labor; Department of Legislative Services

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