

**Department of Legislative Services**  
 Maryland General Assembly  
 2022 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

Senate Bill 467 (Senator West)  
 Education, Health, and Environmental Affairs

Economic Matters

**Business Regulation - Home Improvement Commission - Award Limits**

This bill increases, from \$20,000 to \$30,000, the maximum possible amount that may be awarded by the Maryland Home Improvement Commission (MHIC) from the Home Improvement Guaranty Fund to a claimant for acts or omissions of one contractor. **The bill takes effect July 1, 2022.**

**Fiscal Summary**

**State Effect:** Special fund expenditures increase by \$44,300 in FY 2023 and by \$46,700 in 2024 for contractual staff. Revenues are not affected. The nonbudgeted Home Improvement Guaranty Fund may also be affected, as discussed below.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	44,300	46,700	0	0	0
Net Effect	(\$44,300)	(\$46,700)	\$0	\$0	\$0

*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:** An owner may recover compensation from the Home Improvement Guaranty fund for an actual loss that results from an act or omission by a licensed contractor or a violation of provisions of State law that require written notice to be provided if

payment for work performed under the home improvement contract will be secured by an interest in residential real estate, as found by MHIC or a court of competent jurisdiction.

For purposes of recovery from the fund, the act or omission of a licensed contractor includes the act or omission of a subcontractor, salesperson, or employee of the licensed contractor, whether or not an express agency relationship exists.

A claimant must comply with a written agreement to submit a dispute to arbitration before seeking recovery from the fund.

MHIC may deny a claim if it finds that the claimant unreasonably rejected good faith efforts by the contractor to resolve the claim.

MHIC may not award from the fund:

- more than \$20,000 to one claimant for acts or omissions of one contractor;
- more than \$100,000 to all claimants for acts or omissions of one contractor unless, after MHIC has paid out \$100,000 on account of acts or omissions of the contractor, the contractor reimburses \$100,000 to the fund;
- an amount for attorney fees, consequential damages, court costs, interest, personal injury damages, or punitive damages;
- an amount as a result of a default judgment in court; or
- an amount in excess of the amount paid by or on behalf of the claimant to the contractor against whom the claim is filed.

Claims may not be made by specified persons (*e.g.*, a spouse or other immediate relative of the contractor), and an owner may make a claim only if the owner resides in the home or does not own more than three residences or dwelling places.

A claim must be brought against the fund within three years after the claimant discovered or, by use of ordinary diligence, should have discovered the loss or damage.

After the commission pays a claim from the fund, it has a right to reimbursement by the contractor responsible for the act or omission. The contractor is responsible for the amount paid from the fund plus annual interest of at least 10%. If, within 60 days after MHIC gives notice, a contractor on whose account a claim was paid does not reimburse the fund in full, MHIC may sue the contractor in a court of competent jurisdiction for the unreimbursed amount.

**State Fiscal Effect:** MHIC advises that, because the bill increases the maximum possible payout for acts or omissions of one contractor, this change also necessitates increasing the

commission's personal net worth requirements for contractors (*i.e.*, from \$20,000 to \$30,000), which are determined by the maximum payout amount. MHIC's operating expenses are paid out of the Maryland Home Improvement Commission Special Fund.

Therefore, special fund expenditures increase by \$44,262 in fiscal 2023, which accounts for a 90-day start-up delay from the bill's July 1, 2022 effective date. This estimate reflects the cost of hiring one contractual administrator to review licensee documentation to determine whether existing contractors have sufficient net worth levels to maintain licensure. The review will be done during the license renewal process; as licenses are issued for two years, MHIC requires contractual assistance for two years until all licensees have gone through the renewal process. This estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	1
Salaries and Fringe Benefits	\$36,919
Operating Expenses	<u>7,343</u>
<b>Total FY 2023 State Expenditures</b>	<b>\$44,262</b>

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and the termination of the contractual position in fiscal 2025.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

MHIC further advises that revenues and expenditures for the guaranty fund may be affected under the bill. Because the maximum award limit is raised, MHIC anticipates that overall payouts also increase. Should these payouts affect the guaranty fund balance such that the amount of the fund may fall below \$250,000, MHIC must assess a \$50 fee for each licensed contractor. However, the Department of Legislative Services advises that it is unclear how significantly the bill may impact the guaranty fund over time. Although the bill authorizes higher payouts, it does not require them. Therefore, losses to the fund over time may be mitigated. Moreover, MHIC advises that the fund has a balance in excess of \$3.0 million, so there is no imminent concern about the fund's balance.

**Small Business Effect:** Small businesses may be affected to the extent they have to repay greater amounts under the bill in order to compensate the fund for any additional losses resulting from acts or omissions of a contractor.

## Additional Information

**Prior Introductions:** None.

**Designated Cross File:** HB 917 (Delegate Forbes) - Economic Matters.

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

**Fiscal Note History:** First Reader - February 23, 2022  
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Analysis by: Eric F. Pierce

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510