

SENATE BILL 53

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1999 Regular Session
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(PRE-FILED)

By: **Chairman, Economic and Environmental Affairs Committee**
(Departmental - Labor, Licensing and Regulation)

Requested: July 27, 1998
Introduced and read first time: January 13, 1999
Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: January 29, 1999

CHAPTER _____

1 AN ACT concerning

2 **Home Improvement Guaranty Fund - Claims**

3 FOR the purpose of altering the maximum amount that the Home Improvement
4 Commission may award from the Home Improvement Guaranty Fund to certain
5 claimants under certain circumstances; providing for the construction of this
6 Act; and generally relating to the Home Improvement Guaranty Fund.

7 BY repealing and reenacting, with amendments,
8 Article - Business Regulation
9 Section 8-405
10 Annotated Code of Maryland
11 (1998 Replacement Volume)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Business Regulation**

15 8-405.

16 (a) Subject to this subtitle, an owner may recover compensation from the
17 Fund for an actual loss that results from an act or omission by a licensed contractor
18 or a violation of § 8-607(4) of this title as found by the Commission or a court of
19 competent jurisdiction.

1 (b) For purposes of recovery from the Fund, the act or omission of a licensed
2 contractor includes the act or omission of a subcontractor, salesperson, or employee of
3 the licensed contractor, whether or not an express agency relationship exists.

4 (c) A claimant shall comply with a written agreement to submit a dispute to
5 arbitration before seeking recovery from the Fund.

6 (d) The Commission may deny a claim if the Commission finds that the
7 claimant unreasonably rejected good faith efforts by the contractor to resolve the
8 claim.

9 (e) The Commission may not award from the Fund:

10 (1) more than \$10,000 to 1 claimant for acts or omissions of 1 contractor;

11 (2) more than [\$50,000] \$100,000 to all claimants for acts or omissions of
12 1 contractor unless, after the Commission has paid out [\$50,000] \$100,000 on account
13 of acts or omissions of the contractor, the contractor reimburses [\$50,000] \$100,000 to
14 the Fund;

15 (3) an amount for attorney fees, consequential damages, court costs,
16 interest, personal injury damages, or punitive damages; or

17 (4) an amount as a result of a default judgment in court.

18 (f) (1) A claim against the Fund based on the act or omission of a particular
19 contractor may not be made by:

20 (i) a spouse or other immediate relative of the contractor;

21 (ii) an employee, officer, or partner of the contractor; or

22 (iii) an immediate relative of an employee, officer, or partner of the
23 contractor.

24 (2) An owner may make a claim against the Fund only if the owner:

25 (i) resides in the home as to which the claim is made; or

26 (ii) does not own more than 3 dwelling places.

27 (g) A claim shall be brought against the Fund within 3 years after the
28 claimant discovered or, by use of ordinary diligence, should have discovered the loss or
29 damage.

30 SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall
31 be construed to have any effect on the policies and procedures of the Department of
32 Labor, Licensing, and Regulation in determining the personal financial solvency of a
33 home improver.

1 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
2 effect October 1, 1999.