

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 244 (Senator Garagiola)
Judicial Proceedings

Home Improvement - Unlicensed Contractor - Prohibit Recovery of
Compensation

This bill prohibits a person who is required to be licensed as a home improvement contractor but who is not so licensed at the time of offering to perform and performing a home improvement under a home improvement contract, from bringing or recovering on an action for compensation in a State court.

Fiscal Summary

State Effect: The bill is not expected to have a significant impact on District Court workload or finances.

Local Effect: The bill is not expected to have a significant impact on circuit court workload or finances.

Small Business Effect: Minimal. The bill penalizes only those small businesses that enter into home improvement contracts without first obtaining the required license.

Analysis

Current Law: The bill is consistent with current Maryland law. In *Harry Berenter, Inc. v. Berman*, 258 Md. 290 (1970), the Maryland Court of Appeals held that if a statute requires a license for conducting a trade or business, and the statute is intended to protect the public (as is true of the statute requiring home improvement contractors to be licensed), an unlicensed person will not be able to enforce a contract that comes within the purview of the statute.

A person must have a contractor license whenever the person acts as a home improvement contractor in the State. A person who violates this requirement is guilty of a misdemeanor and, on first conviction, is subject to a fine not exceeding \$1,000 and/or imprisonment not exceeding 30 days; and, on a second or subsequent conviction, a fine not exceeding \$5,000 and/or imprisonment not exceeding two years.

Additional Information

Prior Introductions: None.

Cross File: HB 461 (Delegate Krysiak) – Economic Matters.

Information Source(s): Department of Legislative Services Department of Legislative Services

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