

**Department of Legislative Services**  
 Maryland General Assembly  
 2008 Session

**FISCAL AND POLICY NOTE**

House Bill 409 (Chair, Economic Matters Committee)(By Request –  
 Departmental – Labor, Licensing, and Regulation)  
 Economic Matters Education, Health, and Environmental  
 Affairs

**Maryland Home Improvement Commission - Home Improvement Guaranty  
 Fund - Claims**

This departmental bill authorizes the Maryland Home Improvement Commission to issue a proposed order without a hearing for claims against the Home Improvement Guaranty Fund of \$5,000 or less, an increase of \$2,500. The limit on an award to a single claimant for an act or omission of a single contractor is increased from \$15,000 to \$20,000.

The bill applies to claims for which a final decision has not been issued as of the bill's effective date of October 1, 2008.

**Fiscal Summary**

**State Effect:** Special fund expenditures could increase by \$75,000 in FY 2009 to reflect increased claims on the fund, offset by an estimated \$18,800 in special fund recoveries from at-fault contractors. General fund expenditures could decrease by \$45,000 beginning in FY 2011 to reflect reduced demand for administrative hearings as a result of the expanded criteria for small claims. Out-years reflect annualization.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
SF Revenue	\$18,800	\$25,000	\$25,000	\$25,000	\$25,000
GF Expenditure	0	0	(45,000)	(60,000)	(60,000)
SF Expenditure	75,000	100,000	100,000	100,000	100,000
Net Effect	(\$56,200)	(\$75,000)	(\$30,000)	(\$15,000)	(\$15,000)

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

**Local Effect:** None.

**Small Business Effect:** The Department of Labor, Licensing, and Regulation has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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## Analysis

**Current Law:** In general, a person must be licensed by the Maryland Home Improvement Commission before acting as a contractor, subcontractor, or salesperson in the State. In addition to other licensing and regulatory duties, the commission maintains the Home Improvement Guaranty Fund to reimburse homeowners from losses that result from an act or omission by a licensed contractor or that licensee's subcontractor, salesperson, or employee.

Applicants for a contractor license from the Maryland Home Improvement Commission are required to pay \$100 to the Home Improvement Guaranty Fund. If the commission finds that, because of pending claims, the amount of the fund may fall below \$250,000, the commission must additionally assess each contractor a fee of \$50. The commission may not assess a contractor more than \$150 in a calendar year.

On receipt of a claim against the fund, the commission may elect to set the matter for hearing or dismiss the claim. For small claims of less than \$2,500, the commission may issue a proposed order without a hearing. The proposed decision is subject to review at the request of the contractor or the claimant. Claims are limited to \$15,000 for a single claimant for the acts or omissions of a single contractor. Awards are limited to \$100,000 to all claimants for acts or omissions of a single contractor, unless that contractor reimburses the fund for all or part of the payouts.

After the commission pays a claim from the fund, the commission 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%.

**Background:** At the end of fiscal 2007, the balance in the Home Improvement Guaranty Fund was \$2.1 million. The single claim cap of \$15,000 has not been increased since 2000; the small claims criterion of \$2,500 has not been increased in more than 15 years. The proposed increases reflect inflation in housing industry prices in the period since the caps were last adjusted.

**State Fiscal Effect:** The Department of Labor, Licensing, and Regulation advises that an increase in the small claims cap has the potential to reduce administrative hearing

expenses. In 2007, the commission received 59 claims of \$2,500 to \$5,000. The commission does not currently have authority to resolve these claims without a hearing. Under the provisions of the bill, the department estimates that half of the claims received in the range of \$2,500 to \$5,000 could be resolved without a hearing. Savings to the commission are estimated at \$2,000 per administrative hearing. Estimated fiscal 2011 general fund savings of \$45,000 reflect a lag in realizing these savings due to the administrative hearing assessment schedule; future year annualized savings are estimated at \$60,000.

An increase in the single claim cap could result in increased disbursements from the fund. The department has determined that an average of 20 claims per year are reimbursed at the current cap of \$15,000. With the proposed \$5,000 increase in the single claim cap, expenditures from the fund could increase by \$100,000 on an annual basis under the bill. The commission has a right to reimbursement by the contractor responsible for the act or omission that gives rise to the claim; however, recoveries from at-fault contractors have failed to fully reimburse payouts from the fund. An estimated 25% of the total amount of claims are reimbursed, which could result in annualized special fund revenues of \$25,000.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of Administrative Hearings; Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 5, 2008  
ncs/ljm

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