

Department of Legislative Services
 Maryland General Assembly
 2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 285

(Chair, Education, Health, and Environmental Affairs
 Committee)(By Request - Departmental - Labor,
 Licensing and Regulation)

Education, Health, and Environmental Affairs

Economic Matters

**Maryland Home Improvement Commission - Subcontractor Licensing
 Requirement - Repeal**

This departmental bill repeals the requirement that a person be licensed as a home improvement subcontractor by the Maryland Home Improvement Commission (MHIC) before acting as a home improvement subcontractor in the State. Instead, a person is able to act as a home improvement subcontractor without possessing a license. The bill also makes various conforming changes to remove references to subcontractors in statute. MHIC must identify home improvement subcontractors in the State that may be eligible for a home improvement contractor license and encourage those individuals to apply for a contractor license.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: General fund revenues decrease by up to \$45,300 annually beginning in FY 2017 from the elimination of subcontractor licensing fee revenues, as discussed below. MHIC can notify specified subcontractors with existing budgeted resources.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
GF Revenue	(\$45,300)	(\$45,300)	(\$45,300)	(\$45,300)	(\$45,300)
Expenditure	0	0	0	0	0
Net Effect	(\$45,300)	(\$45,300)	(\$45,300)	(\$45,300)	(\$45,300)

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

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: The Department of Labor, Licensing, and Regulation (DLLR) has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill).

Analysis

Current Law: MHIC in DLLR issues licenses to home improvement contractors, subcontractors, and salespersons on a staggered, biennial basis. To obtain a contractor's license, an individual must submit the required application, pass the licensing examination, pay the Guaranty Fund assessment, provide proof of \$50,000 in liability insurance, and pay MHIC a licensing fee (\$250). Applicants for a contractor's license must also submit evidence of financial solvency, including a credit report and a personal financial statement. If MHIC determines that an individual does not meet the commission's financial solvency standard, the commission may require the applicant to secure a surety bond in order to obtain licensure.

Subcontractors and salespersons must submit applications, pass the licensing exam, and pay a licensing fee (\$150 and \$100, respectively); subcontractors and salespersons are not required to pay a Guaranty Fund assessment. A licensed subcontractor may work for a licensed contractor but may not contract with a homeowner for home improvement services. A licensed salesperson may sell home improvements for a contractor but may not work for more than two contractors at once. Initial and renewal fees are the same for contractors, subcontractors, and salespersons.

A contractor, subcontractor, or salesperson who operates without a license is guilty of a misdemeanor and is subject to a maximum penalty of a \$1,000 fine and/or 30 days imprisonment. On a subsequent conviction, an unlicensed contractor, subcontractor, or salesperson is subject to a maximum penalty of a \$5,000 fine and/or two years imprisonment.

Background: DLLR advises that the subcontractor license is unnecessary because a homeowner has a contractual relationship with a licensed contractor and not a subcontractor. Contractually, the licensed contractor has the responsibility to finish a project in a complete and timely manner. A homeowner may be unhappy with the work of a subcontractor, but the homeowner only has a contract with a contractor and, therefore, would not pursue a complaint against a substandard subcontractor. It is in the best interest of the licensed contractor to hire only responsible and skilled subcontractors, regardless of whether they are licensed.

DLLR advises that there is a consensus among MHIC board members from the home improvement industry that many subcontractors are not licensed, and common practice is that contractors hire the best available subcontractor, licensed or not. MHIC has not been levying penalties against licensed contractors who hire unlicensed subcontractors due to a lack of complaints. MHIC licenses approximately 600 subcontractors and approximately 15,000 contractors.

DLLR further advises that Maryland residents would not lose any recourse to file complaints due to the bill.

State Revenues: DLLR advises that it has approximately 600 subcontractors with active licenses and an additional 10 with inactive licenses. The fee for a subcontractor license is \$150, and the fee for an inactive license is \$62.50. Licenses are issued on a staggered basis, and application and renewal fees accrue to the general fund. Assuming a similar level of license revenue in the future, general fund revenues decrease by \$45,313 annually beginning in fiscal 2017 from the elimination of subcontractor licensing fee revenues. DLLR advises that licensing activity for subcontractors has decreased over time, so the revenue loss in future years may be less than this estimate. The revenue loss may also be mitigated to some extent if currently licensed subcontractors pursue and receive licensure as home improvement contractors.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 18, 2016
min/mcr Revised - Senate Third Reader - March 24, 2016

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Home Improvement Commission - Subcontractor Licensing Requirement

BILL NUMBER: SB 285

PREPARED BY: David R. Finneran,
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Commission

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The elimination of the subcontracting licensing category of the Maryland Home Improvement Commission will have meaningful economic impact on Maryland home improvement contractors, and as an extension, the Maryland homeowners who hire contractors. The industry believes that because of the scarcity of licensed subcontractors, many unlicensed subcontractors engage in home improvement business with licensed contractors. Those licensed contractors who opt to follow the law and hire only licensed subcontractors find that there is only a small pool from which to hire. This limits competition, driving up costs to the homeowner.

After elimination of the subcontractor licensing category, a home improvement contractor may hire the best available subcontractor. This would increase competition among subcontractors. In addition, eliminating the subcontractor's licensing requirement will eliminate the burden of obtaining the license as well as eliminate the \$150 licensing fee every two years. As such, the contractor can provide a better finished product and pass this cost savings on to homeowners.