HB 248

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 248 (Chair, Economic Matters Committee)(By Request - Departmental - Labor, Licensing and Regulation)

Economic Matters Education, Health, and Environmental Affairs

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Maryland Home Improvement Commission - Special Fund and Fees

This departmental bill establishes the Maryland Home Improvement Commission (MHIC) Special Fund in the Department of Labor, Licensing, and Regulation (DLLR); repeals statutory licensing fees and instead authorizes MHIC to set fees by regulation; and redirects the licensing revenue associated with MHIC from the general fund to the new special fund. Penalty revenue and investment earnings continue to accrue to the general fund. Existing statutory fees remain in effect until new fees adopted by MHIC in regulation take effect.

The bill takes effect July 1, 2018.

Fiscal Summary

State Effect: No effect in FY 2018. Special fund revenues for DLLR increase by $2.4 million to $2.6 million annually beginning in FY 2019 from license revenue, with $100,000 retained as fund balance each year. Special fund expenditures by DLLR increase correspondingly to continue existing MHIC operations, hire two additional staff, and make required reversions to the general fund. Net general fund revenues decrease by $2.1 million to $2.2 million annually beginning in FY 2019 from foregone license revenue, offset in part by required reversions. General fund expenditures decrease by $1.8 million annually beginning in FY 2019 as MHIC is no longer funded with a general fund appropriation. The net effect is generally the cost of two additional MHIC staff and a portion of the indirect costs assessed on MHIC by DLLR.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	($2,205,500)	($2,111,700)	($2,127,600)	($2,144,000)	($2,160,800)
SF Revenue	$2,545,000	$2,371,100	$2,595,900	$2,418,500	$2,647,800
GF Expenditure	($1,788,100)	($1,797,000)	($1,806,000)	($1,815,000)	($1,824,100)
SF Expenditure	$2,445,000	$2,371,100	$2,595,900	$2,418,500	$2,647,800
Net Effect	($317,400)	($314,700)	($321,600)	($329,000)	($336,700)

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

Local Effect: None.

Small Business Effect: DLLR has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services disagrees with this assessment, as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Maryland Home Improvement Commission Special Fund

The MHIC Special Fund is established as a special, nonlapsing fund and consists of fees collected by MHIC. The fund must be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of MHIC. At the end of each fiscal year, any unspent and unencumbered portion of the special fund in excess of $100,000 reverts to the general fund. The legislative auditor must audit the fund. License revenue accrues to the special fund; however, investment earnings and penalty revenue accrue to the general fund.

Fees Set by Regulation

License fees are repealed from statute and MHIC is instead authorized to establish fees by regulation. MHIC must set fees based on the direct and indirect costs of MHIC, as determined by the Secretary of Labor, Licensing, and Regulation. The fees charged must be set so as to produce funds approximate to the cost of maintaining MHIC. Except for examination fees, each fee established by MHIC may not be increased by more than 12.5% of the existing and corresponding fee. MHIC must publish a schedule of the fees it sets by regulation. Unless otherwise provided by law, MHIC must pay all fees to the Comptroller, who then distributes the fees to the MHIC Special Fund.

Current Law/Background: MHIC in DLLR issues licenses to home improvement contractors and salespersons on a staggered, biennial basis. MHIC has approximately 28,000 licensees. MHIC licenses and regulates the home improvement industry to the extent provided for in State law.

DLLR advises that MHIC has endured numerous rounds of cost containment adjustments in recent years, resulting in inadequate regulation of the home improvement industry. The Division of Occupational and Professional Licensing has limited centralized resources to supplement and assist MHIC staff. Hiring freezes and budget reductions have reduced the number of investigators from nine in fiscal 2005 to seven in fiscal 2015. The remaining investigators are tasked with significantly more cases than comparable investigators for the Real Estate Commission (a special funded commission in DLLR).

MHIC is mandated to pursue violators of the home improvement laws and effect remedies or file criminal charges on behalf of the public. Timely complaint resolution is an important function of the boards and commissions in DLLR, but it is critical with respect to MHIC due to the nature of the work performed by its licensees. Home improvement contractors, in particular, often perform complex residential services. Many complaints involve damage to a residence that requires immediate attention.

Licensing fee revenues from MHIC have significantly exceeded general fund operating expenditures due to the combination of cost containment and consistent revenue streams. For example, revenues exceeded expenditures by $635,000 in fiscal 2015 and $533,000 in fiscal 2016, and the excess is anticipated to be $643,000 in fiscal 2017. The issue of excess revenues was noted in the most recent sunset review of MHIC by the Department of Legislative Services in 2010.

State Fiscal Effect:

Maryland Home Improvement Commission Special Fund and Indirect Costs

Beginning July 1, 2018, MHIC licensing revenue accrues to the MHIC Special Fund. Accordingly, special fund revenues increase by $2.4 million to $2.6 million annually beginning in fiscal 2019 from license revenue.

As noted above, MHIC has consistently collected more revenue each year than its general fund appropriation. Creating a dedicated funding stream allows MHIC to apply at least a portion of that excess revenue to hire much-needed staff to assist in the regulation of the home improvement industry. Therefore, special fund expenditures increase by $152,614 in fiscal 2019, which assumes new staff are in place on the bill’s July 1, 2018 effective date. This estimate reflects the cost of hiring one investigator and one administrative staff to assist MHIC with its ongoing regulatory responsibilities. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expense.

Positions	2
Salaries and Fringe Benefits	$139,409
Other Operating Expenses	13,205
New FY 2019 MHIC Staff Expenditures	**$152,614**

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

When the costs of additional staff are combined with the cost of existing MHIC operations, indirect costs, and required reversions, MHIC special fund expenditures increase by $2.4 million to $2.6 million annually beginning in fiscal 2019.

DLLR advises that indirect costs charged to MHIC will be approximately $201,000 annually beginning in fiscal 2019, but that these charges will offset indirect costs charged to other special-funded boards in the department. Two existing special funds in DLLR have reversion provisions and must revert any fund balance above a certain threshold to the general fund at the end of each fiscal year. In fiscal 2016, about 82% of DLLR's indirect costs were assessed to special funds without reversions. Assuming that indirect cost offsets are applied according to that same ratio, then about $164,820 (82%) of the $201,000 indirect cost allocation to MHIC represents foregone general fund revenues.

Exhibit 1 shows a five-year projection of the MHIC special fund established under the bill. This analysis assumes slight growth in the number of licensees as projected by DLLR, that all MHIC fees remain at existing levels, and that the current revenue pattern continues with more revenues collected in odd-numbered years than in even-numbered years. To the extent that fees are decreased to more closely match MHIC's direct and indirect costs, less money is available for general fund reversions.

Exhibit 1
Maryland Home Improvement Commission Special Fund Projection
Fiscal 2019-2023

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Beginning Balance	$0	$100,000	$100,000	$100,000	$100,000
Revenue	2,544,959	2,371,063	2,595,858	2,418,485	2,647,775
Total Available Funds	**$2,544,959**	**$2,471,063**	**$2,695,858**	**$2,518,485**	**$2,747,775**
Existing Costs	$1,788,085	$1,797,025	$1,806,010	$1,815,041	$1,824,116
New Staff Costs	152,614	149,889	156,818	164,143	171,891
Indirect Costs	201,000	201,000	201,000	201,000	201,000
Total Costs	**$2,141,699**	**$2,147,914**	**$2,163,828**	**$2,180,184**	**$2,197,007**
Balance Before Reversion	$403,260	$323,149	$532,029	$338,301	$550,768
Reversion	303,260	223,149	432,029	238,301	450,768
End-of-year Balance	**$100,000**	**$100,000**	**$100,000**	**$100,000**	**$100,000**

Note: Numbers may not sum to total due to rounding. There is no effect in fiscal 2018.

Source: Department of Labor, Licensing, and Regulation; Department of Legislative Services

General Fund

Beginning July 1, 2018, MHIC licensing revenue no longer accrues to the general fund and instead accrues to the MHIC special fund. However, the bill requires that any unspent and unencumbered MHIC fund balance in excess of $100,000 revert to the general fund at the end of each year. In addition, approximately 18% of DLLR's indirect cost assessment (discussed above) will revert to the general fund through reversion provisions of other existing special funds.

Accounting for all three effects, net general fund revenues decrease by $2.1 million to $2.2 million annually beginning in fiscal 2019. Penalty revenue and interest continue to accrue to the general fund and are, therefore, unaffected by the bill.

General fund expenditures decrease by approximately $1.8 million annually beginning in fiscal 2019 as MHIC is no longer funded with a general fund appropriation. This analysis assumes staffing levels would remain unchanged if MHIC were still general funded.

Accordingly, the net impact on the general fund equates to approximately $315,000 to $340,000 less in revenues each year beginning in fiscal 2020. In fiscal 2019, the ability to retain $100,000 in the new special fund results in a one-time impact on the general fund, with the net impact that year being slightly higher, at approximately $417,000.

Small Business Effect: While small home improvement businesses may benefit from increased regulatory oversight of the home improvement industry, the overall effect on any individual business is minimal. The analysis also assumes no change in licensing fees since current fees are sufficient to sustain MHIC's operations.

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 6, 2017
mm/mcr Revised - Correction - March 13, 2017
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Revised - Amendment(s) - April 4, 2017

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Maryland Home Improvement Commission - Special Fund - Fees**

BILL NUMBER: HB 248

PREPARED BY: John Papavasiliou

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

___ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

_X_ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Many of the 27,000 licenses issued are to small businesses or salespersons. Services provided to these licensees would show remarkable improvement. Licenses would be issued faster, and investigations would be expedited, facilitating a more expeditious outcome of conflicts with homeowners.

Impact on Local Government

This legislation does not impact local government.