

SENATE BILL 429

C2

3lr1130

By: **Senator Corderman**

Introduced and read first time: February 2, 2023

Assigned to: Finance

Reassigned: Education, Energy, and the Environment, February 6, 2023

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 9, 2023

CHAPTER _____

1 AN ACT concerning

2 **Business Regulation – Home Improvement Commission – Guaranty Fund and**
3 **Award Limits**

4 FOR the purpose of increasing the funding level of the Home Improvement Guaranty Fund
5 that is administered by the Home Improvement Commission; increasing a certain
6 Fund threshold that determines whether a fee is assessed to each contractor;
7 increasing a certain limit on the amount of money the ~~Maryland Home Improvement~~
8 Commission may award from the ~~Home Improvement Guaranty~~ Fund to all
9 claimants for the acts or omissions of a single contractor, subject to a certain
10 reimbursement to the Fund; and generally relating to award limits ~~and~~ the
11 Maryland Home Improvement Commission, and the Home Improvement Guaranty
12 Fund.

13 BY repealing and reenacting, with amendments,
14 Article – Business Regulation
15 Section ~~8–403~~ through ~~8–405~~ and ~~8–409~~
16 Annotated Code of Maryland
17 (2015 Replacement Volume and 2022 Supplement)

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

20 **Article – Business Regulation**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 8-403.

2 (a) The Commission shall:

3 (1) establish a Home Improvement Guaranty Fund;

4 (2) keep the Fund at a level of at least ~~[\$250,000]~~ **\$1,000,000**; and

5 (3) submit a report detailing actions being taken to restore the balance of
6 the Fund to a sustainable level to the Senate [Education, Health, and Environmental
7 Affairs] Committee ON EDUCATION, ENERGY, AND THE ENVIRONMENT and the House
8 Economic Matters Committee within 30 days of projecting that the Fund balance will be
9 less than ~~[\$250,000]~~ **\$1,000,000**.

10 (b) (1) Except as otherwise provided by law, the Commission shall deposit all
11 money collected to the credit of the Fund with the State Treasurer for placement in a special
12 account.

13 (2) (i) The Commission shall establish and maintain within the Fund a
14 separate account to be held with the State Treasurer for the payment of necessary expenses
15 for expert witnesses used to resolve claims against the Fund.

16 (ii) One-half of the money collected under § 8-620(c) of this title
17 shall be credited to the account established in subparagraph (i) of this paragraph.

18 (iii) One-half of the money collected under § 8-620(c) of this title
19 shall be credited to the General Fund of the State.

20 (3) (i) The State Treasurer shall invest the money in the Fund in the
21 same way that money in the State Retirement and Pension System is invested.

22 (ii) Investment earnings shall be credited to the Fund.

23 (c) The Commission shall administer the Fund in accordance with this subtitle.

24 8-404.

25 (a) Before the Commission issues a contractor license, the contractor shall pay a
26 fee of \$100 to be credited to the Fund.

27 (b) (1) If the Commission finds that, because of pending claims, the amount of
28 the Fund may fall below ~~[\$250,000]~~ **\$1,000,000**, the Commission shall assess each
29 contractor a fee of \$50.

30 (2) However, under this subsection the Commission may not assess a
31 contractor more than \$150 in a calendar year.

1 (c) If a contractor fails to pay an assessment within 60 days after notice of the
2 assessment, the contractor license is suspended until the assessment is paid.

3 8–405.

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

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

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

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

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

15 (1) more than \$30,000 to one claimant for acts or omissions of one
16 contractor;

17 (2) more than ~~[\$100,000] \$200,000~~ \$250,000 to all claimants for acts or
18 omissions of one contractor unless, after the Commission has paid out ~~[\$100,000] \$200,000~~
19 \$250,000 on account of acts or omissions of the contractor, the contractor reimburses
20 ~~[\$100,000] \$200,000~~ \$250,000 to the Fund;

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

23 (4) an amount as a result of a default judgment in court; or

24 (5) an amount in excess of the amount paid by or on behalf of the claimant
25 to the contractor against whom the claim is filed.

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

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

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

30 (iii) an immediate relative of an employee, officer, or partner of the
31 contractor.

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

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

3 (ii) does not own more than three residences or dwelling places.

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

6 8-409.

7 (a) The Commission may order payment of a claim against the Fund only if:

8 (1) the decision or order of the Commission is final in accordance with Title
9 10, Subtitle 2 of the State Government Article and all rights of appeal are exhausted; or

10 (2) the claimant provides the Commission with a certified copy of a final
11 judgment of a court of competent jurisdiction or a final award in arbitration, with all rights
12 of appeal exhausted, in which the court or arbitrator:

13 (i) expressly has found on the merits that the claimant is entitled to
14 recover under § 8-405(a) of this subtitle; and

15 (ii) has found the value of the actual loss.

16 (b) (1) Except as otherwise provided in this subsection, the Commission shall
17 pay approved claims in the order submitted.

18 (2) If approved claims submitted to the Commission against a contractor
19 exceed [\$100,000] \$250,000 less the amount of unreimbursed claim payments previously
20 made for the contractor, the Commission may pay the approved claims proportionately so
21 that each claimant receives the same percentage payment of the claims.

22 (3) After the Fund is reimbursed, the Commission shall pay unsatisfied
23 approved claims.

24 (c) If there is not enough money in the Fund to pay an approved claim wholly or
25 partly, the Commission shall pay the unpaid claim:

26 (1) when enough money is deposited in the Fund; and

27 (2) in the order that each claim originally was filed with a court of
28 competent jurisdiction or submitted to the Commission.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
30 1, 2023.