

Chapter 415

(Senate Bill 429)

AN ACT concerning

Business Regulation – Home Improvement Commission – Guaranty Fund and Award Limits

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

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

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

Article – Business Regulation8–403.

(a) The Commission shall:

- (1) establish a Home Improvement Guaranty Fund;
- (2) keep the Fund at a level of at least ~~[\$250,000]~~ **\$1,000,000**; and

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

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

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

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

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

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

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

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

8-404.

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

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

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

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

8-405.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8-409.

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 3, 2023.