

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 578

Finance

(Senator Lam)

Economic Matters

Business Regulation - Home Improvement Guaranty Fund - Alterations

This bill authorizes the Maryland Home Improvement Commission (MHIC) to award a claimant attorney's fees from the Home Improvement Guaranty Fund (Guaranty Fund), but only up to the amount awarded for the actual loss resulting from the acts or omissions of the contractor (and provided that the total amount awarded to a claimant does not exceed \$30,000).

Fiscal Summary

State Effect: MHIC can implement the bill with existing resources. Nonbudgeted revenues and expenditures for the Home Improvement Guaranty Fund may increase, likely minimally, as discussed below.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Home Improvement Guaranty Fund

MHIC must establish a Guaranty Fund that must be kept at a minimum level of \$1,000,000 to compensate homeowners for an "actual loss" that results from an act or omission by a licensed home improvement contractor or other violations, as discussed in further detail below.

If the balance of the Guaranty Fund is projected to fall below \$1,000,000, the commission must (1) assess each licensed contractor a fee of \$50 and (2) submit a report to specified committees of the General Assembly. The report must be made within 30 days of any such projection and must detail actions that are being taken to restore the balance of the fund to a sustainable level.

Initial Fees and Assessments

A new home improvement licensee must pay \$100 to the Guaranty Fund, and each licensee must pay \$175 upon license renewal (every two years). Awards from the Guaranty Fund are capped at \$30,000 for one claimant or \$250,000 to all claimants for the acts or omissions of a single contractor (unless the contractor reimburses the fund). After MHIC pays a claim from the Guaranty Fund, the contractor against whom the claim was made must reimburse the fund for the full amount of the claim. Revenues and expenditures for the Guaranty Fund are nonbudgeted.

An owner may recover compensation from the Guaranty Fund for an actual loss that results from an act or omission by a licensed contractor or a violation of provisions of State law that require a specified written notice in a home improvement contract, as found by MHIC or a court of competent jurisdiction.

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.

A claimant must comply with a written agreement to submit a dispute to arbitration before seeking recovery from the fund.

MHIC may deny a claim if it finds that the claimant unreasonably rejected good faith efforts by the contractor to resolve the claim.

MHIC may not award from the fund:

- more than \$30,000 to one claimant for acts or omissions of one contractor;
- more than \$250,000 to all claimants for acts or omissions of one contractor unless, after MHIC has paid out \$250,000 on account of acts or omissions of the contractor, the contractor reimburses \$250,000 to the fund;
- an amount for *attorney fees*, consequential damages, court costs, interest, personal injury damages, or punitive damages (emphasis added);
- an amount as a result of a default judgment in court; or
- an amount in excess of the amount paid by or on behalf of the claimant to the contractor against whom the claim is filed.

Claims may not be made by specified persons (e.g., a spouse or other immediate relative of the contractor), and an owner may make a claim only if the owner resides in the home or does not own more than three residences or dwelling places.

A claim must be brought against the fund within three years after the claimant discovered or, by use of ordinary diligence, should have discovered the loss or damage.

After the commission pays a claim from the fund, it 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%. If, within 60 days after MHIC gives notice, a contractor on whose account a claim was paid does not reimburse the fund in full, MHIC may sue the contractor in a court of competent jurisdiction for the unreimbursed amount.

Payments from the Fund

MHIC may order payment of a claim against the fund only if:

- the commission's decision or order is final in accordance with specified provisions of State law and all rights of appeal are exhausted; or
- 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 of arbitrator *expressly* has found on the merits that the claimant is entitled to recover, as specified, and has found the value of the actual loss.

State Fiscal Effect: MHIC advises that payouts from the fund may increase if an attorney's fee is added to a homeowner's original actual loss award. Although an exact amount cannot be determined, MHIC advises that, as most homeowners do not use attorneys, payouts from the fund may increase by approximately 5%. Consequently, assessments may need to increase to maintain the minimum fund reserve of \$1.0 million needed to meet future expenditures. For a new applicant, the guaranty assessment may total \$105; similarly, for a renewal applicant, the assessment may total approximately \$184.

Small Business Effect: To the extent payouts increase under the bill, MHIC licensees may have to pay higher Guaranty Fund assessments and/or reimbursements to maintain the fund at the appropriate level.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Labor; Department of Legislative Services

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