



HOWARD COUNTY DEPARTMENT OF COMMUNITY RESOURCES AND SERVICES

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Delegate Luke Clippinger, Chair
Delegate J. Sandy Bartlett, Vice Chair
House Judiciary Committee
House Office Building, Room 101
Annapolis, Maryland 21401

RE: HB0549: Statute of Limitations - Prosecution or Enforcement of Local Consumer Protection Codes

Chair Clippinger, Vice Chair Bartlett and Members of the Judiciary Committee,

The Howard County Department of Community Resources and Services (DCRS) provides vital human services through its nine offices and ten boards and commissions. The office relevant to this bill, the Office of Consumer Protection (OCP) helps to protect Howard County consumers and tenants by mediating disputes, taking enforcement action or providing tips on how to avoid scams or make smart purchasing decisions.

DCRS, and the OCP, file this comment in support of HB549, a bill sponsored by Delegates Embry, Addison, Amprey, Attar, Boyce, Edelson, Hill, R. Lewis, Ruff, Shetty, Vogel, and Young. HB549 seeks to expand the statute of limitations for prosecution or enforcement in local consumer protection codes from 1 to 3 years. This amendment would be a valuable tool to protecting consumers who we serve.

All too often, merchants in the home services or home improvement industry, fail to complete or even begin the task for which they have been paid. The consumers will attempt to negotiate with the merchant, who may come on site for a few minutes only to disappear again for weeks or months. Promises will be given, excuses made, but in the end, the consumer is left without the money and without the task completed. In home improvement arenas, this also includes leaving the homeowner with an open construction site on the property or in their homes. Complaints may be filed with agencies with more name recognition which do not enforce the law at the local level, e.g., the Federal Trade Commission or Better Business Bureau. Every year, we have consumers who finally reach our doors when the 1-year statute of limitation is either past, or almost past.

OCP's investigation mechanism requires reviewing the records, subpoenaing relevant third parties to prove chain of custody of funds, interviewing parties and non-parties, and otherwise creating an evidence package should enforcement be necessary. With merchants who are unwilling or unable to return to a job site, simply finding the merchant, identifying their real names and addresses, can be half the battle. When a consumer has been misled as to the merchant's true intent in completing the job for which they have been paid, when they still blame the pandemic and supply chain issues for the failure to make basic repairs, this causes consumers to delay action with consumer protection agencies. This delay, coupled with the investigatory process, makes the 1-year statute of limitation unduly burdensome for those victimized by unfair and deceptive practices.

The Department of Community Resources and Services provides vital human services through its offices of ADA Coordination, Aging and Independence, Children and Families, Community Partnerships, Consumer Protection, Disability Services, Human Trafficking Prevention, the Local Children's Board, and Veterans and Military Families.

In 2023, the OCP received a complaint by an older adult whose roofer had not returned to replace the roof despite full payment by his insurance company. This full pre-payment alone violated the state's law which only permits 1/3 down payment. Moreover, the salesman was not licensed to sell home improvement contracts by the Maryland Home Improvement Commission (MHIC), the roofing company was no longer licensed to fulfill home improvement contracts (MHIC), and the salesman was not licensed by the OCP to go door-to-door and solicit sales.

The consumer, and the insurer, contacted the sales representative, to no avail. The salesman, bearing a business card identifying him as "President" of the company, maintained he was simply the salesman and that the owner misrepresented his status to make his sales pitches more impressive. He claimed he turned over the payments to the roofing company's owner. The owner, in turn, claimed to only be the receptionist and pointed to the "President" as the party that took the funds and claimed not to know what happened thereafter. With criminal theft of deposit enterprises such as this, the perpetrators are often "on the wing" (moving living arrangements from friend to friend with disposable cell phones and numbers) and can only be found through diligent investigation of third-parties who may have information on their whereabouts. By the time the consumer filed with the OCP, the investigator had 3 weeks to determine the real party in interest, find the true mailing address and contact phone number, and make contact. It was months before OCP was able to speak to the owner and the salesman only to be treated to the same finger-pointing. By this time, the owner claimed all the money was gone and she had filed for bankruptcy protection.

An investigation into the business demonstrated that our consumer was one of *forty-three* (43) known victims throughout the State whose insurance proceeds and other deposits were stolen with minimal to no work done in return. Given the one-year statute of limitations, no enforcement had been taken on behalf of these victims as the roofer had been successful in fraudulently delaying the consumer's initial filing with false promises and obfuscation of responsibility. Neither criminal nor civil enforcement actions could be filed. The owner of the roofing business had successfully stolen the money and filed bankruptcy making her immune to civil suits by the consumers. In short, despite the theft of hundreds of thousands of dollars, none of these known consumers were able to receive their monies back. In the end, OCP could only report the matter to the National Insurance Crime Bureau and the Federal Trade Commission for statistical tracking. Had a three-year statute of limitations been filed, criminal enforcement actions could have been raised on behalf of these 43 known victims. Moreover, civil enforcement actions could have been taken to address the unfair and fraudulent business practices and lack of necessary licensure. Enforcement actions are exempt from bankruptcy and could have been the mechanism for recovery.

The 1-year statute of limitations hampers OCP's ability to help consumers recoup monies lost in schemes such as these. For this reason, DCRS by and through its Office of Consumer Protection, supports this bill.

Sincerely,

DocuSigned by:

Jacqueline Scott

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Jacqueline Scott, Director

Cc: Honorable Dr. Calvin Ball III, County Executive
Tracy Rezvani, Administrator Office of Consumer Protection
Maureen Evans Arthurs, Director of Government Affairs & Strategic Partnerships