

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1058 (Delegate W. Miller)
 Economic Matters

Business Regulation - Home Improvement Retailers - Home Improvement Contracts

This bill authorizes a home improvement retailer who employs a contractor to obtain the full contract price before or at the time of execution of a home improvement contract, subject to specified conditions. The retailer must post with the Consumer Protection Division of the Office of the Attorney General (OAG) an irrevocable letter of credit, payable to the division, of \$100,000 per store, up to \$2.0 million for a retailer with multiple stores. In the event of a dispute with a retailer or a contractor employed by the retailer, a homeowner may file a complaint with the division against the retailer and request that the division draw on the retailer’s letter of credit. Subject to notification and investigation by the division, if the division determines that the retailer or contractor is in default of the contract, the division may draw on the letter of credit to satisfy the complaint. If the division draws on a letter of credit twice within two years, the retailer is prohibited from posting a letter of credit for five years. The division is explicitly authorized to investigate a retailer who sells home improvement goods and draws on a letter of credit under the bill.

Fiscal Summary

State Effect: General fund expenditures for the Consumer Protection Division of OAG increase by \$134,900 in fiscal 2018 for part-time investigative, administrative, and legal staff and related expenses. Future years reflect annualization and the elimination of one-time costs. Revenues are not affected.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	134,900	163,500	171,400	179,700	188,600
Net Effect	(\$134,900)	(\$163,500)	(\$171,400)	(\$179,700)	(\$188,600)

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

Local Effect: None.

Small Business Effect: Potential meaningful. Some home improvement retailers may be small businesses, although many retailers likely are not. Many home improvement contractors are small businesses. Both small home improvement retailers and small home improvement contractors employed by them benefit from the ability to charge the full amount for a home improvement contract upfront, which improves their cash flow.

Analysis

Current Law/Background: A person may not demand or receive any payment for a home improvement before the home improvement contract is signed. A person may not receive a deposit of more than one-third of the home improvement contract price before or at the time of execution of the contract.

Consumer Protection Division

The Consumer Protection Division in OAG provides mediation services to consumers to help resolve complaints against businesses and health insurance carriers. The division is also responsible for enforcing the Maryland Consumer Protection Act and registering new home builders and health clubs. The division has approximately 50 full-time staff.

Maryland Home Improvement Commission

The Maryland Home Improvement Commission (MHIC) in the Department of Labor, Licensing, and Regulation issues licenses to home improvement contractors and salespersons. To obtain a contractor's license, an individual must submit the required application, pass the licensing examination, pay a Guaranty Fund assessment, provide proof of \$50,000 in liability insurance, and pay MHIC a licensing fee. MHIC has approximately 28,000 licensees. MHIC typically receives several hundred Guaranty Fund claims each year.

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 critical due to the nature of the work performed. Home improvement contractors, in particular, often perform complex residential services. Many complaints involve damage to a residence that requires immediate attention.

State Expenditures: The division requires additional administrative, investigative, and legal staff to implement the bill. As noted above, there are a substantial number of licensees in the home improvement industry. The bill requires the division to maintain records of

the letters of credit, investigate complaints, and determine if a home improvement retailer or contractor is in default of a home improvement contract. Absent a clear funding source for these costs, it is assumed that general funds are used.

General fund expenditures by OAG increase by \$134,855 in fiscal 2018, which accounts for the bill's October 1, 2017 effective date. This estimate reflects the cost of hiring three *half-time* staff to implement the bill: an administrator, an investigator, and an assistant Attorney General. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Part-time Positions	3
Salaries and Fringe Benefits	\$109,971
Other Operating Expenses	<u>24,884</u>
Total FY 2018 State Expenditures	\$134,855

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

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division);
Department of Legislative Services

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mm/mcr

Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510