

SENATE BILL 78

C2

3lr0085

(PRE-FILED)

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Requested: November 2, 2012

Introduced and read first time: January 9, 2013

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 29, 2013

CHAPTER _____

1 AN ACT concerning

2 **Maryland Home Improvement Commission – Guaranty Fund – Claims**

3 FOR the purpose of altering the maximum amount of a claim against the Home
4 Improvement Guaranty Fund for which the Maryland Home Improvement
5 Commission may issue a proposed order without a hearing; and generally
6 relating to the Maryland Home Improvement Commission and the Home
7 Improvement Guaranty Fund.

8 BY repealing and reenacting, with amendments,
9 Article – Business Regulation
10 Section 8–407
11 Annotated Code of Maryland
12 (2010 Replacement Volume and 2012 Supplement)

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

15 **Article – Business Regulation**

16 8–407.

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 (a) The procedures for notice, hearings, and judicial review that apply to
2 proceedings under Subtitle 3 of this title also apply to proceedings to recover from the
3 Fund.

4 (b) On receipt of a claim, the Commission shall:

5 (1) send a copy of the claim to the contractor alleged to be responsible
6 for the actual loss; and

7 (2) require a written response to the claim within 10 days.

8 (c) (1) The Commission:

9 (i) shall review the claim and any response to it; and

10 (ii) may investigate the claim.

11 (2) On the basis of its review and any investigation, the Commission
12 may:

13 (i) set the matter for a hearing;

14 (ii) dismiss the claim, if the claim is frivolous, legally
15 insufficient, or made in bad faith; or

16 (iii) issue a proposed order to pay all or part of the claim or deny
17 the claim if the total claim against a particular contractor does not exceed **[\$5,000]**
18 ~~\$10,000~~ **\$15,000**.

19 (d) (1) The Commission shall send the proposed order to the claimant and
20 the contractor, at the most recent address on record with the Commission, by:

21 (i) personal delivery; or

22 (ii) both regular mail and certified mail, return receipt
23 requested.

24 (2) Within 21 days after service, receipt, or attempted delivery of the
25 proposed order, the claimant or contractor may submit to the Commission:

26 (i) a written request for a hearing before the Commission; or

27 (ii) a written exception to the proposed order.

28 (3) If the claimant or contractor submits a timely exception to the
29 proposed order, the Commission may:

1 (i) issue a revised proposed order;

2 (ii) set a hearing on the claim; or

3 (iii) dismiss the claim.

4 (4) Unless the claimant or contractor submits a timely request for a
5 hearing or a timely exception, the proposed order is final.

6 (e) (1) At a hearing on a claim, the claimant has the burden of proof.

7 (2) If a subcontractor or salesperson is necessary to adjudicate a claim
8 fairly, the Commission shall issue a subpoena for that person to appear at the hearing.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 July 1, 2013.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.