
OLR Bill Analysis

sHB 5224

AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION'S RECOMMENDATIONS REGARDING VARIOUS GUARANTY FUNDS.

SUMMARY

This bill makes a number of changes to various guaranty funds. It:

1. transfers, from the Real Estate Commission to the Department of Consumer Protection (DCP), responsibility for maintaining and operating the Real Estate Guaranty Fund, and makes conforming and technical changes to fund procedures (§§ 1-6 & 10);
2. specifies that the interest charged a person who caused harm resulting in an award from the Real Estate Guaranty Fund, New Home Construction Guaranty Fund, Home Improvement Guaranty Fund, or Health Club Guaranty Fund accrues until DCP refers the unpaid amount to the Department of Administrative Services for collection (as under existing law, interest generally begins to accrue when a fund makes a payment) (§§ 4, 7-9); and
3. requires an applicant for an award from the Home Improvement Guaranty Fund to provide a signed, sworn statement that he or she made a good faith effort to collect what is owed before receiving a payment from the fund and changes some of the provisions on repayments to the fund (§ 8).

EFFECTIVE DATE: Upon passage

§§ 3 & 6 — REAL ESTATE GUARANTY FUND CONFORMING CHANGES

PA 25- 111, § 5, allowed someone to apply to the Real Estate Guaranty fund based on an arbitration decision, administrative decision, or a

court order or decree, in addition to a court judgment which was previously allowed. The bill makes conforming changes to require, as with court judgments under existing law, that someone applying to the fund based on a binding arbitration decision or court order or decree apply within two years after the final determination or the end of the time to appeal. The bill also makes similar changes regarding the fund's ability to recover payments based on each of these events, and not just judgments.

§ 8 — HOME IMPROVEMENT GUARANTY FUND

Good Faith Effort to Collect

The bill requires an applicant for an award from the Home Improvement Guaranty Fund to provide a signed, sworn statement that he or she made a good faith effort to collect what the home improvement contractor or proprietor owes using court procedures, such as a writ of execution (this does not apply when the application is based on a small claims court judgment, order, or decree against the contractor or proprietor). The bill requires an application to include a statement from the officer executing a writ of execution indicating:

1. that the officer could not find sufficient funds in a contractor's or proprietor's bank account or from levying their personal property to satisfy the actual damages under the court ruling and
2. the amount collected and the amount remaining due.

Repayment Requirements

Under current law, after payment from the fund based on a decision or court ruling against a proprietor (an owner of a business that is or was a registered home improvement contractor), the proprietor and the business entity that is or was registered are both liable to repay the fund. The bill instead makes either an individual or a business entity that is or was registered liable based on a decision or court ruling against the individual or entity.

Under existing law, if the DCP commissioner revokes a contractor's registration after making a payment from the fund based on a claim

against the contractor, DCP cannot issue the contractor a registration until the contractor repays the fund with interest. The bill also prohibits registering an individual with an ownership interest in a business entity that has or had a registration until the contractor or individual repays the fund with interest.

BACKGROUND

Guaranty Funds

The law establishes certain funds, such as the Real Estate Guaranty Fund, New Home Construction Guaranty Fund, Home Improvement Guaranty Fund, and Health Club Guaranty Fund, to pay consumers harmed by the conduct of certain licensees. Consumers can generally apply to one of these funds to recover damages awarded in an arbitration decision or a court proceeding against the licensee that the consumer has been unable to recover from the licensee. Generally, the licensee must pay back the fund for the amount the fund pays the consumer plus interest.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 20 Nay 0 (03/11/2026)