

# HOUSE BILL 248

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7lr0106

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By: **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: January 23, 2017

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2017

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Home Improvement Commission – Special Fund and Fees**

3 FOR the purpose of establishing the Maryland Home Improvement Commission Special  
4 Fund as a special, nonlapsing fund in the Department of Labor, Licensing, and  
5 Regulation; specifying the contents of the Special Fund; requiring that the Special  
6 Fund be used for a certain purpose; requiring the Secretary of Labor, Licensing, and  
7 Regulation, or a designee of the Secretary, to administer the Special Fund; providing  
8 for an audit of the Special Fund; requiring any unspent and unencumbered portion  
9 of the Special Fund in excess of a certain amount to revert to the General Fund at  
10 the end of each fiscal year; crediting certain earnings to the General Fund; requiring  
11 the Secretary, in consultation with the Maryland Home Improvement Commission,  
12 annually to calculate certain costs; authorizing the Commission to set by regulation  
13 certain fees based on certain calculations; requiring the Commission to publish a  
14 certain fee schedule; repealing a provision of law requiring the Commission to pay  
15 certain money into the General Fund of the State; requiring the Commission to pay  
16 certain fees to the Comptroller; requiring the Comptroller to distribute certain fees  
17 to the Special Fund; prohibiting certain fees from being increased by more than a  
18 certain amount each year; altering certain fees; requiring the Commission to pay  
19 certain penalties into the General Fund of the State; defining certain terms;  
20 requiring that certain fees in effect on a certain date remain in full force and effect  
21 until certain other fees are adopted and become effective; providing for a delayed  
22 effective date; and generally relating to the Maryland Home Improvement  
23 Commission Special Fund.

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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.



BY adding to

Article – Business Regulation

Section 2–106.9, 2–106.10, and 8–213

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 8–210, 8–303(a) and (f), 8–308(d), 8–308.1(a), (e), and (f), and 8–620(a)

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing

Article – Business Regulation

Section 8–213

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

### **Article – Business Regulation**

#### **2–106.9.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COMMISSION” MEANS THE MARYLAND HOME IMPROVEMENT COMMISSION.

(3) “SPECIAL FUND” MEANS THE MARYLAND HOME IMPROVEMENT COMMISSION SPECIAL FUND.

(B) (1) THERE IS A MARYLAND HOME IMPROVEMENT COMMISSION SPECIAL FUND IN THE DEPARTMENT.

(2) THE SPECIAL FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) THE SPECIAL FUND CONSISTS OF FEES COLLECTED BY THE COMMISSION AND DISTRIBUTED TO THE SPECIAL FUND UNDER TITLE 8 OF THIS ARTICLE.

(D) THE SPECIAL FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE COMMISSION.

(E) THE SECRETARY OR A DESIGNEE OF THE SECRETARY SHALL ADMINISTER THE SPECIAL FUND.

(F) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE SPECIAL FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

(G) AT THE END OF EACH FISCAL YEAR, ANY UNSPENT AND UNENCUMBERED PORTION OF THE SPECIAL FUND IN EXCESS OF \$100,000 SHALL REVERT TO THE GENERAL FUND OF THE STATE.

(H) ANY INVESTMENT EARNINGS OF THE SPECIAL FUND SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.

**2-106.10.**

(A) IN THIS SECTION, "COMMISSION" MEANS THE MARYLAND HOME IMPROVEMENT COMMISSION.

(B) IN CONSULTATION WITH THE COMMISSION, THE SECRETARY ANNUALLY SHALL CALCULATE THE DIRECT AND INDIRECT COSTS ATTRIBUTABLE TO THE COMMISSION.

(C) THE COMMISSION SHALL ESTABLISH FEES BASED ON THE CALCULATIONS PROVIDED BY THE SECRETARY UNDER THIS SECTION.

(D) EXCEPT FOR THE EXAMINATION FEES, EACH FEE ESTABLISHED BY THE COMMISSION MAY NOT BE INCREASED ANNUALLY BY MORE THAN 12.5% OF THE EXISTING AND CORRESPONDING FEE OF THE COMMISSION.

**8-210.**

[The] ON REQUEST OF ANY PERSON AND PAYMENT OF A FEE SET BY THE COMMISSION, THE Commission shall [collect a fee of \$1 for certifying under seal] CERTIFY the licensing status of a person THAT IS THE SUBJECT OF THE REQUEST.

**[8-213.**

Except as otherwise provided by law, the Commission shall pay all money collected under this title into the General Fund of the State.]

1 **8-213.**

2           **(A) (1) THE COMMISSION MAY SET BY REGULATION REASONABLE FEES**  
3 **FOR THE COMMISSION'S SERVICES.**

4                   **(2) THE FEES CHARGED SHALL BE:**

5                           **(I) SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST**  
6 **OF MAINTAINING THE COMMISSION; AND**

7                           **(II) BASED ON THE CALCULATIONS PERFORMED BY THE**  
8 **SECRETARY UNDER § 2-106.10 OF THIS ARTICLE.**

9           **(B) THE COMMISSION SHALL PUBLISH A SCHEDULE OF FEES SET BY THE**  
10 **COMMISSION.**

11           **(C) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE COMMISSION SHALL**  
12 **PAY ALL FEES COLLECTED UNDER THIS TITLE TO THE COMPTROLLER.**

13           **(D) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE MARYLAND**  
14 **HOME IMPROVEMENT COMMISSION SPECIAL FUND ESTABLISHED IN § 2-106.9 OF**  
15 **THIS ARTICLE.**

16 **8-303.**

17           **(a) [(1)] An applicant for a license shall:**

18                           **[(i)] (1) submit to the Commission an application on the form that**  
19 **the Commission provides;**

20                           **[(ii)] (2) submit to the Commission with the license application**  
21 **proof of compliance with the insurance requirement of § 8-302.1 of this subtitle, if the**  
22 **applicant is applying for a contractor license;**

23                           **[(iii)] (3) pay into the Fund the fee required under § 8-404(a) of this**  
24 **title, if the applicant is applying for a contractor license; and**

25                           **[(iv)] (4) pay to the Commission an application fee SET BY THE**  
26 **COMMISSION.**

27                   **[(2) The application fee:**

28                           **(i) for a contractor license is \$250 for each place of business of the**  
29 **contractor; or**

(ii) for a salesperson is \$100

(3) The fee for processing an application is \$20.]

(f) [Notwithstanding subsection (a) of this section, an] **AN** applicant that is incorporated or has its principal office in another state shall pay to the Commission the fee imposed in that state on a similar nonresident business if that fee is higher than the application fee [under subsection (a) of this section] **SET BY THE COMMISSION.**

8–308.

(d) (1) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(i) otherwise is entitled to be licensed;

(ii) submits to the Commission a renewal application on the form that the Commission provides;

(iii) submits to the Commission proof of compliance with the insurance requirement of § 8–302.1 of this subtitle, if the licensee is renewing a contractor license;

(iv) submits to the Commission the Department of the Environment lead paint abatement accreditation number and accreditation expiration date, if the licensee provides lead paint abatement services; and

(v) pays to the Commission a renewal fee **SET BY THE COMMISSION.**

(2) [The renewal fee:

(i) for a contractor is \$250 for each place of business of the contractor; or

(ii) for a salesperson license is \$100

(3) Notwithstanding paragraph (2) of this subsection, a] **A** licensee that is incorporated or has its principal office in another state shall pay to the Commission the fee imposed in that state on a similar nonresident business if that fee is higher than the renewal fee [under paragraph (2) of this subsection] **SET BY THE COMMISSION.**

8–308.1.

(a) The Commission shall place the license of a licensee on inactive status, and issue an inactive status certificate to the licensee, if the licensee:

(1) submits to the Commission an application for inactive status on the form that the Commission provides;

(2) pays to the Commission an inactive status application fee [not exceeding \$50 as] set by the Commission;

(3) except for the liability insurance requirement of § 8–302.1 of this subtitle, qualifies for an active license; and

(4) returns the license of the licensee to the Commission.

(e) (1) A licensee whose license is on inactive status remains responsible for renewing the license as required under § 8–308 of this subtitle.

(2) The holder of a contractor license that is on inactive status may renew the license without complying with the liability insurance requirement of § 8–302.1 of this subtitle.

(3) [Notwithstanding § 8–308 of this subtitle, a] A licensee whose license is on inactive status shall pay to the Commission a renewal fee [of:

(i) \$112.50 for a contractor license; or

(ii) \$37.50 for a salesperson license] **SET BY THE COMMISSION.**

(f) The Commission shall reactivate the license of a licensee that is on inactive status and reissue the license to the licensee, if the licensee:

(1) submits to the Commission an application for reactivation on the form that the Commission provides;

(2) pays to the Commission a reissuance fee [of \$10] **SET BY THE COMMISSION;** and

(3) meets the requirements for a license, including, in the case of a contractor, the liability insurance requirement under § 8–302.1 of this subtitle.

8–620.

(a) (1) The Commission may impose on a person who violates this title, including § 8–607(4) of this subtitle, a civil penalty not exceeding \$5,000 for each violation, whether or not the person is licensed under this title.

(2) **THE COMMISSION SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.**

1       SECTION 2. AND BE IT FURTHER ENACTED, That the fees set forth in Title 8,  
2 Subtitle 3 of the Business Regulation Article in effect June 30, ~~2017~~ 2018, shall remain in  
3 full force and effect until the fees authorized to be set by the Maryland Home Improvement  
4 Commission under this Act are adopted and become effective.

5       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
6 1, ~~2017~~ 2018.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.