

Department of Legislative Services
 Maryland General Assembly
 2000 Session

FISCAL NOTE
Revised

House Bill 811 (Delegate Kach. *et al.*)

Economic Matters

Maryland Home Builder Registration Act

This bill establishes the Home Builder Registration Unit (HBRU) in the Consumer Protection Division of the Attorney General.

The bill is effective January 1, 2001.

Fiscal Summary

State Effect: Home Builders Registration Fund (HBRF) revenues would increase by \$112,500 in FY 2001. Out-year projections reflect a two-year licensing schedule and 2% growth. HBRF expenditures would increase by \$141,300 in FY 2001, reflecting the bill's effective date. Out-year expenditure estimates reflect ongoing operational costs and a reduction in the need for contractual services after FY 2001.

(in dollars)	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
SF Revenues	\$112,500	\$427,500	\$1,000	\$454,000	\$1,000
SF Expenditures	141,300	230,400	240,400	250,900	261,900
Net Effect	(\$28,800)	(\$197,100)	(\$239,400)	(\$203,100)	(\$260,900)

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

Local Effect: None.

Small Business Effect: Meaningful.

Fiscal Analysis

Bill Summary: The bill generally: (1) requires a person to register and obtain a home builder's registration number in order to act as a home builder; (2) establishes a Home Builders Registration Fund (HBRF) to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the HBRU; (3) establishes a consumer remedy procedure; (4) requires a person who constructs new homes for sale to members of the public to maintain general liability insurance in an amount of at least \$100,000; (5) requires that a home builder that is reinstated after a license revocation maintain a bond for the use of sub-contractors for four years; (6) provides that the HBRU may deny, suspend, or revoke a registration to an applicant who has engaged in fraudulent and/or deceptive practices or has misused a home builder's registration number; (7) requires the HBRU, in consultation with the home builder industry, to develop a consumer information pamphlet; (8) exempts mortgage lenders who have undertaken to finish a project the builder has abandoned from needing a registration number; (9) provides for the imposition of civil and criminal penalties; (10) details what information must be included in a purchase contract, but exempts Montgomery County from this provision; (11) requires the HBRU to maintain a list of all registrants; and (12) requires the Consumer Protection Division to submit an annual report, beginning on or before November 1, 2001, to the Governor and the General Assembly of its activities regarding the home builder industry.

The Consumer Protection Division is also required to study the feasibility of establishing a home builder guarantee fund. The division is to report its findings to the Senate Finance and House Economic Matters Committees by October 1, 2003.

The bill's provisions apply prospectively and supersede any existing laws of any county or municipality in the State. The bill applies to contracts entered into on or after January 1, 2001.

Current Law: Home builders are not required to be registered with the State. Members of this industry are required to have certain licenses and certificates that are required of all businesses, but there are no provisions or regulatory requirements specific to the home building industry. The State may only bring action against a home builder for unfair or deceptive trade practices under the Consumer Protection Act.

Background: Over the past three years the Consumer Protection Division has received approximately 680 complaints about home builders. Approximately 75% of these have been about construction defects, while the remaining 25% have been about finance practices and contract compliance. While about 40% were successfully mediated, the remainder required court action.

Thirty-eight states have some type of licensing requirements for contractors, remodelers, and specialty contractors. Generally, there are two broad regulatory schemes: (1) a simple registration process; and (2) a full licensing or certification procedure requiring the fulfillment of minimum criteria, determined by examination or proof of experience.

State Revenues: The Home Builders Registration Fund will finance the ongoing operations of the Home Builder Registration Unit. It is financed by licensing and renewal fees paid by home builders. The fees are not specifically set in the bill but are required to cover the direct and indirect costs of the HBRU. Since the bill establishes a biennial licensing cycle, fees collected in the renewal years must be enough to cover off-year expenses. The Consumer Protection Division will need to collect between \$400,000 and \$500,000 each licensing cycle, but the bill states that the fees collected may not exceed \$600 per builder over one licensing cycle. There are approximately 900 home builders in the State, and it is expected that all will be licensed in fiscal 2001. In order to keep the HBRU self-financing, each builder will need to pay approximately \$500 in licensing fees. The out-years will reflect the two-year licensing cycle. In fiscal 2001, the unit will collect \$112,500 in licensing fee revenue. Out-year projections reflect the biennial registration schedule and 2% growth in the industry annually thereafter.

State Expenditures: The bill establishes the HBRF to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the HBRU.

Special fund expenditures could increase by an estimated \$141,300 in fiscal 2001, which accounts for the bill's January 1, 2001 effective date. This estimate reflects the cost of hiring an attorney general, an administrator, an investigator, and a secretary to administer the HBRF, handle the application process, and to investigate alleged violations. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$100,900
Equipment	20,000
Operating Expenses	<u>20,400</u>
Total FY 2001 State Expenditures	\$141,300

Future year expenditures reflect: (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Small Business Effect: The bill will have a meaningful effect on the estimated 900 home builders practicing in Maryland. The licensing fee for each builder will be based on the number of homes that the applicant has built over the past two years (or plans to build in the next two years). It is estimated that each home builder's biennial licensing fee (HBRF) will average \$500.

Home builders would be subject to performance standards and disciplinary action. Home builders would also be required to maintain at least \$100,000 of general liability insurance.

Additional Information

Prior Introductions: Similar legislation was introduced during the 1999 session as SB 575 and HB 967. SB 575 was not reported from the Senate Finance Committee and HB 967 was not reported from the House Economic Matters Committee. Similar legislation was also introduced during the 1998 session as HB 1015 and received an unfavorable report from the Economic Matters Committee.

Cross File: SB 759 (Senator Astle) - Finance.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2000
mld/jr Revised - Updated Information - March 10, 2000
Revised - House Third Reader - March 21, 2000
Revised - Enrolled Bill - May 4, 2000

Analysis by: Brian D. Baugus

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510