

HOUSE BILL 379

Unofficial Copy
C2

2001 Regular Session
(11r1644)

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by **Delegates Morhaim and Moe**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER 470

1 AN ACT concerning

2 **State Commission of Real Estate Appraisers and Home Inspectors**

3 FOR the purpose of incorporating into the State Commission of Real Estate
4 Appraisers a licensing and regulatory authority for home inspectors;
5 establishing the State Commission of Real Estate Appraisers and Home
6 Inspectors; providing for home inspector members of the Commission; altering
7 certain residency requirements for members of the Commission; providing for a
8 vice chairman of the Commission; altering the qualifications of the executive
9 director and employees of the Commission; providing that a member of the
10 Commission may not be held personally liable for certain enforcement actions
11 taken by the Commission; authorizing the Commission to review and approve
12 certain training programs, keep certain records, and adopt an official seal;
13 requiring an individual to be licensed before the individual may ~~engage in the~~
14 ~~business of performing home inspections~~ provide home inspection services in the
15 State; providing for certain exceptions to the requirements for licensure as a
16 home inspector; establishing certain requirements for licensure as a home
17 inspector; providing for the issuance, scope, term, renewal, and reinstatement of

1 home inspector licenses; authorizing the Commission to deny a home inspector
2 license to any applicant, reprimand a home inspector licensee, or suspend or
3 revoke a home inspector license under certain circumstances; providing for
4 certain home inspection reports within a certain period of time; requiring that
5 any limitation of the liability of a home inspector be agreed to in writing by
6 certain persons prior to the performance of the home inspection; prohibiting
7 certain acts; providing for certain penalties; defining certain terms; repealing
8 certain provisions relating to home inspections; making technical corrections;
9 requiring the Department of Labor, Licensing, and Regulation to report to
10 certain committees of the General Assembly on or before certain dates; and
11 generally relating to the licensing and regulation of home inspectors by the
12 Commission of Real Estate Appraisers and Home Inspectors.

13 BY repealing and reenacting, with amendments,
14 Article - Business Occupations and Professions
15 Section 16-101; 16-201, 16-202, 16-203, 16-204, 16-205, 16-207, 16-208,
16 16-209, 16-210, 16-211, 16-212, 16-213, 16-214, 16-216, and 16-220 to
17 be under the amended subtitle "Subtitle 2. State Commission of Real
18 Estate Appraisers and Home Inspectors"; 16-601, 16-602, 16-701, 16-702,
19 16-703, and 16-801 to be under the amended title "Title 16. Real Estate
20 Appraisers and Home Inspectors"
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2000 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article - Business Occupations and Professions
25 Section 16-206, 16-215, 16-217, 16-218, and 16-219; 16-301 to be under the
26 amended subtitle "Subtitle 3. Licensing of Real Estate Appraisers"; 16-401
27 to be under the amended subtitle "Subtitle 4. Miscellaneous Provisions for
28 Real Estate Appraisers"; 16-501 to be under the amended subtitle
29 "Subtitle 5. Certification of Real Estate Appraisers"; 16-704, 16-705,
30 16-706, and 16-802
31 Annotated Code of Maryland
32 (2000 Replacement Volume and 2000 Supplement)

33 BY adding to
34 Article - Business Occupations and Professions
35 Section 16-210.1; 16-3A-01 through 16-3A-08 to be under the new subtitle
36 "Subtitle 3A. Licensing of Home Inspectors"; 16-4A-01 through 16-4A-03
37 to be under the new subtitle "Subtitle 4A. Miscellaneous Provisions for
38 Home Inspectors"; 16-701.1, 16-703.1, 16-705.1, and 16-707
39 Annotated Code of Maryland
40 (2000 Replacement Volume and 2000 Supplement)

41 BY repealing and reenacting, with amendments,
42 Article - Business Regulation

1 Section 2-108(a)(25)
2 Annotated Code of Maryland
3 (1998 Replacement Volume and 2000 Supplement)

4 BY repealing
5 Article - Real Property
6 Section 10-801 and the subtitle "Subtitle 8. Home Inspections"
7 Annotated Code of Maryland
8 (1996 Replacement Volume and 2000 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - State Government
11 Section 8-403(b)(58)
12 Annotated Code of Maryland
13 (1999 Replacement Volume and 2000 Supplement)

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

16 **Article - Business Occupations and Professions**

17 Title 16. Real Estate Appraisers AND HOME INSPECTORS.

18 16-101.

19 (a) In this title the following words have the meanings indicated.

20 (b) (1) "Appraisal" means an analysis, conclusion, or opinion about the
21 nature, quality, utility, or value of interests in or aspects of identified real estate.

22 (2) "Appraisal" includes:

23 (i) a valuation appraisal;

24 (ii) an analysis assignment; and

25 (iii) a review assignment.

26 (3) "Appraisal" does not include an opinion to a potential seller or third
27 party by a person licensed under Title 17 of this article about the recommended
28 listing price or recommended purchase price of real estate, provided that the opinion
29 is not referred to as an appraisal.

30 (c) "Appraisal report" means any communication, oral or written, of an
31 appraisal.

1 (d) (1) "Certificate" means, unless the context requires otherwise, a
2 certificate issued by the Commission that allows an individual to provide certified
3 real estate appraisal services.

4 (2) "Certificate" includes, unless the context requires otherwise, each of
5 the following certificates:

6 (i) a certificate to provide certified real estate appraisal services
7 for general real estate; and

8 (ii) a certificate to provide certified real estate appraisal services
9 for residential real estate.

10 (e) "Certified appraisal report" means an appraisal report prepared and
11 signed by a certified real estate appraiser.

12 (f) (1) "Certified real estate appraiser" means, unless the context requires
13 otherwise, an individual who is certified by the Commission to provide certified real
14 estate appraisal services.

15 (2) "Certified real estate appraiser" includes:

16 (i) a certified real estate appraiser for general real estate; and

17 (ii) a certified real estate appraiser for residential real estate.

18 (g) "Commission" means the State Commission of Real Estate Appraisers AND
19 HOME INSPECTORS.

20 (H) "HOME INSPECTION" MEANS A WRITTEN EVALUATION OF ONE OR MORE
21 OF THE COMPONENTS OF AN EXISTING RESIDENTIAL BUILDING, INCLUDING THE
22 HEATING SYSTEM, COOLING SYSTEM, PLUMBING SYSTEM, ELECTRICAL SYSTEM,
23 STRUCTURAL COMPONENTS, FOUNDATION, ROOF, MASONRY STRUCTURE, EXTERIOR
24 AND INTERIOR COMPONENTS, OR ANY OTHER RELATED RESIDENTIAL HOUSING
25 COMPONENT.

26 (I) "HOME INSPECTOR" MEANS AN INDIVIDUAL WHO ~~ENGAGES IN THE~~
27 ~~BUSINESS OF PERFORMING PROVIDES HOME INSPECTIONS INSPECTION SERVICES~~
28 FOR COMPENSATION.

29 [(h)] (J) "License" means, unless the context requires otherwise, a license
30 issued by the Commission to provide real estate appraisal services OR TO PROVIDE
31 HOME INSPECTION SERVICES.

32 (K) "LICENSED HOME INSPECTOR" MEANS AN INDIVIDUAL WHO IS LICENSED
33 BY THE COMMISSION TO ~~ENGAGE IN THE BUSINESS OF PERFORMING PROVIDE HOME~~
34 ~~INSPECTIONS INSPECTION SERVICES~~.

35 [(i)] (L) "Licensed real estate appraiser" means an individual who is licensed
36 by the Commission to provide real estate appraisal services.

1 [(j)] (M) "Provide certified real estate appraisal services" means to provide
 2 real estate appraisal services as a certified real estate appraiser.

3 (N) "PROVIDE HOME INSPECTION SERVICES" MEANS TO PROVIDE HOME
 4 INSPECTION SERVICES AS A LICENSED HOME INSPECTOR.

5 [(k)] ~~(N)~~ (Q) "Provide real estate appraisal services" means to make for
 6 consideration an appraisal of real estate or prepare or sign an appraisal report in
 7 connection with a federally related transaction, as defined in the federal Financial
 8 Institutions Reform, Recovery, and Enforcement Act of 1989.

9 [(l)] ~~(O)~~ (P) (1) "Real estate" means any interest in real property that is
 10 located in the State or elsewhere.

11 (2) "Real estate" includes:

12 (i) an interest in a condominium; and

13 (ii) a time-share estate or a time-share license, as those terms are
 14 defined in § 11A-101 of the Real Property Article.

15 [(m)] ~~(P)~~ (Q) "Real estate appraiser trainee" means an individual who is
 16 licensed by the Commission to provide real estate appraisal services while:

17 (1) under the supervision of a supervising appraiser; and

18 (2) in training to become a licensed real estate appraiser or certified real
 19 estate appraiser.

20 [(n)] ~~(Q)~~ (R) "Supervising appraiser" means a licensed real estate appraiser
 21 or a certified real estate appraiser who has the responsibility of supervising one or
 22 more real estate appraiser trainees.

23 [(o)] ~~(R)~~ (S) (1) "Supervision" means the responsibility of a supervising
 24 appraiser to provide on-site direction or immediately available direction, through
 25 written instructions or by electronic means, to real estate appraiser trainees
 26 performing real estate appraisal services.

27 (2) "Supervision" includes a supervising appraiser accepting direct
 28 responsibility for a real estate appraisal prepared by the real estate appraiser trainee
 29 while the trainee is under the supervising appraiser's direction on a specific appraisal
 30 assignment.

31 Subtitle 2. State Commission of Real Estate Appraisers AND HOME INSPECTORS.

32 16-201.

33 There is a State Commission of Real Estate Appraisers AND HOME INSPECTORS
 34 in the Department.

1 16-202.

2 (a) (1) The Commission consists of [9] 15 members.

3 (2) Of the [9] 15 members of the Commission:

4 (i) 2 shall be certified general real estate appraisers;

5 (ii) 1 shall be a certified residential real estate appraiser;

6 (iii) 1 shall be a licensed real estate appraiser;

7 (iv) 2 shall be representatives of a financial institution who are not
8 certified or licensed real estate appraisers OR HOME INSPECTORS; [and]

9 (V) 1 SHALL BE A LICENSED HOME INSPECTOR WHO IS A MEMBER
10 OF THE AMERICAN SOCIETY OF HOME INSPECTORS (ASHI);

11 (VI) 1 SHALL BE A LICENSED HOME INSPECTOR WHO IS A MEMBER
12 OF THE NATIONAL ASSOCIATION OF HOME INSPECTORS;

13 (VII) 2 SHALL BE LICENSED HOME INSPECTORS WITHOUT REGARD
14 TO AFFILIATION WITH OR MEMBERSHIP IN ANY SOCIETY OR ASSOCIATION; AND

15 [(v)] (VIII) [3] 5 shall be consumer members.

16 (3) Of the [9] 15 members of the Commission:

17 (i) [4] 10 shall be at large members;

18 (II) THE 4 APPRAISER MEMBERS AND 1 NONAPPRAISER MEMBER
19 SHALL BE APPOINTED AS FOLLOWS:

20 [(ii)] 1. 1 shall be a resident of any county in the area that consists
21 of Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and
22 Worcester counties;

23 [(iii)] 2. 1 shall be a resident of any county in the area that consists
24 of Baltimore, Carroll, Harford, and Howard counties;

25 [(iv)] 3. 1 shall be a resident of Baltimore City;

26 [(v)] 4. 1 shall be a resident of any county in the area that consists
27 of Anne Arundel, Calvert, Charles, Prince George's, and St. Mary's counties; and

28 [(vi)] 5. 1 shall be a resident of any county in the area that consists
29 of Allegany, Frederick, Garrett, Montgomery, and Washington counties.

30 (4) [(i)] The Governor shall appoint the members with the advice of the
31 Secretary and with the advice and consent of the Senate.

- 1 [(ii) The Governor may not appoint more than 2 members from any
2 1 region specified in paragraph (3) of this subsection.]
- 3 (b) Each member of the Commission shall be a citizen of the State.
- 4 (c) Each real estate appraiser member of the Commission:
- 5 (1) shall have been a resident of any of the counties in the area from
6 which the member is appointed for at least 5 years immediately before appointment;
7 or
- 8 (2) if an at large member, shall have been a resident of the State for at
9 least 5 years immediately before appointment.
- 10 (d) (1) Each consumer member of the Commission:
- 11 (i) shall be a member of the general public;
- 12 (ii) may not be a licensee, holder of a certificate, or otherwise be
13 subject to regulation by the Commission;
- 14 (iii) may not be required to meet the qualifications for the
15 professional members of the Commission; and
- 16 (iv) may not, within 1 year before appointment, have had a financial
17 interest in or have received compensation from a person regulated by the
18 Commission.
- 19 (2) While a member of the Commission, a consumer member may not:
- 20 (i) have a financial interest in or receive compensation from a
21 person regulated by the Commission; or
- 22 (ii) grade any examination given by or for the Commission.
- 23 (e) Before taking office, each appointee to the Commission shall take the oath
24 required by Article I, § 9 of the Maryland Constitution.
- 25 (f) (1) The term of a member is 3 years.
- 26 (2) The terms of members are staggered as required by the terms
27 provided for members of the Commission on January 1, 1991.
- 28 (3) At the end of a term, a member continues to serve until a successor is
29 appointed and qualifies.
- 30 (4) A member who is appointed after a term has begun serves only for
31 the rest of the term and until a successor is appointed and qualifies.
- 32 (5) A member may not serve for more than 2 consecutive 3-year terms.

1 (g) The Governor may remove a member for incompetence or misconduct.

2 16-203.

3 (a) (1) From among its members, the Commission annually shall elect a
4 chairman AND A VICE CHAIRMAN, PROVIDED:

5 (I) IF A CHAIR IS ELECTED FROM AMONG THE REAL ESTATE
6 APPRAISER MEMBERS, THEN THE VICE CHAIRMAN SHALL BE ELECTED FROM AMONG
7 THE LICENSED HOME INSPECTOR MEMBERS; AND

8 (II) IF A CHAIR IS ELECTED FROM AMONG THE LICENSED HOME
9 INSPECTOR MEMBERS, THEN THE VICE CHAIRMAN SHALL BE ELECTED FROM
10 AMONG THE REAL ESTATE APPRAISER MEMBERS.

11 (2) At the end of a term, the chairman AND VICE CHAIRMAN may be
12 reelected.

13 (b) The chairman shall perform the duties that this title and the Commission
14 require.

15 (c) While in office, the chairman shall be covered by a surety bond in the form
16 and amount required by law.

17 16-204.

18 (a) ~~{(1) Subject to paragraph (2) of this subsection, 5} A MAJORITY~~ of the
19 members ~~[of] THEN SERVING ON~~ the Commission ~~[are] IS~~ a quorum.

20 (2) A MAJORITY OF THE MEMBERS THEN SERVING ON THE COMMISSION
21 IS NOT A QUORUM UNLESS 2 HOME INSPECTOR MEMBERS AND 2 REAL ESTATE
22 APPRAISER MEMBERS ARE PRESENT.

23 [(2) At least 2 of the 5 members shall be real estate appraiser members.]

24 (b) (1) The Commission shall meet at least once each calendar quarter, at
25 the times and places that the Commission determines.

26 (2) Each member of the Commission shall receive written notice of the
27 time and place of a meeting at least 10 days before the scheduled date of the meeting.

28 (3) Within a reasonable time after giving notice to the Commission, a
29 member of the public is entitled to be heard, at a meeting of the Commission, on any
30 matter within the jurisdiction of the Commission.

31 (c) Each member of the Commission is entitled to:

32 (1) compensation in accordance with the State budget; and

33 (2) reimbursement for expenses under the Standard State Travel
34 Regulations, as provided in the State budget.

1 16-205.

2 (a) (1) The Secretary shall appoint the executive director of the Commission
3 from a list of 3 nominees submitted by the Commission.

4 (2) The executive director serves at the pleasure of the Secretary.

5 ~~(b) The executive director shall possess a broad knowledge of generally
6 accepted practices in the real estate appraisal business in the State.~~

7 ~~(c)~~ (B) (1) [The executive director shall devote full time to the duties of
8 office.

9 (2)] The executive director may not hold any position or engage in
10 another business that:

11 (i) interferes with the position of executive director; or

12 (ii) might conflict with the position of executive director.

13 [(3)] (2) While employed by the Commission, the executive director may
14 not:

15 (i) be licensed in any state as a real estate appraiser OR A HOME
16 INSPECTOR;

17 (ii) engage in any act for which a license is required under this title;
18 or

19 (iii) in connection with any real estate appraisal transaction OR
20 HOME INSPECTION ENGAGEMENT, directly or indirectly receive or become entitled to
21 receive any compensation, fee, or perquisite.

22 ~~(d)~~ (C) The executive director is entitled to:

23 (1) compensation in accordance with the State budget; and

24 (2) reimbursement for expenses under the Standard State Travel
25 Regulations, as provided in the State budget.

26 ~~(e)~~ (D) The executive director is a special appointment in the State
27 Personnel Management System.

28 ~~(f)~~ (E) While employed as executive director, the executive director shall be
29 covered by a surety bond in the form and amount required by law.

1 16-206.

2 The executive director shall:

3 (1) keep a record of each act, communication, and proceeding of the
4 Commission; and

5 (2) perform any other duty that the Commission considers appropriate.
6 16-207.

7 (a) The Commission, in accordance with the State budget, may employ:

8 (1) a general staff; and

9 (2) an investigative staff to conduct investigations.

10 (b) While employed by the Commission, an individual may not:

11 (1) be licensed in any state as a real estate appraiser OR HOME
12 INSPECTOR;

13 (2) engage in any act for which a license is required under this title; or

14 (3) in connection with any real estate appraisal transaction OR HOME
15 INSPECTION ENGAGEMENT, directly or indirectly receive or become entitled to receive
16 any compensation, fee, or perquisite.

17 16-208.

18 (a) To protect the interests of the public, the Commission shall promptly
19 adopt, by regulation[,]:

20 (1) appraisal standards of conduct for all individuals licensed or certified
21 AS REAL ESTATE APPRAISERS under this title, including standards regarding conflicts
22 of interest and ethical conduct; AND

23 (2) A CODE OF ETHICS AND STANDARDS OF PRACTICE FOR INDIVIDUALS
24 LICENSED AS HOME INSPECTORS UNDER THIS TITLE.

25 (b) The Commission shall promptly adopt at a minimum the uniform
26 standards of professional appraisal practice of the appraisal foundation to meet the
27 requirement under subsection (a) of this section.

28 (c) At least once every 2 years, the Commission shall provide a copy of the
29 appraisal standards it adopts to each licensed real estate appraiser AND A COPY OF
30 HOME INSPECTION STANDARDS IT ADOPTS TO EACH LICENSED HOME INSPECTOR.

31 16-209.

32 (a) (1) The Commission shall administer and enforce the provisions of this
33 title.

1 (2) In connection with any action to enforce the provisions of this title,
2 the Commission may:

3 (i) hold hearings;

4 (ii) administer oaths;

5 (iii) issue a subpoena for the attendance of a witness to testify or the
6 production of evidence; or

7 (iv) take depositions, in the same manner and with the same fees
8 and compensation for mileage as provided in civil cases in the State.

9 (3) The Police Department of Baltimore City, the sheriff of a county, or a
10 private process server shall serve a subpoena issued under this subsection.

11 (4) If a person fails to comply with a subpoena issued under this
12 subsection, on petition of the Commission or another party, a circuit court may compel
13 compliance with the subpoena.

14 (b) (1) If the Commission concludes that conduct alleged to be a violation of
15 any provision of this title may result in irreparable harm to a person, the Commission
16 may sue to enforce a provision of this title by ex parte, interlocutory, or final
17 injunction.

18 (2) In seeking an injunction under this subsection, the Commission is not
19 required to:

20 (i) post bond, if the injunction is sought against a person who does
21 not hold a license issued under this title; [or]

22 (ii) allege or prove that an adequate remedy at law does not exist;
23 OR

24 (III) ALLEGE OR PROVE THAT SUBSTANTIAL OR IRREPARABLE
25 DAMAGE WOULD RESULT FROM THE CONTINUED VIOLATION OF THE PROVISION.

26 (c) (1) Subject to the provisions of this section, the Commission shall
27 conduct an investigation that relates to any complaint alleging that an unauthorized
28 person has provided real estate appraisal services OR ~~ENGAGED IN THE BUSINESS OF~~
29 ~~PERFORMING HOME INSPECTIONS~~ HOME INSPECTION SERVICES.

30 (2) A complaint shall:

31 (i) be in writing;

32 (ii) state specifically the facts on which the complaint is based; and

33 (iii) be submitted to the Commission.

1 (3) If a complaint is made by any person other than a member of the
2 Commission, the complaint shall be made under oath by the person who submits the
3 complaint.

4 (D) A MEMBER OF THE COMMISSION MAY NOT BE HELD PERSONALLY LIABLE
5 FOR ANY ACTION TAKEN UNDER THIS SECTION.

6 16-210.

7 (a) The Commission shall establish a Real Estate Appraisal Hearing Board.

8 (b) (1) The Hearing Board shall consist of 3 members of the Commission,
9 appointed by the Commission.

10 (2) Of the 3 positions on the REAL ESTATE APPRAISER Hearing Board:

11 (i) 1 shall be a representative of a financial institution;

12 (ii) 1 shall be a consumer member; and

13 (iii) 1 shall be an appraiser with a level of licensure or certification
14 at least equal to the individual subject to the disciplinary action.

15 (c) From among the members of the Hearing Board, the Commission shall
16 designate a chairman.

17 16-210.1.

18 (A) THE COMMISSION SHALL ESTABLISH A HOME INSPECTOR HEARING
19 BOARD.

20 (B) (1) THE HEARING BOARD SHALL CONSIST OF 3 MEMBERS OF THE
21 COMMISSION, APPOINTED BY THE COMMISSION.

22 (2) OF THE 3 POSITIONS ON THE HOME INSPECTOR HEARING BOARD:

23 (I) 2 SHALL BE LICENSED HOME INSPECTORS; AND

24 (II) 1 SHALL BE A CONSUMER MEMBER.

25 (C) FROM AMONG THE MEMBERS OF THE HEARING BOARD, THE COMMISSION
26 SHALL DESIGNATE A CHAIRMAN.

27 16-211.

28 (a) The Commission shall refer to the Hearing Board for a hearing any matter
29 for which a hearing may be required under [§ 16-701] § 16-701 OR § 16-701.1 of this
30 title.

1 (b) The Hearing Board may exercise the same powers and shall conduct a
2 hearing in accordance with the same procedures applicable to the Commission under
3 § 16-602 of this title.

4 (c) (1) The Hearing Board shall determine if there is a reasonable basis to
5 believe that there are grounds for disciplinary action under this title against a
6 licensee.

7 (2) (i) If the Hearing Board finds a reasonable basis as provided under
8 paragraph (1) of this subsection, the Hearing Board shall:

- 9 1. hold a hearing on the matter; and
- 10 2. file its finding with the Commission.

11 (ii) If the Hearing Board does not find a reasonable basis as
12 provided under paragraph (1) of this subsection, the Hearing Board shall dismiss the
13 complaint.

14 (3) A Hearing Board shall advise the Commission specifically of any
15 action brought against a licensee as a result of monetary loss, misappropriation of
16 money, or fraud.

17 (d) (1) (i) Within 15 days after the filing of a decision by a Hearing Board,
18 the Commission or any of its members may file an exception to the decision of the
19 Hearing Board.

20 (ii) On the filing of an exception under subparagraph (i) of this
21 paragraph, the Commission shall set a hearing on the matter.

22 (2) If an exception is not filed within the time allowed under paragraph
23 (1)(i) of this subsection:

24 (i) the decision of the Hearing Board shall be considered as the
25 final decision of the Commission; and

26 (ii) any party aggrieved by the decision may take a judicial appeal
27 as provided in this title.

28 16-212.

29 (a) The Commission shall keep an indexed record of:

30 (1) each application for licensure or certification;

31 (2) each issuance of a license or certificate;

32 (3) each reprimand of a licensed real estate appraiser or certified real
33 estate appraiser OR LICENSED HOME INSPECTOR; and

1 (4) each suspension or revocation of a licensed real estate appraiser or
2 certified real estate appraiser OR LICENSED HOME INSPECTOR.

3 (b) The Commission shall make available to the public:

4 (1) the record during business hours; and

5 (2) on request, a copy of the record at a reasonable price that the
6 Commission sets.

7 16-213.

8 (a) The Commission shall issue at least annually a roster that shows:

9 (1) the name of each licensed real estate appraiser [and], certified real
10 estate appraiser, AND LICENSED HOME INSPECTOR; and

11 (2) the name and place of business of each licensed real estate appraiser
12 [and], certified real estate appraiser, AND LICENSED HOME INSPECTOR.

13 (b) On request, the Commission shall make available to the public a copy of
14 the roster at a reasonable price that the Commission sets.

15 16-214.

16 On request, the Commission shall issue a document of good standing to a
17 licensed real estate appraiser [or], certified real estate appraiser, OR LICENSED
18 HOME INSPECTOR who:

19 (1) is in good standing in the State; and

20 (2) pays the issuance fee set by the Commission.

21 16-215.

22 The Commission shall submit to the Secretary an annual report that includes:

23 (1) a statement of the total receipts and expenditures of the Commission;
24 and

25 (2) any other information that reflects the work of the Commission.

26 16-216.

27 In addition to any powers set forth elsewhere, the Commission may:

28 (1) sponsor research and other educational activities about real estate
29 appraising OR HOME INSPECTING; [and]

30 (2) adopt any regulation to carry out the provisions of this title;

1 (3) REVIEW AND APPROVE ANY ON-SITE TRAINING PROGRAMS,
2 INCLUDING PROGRAMS THAT HAVE BEEN APPROVED BY NATIONAL HOME
3 INSPECTION ORGANIZATIONS;

4 (4) KEEP A RECORD OF ITS PROCEEDINGS; AND

5 (5) ADOPT AN OFFICIAL SEAL TO AUTHENTICATE ITS PROCEEDINGS,
6 OFFICIAL RECORDS, LICENSES, AND CERTIFICATES.

7 16-217.

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

10 16-218.

11 Any person aggrieved by a final decision of the Commission in a contested case,
12 as defined in § 10-202 of the State Government Article, may take an appeal as
13 allowed in §§ 10-222 and 10-223 of the State Government Article.

14 16-219.

15 The Commission exercises its powers, duties, and functions subject to the
16 authority of the Secretary.

17 16-220.

18 All regulations adopted under this title by the Commission APPLICABLE TO THE
19 PROVISION OF REAL ESTATE APPRAISAL SERVICES shall comply with the
20 requirements of the federal Financial Institutions Reform, Recovery, and
21 Enforcement Act of 1989.

22 Subtitle 3. Licensing OF REAL ESTATE APPRAISERS.

23 16-301.

24 (a) After June 30, 1991, and except as otherwise provided in this title, an
25 individual shall be licensed by the Commission to provide real estate appraisal
26 services before the individual may provide real estate appraisal services in the State.

27 (b) This section does not apply to an individual who provides real estate
28 appraisal services that are only incidental real estate appraisal services, including
29 home inspectors and environmental auditors.

30 (c) In addition to subsection (b) of this section, this section does not apply to
31 an individual who provides real estate appraisal services that the Commission
32 defines by regulation to be only incidental real estate appraisal services.

33 (d) This section does not apply to an individual who is licensed to practice any
34 business or occupation in the State while acting within the scope of the license.

1 SUBTITLE 3A. LICENSING OF HOME INSPECTORS.

2 16-3A-01.

3 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL SHALL
4 BE LICENSED BY THE COMMISSION AS A HOME INSPECTOR BEFORE THE INDIVIDUAL
5 MAY ~~ENGAGE IN THE BUSINESS OF PERFORMING~~ PROVIDE HOME INSPECTIONS
6 INSPECTION SERVICES IN THE STATE.

7 (B) THIS TITLE DOES NOT APPLY TO:

8 (1) AN INDIVIDUAL WHO IS EMPLOYED AS A BUILDING CODE
9 ENFORCEMENT OFFICIAL BY THE STATE OR A POLITICAL SUBDIVISION OF THE
10 STATE, WHILE ACTING WITHIN THE SCOPE OF THAT EMPLOYMENT;

11 (2) AN INDIVIDUAL WHO IS EMPLOYED AS A FEDERAL OR STATE
12 INSPECTOR, WHILE ACTING WITHIN THE SCOPE OF THAT EMPLOYMENT;

13 (3) A PLUMBER, ELECTRICIAN, PROFESSIONAL ENGINEER, REAL ESTATE
14 APPRAISER, REAL ESTATE BROKER OR AGENT, OR HEATING, VENTILATION,
15 AIR-CONDITIONING, OR REFRIGERATION CONTRACTOR WHO IS LICENSED IN THE
16 STATE, WHILE ACTING WITHIN THE SCOPE OF THAT LICENSE;

17 (4) A ROOFER, GENERAL CONTRACTOR, REMODELER, OR STRUCTURAL
18 PEST CONTROL SPECIALIST, WHILE ACTING WITHIN THE SCOPE OF THAT
19 OCCUPATION; OR

20 (5) ANY OTHER PROFESSIONAL WHOSE SERVICES MAY BE REQUIRED IN
21 THE BUILDING OR REMODELING OF REAL PROPERTY AND WHO DOES NOT CLAIM TO
22 BE A LICENSED HOME INSPECTOR.

23 16-3A-02.

24 (A) TO QUALIFY FOR A LICENSE AS A HOME INSPECTOR, AN APPLICANT MUST
25 BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

26 (B) PRIOR TO JULY 1, 2002, AN APPLICANT FOR A HOME INSPECTOR LICENSE
27 SHALL:

28 (1) MEET ~~ONE~~ TWO OF THE FOLLOWING CONDITIONS:

29 (I) HAVE COMPLETED A MINIMUM OF 48 HOURS OF AN ON-SITE
30 TRAINING COURSE APPROVED BY A NATIONAL HOME INSPECTION ORGANIZATION OR
31 THE COMMISSION;

32 (II) HAVE COMPLETED A MINIMUM OF 2 YEARS OF RELEVANT
33 WORK EXPERIENCE, AS DETERMINED BY THE COMMISSION, IMMEDIATELY
34 PRECEDING THE SUBMISSION OF AN APPLICATION;

35 (H) (III) HAVE COMPLETED AT LEAST 100 HOME INSPECTIONS FOR
36 COMPENSATION; OR

1 ~~(III)~~ (IV) SUBMIT PROOF OF FULL MEMBERSHIP IN OR
2 CERTIFICATION BY ONE OF THE FOLLOWING NATIONAL HOME INSPECTION
3 ORGANIZATIONS:

4 1. AMERICAN SOCIETY OF HOME INSPECTORS; OR

5 2. NATIONAL ASSOCIATION OF HOME INSPECTORS;

6 (2) HAVE A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT;

7 (3) HAVE GENERAL LIABILITY INSURANCE IN AN AMOUNT NOT LESS
8 THAN \$50,000;

9 (4) SUBMIT TO THE COMMISSION AN APPLICATION ON THE FORM THAT
10 THE COMMISSION PROVIDES; AND

11 (5) PAY TO THE COMMISSION AN APPLICATION FEE OF \$50.

12 16-3A-03.

13 EFFECTIVE JULY 1, 2002, AN APPLICANT FOR A HOME INSPECTOR LICENSE
14 SHALL:

15 (1) HAVE COMPLETED A MINIMUM OF 48 HOURS OF AN OFF-SITE
16 TRAINING COURSE APPROVED BY A NATIONAL HOME INSPECTION ORGANIZATION OR
17 THE COMMISSION;

18 (2) HAVE A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT;

19 (3) HAVE GENERAL LIABILITY INSURANCE IN AN AMOUNT NOT LESS
20 THAN \$50,000;

21 (4) SUBMIT TO THE COMMISSION AN APPLICATION ON THE FORM THAT
22 THE COMMISSION PROVIDES; AND

23 (5) PAY TO THE COMMISSION AN APPLICATION FEE OF \$50.

24 16-3A-04.

25 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, SUBJECT TO
26 THE LICENSING PROVISIONS OF THIS SECTION, THE COMMISSION MAY ISSUE A
27 LICENSE BY RECIPROCITY UNDER THIS SECTION FOR AN APPLICANT WHO IS
28 LICENSED TO ~~PERFORM HOME INSPECTIONS~~ PROVIDE HOME INSPECTION SERVICES
29 IN ANOTHER STATE.

30 (B) THE COMMISSION MAY ISSUE A LICENSE BY RECIPROCITY UNDER THIS
31 SECTION FOR AN APPLICANT WHO IS LICENSED TO ~~PERFORM HOME INSPECTIONS~~
32 PROVIDE HOME INSPECTION SERVICES IN ANOTHER STATE ONLY IF THE APPLICANT:

33 (1) PAYS TO THE COMMISSION AN APPLICATION FEE AS SET BY THE
34 COMMISSION; AND

1 (2) PROVIDES ADEQUATE EVIDENCE THAT THE APPLICANT:

2 (I) MEETS THE QUALIFICATIONS OTHERWISE REQUIRED BY THIS
3 SUBTITLE;

4 (II) HOLDS AN ACTIVE LICENSE IN GOOD STANDING FROM THE
5 OTHER STATE;

6 ~~(IV)~~ (III) BECAME LICENSED IN THE OTHER STATE AFTER
7 MEETING, IN THAT OR ANOTHER STATE, REQUIREMENTS THAT WERE AT LEAST
8 EQUIVALENT TO THOSE THEN REQUIRED BY THE LAWS OF THIS STATE; OR

9 ~~(V)~~ (IV) AT THE TIME OF THE APPLICATION FOR A LICENSE BY
10 RECIPROCITY UNDER THIS SECTION, THE APPLICANT MEETS THE REQUIREMENTS
11 CURRENTLY REQUIRED BY THE LAWS OF THIS STATE.

12 (C) SUBJECT TO THE LICENSING PROVISIONS IN THIS SECTION, THE
13 COMMISSION MAY ISSUE A LICENSE BY RECIPROCITY TO ~~ENGAGE IN THE BUSINESS~~
14 ~~OF PERFORMING HOME INSPECTIONS~~ PROVIDE HOME INSPECTION SERVICES TO AN
15 INDIVIDUAL WHO SATISFIES TO THE COMMISSION THAT THE APPLICANT IS
16 QUALIFIED BASED ON A COMBINATION OF COMPARABLE EDUCATION, TRAINING,
17 AND EXPERIENCE IN ~~PERFORMING HOME INSPECTIONS~~ PROVIDING HOME
18 INSPECTION SERVICES.

19 16-3A-05.

20 IF AN APPLICANT QUALIFIES FOR A HOME INSPECTOR LICENSE UNDER THIS
21 TITLE, THE COMMISSION SHALL SEND THE APPLICANT A NOTICE THAT STATES:

22 (1) THE APPLICANT HAS QUALIFIED FOR THE LICENSE; AND

23 (2) THE COMMISSION WILL ISSUE THE HOME INSPECTOR LICENSE TO
24 AN APPLICANT UPON RECEIPT OF:

25 (I) PROOF OF GENERAL LIABILITY INSURANCE IN AN AMOUNT NOT
26 LESS THAN \$50,000; AND

27 (II) A LICENSE FEE ~~OF~~ NOT TO EXCEED \$400.

28 16-3A-06.

29 WHILE A HOME INSPECTOR LICENSE IS IN EFFECT, IT AUTHORIZES THE
30 LICENSEE TO ~~ENGAGE IN THE BUSINESS OF PERFORMING HOME INSPECTIONS~~
31 PROVIDE HOME INSPECTION SERVICES.

32 16-3A-07.

33 (A) UNLESS A LICENSE IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN
34 THIS SECTION, THE LICENSE EXPIRES ON A STAGGERED BASIS AS DETERMINED BY
35 THE SECRETARY.

1 (B) AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE COMMISSION SHALL
2 MAIL TO THE LICENSEE, AT THE LAST KNOWN ADDRESS OF THE LICENSEE:

3 (1) A RENEWAL APPLICATION FORM; AND

4 (2) A NOTICE THAT STATES:

5 (I) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES; AND

6 (II) THE AMOUNT OF THE RENEWAL FEE.

7 (C) BEFORE A LICENSE EXPIRES, THE LICENSEE MAY RENEW IT FOR AN
8 ADDITIONAL 2-YEAR TERM, IF THE LICENSEE:

9 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

10 (2) PAYS TO THE COMMISSION A RENEWAL FEE ~~OF~~ NOT TO EXCEED \$400;
11 AND

12 (3) SUBMITS:

13 ~~(4)~~ A RENEWAL APPLICATION ON THE FORM THAT THE
14 COMMISSION PROVIDES; ~~AND~~

15 ~~(4)~~ ~~PAYMENT OF THE RENEWAL FEE OF \$400.~~

16 (D) THE COMMISSION SHALL RENEW THE LICENSE OF AND ISSUE A LICENSE
17 TO EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

18 16-3A-08.

19 (A) THE COMMISSION SHALL REINSTATE THE LICENSE OF AN INDIVIDUAL
20 WHO HAS FAILED TO RENEW A LICENSE FOR ANY REASON IF THE INDIVIDUAL:

21 (1) APPLIES TO THE COMMISSION FOR REINSTATEMENT WITHIN 5
22 YEARS AFTER THE LICENSE EXPIRES;

23 (2) MEETS THE RENEWAL REQUIREMENTS UNDER § 16-3A-07 OF THIS
24 SUBTITLE; AND

25 (3) IN ADDITION TO THE RENEWAL FEE REQUIRED UNDER § 16-3A-07 OF
26 THIS SUBTITLE, PAYS TO THE COMMISSION A REINSTATEMENT FEE OF \$50.

27 (B) THE COMMISSION MAY NOT REINSTATE THE LICENSE OF AN INDIVIDUAL
28 WHO FOR ANY REASON FAILS TO APPLY FOR REINSTATEMENT WITHIN 5 YEARS
29 AFTER THE LICENSE HAS EXPIRED.

1 Subtitle 4. Miscellaneous [Licensing] Provisions FOR REAL ESTATE APPRAISERS.

2 16-401.

3 (a) Subject to the provisions of subsection (b) of this section, a licensed real
4 estate appraiser shall keep, for 5 years from the date of delivery to the client, the
5 original or a copy of:

6 (1) each contract the licensee enters into for the provision of real estate
7 appraisal services;

8 (2) each appraisal report the licensee prepares or signs; and

9 (3) all supporting data that the licensee assembles or formulates to
10 prepare an appraisal report.

11 (b) If, within the 5-year period for the retention of records, a licensed real
12 estate appraiser is given notice that an appraisal or appraisal report is involved in
13 litigation, a new 5-year period shall start on the date of the final disposition of the
14 litigation.

15 (c) On request, a licensed real estate appraiser shall make any record
16 required to be kept under this section available to the Commission to inspect or copy.

17 SUBTITLE 4A. MISCELLANEOUS PROVISIONS FOR HOME INSPECTORS.

18 16-4A-01.

19 (A) A LICENSED HOME INSPECTOR SHALL GIVE TO EACH PERSON FOR WHOM
20 THE LICENSEE PERFORMS A HOME INSPECTION FOR COMPENSATION OR TO THE
21 PERSON'S REPRESENTATIVE, A WRITTEN REPORT THAT STATES:

22 (1) THE SCOPE AND THE EXCLUSIONS OF THE INSPECTION;

23 (2) THE CONDITIONS OBSERVED DURING THE HOME INSPECTION THAT
24 ARE SUBJECT TO THE ADOPTED STANDARDS OF PRACTICE AND CODE OF ETHICS
25 APPROVED BY THE COMMISSION;

26 (3) THE LICENSE NUMBER OF THE LICENSEE; AND

27 (4) A DISCLOSURE IN 14-POINT BOLD TYPE THAT INCLUDES THE
28 FOLLOWING STATEMENTS:

29 (I) "AN INSPECTION IS INTENDED TO ASSIST IN THE EVALUATION
30 OF THE OVERALL CONDITION OF A BUILDING. THE INSPECTION IS BASED ON
31 OBSERVATION OF THE VISIBLE AND APPARENT CONDITION OF THE BUILDING AND
32 ITS COMPONENTS ON THE DATE OF THE INSPECTION";

1 (II) "THE RESULTS OF THIS HOME INSPECTION ARE NOT INTENDED
2 TO MAKE ANY REPRESENTATION REGARDING LATENT OR CONCEALED DEFECTS
3 THAT MAY EXIST, AND NO WARRANTY OR GUARANTY IS EXPRESSED OR IMPLIED";

4 (III) "IF YOUR HOME INSPECTOR IS NOT A LICENSED ~~SPECIALIST IN~~
5 ~~THE BUILDING PROFESSION~~ STRUCTURAL ENGINEER OR OTHER PROFESSIONAL
6 WHOSE LICENSE AUTHORIZES THE RENDERING OF AN OPINION AS TO STRUCTURAL
7 INTEGRITY OF A BUILDING ~~OR AN OPINION REGARDING OTHER OR THE CONDITION~~
8 ~~OF ITS COMPONENTS OR SYSTEMS~~, YOU MAY WISH TO SEEK THE PROFESSIONAL
9 OPINION OF ~~ONE LICENSED IN THE SPECIALTY RELATED TO THE STRUCTURAL~~
10 ~~INTEGRITY OR COMPONENTS OR SYSTEMS OF CONCERN TO YOU~~ A LICENSED
11 STRUCTURAL ENGINEER OR OTHER PROFESSIONAL REGARDING ANY POSSIBLE
12 DEFECTS OR OTHER OBSERVATIONS SET FORTH IN THIS REPORT"; AND

13 (IV) "ONLY HOME INSPECTIONS PERFORMED BY MARYLAND
14 LICENSED HOME INSPECTORS WILL BE RECOGNIZED BY THE BUYER AS A
15 ~~CONTRACTUAL VALID HOME INSPECTION~~"; AND INSPECTION UNDER A REAL ESTATE
16 CONTRACT".

17 (5) ~~THE LIABILITY OF THE HOME INSPECTOR FOR ANY DAMAGES~~
18 ~~RESULTING FROM THE REPORT ON THE HOME INSPECTION.~~

19 (B) THE LICENSEE SHALL GIVE THE PERSON OR THE PERSON'S
20 REPRESENTATIVE THE REPORT:

21 (1) BY THE DATE SET IN A WRITTEN AGREEMENT BY THE PARTIES TO
22 THE HOME INSPECTION; OR

23 (2) WITHIN 7 BUSINESS DAYS AFTER THE HOME INSPECTION WAS
24 PERFORMED, IF NO DATE WAS SET IN A WRITTEN AGREEMENT BY THE PARTIES TO
25 THE HOME INSPECTION.

26 (C) ANY LIMITATION OF THE LIABILITY OF THE LICENSEE FOR ANY DAMAGES
27 RESULTING FROM THE REPORT ON THE HOME INSPECTION SHALL BE AGREED TO IN
28 WRITING BY THE PARTIES TO THE HOME INSPECTION PRIOR TO THE PERFORMANCE
29 OF THE HOME INSPECTION.

30 16-4A-02.

31 EACH LICENSEE SHALL DISPLAY THE LICENSE CERTIFICATE IN THE MANNER
32 REQUIRED BY THE COMMISSION.

33 16-4A-03.

34 A LICENSEE MUST REPORT ANY CHANGE OF ADDRESS TO THE COMMISSION IN
35 WRITING WITHIN 15 DAYS.

Subtitle 5. Certification OF REAL ESTATE APPRAISERS.

2 16-501.

3 (a) After June 30, 1991, and except as otherwise provided in this title, an
4 individual shall be certified by the Commission to provide certified real estate
5 appraisal services before the individual may provide certified real estate appraisal
6 services in the State.

7 (b) Notwithstanding subsection (a) of this section, a licensed real estate
8 appraiser who is not certified may:

9 (1) help a certified real estate appraiser to prepare a certified appraisal
10 report; and

11 (2) cosign the report.

12 16-601.

13 (a) Subject to the provisions of this section, the Commission shall start
14 proceedings under [§ 16-701] § 16-701 OR § 16-701.1 of this title on a complaint made
15 to the Commission by any person.

16 (b) (1) A complaint shall:

17 (i) be in writing; and

18 (ii) state specifically the facts on which the complaint is based.

19 (2) If a complaint is made by any person other than the Commission, the
20 complaint shall be made under oath by the person who submits the complaint.

21 (3) A complaint may be accompanied by documentary or other evidence.

22 (c) The Commission shall investigate each complaint submitted to the
23 Commission if the complaint:

24 (1) alleges facts that establish a prima facie case that is grounds for
25 disciplinary action under [§ 16-701] § 16-701 OR § 16-701.1 of this title; and

26 (2) meets the requirements of this section.

27 (d) (1) On conclusion of the investigation, the Commission shall determine if
28 there is a reasonable basis to believe that there are grounds for disciplinary action
29 under [§ 16-701] § 16-701 OR § 16-701.1 of this title against an applicant or licensee.

30 (2) (i) If the Commission finds a reasonable basis as provided under
31 paragraph (1) of this subsection, the Commission shall act on the complaint as
32 provided under § 16-602 of this subtitle.

1 (ii) If the Commission does not find a reasonable basis as provided
2 under paragraph (1) of this subsection, the Commission shall dismiss the complaint.

3 16-602.

4 (a) Except as otherwise provided in § 10-226 of the State Government Article,
5 before the Commission takes any final action under [§ 16-701] § 16-701 OR § 16-701.1
6 of this title, it shall give the individual against whom the action is contemplated an
7 opportunity for a hearing before:

8 (1) the Commission; or

9 (2) the Hearing Board for proceedings under § 16-211 of this title.

10 (b) The Commission shall give notice and hold the hearing in accordance with
11 Title 10, Subtitle 2 of the State Government Article.

12 (c) The Commission may administer oaths in connection with any proceeding
13 under this section.

14 (d) The hearing notice to be given to the individual shall be sent by certified
15 mail to the last known address of the individual at least 10 days before the hearing.

16 (e) The individual may be represented at the hearing by counsel.

17 (f) (1) The Commission may issue subpoenas in connection with any
18 proceeding under this section.

19 (2) If a person fails to comply with a subpoena issued under this
20 subsection, on petition of the Commission, a circuit court may compel compliance with
21 the subpoena.

22 (g) If, after due notice, the individual against whom the action is
23 contemplated fails or refuses to appear, nevertheless the Commission may hear and
24 determine the matter.

25 16-701.

26 (a) Subject to the hearing provisions of § 16-602 of this title, the Commission
27 may deny a REAL ESTATE APPRAISAL license to any applicant, deny a certificate to
28 any applicant, reprimand any REAL ESTATE APPRAISER licensee, reprimand any
29 certificate holder, suspend or revoke a REAL ESTATE APPRAISAL license or certificate,
30 or impose a fine of not more than \$5,000, if the REAL ESTATE APPRAISAL applicant,
31 license holder, or certificate holder:

32 (1) fraudulently or deceptively obtains or attempts to obtain a license or
33 certificate for the applicant, licensee, certificate holder, or for another;

34 (2) fraudulently or deceptively uses a license or certificate;

1 (3) commits an act or makes an omission in the provision of real estate
2 appraisal services or certified real estate appraisal services that is an act of
3 dishonesty, fraud, or misrepresentation if the applicant, licensee, or certificate holder
4 intends:

5 (i) to benefit substantially the applicant, licensee, certificate
6 holder, or another person; or

7 (ii) to injure substantially another person;

8 (4) is held civilly or criminally liable for deceit, fraud, or
9 misrepresentation in the provision of real estate appraisal services or certified real
10 estate appraisal services;

11 (5) under the laws of the United States or of any state, is convicted of:

12 (i) a felony; or

13 (ii) a misdemeanor that is directly related to the fitness and
14 qualification of the applicant, licensee, or certificate holder to provide real estate
15 appraisal services;

16 (6) pays a finder's fee or a referral fee to a person who lacks a license;

17 (7) makes a false or misleading statement in:

18 (i) the part of a written appraisal report about professional
19 qualifications; or

20 (ii) testimony about professional qualifications;

21 (8) violates the confidential nature of governmental records to which a
22 licensee or certificate holder gained access in the provision of real estate appraisal
23 services or certified real estate services;

24 (9) accepts a fee for providing an independent appraisal service in
25 violation of this title;

26 (10) fails to exercise reasonable diligence to develop, prepare, or
27 communicate an appraisal;

28 (11) commits negligence or incompetence in developing, preparing, or
29 communicating an appraisal;

30 (12) violates any other provision of this title; or

31 (13) violates any regulation adopted under this title.

32 (b) The Commission shall consider the following facts in the granting, denial,
33 renewal, suspension, or revocation of a license or certificate or the reprimand of a

1 licensee or certificate holder when an applicant, certificate holder, or licensee is
 2 convicted of a felony or a misdemeanor described in subsection (a)(5) of this section:

3 (1) the nature of the crime;

4 (2) the relationship of the crime to the activities authorized by the
 5 license or certificate;

6 (3) with respect to a felony, the relevance of the conviction to the fitness
 7 and qualification of the applicant, licensee, or certificate holder to provide real estate
 8 appraisal services;

9 (4) the length of time since the conviction; and

10 (5) the behavior and activities of the applicant, licensee, or certificate
 11 holder before and after the conviction.

12 16-701.1.

13 SUBJECT TO THE HEARING PROVISIONS OF § 16-602 OF THIS TITLE, THE
 14 COMMISSION MAY DENY A HOME INSPECTOR LICENSE TO ANY APPLICANT,
 15 REPRIMAND ANY HOME INSPECTOR LICENSEE, OR SUSPEND OR REVOKE A HOME
 16 INSPECTOR LICENSEE IF THE APPLICANT OR LICENSEE:

17 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
 18 OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;

19 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

20 (3) ENGAGES IN CONDUCT THAT DEMONSTRATES BAD FAITH,
 21 INCOMPETENCY, NEGLIGENCE OR UNTRUSTWORTHINESS, OR THAT CONSTITUTES
 22 DISHONEST, FRAUDULENT, OR IMPROPER DEALINGS;

23 (4) UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE, IS
 24 CONVICTED OF:

25 (I) A FELONY; OR

26 (II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS
 27 AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO ~~PERFORM HOME~~
 28 INSPECTIONS PROVIDE HOME INSPECTION SERVICES;

29 (5) VIOLATES ANY PROVISION OF THIS TITLE;

30 (6) VIOLATES ANY REGULATION ADOPTED UNDER THIS TITLE;

31 (7) AIDS, ABETS, OR ASSISTS ANY PERSON IN VIOLATING ANY PROVISION
 32 OF THIS TITLE OR ANY REGULATION ADOPTED UNDER THIS TITLE.

1 16-702.

2 After June 30, 1991, and except as otherwise provided in this title, a person may
3 not provide, attempt to provide, or offer to provide real estate appraisal services in the
4 State unless licensed by the Commission AS A REAL ESTATE APPRAISER.

5 16-703.

6 Except as otherwise provided in this title, a person may not provide, attempt to
7 provide, or offer to provide certified real estate appraisal services in the State unless
8 certified by the Commission AS A REAL ESTATE APPRAISER.

9 16-703.1.

10 EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT
11 ~~PERFORM PROVIDE, ATTEMPT TO PERFORM PROVIDE, OR OFFER TO PERFORM~~
12 PROVIDE HOME INSPECTIONS INSPECTION SERVICES IN THIS STATE UNLESS
13 LICENSED AS A HOME INSPECTOR BY THE COMMISSION.

14 16-704.

15 Unless authorized under this title to provide real estate appraisal services, a
16 person may not represent to the public, by use of a title, including "licensed real
17 estate appraiser", by description of services, methods, or procedures, or otherwise,
18 that the person is authorized to provide real estate appraisal services in the State.

19 16-705.

20 (a) Unless authorized under this title to provide certified real estate appraisal
21 services, a person may not represent to the public, by use of a title, including
22 "certified real estate appraiser", by description of services, methods, or procedures, or
23 otherwise, that the person is authorized to provide certified real estate appraisal
24 services in the State.

25 (b) A person may not use the title "certified real estate appraiser" after or with
26 the name or signature of a firm, partnership, corporation, or group in a way that the
27 title could be interpreted to refer to anyone other than the individual who is certified
28 under this title.

29 16-705.1.

30 UNLESS AUTHORIZED UNDER THIS TITLE TO ~~ENGAGE IN THE BUSINESS OF~~
31 ~~PERFORMING HOME INSPECTIONS~~ PROVIDE HOME INSPECTION SERVICES, A PERSON
32 MAY NOT REPRESENT TO THE PUBLIC, BY USE OF A TITLE, INCLUDING "LICENSED
33 HOME INSPECTOR", BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR
34 OTHERWISE, THAT THE PERSON IS AUTHORIZED TO ~~ENGAGE IN THE PERFORMANCE~~
35 ~~OF HOME INSPECTIONS~~ PROVIDE HOME INSPECTION SERVICES IN THE STATE.

1 16-706.

2 A person who violates any provision of this title is guilty of a misdemeanor and
3 on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding
4 1 year or both.

5 16-707.

6 (A) THE COMMISSION MAY IMPOSE ON A PERSON WHO VIOLATES THIS TITLE
7 A CIVIL PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION, WHETHER OR NOT
8 THE PERSON IS LICENSED OR HOLDS A CERTIFICATE UNDER THIS TITLE.

9 (B) IN SETTING THE AMOUNT OF A CIVIL PENALTY, THE COMMISSION SHALL
10 CONSIDER:

11 (1) THE SERIOUSNESS OF THE VIOLATION;

12 (2) THE GOOD FAITH OF THE VIOLATOR;

13 (3) ANY PREVIOUS VIOLATIONS;

14 (4) THE HARMFUL EFFECT OF THE VIOLATION ON THE COMPLAINANT,
15 THE PUBLIC, AND THE BUSINESS OF HOME INSPECTIONS OR REAL ESTATE
16 APPRAISALS;

17 (5) THE ASSETS OF THE VIOLATOR;

18 (6) ANY OTHER RELEVANT FACTORS.

19 16-801.

20 This title may be cited as the "Maryland Real Estate Appraisers AND HOME
21 INSPECTORS Act".

22 16-802.

23 Subject to the evaluation and reestablishment provisions of the Maryland
24 Program Evaluation Act, this title and all regulations adopted under this title shall
25 terminate and be of no effect after July 1, 2003.

26 **Article - Business Regulation**

27 2-108.

28 (a) The following units are in the Department:

29 (25) the State Commission of Real Estate Appraisers AND HOME
30 INSPECTORS.

1 **Article - Real Property**

2 [Subtitle 8. Home Inspections.]

3 [10-801.

4 (a) In this subtitle, "home inspector" means a person who provides or offers to
5 provide home inspection services.

6 (b) Promptly after agreeing to perform an inspection and before a home is
7 inspected, a home inspector shall provide the person who has entered into a contract
8 for the purchase of the property:

9 (1) A list of the credentials of:

10 (i) The home inspector; and

11 (ii) If the individual who will actually perform the inspection is
12 different from the home inspector, that individual; and

13 (2) A disclosure in 10-point bold type that states:

14 "An inspection is intended to assist in evaluation of the overall condition of a
15 building. The inspection is based on observation of the visible and apparent condition
16 of the building and its components on the date of inspection.

17 The results of this home inspection are not intended to make any representation
18 regarding latent or concealed defects that may exist, and no warranty or guaranty is
19 expressed or implied.

20 If the person conducting your home inspection is not a licensed structural
21 engineer or other professional whose license authorizes the rendering of an opinion as
22 to the structural integrity of a building or its other component parts, you may be
23 advised to seek a professional opinion as to any defects or concerns mentioned in the
24 report."

25 (c) The information required to be provided under subsection (b) of this
26 section shall be included in the home inspection report that is delivered to the person
27 who has entered into a contract for the purchase of the property.]

28 **Article - State Government**

29 8-403.

30 (b) Except as otherwise provided in subsection (a) of this section, on or before
31 the evaluation date for the following governmental activities or units, an evaluation
32 shall be made of the following governmental activities or units and the statutes and
33 regulations that relate to the governmental activities or units:

1 (58) Real Estate Appraisers AND HOME INSPECTORS, State Commission
2 of (§ 16-201 of the Business Occupations and Professions Article: July 1, 2002);

3 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Labor,
4 Licensing, and Regulation shall study the appropriateness of the licensing
5 qualifications for home inspectors under § 16-3A-03 of the Business Occupations and
6 Professions Article, as enacted by Section 1 of this Act. The Department shall report
7 its findings and recommendations to the Senate Finance Committee and the House
8 Economic Matters Committee, in accordance with § 2-1246 of the State Government
9 Article, on or before December 31, 2001.

10 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Labor,
11 Licensing, and Regulation shall report to the Senate Finance Committee and the
12 House Economic Matters Committee on or before December 1, 2002, in accordance
13 with § 2-1246 of the State Government Article, on the impact of incorporating a
14 licensing authority for home inspectors into the State Commission of Real Estate
15 Appraisers. The report shall include:

16 (1) an evaluation of the ability of the Commission to operate separate
17 regulatory schemes and hearing boards for home inspectors and real estate
18 appraisers;

19 (2) a summary of the number of home inspector licenses issued and the
20 number of complaints received against home inspectors; and

21 (3) the appropriateness of the current licensing fee for home inspectors.

22 ~~SECTION 4.~~ SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take
23 effect October 1, 2001.