

**Department of Legislative Services**  
 Maryland General Assembly  
 2001 Session

**FISCAL NOTE**

Senate Bill 427            (Senator Dorman)  
 Finance

**Licensed and Certified Real Estate Appraisers - Scope of Practice and Payment  
 by Lenders**

This bill expands the definition of real estate appraisal services to include the valuation of any real estate in the State that will result in a person’s total indebtedness in an amount exceeding \$1. The bill authorizes a person to provide real estate appraisal services if certified by the Commission of Real Estate Appraisers. The bill also prohibits a mortgage lender, in a contract for an appraisal of real property, from: (1) making payment of a certified or a licensed real estate appraiser dependent on a factual finding of the appraisal; and (2) withholding payment to the appraiser for longer than 90 calendar days after delivery of the appraisal if: (a) the appraiser completes the appraisal within contractually imposed time limits; and (b) the appraiser’s value estimate falls below the amount in the contract of sale or the amount specified by the lender. The bill provides that if a real estate appraiser sues for payment alleging a violation of the bill and a court finds in the appraiser’s favor, the court must award: (1) three times the agreed contract price; (2) court costs; and (3) attorneys’ fees.

**Fiscal Summary**

**State Effect:** General fund expenditures could increase by \$62,725 in FY 2002 reflecting the bill’s October 1, 2001 effective date. Out-year projections reflect annualization and inflation. General fund revenues could increase by \$30,000 in FY 2002 and every third year thereafter, assuming 400 appraisers would become licensed under the bill.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
GF Revenue	\$30,000	\$3,750	\$750	\$30,000	\$3,750
GF Expenditure	62,725	60,875	38,000	38,000	38,000
Net Effect	(\$32,725)	(\$57,125)	(\$37,250)	(\$8,000)	(\$34,250)

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

**Local Effect:** None.

**Small Business Effect:** Meaningful.

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## **Analysis**

**Current Law:** Only appraisers who perform appraisals on “federally related” transactions are subject to current licensing and certification requirements. Federally related transactions include, for example, Veteran’s Administration and Federal Housing Administration backed loans.

Contracts for real estate appraisals are governed by the common law of contracts. No provision prohibits a mortgage lender from making payment of a certified or licensed real estate appraiser dependent on a factual finding. However, the State Commission of Real Estate Appraisers may reprimand a licensee or certificate holder, suspend or revoke a license or certificate, or impose a fine of up to \$5,000 if a real estate appraiser commits an act or makes an omission in providing real estate appraisal services that is an act of dishonesty, fraud, or misrepresentation if the appraiser intends to: (a) benefit substantially the appraiser or another person; or (b) injure substantially another person.

**Background:** The federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 mandated that all mortgage lenders and financial institutions that offer “federally related” loans that are secured by real property obtain an appraisal from an appraiser licensed and certified by a state. To comply with the licensing requirements of the federal Act, Chapter 594 of 1990, the Maryland Real Estate Appraisers Act, established the State Commission of Real Estate Appraisers within the Department of Labor, Licensing, and Regulation (DLLR).

Generally, damages for breach of a contract for the payment of money are the amount due under the contract plus interest at the legal rate. Triple damages, court costs, and attorneys’ fees are not ordinarily available remedies for breach of contract. At common law, a contract that violates a law or is against public policy is void.

**State Revenues:** DLLR estimates that there are 500 unregulated appraisers in the State who will be subject to regulation under the bill and that 400 of these will obtain a license in fiscal 2002. DLLR charges licensees a \$75 three-year registry fee. DLLR’s fees are paid into the general fund. Thus, general fund revenues would increase in fiscal 2002 by \$30,000. Licensees also pay a \$25 federal registry fee that DLLR collects and remits to the federal Appraisal Subcommittee of the Appraisal Foundation.

DLLR estimates that an additional 50 unregulated appraisers will obtain their licenses in fiscal 2003, resulting in an additional \$3,750 in general fund revenues. Out-year estimates reflect a repeating three-year licensing cycle and industry growth and attrition.

**State Expenditures:** General fund expenditures could increase by an estimated \$62,725 in fiscal 2002, which accounts for the bill's October 1, 2001 effective date. This estimate reflects the cost of hiring a contractual office clerk for two years to oversee all the initial new licensing activities. It includes the clerk's salary, administrative hearing costs, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- an additional 40 complaints to process, resulting in 20 administrative hearings each year;
- a one-time computer upgrade; and
- administrative hearing costs composed of \$27,500 in expert testimony and \$10,000 in hearing costs.

Salary and Fringe Benefits	\$22,100
Administrative Hearings Costs	37,500
Other Operating Expenses	<u>3,125</u>
<b>Total FY 2002 State Expenditures</b>	<b>\$62,725</b>

Future year expenditures reflect: (1) 1% annual increases in ongoing operating expenses; and (2) the expiration of the office clerk's two-year contract after fiscal 2003. The small number of new applicants anticipated in the out-years could be handled with existing staff.

**Small Business Effect:** Most appraisers are small businesses, and licensing fees and educational requirements for them will increase under the bill. On average, an unregulated appraiser will: (1) spend approximately \$1,300 in the first year to meet the new requirements and to become certified; and (2) pay \$75 every third year thereafter for license or certificate renewal. DLLR also estimates that 50 appraisers will cease operating as a result of this bill.

To the extent mortgage lenders make payment of certified real estate appraisers dependent on factual findings, small real estate appraisal businesses that sue to receive payment for their services will receive triple damages, court costs, and attorneys' fees.

Fees can range from \$200 - \$500 for a residential appraisal to several thousand dollars for commercial property.

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### **Additional Information**

**Prior Introductions:** Bills similar to the provision in this bill expanding the definition of real estate appraisal services were introduced in the 2000 session as HB 786 and SB 876. HB 786 received an unfavorable report from the House Economic Matters Committee, and SB 876 received an unfavorable report from the Senate Finance Committee.

**Cross File:** None.

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

**Fiscal Note History:** First Reader – February 11, 2001  
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