

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1010 (Delegate Conaway)
Economic Matters

Real Estate Appraisers - Mandatory Minimum Penalties - Record Keeping and Contingent Fee Violations

This bill establishes mandatory minimum penalties for real estate appraisers who violate existing record keeping requirements or the existing prohibition against accepting payment for an independent appraisal service contingent on the results achieved by the appraisal assignment. The State Commission of Real Estate Appraisers and Home Inspectors must fine violators at least \$500 for a first offense, \$1,000 for a second offense, and \$2,000 for a third or subsequent violation.

Fiscal Summary

State Effect: The Department of Labor, Licensing, and Regulation (DLLR) advises that the bill has no effect on State operations or finances. According to DLLR, violations of the record keeping and independent appraisal service provisions are infrequent and, when monetary penalties are assessed and paid to the general fund, the fines typically exceed the mandatory minimum penalties established by the bill.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law: Licensed real estate appraisers must keep, for five years from the date of delivery to the client, a copy of:

- each contract the licensee entered into for the provision of real estate appraisal services;
- each appraisal report the licensee prepares or signs; and
- all supporting data that the licensee assembles or formulates to prepare a report.

If a licensee is given notice that an appraisal or appraisal report is involved in litigation, the licensee must keep the records for an additional five years from the date of the final disposition of the litigation.

Licensed real estate appraisers who are commissioned to conduct an independent appraisal service may not accept a fee that is contingent on a predetermined analysis, opinion, or conclusion or on the results achieved by the appraisal assignment. An independent appraisal service is defined as an engagement for which a licensed real estate appraiser is perceived by a third party or the public to provide unbiased analysis, opinion, or conclusion about the nature, quality, use, or value for identified real estate.

Persons who violate the Maryland Real Estate Appraisers and Home Inspectors Act, including these record keeping or appraisal service requirements, are guilty of a misdemeanor and subject to penalties of up to \$5,000 per violation and/or one year imprisonment. The commission may also impose a criminal penalty of up to \$5,000 for any violation of the Act. In determining the amount of a penalty, the commission must consider the following factors:

- the seriousness of the violation;
- the harm caused by the violation;
- the good faith of the violator;
- any history of violations by the violator; and
- any other relevant factors.

There is no established mandatory minimum penalty for these offenses. Criminal fine revenue collected by the commission is paid into the State's general fund. Likewise, the commission may impose a civil penalty of up to \$5,000 for any violation of the Act, regardless of whether the person is licensed or certified by the commission.

An individual is required to be licensed or certified by the State Commission of Real Estate Appraisers and Home Inspectors as a condition of providing regulated real estate appraisal services. *Licensed* real estate appraisers must meet minimum qualifications established under the federal Financial Institutions Reform, Recovery, and Enforcement Act. The Appraiser Qualifications Board requires licensed appraisers to complete 90 hours of education. Under State law, an applicant must also complete at least

2,000 hours of service as a real estate appraiser trainee under the supervision of a licensed or certified inspector and pass a required examination. Continuing education requirements correspond to those established by the federal Act.

Certified real estate appraisers for residential or general real estate must meet minimum qualifications for certification established under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The Appraiser Qualifications Board requires certified residential appraisers to complete 120 hours of education and hold an associate's degree or its equivalent; a certified general appraiser is required to complete 200 hours of education and hold a bachelor's degree or equivalent. Under State law, an applicant must complete at least 2,000 hours of service as a real estate appraiser trainee under the supervision of a licensed or certified inspector and pass an examination. Continuing education requirements correspond to those established by the federal Act.

Background: Licensed real estate appraisers may provide services in federally related transactions involving noncomplex one- to four-unit residential properties with a transaction value of less than \$1 million, and commercial or complex residential properties with a value of less than \$250,000. Certified residential and general real estate appraisers may perform appraisals in all federally related transactions, with the exception that certified residential real estate appraisers are not authorized to appraise commercial properties having a transaction value of more than \$250,000.

According to DLLR, there are 1,148 licensed real estate appraisers, and 2,006 certified residential and general real estate appraisers in the State.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 13, 2009
mcp/mcr

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