

SENATE BILL 1106

C2

4r3352
CF 4r3356

By: **Senator Feldman**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 7, 2014

Assigned to: Rules

Re-referred to: Finance, March 10, 2014

Committee Report: Favorable

Senate action: Adopted

Read second time: March 11, 2014

CHAPTER _____

1 AN ACT concerning

2 **Business Occupations – Real Estate Appraisers – Criminal History Records**
3 **Checks**

4 FOR the purpose of requiring applicants for a license to provide real estate appraisal
5 services and applicants for a certificate to provide certified real estate appraisal
6 services to apply in a certain manner for a national and State criminal history
7 records check, submit certain fingerprints, and pay certain fees for the records
8 checks; requiring the Criminal Justice Information System Central Repository
9 of the Department of Public Safety and Correctional Services to provide the
10 records and a certain receipt to the State Commission of Real Estate
11 Appraisers, Appraisal Management Companies, and Home Inspectors;
12 providing that certain information obtained by the Commission is confidential;
13 requiring the Commission to deny a real estate appraisal license or certificate to
14 an applicant under certain circumstances; defining a certain term; providing for
15 a delayed effective date; and generally relating to criminal history records
16 checks for real estate appraisers.

17 BY renumbering

18 Article – Business Occupations and Professions
19 Section 16–101(d) through (s), respectively
20 to be Section 16–101(e) through (t), respectively
21 Annotated Code of Maryland

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.



1 (2010 Replacement Volume and 2013 Supplement)

2 BY adding to

3 Article – Business Occupations and Professions

4 Section 16–101(d)

5 Annotated Code of Maryland

6 (2010 Replacement Volume and 2013 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article – Business Occupations and Professions

9 Section 16–303, 16–306, 16–505, 16–508, and 16–701

10 Annotated Code of Maryland

11 (2010 Replacement Volume and 2013 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That Section(s) 16–101(d) through (s), respectively, of Article – Business
14 Occupations and Professions of the Annotated Code of Maryland be renumbered to be
15 Section(s) 16–101(e) through (t), respectively.

16 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
17 read as follows:

18 **Article – Business Occupations and Professions**

19 16–101.

20 **(D) “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE**
21 **INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF**
22 **PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

23 16–303.

24 (a) An applicant for a license shall:

25 (1) submit to the Commission an application on the form that the
26 Commission provides; [and]

27 (2) pay to the Commission a fee set by the Commission;

28 **(3) APPLY TO THE CENTRAL REPOSITORY FOR A NATIONAL AND**
29 **STATE CRIMINAL HISTORY RECORDS CHECK ON A FORM APPROVED BY THE**
30 **DIRECTOR OF THE CENTRAL REPOSITORY;**

31 **(4) SUBMIT TO THE CENTRAL REPOSITORY A COMPLETE SET OF**
32 **LEGIBLE FINGERPRINTS TAKEN AT ANY DESIGNATED STATE OR LOCAL LAW**
33 **ENFORCEMENT OFFICE IN THE STATE OR OTHER AGENCY OR LOCATION**

1 APPROVED BY THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL
2 SERVICES;

3 (5) PAY THE MANDATORY PROCESSING FEE REQUIRED BY THE
4 FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY
5 RECORDS CHECK; AND

6 (6) PAY THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE
7 CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO THE STATE CRIMINAL
8 HISTORY RECORDS.

9 (b) [The Commission may require an applicant to be fingerprinted] THE
10 CENTRAL REPOSITORY SHALL PROVIDE TO THE COMMISSION:

11 (1) THE NATIONAL AND STATE CRIMINAL HISTORY RECORDS OF
12 EACH APPLICANT REQUIRING A CRIMINAL HISTORY RECORDS CHECK UNDER
13 SUBSECTION (A) OF THIS SECTION AND A PRINTED STATEMENT LISTING ANY
14 CONVICTIONS AND PLEAS OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL
15 CHARGE; AND

16 (2) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A
17 CRIMINAL HISTORY RECORDS CHECK BY AN APPLICANT REQUIRING A CRIMINAL
18 HISTORY RECORDS CHECK.

19 (c) INFORMATION OBTAINED BY THE COMMISSION FROM THE CENTRAL
20 REPOSITORY UNDER THIS SECTION SHALL BE CONFIDENTIAL AND MAY BE
21 DISSEMINATED ONLY TO THE INDIVIDUAL WHO IS THE SUBJECT OF THE
22 CRIMINAL HISTORY RECORDS CHECK.

23 16-306.

24 (a) [The] ON RECEIPT OF A COMPLETE NATIONAL AND STATE CRIMINAL
25 RECORD REPORT FROM THE CENTRAL REPOSITORY, THE Commission shall grant
26 a license to each applicant who meets the requirements of this subtitle.

27 (b) The Commission shall issue a license document and pocket card to each
28 applicant who has been granted a license under this section.

29 (c) (1) Subject to paragraph (2) of this subsection, the Commission shall
30 determine the size, form, and content of any license document or pocket card that the
31 Commission issues.

32 (2) The Commission shall include an expiration date on each license
33 document that the Commission issues.

1 16-505.

2 (A) An applicant for a certificate shall:

3 (1) submit to the Commission an application on the form that the
4 Commission provides; [and]

5 (2) pay to the Commission an application fee set by the Commission;

6 (3) **APPLY TO THE CENTRAL REPOSITORY FOR A NATIONAL AND**
7 **STATE CRIMINAL HISTORY RECORDS CHECK ON A FORM APPROVED BY THE**
8 **DIRECTOR OF THE CENTRAL REPOSITORY;**

9 (4) **SUBMIT TO THE CENTRAL REPOSITORY A COMPLETE SET OF**
10 **LEGIBLE FINGERPRINTS TAKEN AT ANY DESIGNATED STATE OR LOCAL LAW**
11 **ENFORCEMENT OFFICE IN THE STATE OR OTHER AGENCY OR LOCATION**
12 **APPROVED BY THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL**
13 **SERVICES;**

14 (5) **PAY THE MANDATORY PROCESSING FEE REQUIRED BY THE**
15 **FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY**
16 **RECORDS CHECK; AND**

17 (6) **PAY THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE**
18 **CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO THE STATE CRIMINAL**
19 **HISTORY RECORDS.**

20 (B) **THE CENTRAL REPOSITORY SHALL PROVIDE TO THE COMMISSION:**

21 (1) **THE NATIONAL AND STATE CRIMINAL HISTORY RECORDS OF**
22 **EACH APPLICANT REQUIRING A CRIMINAL HISTORY RECORDS CHECK UNDER**
23 **SUBSECTION (A) OF THIS SECTION AND A PRINTED STATEMENT LISTING ANY**
24 **CONVICTIONS AND PLEAS OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL**
25 **CHARGE; AND**

26 (2) **AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A**
27 **CRIMINAL HISTORY RECORDS CHECK BY AN APPLICANT REQUIRING A CRIMINAL**
28 **HISTORY RECORDS CHECK.**

29 (C) **INFORMATION OBTAINED BY THE COMMISSION FROM THE CENTRAL**
30 **REPOSITORY UNDER THIS SECTION SHALL BE CONFIDENTIAL AND MAY BE**
31 **DISSEMINATED ONLY TO THE INDIVIDUAL WHO IS THE SUBJECT OF THE**
32 **CRIMINAL HISTORY RECORDS CHECK.**

1 16-508.

2 (a) **[The] ON RECEIPT OF A COMPLETE NATIONAL AND STATE CRIMINAL**
3 **RECORD REPORT FROM THE CENTRAL REPOSITORY, THE** Commission shall grant
4 the appropriate certificate to each applicant who meets the requirements of this
5 subtitle.

6 (b) The Commission shall issue an appropriate certification document and
7 pocket card to each applicant who has been granted certification under this section.

8 (c) (1) Subject to paragraph (2) of this subsection, the Commission shall
9 determine the size, form, and content of any certification document or pocket card that
10 the Commission issues.

11 (2) On each certification document or pocket card that the Commission
12 issues, the Commission shall include:

13 (i) an expiration date; and

14 (ii) a certification number.

15 16-701.

16 (a) (1) **[Subject] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
17 **SUBSECTION, SUBJECT** to the hearing provisions of § 16-602 of this title, the
18 Commission may deny a real estate appraisal license to any applicant, deny a
19 certificate to any applicant, reprimand any real estate appraiser licensee, reprimand
20 any certificate holder, or suspend or revoke a real estate appraisal license or certificate
21 if the real estate appraisal applicant, license holder, or certificate holder:

22 (i) fraudulently or deceptively obtains or attempts to obtain a
23 license or certificate for the applicant, licensee, certificate holder, or for another;

24 (ii) fraudulently or deceptively uses a license or certificate;

25 (iii) commits an act or makes an omission in the provision of real
26 estate appraisal services or certified real estate appraisal services that is an act of
27 dishonesty, fraud, or misrepresentation if the applicant, licensee, or certificate holder
28 intends:

29 1. to benefit substantially the applicant, licensee,
30 certificate holder, or another person; or

31 2. to injure substantially another person;

1 (iv) is held civilly or criminally liable for deceit, fraud, or
2 misrepresentation in the provision of real estate appraisal services or certified real
3 estate appraisal services;

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

6 1. a felony; or

7 2. a misdemeanor that is directly related to the fitness
8 and qualification of the applicant, licensee, or certificate holder to provide real estate
9 appraisal services;

10 (vi) pays a finder's fee or a referral fee to a person who lacks a
11 license;

12 (vii) makes a false or misleading statement in:

13 1. the part of a written appraisal report about
14 professional qualifications; or

15 2. testimony about professional qualifications;

16 (viii) violates the confidential nature of governmental records to
17 which a licensee or certificate holder gained access in the provision of real estate
18 appraisal services or certified real estate services;

19 (ix) accepts a fee for providing an independent appraisal service
20 in violation of this title;

21 (x) fails to exercise reasonable diligence to develop, prepare, or
22 communicate an appraisal;

23 (xi) is negligent or incompetent in developing, preparing, or
24 communicating an appraisal;

25 (xii) violates any other provision of this title; or

26 (xiii) violates any regulation adopted under this title.

27 **(2) SUBJECT TO THE HEARING PROVISIONS OF § 16-602 OF THIS**
28 **TITLE, THE COMMISSION SHALL DENY A REAL ESTATE APPRAISAL LICENSE OR**
29 **CERTIFICATE TO AN APPLICANT IF THE APPLICANT:**

1 **(I) HAS HAD AN APPRAISER LICENSE, CERTIFICATE, OR**
2 **CREDENTIAL REVOKED IN ANY JURISDICTION WITHIN THE 5-YEAR PERIOD**
3 **IMMEDIATELY PRECEDING THE DATE OF APPLICATION;**

4 **(II) HAS BEEN CONVICTED OF OR HAS ENTERED A PLEA OF**
5 **GUILTY OR NOLO CONTENDERE TO A FELONY IN A DOMESTIC OR FOREIGN**
6 **COURT:**

7 **1. DURING THE 5-YEAR PERIOD IMMEDIATELY**
8 **PRECEDING THE DATE OF APPLICATION; OR**

9 **2. AT ANY TIME PRECEDING THE DATE OF**
10 **APPLICATION IF THE FELONY INVOLVES AN ACT OF FRAUD OR DISHONESTY, A**
11 **BREACH OF TRUST, OR MONEY LAUNDERING; OR**

12 **(III) FAILS TO DEMONSTRATE GOOD CHARACTER OR**
13 **GENERAL FITNESS TO PROVIDE REAL ESTATE APPRAISAL SERVICES IN AN**
14 **HONEST AND ETHICAL MANNER.**

15 **[(2)] (3) (i) [Instead] EXCEPT AS PROVIDED IN PARAGRAPH**
16 **(2) OF THIS SUBSECTION, INSTEAD** of or in addition to reprimanding a licensee or a
17 certificate holder or suspending or revoking a license or a certificate under this
18 subsection, the Commission may impose a penalty not exceeding \$5,000 for each
19 violation.

20 (ii) To determine the amount of the penalty imposed, the
21 Commission shall consider:

- 22 1. the seriousness of the violation;
- 23 2. the harm caused by the violation;
- 24 3. the good faith of the licensee; and
- 25 4. any history of previous violations by the licensee.

26 **[(3)] (4)** The Commission shall pay any penalty collected under this
27 subsection into the General Fund of the State.

28 (b) **[The] EXCEPT AS PROVIDED IN SUBSECTION (A)(2) OF THIS**
29 **SECTION, THE** Commission shall consider the following facts in the granting, denial,
30 renewal, suspension, or revocation of a license or certificate or the reprimand of a
31 licensee or certificate holder when an applicant, certificate holder, or licensee is
32 convicted of a felony or a misdemeanor described in subsection (a)(1)(v) of this section:

- 1 (1) the nature of the crime;
- 2 (2) the relationship of the crime to the activities authorized by the
3 license or certificate;
- 4 (3) with respect to a felony, the relevance of the conviction to the
5 fitness and qualification of the applicant, licensee, or certificate holder to provide real
6 estate appraisal services;
- 7 (4) the length of time since the conviction; and
- 8 (5) the behavior and activities of the applicant, licensee, or certificate
9 holder before and after the conviction.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 January 1, 2015.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.