

Department of Legislative Services
 Maryland General Assembly
 2001 Session

FISCAL NOTE
Revised

House Bill 379 (Delegates Morhaim and Moe)

Economic Matters

Finance

State Commission of Real Estate Appraisers and Home Inspectors

This bill renames the State Commission of Real Estate Appraisers the State Commission of Real Estate Appraisers and Home Inspectors and expands its regulatory authority to include home inspectors. The commission is within the Department of Labor, Licensing, and Regulation (DLLR).

Fiscal Summary

State Effect: General fund revenues may increase by \$182,500 in FY 2002. Out-year revenues reflect a two-year licensing cycle, industry growth, and a small increase from the penalty provisions of the bill. General fund expenditures will increase by \$254,400 in FY 2002. Out-year expenditures reflect ongoing operating expenses and elimination of start-up costs.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
GF Revenue	\$182,500	\$3,600	\$163,600	\$3,600	\$167,200
GF Expenditure	254,400	91,243	95,500	100,000	104,300
Net Effect	(\$71,900)	(\$87,643)	\$68,100	(\$96,400)	\$62,900

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill makes several changes to the composition of the commission, the duties of the commission, and to the home inspection profession.

Composition of the Commission

The commission's membership expands from 9 to 15 members. The additional members include one licensed home inspector who is a member of the American Society of Home Inspectors, one licensed home inspector who is a member of the National Association of Home Inspectors, two licensed home inspectors without regard to professional association, and two consumer members. In addition to any other requirements, there must be two real estate appraiser members and two home inspector members present to form a quorum at commission meetings.

The bill also creates the new position of vice chairman of the commission. As with the chairman, this individual is chosen by the commission annually. The chairman and vice chairman may not be licensees of the same profession. This bill also prohibits the commission's executive director from deriving any income from or engaging in any home inspection activities.

Duties of the Commission

The commission must adopt by regulation real estate appraisal standards of conduct for all certified real estate appraisers and a code of ethics and standards of practice for licensed home inspectors. The commission must provide a copy of these to every licensed professional every two years.

The commission must establish a real estate appraisers hearing board and a home inspectors hearing board. These boards serve as the initial step in disciplinary procedures and shall determine if there is a reasonable basis to believe that there are grounds for disciplinary action for their respective licensees. The real estate appraisers hearing board shall be composed of one representative from a financial institution, one consumer member, and one appraiser with a level of licensure or certification at least equal to the individual under review. The home inspectors hearing board shall be composed of two licensed home inspectors and one consumer member.

Changes to Home Inspector Business

With few exceptions, an individual must be licensed by the commission before engaging in the business of providing home inspections. This places home inspectors under an established regulatory scheme, which includes: a licensing fee, an application fee, a two-year licensing renewal requirement, criminal and civil penalties for professional

misconduct (see **Exhibit 1**), abiding by the (yet-to-be-adopted) standards of business and codes of practice, providing customers with certain disclosure information, and meeting the application standards.

Exhibit 1

Offense	Type	Penalty
Practicing without a license	Criminal – Misdemeanor	Up to \$5,000 fine/one year prison
Licensee misconduct	Civil	Up to \$5,000 fine

Note: Any offense may lead to a revocation or suspension of an individual's license

A home inspector license may be obtained if the applicant:

- has completed at least 48 hours of a nationally or commission-approved off-site training course;
- has a high-school diploma or equivalent;
- has general liability insurance of at least \$50,000;
- submits a completed commission application form; and
- pays the application fee.

However, an applicant who applies for licensure before July 1, 2002 must have two of the following: (1) 48 hours of on-site training; (2) at least two years of commission approved work experience immediately preceding application submission; (3) full membership in or certification by either the American Society of Home Inspectors or the National Association of Home Inspectors; or (4) job experience of at least 100 home inspections for compensation.

A home inspector may also be licensed through reciprocity. An applicant who pays the application fee and holds a valid out-of-State home inspector's license, or otherwise meets Maryland licensing requirements, may be licensed by reciprocity at the commission's discretion.

The home inspectors fee schedule is shown in **Exhibit 2**.

Exhibit 2

<u>Fee</u>	<u>Amount</u>
Application	\$50
Licensing	No more than \$400
Renewal	\$400

DLLR is required to study the appropriateness of the licensing qualifications for home inspectors and report its findings and recommendations on or before December 31, 2001 to the Senate Finance Committee and the House Economic Matters Committee.

DLLR is also required to study the impact of incorporating the licensing authority for home inspectors into the State Commission of Real Estate Appraisers and report its findings on or before December 31, 2002 to the Senate Finance Committee and the House Economic Matters Committee. The report shall include: (1) an evaluation of the commission's ability to operate separate regulatory schemes and hearing boards; (2) a summary of the number of licenses issued to and complaints against home inspectors; and (3) the appropriateness of the current home inspectors' licensing fees.

Current Law: The nine-member commission regulates and licenses real estate appraisers only. The commission includes four appraisers, two financial institution representatives, and three consumer members. Under the Real Property Article, home inspectors are required to give each customer a disclosure that details the value and limitations of a home inspection but there are no regulatory requirements.

Background: In recent years there have been several highly publicized real estate scams in which unsuspecting homeowners and homebuyers have been victimized due to falsely inflated prices. These incidents have revealed that a few unscrupulous members in the home appraisal and inspection professions can cause a great deal of damage and that, in the case of home inspectors, no regulatory safeguards are in place protecting the consumer. This bill attempts to address that issue.

The Real Estate Appraisers Commission, which regulates approximately 2,400 real estate appraisers, is supported by one full-time administrative position, a part-time executive director, and a part-time attorney general.

State Revenues: General fund revenues will increase by \$182,500, assuming a \$400 licensing fee, in fiscal 2002. There are approximately 450 home inspectors in Maryland. Given the bill's July 1, 2002 "grandfather provision" it is expected that 400 will apply and be licensed in the first year and another 50 will be rejected for licensure. Out-year estimates reflect a two-year licensing cycle, some industry growth, and a minimal increase in revenues from the penalty provisions of the bill.

State Expenditures: DLLR estimates that it will need two and one-half additional employees to meet the requirements of the bill. Because this board already exists and the staff is in place, the Department of Legislative Services estimates that DLLR will only

need one and one-half additional staff members, an investigator to investigate consumer complaints and half a clerical position to handle the increase in paperwork. Therefore, general fund expenditures could increase by an estimated \$254,400 in fiscal 2002, which accounts for the bill's October 1, 2001 effective date. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$48,750
One-time Computer Services	182,500
Operating Expenses	<u>23,121</u>
Total FY 2002 State Expenditures	\$254,371

Future year expenditures reflect: (1) a full salary with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Small Business Effect: DLLR estimates that most home inspectors are small businesses. This bill requires home inspectors to make a one-time expenditure of \$450 and a \$400 biennial expenditure thereafter. This will prove to be a significant cost to some small businesses. The costs may also be passed on completely or partially to homeowners and homebuyers minimally increasing the cost of housing.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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