

HOUSE BILL 485

Unofficial Copy
C2

2002 Regular Session
(2r0693)

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by **Chairman, Economic Matters Committee**

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 _____

1 AN ACT concerning

2 **State Commission of Real Estate Appraisers and Home Inspectors - Sunset**
3 **Extension and Program Evaluation**

4 FOR the purpose of continuing the State Commission of Real Estate Appraisers and
5 Home Inspectors in accordance with the provisions of the Maryland Program
6 Evaluation Act (Sunset Law) by extending to a certain date the termination
7 provisions relating to the statutory and regulatory authority of the Commission;
8 altering provisions for the appointment of Commission members; altering the
9 requirement for distribution of certain regulatory standards; altering certain
10 application and renewal fees; requiring that an evaluation of the Commission
11 and the statutes and regulations that relate to the Commission be performed on
12 or before a certain date; requiring the Commission to submit certain reports to
13 certain committees on or before certain dates; providing that, before a certain
14 date, the Commission is not required to take certain actions relating to the
15 licensing of home inspectors and an individual is not required to be a licensed
16 home inspector for certain purposes; and generally relating to the State
17 Commission of Real Estate Appraisers and Home Inspectors.

1 BY repealing and reenacting, with amendments,
 2 Article - Business Occupations and Professions
 3 Section 16-202, 16-208, 16-303, 16-308, 16-510, 16-5A-01, and 16-802
 4 Annotated Code of Maryland
 5 (2000 Replacement Volume and 2001 Supplement)

6 BY repealing and reenacting, without amendments,
 7 Article - Business Occupations and Professions
 8 Section 16-3A-01 through 16-3A-08, 16-4A-01 through 16-4A-03, 16-703.1,
 9 and 16-705.1
 10 Annotated Code of Maryland
 11 (2000 Replacement Volume and 2001 Supplement)

12 BY repealing and reenacting, without amendments,
 13 Article - State Government
 14 Section 8-403(a)
 15 Annotated Code of Maryland
 16 (1999 Replacement Volume and 2001 Supplement)

17 BY repealing and reenacting, with amendments,
 18 Article - State Government
 19 Section 8-403(b)(58)
 20 Annotated Code of Maryland
 21 (1999 Replacement Volume and 2001 Supplement)

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

24 **Article - Business Occupations and Professions**

25 16-202.

26 (a) (1) The Commission consists of 15 members.

27 (2) Of the 15 members of the Commission:

28 (i) AT LEAST 2 shall be certified general real estate appraisers;

29 AND

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

31 (iii) 1 shall be a licensed real estate appraiser] 2 SHALL BE
 32 CERTIFIED GENERAL REAL ESTATE APPRAISERS, CERTIFIED RESIDENTIAL REAL
 33 ESTATE APPRAISERS, OR LICENSED REAL ESTATE APPRAISERS;

1 [(iv)] (III) 2 shall be representatives of a financial institution who
2 are not certified or licensed real estate appraisers or home inspectors;

3 [(v)] (IV) 1 shall be a licensed home inspector who is a member of
4 the American Society of Home Inspectors (ASHI);

5 [(vi)] (V) 1 shall be a licensed home inspector who is a member of
6 the National Association of Home Inspectors;

7 [(vii)] (VI) 2 shall be licensed home inspectors without regard to
8 affiliation with or membership in any society or association; and

9 [(viii)] (VII) 5 shall be consumer members.

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

11 (i) 10 shall be at large members;

12 (ii) the 4 appraiser members and 1 nonappraiser member shall be
13 appointed as follows:

14 1. 1 shall be a resident of any county in the area that consists
15 of Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and
16 Worcester counties;

17 2. 1 shall be a resident of any county in the area that consists
18 of Baltimore, Carroll, Harford, and Howard counties;

19 3. 1 shall be a resident of Baltimore City;

20 4. 1 shall be a resident of any county in the area that consists
21 of Anne Arundel, Calvert, Charles, Prince George's, and St. Mary's counties; and

22 5. 1 shall be a resident of any county in the area that consists
23 of Allegany, Frederick, Garrett, Montgomery, and Washington counties.]

24 [(4)] (3) The Governor shall:

25 (I) appoint the members with the advice of the Secretary and with
26 the advice and consent of the Senate; AND

27 (II) CONSIDER DEMOGRAPHIC AND GEOGRAPHIC DIVERSITY WHEN
28 MAKING APPOINTMENTS TO THE COMMISSION.

29 (b) Each member of the Commission shall be a citizen of the State.

30 [(c)] Each real estate appraiser member of the Commission:

31 (1) shall have been a resident of any of the counties in the area from
32 which the member is appointed for at least 5 years immediately before appointment;

33 or

1 (2) if an at large member, shall have been a resident of the State for at
2 least 5 years immediately before appointment.]

3 [(d)] (C) (1) Each consumer member of the Commission:

4 (i) shall be a member of the general public;

5 (ii) may not be a licensee, holder of a certificate, or otherwise be
6 subject to regulation by the Commission;

7 (iii) may not be required to meet the qualifications for the
8 professional members of the Commission; and

9 (iv) may not, within 1 year before appointment, have had a financial
10 interest in or have received compensation from a person regulated by the
11 Commission.

12 (2) While a member of the Commission, a consumer member may not:

13 (i) have a financial interest in or receive compensation from a
14 person regulated by the Commission; or

15 (ii) grade any examination given by or for the Commission.

16 [(e)] (D) Before taking office, each appointee to the Commission shall take
17 the oath required by Article I, § 9 of the Maryland Constitution.

18 [(f)] (E) (1) The term of a member is 3 years.

19 (2) The terms of members are staggered as required by the terms
20 provided for members of the Commission on January 1, 1991.

21 (3) At the end of a term, a member continues to serve until a successor is
22 appointed and qualifies.

23 (4) A member who is appointed after a term has begun serves only for
24 the rest of the term and until a successor is appointed and qualifies.

25 (5) A member may not serve for more than 2 consecutive 3-year terms.

26 [(g)] (F) The Governor may remove a member for incompetence or
27 misconduct.

28 16-208.

29 (a) To protect the interests of the public, the Commission shall promptly
30 adopt, by regulation:

31 (1) appraisal standards of conduct for all individuals licensed or certified
32 as real estate appraisers under this title, including standards regarding conflicts of
33 interest and ethical conduct; and

1 (2) a code of ethics and standards of practice for individuals licensed as
2 home inspectors under this title.

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

6 (c) At [least once every 2 years] THE REQUEST OF A LICENSEE OR
7 CERTIFICATE HOLDER, the Commission shall provide a copy of the appraisal
8 standards it adopts to [each] THE licensed OR CERTIFIED real estate appraiser [and]
9 OR a copy of home inspection standards it adopts to [each] THE licensed home
10 inspector.

11 16-303.

12 (a) An applicant for a license shall:

13 (1) submit to the Commission an application on the form that the
14 Commission provides; and

15 (2) pay to the Commission an application fee [as established by the
16 Commission] OF \$75.

17 (b) The Commission may require an applicant to be fingerprinted.

18 16-308.

19 (a) Unless a license is renewed for a 3-year term as provided in this section,
20 the license expires on a staggered basis as determined by the Secretary.

21 (b) At least 1 month before the license expires, the Commission shall send to
22 the licensee, at the last known address of the licensee:

23 (1) a renewal application form; and

24 (2) a notice that states:

25 (i) the date on which the current license expires;

26 (ii) the date by which the Commission must receive the renewal
27 application for the renewal to be issued and mailed before the license expires; and

28 (iii) the amount of the renewal fee.

29 (c) Before a license expires, the licensee periodically may renew it for an
30 additional 3-year term, if the licensee:

31 (1) otherwise is entitled to be licensed;

32 (2) pays to the Commission a renewal fee of [\$75] \$125; and

1 (3) submits to the Commission:

2 (i) a renewal application on the form that the Commission
3 provides; and

4 (ii) adequate evidence of compliance with the continuing education
5 requirements set under this subtitle for license renewal.

6 16-3A-01.

7 (a) Except as otherwise provided in this title, an individual shall be licensed by
8 the Commission as a home inspector before the individual may provide home
9 inspection services in the State.

10 (b) This title does not apply to:

11 (1) an individual who is employed as a building code enforcement official
12 by the State or a political subdivision of the State, while acting within the scope of that
13 employment;

14 (2) an individual who is employed as a federal or State inspector, while
15 acting within the scope of that employment;

16 (3) a plumber, electrician, professional engineer, real estate appraiser, real
17 estate broker or agent, or heating, ventilation, air-conditioning, or refrigeration
18 contractor who is licensed in the State, while acting within the scope of that license;

19 (4) a roofer, general contractor, remodeler, or structural pest control
20 specialist, while acting within the scope of that occupation; or

21 (5) any other professional whose services may be required in the building
22 or remodeling of real property and who does not claim to be a licensed home inspector.

23 16-3A-02.

24 (a) To qualify for a license as a home inspector, an applicant must be an
25 individual who meets the requirements of this section.

26 (b) Prior to July 1, 2002, an applicant for a home inspector license shall:

27 (1) meet two of the following conditions:

28 (i) have completed a minimum of 48 hours of an on-site training
29 course approved by a national home inspection organization or the Commission;

30 (ii) have completed a minimum of 2 years of relevant work
31 experience, as determined by the Commission, immediately preceding the submission
32 of an application;

33 (iii) have completed at least 100 home inspections for compensation;
34 or

1 (iv) submit proof of full membership in or certification by one of the
2 following national home inspection organizations:

3 1. American Society of Home Inspectors; or

4 2. National Association of Home Inspectors;

5 (2) have a high school diploma or its equivalent;

6 (3) have general liability insurance in an amount not less than \$50,000;

7 (4) submit to the Commission an application on the form that the
8 Commission provides; and

9 (5) pay to the Commission an application fee of \$50.

10 16-3A-03.

11 Effective July 1, 2002, an applicant for a home inspector license shall:

12 (1) have completed a minimum of 48 hours of an off-site training course
13 approved by a national home inspection organization or the Commission;

14 (2) have a high school diploma or its equivalent;

15 (3) have general liability insurance in an amount not less than \$50,000;

16 (4) submit to the Commission an application on the form that the
17 Commission provides; and

18 (5) pay to the Commission an application fee of \$50.

19 16-3A-04.

20 (a) Except as provided in subsection (c) of this section, subject to the licensing
21 provisions of this section, the Commission may issue a license by reciprocity under this
22 section for an applicant who is licensed to provide home inspection services in another
23 state.

24 (b) The Commission may issue a license by reciprocity under this section for an
25 applicant who is licensed to provide home inspection services in another state only if
26 the applicant:

27 (1) pays to the Commission an application fee as set by the Commission;
28 and

29 (2) provides adequate evidence that the applicant:

30 (i) meets the qualifications otherwise required by this subtitle;

31 (ii) holds an active license in good standing from the other state;

1 (iii) became licensed in the other state after meeting, in that or
2 another state, requirements that were at least equivalent to those then required by the
3 laws of this State; or

4 (iv) at the time of the application for a license by reciprocity under
5 this section, the applicant meets the requirements currently required by the laws of this
6 State.

7 (c) Subject to the licensing provisions in this section, the Commission may
8 issue a license by reciprocity to provide home inspection services to an individual who
9 satisfies to the Commission that the applicant is qualified based on a combination of
10 comparable education, training, and experience in providing home inspection services.
11 16-3A-05.

12 If an applicant qualifies for a home inspector license under this title, the
13 Commission shall send the applicant a notice that states:

14 (1) the applicant has qualified for the license; and

15 (2) the Commission will issue the home inspector license to an applicant
16 upon receipt of:

17 (i) proof of general liability insurance in an amount not less than
18 \$50,000; and

19 (ii) a license fee not to exceed \$400.

20 16-3A-06.

21 While a home inspector license is in effect, it authorizes the licensee to provide
22 home inspection services.

23 16-3A-07.

24 (a) Unless a license is renewed for a 2-year term as provided in this section, the
25 license expires on a staggered basis as determined by the Secretary.

26 (b) At least 1 month before a license expires, the Commission shall mail to the
27 licensee, at the last known address of the licensee:

28 (1) a renewal application form; and

29 (2) a notice that states:

30 (i) the date on which the current license expires; and

31 (ii) the amount of the renewal fee.

32 (c) Before a license expires, the licensee may renew it for an additional 2-year
33 term, if the licensee:

- 1 (1) otherwise is entitled to be licensed;
2 (2) pays to the Commission a renewal fee not to exceed \$400; and
3 (3) submits a renewal application on the form that the Commission
4 provides.

5 (d) The Commission shall renew the license of and issue a license to each
6 licensee who meets the requirements of this section.

7 16-3A-08.

8 (a) The Commission shall reinstate the license of an individual who has failed
9 to renew a license for any reason if the individual:

10 (1) applies to the Commission for reinstatement within 5 years after the
11 license expires;

12 (2) meets the renewal requirements under § 16-3A-07 of this subtitle;
13 and

14 (3) in addition to the renewal fee required under § 16-3A-07 of this
15 subtitle, pays to the Commission a reinstatement fee of \$50.

16 (b) The Commission may not reinstate the license of an individual who for any
17 reason fails to apply for reinstatement within 5 years after the license has expired.

18 16-4A-01.

19 (a) A licensed home inspector shall give to each person for whom the licensee
20 performs a home inspection for compensation or to the person's representative, a
21 written report that states:

22 (1) the scope and the exclusions of the inspection;

23 (2) the conditions observed during the home inspection that are subject to
24 the adopted standards of practice and code of ethics approved by the Commission;

25 (3) the license number of the licensee; and

26 (4) a disclosure in 14-point bold type that includes the following
27 statements:

28 (i) "An inspection is intended to assist in the evaluation of the
29 overall condition of a building. The inspection is based on observation of the visible
30 and apparent condition of the building and its components on the date of the
31 inspection";

32 (ii) "The results of this home inspection are not intended to make
33 any representation regarding latent or concealed defects that may exist, and no
34 warranty or guaranty is expressed or implied";

1 (iii) "If your home inspector is not a licensed structural engineer or
2 other professional whose license authorizes the rendering of an opinion as to structural
3 integrity of a building or the condition of its components or systems, you may wish to
4 seek the professional opinion of a licensed structural engineer or other professional
5 regarding any possible defects or other observations set forth in this report"; and

6 (iv) "Only home inspections performed by Maryland licensed home
7 inspectors will be recognized by the buyer as a valid home inspection under a real
8 estate contract".

9 (b) The licensee shall give the person or the person's representative the report:

10 (1) by the date set in a written agreement by the parties to the home
11 inspection; or

12 (2) within 7 business days after the home inspection was performed, if no
13 date was set in a written agreement by the parties to the home inspection.

14 (c) Any limitation of the liability of the licensee for any damages resulting from
15 the report on the home inspection shall be agreed to in writing by the parties to the
16 home inspection prior to the performance of the home inspection.

17 16-4A-02.

18 Each licensee shall display the license certificate in the manner required by the
19 Commission.

20 16-4A-03.

21 A licensee must report any change of address to the Commission in writing
22 within 15 days.

23 16-510.

24 (a) Unless a certificate is renewed for a 3-year term as provided in this
25 section, the certificate expires on a staggered basis as determined by the Secretary.

26 (b) The Commission need not give notice to the holder of the expiration date of
27 the certificate.

28 (c) Not earlier than 120 days and not later than 30 days before a certificate
29 expires, the certificate holder may renew it for an additional 3-year term, if the
30 certificate holder:

31 (1) otherwise is entitled to hold a certificate;

32 (2) pays to the Commission [at a minimum] a renewal fee of [\$100]
33 \$125; and

34 (3) submits to the Commission:

1 (i) a renewal application on the form that the Commission
2 provides; and

3 (ii) adequate evidence of compliance with the continuing education
4 requirements set under this subtitle for certificate renewal.

5 16-5A-01.

6 (a) To qualify for a real estate appraiser trainee license, an applicant shall
7 meet the requirements set by the Commission.

8 (b) An applicant for a real estate appraiser trainee license shall:

9 (1) submit an application to the Commission on the form that the
10 Commission requires;

11 (2) be of good character and reputation;

12 (3) be at least 18 years old;

13 (4) provide evidence, as required by the Commission, that the applicant
14 has successfully completed 75 tested hours of Commission-approved real estate
15 appraisal courses of which 15 hours shall be classroom hours in the subject of the
16 uniform standards of professional appraisal practice; and

17 (5) pay to the Commission an application fee [established by the
18 Commission] OF \$75.

19 (c) (1) If an applicant is not a resident of the State, the applicant shall
20 submit to the Commission an irrevocable consent as provided under this subsection.

21 (2) The consent required under this subsection shall specify that service
22 of process on the Secretary shall bind the applicant in any action about the provision
23 of real estate appraisal services brought against the applicant in any county of the
24 State.

25 16-703.1.

26 Except as otherwise provided in this title, a person may not provide, attempt to
27 provide, or offer to provide home inspection services in this State unless licensed as a
28 home inspector by the Commission.

29 16-705.1.

30 Unless authorized under this title to provide home inspection services, a person
31 may not represent to the public, by use of a title, including "licensed home inspector",
32 by description of services, methods, or procedures, or otherwise, that the person is
33 authorized to provide home inspection services in the State.

1 16-802.

2 Subject to the evaluation and reestablishment provisions of the Maryland
3 Program Evaluation Act, this title and all regulations adopted under this title shall
4 terminate and be of no effect after July 1, [2003] 2013.

5 **Article - State Government**

6 8-403.

7 (a) On or before December 15 of the 2nd year before the evaluation date of a
8 governmental activity or unit, the Legislative Policy Committee, based on a
9 preliminary evaluation, may waive as unnecessary the evaluation required under this
10 section.

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

15 (58) Real Estate Appraisers and Home Inspectors, State Commission of (§
16 16-201 of the Business Occupations and Professions Article: July 1, [2002] 2012);

17 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding §§
18 16-202, 16-3A-01 through 16-3A-08, 16-4A-01 through 16-4A-03, 16-703.1, and
19 16-705.1 of the Business Occupations and Professions Article, before July 1, 2003:

20 (1) the Commission of Real Estate Appraisers and Home Inspectors is not
21 required to provide or accept an application for an individual to become a licensed
22 home inspector; and

23 (2) an individual is not required to be licensed by the Commission of Real
24 Estate Appraisers and Home Inspectors as a home inspector to:

25 (i) provide home inspection services in the State; or

26 (ii) serve as a member of the Commission.

27 ~~SECTION 2. 3.~~ AND BE IT FURTHER ENACTED, That the State
28 Commission of Real Estate Appraisers and Home Inspectors and, as appropriate, the
29 Department of Labor, Licensing, and Regulation shall report to the Senate Finance
30 Committee and the House Economic Matters Committee on or before October 1, 2002,
31 in accordance with § 2-1246 of the State Government Article, on the implementation
32 of the recommendations of the Department of Legislative Services contained in the
33 sunset evaluation report dated October 2001.

34 ~~SECTION 3. 4.~~ AND BE IT FURTHER ENACTED, That the State
35 Commission of Real Estate Appraisers and Home Inspectors shall report to the
36 Senate Finance Committee and the House Economic Matters Committee on or before
37 December 31, 2003, in accordance with § 2-1246 of the State Government Article, on

1 the effects of the regulatory responsibility for home inspectors. The report shall
2 include:

3 (1) a comparison of the revenues and expenditures of the Commission
4 covering the period of regulation for both real estate appraisers and home inspectors;

5 (2) a discussion of the impact of technology on the home inspector
6 profession, including the use of electronic license renewal by home inspector licensees;

7 (3) a summary of the Commission's efforts to inform the public of the
8 home inspector licensing requirements; and

9 (4) a summary of the number and types of complaints received against
10 home inspectors, including the resolution of complaints.

11 SECTION 4. ~~5.~~ AND BE IT FURTHER ENACTED, That this Act shall take
12 effect July 1, 2002.