

---

By: **Chairman, Economic Matters Committee (By Request - Departmental -  
Labor, Licensing and Regulation)**

Introduced and read first time: February 11, 2004

Assigned to: Economic Matters

---

A BILL ENTITLED

1 AN ACT concerning

2 **Home Inspectors - Civil and Criminal Penalties**

3 FOR the purpose of authorizing the State Commission of Real Estate Appraisers and  
4 Home Inspectors to assess a civil monetary penalty against a home inspector  
5 licensee or applicant for certain violations; authorizing the Commission to  
6 impose a civil penalty against any person for certain violations; and generally  
7 relating to certain civil and criminal penalties for home inspector licensees and  
8 applicants.

9 BY repealing and reenacting, with amendments,  
10 Article - Business Occupations and Professions  
11 Section 16-701.1, 16-706, and 16-707  
12 Annotated Code of Maryland  
13 (2000 Replacement Volume and 2003 Supplement)

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

16 **Article - Business Occupations and Professions**

17 16-701.1.

18 (A) Subject to the hearing provisions of § 16-602 of this title, the Commission  
19 may deny a home inspector license to any applicant, reprimand any home inspector  
20 licensee, or suspend or revoke a home inspector license if the applicant or licensee:

21 (1) fraudulently or deceptively obtains or attempts to obtain a license for  
22 the applicant or licensee or for another;

23 (2) fraudulently or deceptively uses a license;

24 (3) engages in conduct that demonstrates bad faith, incompetency,  
25 negligence or untrustworthiness, or that constitutes dishonest, fraudulent, or  
26 improper dealings;

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

2 (i) a felony; or

3 (ii) a misdemeanor that is directly related to the fitness and  
4 qualification of the applicant or licensee to provide home inspection services;

5 (5) violates any provision of this title;

6 (6) violates any regulation adopted under this title; or

7 (7) aids, abets, or assists any person in violating any provision of this  
8 title or any regulation adopted under this title.

9 (B) (1) INSTEAD OF OR IN ADDITION TO REPRIMANDING A LICENSEE OR  
10 SUSPENDING OR REVOKING A LICENSE UNDER THIS SECTION, THE COMMISSION  
11 MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION OF THIS  
12 SECTION.

13 (2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED, THE  
14 COMMISSION SHALL CONSIDER:

15 (I) THE SERIOUSNESS OF THE VIOLATION;

16 (II) THE HARM CAUSED BY THE VIOLATION;

17 (III) THE GOOD FAITH OF THE LICENSEE; AND

18 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE.

19 (C) THE COMMISSION SHALL CONSIDER THE FOLLOWING FACTS IN THE  
20 GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE OR THE  
21 REPRIMAND OF A LICENSEE WHEN AN APPLICANT OR LICENSEE IS CONVICTED OF A  
22 FELONY OR A MISDEMEANOR DESCRIBED IN SUBSECTION (A)(4) OF THIS SECTION:

23 (1) THE NATURE OF THE CRIME;

24 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED  
25 BY THE LICENSEE;

26 (3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION  
27 TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO PROVIDE  
28 HOME INSPECTION SERVICES;

29 (4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

30 (5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR LICENSEE  
31 BEFORE AND AFTER THE CONVICTION.

1 16-706.

2 [(a)] A person who violates any provision of this title is guilty of a misdemeanor  
3 and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not  
4 exceeding 1 year or both.

5 [(b) (1)] The Commission may impose on a person who violates any provision  
6 of this title a penalty not exceeding \$5,000 for each violation.

7 (2) In setting the amount of the penalty, the Commission shall consider:

8 (i) the seriousness of the violation;

9 (ii) the harm caused by the violation;

10 (iii) the good faith of the violator;

11 (iv) any history of previous violations by the violator; and

12 (v) any other relevant factors.

13 (3) The Commission shall pay any penalty collected under this  
14 subsection into the General Fund of the State.]

15 16-707.

16 (a) The Commission may impose on a person who violates this title a civil  
17 penalty not exceeding \$5,000 for each violation, whether or not the person is licensed  
18 or holds a certificate under this title.

19 (b) In setting the amount of a civil penalty, the Commission shall consider:

20 (1) the seriousness of the violation;

21 (2) the good faith of the violator;

22 (3) any HISTORY OF previous violations BY THE VIOLATOR;

23 (4) the [harmful effect of the violation on the complainant, the public,  
24 and the business of home inspections or real estate appraisals;] HARM CAUSED BY  
25 THE VIOLATION; AND

26 [(5) the assets of the violator; and]

27 [(6)] (5) any other relevant factors.

28 (C) THE COMMISSION SHALL PAY ANY PENALTY COLLECTED UNDER THIS  
29 SECTION INTO THE GENERAL FUND OF THE STATE.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
31 effect October 1, 2004.

