

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 883 (Chairman, Economic Matters Committee)
(By Request – Departmental – Labor, Licensing and Regulation)

Economic Matters

Home Inspectors - Civil and Criminal Penalties

This departmental bill authorizes the State Commission of Real Estate Appraisers and Home Inspectors to assess civil monetary penalties of up to \$5,000 for each violation in addition to or instead of reprimanding a home inspector licensee or suspending or revoking a home inspector license. To determine the amount of the civil penalty, the commission must consider: (1) the seriousness of the violation; (2) the harm caused by the violation; (3) the good faith of the licensee; and (4) any history of previous violations by the licensee.

The bill also requires the commission, in the granting, denial, renewal, suspension, or revocation of a home inspector license, to consider several factors when an applicant or licensee is convicted of a felony or a misdemeanor.

Fiscal Summary

State Effect: General fund revenues could increase minimally due to the bill's penalty provision. General fund expenditures could increase minimally due to more hearings at the Office of Administrative Hearings (OAH).

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing, and Regulation (DLLR) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: The State Commission of Real Estate Appraisers and Home Inspectors is authorized to deny a home inspector license to any applicant, reprimand any home inspector licensee, or suspend or revoke a home inspector license in specified circumstances. The commission is also authorized to impose civil monetary penalties against applicants, licensees, and unlicensed individuals who violate licensing law for real estate appraisers and home inspectors. However, the commission is not authorized to impose civil monetary penalties against home inspector licensees in addition to or instead of taking disciplinary action. Additionally, all of the other occupational and professional licensing boards and commissions have the authority to impose civil penalties on licensees for violating any provision of the licensing law instead of taking disciplinary action.

Background: Chapter 187 of 2001 granted most boards and commissions that regulate business occupations and professions, including the State Commission of Real Estate Appraisers, the authority to assess civil penalties for unlicensed practice as well as in addition to or instead of taking disciplinary action against a real estate appraiser licensee. Separate legislation, Chapter 470 of 2001, expanded the State Commission of Real Estate Appraisers to include the licensing and regulation of home inspectors; the commission was renamed the Commission of Real Estate Appraisers and Home Inspectors. Consequently, the full civil penalty authority was not extended to violations by home inspectors.

Accordingly, DLLR advises that this bill is corrective in nature to remedy the commission's lack of authority to assess civil monetary penalties in addition to or instead of taking disciplinary action against home inspector licensees.

State Fiscal Effect: Based on experience, DLLR estimates that very few fines will be imposed on licensees and applicants annually. Accordingly, general fund revenues could increase minimally due to the bill's penalty provision.

The bill could result in hearings before OAH. The cost of an OAH hearing in these instances is estimated to be \$6,000. However, any impact cannot be reliably estimated at this time but is assumed to be minimal.

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 - February 25, 2004
mh/ljm

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