

# HOUSE BILL 1010

C2

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By: **Delegate Conaway**

Introduced and read first time: February 13, 2009

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Estate Appraisers – Mandatory Minimum Penalties – Record Keeping**  
3 **and Contingent Fee Violations**

4 FOR the purpose of establishing certain mandatory minimum penalties for violations  
5 of certain record keeping requirements for real estate appraisers; establishing  
6 certain mandatory minimum penalties for violations of certain prohibitions on  
7 accepting certain fees by real estate appraisers; and generally relating to  
8 penalties for violations by real estate appraisers.

9 BY repealing and reenacting, without amendments,  
10 Article – Business Occupations and Professions  
11 Section 16–401 and 16–402(b)  
12 Annotated Code of Maryland  
13 (2004 Replacement Volume and 2008 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Business Occupations and Professions  
16 Section 16–706  
17 Annotated Code of Maryland  
18 (2004 Replacement Volume and 2008 Supplement)

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

21 **Article – Business Occupations and Professions**

22 16–401.

23 (a) Subject to the provisions of subsection (b) of this section, a licensed real  
24 estate appraiser shall keep, for 5 years from the date of delivery to the client, the  
25 original or a copy of:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) each contract the licensee enters into for the provision of real  
2 estate appraisal services;

3 (2) each appraisal report the licensee prepares or signs; and

4 (3) all supporting data that the licensee assembles or formulates to  
5 prepare an appraisal report.

6 (b) If, within the 5-year period for the retention of records, a licensed real  
7 estate appraiser is given notice that an appraisal or appraisal report is involved in  
8 litigation, a new 5-year period shall start on the date of the final disposition of the  
9 litigation.

10 (c) On request, a licensed real estate appraiser shall make any record  
11 required to be kept under this section available to the Commission to inspect or copy.

12 16-402.

13 (b) A licensed real estate appraiser who provides an independent appraisal  
14 service may not accept a fee that is contingent on a predetermined analysis, opinion,  
15 or conclusion or on the results achieved by the appraisal assignment.

16 16-706.

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

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

22 (2) **SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, THE**  
23 **COMMISSION SHALL IMPOSE ON A PERSON WHO VIOLATES § 16-401 OR**  
24 **§ 16-402(B) OF THIS TITLE A PENALTY OF AT LEAST:**

25 (I) **\$500 FOR A FIRST VIOLATION;**

26 (II) **\$1,000 FOR A SECOND VIOLATION; AND**

27 (III) **\$2,000 FOR A THIRD VIOLATION OR SUBSEQUENT**  
28 **VIOLATION.**

29 (3) In setting the amount of the penalty, the Commission shall  
30 consider:

31 (i) the seriousness of the violation;

- 1                   (ii)    the harm caused by the violation;
- 2                   (iii)   the good faith of the violator;
- 3                   (iv)    any history of previous violations by the violator; and
- 4                   (v)    any other relevant factors.

5                   **[(3)] (4)**    The Commission shall pay any penalty collected under this  
6 subsection into the General Fund of the State.

7                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2009.