

**Department of Legislative Services**  
Maryland General Assembly  
2010 Session

**FISCAL AND POLICY NOTE**

House Bill 408

(Chair, Economic Matters Committee)(By Request -  
Departmental - Labor, Licensing and Regulation)

Economic Matters

Finance

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**State Commission of Real Estate Appraisers and Home Inspectors -  
Administrative Sanctions - Civil Penalty**

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This departmental bill authorizes the State Commission of Real Estate Appraisers and Home Inspectors to impose a civil penalty of up to \$5,000 against a licensed home inspector in lieu of or in addition to any administrative sanctions the commission deems appropriate.

The bill also specifies that the commission must consider certain factors when determining whether to grant a home inspector's license to a person, renew a person's home inspector's license, or take disciplinary action against a licensed home inspector due to the criminal history of the applicant or licensee.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues resulting from the commission's imposition of civil penalties against licensed home inspectors. Expenditures are not affected.

**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.

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## **Analysis**

**Bill Summary:** In determining whether to grant or renew a home inspector license or discipline a licensee due to the individual's convictions of a crime, the commission must consider the following factors: (1) the nature of the crime; (2) the relationship of the crime to the activities authorized by the license; (3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to provide home inspection services; (4) the length of time since the conviction; and (5) the behavior and activities of the applicant or licensee before and after the conviction.

The bill identifies four factors for the commission to consider when determining how much to fine a licensee who violates the Maryland Real Estate Appraisers and Home Inspectors Act: (1) the seriousness of the violation; (2) the harm caused by the violation; (3) the good faith of the licensee; and (4) the licensee's history of violations.

**Current Law/Background:** The Maryland Real Estate Appraisers and Home Inspectors Act stipulates that a licensed home inspector may have an application denied, be reprimanded, or have a license suspended or revoked for various infractions enumerated in statute.

DLLR advises that most of the statutes governing the occupational and professional licensing boards within the department contain provisions that require the board or commission to consider certain factors before granting or denying a license application or imposing an administrative sanction against a licensee who has been convicted of a crime. Such provisions exist in the corresponding section of statute applicable to real estate appraisers. The absence of such a provision for home inspectors restricts the commission's ability to consider mitigating or aggravating factors when considering whether to deny a home inspector license to an applicant, or impose a regulatory sanction against a licensed home inspector who has been convicted of a crime.

Under current law, the commission may not impose any civil penalty against a home inspector who violates the Act.

As of June 2009, about 900 home inspectors were licensed by the commission.

**State Fiscal Effect:** The bill expands the commission's authority to impose civil penalties on its licensees by allowing the commission to fine licensed home inspectors. This expanded authority may result in the commission imposing more civil penalties on its licensees; thus, the amount of fine revenue collected by the commission may increase. (Fine revenue accrues to the general fund.) Legislative Services cannot reliably estimate how much fine revenue is generated due to the bill but expects any increase in general fund revenues resulting from the bill 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 22, 2010  
ncs/mcr

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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Commission of Real Estate Appraisers and Home Inspectors –  
Administrative Sanctions – Civil Penalty

BILL NUMBER: HB 408

PREPARED BY: Department of Labor, License and Regulation

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

#### SMALL BUSINESS IMPACT STATEMENT:

The proposed legislation would have no impact on small business.

#### IMPACT ON LOCAL GOVERNMENT:

The proposed legislation would have no impact upon local government.