

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 1106

(Senator Feldman)

Finance

Economic Matters

Business Occupations - Real Estate Appraisers - Criminal History Records Checks

This bill requires applicants for initial licensure or initial certification as a real estate appraiser from the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors to apply to the Criminal Justice Information System Central Repository (CJIS) as specified for a national and State criminal history records check (CHRC). The commission must receive a complete national and State CHRC before issuing a license or certification as a real estate appraiser to each applicant who otherwise qualifies, and it must deny a license or certification to the individual under specified circumstances generally related to information contained in the CHRC.

The bill takes effect January 1, 2015.

Fiscal Summary

State Effect: The Department of Labor, Licensing, and Regulation (DLLR) can handle the bill's requirements with existing resources. CJIS can handle the anticipated increase in CHRCs with existing resources. There is no cost to the State for the checks, as applicants are responsible for payment of the fees. DLLR indicates that the bill applies to approximately 200 individuals annually.

Local Effect: None.

Small Business Effect: None. The bill conforms State practice to federal requirements and, therefore, has no impact on small businesses.

Analysis

Bill Summary: Subject to specified hearing conditions, the commission must deny a real estate appraisal license or certificate to an applicant if the applicant (1) has had an appraiser license, certificate, or credential revoked in any jurisdiction within the last five years; (2) has been convicted of or has entered a plea of guilty or *nolo contendere* to a felony in a domestic or foreign court within the last five years or at any time – if the felony involves an act of fraud or dishonesty, a breach of trust, or money laundering; or (3) fails to demonstrate good character or general fitness to provide real estate appraisal services in an honest and ethical manner.

Current Law: Generally, an individual must be licensed by the commission before the individual may provide real estate appraisal services in the State. “Provide real estate appraisal services” means to make for consideration an appraisal of real estate or prepare or sign an appraisal report in connection with a federally related transaction, as defined in the federal Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989.

Generally, an individual must be certified by the commission before the individual may provide certified real estate appraisal services in the State. An individual may be certified by the commission as a certified real estate appraiser for residential real estate or as a certified real estate appraiser for general real estate as those classifications are permitted under FIRREA.

Applicants for licensure or certification, in addition to meeting specified qualifications, including those established under FIRREA, must have completed 2,000 hours of providing real estate appraiser services as a real estate appraiser trainee under the supervision of a licensed or certified appraiser.

The commission may require applicants for licensure as a real estate appraiser to be fingerprinted. There is no State requirement for a CHRC for licensure or certification as a real estate appraiser.

Background: Chapter 594 of 1990 established the commission (formerly the State Commission of Real Estate Appraisers) to implement and administer a real estate appraiser licensing and certification program that complies with FIRREA. Title XI of FIRREA is the legal framework controlling national uniform appraisal standards and state appraiser licensing bodies. Commission authority was later expanded to include home inspectors (2001) and appraisal management companies (2011).

Federal Standards for Appraisers

The bill implements new federal standards for the initial licensure and/or certification of real estate appraisers established by the Appraiser Qualifications Board (AQB). Under Title XI of FIRREA, AQB establishes the minimum education, experience, and examination requirements for real property appraisers to obtain a state license or certification.

Beginning on January 1, 2015, federal standards established by AQB are scheduled to include background checks, including submitting fingerprints to the Federal Bureau of Investigation, for all applicants for an initial real estate appraiser credential. A state must not issue a license to an applicant that had an appraiser license revoked in the preceding five years, has a felony conviction in the last five years, or has a felony conviction at any time for fraud, dishonesty, breach of trust, or money laundering. A state must consider any criminal conviction that goes to the honesty or veracity of the applicant; any action or order by a state, federal, or foreign regulatory agency; and any license encumbrances by a state, federal, or foreign regulatory agency.

The Department of Legislative Services (DLS) notes that AQB, in an exposure draft issued on February 26, 2014, has proposed changes to the background check provisions and also proposed a delay of its effective date to January 1, 2017. The proposed revisions can be found on the Appraisal Foundation's website. DLS further notes that a statement "encouraging background checks on existing credential holders" has been removed in the proposed revisions.

Total fees for State and national CHRCs through the CJIS Central Repository are \$54.50 per individual.

Additional Comments: DLLR indicates that, after the effective date of the federal requirement for background checks (whether that be January 1, 2015, or the proposed delayed date of January 1, 2017), any new licensee or certificate holder that does not undergo a CHRC will be ineligible to participate in any federally related real estate appraisal transaction.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; The Appraisal Foundation; Washington State Legislature; Office of Administrative Hearings; Department of Legislative Services

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