

Chapter 153

(House Bill 408)

AN ACT concerning

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

FOR the purpose of authorizing the State Commission of Real Estate Appraisers and Home Inspectors to consider certain factors before granting, denying, renewing, suspending, or revoking a home inspector license or reprimanding a licensee when the applicant or licensee has been convicted of a certain crime; authorizing the Commission to impose a civil penalty instead of, or in addition to, the imposition of an administrative sanction against a licensed home inspector under certain circumstances; and generally relating to the State Commission of Real Estate Appraisers and Home Inspectors.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 16–701.1
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Occupations and Professions

16–701.1.

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

- (1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (2) fraudulently or deceptively uses a license;
- (3) engages in conduct that demonstrates bad faith, incompetency, negligence or untrustworthiness, or that constitutes dishonest, fraudulent, or improper dealings;
- (4) under the laws of the United States or of any state, is convicted of:

- (i) a felony; or
 - (ii) a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to provide home inspection services;
- (5) fails to maintain the insurance required under § 16-4A-04 of this title;
- (6) violates any provision of this title;
- (7) violates any regulation adopted under this title; or
- (8) aids, abets, or assists any person in violating any provision of this title or any regulation adopted under this title.

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

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

- (I) THE SERIOUSNESS OF THE VIOLATION;**
- (II) THE HARM CAUSED BY THE VIOLATION;**
- (III) THE GOOD FAITH OF THE LICENSEE; AND**
- (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE.**

(3) THE COMMISSION SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

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

- (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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.