

- **Criminal records checks.** The bill requires that the Attorney General's Bureau of Criminal Identification and Investigation perform background checks on license applicants. The cost of these checks would likely be offset by fees charged to the applicants and deposited in the General Reimbursement Fund (Fund 106).
- **State court cost revenue.** It is possible that some persons will be prosecuted and convicted under the proposed law. If so, the state may gain locally collected court cost revenues that are deposited into the GRF and the Victims of Crime/Reparations Fund (Fund 402).

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
Counties and Municipalities			
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase in adjudication costs	Potential minimal increase in adjudication costs	Potential minimal increase in adjudication costs

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Criminal penalty.** The bill creates a penalty for conducting a home inspection or holding oneself out as a home inspector for compensation without being licensed as a home inspector. Violators would be guilty of a third-degree misdemeanor (M3) on a first offense and a first-degree misdemeanor (M1) on each subsequent offense. If additional persons are prosecuted and sanctioned as a result of the bill, local criminal justice expenditures may minimally increase. It is uncertain how many cases will result from the penalty, but with new criminal cases, there could be additional court cost and fine revenue to be collected by counties and municipalities that would offset prosecution costs.

Detailed Fiscal Analysis

Overview

Ohio law currently does not require state licensure of home inspectors. This bill would prevent a person from conducting a home inspection or holding himself or herself out as a home inspector for compensation or other valuable consideration unless that person is licensed as a home inspector. The Division of Real Estate and Professional Licensing (REPL) in the Department of Commerce would administer the licensure program while the Ohio Home Inspectors Board, which the bill creates, would adopt rules for implementing the program. It is estimated that approximately 800 to 1,200 persons are performing home inspections in Ohio.

State fiscal effects

Revenue

License fees

The bill's licensing provisions take effect 210 days (or approximately seven months) after the bill's effective date. However, once the last initial Ohio Home Inspectors Board member is appointed (not later than 90 days after the bill's effective date) and ending 120 days after that person is appointed, the Superintendent of Real Estate and Professional Licensing is required to issue a license if an individual applies for licensure, pays the appropriate fee, and meets certain requirements. Licenses granted under the grandfathering provision in the bill are valid for one year.

The bill prescribes a maximum \$250 fee for initial state licensure as a home inspector and a maximum \$250 annual license renewal fee. Based on the bill's effective dates, it appears that most, if not all, initial licenses would be granted at various times in FY 2009. If so, there would be a revenue gain to the Home Inspectors Fund (New Fund) of approximately \$200,000 to \$300,000 in FY 2009 if the maximum \$250 license fee were charged. Renewals would then begin in FY 2010. Revenue from license renewals would also be approximately \$200,000 to \$300,000 annually assuming the number of licensed home inspectors remains constant. However, it is important to note that the number of individuals working as home inspectors in this state could drop due to the new licensure requirements. This was the case in Kentucky after that state began licensing home inspectors in CY 2006.¹ Therefore, revenue may be lower than the estimates provided above.

Additional revenue sources

The bill allows a fee to be charged to persons offering home inspection continuing education courses, which would increase revenue beyond the amounts described above. LSC is uncertain of the number of such providers that would offer courses in Ohio. Additionally, a fine of up to \$1,000 per violation may be charged among a number of other disciplinary actions if,

¹ Previsch, Val, "Inspectors Franchising: Home check-up is partners' area of expertise," The Cincinnati Enquirer, September 23, 2007.

upon the results of an investigation and administrative hearing, it is determined that a licensee has committed a violation of the bill's provisions. Finally, the bill provides for a fine of up to \$500 per violation per day for those conducting home inspections without a license.

Expenses

REPL administration

REPL, which would administer the home inspector licensure program and provide the Ohio Home Inspector Board with meeting space, staff services, and other technical assistance, has approximately 43 employees in three sections, the Real Estate Section, the Appraiser Section, and the Cemetery Registration Section. These sections oversee approximately 55,000 licenses and registrations. REPL estimates that five additional staff members would be needed to administer the home inspection licensure program. REPL also provided rough cost estimates of the staff positions needed (which appear to be at the upper end of position pay steps and include fringe benefits calculated at 35% of gross pay) and other program requirements, which are summarized in the table below.

Additional computers and software will need to be purchased, although existing printers, copiers, and office space can accommodate the new positions. The Division would also need to create a database of licensed individuals. The Division currently uses the CAVU e-Licensing system for this purpose for real estate licenses and certifications. This database could be modified to keep track of licensed home inspectors, with only minor changes needed by the Department's information technology staff. Estimated new operating expenses are displayed in the table below.

Estimated Home Inspector Licensing Program Expenses	
Program Requirement (Position)	Estimated Annual Cost
Program Manager (Admin. Assistant 3)	\$90,000
Licensing/Continuing Education (Certification/Licensing Examiner 2)	\$55,000
Complaint Investigation/Record Auditing (1 Investigator)	\$63,000
Legal Counsel (Attorney 3, could be part-time after first year)	\$82,000
Program Support Staff (Admin. Assistant 1)	\$58,000
Estimated Personnel Costs	\$348,000
Administration Assessment (17.5% of personnel)	\$60,900
Supplies, Equipment, General Operations	\$15,000
Total Annual Expenses	\$423,900

Source: Department of Commerce, Division of Real Estate and Professional Licensing, benefits calculated at 35%

Costs for FY 2009 may be less than those noted above depending on when the additional personnel are hired in that fiscal year. After the first year of operation (once rules have been written and filed), the Division indicated the attorney position could be handled on a part-time basis. Annual costs thereafter would be near \$375,000. Given these anticipated program expenses, it would appear that license fee revenue does not provide sufficient operating funding. Therefore, in order for REPL to carry out this new function, some changes in proposed staffing would be necessary. Also, it is unclear how development of the home inspector licensure program would be funded until license fee revenue begins to be collected by REPL.

Ohio Home Inspectors Board

The bill creates the Ohio Home Inspectors Board consisting of five members, tasked with adopting various rules to implement the home inspector licensing program. Board members are eligible for reimbursement of actual expenses incurred in the performance of their duties. The bill does not state how often the Board is required to meet. However, Board member reimbursements may be in the thousands of dollars or more in FY 2009, as they may need to meet often initially to formulate rules. These expenses would be paid from the Home Inspectors Fund.

Criminal records checks

The bill requires a criminal records check of all applicants for a home inspector license. Along with the license application and license fee, applicants must submit the information necessary for REPL to have a criminal records check conducted. Applicants are responsible for paying the fee to cover the costs of the records check. The Attorney General's Bureau of Criminal Identification and Investigation (BCII) charges \$22 to perform a state criminal records check and charges an additional \$24 to obtain information from the FBI to perform a federal criminal records check. Thus, a request to perform a criminal records check on a person could cost either \$22 for a state criminal records check or \$46 for both a state and federal criminal records check. Those fees, which offset the cost of conducting the background checks, would be deposited in the General Reimbursement Fund (Fund 106).

Local fiscal effects

New criminal penalty

The bill also creates a penalty for conducting a home inspection or holding oneself out as a home inspector for compensation without being licensed as a home inspector. Violators would be guilty of a third-degree misdemeanor (M3) on a first offense, which carries a maximum sentence of 60 days and a maximum fine of \$500, and a first-degree misdemeanor (M1), which carries a maximum sentence of six months and a maximum fine of \$1,000, on each subsequent offense. Some persons who may not have been successfully prosecuted under existing law could be prosecuted and sanctioned under the bill. These effects could in turn increase local criminal justice expenditures relating to investigating, prosecuting, adjudicating, and sanctioning offenders.

With new criminal cases, there could be additional court cost and fine revenue to be collected by counties and municipalities that would help offset prosecution costs (fine revenue remains in the county of prosecution). As such, it is likely that any new costs for county and municipal criminal justice systems as a result of the bill are likely to be minimal. Additional criminal cases also means that the state could gain a negligible amount of state court cost revenue, part of which would be deposited in the GRF, which receives \$15 per misdemeanor case, with the remainder going to the Victims of Crime/Reparations Fund (Fund 402), which receives \$9 per misdemeanor case.

Synopsis of Fiscal Changes

The following is a synopsis of the fiscal effects of changes made by the current substitute bill (LSC 127 0207-7) in comparison with the previous version (LSC 127 0207-4).

- **Home Inspectors Board.** The substitute bill creates the Ohio Home Inspectors Board, the members of which are eligible for reimbursement of actual expenses incurred in the performance of their duties. While the bill does not state how often the Board is required to meet, these reimbursements will increase expenditures out of the Home Inspectors Fund over what they would have been under the prior version of the bill, which did not include the creation of the Ohio Home Inspectors Board.
- **Fees and renewal cycle.** The substitute bill sets both initial license and renewal fees to a maximum of \$250 while also changing the renewal cycle of the license from biennial to annual. The prior version of the bill charged an initial license fee of \$500 and a biennial renewal fee of \$39. This has the effect of boosting license fee revenue to the Home Inspectors Fund to \$200,000 to \$300,000 annually, based on the updated estimate of home inspectors operating in the state, which is 800 to 1,200.
- **Criminal records check.** The substitute bill requires a criminal records check of all applicants for a home inspector license. The prior version of the bill did not include this requirement. The Attorney General's Bureau of Criminal Identification and Investigation (BCII) would incur some new cost for conducting these checks, which would be offset by the fees allowed to be charged for this service. Any new revenue would be deposited in the General Reimbursement Fund (Fund 106).
- **Fining authority.** The substitute bill modifies disciplinary procedures against licensed home inspectors by adding that the Ohio Home Inspectors Board may order a fine of up to \$1,000 per violation. The previous version of the bill only allowed REPL to order certain nonmonetary disciplinary actions against a licensed home inspector, such as a reprimand, suspension, or revocation.

Additionally, the substitute bill allows REPL to investigate complaints of unlicensed activity and requires the Board to hold administrative hearings in these cases. If the Board finds that a person has practiced without a license, the Board may impose a fine on the person of up to \$500 per violation. The prior version of the bill only allowed REPL to apply to a court of common pleas to enjoin a violation of the bill and subjected violators to criminal penalties. These changes may increase fine revenue to the Home Inspectors Fund.

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