

# Fiscal Note & Local Impact Statement

127<sup>th</sup> General Assembly of Ohio

Ohio Legislative Service Commission  
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BILL: **H.B. 257** DATE: **October 9, 2007**

STATUS: **As Introduced** SPONSOR: **Rep. Schneider**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **Requires the certification of home inspectors and regulates the certification and performance of home inspectors**

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## State Fiscal Highlights

STATE FUND	FY 2008	FY 2009	FUTURE YEARS
<b>General Revenue Fund</b>			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	- 0 -	- 0 -	- 0 -
<b>Home Inspectors Fund (New Fund) – Department of Commerce</b>			
Revenues	Gain of approximately \$160,000 from certification fees	Gain of approximately \$40,000 from certification fees	Gain of approximately \$15,600 from certification fees every two years
Expenditures	Increase for program operation, up to available revenues	Increase for program operation, up to available revenues	Increase for program operation, up to available revenues
<b>Victims of Crime/Reparations Fund (Fund 402) – Attorney General</b>			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.

- **Certification fee revenue.** Based on the various effective date and grandfathering provisions in the bill, certification fee revenue is expected to be approximately \$160,000 in FY 2008 and \$40,000 in FY 2009. Certification renewal fee revenue, which would begin to be collected in FY 2010 and FY 2011 would be approximately \$15,600 every two years if all home inspectors estimated to be currently working in the state were to seek certification and the number of inspectors stays relatively constant.
- **Administration expenses.** While the actual costs of administering the bill's provisions would depend on the number of new employees needed and made possible by available funding, the Division of Real Estate and Professional Licensing (REPL) estimates staffing and other program costs to be around \$498,000 in FY 2009 and approximately \$450,000 annually thereafter (FY 2008 costs are estimated to be approximately half of FY 2009 costs based on the amount of time left in this fiscal year). This means that anticipated revenues are not in balance with projected expenses.



- **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
<b>Counties</b>			
Revenues	Potential minimal gain from court costs and fines	Potential minimal gain from court costs and fines	Potential minimal gain from court costs and fines
Expenditures	Potential increase in adjudication costs	Potential increase in adjudication costs	Potential increase in adjudication costs
<b>Municipalities</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase in adjudication costs	Potential increase in adjudication costs	Potential 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.

- **Civil remedy.** The bill specifies that the Superintendent of Real Estate and Professional Licensing may apply to a court of common pleas to enjoin a violation of the bill's provisions. This action would typically be pursued only as a last resort. Therefore, any new cost to county courts of common pleas would likely be minimal and may be mitigated through court costs or filing fees.
- **Criminal penalty.** The bill creates a penalty for conducting a home inspection or holding oneself out as a home inspector for compensation without being certified 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 that would offset prosecution costs.

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## ***Detailed Fiscal Analysis***

### **Overview**

Ohio law currently does not require state certification of home inspectors. This bill would prevent a person from conducting a home inspection or hold themselves out as home inspectors unless that person is certified as a home inspector. The Division of Real Estate and Professional Licensing (REPL) in the Department of Commerce would oversee the certification program. REPL estimates that there are approximately 400 persons performing home inspections in Ohio.

### **State fiscal effects**

#### **License fee revenue**

The bill's licensing provisions take effect 210 days (or approximately 7 months) after the bill's effective date. However, up to 90 days after the bill's effective date, the Superintendent of Real Estate and Professional Licensing is required to issue a certification if an individual applies for certification, pays the appropriate fee, and meets certain requirements that are similar to the requirements taking effect 210 days after the bill becomes effective. Certifications granted immediately after the bill's effective date are valid for two years. REPL's experience has been that if professionals can take advantage of grandfathering provisions, they typically do so. As such, the Division reported that it expects 80% or more of the home inspectors meeting the grandfathering requirements to proceed with that certification.

The bill prescribes a \$500 fee for initial state certification as a home inspector and a \$39 biennial certification renewal fee. Assuming 80% of home inspectors (320) were to apply for certification under the grandfathering provision, there would be a revenue gain to the Home Inspectors Fund (New Fund) of approximately \$160,000 in FY 2008 while home inspectors becoming certified on the licensing provision's delayed effective date would contribute approximately \$40,000 to the new fund, likely in FY 2009. Renewals would then begin in FY 2010 or FY 2011. Revenue from certification renewals would be approximately \$15,600 every two years assuming the number of certified home inspectors remains roughly constant. However, it is important to note that the number of individuals working as home inspectors in this state may drop due to the new certification requirements. This was the case in Kentucky after that state began licensing home inspectors in CY 2006.<sup>1</sup> Therefore, revenue may be lower than the estimates provided above.

The bill allows REPL to charge a maximum annual fee of \$1,500 to persons (which would include entities that provide courses led by instructors who meet certain requirements) offering home inspection continuing education courses, which would increase revenue beyond the amounts described above. However, LSC is uncertain of the number of providers that would offer such courses in Ohio.

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

### State court cost revenue

Additionally, a person who performs a home inspection or holds themselves out as a home inspector without certification would be guilty of a third-degree misdemeanor for a first offense and first-degree misdemeanor on each subsequent offense, which creates the possibility that the state may gain a negligible amount of state court cost revenue to the GRF, which receives \$15 per misdemeanor case, and the Victims of Crime/Reparations Fund (Fund 402), which receives \$9 per misdemeanor case.

### Expenses

REPL, which would house the home inspector certification program, 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 six additional staff members would be needed to administer the home inspection certification program. REPL also provided 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.

Four new computers would need to be purchased (the Division has two in reserve), although existing printers, copiers, and office space can accommodate the new positions. Additionally, the Division will need a database of certified individuals. The Division currently uses the CAVU e-Licensing system for this purpose for real estate licenses and certifications and stated that this database could be used to keep track of certified home inspectors with minor modifications that likely could be performed by Department information technology staff. There would also be ongoing maintenance expenses for supplies and general operations that are noted in the table below.

<b>Estimated Home Inspector Certification Program Expenses</b>	
<b>Program Requirement (Position)</b>	<b>Estimated Annual Cost</b>
Home Inspection Certification Program Manager (Admin. Assistant 3)	\$90,000
Licensing/Continuing Education (Certification/Licensing Examiner 2)	\$55,000
Complaint Investigation/Record Auditing (2 Investigators)	\$126,000
Legal Counsel (Attorney 3, but could be part-time after first year)	\$82,000
Program Support Staff (Admin. Assistant 1)	\$58,000
<b>Estimated Personnel Costs</b>	<b>\$411,000</b>
Administration Assessment (17.5% of personnel)	\$72,000
Supplies, Equipment, General Operations	\$15,000
<b>Total Annual Expenses</b>	<b>\$498,000</b>

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

Costs for FY 2008 would likely be approximately half of those noted above based on the amount of time left in this 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 approximately \$450,000. Given these anticipated program expenses, it would appear that certification fee revenue does not provide sufficient operating funding. Therefore, in order

for REPL to carry out this new function, some significant changes in staffing would be necessary, or perhaps an increase in the certification renewal fee.

### **Local fiscal effects**

#### **Civil remedies**

The bill specifies that the Superintendent of Real Estate and Professional Licensing may apply to a court of common pleas to enjoin a violation of the bill's provisions. Upon demonstration that a violation occurred or is occurring, the court must grant an injunction, restraining order, or other appropriate relief. REPL would typically pursue this option as a last resort. Therefore, any new cost to county courts of common pleas would likely be minimal and may be mitigated through court costs or filing fees.

#### **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 certified as a home inspector. Violators of this prohibition are 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 who violate the bill's provisions. It is uncertain how many cases will result from the penalty. Also, the severity of the sentence in a case involving a misdemeanor is entirely up to the judge's discretion.

With new criminal cases, there could be additional court cost and fine revenue to be collected by counties that would help offset prosecution costs. 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.

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