



# OHIO LEGISLATIVE SERVICE COMMISSION

Terry Steele

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 211 of the 132nd G.A.  
(L\_132\_0847-4)

**Status:** In House Economic Development, Commerce and Labor

**Sponsor:** Rep. Hughes

**Local Impact Statement Procedure Required:** No

**Subject:** Establishes the Home Inspector Law

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### State Fiscal Highlights

- The bill requires the Division of Real Estate and Professional Licensing to license and regulate home inspectors in the state, creating the seven-member Ohio Home Inspector Board to oversee these functions.
- The bill establishes the Home Inspector Fund, to be used by the Department of Commerce to receive all license fee and penalty revenue, and to pay all costs associated with administering the program. A license issued under the bill is valid for three years.
- The bill sets limits on the fees to be assessed to applicants (\$250), for license renewals (\$250), as well as penalty limits of either \$500 or \$1,000. Given these limits, and based on the number of certified home inspectors working in Ohio, it may be that the costs of administering the Home Inspector Law exceed the potential revenue that could be collected under the bill.
- The bill creates the Home Inspection Recovery Fund to cover the cost of settlements or claims against licensees. The fund's liability is limited to \$40,000 per licensee, but there is a procedure specified in cases where the liability is greater than this limit. The fund is to consist of the proceeds from an annual assessment for new licenses or license renewals not to exceed \$3 to \$5, based on the balance of the fund as of July 1 each year.

### Local Fiscal Highlights

- The bill establishes a first degree misdemeanor and a fifth degree felony criminal offense for violations of the Home Inspector Law. While it is likely that there would be few cases resulting from this provision, the potential increase in costs to county or municipal courts resulting from these penalties would be minimal and partially offset through assessed local court costs.

# Detailed Fiscal Analysis

## Overview

The bill establishes the Home Inspector Law and requires individuals wishing to perform home inspections to obtain a license, establishes criminal penalties, and creates the Ohio Home Inspector Board within the Department of Commerce. These provisions of the bill do impose a fiscal impact on the Department of Commerce, and to a lesser degree political subdivisions. These impacts are discussed in greater detail below. Overall, it would appear the cost to the Department of Commerce, specifically, the Division of Real Estate and Professional Licensing, would exceed the revenue generated through the various fees and penalties established in the bill.

## Ohio Home Inspector Board and Home Inspectors Fund

The bill creates the Ohio Home Inspector Board consisting of seven members, which is to operate as part of the Department of Commerce for administrative purposes. The bill also creates the Home Inspectors Fund that is to receive licensing revenue and pay for the oversight of home inspectors. The bill allows the Board to establish the amount of the following fees deemed sufficient to defray necessary expenses incurred in the administration of the bill: (a) the application and licensure fee, which must not exceed \$250, (b) the renewal fee, which must not exceed \$250, (c) the late renewal fee, (d) the fee an entity must pay to receive approval to offer continuing education courses and programs, (e) the fee an approved entity must pay for each continuing education course or program that the entity wishes to have the Superintendent of Real Estate approve pursuant to the rules adopted by the Board, and (f) any other fees as required by the bill. The LSC Bill Analysis details the full duties of the Board as well as the requirements to carry out those duties.

Ultimately, the amount of revenue generated through the fees established by the Board will depend on the number of home inspectors and entities seeking licensure. The International Association of Certified Home Inspectors, as of this writing, has 437 certified home inspectors in Ohio.<sup>1</sup> If all of these individuals applied for licensure, and the Board set the application fee at the maximum level of \$250 established by the bill, this would generate almost \$110,000. Since licenses must be renewed every three years, this means that renewal revenue deposited into the Home Inspectors Fund would not exceed \$110,000 during that time. Ultimately, the additional revenue collected under the bill related to additional fees will depend on the fee rates established in rule by the Board.

## Potential new costs

Overall, the costs to oversee the licensure of home inspectors will depend on a number of different factors. First, the costs will depend on how many new staff the Division of Real Estate and Professional Licensing hires to carry out the licensure and

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<sup>1</sup> <https://www.nachi.org/OH>.

oversight of home inspectors. Currently, the Division oversees approximately 42,000 active licenses, and the Division currently employs approximately 39 full-time equivalent (FTE) employees.

As an example of the potential additional operating costs the Department could incur to oversee these new functions, the table below shows the possible extent of the additional operating costs if the Department of Commerce were to hire five new staff to administer this program. The estimated annual costs are rounded to the nearest thousand, and contain the highest salary level for these positions as well as the estimated benefit costs to the agency for these employees (35% estimated benefit cost). Additionally, there could be other administrative costs associated with office space and equipment that are necessary. Since those potential costs are less clear, they are not included in the estimate below. Finally, note that it may be possible that current staff handling other Division of Real Estate and Professional Licensing functions could also be assigned some of the home inspection oversight responsibilities outlined in the bill. If so, this would reduce the additional staffing costs shown in the table below.

<b>Potential Home Inspector Certification Program Staffing Expenses</b>	
<b>Program Requirement (Position)</b>	<b>Estimated Annual Cost</b>
Home Inspection Certification Program Manager (Program Administrator)	\$118,000
Licensing/Continuing Education (Certification/Licensing Examiner 2)	\$59,000
Complaint Investigation/Record Auditing (Investigator)	\$78,000
Program Support Staff (Admin. Assistant 1)	\$54,000
Legal Counsel (Attorney 3)	\$103,000
<b>Total Estimated Annual Staffing Costs</b>	<b>\$412,000</b>

In addition to the costs listed above, the bill further requires the Superintendent of Real Estate and Professional Licensing to appoint an administrative hearing officer for cases involving Child Support Order Law determinations, unlicensed inspector violations, and disciplinary measures against licensees. This could also result in additional staffing costs for such hearing officers should any such cases arise.

### **Home Inspection Recovery Fund**

The bill also creates the Home Inspection Recovery Fund, which consists of a special annual assessment between \$3 and \$5 per year depending on prior year fund balances, to each licensee applying for an initial license or a renewal of a home inspector license. Up to \$5 per year per license may be assessed if the July 1 fund balance is below \$250,000. The maximum that may be assessed drops to a maximum of \$3 per year when the fund balance is between \$500,000 and \$1.0 million as of July 1. No assessment may be imposed if the fund balance exceeds \$1.0 million. The fund is to be used to pay judgements against home inspectors when a final judgement is granted by the Franklin County Court of Common Pleas. In such instances, a home inspector's license is suspended until that individual repays the amount of the judgement, plus any

applicable interest, to the fund. The bill limits the judgement amounts to \$40,000, but sets out special procedures if \$40,000 is not sufficient to cover all claims.

### **Penalties under the bill**

The bill establishes several criminal and civil penalties. First, any individual that knowingly conducts a home inspection without being licensed under the bill is guilty of a first degree misdemeanor. The bill also prohibits a person, beginning 210 days after the bill's effective date, from knowingly making or causing to be made a false representation concerning a material and relevant fact relating to a person's licensure as a home inspector. Violation of this prohibition is a fifth degree felony under the bill. It would appear unlikely that there would be many additional cases resulting from the bill. Therefore, any additional caseloads and costs to the county court system would likely be minimal, as would any corresponding local or state court costs collected as a result.

The bill also permits the Superintendent of Real Estate and Professional Licensing to apply to any court of common pleas to enjoin a violation of the bill. Upon a showing by the Superintendent that a person has violated or is violating the bill, the court must grant an injunction, restraining order, or other appropriate relief. The bill also permits the Superintendent to investigate and the Board to impose a fine against any person who conducts a home inspection without a license. Upon the completion of an investigation, the Board may take any disciplinary action it deems appropriate, including, but not limited to: (1) a reprimand, (2) a fine not exceeding \$1,000 for false representation, (3) completion of hours of education, (4) suspension of a license, (5) revocation of a license, or (6) surrender of license in lieu of discipline. The bill further permits the Board to impose fines, not exceeding \$500 per violation of the provisions of the bill. All fine revenues collected from these provisions are to be deposited into the Home Inspectors Fund.

## **Synopsis of Fiscal Effect Changes**

The substitute version of the bill (L\_132\_0847-4) makes several changes. The changes that contain fiscal impacts primarily involve modifications to the duties of the Superintendent of Real Estate and Professional Licensing. First, the bill requires the Superintendent to perform the criminal records check on all applicants seeking a license during the 120-day grandfathering period. Previously, these record checks were only required when the Ohio Home Inspector Board determined it to be necessary. The applicants for licensure are required to pay the costs of criminal records checks. Consequently, any increased administrative costs incurred for processing additional criminal records checks are likely to be minimal at most.

The bill also grants the Superintendent of Real Estate and Professional Licensing the discretion to suspend a home inspector's license after making a payment from the Home Inspection Recovery Fund, rather than require a license suspension. The bill further grants the Superintendent the discretion to investigate complaints against a

home inspector on receipt of written complaint or by motion of the Board. These two provisions would appear to reduce the costs associated with administering home inspector licensure. However, the total magnitude of these changes is unclear.

Finally, the bill makes modifications to the licensure requirements for home inspectors with respect to both education and experience. The bill also makes some modifications as to the requirements that must be satisfied in order for an applicant to be grandfathered in to licensure. The bill further modifies the provisions pertaining to a real estate broker's recommendation of home inspectors to purchasers or sellers of a home. These provisions do not substantively impact the fiscal impact of the bill.

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