

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 359 Session of
2007

INTRODUCED BY GREENLEAF, RAFFERTY, O'PAKE, WAUGH, COSTA, FERLO,
WOZNIAK, LOGAN, STACK AND A. WILLIAMS, MARCH 12, 2007

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
MARCH 12, 2007

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 home inspections; establishing the Pennsylvania Board of Home
4 Inspectors; and providing for licensure of home inspectors
5 and for disciplinary proceedings by the Pennsylvania Board of
6 Home Inspectors.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 7502 of Title 68 of the Pennsylvania
10 Consolidated Statutes is amended to read:

11 § 7502. Definitions and index of definitions.

12 (a) Definitions.--The following words and phrases when used
13 in this chapter shall have the meanings given to them in this
14 section unless the context clearly indicates otherwise:

15 "Applicant." An individual who applies for a license as a
16 home inspector.

17 "Board." The Pennsylvania Board of Home Inspectors
18 established under section 7504.1 (relating to Pennsylvania Board
19 of Home Inspectors).

1 "Bureau." The Bureau of Professional and Occupational
2 Affairs in the Department of State.

3 "Client." An individual who contracts with a licensee to
4 obtain a home inspection and subsequent written home inspection
5 report.

6 "Direct supervision." A home inspection performed by a home
7 inspector who is not a licensee in the presence of and under the
8 tutelage of a supervising licensee.

9 "Home inspection." A noninvasive visual examination of some
10 combination of the mechanical, electrical or plumbing systems or
11 the structural and essential components of a residential
12 dwelling designed to identify material defects in those systems
13 and components and performed for a fee in connection with or
14 preparation for a proposed or possible residential real estate
15 transfer. The term also includes any consultation regarding the
16 property that is represented to be a home inspection or that is
17 described by any confusingly similar term. The term does not
18 include an examination of a single system or component of a
19 residential dwelling such as, for example, its electrical or
20 plumbing system or its roof. The term also does not include an
21 examination that is limited to inspection for or of one or more
22 of the following: wood destroying insects, underground tanks and
23 wells, septic systems, swimming pools and spas, alarm systems,
24 air and water quality, tennis courts and playground equipment,
25 pollutants, toxic chemicals and environmental hazards.

26 "Home inspection report." A written report [on the results
27 of a home inspection.] prepared by a licensee for compensation
28 and issued after a home inspection that includes:

29 (1) A description or identification of the structure
30 component, systems and subsystems covered by the report.

1 (2) A report on any system or component inspected that,
2 in the opinion of the licensee, is significantly deficient.

3 (3) The licensee's recommendation to seek further
4 evaluation of an expert in that field or monitor deficiencies
5 as reported.

6 (4) A list of any and all systems or components that
7 were designated for inspection in the standards of practice
8 adopted by the board but that were not inspected.

9 (5) The reason a system or component was not inspected.

10 "Home inspector." An individual who performs a home
11 inspection, is properly licensed and meets the qualifications of
12 this chapter.

13 "License." A license issued under this chapter to engage in
14 home inspections.

15 "Licensee." A person who performs home inspections and who
16 is licensed under this chapter as a home inspector.

17 "National home inspectors association." Any national
18 association of home inspectors that:

19 (1) Is operated on a not-for-profit basis and is not
20 operated as a franchise.

21 (2) Has members in more than ten states.

22 (3) Requires that a person may not become a full member
23 unless the person has performed or participated in more than
24 100 home inspections and has passed a recognized or
25 accredited examination testing knowledge of the proper
26 procedures for conducting a home inspection.

27 (4) Requires that its members comply with a code of
28 conduct and attend continuing professional education classes
29 as an ongoing condition of membership.

30 "Preferred provider relationship." A referral service

1 offered by a real estate company, mortgage company, law firm,
2 individual agent, attorney or other similar entity or individual
3 when a licensee is recommended over other licensees in exchange
4 for any direct or indirect consideration therefore, including,
5 without limitation, the payment of a fee, or where in
6 consideration of a licensee advertising produced by or for a
7 person in consideration for recommendations or referrals to
8 undertake home inspections.

9 "Residential dwelling." A structure consisting of at least
10 one, but not more than four, units, each designed for occupancy
11 by a single family, whether the unit or units are occupied or
12 unoccupied.

13 (b) Index of other definitions.--The following is a
14 nonexclusive list of other definitions applying to this chapter
15 and the sections in which they appear:

16 "Agent." Section 7102 (relating to definitions).

17 "Agreement of transfer." Section 7102 (relating to
18 definitions).

19 "Buyer." Section 7102 (relating to definitions).

20 "Material defect." Section 7102 (relating to definitions).

21 "Residential real estate transfer." Section 7103 (relating
22 to application of part).

23 "Seller." Section 7102 (relating to definitions).

24 Section 2. Title 68 is amended by adding sections to read:

25 § 7504.1. Pennsylvania Board of Home Inspectors.

26 (a) Establishment.--The Pennsylvania Board of Home
27 Inspectors is established to conduct business affairs under the
28 Bureau of Professional and Occupational Affairs. The purpose of
29 the board shall be to administer and enforce the provisions of
30 this chapter, promote initiatives to protect consumers of home

1 inspection services, create guidelines for the development of
2 high-level skills in home inspectors and encourage the presence
3 of a viable home inspection industry within this Commonwealth.

4 (b) Composition.--The board shall be composed of seven
5 members who must be full-time residents of this Commonwealth and
6 appointed by the Governor in accordance with the following
7 requirements:

8 (1) For purposes of the initial appointments, five of
9 the members must:

10 (i) Be actively engaged in performing home
11 inspections in this Commonwealth for no less than five
12 years immediately preceding the member's appointment to
13 the board.

14 (ii) Have completed no less than 100 fee-paid
15 inspections per year over the five years immediately
16 preceding appointment to the board.

17 (iii) Demonstrate that they have passed a written
18 examination administered by a national examination
19 organization that complies with the standards established
20 by this chapter.

21 A board member who becomes a home inspector shall obtain the
22 requisite license in accordance with this chapter, before or
23 on the six-month anniversary of the effective date of this
24 section. If a board member does not obtain the requisite
25 license on or before such date, the board member shall be
26 considered to have resigned from the board on the six-month
27 anniversary of the effective date of this section, and the
28 Governor shall fill the vacancy in accordance with this
29 section. Thereafter, the home inspector members must be
30 licensed prior to their appointments.

1 (2) One person shall represent the public at large and
2 shall not be associated with the home inspection, home
3 building or real estate business other than as a consumer.
4 This member shall be appointed by the Governor but shall not
5 be selected from a submitted list of names.

6 (3) One person shall be the Commissioner of the Bureau
7 of Professional and Occupational Affairs or his designee.

8 (c) Member selection and service.--

9 (1) Appointment of the initial members comprising the
10 board shall begin on the three-month anniversary of the
11 effective date of this section, and their respective terms
12 shall be staggered, as follows:

13 (i) Three members for a term of three years.

14 (ii) Two members for a term of two years.

15 (iii) Two members for a term of one year.

16 (2) Except as provided in paragraph (1), all board
17 members shall serve a term of three years, and no member
18 shall serve for more than three consecutive terms.

19 (3) The Governor may remove a board member at any time
20 for incompetence, neglect of duty or unprofessional conduct.

21 (4) If a vacancy occurs in the membership of the board,
22 the Governor shall appoint an individual to serve for the
23 remainder of the unexpired term who has like qualifications
24 required of the member who created the vacancy.

25 (5) Each year the board shall elect a member as
26 chairperson and vice chairperson. The chairperson and vice
27 chairperson shall serve in their respective capacities for no
28 more than one year consecutively and until a successor is
29 elected. The chairperson shall preside at all meetings at
30 which the chairperson is present. The vice chairperson shall

1 preside at meetings in the absence of the chairperson and
2 shall perform other duties as the chairperson directs. If the
3 chairperson and vice chairperson are absent from a meeting of
4 the board when a quorum exists, the members who are present
5 may elect a presiding officer who shall serve as acting
6 chairperson until the conclusion of the meeting or until the
7 arrival of the chairperson or vice chairperson at the
8 meeting, whichever occurs first.

9 (6) The board shall meet at least quarterly each
10 calendar year at the call of the chairperson or the written
11 request of a majority of the members of the board. The
12 chairperson shall establish the date, time and place for each
13 meeting. A majority of the current members of the board shall
14 constitute a quorum. The affirmative vote of a majority of
15 the members appointed to the board shall be necessary for the
16 board to take official action.

17 (7) Each member of the board shall serve on a voluntary
18 basis but shall be entitled to reimbursement for traveling
19 expenses and other expenses actually incurred in connection
20 with the member's duties as established under this chapter.

21 § 7504.2. Licensure of home inspectors by board.

22 (a) Powers of board.--The board, through the promulgation of
23 administrative rules and regulations, shall:

24 (1) Establish the requirements for and prescribe the
25 form of licenses, applications and other documents that are
26 required for home inspectors to be licensed under this
27 chapter.

28 (2) Grant, deny, suspend and revoke approval of
29 examinations and courses of study regarding home inspections;
30 establish standards for continuing home inspection education,

1 including, without limitation, the subject matter and content
2 of courses of study and the selection of instructors; and
3 approve other equivalent educational programs and establish
4 procedures for the issuance of credit upon satisfactory proof
5 of the completion of these programs.

6 (3) Issue, deny, suspend and revoke licenses in
7 accordance with this chapter.

8 (4) Establish and maintain a current list of home
9 inspectors who are registered or licensed. The list shall be
10 available for public inspection, including by electronic
11 means.

12 (5) Establish and maintain a current list of national
13 home inspectors associations approved by the board as meeting
14 the requirements of this chapter. Any national home
15 inspectors association approved by the board must provide the
16 board initially, and upon request, with a list of its members
17 in this Commonwealth. Once approved, the association shall
18 notify the board within 30 days when any of its members in
19 this Commonwealth fail to maintain their membership in the
20 association or are otherwise not in compliance with the rules
21 of the association.

22 (6) Investigate complaints concerning licensees or
23 persons the board has reason to believe should be licensees,
24 including complaints concerning failure to comply with this
25 chapter or administrative regulations promulgated under this
26 chapter and, when appropriate, take action in accordance with
27 this chapter.

28 (7) Bring actions in the name of the Commonwealth in an
29 appropriate court in order to enforce compliance with this
30 chapter or the administrative regulations promulgated under

1 this chapter.

2 (8) Establish licensure fees in an amount determined by
3 the board that are reasonably necessary and appropriate for
4 enforcement.

5 (9) Inspect the records of a licensee in accordance with
6 administrative regulations promulgated by the board.

7 (10) Conduct or designate a member or other
8 representative to conduct public hearings on any matter for
9 which a hearing is required under this chapter and exercise
10 all powers granted under this section.

11 (11) Adopt a seal containing the words "Pennsylvania
12 Board of Home Inspectors" and, through the board's secretary,
13 certify copies and authenticate all acts of the board.

14 (12) Use board members, consultants and other persons to
15 enter into contracts and to authorize expenditures that are
16 reasonably necessary or appropriate to administer and enforce
17 this chapter and administrative regulations promulgated under
18 this chapter.

19 (13) Establish continuing education requirements of not
20 less than 16 hours annually for licensees in accordance with
21 this chapter.

22 (14) Maintain the board's office, files, records and
23 property in the City of Harrisburg.

24 (15) Require all fee-paid home inspections to be
25 conducted in accordance with the standards of practice of
26 board-approved national home inspection associations.

27 (16) Establish standards of practice for licensees.

28 (17) Develop a model home inspection contract meeting
29 the provisions of this chapter and encourage licensees to use
30 the model contract.

1 (18) Create guidelines for mentoring programs and
2 approved training facilities established pursuant to the
3 requirements of section 7506 (relating to required
4 contractual provisions regarding home inspections).

5 (19) Exercise all other powers specifically conferred on
6 the board under this chapter.

7 (20) Promulgate rules and regulations to carry out the
8 effective administration and the requirements of this
9 chapter.

10 (b) Examination requirement.--To be eligible for a license
11 as a home inspector in this Commonwealth, an applicant must pass
12 a valid, reliable examination. This examination shall:

13 (1) Test competence in home inspection practice.

14 (2) Be developed pursuant to accepted psychometric
15 standards promulgated by the American Educational Research
16 Association's "Standards for Educational and Psychological
17 Testing"; the Equal Employment Opportunity Commission's
18 "Uniform Guidelines for Employee Selection Procedures"; the
19 Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241);
20 the Americans with Disabilities Act of 1990 (Public Law 101-
21 336, 104 Stat. 327); and similar applicable standards.

22 (3) Be administered and proctored by an approved and
23 recognized testing organization at a physical location to
24 ensure both the security and integrity of the examination.

25 § 7504.3. Support of board by bureau.

26 The bureau shall provide the board with:

27 (1) Clerical or other assistants, including
28 investigators, necessary for the proper performance of the
29 board's duties.

30 (2) A place to hold board meetings and hearings.

1 (3) Office equipment and office space for board records,
2 staff and other effects necessary to carry out the
3 requirements of this chapter.

4 § 7504.4. Income and expenditures of board.

5 (a) Establishment of revolving fund.--There is hereby
6 established in the State Treasury a revolving fund for the use
7 of the board.

8 (b) Deposits in fund.--All fees and other money received by
9 the board in accordance with this chapter shall be deposited in
10 the revolving fund. No part of this revolving fund shall revert
11 to the General Fund.

12 (c) Use of fund.--The reimbursement of the board's expenses
13 shall be paid from the revolving fund.

14 § 7504.5. Licensure of home inspectors.

15 (a) Home inspector license application.--A person applying
16 for a license as a home inspector shall apply on a written,
17 notarized form prescribed and provided by the board. Supporting
18 and other required documents may be submitted by other means as
19 prescribed by the board. The applicant shall pay the applicable
20 licensing fee established by the board.

21 (b) Licensing requirements.--The board shall establish, from
22 time to time, rules and regulations pertaining to the licensure
23 of home inspectors but in any event shall require that a home
24 inspector be a member, in good standing, of a board-approved
25 national home inspection association.

26 (c) Denial of license.--The board shall deny a license to
27 any applicant who fails to:

28 (1) furnish evidence satisfactory to the board, showing
29 that the individual:

30 (i) is at least 18 years of age;

1 (ii) (A) has graduated from high school, earned a
2 Pennsylvania or other state's general educational
3 development diploma; or

4 (B) has actively worked within the business of
5 home inspection for a minimum of five years; and

6 (iii) meets other criteria established by the board.

7 (2) verify the information submitted on the approved and
8 notarized application form; or

9 (3) complete a board-approved training program or course
10 of study involving the performance of home inspections and
11 pass a valid examination prescribed or approved by the board,
12 where such study program shall be for no less than 120 hours
13 of instruction and include no less than 40 hours of actual
14 in-field training.

15 (d) Waivers moving from another jurisdiction.--The licensing
16 requirements for a home inspector may be waived for a person who
17 moves to this Commonwealth from another jurisdiction, and the
18 person may be granted a license as a home inspector if the
19 person meets all of the following requirements:

20 (1) The other jurisdiction grants the same privileges to
21 licensees of Pennsylvania as the Commonwealth grants to
22 licensees of that other jurisdiction.

23 (2) The person is licensed in the other jurisdiction.

24 (3) The licensing requirements of the other jurisdiction
25 are substantially similar to the requirements of this
26 chapter.

27 (4) The person provides a notarized statement that the
28 person has studied, is familiar with and will abide by the
29 provisions of this chapter and the administrative regulations
30 promulgated by the board.

1 (e) Advertising without license.--An individual shall not
2 advertise nor claim to be a licensee and shall not conduct home
3 inspection services for compensation without first obtaining a
4 license issued by the board.

5 (f) Ownership of licenses.--All licenses issued by the board
6 shall remain the property of the board.

7 (g) Information change notification.--A licensee shall
8 notify the board within 30 days of any change of:

9 (1) name;

10 (2) name under which the licensee conducts business;

11 (3) business address; or

12 (4) lapse, change or cancellation of insurance coverage.

13 (h) License renewal.--A licensee may renew the license in
14 accordance with the rules and regulations promulgated by the
15 board which shall include the following provisions:

16 (1) The home inspector shall furnish evidence showing
17 successful completion of the continuing education
18 requirements of this chapter, pay the renewal fee established
19 by the board and show proof of professional liability
20 insurance as required by section 7509 (relating to liability
21 insurance).

22 (2) The board shall send a renewal notice to each
23 licensee at least 60 days prior to the expiration of the
24 license. The notice shall inform the licensee of the need to
25 renew and the requirement to submit an application and to pay
26 the renewal fee. If the board fails to send the notice of
27 expiration within such time period, the licensee shall not be
28 subject to a sanction for failure to renew. If the board
29 later sends the renewal notice to the licensee, the licensee
30 must submit a complete application and renewal fee to the

1 board within 45 days of the receipt of the renewal notice or
2 be subject to a sanction for failure to renew.

3 (3) Renewal fees shall be paid with a draft, money
4 order, cashier's check, certified or other personal check,
5 or, if payment is made in person, the payment may be made in
6 cash. If the board receives an uncertified personal check for
7 the renewal fee and if the check does not clear the bank, the
8 board may refuse to renew the license.

9 (4) Before the end of each license period, the licensee
10 shall complete the continuing education required by the
11 board.

12 (i) Inactive licenses.--The board may, through the
13 promulgation of rules and regulations:

14 (1) Establish an inactive license for licensees who do
15 not actively perform home inspections but wish to maintain
16 the license. This inactive status shall not exceed a term of
17 three years.

18 (2) Reduce license and renewal fees for inactive
19 licenses.

20 (3) Waive the insurance requirements established in
21 section 7509 for inactive licenses except that the inactive
22 licensee must maintain insurance tail coverage for the first
23 year of inactivity.

24 § 7504.6. Nonresident home inspectors.

25 (a) Nonresident licensing.--A nonresident individual who the
26 board determines meets the requirements of this chapter and
27 files a written consent may be licensed as a home inspector.

28 (b) Nonresident consent form.--A nonresident applicant shall
29 file with the board a written and notarized consent stating
30 that, if licensed:

1 (1) The applicant agrees to the commencement of any
2 action arising out of the conduct of the applicant's business
3 in this Commonwealth in the county in which the events giving
4 rise to the cause of action occurred.

5 (2) The applicant:

6 (i) agrees to provide to the board the name and
7 address of an agent to receive service of process in this
8 Commonwealth; or

9 (ii) consents to the board acting as the applicant's
10 agent for the purpose of receiving service of process if:

11 (A) an agent's name and address have not been
12 filed with the board or the agent's name and address
13 on file with the board are incorrect; and

14 (B) the applicant agrees that service of process
15 in accordance with the Pennsylvania Rules of Civil
16 Procedure is proper service and subjects the
17 applicant to the jurisdiction of Pennsylvania courts.

18 § 7504.7. Continuing education of home inspectors.

19 The board shall promulgate rules and regulations concerning
20 the continuing education required for the renewal of a home
21 inspector license and shall:

22 (1) Establish procedures for approving organizations
23 that provide continuing education.

24 (2) Prescribe the content, duration and organization of
25 continuing education courses that contribute to the
26 competence of home inspectors.

27 § 7504.8. Registration or licensing of home inspectors by
28 political subdivisions.

29 No agency or political subdivision of this Commonwealth,
30 other than the board, shall impose the following on individuals

1 licensed under this chapter:

2 (1) A registration or licensing requirement for
3 conducting home inspections.

4 (2) A license fee to obtain any local license, except
5 that this prohibition shall not prevent any local government
6 from imposing an occupational license tax on any person
7 operating as a home inspector within the jurisdiction of the
8 local government.

9 § 7504.9. Disciplinary proceedings by board.

10 (a) Disciplinary actions.--The board shall take disciplinary
11 action against or impose sanctions on a licensee for failing to
12 comply with any provision of this chapter or any rules and
13 regulations promulgated to carry out this chapter as follows:

14 (1) The board may summarily suspend a license for up to
15 90 days before a final adjudication or during an appeal of
16 the board's determination if the board finds that the
17 licensee represents a clear and immediate danger to the
18 public's health, safety, financial interest or to property if
19 allowed to perform home inspections. The summary suspension
20 may be renewed at a hearing before the board for up to 90
21 days.

22 (2) If the board:

23 (i) Determines that an individual is not licensed
24 under this chapter and is engaged in or believed to be
25 engaged in activities for which a license is required
26 under this chapter, then the board shall issue an order
27 to that individual requiring the individual to show cause
28 why the individual should not be ordered to cease and
29 desist from the activities. The show cause order shall
30 set forth a date, time and place for a hearing at which

1 the individual shall appear and show cause why the
2 individual should not be subject to licensing under this
3 chapter.

4 (ii) After a hearing, determines that the activities
5 in which the individual is engaged are subject to
6 licensure under this chapter, the board may issue a cease
7 and desist order that identifies the individual and
8 describes activities that are the subject of the order.

9 (3) A cease and desist order issued under this section
10 shall be enforceable in the Commonwealth Court.

11 (b) Violations of chapter.--An individual is in violation of
12 this chapter when the individual commits any of the following:

13 (1) Performs or offers to perform home inspections for
14 compensation without being licensed as a home inspector and
15 without being exempt from licensure under this chapter.

16 (2) Presents as the individual's own license, the
17 license of another.

18 (3) Intentionally gives false or materially misleading
19 information to the board or to a board member in connection
20 with a licensing matter.

21 (4) Impersonates another licensee.

22 (5) Uses an expired, suspended, revoked or an otherwise
23 restricted license.

24 (c) Fee or compensation.--The board shall add to any penalty
25 imposed the amount of any fee or other compensation earned by
26 the individual in the commission of the violation. Each
27 transaction involving an unauthorized activity as described in
28 this chapter shall constitute a separate violation.

29 (d) Legal advice.--The Department of State shall act as the
30 legal adviser for the board and provide any legal assistance

1 necessary to carry out this chapter.

2 (e) Revocation or suspension of license.--The board shall
3 adopt provisions to revoke or suspend a license pending
4 investigation for any of the following:

5 (1) A conviction in any jurisdiction of a misdemeanor
6 involving moral turpitude or of a felony. A plea of nolo
7 contendere shall be considered a conviction.

8 (2) An action demonstrating untrustworthiness,
9 incompetence, dishonesty, gross negligence, material
10 misrepresentation, fraud or unethical conduct in any dealings
11 subject to the provisions of this chapter or the rules and
12 regulations promulgated by the board.

13 (3) Use of advertising or solicitation that is false,
14 misleading or otherwise deemed unprofessional by the board.
15 All advertisements, contracts, correspondence and other
16 documents utilized by a home inspector shall prominently
17 include the home inspector's name and registration number as
18 a licensee according to this chapter.

19 (4) Habitual or excessive use of intoxicants or illegal
20 drugs.

21 (5) Failure to supervise adequately and in accordance
22 with rules governing direct supervision an unlicensed
23 inspector performing home inspections under the supervision
24 of the licensed home inspector.

25 (6) Any other reason deemed necessary by the board.

26 Section 3. Sections 7505(b) and (c) and 7506 of Title 68 are
27 amended to read:

28 § 7505. Consumer remedies.

29 * * *

30 (b) Prohibited acts.--Any of the following acts engaged in

1 by a home inspector, an employer of a home inspector or another
2 business or person that controls or has a financial interest in
3 the employer of a home inspector shall be deemed to be an unfair
4 or deceptive act or practice as defined by section 2(4)(i)
5 through (xxi) of the Unfair Trade Practices and Consumer
6 Protection Law:

7 (1) Performing or offering to perform for an additional
8 fee any repairs to a structure with respect to which the home
9 inspector, the employer of the home inspector or such other
10 business or person has prepared a home inspection report
11 within the preceding 12 months, except that this paragraph
12 shall not apply to remediation for radon or wood destroying
13 insects.

14 (2) Inspecting for a fee any property in which the home
15 inspector, the employer of the home inspector or such other
16 business or person has any financial interest or any interest
17 in the transfer of the property, including, without
18 limitation, engaging in a pay-to-play scheme in which the
19 home inspector pays or receives a direct or indirect
20 consideration for receiving leads toward providing home
21 inspection services, or receipt of a commission as an agent,
22 unless the financial interest or interest in the transfer of
23 the property is disclosed in writing to the buyer before the
24 home inspection is performed and the buyer signs an
25 acknowledgment of receipt of the disclosure.

26 (3) Offering or delivering any commission, referral fee
27 or kickback to the seller of the inspected property or to an
28 agent for either or both of the seller and the buyer for the
29 referral of any business to the home inspector, the employer
30 of the home inspector or such other business or person.

1 (4) Accepting an engagement to perform a home inspection
2 or to prepare a home inspection report in which the
3 employment itself or the fee payable for the inspection is
4 contingent upon the conclusions in the report, preestablished
5 or prescribed findings or the closing of the transaction.

6 (5) Participation, by any real estate broker or agent,
7 directly or indirectly, in a pay-to-play scheme in which the
8 home inspector pays or receives a direct or indirect
9 consideration for receiving leads toward providing home
10 inspection services.

11 (6) When there is a home warranty company which is
12 wholly or appreciably owned or affiliated with a real estate
13 brokerage company, failing to disclose to the consumer such
14 affiliation prior to contracting with the consumer for home
15 inspection services.

16 [(c) Exception.--A home warranty company that is affiliated
17 with or retains the home inspector does not violate subsection
18 (b) if the home warranty company performs repairs pursuant to
19 claims made under a home warranty contract.]

20 * * *

21 § 7506. Required contractual provision regarding home
22 inspections.

23 Except as provided in this section, a provision of an
24 agreement of transfer regarding the right of the buyer to obtain
25 a home inspection report and providing for the consequences, if
26 any, shall provide that the home inspection be performed by a
27 licensee. [full member in good standing of a national home
28 inspection association in accordance with the ethical standards
29 and code of conduct or practice of that association, provided
30 that a home inspection performed by a person who has not

1 attained full membership in a national home inspection
2 association satisfies the requirements of this section if the
3 person is:

4 (1) licensed or registered as a professional engineer
5 under the act of May 23, 1945 (P.L.913, No.367), known as the
6 Engineer, Land Surveyor and Geologist Registration Law;

7 (2) licensed or registered under the act of December 14,
8 1982 (P.L.1227, No.281), known as the Architects Licensure
9 Law; or

10 (3) supervised by a full member in good standing of a
11 national home inspection association who agrees to be
12 responsible for the home inspection report by signing the
13 report.]

14 A home inspection performed by a person who has not attained
15 licensure satisfies the requirements of this section if the
16 person is directly supervised by a licensee who agrees to be
17 responsible for the home inspection by signing the report.

18 Section 4. Section 7507 of Title 68 is amended by adding a
19 subsection to read:

20 § 7507. Contracts with home inspectors.

21 * * *

22 (c) Information brochure.--At the time of the signing of the
23 first written contract to purchase, a real estate broker or
24 salesperson shall distribute an informational brochure,
25 published by the board, educating the consumers about the home
26 inspection process and this chapter and providing the consumer
27 with directions on how to find a licensed home inspector.

28 Section 5. Section 7509(a) of Title 68 is amended and the
29 section is amended by adding a subsection to read:

30 § 7509. Liability insurance.

(a) [Required insurance.--A home inspector shall maintain insurance against errors and omissions in the performance of a home inspection and general liability, with coverages of not less than \$100,000 per occurrence and \$500,000 in the aggregate and with deductibles of not more than \$2,500.] Professional liability coverage.--Every licensee who is engaged in home inspections shall secure, maintain and file with the Secretary of State proof of a certificate of liability coverage, which terms and conditions shall be determined by the Secretary of State in consultation with the board. Every proof of liability coverage required to be filed with the Secretary of State shall provide that cancellation or nonrenewal of the policy shall not be effective unless and until at least ten days' notice of intention to cancel or nonrenew has been received in writing by the Secretary of State.

* * *

(c) All required insurance coverage shall:

(1) Be issued by an insurance company or other legal entity authorized to transact insurance business in this Commonwealth.

(2) Identify the Commonwealth as an additional insured.

(3) Provide that cancellation and nonrenewal of the insurance policy is not effective until the board receives no less than ten days' prior written notice of the expiration or earlier termination. Home inspectors shall direct their insurance company to send a notice of cancellation directly to the board.

(4) Contain any other terms and conditions established by the board.

Section 6. Section 7510 of Title 68 is amended to read:

1 § 7510. Reliance by buyer.

2 (a) Reliance.--A buyer shall be entitled to rely in good
3 faith, without independent investigation, on a written
4 representation by a home inspector that the home inspector is[:

5 (1) licensed or registered as a professional engineer
6 under the act of May 23, 1945 (P.L.913, No.367), known as the
7 Engineer, Land Surveyor and Geologist Registration Law;

8 (2) licensed or registered under the act of December 14,
9 1982 (P.L.1227, No.281), known as the Architects Licensure
10 Law; or

11 (3) a full member in good standing of a national home
12 inspection association.]

13 licensed to conduct home inspections in this Commonwealth.

14 (b) Display of license number.--The home inspector shall
15 display his assigned license number on all promotional,
16 marketing and advertising materials provided to the general
17 public.

18 (c) License requirement.--No person shall conduct a home
19 inspection or represent a qualification to conduct a home
20 inspection for compensation unless that person is licensed as a
21 home inspector under this chapter.

22 (d) Business entities.--A business entity may not:

23 (1) provide or offer to provide home inspection services
24 unless each of the home inspectors employed by the business
25 entity satisfies all the requirements of this section; or

26 (2) use, in connection with the name or signature of the
27 business entity, the title "home inspector" to describe the
28 business entity's services unless each home inspector
29 employed by the business entity satisfies all the
30 requirements of this chapter.

Section 7. Section 7511 of Title 68 is amended by adding a subsection to read:

§ 7511. Penalties.

* * *

(c) Unauthorized practice.--Any person subject to an administrative order issued by the board directing the cessation of any activity for which a license is required or suspending or revoking a license previously issued and who directly or indirectly:

(1) engages in the business of home inspection;

(2) holds himself out to the public as being able to engage in the business of home inspection without a license;

(3) engages in the business of home inspection after having his license revoked or suspended; or

(4) without a license to engage in the business of home inspection, directly or indirectly employs, permits or authorizes an unlicensed person to engage in the business of home inspection;

commits a summary offense and on the first conviction thereof shall be sentenced to pay a fine of not more than \$1,000, or, upon a second or subsequent conviction thereof, shall be sentenced to pay a fine of not more than \$2,500. Each violation of this chapter shall be deemed a separate offense.

Section 8. For one year from the effective date of this section, an applicant who meets all of the requirements of 68 Pa.C.S. Ch. 75 and this section may be licensed as a home inspector without having to complete a board-approved training program or course of study involving the performance of home inspections. The applicant must:

(1) Be at least 18 years of age.

1 (2) Have graduated from high school or earned a
2 Pennsylvania or other state's general educational development
3 diploma.

4 (3) Have passed a written examination to test competence
5 in home inspection practice that was developed pursuant to
6 accepted psychometric standards and was administered and
7 proctored by an approved and recognized testing organization
8 at a physical location to ensure both the security and the
9 integrity of the examination.

10 (4) Have completed no less than 100 fee-paid inspections
11 per year over the five years immediately preceding.

12 (5) Furnish evidence showing successful completion of
13 not less than 16 hours of verifiable continuing education
14 during the past year.

15 (6) Show proof of professional liability insurance
16 consistent with 68 Pa.C.S. § 7509.

17 Section 9. This act shall take effect in 120 days.