

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1001 Session of 2017

INTRODUCED BY HELM, KORTZ, BIZZARRO, BOBACK, BRIGGS, R. BROWN, V. BROWN, BULLOCK, BURNS, CHARLTON, CORBIN, D. COSTA, DAVIS, DEASY, DeLUCA, DONATUCCI, DRISCOLL, GALLOWAY, GILLEN, GODSHALL, GOODMAN, GREINER, HEFFLEY, HENNESSEY, HICKERNELL, HILL-EVANS, IRVIN, JOZWIAK, KNOWLES, LONGIETTI, MAHER, MARSICO, MATZIE, McNEILL, MENTZER, MILLARD, D. MILLER, MOUL, MURT, NEILSON, O'NEILL, PETRI, M. QUINN, RAVENSTAHL, READSHAW, SAYLOR, SCHWEYER, SIMMONS, SNYDER, THOMAS, TOEPEL, WARD, WARREN, WATSON, PHILLIPS-HILL, MACKENZIE, BOYLE, ENGLISH AND WHEELAND, MARCH 28, 2017

AS REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 16, 2017

AN ACT

1 Regulating home inspectors; establishing the Home Inspection
2 Licensing Board; providing for licensure and practice, for
3 disciplinary action, for remedies and for penalties; making
4 an appropriation; and repealing provisions relating to home
5 inspections.

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27 The General Assembly of the Commonwealth of Pennsylvania
28 hereby enacts as follows:

29 CHAPTER 1

30 PRELIMINARY PROVISIONS

1 Section 101. Short title.

2 This act shall be known and may be cited as the Home
3 Inspector Licensing Act.

4 Section 102. Declaration of policy.

5 The General Assembly finds and declares as follows:

6 (1) Home inspections may not identify safety issues if
7 the practice is not subject to responsible regulation.

8 (2) Reasonable regulation is in the furtherance of
9 public health, safety and welfare interests.

10 (3) Regulation is necessary to set educational standards
11 within the profession and to protect the public from
12 unqualified home inspectors and unscrupulous individuals.

13 (4) Consumer protection with respect to both health and
14 economic matters will be afforded the public through the
15 regulation and associated legal remedies provided for in this
16 act.

17 Section 103. Definitions.

18 The following words and phrases when used in this act shall
19 have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Account." The Professional Licensure Augmentation Account.

22 "Applicant." An individual who applies for a license as a
23 home inspector.

24 "Board." The Home Inspection Licensing Board.

25 "Bureau." The Bureau of Occupational and Industrial Safety
26 in the Department of Labor and Industry.

27 "Client." A person or person acting through a legal
28 representative who contracts with a licensee to obtain a home
29 inspection and subsequent written home inspection report.

30 "Convicted." Includes a judgment, admission of guilt or a

1 plea of nolo contendere, or receiving probation without verdict,
2 disposition in lieu of trial or an Accelerated Rehabilitative
3 Disposition of the disposition of felony charges.

4 "Department." The Department of Labor and Industry of the
5 Commonwealth.

6 "Home inspection." A noninvasive visual examination of the
7 systems and the essential components of a residential dwelling
8 designed to identify material defects in those systems and
9 components and performed for a fee in connection with or
10 preparation for a proposed or possible residential real estate
11 transfer or lease. The term:

12 (1) Includes a consultation regarding the property that
13 is represented to be a home inspection or that is described
14 by a confusingly similar term.

15 (2) Does not include any of the following:

16 (i) An examination of a single system or component
17 of a residential dwelling, such as an electrical or
18 plumbing system or roof.

19 (ii) An examination that is limited to inspection
20 for or of one or more of the following:

21 (A) Wood destroying insects.

22 (B) Underground tanks and wells.

23 (C) Septic systems.

24 (D) Swimming pools and spas.

25 (E) Alarm systems.

26 (F) Air and water quality.

27 (G) Tennis courts and playground equipment.

28 (H) Pollutants, toxic chemicals and
29 environmental hazards.

30 (iii) An examination associated with moving into or

1 out of a leased home.

2 "Home inspection report." A typewritten report on the
3 results of a home inspection.

4 "Home inspector." An individual licensed by the board to
5 perform home inspections.

6 "License." A license to practice home inspection under this
7 act.

8 "Licensee." An individual who holds a license to practice
9 home inspection.

10 "Material defect." A problem with a residential real
11 property or any portion of it that would have a significant
12 adverse impact on the value of the property or that involves an
13 unreasonable risk to people on the property. The fact that an
14 essential component, system or subsystem is near, at or beyond
15 the end of its normal useful life is not by itself a material
16 defect.

17 "Secretary." The Secretary of Labor and Industry of the
18 Commonwealth.

19 CHAPTER 3

20 BOARD

21 Section 301. Board established.

22 (a) Establishment.--The Home Inspector Licensing Board is
23 established within the bureau. The board shall be composed of
24 the following members:

25 (1) The secretary or a designee of the secretary.

26 (2) The Attorney General or a designee of the Attorney
27 General.

28 (3) Members appointed by the Governor with the advice
29 and consent of the Senate as follows:

30 (i) Six members who shall be home inspectors

1 licensed in this Commonwealth. For an initial
2 appointment, a home inspector must qualify for licensure
3 and obtain a license immediately upon availability.

4 (ii) Three members who shall be members of the
5 general public without expertise or training as a home
6 inspector.

7 (iii) One member who shall be a real estate agent or
8 broker licensed in this Commonwealth.

9 (iv) One member who shall be a professional engineer
10 or architect licensed in this Commonwealth.

11 (b) Term of office.--

12 (1) Except as set forth in paragraph (2), the term of
13 office for home inspector members and general public members
14 shall be four years.

15 (2) Three of the home inspector members and three of the
16 general public members shall be initially appointed to a two-
17 year term.

18 (c) Compensation.--The members of the board shall be paid a
19 per diem at the rate determined by the bureau for each day of
20 actual service in the performance of their duties under this
21 act.

22 (d) Meetings.--Meetings shall be called by the chairperson
23 of the board elected by a majority of the board members. A
24 quorum of the board shall consist of seven members.

25 Section 302. Powers and duties of board.

26 (a) General rule.--The board has the following powers and
27 duties:

28 (1) To pass upon the qualifications and fitness of
29 applicants for licenses and reciprocal licenses and to
30 promulgate regulations requiring applicants to pass

1 examinations relating to qualifications as a prerequisite to
2 the issuance of a license.

3 (2) To promulgate regulations consistent with this act.

4 (3) To examine, deny, approve, issue, revoke, suspend or
5 renew licenses of home inspectors under this act and to
6 conduct hearings in connection with those powers and duties.

7 (4) To conduct hearings upon complaints concerning
8 violations of this act and the regulations promulgated under
9 this act and to seek the prosecution and enjoinder of
10 violations.

11 (5) To promulgate regulations establishing requirements
12 for continuing education under this act.

13 (6) To expend money necessary to the proper carrying out
14 of assigned duties.

15 (7) To submit annually a report to the Consumer
16 Protection and Professional Licensure Committee of the Senate
17 and the Professional Licensure Committee of the House of
18 Representatives containing a description of the types of
19 complaints received, status of the cases, board action which
20 has been taken and the length of time from the initial
21 complaint to final board resolution.

22 (8) To submit annually to the Appropriations Committee
23 of the Senate and the Appropriations Committee of the House
24 of Representatives, within 15 days after the Governor has
25 submitted a budget to the General Assembly, a copy of the
26 budget request for the upcoming fiscal year which the bureau
27 previously submitted to the department.

28 (9) To establish and maintain a current list of home
29 inspectors who are licensed. The list shall be available for
30 public inspection, including by electronic means.

1 (10) To establish fees as set forth in this act. All
2 fees or other money collected by the board under this act
3 shall be used for the sole purpose of administration and
4 regulation of licensing under this act.

5 (b) Bureau support.--The bureau shall provide sufficient
6 staff, space, equipment and supplies for the board to discharge
7 its duties.

8 CHAPTER 5

9 LICENSURE

10 Section 501. Requirements for licensure.

11 (a) Applicants.--An applicant shall be considered to be
12 qualified for a license if the applicant submits proof
13 satisfactory to the board of all of the following:

14 (1) The applicant is of good moral character.

15 (2) The applicant is at least 18 years of age.

16 (3) The applicant has a high school diploma or its
17 equivalent OR EQUIVALENT LIFE OR OCCUPATIONAL EXPERIENCE. <--

18 (4) The applicant has completed a board-approved
19 training program or course of study involving the performance
20 of home inspections which shall consist of the following:

21 (i) No less than 120 hours of classroom instruction
22 which include six hours of education providing the basic
23 knowledge on the differences between the National
24 Manufactured Housing Construction and Safety Standards
25 Act of 1974 (Public Law 93-383, 42 U.S.C. § 5401 et seq.)
26 and the act of May 11, 1972 (P.L.286, No.70), known as
27 the Industrialized Housing Act, and the installation of
28 manufactured and modular homes.

29 (ii) No less than 75 mentored home inspections
30 completed in the presence of and under the direct

1 supervision of a home inspector licensed in this
2 Commonwealth who oversees and takes full responsibility
3 for the home inspection and any report provided to the
4 client.

5 (5) The applicant has passed a board-approved
6 examination.

7 (6) The application is accompanied by the application
8 fee as established by the board by regulation.

9 (7) The applicant is not addicted to the habitual use of
10 alcohol, narcotics or other habit-forming drugs.

11 (8) The applicant has not been convicted of a felony
12 under the act of April 14, 1972 (P.L.233, No.64), known as
13 The Controlled Substance, Drug, Device and Cosmetic Act, or
14 of an offense under the laws of another jurisdiction which if
15 committed in this Commonwealth would be a felony under The
16 Controlled Substance, Drug, Device and Cosmetic Act, unless
17 the following apply:

18 (i) At least 10 years have elapsed from the date of
19 conviction.

20 (ii) The applicant satisfactorily demonstrates to
21 the board that the applicant has made significant
22 progress in personal rehabilitation since the conviction
23 and that licensure of the applicant should not be
24 expected to create a substantial risk of harm to the
25 public or a substantial risk of further criminal
26 violations.

27 (iii) The applicant otherwise satisfies the
28 qualifications required under this act.

29 (b) Existing practitioners.--The board shall issue a license
30 to an applicant who applies within two years of the effective

1 date of this subsection and complies with all of the following:

2 (1) Is an active professional home inspector.

3 (2) Meets the qualifications described in subsection (a)
4 (1), (2), (3), (6), (7) and (8).

5 (3) Submits proof satisfactory to the board that the
6 applicant has:

7 (i) been in active, continuous practice for at least
8 five years immediately preceding the effective date of
9 this section; or

10 (ii) has performed or participated in 100 home
11 inspections and has passed a recognized or accredited
12 examination testing knowledge of the proper procedures
13 for conducting a home inspection.

14 (c) Transferability.--A license is not transferable.

15 Section 502. License status and continuing education.

16 (a) Duration of license.--A license shall be issued on a
17 biennial basis. The biennial expiration date shall be
18 established by regulation of the board. Application for renewal
19 of a license shall biennially be forwarded to an individual
20 holding a current license prior to the expiration date of the
21 current renewal biennium.

22 (b) Procedure.--To renew a license, a licensee must do all
23 of the following:

24 (1) File a renewal application with the board. The
25 licensee must successfully complete 32 hours of continuing
26 education in the field of home inspection during the
27 immediately preceding two years as approved by the board.
28 Three of the total required hours of continuing education
29 must focus on the differences between the National
30 Manufactured Housing Construction and Safety Standards Act of

1 1974 (Public Law 93-383, 42 U.S.C. § 5401 et seq.) and the
2 act of May 11, 1972 (P.L.286, No.70), known as the
3 Industrialized Housing Act, and the installation of
4 manufactured and modular homes.

5 (2) Pay a fee established by regulation of the board.

6 (c) Information change notification.--A licensee shall
7 notify the board within 30 days of:

8 (1) a change of name;

9 (2) a change of name under which the licensee conducts
10 business;

11 (3) a change of business address;

12 (4) a lapse, change or cancellation of insurance
13 coverage; or

14 (5) a misdemeanor or felony conviction, finding of guilt
15 or plea of nolo contendere or receiving probation without
16 verdict or Accelerated Rehabilitative Disposition.

17 (d) Inactive status.--A licensee may request an application
18 for inactive status. The application form must be completed and
19 returned to the board. Upon receipt of an application, the
20 individual shall be maintained on inactive status without fee
21 and shall be entitled to apply for a licensure renewal at any
22 time. An individual who requests the board to activate the
23 person's license and who has been on inactive status for less
24 than five consecutive years must, prior to receiving an active
25 license, satisfy the board's regulations for ensuring continued
26 education and remitting the required fee. A licensee who fails
27 to activate a licensee's license after five years must retake
28 the examination specified for initial licensure.

29 (e) Reporting of multiple licensure.--A licensee who is also
30 licensed to practice home inspection in another jurisdiction

1 shall report this information to the board on the biennial
2 registration application. Disciplinary action taken in another
3 jurisdiction shall be reported to the board on the biennial
4 registration application or within 90 days of final disposition,
5 whichever is sooner. The board shall note multiple licensures on
6 the licensee's record, and the board shall notify other
7 licensing jurisdictions of disciplinary actions taken against
8 the licensee in this Commonwealth.

9 Section 503. Examinations.

10 The board shall contract with a professional testing
11 organization for the examination of qualified applicants for
12 licensure. All written, oral and practical examinations shall be
13 prepared and administered by a qualified and approved
14 professional testing organization in the manner prescribed for
15 written examinations by section 812.1 of the act of April 9,
16 1929 (P.L.177, No.175), known as The Administrative Code of
17 1929.

18 Section 504. Limitation on liability.

19 A home inspector shall not be held liable for the contents or
20 omissions of a home inspection report if relied upon by any
21 individual or person other than the client as identified by the
22 executed contract for the specific home inspection.

23 Section 505. Licensure by reciprocity.

24 The board may grant a reciprocal license to an applicant who
25 is licensed or certified as a home inspector or similar practice
26 in another state and has demonstrated qualifications which equal
27 or exceed those required under this act in the determination of
28 the board. The board shall not grant a license under this
29 section to an applicant unless the state in which the applicant
30 is licensed affords reciprocal treatment to individuals who are

1 residents of this Commonwealth and who are licensed under this
2 act. The applicant must also submit a notarized statement that
3 the applicant has studied, is familiar with and will abide by
4 this act and regulations promulgated by the board.

5 Section 506. Licensure by endorsement.

6 (a) Issuance.--The board may issue a home inspector license
7 without examination to an applicant holding a home inspector
8 license in another state who submits proof satisfactory to the
9 board of all of the following:

10 (1) The applicant is of good moral character.

11 (2) The applicant holds an unrestricted and active home
12 inspector license from another state whose licensure
13 requirements are substantially equivalent to the requirements
14 for licensure in this Commonwealth.

15 (3) The applicant has submitted an application
16 accompanied by the application fee.

17 (4) The applicant has not been convicted of a felony
18 under the act of April 14, 1972 (P.L.233, No.64), known as
19 The Controlled Substance, Drug, Device and Cosmetic Act, or
20 an offense under the laws of another jurisdiction, which, if
21 committed in this Commonwealth, would be a felony under The
22 Controlled Substance, Drug, Device and Cosmetic Act, unless:

23 (i) at least 10 years have elapsed from the date of
24 conviction;

25 (ii) the applicant satisfactorily demonstrates to
26 the board that the applicant has made significant
27 progress in personal rehabilitation since the conviction
28 such that licensure of the applicant should not be
29 expected to create a substantial risk of harm to the
30 health and safety of the applicant's clients or the

1 public or a substantial risk of further criminal
2 violation; and

3 (iii) the applicant otherwise satisfies the
4 qualifications contained in or authorized by this act.

5 (b) (Reserved).

6 Section 507. Registration or licensing of home inspectors by
7 political subdivisions.

8 No agency or political subdivision of this Commonwealth,
9 other than the board, shall impose the following on individuals
10 licensed under this chapter:

11 (1) A registration or licensing requirement for
12 conducting home inspections.

13 (2) A license fee to obtain a local license, except that
14 this prohibition shall not prevent a local government from
15 imposing an occupational license tax on a person operating as
16 a home inspector within the jurisdiction of the local
17 government.

18 Section 508. Professional liability insurance.

19 (a) Requirement.-- A person holding a license under this act
20 shall maintain insurance against errors and omissions in the
21 performance of a home inspection and general liability, with
22 coverages of not less than \$250,000 per occurrence and \$500,000
23 in the aggregate and with deductibles of not more than \$15,000.

24 (b) Proof.--An applicant must provide proof that the
25 applicant has obtained professional liability insurance under
26 subsection (a). It is sufficient if the applicant files with the
27 application a copy of a letter from the applicant's professional
28 liability insurance carrier indicating that the applicant will
29 be covered against professional liability in the required
30 amounts effective upon the issuance of the applicant's license

1 to practice home inspection in this Commonwealth. Upon issuance
2 of the license, the licensee must, within 30 days, submit to the
3 board the certificate of insurance or a copy of the policy
4 declaration page.

5 (c) Term.--

6 (1) Except as set forth in paragraph (2), a home
7 inspector shall maintain insurance under subsection (a) for
8 at least one year after the latest home inspection report the
9 home inspector delivers.

10 (2) Paragraph (1) shall not apply to a home inspection
11 report that was delivered prior to the effective date of this
12 section.

13 Section 509. Statute of limitations.

14 An action to recover damages arising from a home inspection
15 report must be commenced within one year after the date the
16 report is delivered regardless of when the claim is discovered
17 by the client.

18 Section 510. Refusal, suspension and revocation of licenses.

19 (a) General rule.--The board may refuse, suspend or revoke a
20 license in a case where the board finds:

21 (1) The licensee is negligent or incompetent in
22 performing home inspections.

23 (2) The licensee is unable to perform home inspections
24 with reasonable skill and safety by reason of mental or
25 physical illness or condition or physiological or
26 psychological dependence upon alcohol, hallucinogenic or
27 narcotic drugs or other drugs which tend to impair judgment
28 or coordination, so long as the dependence continues. In
29 enforcing this paragraph, the board shall, upon probable
30 cause, have authority to compel a licensee to submit to a

1 mental or physical examination as designated by the board.
2 After notice and hearing, adjudication and appeal, failure of
3 a licensee to submit to an examination when directed shall
4 constitute an admission of the allegations unless failure is
5 due to circumstances beyond the licensee's control,
6 consequent upon which a default and final order may be
7 entered without the taking of testimony or presentation of
8 evidence. A licensee affected under this paragraph shall at
9 reasonable intervals be afforded the opportunity to
10 demonstrate that the licensee can resume competent, safe and
11 skillful performance of home inspections.

12 (3) The licensee has willfully or repeatedly violated
13 this act or a regulation of the board.

14 (4) The licensee has committed fraud or deceit in:

15 (i) performing home inspections; or

16 (ii) securing licensure.

17 (5) The licensee has been convicted of a felony or a
18 crime of moral turpitude, or received probation without
19 verdict, disposition in lieu of trial or an Accelerated
20 Rehabilitative Disposition in the disposition of felony
21 charges in the courts of this Commonwealth or another
22 jurisdiction.

23 (6) The licensee has had the licensee's license
24 suspended or revoked or has received other disciplinary
25 action by the proper licensing authority in another
26 jurisdiction.

27 (7) With respect to the performance of home inspections,
28 the licensee has acted in a manner to present an immediate
29 and clear danger to health, safety or property.

30 (8) The licensee possessed, used, acquired or

1 distributed a controlled substance.

2 (9) The licensee has been found guilty of unprofessional
3 conduct. Unprofessional conduct includes departure from or
4 failing to conform to operating practices or professional
5 standards as adopted by the board by regulation. In
6 proceedings based on this paragraph, actual injury to a
7 person or damage to property need not be established.

8 (10) The licensee falsely advertised or made misleading,
9 deceptive, untrue or fraudulent material representations
10 regarding licensure, certification or performance of a home
11 inspection.

12 (b) Board action.--If the board finds that the license or
13 application for license may be refused, revoked, restricted or
14 suspended under the terms of subsection (a), the board may do
15 any of the following:

16 (1) Deny the application for license.

17 (2) Administer a public reprimand.

18 (3) Revoke, suspend, limit or otherwise restrict a
19 license.

20 (4) Require a licensee to submit to the care, counseling
21 or treatment of a physician designated by the board.

22 (5) Suspend enforcement of the board's findings and
23 place a licensee on probation with the right to vacate the
24 probationary order for noncompliance.

25 (6) Restore a suspended license and impose a
26 disciplinary or corrective measure which it might originally
27 have imposed.

28 (c) Administrative agency law.--Actions of the board under
29 subsections (a) and (b) are subject to 2 Pa.C.S. Chs. 5 Subch. A
30 (relating to practice and procedure of Commonwealth agencies)

1 and 7 Subch. A (relating to judicial review of Commonwealth
2 agency action).

3 (d) Temporary suspension.--The board shall temporarily
4 suspend a license under circumstances as determined by the board
5 to be an immediate and clear danger to public health and safety.
6 The board shall issue an order to that effect without a hearing,
7 but upon notice to the licensee concerned at the licensee's last
8 known address, which must include a written statement of all
9 allegations against the licensee. Subsection (c) shall not apply
10 to temporary suspension. Upon issuance of an order under this
11 subsection, the board shall commence formal action to suspend,
12 revoke or restrict the license as otherwise provided for in this
13 act. Within 30 days following the issuance of an order
14 temporarily suspending a license, the board shall conduct a
15 preliminary hearing to determine that there is a prima facie
16 case supporting the suspension. The licensee whose license has
17 been temporarily suspended may be present at the preliminary
18 hearing and may be represented by counsel, cross-examine
19 witnesses, inspect physical evidence, call witnesses, offer
20 evidence and testimony and make a record of the proceedings. If
21 the board determines that there is not a prima facie case, the
22 board shall immediately restore the suspended license. The
23 temporary suspension shall remain in effect until vacated by the
24 board, but in no event longer than 180 days.

25 (e) Automatic suspension.--

26 (1) A license shall automatically be suspended upon the
27 legal commitment of a licensee to an institution because of
28 mental incompetence from any cause upon filing with the board
29 a certified copy of the commitment.

30 (2) A license shall automatically be suspended upon

1 conviction of a felony under the act of April 14, 1972
2 (P.L.233, No.64), known as The Controlled Substance, Drug,
3 Device and Cosmetic Act, or conviction of an offense under
4 the laws of another jurisdiction which, if committed in this
5 Commonwealth, would be a felony under The Controlled
6 Substance, Drug, Device and Cosmetic Act.

7 (3) Automatic suspension under this section shall not be
8 stayed pending an appeal.

9 (4) Reinstatement of a license shall be made under
10 section 511.

11 (5) Subsection (c) shall not apply to automatic
12 suspension.

13 Section 511. Reinstatement of license.

14 Unless ordered to do so by a court of competent jurisdiction,
15 the board shall not reinstate the license of an individual which
16 has been revoked. An individual whose license has been revoked
17 may reapply for a license after a period of at least five years
18 but must meet the licensing requirements of this act.

19 Section 512. License renewal, records and fees.

20 (a) Records.--The board shall keep a record of licensees in
21 its office. The record shall be open to public inspection and
22 copying upon payment of a reasonable fee for copying the record.

23 (b) Fees.--If the revenue from fees, fines and civil
24 penalties imposed under this act is not sufficient to meet
25 expenditures over a two-year period, the board shall increase
26 fees by regulation so that the projected revenue will meet or
27 exceed projected expenditures.

28 (c) Increases in fees.--If the board determines that the
29 fees established under subsection (b) are inadequate to meet the
30 minimum enforcement efforts required by this act, the board

1 shall increase the fees by regulation in an amount so that
2 adequate revenue is raised to meet the required enforcement
3 effort.

4 CHAPTER 7

5 ADMINISTRATION AND ENFORCEMENT

6 Section 701. Unlawful practice.

7 (a) General rule.--

8 (1) An individual may not practice home inspection or
9 hold himself or herself out as a home inspector unless
10 licensed by the board except for the following:

11 (i) An individual licensed as a professional
12 engineer under the act of May 23, 1945 (P.L.913, No.367),
13 known as the Engineer, Land Surveyor and Geologist
14 Registration Law.

15 (ii) An individual licensed under the act of
16 December 14, 1982 (P.L.1227, No.281), known as the
17 Architects Licensure Law.

18 (2) Notwithstanding paragraph (1), a person licensed or
19 registered as a professional engineer under the Engineer,
20 Land Surveyor and Geologist Registration Law, or a person
21 licensed or registered under the Architects Licensure Law,
22 must comply with sections 508, 704, 901 and 902 when
23 performing a home inspection. A person licensed or registered
24 as a professional engineer, or licensed or registered as an
25 architect, who violates this paragraph shall be subject to
26 disciplinary action, including license or registration
27 suspension and revocation, and penalties under the Engineer,
28 Land Surveyor and Geologist Registration Law and the
29 Architects Licensure Law, respectively.

30 (b) Title.--An individual who holds a license or is

1 maintained on inactive status may use the title "Licensed Home
2 Inspector" and the abbreviation "L.H.I." No other individual may
3 use the title "Licensed Home Inspector" or the title "Home
4 Inspector" or hold himself or herself out to others as a home
5 inspector. This subsection includes advertising as a home
6 inspector and adopting or using a title or description, or a
7 derivative of "Licensed Home Inspector" or "Home Inspector" and
8 their related abbreviations, which implies directly or
9 indirectly that home inspection services are being provided.

10 (c) Employment.--An individual, corporation, partnership,
11 firm or other entity may not employ an individual in home
12 inspection unless the individual is licensed by the board.

13 (d) Terminology.--A business entity may not utilize in
14 connection with a business name or activity the words "home
15 inspector," "home inspection" or a derivative of "home
16 inspector" or "home inspection" and abbreviations, which implies
17 directly or indirectly that home inspection services are being
18 provided, unless the services of the business are provided by
19 licensees.

20 (e) Injunction.--Unlawful practice may be enjoined by the
21 courts upon petition of the board. In a proceeding under this
22 section, it shall not be necessary to show that an individual
23 has been injured. If the court finds that the respondent has
24 violated this section, it shall enjoin the respondent from
25 practicing until the respondent has been licensed.

26 (f) Remedy cumulative.--The injunctive remedy provided in
27 this section shall be in addition to any other civil or criminal
28 prosecution and punishment.

29 Section 702. Violation of act.

30 (a) Criminal.--A person that violates this act or a

1 regulation of the board commits a misdemeanor of the third
2 degree and shall, upon conviction, be sentenced to pay a fine of
3 not more than \$1,000 or to imprisonment for not more than six
4 months for the first violation and to pay a fine of not more
5 than \$2,000 or to imprisonment for not less than six months nor
6 more than one year, or both, for each subsequent violation.

7 (b) Administrative.--In addition to a criminal penalty under
8 subsection (a), the board, by a vote of the majority of the
9 maximum number of the authorized membership of the board or by a
10 vote of the majority of the qualified and confirmed membership
11 or a minimum of five members, whichever is greater, may levy an
12 administrative penalty of up to \$1,000 for any of the following:

13 (1) A home inspector who violates a provision of this
14 act.

15 (2) A person that employs a home inspector in violation
16 of this act.

17 (3) An individual who holds himself or herself out as a
18 licensee without being properly licensed as provided in this
19 act.

20 (4) The responsible officer or employee of a
21 corporation, partnership, firm or other entity that violates
22 a provision of this act.

23 (c) Administrative agency law.--Action of the board under
24 subsection (b) is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating
25 to practice and procedure of Commonwealth agencies) and 7 Subch.
26 A (relating to judicial review of Commonwealth agency action).
27 Section 703. Degree of care of home inspectors.

28 (a) General rule.--The home inspector shall conduct a home
29 inspection with the degree of care that a reasonably prudent
30 home inspector would exercise.

1 (b) Standard.--In ascertaining the degree of care that would
2 be exercised by a reasonably prudent home inspector, the court
3 shall consider the standards of practice and codes of ethics as
4 established by the board by regulation.

5 (c) Immediate threat to health or safety.--If immediate
6 threats to health or safety are observed during the course of
7 the inspection and the home is occupied, the home inspector
8 shall disclose the immediate threats to health or safety to the
9 property owner and occupants of the property at the conclusion
10 of the home inspection. Posting a notice on a form prescribed by
11 the board by regulation on the front door of the occupied home
12 in a position that ensures the occupants see the notice shall
13 constitute proper disclosure.

14 Section 704. Consumer remedies.

15 (a) General rule.--The performance of a home inspection is a
16 service subject to the act of December 17, 1968 (P.L.1224,
17 No.387), known as the Unfair Trade Practices and Consumer
18 Protection Law.

19 (b) Prohibited acts.--The following acts engaged in by a
20 home inspector, an employer of a home inspector or another
21 business or person that controls or has a financial interest in
22 the employer of a home inspector shall be deemed to be an unfair
23 or deceptive act or practice as defined by section 2(4) of the
24 Unfair Trade Practices and Consumer Protection Law:

25 (1) Performing or offering to perform for an additional
26 fee any repairs to a structure with respect to which the home
27 inspector, the employer of the home inspector or other
28 business or person has prepared a home inspection report
29 within the preceding 12 months, except that this paragraph
30 shall not apply to remediation for radon or wood-destroying

1 insects.

2 (2) Inspecting for a fee any property in which the home
3 inspector, the employer of the home inspector or other
4 business or person has a financial interest or an interest in
5 the transfer of the property, including receipt of a
6 commission as an agent, unless the financial interest or
7 interest in the transfer of the property is disclosed in
8 writing to the buyer before the home inspection is performed
9 and the buyer signs an acknowledgment of receipt of the
10 disclosure.

11 (3) Offering or delivering a commission, referral fee or
12 kickback to the seller of the inspected property or to an
13 agent for the seller or buyer for the referral of business to
14 the home inspector, the employer of the home inspector or
15 other business or person.

16 (4) Accepting an engagement to perform a home inspection
17 or to prepare a home inspection report in which the
18 employment itself or the fee payable for the inspection is
19 contingent upon the conclusions in the report, preestablished
20 or prescribed findings or the closing of the transaction.

21 (c) Exception.--A home warranty company that is affiliated
22 with or retains the home inspector does not violate subsection
23 (b) if the home warranty company performs repairs in accordance
24 with claims made under a home warranty contract.

25 (d) Remedies.--In addition to other remedies available under
26 the Unfair Trade Practices and Consumer Protection Law or other
27 applicable provision of law, the owner of a property on which
28 repairs are performed in violation of subsection (b)(1) shall be
29 entitled to a full refund of money paid for those repairs, and a
30 promissory note or another obligation to pay given to the person

1 performing those repairs shall be void.

2 CHAPTER 9

3 PRACTICE OF HOME INSPECTION

4 Section 901. Home inspection contracts.

5 (a) Required provisions.--A home inspection contract must be
6 typewritten and include all of the following:

7 (1) Signature of client.

8 (2) Scope of home inspection.

9 (3) Fee charged to client.

10 (4) Contact information of home inspector.

11 (5) License number of home inspector.

12 (6) A statement explaining the confidentiality between
13 the home inspector and the client.

14 (b) Prohibited provisions.--The following types of
15 provisions in a contract with a home inspector for the
16 performance of a home inspection are contrary to public policy
17 and the clause shall be unenforceable as it relates to:

18 (1) A limitation on the liability of the home inspector
19 for gross negligence or willful misconduct.

20 (2) A waiver or modification of any provision of this
21 chapter.

22 Section 902. Home inspection reports.

23 (a) Required contents.--A home inspection report must be
24 typewritten and include all of the following:

25 (1) A description of the scope of the inspection,
26 including identification of the essential components and
27 systems and subsystems covered by the report.

28 (2) A description of material defects noted during the
29 inspection, along with a recommendation that certain experts
30 be retained to determine the extent of the defects and the

1 corrective action that should be taken.

2 (3) If, at the time of the inspection, there is visible
3 evidence of the presence of interior mold, mildew or fungi,
4 the home inspector must disclose in the home inspection
5 report the visible evidence and the location and advise the
6 client to obtain a professional evaluation.

7 (4) The following statements, set forth conspicuously:

8 (i) A home inspection is intended to assist in
9 evaluation of the overall condition of the dwelling. The
10 inspection is based on observation of the visible and
11 apparent condition of the structure and its components on
12 the date of inspection.

13 (ii) The results of this home inspection are not
14 intended to make a representation regarding the presence
15 or absence of latent or concealed defects that are not
16 reasonably ascertainable in a competently performed home
17 inspection. No warranty or guaranty is expressed or
18 implied.

19 (iii) If the person conducting your home inspection
20 is not a licensed structural engineer or other
21 professional whose license authorizes the rendering of an
22 opinion as to the structural integrity of a building or
23 the building's other component parts, you may be advised
24 to seek a professional opinion as to any defects or
25 concerns mentioned in the report.

26 (iv) This home inspection report is not to be
27 construed as an appraisal and may not be used as such for
28 any purpose.

29 (b) Confidentiality.--

30 (1) Except as otherwise required by this subsection or

1 by law, a home inspector may not deliver a home inspection
2 report to a person other than the client of the home
3 inspector without the client's consent.

4 (2) The property owner shall have the right, upon
5 request, to receive without charge a copy of a home
6 inspection report from the person for whom the home
7 inspection report was prepared.

8 (3) If immediate threats to health or safety are
9 observed during the course of the inspection and if the
10 premises are occupied, the client hereby consents to allow
11 the home inspector to disclose the immediate threats to
12 health or safety to the property owner and occupants of the
13 property.

14 (c) Repair estimates prohibited.--

15 (1) Except as set forth in paragraph (2), a home
16 inspector may not express either orally or in writing an
17 estimate of the cost to repair a defect found during a home
18 inspection.

19 (2) A home inspector may include an estimate in a home
20 inspection report if:

21 (i) the report identifies the source of the
22 estimate;

23 (ii) the estimate is stated as a range of costs; and

24 (iii) the report states that the parties should
25 consider obtaining an estimate from a contractor who
26 performs the type of repair involved.

27 CHAPTER 21

28 MISCELLANEOUS PROVISIONS

29 Section 2101. Relationship to other laws.

30 (a) General rule.--Nothing in this act shall be construed to

1 allow a home inspector who is not licensed under one or more of
2 the following laws to perform any activity that would constitute
3 the practice of the profession regulated by that law:

4 (1) The act of May 23, 1945 (P.L.913, No.367), known as
5 the Engineer, Land Surveyor and Geologist Registration Law.

6 (2) The act of January 24, 1966 (1965 P.L.1535, No.537),
7 known as the Pennsylvania Sewage Facilities Act.

8 (3) The act of March 1, 1974 (P.L.90, No.24), known as
9 the Pennsylvania Pesticide Control Act of 1973.

10 (4) The act of December 14, 1982 (P.L.1227, No.281),
11 known as the Architects Licensure Law.

12 (5) The act of July 9, 1987 (P.L.238, No.43), known as
13 the Radon Certification Act.

14 (b) Exclusions.--This act shall not:

15 (1) Apply to a person licensed under an act referred to
16 in subsection (a) when acting under the person's registration
17 or license.

18 (2) Apply to an officer or employee of a municipality or
19 local authority when acting in the person's official
20 capacity.

21 (3) Affect the obligations or immunities of a person
22 licensed under the act of February 19, 1980 (P.L.15, No.9),
23 known as the Real Estate Licensing and Registration Act, that
24 are imposed or provided under that act or 68 Pa.C.S. Ch. 73
25 (relating to seller disclosures) when the person is acting
26 under the person's license.

27 (4) Affect the obligations or immunities of a person
28 certified under the act of July 10, 1990 (P.L.404, No.98),
29 known as the Real Estate Appraisers Certification Act, when
30 the person is acting under the person's license.

1 (5) Apply to an employee of the Federal Government when
2 acting in the person's official capacity.

3 (6) Apply to an employee of a property management entity
4 which performs rental property inspections.

5 Section 2102. Regulations.

6 The board shall promulgate final regulations to carry out
7 this act within 18 months of the effective date of this section.
8 The board shall report, within 60 days of the effective date of
9 this section and every 30 days thereafter, on the status of the
10 regulations to the Consumer Protection and Professional
11 Licensure Committee of the Senate and the Professional Licensure
12 Committee of the House of Representatives. The board shall
13 promulgate further regulations as necessary to carry out duties
14 as required in this act.

15 Section 2103. Repeal.

16 Repeals are as follows:

17 (1) The General Assembly declares that the repeal under
18 paragraph (2) is necessary to effectuate this act.

19 (2) The provisions of 68 Pa.C.S. Ch. 75 are repealed.

20 Section 2104. Appropriation.

21 The sum of \$85,000, or as much of the sum as may be
22 necessary, is appropriated to the bureau for the payment of
23 costs associated with processing licenses and renewing licenses,
24 for the operation of the board and for other costs associated
25 with this act. The appropriation shall be repaid by the board
26 within three years of the beginning of issuance of licenses by
27 the board.

28 Section 2105. Effective date.

29 This act shall take effect as follows:

30 (1) The following provisions shall take effect

1 immediately:

2 (i) Section 301.

3 (ii) Section 2102.

4 (iii) This section.

5 (2) The following provisions shall take effect in two
6 years:

7 (i) Chapter 5.

8 (ii) Except as set forth in paragraph (3), Chapters
9 7 and 21.

10 (3) Section 701(a) shall take effect 90 days after the
11 effective date of the initial regulations promulgated under
12 section 2102.

13 (4) The remainder of this act shall take effect in 60
14 days.