

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 324 Session of
1991

INTRODUCED BY NAHILL, DeLUCA, MICHLOVIC, PESCI, MICOZZIE, GEIST,
TRELLO, HECKLER, JAROLIN, RAYMOND, SAURMAN, STEELMAN,
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FEBRUARY 6, 1991

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,
FEBRUARY 6, 1991

AN ACT

1 Providing for the licensing of professional home inspectors;
2 granting powers to and imposing duties on the Secretary of
3 Labor and Industry; and providing a civil penalty.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Professional
8 Home Inspector Licensure Act.

9 Section 2. Definitions.

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

13 "Associate home inspector." A person who is employed by a
14 licensed professional home inspector to conduct inspections of
15 residential homes or buildings on behalf of the professional
16 home inspector.

17 "Professional home inspector." A person who, for

1 compensation, engages in the business of inspecting residential
2 homes or buildings for buyers or others.

3 "Secretary." The Secretary of Labor and Industry of the
4 Commonwealth.

5 Section 3. Professional home inspector to be licensed.

6 (a) System established.--The secretary shall establish a
7 system for the licensure of professional home inspectors.

8 (b) License requirement.--No person may engage in the
9 business of home inspections, either part-time or full-time, or
10 in any other manner act as a professional home inspector or
11 associate home inspector unless the person is licensed by the
12 secretary.

13 (c) Application.--A professional home inspector or associate
14 home inspector shall be licensed by the secretary upon
15 submission of an application and payment of a reasonable
16 application fee sufficient to cover the cost of implementing the
17 provisions of this act. The fee shall be prescribed by the
18 secretary.

19 (d) Renewals.--The secretary may require biennial renewal of
20 application for licensure and may stagger the renewal dates and
21 adjust the application fees accordingly.

22 Section 4. Application for professional home inspector license.

23 (a) License criteria.--The secretary shall establish the
24 criteria for the granting of a license. The applicant for a
25 professional home inspector's license shall, as a condition
26 precedent to obtaining a license, take a licensing examination
27 as prescribed by the secretary, and score a passing grade. Prior
28 to taking the examination:

29 (1) The applicant shall:

30 (i) be at least 21 years of age; and

(ii) be a high school graduate or produce proof satisfactory to the secretary of an education equivalent thereto; and

(2) The applicant shall:

(i) have been engaged as a licensed associate home inspector for at least two years and have completed 250 fee-paid inspections; or

(ii) possess educational or experience qualifications which the secretary deems to be the equivalent of the qualifications listed in subparagraph (i). If this subparagraph is used as the basis for licensing, an equivalency examination shall be administered by the secretary and a passing grade shall be required.

(b) Written application.--An application for a license as a professional home inspector shall be made in writing, to the secretary, upon a form provided for the purpose by the secretary, and shall contain such information concerning the applicant as the secretary shall require.

(c) Place of business.--The application shall state the place of business for which the license is desired.

(d) Time for submission.--The application must be received by the secretary within three years of the date upon which the applicant took the examination.

Section 5. Application for associate home inspector license.

(a) Examination required.--Each applicant shall, as a condition precedent to obtaining a license, take the associate home inspector's license examination and score a passing grade. Prior to taking the examination, the applicant shall be at least 21 years of age.

1 (b) Written application.--An application for a license as an
2 associate home inspector shall be made in writing, to the
3 secretary, upon a form provided for the purpose by the
4 secretary, and shall contain such information concerning the
5 applicant as the secretary shall require.

6 (c) Sworn statement.--The applicant shall submit a sworn
7 statement by the professional home inspector with whom he
8 desires to be affiliated certifying that the professional home
9 inspector will actively supervise and train the applicant.

10 (d) Time for submission.--The application must be received
11 by the secretary within three years of the date upon which the
12 applicant took the examination.

13 Section 6. Exceptions.

14 (a) Eligibility for professional home inspector's license.--

15 (1) A person who has engaged in the business of home
16 inspections for a minimum of one year prior to the effective
17 date of this act and has conducted at least 250 fee-paid
18 inspections, and who successfully completes the written
19 examination to be administered by the secretary, shall be
20 eligible to apply for a professional home inspector's
21 license.

22 (2) Any registered professional engineer in this
23 Commonwealth who has at least 20 years of related working
24 experience in design and inspection for residential or
25 commercial construction shall be eligible to apply for and
26 receive a professional home inspector's license.

27 (3) Any person who holds a current building inspection
28 certification from the Pennsylvania Building Officials
29 Conference shall be eligible to apply for and receive a
30 professional home inspector's license.

1 (b) Exemption.--A person eligible for licensing under
2 subsection (a) shall be exempt from the provisions of this act
3 relating to associate home inspectors.

4 (c) Duration of exception.--Subsection(a)(1) shall remain in
5 effect for a period of three years after the effective date of
6 this act.

7 Section 7. Secretary to investigate.

8 The secretary shall, on his initiative or in response to
9 complaints, investigate on a continuous basis allegations of
10 violations of this act and gather evidence of violations of this
11 act or any regulation adopted under this act.

12 Section 8. Grounds for fines or revocations.

13 The secretary may fine or refuse to grant or may suspend or
14 revoke a license of a professional home inspector for any of the
15 following acts or omissions related to the conduct of the
16 business of inspecting residential homes or buildings:

17 (1) Making or authorizing any material statement,
18 written or oral, which is known to be untrue or misleading.

19 (2) Failing to carry appropriate general liability and
20 professional liability insurance policies providing coverage
21 for negligent acts.

22 (3) Expressing an opinion not based on practical
23 experience and honest conviction.

24 (4) Acting in bad faith toward a client.

25 (5) Disclosing any information concerning the results of
26 an inspection without first obtaining the approval of the
27 client for whom the inspection was performed.

28 (6) Accepting compensation, monetary or otherwise, from
29 more than one interested party for the same service without
30 first obtaining the consent of all interested parties.

1 (7) Accepting or offering commissions or allowances,
2 directly or indirectly, from other parties dealing with his
3 client in connection with work for which the professional
4 home inspector is responsible.

5 (8) Failing to promptly disclose to a client any
6 interest in a business that may affect the client.

7 (9) Allowing an interest in a business other than home
8 inspection to affect the quality or result of an inspection.

9 (10) Using a home inspection as a vehicle to obtain
10 additional work in another field.

11 (11) Attempting to appraise or express an opinion
12 concerning the market value of any property under inspection.

13 (12) Engaging in a pattern of conduct which includes any
14 of the acts or omissions prohibited in this section or any
15 other unconscionable or fraudulent commercial practice
16 prohibited by the secretary pursuant to regulations
17 promulgated under this act.

18 Section 9. Notice to be given.

19 Upon refusal to grant a license or upon suspension or
20 revocation of a license issued to a professional home inspector,
21 the secretary shall notify the professional home inspector, in
22 writing, by certified mail. The person shall be given a hearing
23 by a review board if, within 60 days after receipt of notice, he
24 files with the secretary a written request for a hearing.

25 Section 10. Review board.

26 The review board for the hearings provided for in section 9
27 shall be convened and appointed by the secretary when necessary
28 and shall consist of one professional home inspector, one lay
29 person and the secretary. Appointments to the review board shall
30 be rotated to prevent any indication of permanent appointment.

1 Section 11. Civil penalties.

2 The secretary may impose upon a professional home inspector
3 who violates this act a civil penalty of not more than \$2,000
4 for the first offense and not more than \$5,000 for the second
5 and each subsequent offense. The civil penalty shall be issued
6 for and recovered by and in the name of the secretary and shall
7 be collected and enforced by summary proceedings.

8 Section 12. Rules and regulations.

9 The secretary shall promulgate rules and regulations to
10 administer and enforce this act.

11 Section 13. Effective date.

12 This act shall take effect in 90 days.