

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, RYAN, SAYLOR, SCHWEYER, SIMMONS, SNYDER, THOMAS, TOEPEL, WARD, WARREN, WATSON, PHILLIPS-HILL, MACKENZIE, BOYLE, ENGLISH AND WHEELAND, MARCH 28, 2017

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 21, 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.

6 TABLE OF CONTENTS

- 7 Chapter 1. Preliminary Provisions
8 Section 101. Short title.
9 Section 102. Declaration of policy.
10 Section 103. Definitions.
11 Chapter 3. Board
12 Section 301. Board established.
13 Section 302. Powers and duties of board.
14 Chapter 5. Licensure
15 Section 501. Requirements for licensure.

1 Section 502. License status and continuing education.
2 Section 503. Examinations.
3 Section 504. ~~Manufactured and modular housing certificate~~ <--
4 LIMITATION ON LIABILITY. <--
5 Section 505. Licensure by reciprocity.
6 Section 506. Licensure by endorsement.
7 Section 507. Registration or licensing of home inspectors by
8 political subdivisions.
9 Section 508. Professional liability insurance.
10 Section 509. Statute of limitations.
11 Section 510. Refusal, suspension and revocation of licenses.
12 Section 511. Reinstatement of license.
13 Section 512. License renewal, records and fees.
14 Chapter 7. Administration and Enforcement
15 Section 701. Unlawful practice.
16 Section 702. Violation of act.
17 Section 703. Degree of care of home inspectors.
18 Section 704. Consumer remedies.
19 Chapter 9. Practice of Home Inspection
20 Section 901. Home inspection contracts.
21 Section 902. Home inspection reports.
22 Chapter 21. Miscellaneous Provisions
23 Section 2101. Relationship to other laws.
24 Section 2102. Regulations.
25 Section 2103. Repeal.
26 Section 2104. Appropriation.
27 Section 2105. Effective date.

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

30 CHAPTER 1

PRELIMINARY PROVISIONS

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Section 101. Short title.

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

Section 102. Declaration of policy.

The General Assembly finds and declares as follows:

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

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

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

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

Section 103. Definitions.

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

"Account." The Professional Licensure Augmentation Account.

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

"Board." The Home Inspection Licensing Board.

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

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

1 "Convicted." Includes a judgment, admission of guilt or a
2 plea of nolo contendere, or receiving probation without verdict,
3 disposition in lieu of trial or an Accelerated Rehabilitative
4 Disposition of the disposition of felony charges.

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

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

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

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

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

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

22 (A) Wood destroying insects.

23 (B) Underground tanks and wells.

24 (C) Septic systems.

25 (D) Swimming pools and spas.

26 (E) Alarm systems.

27 (F) Air and water quality.

28 (G) Tennis courts and playground equipment.

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

1 (iii) An examination associated with moving into or
2 out of a leased home.

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

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

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

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

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

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

20 CHAPTER 3

21 BOARD

22 Section 301. Board established.

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

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

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

29 (3) Members appointed by the ~~secretary~~ GOVERNOR WITH THE <--
30 ADVICE AND CONSENT OF THE SENATE as follows:

1 (i) Six members who shall be home inspectors
2 licensed in this Commonwealth. For an initial
3 appointment, a home inspector must qualify for licensure
4 and obtain a license immediately upon availability.

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

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

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

12 (b) Term of office.--

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

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

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

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

26 Section 302. Powers and duties of board.

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

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

1 promulgate regulations requiring applicants to pass
2 examinations relating to qualifications as a prerequisite to
3 the issuance of a license.

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

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

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

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

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

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

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

29 (9) To establish and maintain a current list of home
30 inspectors who are licensed. The list shall be available for

1 public inspection, including by electronic means.

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

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

9 CHAPTER 5

10 LICENSURE

11 Section 501. Requirements for licensure.

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

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

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

17 (3) The applicant has a high school diploma or its
18 equivalent.

19 (4) The applicant has completed a board-approved
20 training program or course of study involving the performance
21 of home inspections which shall ~~be no~~ CONSIST OF THE <--
22 FOLLOWING:

23 (I) NO less than 120 hours of classroom instruction
24 ~~and~~ WHICH INCLUDE SIX HOURS OF EDUCATION PROVIDING THE <--
25 BASIC KNOWLEDGE ON THE DIFFERENCES BETWEEN THE NATIONAL
26 MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS
27 ACT OF 1974 (PUBLIC LAW 93-383, 42 U.S.C. § 5401 ET SEQ.)
28 AND THE ACT OF MAY 11, 1972 (P.L.286, NO.70), KNOWN AS
29 THE INDUSTRIALIZED HOUSING ACT, AND THE INSTALLATION OF
30 MANUFACTURED AND MODULAR HOMES.

1 (II) NO LESS THAN 75 mentored home inspections
2 completed in the presence of and under the direct
3 supervision of a home inspector licensed in this
4 Commonwealth who oversees and takes full responsibility
5 for the home inspection and any report provided to the
6 client.

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

9 (6) The application is accompanied by the application
10 fee as established by the board by regulation.

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

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

20 (i) At least 10 years have elapsed from the date of
21 conviction.

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

29 (iii) The applicant otherwise satisfies the
30 qualifications required under this act.

1 (b) Existing practitioners.--The board shall issue a license
2 to an applicant who applies within two years of the effective
3 date of this subsection and complies with all of the following:

4 (1) Is an active professional home inspector.

5 (2) Meets the qualifications described in subsection (a)
6 (1), (2), (3), (6), (7) and (8) ~~and section 504.~~ <--

7 (3) Submits proof satisfactory to the board that the
8 applicant has:

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

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

16 (c) Transferability.--A license is not transferable.
17 Section 502. License status and continuing education.

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

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

26 (1) File a renewal application with the board. The
27 licensee must successfully complete 32 hours of continuing
28 education in the field of home inspection during the
29 immediately preceding two years as approved by the board.

30 THREE OF THE TOTAL REQUIRED HOURS OF CONTINUING EDUCATION <--

1 MUST FOCUS ON THE DIFFERENCES BETWEEN THE NATIONAL
2 MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS ACT OF
3 1974 (PUBLIC LAW 93-383, 42 U.S.C. § 5401 ET SEQ.) AND THE
4 ACT OF MAY 11, 1972 (P.L.286, NO.70), KNOWN AS THE
5 INDUSTRIALIZED HOUSING ACT, AND THE INSTALLATION OF
6 MANUFACTURED AND MODULAR HOMES.

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

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

10 (1) a change of name;

11 (2) a change of name under which the licensee conducts
12 business;

13 (3) a change of business address;

14 (4) a lapse, change or cancellation of insurance
15 coverage; or

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

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

1 (e) Reporting of multiple licensure.--A licensee who is also
2 licensed to practice home inspection in another jurisdiction
3 shall report this information to the board on the biennial
4 registration application. Disciplinary action taken in another
5 jurisdiction shall be reported to the board on the biennial
6 registration application or within 90 days of final disposition,
7 whichever is sooner. The board shall note multiple licensures on
8 the licensee's record, and the board shall notify other
9 licensing jurisdictions of disciplinary actions taken against
10 the licensee in this Commonwealth.

11 Section 503. Examinations.

12 The board shall contract with a professional testing
13 organization for the examination of qualified applicants for
14 licensure. All written, oral and practical examinations shall be
15 prepared and administered by a qualified and approved
16 professional testing organization in the manner prescribed for
17 written examinations by section 812.1 of the act of April 9,
18 1929 (P.L.177, No.175), known as The Administrative Code of
19 1929.

20 Section 504. ~~Manufactured and modular housing certificate.~~ <--

21 ~~(a) Certificate required. In addition to a home inspector~~
22 ~~license, a manufactured and modular housing certificate is~~
23 ~~required to perform home inspections on manufactured or modular~~
24 ~~housing.~~

25 ~~(b) Applicants. An applicant shall be considered to be~~
26 ~~qualified for a manufactured and modular housing certificate if~~
27 ~~the applicant submits proof satisfactory to the board that the~~
28 ~~applicant has:~~

29 ~~(1) satisfied all of the licensure requirements set forth in~~
30 ~~section 501; and~~

1 ~~(2) completed a six hour board approved training program~~
2 ~~providing basic knowledge on the differences between the~~
3 ~~National Manufactured Housing Construction and Safety Standards~~
4 ~~Act of 1974 (Public Law 93 383, 42 U.S.C. § 5401 et seq.) and~~
5 ~~the act of May 11, 1972 (P.L.286, No.70), known as the~~
6 ~~Industrialized Housing Act, and knowledge pertaining to the~~
7 ~~installation of manufactured and modular homes.~~

8 ~~(c) Continuing education. In addition to the requirements~~
9 ~~set forth in section 502(b), to renew a manufactured and modular~~
10 ~~housing certificate, a licensee must do all of the following:~~

11 ~~(1) File a renewal application with the board.~~

12 ~~(2) Successfully complete three hours of continuing~~
13 ~~education pertaining to basic knowledge on the differences~~
14 ~~between the National Manufactured Housing Construction and~~
15 ~~Safety Standards Act of 1974 and the Industrialized Housing~~
16 ~~Act and knowledge pertaining to the installation of~~
17 ~~manufactured and modular homes during the immediately~~
18 ~~preceding two years as approved by the board.~~

19 ~~(3) Pay a fee established by regulation of the board.~~

20 LIMITATION ON LIABILITY.

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21 A HOME INSPECTOR SHALL NOT BE HELD LIABLE FOR THE
22 CONTENTS OR OMISSIONS OF A HOME INSPECTION REPORT IF RELIED
23 UPON BY ANY INDIVIDUAL OR PERSON OTHER THAN THE CLIENT AS
24 IDENTIFIED BY THE EXECUTED CONTRACT FOR THE SPECIFIC HOME
25 INSPECTION.

26 Section 505. Licensure by reciprocity.

27 The board may grant a reciprocal license to an applicant who
28 is licensed or certified as a home inspector or similar practice
29 in another state and has demonstrated qualifications which equal
30 or exceed those required under this act in the determination of

1 the board. The board shall not grant a license under this
2 section to an applicant unless the state in which the applicant
3 is licensed affords reciprocal treatment to individuals who are
4 residents of this Commonwealth and who are licensed under this
5 act. The applicant must also submit a notarized statement that
6 the applicant has studied, is familiar with and will abide by
7 this act and regulations promulgated by the board.

8 Section 506. Licensure by endorsement.

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

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

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

18 (3) The applicant has submitted an application
19 accompanied by the application fee.

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

26 (i) at least 10 years have elapsed from the date of
27 conviction;

28 (ii) the applicant satisfactorily demonstrates to
29 the board that the applicant has made significant
30 progress in personal rehabilitation since the conviction

1 such that licensure of the applicant should not be
2 expected to create a substantial risk of harm to the
3 health and safety of the applicant's clients or the
4 public or a substantial risk of further criminal
5 violation; and

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

8 (B) (RESERVED). <--

9 Section 507. Registration or licensing of home inspectors by
10 political subdivisions.

11 No agency or political subdivision of this Commonwealth,
12 other than the board, shall impose the following on individuals
13 licensed under this chapter:

14 (1) A registration or licensing requirement for
15 conducting home inspections.

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

21 Section 508. Professional liability insurance.

22 (a) Requirement.-- A person holding a license under this act
23 shall maintain insurance against errors and omissions in the
24 performance of a home inspection and general liability, with
25 coverages of not less than \$250,000 per occurrence and \$500,000
26 in the aggregate and with deductibles of not more than ~~\$5,000~~ <--
27 \$15,000. <--

28 (b) Proof.--An applicant must provide proof that the
29 applicant has obtained professional liability insurance under
30 subsection (a). It is sufficient if the applicant files with the

1 application a copy of a letter from the applicant's professional
2 liability insurance carrier indicating that the applicant will
3 be covered against professional liability in the required
4 amounts effective upon the issuance of the applicant's license
5 to practice home inspection in this Commonwealth. Upon issuance
6 of the license, the licensee must, within 30 days, submit to the
7 board the certificate of insurance or a copy of the policy
8 declaration page.

9 (c) Term.--

10 (1) Except as set forth in paragraph (2), a home
11 inspector shall maintain insurance under subsection (a) for
12 at least ~~two years~~ ONE YEAR after the latest home inspection <--
13 report the home inspector delivers.

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

17 Section 509. Statute of limitations.

18 An action to recover damages arising from a home inspection
19 report must be commenced within one year after the date the
20 report is delivered REGARDLESS OF WHEN THE CLAIM IS DISCOVERED <--
21 BY THE CLIENT.

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

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

25 (1) The licensee is negligent or incompetent in
26 performing home inspections.

27 (2) The licensee is unable to perform home inspections
28 with reasonable skill and safety by reason of mental or
29 physical illness or condition or physiological or
30 psychological dependence upon alcohol, hallucinogenic or

1 narcotic drugs or other drugs which tend to impair judgment
2 or coordination, so long as the dependence continues. In
3 enforcing this paragraph, the board shall, upon probable
4 cause, have authority to compel a licensee to submit to a
5 mental or physical examination as designated by the board.
6 After notice and hearing, adjudication and appeal, failure of
7 a licensee to submit to an examination when directed shall
8 constitute an admission of the allegations unless failure is
9 due to circumstances beyond the licensee's control,
10 consequent upon which a default and final order may be
11 entered without the taking of testimony or presentation of
12 evidence. A licensee affected under this paragraph shall at
13 reasonable intervals be afforded the opportunity to
14 demonstrate that the licensee can resume competent, safe and
15 skillful performance of home inspections.

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

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

19 (i) performing home inspections; or

20 (ii) securing licensure.

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

27 (6) The licensee has had the licensee's license
28 suspended or revoked or has received other disciplinary
29 action by the proper licensing authority in another
30 jurisdiction.

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

4 (8) The licensee possessed, used, acquired or
5 distributed a controlled substance.

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

12 (10) The licensee falsely advertised or made misleading,
13 deceptive, untrue or fraudulent material representations
14 regarding licensure, certification or performance of a home
15 inspection.

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

20 (1) Deny the application for license.

21 (2) Administer a public reprimand.

22 (3) Revoke, suspend, limit or otherwise restrict a
23 license.

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

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

29 (6) Restore a suspended license and impose a
30 disciplinary or corrective measure which it might originally

1 have imposed.

2 (c) Administrative agency law.--Actions of the board under
3 subsections (a) and (b) are subject to 2 Pa.C.S. Chs. 5 Subch. A
4 (relating to practice and procedure of Commonwealth agencies)
5 and 7 Subch. A (relating to judicial review of Commonwealth
6 agency action).

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

29 (e) Automatic suspension.--

30 (1) A license shall automatically be suspended upon the

1 legal commitment of a licensee to an institution because of
2 mental incompetence from any cause upon filing with the board
3 a certified copy of the commitment.

4 (2) A license shall automatically be suspended upon
5 conviction of a felony under the act of April 14, 1972
6 (P.L.233, No.64), known as The Controlled Substance, Drug,
7 Device and Cosmetic Act, or conviction of an offense under
8 the laws of another jurisdiction which, if committed in this
9 Commonwealth, would be a felony under The Controlled
10 Substance, Drug, Device and Cosmetic Act.

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

13 (4) Reinstatement of a license shall be made under
14 section 511.

15 (5) Subsection (c) shall not apply to automatic
16 suspension.

17 Section 511. Reinstatement of license.

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

23 Section 512. License renewal, records and fees.

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

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

1 exceed projected expenditures.

2 (c) Increases in fees.--If the board determines that the
3 fees established under subsection (b) are inadequate to meet the
4 minimum enforcement efforts required by this act, the board
5 shall increase the fees by regulation in an amount so that
6 adequate revenue is raised to meet the required enforcement
7 effort.

8 CHAPTER 7

9 ADMINISTRATION AND ENFORCEMENT

10 Section 701. Unlawful practice.

11 ~~(a) General rule. An individual may not practice home (A) <--~~

12 GENERAL RULE.--

13 (1) AN INDIVIDUAL MAY NOT PRACTICE HOME inspection or
14 hold himself or herself out as a home inspector unless
15 licensed by the board except for the following:

16 ~~(1) An individual licensed as a professional engineer <--~~

17 (I) AN INDIVIDUAL LICENSED AS A PROFESSIONAL <--
18 ENGINEER under the act of May 23, 1945 (P.L.913, No.367),
19 known as the Engineer, Land Surveyor and Geologist
20 Registration Law.

21 ~~(2) An individual licensed under the act of December 14, <--~~

22 (II) AN INDIVIDUAL LICENSED UNDER THE ACT OF <--
23 DECEMBER 14, 1982 (P.L.1227, No.281), known as the
24 Architects Licensure Law.

25 (2) NOTWITHSTANDING PARAGRAPH (1), A PERSON LICENSED OR <--
26 REGISTERED AS A PROFESSIONAL ENGINEER UNDER THE ENGINEER,
27 LAND SURVEYOR AND GEOLOGIST REGISTRATION LAW, OR A PERSON
28 LICENSED OR REGISTERED UNDER THE ARCHITECTS LICENSURE LAW,
29 MUST COMPLY WITH SECTIONS 508, 704, 901 AND 902 WHEN
30 PERFORMING A HOME INSPECTION. A PERSON LICENSED OR REGISTERED

1 AS A PROFESSIONAL ENGINEER, OR LICENSED OR REGISTERED AS AN
2 ARCHITECT, WHO VIOLATES THIS PARAGRAPH SHALL BE SUBJECT TO
3 DISCIPLINARY ACTION, INCLUDING LICENSE OR REGISTRATION
4 SUSPENSION AND REVOCATION, AND PENALTIES UNDER THE ENGINEER,
5 LAND SURVEYOR AND GEOLOGIST REGISTRATION LAW AND THE
6 ARCHITECTS LICENSURE LAW, RESPECTIVELY.

7 (b) Title.--An individual who holds a license or is
8 maintained on inactive status may use the title "Licensed Home
9 Inspector" and the abbreviation "L.H.I." No other individual may
10 use the title "Licensed Home Inspector" or the title "Home
11 Inspector" or hold himself or herself out to others as a home
12 inspector. This subsection includes advertising as a home
13 inspector and adopting or using a title or description, or a
14 derivative of "Licensed Home Inspector" or "Home Inspector" and
15 their related abbreviations, which implies directly or
16 indirectly that home inspection services are being provided.

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

20 (d) Terminology.--A business entity may not utilize in
21 connection with a business name or activity the words "home
22 inspector," "home inspection" or a derivative of "home
23 inspector" or "home inspection" and abbreviations, which implies
24 directly or indirectly that home inspection services are being
25 provided, unless the services of the business are provided by
26 licensees.

27 (e) Injunction.--Unlawful practice may be enjoined by the
28 courts upon petition of the board. In a proceeding under this
29 section, it shall not be necessary to show that an individual
30 has been injured. If the court finds that the respondent has

1 violated this section, it shall enjoin the respondent from
2 practicing until the respondent has been licensed.

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

6 Section 702. Violation of act.

7 (a) Criminal.--A person that violates this act or a
8 regulation of the board commits a misdemeanor of the third
9 degree and shall, upon conviction, be sentenced to pay a fine of
10 not more than \$1,000 or to imprisonment for not more than six
11 months for the first violation and to pay a fine of not more
12 than \$2,000 or to imprisonment for not less than six months nor
13 more than one year, or both, for each subsequent violation.

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

20 (1) A home inspector who violates a provision of this
21 act.

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

24 (3) An individual who holds himself or herself out as a
25 licensee without being properly licensed as provided in this
26 act.

27 (4) The responsible officer or employee of a
28 corporation, partnership, firm or other entity that violates
29 a provision of this act.

30 (c) Administrative agency law.--Action of the board under

1 subsection (b) is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating
2 to practice and procedure of Commonwealth agencies) and 7 Subch.
3 A (relating to judicial review of Commonwealth agency action).
4 Section 703. Degree of care of home inspectors.

5 (a) General rule.--The home inspector shall conduct a home
6 inspection with the degree of care that a reasonably prudent
7 home inspector would exercise.

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

12 (c) Immediate threat to health or safety.--If immediate
13 threats to health or safety are observed during the course of
14 the inspection AND THE HOME IS OCCUPIED, the home inspector <--
15 shall disclose the immediate threats to health or safety to the
16 property owner and occupants of the property at the conclusion
17 of the home inspection. POSTING A NOTICE ON A FORM PRESCRIBED BY <--
18 THE BOARD BY REGULATION ON THE FRONT DOOR OF THE OCCUPIED HOME
19 IN A POSITION THAT ENSURES THE OCCUPANTS SEE THE NOTICE SHALL
20 CONSTITUTE PROPER DISCLOSURE.

21 Section 704. Consumer remedies.

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

26 (b) Prohibited acts.--~~Any of the~~ THE following acts engaged <--
27 in by a home inspector, an employer of a home inspector or
28 another business or person that controls or has a financial
29 interest in the employer of a home inspector shall be deemed to
30 be an unfair or deceptive act or practice as defined by section

1 2(4) of the Unfair Trade Practices and Consumer Protection Law:

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

9 (2) Inspecting for a fee any property in which the home
10 inspector, the employer of the home inspector or other
11 business or person has a financial interest or an interest in
12 the transfer of the property, including receipt of a
13 commission as an agent, unless the financial interest or
14 interest in the transfer of the property is disclosed in
15 writing to the buyer before the home inspection is performed
16 and the buyer signs an acknowledgment of receipt of the
17 disclosure.

18 (3) Offering or delivering a commission, referral fee or
19 kickback to the seller of the inspected property or to an
20 agent for the seller or buyer for the referral of business to
21 the home inspector, the employer of the home inspector or
22 other business or person.

23 (4) Accepting an engagement to perform a home inspection
24 or to prepare a home inspection report in which the
25 employment itself or the fee payable for the inspection is
26 contingent upon the conclusions in the report, preestablished
27 or prescribed findings or the closing of the transaction.

28 (c) Exception.--A home warranty company that is affiliated
29 with or retains the home inspector does not violate subsection
30 (b) if the home warranty company performs repairs in accordance

1 with claims made under a home warranty contract.

2 (d) Remedies.--In addition to other remedies available under
3 the Unfair Trade Practices and Consumer Protection Law or other
4 applicable provision of law, the owner of a property on which
5 repairs are performed in violation of subsection (b)(1) shall be
6 entitled to a full refund of money paid for those repairs, and a
7 promissory note or another obligation to pay given to the person
8 performing those repairs shall be void.

9 CHAPTER 9

10 PRACTICE OF HOME INSPECTION

11 Section 901. Home inspection contracts.

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

- 14 (1) Signature of client.
- 15 (2) Scope of home inspection.
- 16 (3) Fee charged to client.
- 17 (4) Contact information of home inspector.
- 18 (5) License number of home inspector.
- 19 (6) A statement explaining the confidentiality between
20 the home inspector and the client.

21 (b) Prohibited provisions.--The following types of
22 provisions in a contract with a home inspector for the
23 performance of a home inspection are contrary to public policy
24 and ~~shall be void~~ THE CLAUSE SHALL BE UNENFORCEABLE AS IT

<--

25 RELATES TO:

- 26 (1) A limitation on the liability of the home inspector
27 for gross negligence or willful misconduct.
- 28 (2) A waiver or modification of any provision of this
29 chapter.

30 Section 902. Home inspection reports.

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

3 (1) A description of the scope of the inspection,
4 including identification of the essential components and
5 systems and subsystems covered by the report.

6 (2) A description of material defects noted during the
7 inspection, along with a recommendation that certain experts
8 be retained to determine the extent of the defects and the
9 corrective action that should be taken.

10 (3) If, at the time of the inspection, there is visible
11 evidence of ~~conditions conducive to the presence of mold,~~ <--
12 INTERIOR MOLD, MILDEW OR fungi ~~or related biologicals,~~ the <--
13 home inspector must disclose in the home inspection report
14 the visible evidence and the ~~mold's~~ location and advise the <--
15 client to obtain a professional evaluation.

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

17 ~~A home inspection is intended to assist in~~ <--
18 ~~evaluation of the overall condition of the dwelling. The~~
19 ~~inspection is based on observation of the visible and~~
20 ~~apparent condition of the structure and its components on~~
21 ~~the date of inspection.~~

22 ~~The results of this home inspection are not intended~~
23 ~~to make a representation regarding the presence or~~
24 ~~absence of latent or concealed defects that are not~~
25 ~~reasonably ascertainable in a competently performed home~~
26 ~~inspection. No warranty or guaranty is expressed or~~
27 ~~implied.~~

28 ~~If the person conducting your home inspection is not~~
29 ~~a licensed structural engineer or other professional~~
30 ~~whose license authorizes the rendering of an opinion as~~

1 ~~to the structural integrity of a building or the~~
2 ~~building's other component parts, you may be advised to~~
3 ~~seek a professional opinion as to any defects or concerns~~
4 ~~mentioned in the report.~~

5 ~~This home inspection report is not to be construed~~
6 ~~as an appraisal and may not be used as such for any~~
7 ~~purpose.~~

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.