

## AMENDMENTS TO HOUSE BILL NO. 21

Sponsor: REPRESENTATIVE HICKERNELL

Printer's No. 959

1 Amend Bill, page 1, lines 1 through 17, by striking out all  
2 of said lines and inserting

3 Amending the act of July 10, 1990 (P.L.404, No.98), entitled  
4 "An act providing for the certification of real estate  
5 appraisers; specifying requirements for certification;  
6 providing for sanctions and penalties; and making an  
7 appropriation," further providing for title of act, for  
8 definitions, for State Board of Certified Real Estate  
9 Appraisers, for powers and duties of board and for  
10 application and qualifications; providing for application and  
11 qualifications of home inspectors and home inspectors-in-  
12 training, for conduct of home inspection and for firm or  
13 corporation; further providing for reciprocity, for  
14 certification renewal, licensure renewal and records, for  
15 disciplinary and corrective measures, for reinstatement of  
16 certificate or license, for reporting of multiple  
17 certification, for surrender of suspended or revoked  
18 certificate or license, for penalties and for injunctive  
19 relief; providing for remedies for home inspection services  
20 consumers, for home inspection contracts and for home  
21 inspection reports; and making a related repeal.

22 Amend Bill, page 1, lines 20 through 24; pages 2 through 32,  
23 lines 1 through 30; page 33, lines 1 through 14; by striking out  
24 all of said lines on said pages and inserting

25 Section 1. The title of the act of July 10, 1990 (P.L.404,  
26 No.98), known as the Real Estate Appraisers Certification Act,  
27 is amended to read:

## AN ACT

28  
29 Providing for the certification of real estate appraisers and  
30 licensure of home inspectors; specifying requirements for  
31 certification and licensure; providing for sanctions and  
32 penalties; and making an appropriation.

33 Section 2. Section 2 of the act is amended by adding  
34 definitions to read:

35 Section 2. Definitions.

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

4 \* \* \*

5 "Client." When the term is applied to a home inspector, a  
6 person or person acting through a legal representative who  
7 contracts with a licensed home inspector to obtain a home  
8 inspection and subsequent written home inspection report.

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

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

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

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

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

24 (A) Wood destroying insects.

25 (B) Underground tanks and wells.

26 (C) Septic systems.

27 (D) Swimming pools and spas.

28 (E) Alarm systems.

29 (F) Air and water quality.

30 (G) Tennis courts and playground equipment.

31 (H) Pollutants, toxic chemicals and  
32 environmental hazards.

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

35 "Home inspection report." A typewritten report on the  
36 results of a home inspection.

37 "Home inspector." An individual licensed by the State Board  
38 of Certified Real Estate Appraisers to perform home inspections.  
39 The term does not include an individual licensed under any of  
40 the following laws when acting under the individual's  
41 registration or license:

42 (1) The act of May 23, 1945 (P.L.913, No.367), known as  
43 the Engineer, Land Surveyor and Geologist Registration Law,  
44 as to professional engineers, professional land surveyors and  
45 professional geologists.

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

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

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

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

3       "Home inspector-in-training." A candidate for licensure as a  
4       home inspector who has been granted a registration as a home  
5       inspector-in-training.

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

13       \* \* \*

14       Section 3. Section 4(a) and (k) of the act are amended to  
15       read:

16       Section 4. State Board of Certified Real Estate Appraisers.

17       (a) Creation.--There is hereby created the State Board of  
18       Certified Real Estate Appraisers as a departmental  
19       administrative board in the Department of State. The board shall  
20       consist of the following members:

21           (1) The Secretary of the Commonwealth or a designee.

22           (2) The Attorney General or a designee.

23           (3) The Secretary of Banking or a designee.

24           (4) [Eight] Twelve members who are citizens of the  
25       United States and who have been residents of this  
26       Commonwealth for a two-year period immediately prior to  
27       appointment, two of whom shall be public members [and six]  
28       eight of whom shall be persons who are State-certified real  
29       estate appraisers[.], one of whom shall be a tax assessor and  
30       one of whom shall be a person who is a licensed and qualified  
31       home inspector under this act, except that the home inspector  
32       initially appointed pursuant to this paragraph need not be  
33       licensed by the board but, at the time of appointment, must  
34       have satisfied the education and experience requirements of  
35       this act for licensure as a home inspector.

36       \* \* \*

37       (k) Notice.--Reasonable notice of all meetings shall be  
38       given in conformity with [the act of July 3, 1986 (P.L.388,  
39       No.84), known as the Sunshine Act] 65 Pa.C.S. Ch. 7 (relating to  
40       open meetings).

41       \* \* \*

42       Section 4. Sections 5(1), (3) and (6) and 6 heading of the  
43       act are amended to read:

44       Section 5. Powers and duties of board.

45       The board shall have the following powers and duties:

46           (1) To pass upon the qualifications and fitness of  
47       applicants for certification or licensure and to adopt and  
48       revise rules and regulations requiring applicants for  
49       certification or licensure to pass examinations relating to  
50       their qualifications for certification or licensure.

51       \* \* \*

1 (3) To examine for, deny, approve, issue, revoke,  
2 suspend or renew certificates of appraisers, registrations of  
3 home inspectors-in-training and licenses of appraiser  
4 trainees and home inspectors pursuant to this act and to  
5 conduct hearings in connection therewith.

6 \* \* \*

7 (6) To establish fees for the operation of the board,  
8 including fees for the issuance and renewal of registrations,  
9 certificates and licenses and for examinations.

10 \* \* \*

11 Section 6. Application and qualifications of certified real  
12 estate appraisers.

13 \* \* \*

14 Section 5. The act is amended by adding sections to read:  
15 Section 6.1. Application and qualifications of home inspectors  
16 and home inspectors-in-training.

17 (a) Qualifications.--An applicant shall be considered to be  
18 qualified for a license as a home inspector if the applicant  
19 submits proof satisfactory to the board of all of the following:

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

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

22 (3) The applicant has a high school diploma or its  
23 equivalent or equivalent life or occupational experience.

24 (4) The applicant:

25 (i) has completed no less than 120 hours of board-  
26 approved classroom instruction, which includes six hours  
27 of education providing the basic knowledge on the  
28 differences between the National Manufactured Housing  
29 Construction and Safety Standards Act of 1974 (Public Law  
30 93-383, 42 U.S.C. § 5401 et seq.) and the act of May 11,  
31 1972 (P.L.286, No.70), known as the Industrialized  
32 Housing Act, and the installation of manufactured and  
33 modular homes;

34 (ii) is registered as a home inspector-in-training; and

35 (iii) has completed no less than 75 mentored home  
36 inspections completed in the presence and under the direct  
37 supervision of a home inspector licensed in this  
38 Commonwealth. A home inspection report prepared by a home  
39 inspector-in-training shall be used for training purposes  
40 only and may not be provided to a client.

41 (5) The applicant has passed a board-approved  
42 psychometrically valid licensing examination to be  
43 administered pursuant to section 812.1 of the act of April 9,  
44 1929 (P.L.177, No.175), known as The Administrative Code of  
45 1929.

46 (6) The application is accompanied by the application  
47 fee as established by the board by regulation.

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

50 (8) The applicant has not been convicted of a felony  
51 under the act of April 14, 1972 (P.L.233, No.64), known as

1 The Controlled Substance, Drug, Device and Cosmetic Act, or  
2 of an offense under the laws of another jurisdiction which if  
3 committed in this Commonwealth would be a felony under The  
4 Controlled Substance, Drug, Device and Cosmetic Act, unless  
5 the applicant otherwise satisfies the qualifications  
6 contained in this act and:

7 (i) at least five years have elapsed from the date  
8 of conviction; or

9 (ii) the applicant satisfactorily demonstrates to  
10 the board that the applicant has made significant  
11 progress in personal rehabilitation since the conviction  
12 such that licensure of the applicant should not be  
13 expected to create a substantial risk of harm to the  
14 health and safety of clients or the public, in which case  
15 the board may issue a probationary license for the  
16 remainder of the five years required in subparagraph (i).

17 (b) Issuance of license.--The board shall issue a license as  
18 a home inspector to an applicant who applies within two years of  
19 the effective date of this subsection and complies with all of  
20 the following:

21 (1) Is an active home inspector.

22 (2) Meets the qualifications described in subsection (a)  
23 (1), (2), (3), (6), (7) and (8).

24 (3) Submits proof satisfactory to the board that the  
25 applicant has:

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

29 (ii) has performed or participated in 100 home  
30 inspections and has passed a recognized or accredited  
31 examination testing knowledge of the proper procedures  
32 for conducting a home inspection.

33 (c) Practice of home inspection.--An individual may not  
34 practice home inspection or hold himself out as a home inspector  
35 unless licensed by the board except for the following:

36 (1) An individual licensed as a professional engineer  
37 under the act of May 23, 1945 (P.L.913, No.367), known as the  
38 Engineer, Land Surveyor and Geologist Registration Law.

39 (2) An individual licensed under the act of December 14,  
40 1982 (P.L.1227, No.281), known as the Architects Licensure  
41 Law.

42 (3) A home inspector-in-training practicing home  
43 inspection in the presence and under the direct supervision  
44 of a home inspector licensed in this Commonwealth, provided  
45 the home inspector-in-training does not hold himself out as a  
46 home inspector.

47 (d) Compliance.--Notwithstanding subsection (c), a person  
48 licensed or registered as a professional engineer under the  
49 Engineer, Land Surveyor and Geologist Registration Law, or a  
50 person licensed or registered under the Architects Licensure  
51 Law, must comply with subsection (i) and sections 6.2, 17.1,

1 17.2 and 17.3 when performing a home inspection. A person  
2 licensed or registered as a professional engineer, or licensed  
3 or registered as an architect, who violates this subsection  
4 shall be subject to disciplinary action, including license or  
5 registration suspension and revocation, and penalties under the  
6 Engineer, Land Surveyor and Geologist Registration Law and the  
7 Architects Licensure Law, respectively.

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

18 (f) Nontransferability of license.--A license under this  
19 section is not transferable.

20 (g) Examination not required.--The board may issue a home  
21 inspector license without examination to an applicant holding a  
22 home inspector license in another state who submits proof  
23 satisfactory to the board of all of the following:

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

25 (2) The applicant holds an unrestricted and active home  
26 inspector license from another state whose licensure  
27 requirements are substantially equivalent to the requirements  
28 for licensure in this Commonwealth.

29 (3) The applicant has submitted an application  
30 accompanied by the application fee.

31 (4) The applicant has not been convicted of a felony  
32 under The Controlled Substance, Drug, Device and Cosmetic  
33 Act, or of an offense under the laws of another jurisdiction  
34 which if committed in this Commonwealth would be a felony  
35 under The Controlled Substance, Drug, Device and Cosmetic  
36 Act, unless the applicant otherwise satisfies the  
37 qualifications contained in this act and:

38 (i) at least five years have elapsed from the date  
39 of conviction; or

40 (ii) the applicant satisfactorily demonstrates to  
41 the board that the applicant has made significant  
42 progress in personal rehabilitation since the conviction  
43 such that licensure of the applicant should not be  
44 expected to create a substantial risk of harm to the  
45 health and safety of clients or the public, in which case  
46 the board may issue a probationary license for the  
47 remainder of the five years required in subparagraph (i).

48 (h) Prohibitions.--No agency or political subdivision of  
49 this Commonwealth, other than the board, shall impose the  
50 following on individuals licensed under this section:

51 (1) A registration or licensing requirement for

1 conducting home inspections.

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

7 (i) Insurance.--A person licensed as a home inspector shall  
8 maintain insurance against errors and omissions in the  
9 performance of a home inspection and general liability, with  
10 coverages of not less than \$250,000 per occurrence and \$500,000  
11 in the aggregate and with deductibles of not more than \$15,000.  
12 An applicant must provide proof that the applicant has obtained  
13 professional liability insurance. It is sufficient if the  
14 applicant files with the application a copy of a letter from the  
15 applicant's professional liability insurance carrier indicating  
16 that the applicant will be covered against professional  
17 liability in the required amounts effective upon the issuance of  
18 the applicant's license to practice home inspection in this  
19 Commonwealth. Upon issuance of the license, the licensee must,  
20 within 30 days, submit to the board the certificate of insurance  
21 or a copy of the policy declaration page. A home inspector shall  
22 maintain professional liability insurance for at least one year  
23 after the latest home inspection report the home inspector  
24 delivers, unless the home inspection report was delivered prior  
25 to the effective date of this section.

26 (j) Construction.--Nothing in this act shall be construed to  
27 allow a home inspector who is not licensed under any of the  
28 following laws to perform any activity that would constitute the  
29 practice of the profession regulated by that law:

30 (1) The Engineer, Land Surveyor and Geologist  
31 Registration Law, as to the practice of engineering, land  
32 surveying or geology.

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

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

37 (4) The Architects Licensure Law.

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

40 (k) Other licensees.--The requirements of this act relating  
41 to the licensing of home inspectors shall not affect the  
42 obligations or immunities of an individual licensed as other  
43 than a home inspector under this act that are imposed or  
44 provided under this act or 68 Pa.C.S. Ch. 73 (relating to seller  
45 disclosures) when the individual is acting under the  
46 individual's license, nor the obligations or immunities of an  
47 individual certified under this act as a real estate appraiser  
48 when the individual is acting under the individual's license.

49 (l) Home inspector-in-training registrant.--

50 (1) The board shall, upon application and payment of the  
51 application fee established by the board, issue a home

1 inspector-in-training registration, without examination, to  
2 any person who meets the home inspector-in-training  
3 educational requirements set by the board.

4 (2) A home inspector-in-training registrant shall keep a  
5 record of the mentored home inspections completed, which  
6 shall, at a minimum, include the following information:

7 (i) Date and time of the inspection.

8 (ii) Address of the residence inspected.

9 (iii) Business name of the supervising inspector.

10 (iv) Name of the supervising inspector.

11 (v) License number of the supervising inspector.

12 (vi) Signature of the supervising inspector.

13 (m) Definition.--As used in this section, the term  
14 "convicted" includes a judgment, an admission of guilt or a plea  
15 of nolo contendere.

16 Section 6.2. Conduct of home inspection.

17 (a) General rule.--A home inspector shall conduct a home  
18 inspection with the degree of care that a reasonably prudent  
19 home inspector would exercise. In ascertaining the degree of  
20 care that would be exercised by a reasonably prudent home  
21 inspector, a court shall consider the standards of practice and  
22 codes of ethics as established by the board by regulation.

23 (b) Immediate threat to health or safety.--If an immediate  
24 threat to health or safety is observed during the course of a  
25 home inspection and the home is occupied, the home inspector  
26 shall disclose the immediate threat to health or safety to the  
27 property owner and occupants of the property at the conclusion  
28 of the home inspection. Posting a notice on a form prescribed by  
29 the board by regulation on the front door of the occupied home  
30 in a position that ensures the occupants see the notice shall  
31 constitute proper disclosure.

32 Section 6. Section 7 of the act is amended to read:

33 Section 7. Reciprocity.

34 The board shall have the power to grant a reciprocal  
35 certification to an applicant who is certified as an appraiser  
36 or licensed as an appraiser trainee or home inspector in another  
37 state and has demonstrated qualifications which equal or exceed  
38 those required pursuant to this act in the determination of the  
39 board.

40 Section 7. Section 10(a) and (c) of the act are amended and  
41 the section is amended by adding a subsection to read:

42 Section 10. Certification renewal, licensure renewal and  
43 records.

44 (a) Renewal term.--

45 (1) Except as provided under paragraph (2), renewal of  
46 registration, certification or licensure shall be on a  
47 biennial basis for persons in good standing.

48 (2) The board may prescribe limitations on the number of  
49 times a registered home inspector-in-training and a licensed  
50 appraiser trainee may renew a registration or license.

51 \* \* \*



1     (b.3) Continuing education for home inspectors.--A home  
2 inspector shall be required to obtain 32 hours of continuing  
3 education during the biennial renewal period. Continuing  
4 education hours may be earned by completion of continuing  
5 education courses in the field of home inspection during the  
6 immediately preceding two years as approved by the board. Three  
7 of the total required hours of continuing education must focus  
8 on the difference between the National Manufactured Housing  
9 Construction and Safety Standards Act of 1974 (Public Law 93-  
10 383, 42 U.S.C. § 5401 et seq.) and the act of May 11, 1972  
11 (P.L.286, No.70), known as the Industrialized Housing Act, and  
12 the installation of manufactured and modular homes.

13     (c) Records.--A record of all persons licensed as appraiser  
14 trainees [and] or home inspectors, all persons certified as real  
15 estate appraisers and all persons registered as home inspectors-  
16 in-training in this Commonwealth shall be kept in the office of  
17 the board, shall be open to public inspection and copying upon  
18 payment of a nominal fee for copying the record and shall be  
19 accessible on the board's Internet website. Each registrant,  
20 certificateholder and licensee shall advise the board of the  
21 address of his or her principal place of business.

22     Section 8. Sections 11(a)(1), (3), (5) and (15) and (b), 12,  
23 13, 14, 15(b) and 17(a) of the act are amended to read:  
24 Section 11. Disciplinary and corrective measures.

25     (a) Authority of board.--The board may deny, suspend or  
26 revoke registrations, certificates or licenses, or limit,  
27 restrict or reprimand a registrant, certificateholder or  
28 licensee for any of the following causes:

29         (1) Procuring or attempting to procure a registration,  
30 certificate or license or renewal of a registration,  
31 certificate or license pursuant to this act by knowingly  
32 making a false statement, submitting false information or  
33 refusing to provide complete information in response to a  
34 question in an application for registration, certification or  
35 licensure or renewal of registration, certification or  
36 licensure through any form of fraud or misrepresentation.

37         \* \* \*

38         (3) Paying, or offering to pay, any valuable  
39 consideration other than provided for by this act to any  
40 member or employee of the board to procure a registration,  
41 certificate or license under this act.

42         \* \* \*

43         (5) Performing an act or omitting an act when such  
44 performance or omission involves dishonesty, fraud or  
45 misrepresentation with intent to substantially benefit the  
46 registrant, certificateholder or licensee in his profession  
47 or with the intent to substantially injure another person.

48         \* \* \*

49         (15) Having a license or certificate to perform  
50 appraisals or home inspections suspended, revoked or refused  
51 by an appraisal licensure or certification authority of

1 another state, territory or country, or receiving other  
2 disciplinary actions by the appraisal or home inspection  
3 licensure or certification authority of another state,  
4 territory or country.

5 \* \* \*

6 (b) Board action.--When the board finds that the  
7 registration, certificate or license, application for  
8 registration, certification or licensure or renewal of  
9 registration, certification or licensure of any person may be  
10 denied, revoked, restricted or suspended under the terms of  
11 subsection (a), the board may:

12 (1) Deny the application for registration, certification  
13 or licensure or for renewal of registration, certification or  
14 licensure.

15 (2) Administer a public reprimand.

16 (3) Revoke, suspend, limit or otherwise restrict a  
17 registration, certificate or license as determined by the  
18 board.

19 (4) Suspend enforcement of its findings thereof and  
20 place a registrant, certificateholder or licensee on  
21 probation with the right to vacate the probationary order for  
22 noncompliance.

23 (5) Restore a suspended registration, certificate or  
24 license and impose any disciplinary or corrective measure  
25 which it might originally have imposed.

26 \* \* \*

27 Section 12. Reinstatement of certificate or license.

28 Unless ordered to do so by Commonwealth Court or an appeal  
29 therefrom, the board shall not reinstate the certificate [or],  
30 license or registration of a person to practice as a certified  
31 real estate appraiser or as an appraiser trainee or as a  
32 licensed home inspector or as a registered home inspector-in-  
33 training, pursuant to this act, which has been revoked. Any  
34 person whose certificate [or], license or registration has been  
35 revoked may apply for reinstatement, after a period of at least  
36 five years, but must meet all of the certification [or],  
37 licensure or registration qualifications of this act, including  
38 the examination requirement, if he or she desires to hold  
39 himself or herself out or to practice as a real estate appraiser  
40 or home inspector or home inspector-in-training pursuant to this  
41 act at any time after such revocation.

42 Section 13. Reporting of multiple certification or licensure.

43 Any appraiser certified in this Commonwealth who is also  
44 certified or licensed to perform appraisals in any other state,  
45 territory or country shall report this information to the board  
46 on the biennial renewal application. Any home inspector licensed  
47 in this Commonwealth who is also certified or licensed to  
48 perform home inspections in any other state, territory or  
49 country shall report this information to the board on the  
50 biennial renewal application. Any disciplinary action taken in  
51 any other state, territory or country shall be reported to the

1 board on the biennial renewal application, or within 90 days of  
2 disposition, whichever is sooner. Multiple licensure or  
3 certification shall be noted by the board on the certified  
4 appraiser's or licensed home inspector's record, and such state,  
5 territory or country shall be notified by the board of any  
6 disciplinary actions taken against said certified appraiser or  
7 licensed home inspector in this Commonwealth.

8 Section 14. Surrender of suspended or revoked registration,  
9 certificate or license.

10 The board shall require a person whose registration,  
11 certificate or license has been suspended or revoked to return  
12 the registration, certificate or license in such manner as the  
13 board directs. Failure to do so shall be a misdemeanor of the  
14 third degree.

15 Section 15. Penalties.

16 \* \* \*

17 (b) Civil penalty.--In addition to any other civil remedy or  
18 criminal penalty provided for in this act, the board, by a vote  
19 of the majority of the maximum number of the authorized  
20 membership of the board as provided by law, or by a vote of the  
21 majority of the duly qualified and confirmed membership or a  
22 minimum of three members, whichever is greater, may levy a civil  
23 penalty of up to \$10,000 on any certificateholder [or], licensee  
24 or registrant who violates any provision of this act [or], any  
25 noncertificateholder who holds himself out as a real estate  
26 appraiser in this Commonwealth or who performs an appraisal for  
27 which certification or licensure is required under the Financial  
28 Institutions Reform, Recovery, and Enforcement Act of 1989  
29 (Public Law 101-73, 103 Stat. 183) an appraisal in any federally  
30 related or nonfederally related transaction or any other  
31 appraisal[.] or any nonlicensed individual who holds himself out  
32 as a home inspector in this Commonwealth or who performs a home  
33 inspection for which certification or licensure is required. The  
34 board shall levy this penalty only after affording the accused  
35 party the opportunity for a hearing, as provided in 2 Pa.C.S.  
36 (relating to administrative law and procedure).

37 \* \* \*

38 Section 17. Injunctive relief.

39 (a) Injunction.--A violation of section 3 or 6(c) or (e) may  
40 be enjoined by the courts upon petition of the secretary or the  
41 board. In any proceeding under this section, it shall not be  
42 necessary to show that any person is individually injured by the  
43 actions complained of. If the court finds that the respondent  
44 has violated section 3 or 6.1(c) or (e), it shall enjoin him or  
45 her from so practicing or holding himself or herself out until  
46 he or she has been duly certified or licensed. Procedure in such  
47 cases shall be the same as in any other injunction suit.

48 \* \* \*

49 Section 9. The act is amended by adding sections to read:

50 Section 17.1. Remedies for home inspection services consumers.

51 (a) Unfair Trade Practices and Consumer Protection Law.--The

1 performance of a home inspection is a service subject to the act  
2 of December 17, 1968 (P.L.1224, No.387), known as the Unfair  
3 Trade Practices and Consumer Protection Law.

4 (b) Wrongful acts.--The following acts engaged in by a home  
5 inspector, an employer of a home inspector or another business  
6 or person that controls or has a financial interest in the  
7 employer of a home inspector shall be deemed to be an unfair or  
8 deceptive act or practice as defined by section 2(4) of the  
9 Unfair Trade Practices and Consumer Protection Law:

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

17 (2) Inspecting for a fee any property in which the home  
18 inspector, the employer of the home inspector or other  
19 business or person has a financial interest or an interest in  
20 the transfer of the property, including receipt of a board as  
21 an agent, unless the financial interest or interest in the  
22 transfer of the property is disclosed in writing to the buyer  
23 before the home inspection is performed and the buyer signs  
24 an acknowledgment of receipt of the disclosure.

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

30 (4) Accepting an engagement to perform a home inspection  
31 or to prepare a home inspection report in which the  
32 employment itself or the fee payable for the inspection is  
33 contingent upon the conclusions in the report, preestablished  
34 or prescribed findings or the closing of the transaction.

35 (c) Home warranty company.--A home warranty company that is  
36 affiliated with or retains the home inspector does not violate  
37 subsection (b) if the home warranty company performs repairs in  
38 accordance with claims made under a home warranty contract.

39 (d) Other remedies.--In addition to other remedies available  
40 under the Unfair Trade Practices and Consumer Protection Law or  
41 other applicable provision of law, the owner of a property on  
42 which repairs are performed in violation of subsection (b)(1)  
43 shall be entitled to a full refund of money paid for those  
44 repairs, and a promissory note or another obligation to pay  
45 given to the person performing those repairs shall be void.  
46 Section 17.2. Home inspection contracts.

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

49 (i) Signature of client.

50 (ii) Scope of home inspection.

51 (iii) Fee charged to client.

1       (iv) Contact information of home inspector.  
2       (v) License number of home inspector.  
3       (vi) A statement explaining the confidentiality between  
4       the home inspector and the client.

5       (b) Prohibited provisions.--The following types of  
6       provisions in a contract with a home inspector for the  
7       performance of a home inspection are contrary to public policy,  
8       and the clause shall be unenforceable as it relates to:

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

11          (2) A waiver or modification of any provision of this  
12          section or section 6.2, 17.1 or 17.3.  
13       Section 17.3. Home inspection reports.

14       (a) Contents.--A home inspection report must be typewritten  
15       and include all of the following:

16           (1) A description of the scope of the inspection,  
17           including identification of the essential components and  
18           systems and subsystems covered by the report.

19           (2) A description of material defects noted during the  
20           inspection, along with a recommendation that certain experts  
21           be retained to determine the extent of the defects and the  
22           corrective action that should be taken.

23           (3) If, at the time of the inspection, there is visible  
24           evidence of the presence of interior mold, the home inspector  
25           must disclose in the home inspection report the visible  
26           evidence and the location and advise the client to obtain a  
27           professional evaluation.

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

29               (i) A home inspection is intended to assist in  
30               evaluation of the overall condition of the dwelling. The  
31               inspection is based on observation of the visible and  
32               apparent condition of the structure and its components on  
33               the date of inspection.

34               (ii) The results of this home inspection are not  
35               intended to make a representation regarding the presence  
36               or absence of latent or concealed defects that are not  
37               reasonably ascertainable in a competently performed home  
38               inspection. No warranty or guaranty is expressed or  
39               implied.

40               (iii) If the person conducting your home inspection  
41               is not a licensed structural engineer or other  
42               professional whose license authorizes the rendering of an  
43               opinion as to the structural integrity of a building or  
44               the building's other component parts, you may be advised  
45               to seek a professional opinion as to any defects or  
46               concerns mentioned in the report.

47               (iv) This home inspection report is not to be  
48               construed as an appraisal and may not be used as such for  
49               any purpose.

50       (b) Delivery of report.--Except as otherwise required by  
51       this subsection or by law, a home inspector may not deliver a

home inspection report to a person other than the client of the home inspector without the client's consent. The property owner shall have the right, upon request, to receive without charge a copy of a home inspection report from the person for whom the home inspection report was prepared. If immediate threats to health or safety are observed during the course of the inspection and if the premises are occupied, the client hereby consents to allow the home inspector to disclose the immediate threats to health or safety to the property owner and occupants of the property.

(c) Cost of repairs.--A home inspector may not express either orally or in writing an estimate of the cost to repair a defect found during a home inspection.

(d) Liability.--A home inspector shall not be held liable for the contents or omissions of a home inspection report if relied upon by any individual or person other than the client as identified by the executed contract for the specific home inspection.

(e) Limitation period.--An action to recover damages arising from a home inspection report must be commenced within one year after the date the report is delivered regardless of when the claim is discovered by the client.

Section 10. Repeals are as follows:

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

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

Section 11. The State Board of Certified Real Estate Appraisers shall promulgate final regulations to carry out this act within 18 months of the effective date of this section. The board shall report, within 60 days of the effective date of this section and every 30 days thereafter, on the status of the regulations to the Consumer Protection and Professional Licensure Committee of the Senate and the Professional Licensure Committee of the House of Representatives.

Section 12. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) This section.

(ii) Section 11 of this act.

(iii) The amendment of section 4(a) of the act.

(2) The remainder of this act shall take effect in two years.