
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1805 Session of
2007

INTRODUCED BY RAMALEY, SIPTROTH, McCALL, BRENNAN, BARRAR,
CALTAGIRONE, CURRY, FRANKEL, GOODMAN, GRUCELA, HENNESSEY,
HORNAMAN, KOTIK, MANN, MELIO, M. O'BRIEN, PETRONE, READSHAW,
SCAVELLO, SONNEY AND WALKO, SEPTEMBER 10, 2007

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,
SEPTEMBER 10, 2007

AN ACT

1 Regulating home inspectors; establishing the State Board of Home
2 Inspectors; providing for funds, for licensure, for
3 disciplinary action, for remedies and for penalties; making
4 an appropriation; and making a repeal.

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

7 CHAPTER 1

8 PRELIMINARY PROVISIONS

9 Section 101. Short title.

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

12 Section 102. Declaration of policy.

13 The General Assembly finds and declares as follows:

14 (1) The inspection of homes may cause safety issues if
15 the practice is not subject to responsible regulation.

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

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

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

8 Section 103. Definitions.

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

12 "Account." The Professional Licensure Augmentation Account.

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

15 "Board." The State Board of Home Inspectors.

16 "Bureau." The Bureau of Professional and Occupational
17 Affairs in the Department of State.

18 "Client." An individual or agent who contracts with a
19 licensee to obtain a home inspection and subsequent written home
20 inspection report.

21 "Commissioner." The Commissioner of Professional and
22 Occupational Affairs.

23 "Department." The Department of State of the Commonwealth.

24 "Home inspection." A noninvasive visual examination of some
25 combination of the mechanical, electrical or plumbing systems or
26 the structural and essential components of a residential
27 dwelling designed to identify material defects in those systems
28 and components and performed for a fee in connection with or
29 preparation for a proposed or possible residential real estate
30 transfer.

1 (1) The term includes a consultation regarding the
2 property that is represented to be a home inspection or that
3 is described by a confusingly similar term.

4 (2) The term does not include any of the following:

5 (i) An examination of a single system or component
6 of a residential dwelling such as, for example, its
7 electrical or plumbing system or its roof.

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

10 (A) Wood destroying insects.

11 (B) Underground tanks and wells.

12 (C) Septic systems.

13 (D) Swimming pools and spas.

14 (E) Alarm systems.

15 (F) Air and water quality.

16 (G) Tennis courts and playground equipment.

17 (H) Pollutants, toxic chemicals and

18 environmental hazards.

19 "Home inspection report." A written report on the results of
20 a home inspection.

21 "Home inspector." An individual licensed by the State Board
22 of Home Inspectors to perform home inspections.

23 "National home inspectors association." A national
24 association of home inspectors that:

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

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

28 (3) Requires that a person may not become a full member
29 unless the person has performed or participated in more than
30 100 home inspections and has passed a recognized or

1 accredited examination testing knowledge of the proper
2 procedures for conducting a home inspection.

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

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

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

10 CHAPTER 3

11 STATE BOARD OF HOME INSPECTORS

12 Section 301. Board.

13 (a) Establishment.--There is established the State Board of
14 Home Inspectors, an administrative board within the department.
15 The board shall consist of nine members who are citizens of the
16 United States and who have been residents of this Commonwealth
17 for at least a two-year period. Two members shall be public
18 members, five members must be individuals who meet the
19 educational and experience qualifications for licensure under
20 section 501, one member shall be the Director of the Bureau of
21 Consumer Protection or his designee and one member shall be the
22 commissioner or his designee.

23 (b) Term of office.--Except as provided in subsection (c),
24 the members of the board shall serve for four-year terms and
25 shall be appointed by the Governor with the advice and consent
26 of a majority of the members elected to the Senate.

27 (c) Initial appointments.--Within 90 days of the effective
28 date of this section, the Governor shall nominate two
29 professional members to serve four-year terms, one public member
30 and one professional member to serve three-year terms, one

1 public member and one professional member to serve two-year
2 terms and one professional member to serve a one-year term. For
3 the initial appointment of professional members, appointees must
4 have been actively engaged in performing home inspections for at
5 least five consecutive years immediately preceding the
6 appointments and must have passed an examination under section
7 503.

8 (d) Continuation in office.--Each board member shall
9 continue in office until a successor is appointed and qualified
10 but no longer than six months after the expiration of the term.
11 If a board member shall die, resign or otherwise become
12 disqualified during the term of office, a successor shall be
13 appointed in the same way and with the same qualifications as
14 set forth in this section and shall hold office for the
15 unexpired portion of the term.

16 (e) Limit on terms.--No board member shall be eligible for
17 reappointment to serve more than two consecutive four-year
18 terms.

19 (f) Forfeiture of membership.--A board member who fails to
20 attend three consecutive meetings without permission of the
21 commissioner shall forfeit the member's seat unless the
22 commissioner, upon written request from the member, finds that
23 the member should be excused from a meeting because of illness
24 or the death of a family member.

25 (g) Compensation.--Members of the board, except the
26 commissioner, shall receive per diem compensation at the rate of
27 \$60 when actually attending to the work of the board. Members
28 shall also receive reasonable traveling, hotel and other
29 necessary expenses incurred in the performance of their duties
30 in accordance with regulations.

1 (h) Forfeiture for nonattendance.--A public member who fails
2 to attend two consecutive training seminars mandated by section
3 813(e) of the act of April 9, 1929 (P.L.177, No.175), known as
4 The Administrative Code of 1929, shall forfeit the public
5 member's seat unless the commissioner, upon written request from
6 the public member, finds that the public member should be
7 excused from a meeting because of illness or the death of a
8 family member.

9 (i) Quorum.--A majority of the members of the board shall
10 constitute a quorum for the purposes of conducting the business
11 of the board. Except for automatic suspensions under section
12 507(e) and temporary suspensions under section 507(d), a member
13 may not be counted as part of a quorum or vote on any issue
14 unless the member is physically in attendance at the meeting.

15 (j) Chairperson.--The board shall annually select a
16 chairperson from among its members.

17 (k) Meetings.--The board shall meet at least four times per
18 year in the City of Harrisburg and at other times and places as
19 the board shall determine as necessary to conduct board
20 business.

21 (l) Notice.--Reasonable notice of all meetings shall be
22 given in conformity with 65 Pa.C.S. Ch. 7 (relating to open
23 meetings).

24 (m) Operating procedures.--The board shall meet within 30
25 days after the appointment of its initial members and shall
26 institute operating procedures and an application form for
27 licensing of home inspectors.

28 Section 302. Powers and duties of board.

29 The board has the following powers and duties:

30 (1) To pass upon the qualifications and fitness of

1 applicants for licenses, reciprocal licenses, and
2 endorsements to promulgate regulations requiring applicants
3 to pass examinations relating to qualifications as a
4 prerequisite to the issuance of a license.

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

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

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

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

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

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

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

30 (9) To establish and maintain a current list of home

1 inspectors who are registered or licensed. The list shall be
2 available for public inspection, including by electronic
3 means.

4 CHAPTER 5

5 LICENSURE

6 Section 501. Requirements for licensure.

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

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

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

12 (3) The applicant has a high school diploma or its
13 equivalent.

14 (4) The applicant has completed a board-approved
15 training program or course of study involving the performance
16 of home inspections which shall be no less than 120 hours of
17 instruction and includes not less than 40 hours of actual in-
18 field training.

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

21 (6) The applicant is a member in good standing of a
22 board-approved national home inspection association.

23 (7) The application is accompanied by the application
24 fee as established by the board by regulation.

25 (8) The applicant is not addicted to the habitual use of
26 alcohol, narcotics or other habit-forming drugs.

27 (9) The following apply:

28 (i) The applicant has not been convicted of a felony
29 under the act of April 14, 1972 (P.L.233, No.64), known
30 as The Controlled Substance, Drug, Device and Cosmetic

1 Act, or of an offense under the laws of another
2 jurisdiction which if committed in this Commonwealth
3 would be a felony under The Controlled Substance, Drug,
4 Device and Cosmetic Act, unless the following apply:

5 (A) At least ten years have elapsed from the
6 date of conviction.

7 (B) The applicant satisfactorily demonstrates to
8 the board that the applicant has made significant
9 progress in personal rehabilitation since the
10 conviction and that licensure of the applicant should
11 not be expected to create a substantial risk of harm
12 to the public or a substantial risk of further
13 criminal violations.

14 (C) The applicant otherwise satisfies the
15 qualifications required under this act.

16 (ii) As used in this paragraph, the term convicted
17 includes a judgment, admission of guilt or a plea of nolo
18 contendere, or receiving probation without verdict,
19 disposition in lieu of trial or an accelerated
20 rehabilitative disposition of the disposition of felony
21 charges.

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

25 (1) Is an active professional home inspector.

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

28 (3) Complies with one of the following:

29 (i) The applicant submits proof satisfactory to the
30 board that the applicant has:

1 (A) been in active, continuous practice for at
2 least five years immediately preceding the effective
3 date of this section; or

4 (B) completed 120 hours of instruction in home
5 inspection and related subjects.

6 (c) Temporary practice permit.--

7 (1) The board may issue a temporary practice permit to
8 an applicant in order to permit the applicant to practice
9 home inspections during the six-month period after completion
10 of the applicant's education program.

11 (2) The temporary practice permit issued under paragraph

12 (1) shall be nonrenewable and shall expire on the earlier of:

13 (i) six months from the date of issuance; or

14 (ii) the date the applicant fails the licensing
15 examination.

16 (d) Transferability.--A license and a temporary practice
17 permit are not transferable.

18 Section 502. License status and continuing education.

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

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

27 (1) File a renewal application with the board. The
28 licensee must successfully complete 16 hours of continuing
29 education in the field of home inspection during the
30 immediately preceding two years as approved by the board.

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

2 (c) Information change notification.--A licensee shall
3 notify the board within 30 days of a change of:

4 (1) name;

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

6 (3) business address; or

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

8 (d) Inactive status.--A licensee may request an application
9 for inactive status. The application form must be completed and
10 returned to the board. Upon receipt of an application, the
11 individual shall be maintained on inactive status without fee
12 and shall be entitled to apply for a licensure renewal at any
13 time. An individual who requests the board to activate his
14 license and who has been on inactive status for five consecutive
15 years must, prior to receiving an active license, satisfy the
16 board's regulations for ensuring continued education, and
17 present evidence of being a member in good standing of a board-
18 approved national home inspection association and remitting the
19 required fee. The board shall promulgate regulations to
20 implement this subsection.

21 (e) Reporting of multiple licensure.--A licensee who is also
22 licensed to practice home inspection in another jurisdiction
23 shall report this information to the board on the biennial
24 registration application. Disciplinary action taken in another
25 jurisdiction shall be reported to the board on the biennial
26 registration application or within 90 days of final disposition,
27 whichever is sooner. The board shall note multiple licensures on
28 the licensee's record, and the board shall notify other
29 licensing jurisdiction of disciplinary actions taken against the
30 licensee in this Commonwealth.

1 Section 503. Examinations.

2 The board shall contract with a professional testing
3 organization for the examination of qualified applicants for
4 licensure. All written, oral and practical examinations shall be
5 prepared and administered by a qualified and approved
6 professional testing organization in the manner prescribed for
7 written examinations by section 812.1 of the act of April 9,
8 1929 (P.L.177, No.175), known as The Administrative Code of
9 1929.

10 Section 504. Reciprocity.

11 The board may grant a reciprocal license to an applicant who
12 is licensed or certified as a home inspector or similar practice
13 in another state and has demonstrated qualifications which equal
14 or exceed those required under this act in the determination of
15 the board. The board shall not grant a license under this
16 section to an applicant unless the state in which the applicant
17 is licensed affords reciprocal treatment to individuals who are
18 residents of this Commonwealth and who are licensed under this
19 act. The applicant must also submit a notarized statement that
20 the applicant has studied, is familiar with and will abide by
21 this act and regulations promulgated by the board.

22 Section 505. Registration or licensing of home inspectors by
23 political subdivisions.

24 No agency or political subdivision of this Commonwealth,
25 other than the board, shall impose the following on individuals
26 licensed under this chapter:

27 (1) A registration or licensing requirement for
28 conducting home inspections.

29 (2) A license fee to obtain a local license, except that
30 this prohibition shall not prevent a local government from

1 imposing an occupational license tax on a person operating as
2 a home inspector within the jurisdiction of the local
3 government.

4 Section 506. Professional liability insurance.

5 (a) Requirement.--A licensed home inspector shall maintain
6 insurance against errors and omissions in the performance of a
7 home inspection and general liability, with coverages of not
8 less than \$100,000 per occurrence and \$500,000 in the aggregate
9 and with deductibles of not more than \$2,500.

10 (b) Proof.--An applicant must provide proof that the
11 applicant has obtained professional liability insurance under
12 subsection (a). It is sufficient if the applicant files with the
13 application a copy of a letter from the applicant's professional
14 liability insurance carrier indicating that the applicant will
15 be covered against professional liability in the required
16 amounts effective upon the issuance of the applicant's license
17 to practice home inspection in this Commonwealth. Upon issuance
18 of the license, the licensee must, within 30 days, submit to the
19 board the certificate of insurance or a copy of the policy
20 declaration page.

21 Section 507. Refusal, suspension and revocation of licenses.

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

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

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

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

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

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

18 (i) performing home inspections; or

19 (ii) securing licensure.

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

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

30 (7) With respect to the performance of home inspections,

1 the licensee has acted in a manner to present an immediate
2 and clear danger to health, safety or property.

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

5 (9) The licensee has been found guilty of unprofessional
6 conduct. Unprofessional conduct includes departure from or
7 failing to conform to operating practices or professional
8 standards embraced by the home inspection profession,
9 including those recognized by a national home inspector
10 association. In proceedings based on this paragraph, actual
11 injury to a person or damage to property need not be
12 established.

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

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

21 (1) Deny the application for license.

22 (2) Administer a public reprimand.

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

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

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

30 (6) Restore a suspended license and impose a

1 disciplinary or corrective measure which it might originally
2 have imposed.

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

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

30 (e) Automatic suspension.--

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

5 (2) A license shall automatically be suspended upon
6 conviction of a felony under the act of April 14, 1972
7 (P.L.233, No.64), known as The Controlled Substance, Drug,
8 Device and Cosmetic Act, or conviction of an offense under
9 the laws of another jurisdiction which, if committed in this
10 Commonwealth, would be a felony under The Controlled
11 Substance, Drug, Device and Cosmetic Act. As used in this
12 paragraph, the term conviction includes a judgment, an
13 admission of guilt or a plea of nolo contendere.

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

16 (4) Reinstatement of a license shall be made under
17 section 508.

18 (5) Subsection (c) shall not apply to automatic
19 suspension.

20 Section 508. Reinstatement of license.

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

26 Section 509. License renewal, records and fees.

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

30 (b) Fees.--Fees required under this act shall be fixed by

1 the board by regulation. If the revenue from fees, fines and
2 civil penalties imposed under this act is not sufficient to meet
3 expenditures over a two-year period, the board shall increase
4 fees by regulation so that the projected revenue will meet or
5 exceed projected expenditures.

6 (c) Increases in fees.--If the bureau determines that the
7 fees established by the board under subsection (b) are
8 inadequate to meet the minimum enforcement efforts required by
9 this act, the bureau, after consultation with the board, shall
10 increase the fees by regulation in an amount so that adequate
11 revenue is raised to meet the required enforcement effort.

12 CHAPTER 7

13 ADMINISTRATION AND ENFORCEMENT

14 Section 701. Unlawful practice.

15 (a) General rule.--An individual may not practice home
16 inspection or hold himself out as a home inspector unless
17 licensed by the board.

18 (b) Title.--An individual who holds a license or is
19 maintained on inactive status may use the title Licensed Home
20 Inspector and the abbreviation L.H.I. No other individual may
21 use the title Licensed Home Inspector or the title Home
22 Inspector or hold himself out to others as a home inspector.
23 This subsection includes advertising as a home inspector and
24 adopting or using a title or description, or a derivative
25 thereof and their related abbreviations, which implies directly
26 or indirectly that home inspection services are being provided.

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

30 (d) Terminology.--A business entity may not utilize in

1 connection with a business name or activity the words home
2 inspector, home inspection or a derivative of those terms and
3 their related abbreviations, which implies directly or
4 indirectly that home inspection services are being provided,
5 unless the services of the business are provided by licensees.

6 (e) Injunction.--Unlawful practice may be enjoined by the
7 courts upon petition of the commissioner or the board. In a
8 proceeding under this section, it shall not be necessary to show
9 that an individual has been injured. If the court finds that the
10 respondent has violated this section, it shall enjoin the
11 respondent from practicing until the respondent has been
12 licensed.

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

16 Section 702. Violation of act.

17 (a) Criminal.--A person that violates this act or a
18 regulation of the board commits a misdemeanor of the third
19 degree and shall, upon conviction, be sentenced to pay a fine of
20 not more than \$1,000 or to imprisonment for not more than six
21 months for the first violation and to pay a fine of not more
22 than \$2,000 or to imprisonment for not less than six months nor
23 more than one year, or both, for each subsequent violation.

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

30 (1) A home inspector who violates a provision of this

1 act.

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

4 (3) An individual who holds himself out as a licensee
5 without being properly licensed as provided in this act.

6 (4) The responsible officer or employee of a
7 corporation, partnership, firm or other entity that violates
8 a provision of this act.

9 (c) Administrative agency law.--Action of the board under
10 subsection (b) is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating
11 to practice and procedure of Commonwealth agencies) and Ch. 7
12 Subch. A (relating to judicial review of Commonwealth agency
13 action).

14 Section 703. Degree of care of home inspectors.

15 (a) General rule.--The home inspector shall conduct a home
16 inspection with the degree of care that a reasonably prudent
17 home inspector would exercise.

18 (b) Standard.--In ascertaining the degree of care that would
19 be exercised by a reasonably prudent home inspector, the court
20 shall consider the standards of practice and codes of ethics of
21 national home inspector associations.

22 Section 704. Consumer remedies.

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

27 (b) Prohibited acts.--Any of the following acts engaged in
28 by a home inspector, an employer of a home inspector or another
29 business or person that controls or has a financial interest in
30 the employer of a home inspector shall be deemed to be an unfair

1 or deceptive act or practice as defined by section 2(4) of the
2 Unfair Trade Practices and Consumer Protection Law:

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

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

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

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

29 (c) Exception.--A home warranty company that is affiliated
30 with or retains the home inspector does not violate subsection

1 (b) if the home warranty company performs repairs pursuant to
2 claims made under a home warranty contract.

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

10 Section 705. Required contractual provision regarding home
11 inspections.

12 (a) General rule.--Except as provided in subsection (b), a
13 provision of an agreement of transfer regarding the right of the
14 buyer to obtain a home inspection report and providing for the
15 consequences shall provide that the home inspection be performed
16 by a full member in good standing of a national home inspection
17 association in accordance with the ethical standards and code of
18 conduct or practice of that association.

19 (b) Exception.--A home inspection performed by a person who
20 has not attained full membership in a national home inspection
21 association satisfies the requirements of this section if the
22 person is:

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

26 (2) licensed or registered under the act of December 14,
27 1982 (P.L.1227, No.281), known as the Architects Licensure
28 Law; or

29 (3) supervised by a full member in good standing of a
30 national home inspection association who agrees to be

1 responsible for the home inspection report by signing the
2 report.

3 Section 706. Home inspection reports.

4 (a) Required contents.--A home inspection report must be in
5 writing and include all of the following:

6 (1) A description of the scope of the inspection,
7 including identification of the structural elements, systems
8 and subsystems covered by the report.

9 (2) A description of material defects noted during the
10 inspection, along with a recommendation that certain experts
11 be retained to determine the extent of the defects and the
12 corrective action that should be taken. A "material defect"
13 as defined in 68 Pa.C.S. § 7102 (relating to definitions)
14 that poses an unreasonable risk to people on the property
15 shall be conspicuously identified as such.

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

17 A home inspection is intended to assist in evaluation
18 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
21 components on the date of inspection.

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

28 This home inspection report is not to be construed as
29 an appraisal and may not be used as such for any
30 purpose.

1 (b) Confidentiality.--Except as otherwise required by law, a
2 home inspector may not deliver a home inspection report to a
3 person other than the client of the home inspector without the
4 client's consent. The seller shall have the right, upon request,
5 to receive without charge a copy of a home inspection report
6 from the person for whom it was prepared.

7 (c) Repair estimates prohibited.--

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

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

14 (i) the report identifies the source of the
15 estimate;

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

17 (iii) the report states that the parties should
18 consider obtaining an estimate from a contractor who
19 performs the type of repair involved.

20 CHAPTER 21

21 MISCELLANEOUS PROVISIONS

22 Section 2101. Appropriation and repayment.

23 (a) Appropriation.--The sum of \$85,000, or as much thereof
24 as may be necessary, is hereby appropriated from the
25 Professional Licensure Augmentation Account to the board for the
26 payment of costs associated with processing licenses and
27 renewing licenses, for the operation of the board and for other
28 costs associated with this act.

29 (b) Repayment.--The appropriation shall be repaid by the
30 board to the account within three years of the beginning of

1 issuance of licenses by the board.

2 Section 2102. Relationship to other laws.

3 (a) General rule.--Nothing in this act shall be construed to
4 allow a home inspector who is not registered or licensed under
5 one or more of the following laws to perform any activity that
6 would constitute the practice of the profession regulated by
7 that law:

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

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

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

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

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

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

19 (1) Apply to a person registered or licensed under an
20 act referred to in subsection (a) when acting under his
21 registration or license.

22 (2) Apply to an officer or employee of a municipality or
23 local authority when acting in his official capacity.

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

30 (4) Affect the obligations or immunities of a person

1 certified under the act of July 10, 1990 (P.L.404, No.98),
2 known as the Real Estate Appraisers Certification Act, when
3 the person is acting under the person's license.

4 Section 2103. Regulations.

5 The board shall promulgate regulations to carry out this act
6 within 18 months of the effective date of this section. The
7 board shall report, within 60 days of the effective date of this
8 section and every 30 days thereafter, on the status of the
9 regulations to the Consumer Protection and Professional
10 Licensure Committee of the Senate and the Professional Licensure
11 Committee of the House of Representatives.

12 Section 2104. Repeal.

13 Repeals are as follows:

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

16 (2) 68 Pa.C.S. Ch. 75 is repealed.

17 Section 2105. Effective date.

18 This act shall take effect as follows:

19 (1) The following provisions shall take effect
20 immediately:

21 (i) Section 301.

22 (ii) Section 302.

23 (iii) Section 2101.

24 (iv) Section 2103.

25 (v) This section.

26 (2) The following provisions shall take effect in two
27 years:

28 (i) Chapter 5.

29 (ii) Except as set forth in paragraph (3), Chapter
30 7.

1 (3) Section 701(a) shall take effect 90 days after the
2 effective date of the initial regulations promulgated under
3 section 2103.

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