

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 21 Session of 2019

INTRODUCED BY HELM, KORTZ, BARRAR, BOBACK, BROWN, CALTAGIRONE, CIRESI, A. DAVIS, T. DAVIS, DeLUCA, GILLEN, GOODMAN, HILL-EVANS, IRVIN, MACKENZIE, MATZIE, McNEILL, MEHAFFIE, MILLARD, MIZGORSKI, MURT, NEILSON, POLINCHOCK, RAVENSTAHL, READSHAW, SAYLOR, STRUZZI, WARREN, WEBSTER, JOZWIAK, MOUL, MARKOSEK AND MULLINS, MARCH 18, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 29, 2019

AN ACT

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

20 The General Assembly of the Commonwealth of Pennsylvania

21 hereby enacts as follows:

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

1 AN ACT

2 Providing for the certification of real estate appraisers and
3 licensure of home inspectors; specifying requirements for
4 certification and licensure; providing for sanctions and
5 penalties; and making an appropriation.

6 Section 2. Section 2 of the act is amended by adding
7 definitions to read:

8 Section 2. 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 * * *

13 "CERTIFIED PENNSYLVANIA EVALUATOR." AN INDIVIDUAL WHO IS <--
14 CERTIFIED UNDER THE ACT OF APRIL 16, 1992 (P.L.155, NO.28),
15 KNOWN AS THE ASSESSORS CERTIFICATION ACT.

16 "Client." When the term is applied to a home inspector, a
17 person or person acting through a legal representative who
18 contracts with a licensed home inspector to obtain a home
19 inspection and subsequent written home inspection report.

20 "Home inspection." A noninvasive visual examination of the
21 systems and essential components of a residential dwelling
22 designed to identify material defects in those systems and
23 components and performed for a fee in connection with or
24 preparation for a proposed or possible residential real estate
25 transfer. The term:

26 (1) Includes a consultation regarding the property that
27 is represented to be a home inspection or that is described
28 by a confusingly similar term.

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

30 (i) An examination of a single system or component

1 of a residential dwelling, such as an electrical or
2 plumbing system or roof.

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

5 (A) Wood destroying insects.

6 (B) Underground tanks and wells.

7 (C) Septic systems.

8 (D) Swimming pools and spas.

9 (E) Alarm systems.

10 (F) Air and water quality.

11 (G) Tennis courts and playground equipment.

12 (H) Pollutants, toxic chemicals and
13 environmental hazards.

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

16 "Home inspection report." A typewritten report on the
17 results of a home inspection.

18 "Home inspector." An individual licensed by the State Board
19 of Certified Real Estate Appraisers to perform home inspections.
20 The term does not include an individual licensed under any of
21 the following laws when acting under the individual's
22 registration or license:

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

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

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

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

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

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

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

15 * * *

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

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

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

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

24 (2) The Attorney General or a designee.

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

26 (4) [Eight] Twelve members who are citizens of the
27 United States and who have been residents of this

28 Commonwealth for a two-year period immediately prior to

29 appointment, two of whom shall be public members [~~and six~~], <--

30 eight of whom shall be persons who are State-certified real

1 estate appraisers[.], one of whom shall be a ~~tax assessor~~ <--
2 CERTIFIED PENNSYLVANIA EVALUATOR and one of whom shall be a <--
3 person who is a licensed and qualified home inspector under
4 this act, except that the home inspector initially appointed
5 pursuant to this paragraph need not be licensed by the board
6 but, at the time of appointment, must have satisfied the
7 education and experience requirements of this act for
8 licensure as a home inspector. IF A MEMBER IS QUALIFIED IN <--
9 MORE THAN ONE PROFESSION SPECIFIED IN THIS PARAGRAPH, THE
10 APPOINTMENT SHALL SPECIFY IN WHICH CAPACITY THE MEMBER IS
11 BEING APPOINTED.

12 * * *

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

17 * * *

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

20 Section 5. Powers and duties of board.

21 The board shall have the following powers and duties:

22 (1) To pass upon the qualifications and fitness of
23 applicants for certification or licensure and to adopt and
24 revise rules and regulations requiring applicants for
25 certification or licensure to pass examinations relating to
26 their qualifications for certification or licensure.

27 * * *

28 (3) To examine for, deny, approve, issue, revoke,
29 suspend or renew certificates of appraisers, registrations of
30 home inspectors-in-training and licenses of appraiser

1 trainees and home inspectors pursuant to this act and to
2 conduct hearings in connection therewith.

3 * * *

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

7 * * *

8 Section 6. Application and qualifications of certified real
9 estate appraisers.

10 * * *

11 Section 5. The act is amended by adding sections to read:

12 Section 6.1. Application and qualifications of home inspectors
13 and home inspectors-in-training.

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

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

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

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

21 (4) The applicant:

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

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

2 and

3 (iii) has completed no less than 75 mentored home
4 inspections completed in the presence and under the
5 direct supervision of a home inspector licensed in this
6 Commonwealth. A home inspection report prepared by a home
7 inspector-in-training shall be used for training purposes
8 only and may not be provided to a client.

9 (5) The applicant has passed a board-approved
10 psychometrically valid licensing examination to be
11 administered pursuant to section 812.1 of the act of April 9,
12 1929 (P.L.177, No.175), known as The Administrative Code of
13 1929.

14 (6) The application is accompanied by the application
15 fee as established by the board by regulation.

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

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

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

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

~~such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of clients or the public, in which case the board may issue a probationary license for the remainder of the five years required in subparagraph (i).~~

(8) THERE IS NO CRIMINAL HISTORY WHICH WOULD IMPEDE THE <--
APPLICANT'S ELIGIBILITY, DETERMINED BY THE BOARD BASED ON THE
APPLICANT'S SUBMISSION OF THE FOLLOWING:

(I) A REPORT OF THE APPLICANT'S CRIMINAL HISTORY
RECORD INFORMATION UNDER 18 PA.C.S. § 9121(B) (RELATING
TO GENERAL REGULATIONS).

(II) IF THE APPLICANT HAS RESIDED OUTSIDE THIS
COMMONWEALTH FOR ANY TIME IN THE FIVE YEARS IMMEDIATELY
PRECEDING THE DATE OF APPLICATION, A REPORT TO THE BOARD
OF FEDERAL CRIMINAL IDENTIFICATION AND CRIME RECORDS
UNDER 28 U.S.C. § 534(A) (4) (RELATING TO ACQUISITION,
PRESERVATION, AND EXCHANGE OF IDENTIFICATION RECORDS AND
INFORMATION; APPOINTMENT OF OFFICIALS).

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

(1) Is an active home inspector.

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

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

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

1 (ii) has performed or participated in 100 home
2 inspections and has passed a recognized or accredited
3 examination testing knowledge of the proper procedures
4 for conducting a home inspection.

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

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

11 (2) An individual licensed under the act of December 14,
12 1982 (P.L.1227, No.281), known as the Architects Licensure
13 Law.

14 (3) A home inspector-in-training practicing home
15 inspection in the presence and under the direct supervision
16 of a home inspector licensed in this Commonwealth, provided
17 the home inspector-in-training does not hold himself out as a
18 home inspector.

19 (d) Compliance.--Notwithstanding subsection (c), a person
20 licensed or registered as a professional engineer under the
21 Engineer, Land Surveyor and Geologist Registration Law, or a
22 person licensed or registered under the Architects Licensure
23 Law, must comply with subsection (i) and sections 6.2, 17.1,
24 17.2 and 17.3 when performing a home inspection. A person
25 licensed or registered as a professional engineer, or licensed
26 or registered as an architect, who violates this subsection
27 shall be subject to disciplinary action, including license or
28 registration suspension and revocation, and penalties under the
29 Engineer, Land Surveyor and Geologist Registration Law and the
30 Architects Licensure Law, respectively.

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

11 (f) Nontransferability of license.--A license under this
12 section is not transferable.

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

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

18 (2) The applicant holds an unrestricted and active home
19 inspector license from another state whose licensure
20 requirements are substantially equivalent to the requirements
21 for licensure in this Commonwealth.

22 (3) The applicant has submitted an application
23 accompanied by the application fee.

24 ~~(4) The applicant has not been convicted of a felony~~ <--
25 ~~under The Controlled Substance, Drug, Device and Cosmetic~~
26 ~~Act, or of an offense under the laws of another jurisdiction~~
27 ~~which if committed in this Commonwealth would be a felony~~
28 ~~under The Controlled Substance, Drug, Device and Cosmetic~~
29 ~~Act, unless the applicant otherwise satisfies the~~
30 ~~qualifications contained in this act and:~~

1 ~~(i) at least five years have elapsed from the date~~
2 ~~of conviction; or~~

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

11 (4) THERE IS NO CRIMINAL HISTORY WHICH WOULD IMPEDE THE <--
12 APPLICANT'S ELIGIBILITY, DETERMINED BY THE BOARD BASED ON THE
13 APPLICANT'S SUBMISSION OF THE FOLLOWING:

14 (I) A REPORT OF THE APPLICANT'S CRIMINAL HISTORY
15 RECORD INFORMATION UNDER 18 PA.C.S. § 9121(B).

16 (II) IF THE APPLICANT HAS RESIDED OUTSIDE THIS
17 COMMONWEALTH FOR ANY TIME IN THE FIVE YEARS IMMEDIATELY
18 PRECEDING THE DATE OF APPLICATION, A REPORT TO THE BOARD
19 OF FEDERAL CRIMINAL IDENTIFICATION AND CRIME RECORDS
20 UNDER 28 U.S.C. § 534(A)(4).

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

24 (1) A registration or licensing requirement for
25 conducting home inspections.

26 (2) A license fee to obtain a local license, except that
27 this prohibition shall not prevent a local government from
28 imposing an occupational license tax on a person operating as
29 a home inspector within the jurisdiction of the local
30 government.

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

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

24 (1) The Engineer, Land Surveyor and Geologist
25 Registration Law, as to the practice of engineering, land
26 surveying or geology.

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

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

1 (4) The Architects Licensure Law.

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

4 (k) Other licensees.--The requirements of this act relating
5 to the licensing of home inspectors shall not affect the
6 obligations or immunities of an individual licensed as other
7 than a home inspector under this act that are imposed or
8 provided under this act or 68 Pa.C.S. Ch. 73 (relating to seller
9 disclosures) when the individual is acting under the
10 individual's license, nor the obligations or immunities of an
11 individual certified under this act as a real estate appraiser
12 when the individual is acting under the individual's license.

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

14 (1) The board shall, upon application and payment of the
15 application fee established by the board, issue a home
16 inspector-in-training registration, without examination, to
17 any person who meets the home inspector-in-training
18 educational requirements set by the board.

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

22 (i) Date and time of the inspection.

23 (ii) Address of the residence inspected.

24 (iii) Business name of the supervising inspector.

25 (iv) Name of the supervising inspector.

26 (v) License number of the supervising inspector.

27 (vi) Signature of the supervising inspector.

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

1 Section 6.2. Conduct of home inspection.

2 (a) General rule.--A home inspector shall conduct a home
3 inspection with the degree of care that a reasonably prudent
4 home inspector would exercise. In ascertaining the degree of
5 care that would be exercised by a reasonably prudent home
6 inspector, a court shall consider the standards of practice and
7 codes of ethics as established by the board by regulation.

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

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

18 Section 7. Reciprocity.

19 The board shall have the power to grant a reciprocal
20 certification to an applicant who is certified as an appraiser
21 or licensed as an appraiser trainee or home inspector in another
22 state and has demonstrated qualifications which equal or exceed
23 those required pursuant to this act in the determination of the
24 board.

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

27 Section 10. Certification renewal, licensure renewal and
28 records.

29 (a) Renewal term.--

30 (1) Except as provided under paragraph (2), renewal of

1 registration, certification or licensure shall be on a
2 biennial basis for persons in good standing.

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

6 * * *

7 (b.3) Continuing education for home inspectors.--A home
8 inspector shall be required to obtain 32 hours of continuing
9 education during the biennial renewal period. Continuing
10 education hours may be earned by completion of continuing
11 education courses in the field of home inspection during the
12 immediately preceding two years as approved by the board. Three
13 of the total required hours of continuing education must focus
14 on the difference between the National Manufactured Housing
15 Construction and Safety Standards Act of 1974 (Public Law 93-
16 383, 42 U.S.C. § 5401 et seq.) and the act of May 11, 1972
17 (P.L.286, No.70), known as the Industrialized Housing Act, and
18 the installation of manufactured and modular homes.

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

28 Section 8. Sections 11(a)(1), (3), (5) and (15) and (b), 12,
29 13, 14, 15(b) and 17(a) of the act are amended to read:

30 Section 11. Disciplinary and corrective measures.

1 (a) Authority of board.--The board may deny, suspend or
2 revoke registrations, certificates or licenses, or limit,
3 restrict or reprimand a registrant, certificateholder or
4 licensee for any of the following causes:

5 (1) Procuring or attempting to procure a registration,
6 certificate or license or renewal of a registration,
7 certificate or license pursuant to this act by knowingly
8 making a false statement, submitting false information or
9 refusing to provide complete information in response to a
10 question in an application for registration, certification or
11 licensure or renewal of registration, certification or
12 licensure through any form of fraud or misrepresentation.

13 * * *

14 (3) Paying, or offering to pay, any valuable
15 consideration other than provided for by this act to any
16 member or employee of the board to procure a registration,
17 certificate or license under this act.

18 * * *

19 (5) Performing an act or omitting an act when such
20 performance or omission involves dishonesty, fraud or
21 misrepresentation with intent to substantially benefit the
22 registrant, certificateholder or licensee in his profession
23 or with the intent to substantially injure another person.

24 * * *

25 (15) Having a license or certificate to perform
26 appraisals or home inspections suspended, revoked or refused
27 by an appraisal licensure or certification authority of
28 another state, territory or country, or receiving other
29 disciplinary actions by the appraisal or home inspection
30 licensure or certification authority of another state,

1 territory or country.

2 * * *

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

9 (1) Deny the application for registration, certification
10 or licensure or for renewal of registration, certification or
11 licensure.

12 (2) Administer a public reprimand.

13 (3) Revoke, suspend, limit or otherwise restrict a
14 registration, certificate or license as determined by the
15 board.

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

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

23 * * *

24 Section 12. Reinstatement of certificate or license.

25 Unless ordered to do so by Commonwealth Court or an appeal
26 therefrom, the board shall not reinstate the certificate [or],
27 license or registration of a person to practice as a certified
28 real estate appraiser or as an appraiser trainee or as a
29 licensed home inspector or as a registered home inspector-in-
30 training, pursuant to this act, which has been revoked. Any

1 person whose certificate [or], license or registration has been
2 revoked may apply for reinstatement, after a period of at least
3 five years, but must meet all of the certification [or],
4 licensure or registration qualifications of this act, including
5 the examination requirement, if he or she desires to hold
6 himself or herself out or to practice as a real estate appraiser
7 or home inspector or home inspector-in-training pursuant to this
8 act at any time after such revocation.

9 Section 13. Reporting of multiple certification or licensure.

10 Any appraiser certified in this Commonwealth who is also
11 certified or licensed to perform appraisals in any other state,
12 territory or country shall report this information to the board
13 on the biennial renewal application. Any home inspector licensed
14 in this Commonwealth who is also certified or licensed to
15 perform home inspections in any other state, territory or
16 country shall report this information to the board on the
17 biennial renewal application. Any disciplinary action taken in
18 any other state, territory or country shall be reported to the
19 board on the biennial renewal application, or within 90 days of
20 disposition, whichever is sooner. Multiple licensure or
21 certification shall be noted by the board on the certified
22 appraiser's or licensed home inspector's record, and such state,
23 territory or country shall be notified by the board of any
24 disciplinary actions taken against said certified appraiser or
25 licensed home inspector in this Commonwealth.

26 Section 14. Surrender of suspended or revoked registration,
27 certificate or license.

28 The board shall require a person whose registration,
29 certificate or license has been suspended or revoked to return
30 the registration, certificate or license in such manner as the

1 board directs. Failure to do so shall be a misdemeanor of the
2 third degree.

3 Section 15. Penalties.

4 * * *

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

25 * * *

26 Section 17. Injunctive relief.

27 (a) Injunction.--A violation of section 3 or 6(c) or (e) may
28 be enjoined by the courts upon petition of the secretary or the
29 board. In any proceeding under this section, it shall not be
30 necessary to show that any person is individually injured by the

1 actions complained of. If the court finds that the respondent
2 has violated section 3 or 6.1(c) or (e), it shall enjoin him or
3 her from so practicing or holding himself or herself out until
4 he or she has been duly certified or licensed. Procedure in such
5 cases shall be the same as in any other injunction suit.

6 * * *

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

8 Section 17.1. Remedies for home inspection services consumers.

9 (a) Unfair Trade Practices and Consumer Protection Law.--The
10 performance of a home inspection is a service subject to the act
11 of December 17, 1968 (P.L.1224, No.387), known as the Unfair
12 Trade Practices and Consumer Protection Law.

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

19 (1) Performing or offering to perform for an additional
20 fee any repairs to a structure with respect to which the home
21 inspector, the employer of the home inspector or other
22 business or person has prepared a home inspection report
23 within the preceding 12 months, except that this paragraph
24 shall not apply to remediation for radon or wood-destroying
25 insects.

26 (2) Inspecting for a fee any property in which the home
27 inspector, the employer of the home inspector or other
28 business or person has a financial interest or an interest in
29 the transfer of the property, including receipt of a board as
30 an agent, unless the financial interest or interest in the

1 transfer of the property is disclosed in writing to the buyer
2 before the home inspection is performed and the buyer signs
3 an acknowledgment of receipt of the disclosure.

4 (3) Offering or delivering a commission, referral fee or
5 kickback to the seller of the inspected property or to an
6 agent for the seller or buyer for the referral of business to
7 the home inspector, the employer of the home inspector or
8 other business or person.

9 (4) Accepting an engagement to perform a home inspection
10 or to prepare a home inspection report in which the
11 employment itself or the fee payable for the inspection is
12 contingent upon the conclusions in the report, preestablished
13 or prescribed findings or the closing of the transaction.

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

18 (d) Other remedies.--In addition to other remedies available
19 under the Unfair Trade Practices and Consumer Protection Law or
20 other applicable provision of law, the owner of a property on
21 which repairs are performed in violation of subsection (b)(1)
22 shall be entitled to a full refund of money paid for those
23 repairs, and a promissory note or another obligation to pay
24 given to the person performing those repairs shall be void.

25 Section 17.2. Home inspection contracts.

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

28 (1) Signature of client.

29 (2) Scope of home inspection.

30 (3) Fee charged to client.

1 (4) Contact information of home inspector.

2 (5) License number of home inspector.

3 (6) 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

1 inspection is based on observation of the visible and
2 apparent condition of the structure and its components on
3 the date of inspection.

4 (ii) The results of this home inspection are not
5 intended to make a representation regarding the presence
6 or absence of latent or concealed defects that are not
7 reasonably ascertainable in a competently performed home
8 inspection. No warranty or guaranty is expressed or
9 implied.

10 (iii) If the person conducting your home inspection
11 is not a licensed structural engineer or other
12 professional whose license authorizes the rendering of an
13 opinion as to the structural integrity of a building or
14 the building's other component parts, you may be advised
15 to seek a professional opinion as to any defects or
16 concerns mentioned in the report.

17 (iv) This home inspection report is not to be
18 construed as an appraisal and may not be used as such for
19 any purpose.

20 (b) Delivery of report.--Except as otherwise required by
21 this subsection or by law, a home inspector may not deliver a
22 home inspection report to a person other than the client of the
23 home inspector without the client's consent. The property owner
24 shall have the right, upon request, to receive without charge a
25 copy of a home inspection report from the person for whom the
26 home inspection report was prepared. If immediate threats to
27 health or safety are observed during the course of the
28 inspection and if the premises are occupied, the client hereby
29 consents to allow the home inspector to disclose the immediate
30 threats to health or safety to the property owner and occupants

1 of the property.

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

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

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

14 Section 10. Repeals are as follows:

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

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

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

26 Section 12. This act shall take effect as follows:

27 (1) The following provisions shall take effect
28 immediately:

29 (i) This section.

30 (ii) Section 11 of this act.

1 (iii) The amendment of section 4(a) of the act.
2 (2) The remainder of this act shall take effect in two
3 years.