

1 is amended to read:

2 AN ACT

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

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

9 Section 2. Definitions.

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

13 * * *

14 "Certified Pennsylvania evaluator." An individual who is
15 certified under the act of April 16, 1992 (P.L.155, No.28),
16 known as the Assessors Certification Act.

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

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

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

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

1 (i) An examination of a single system or component
2 of a residential dwelling, such as an electrical or
3 plumbing system or roof.

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

6 (A) Wood destroying insects.

7 (B) Underground tanks and wells.

8 (C) Septic systems.

9 (D) Swimming pools and spas.

10 (E) Alarm systems.

11 (F) Air and water quality.

12 (G) Tennis courts and playground equipment.

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

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

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

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

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

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

30 (3) The act of March 1, 1974 (P.L.90, No.24), known as

1 the Pennsylvania Pesticide Control Act of 1973.

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

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

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

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

16 * * *

17 Section 3. Section 4(a) and (k) of the act are amended to, <--
18 (B) AND (K) OF THE ACT ARE AMENDED AND THE SECTION IS AMENDED BY
19 ADDING A SUBSECTION TO read:

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

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

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

26 (2) The Attorney General or a designee.

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

28 (4) [Eight] ~~Twelve~~ members who are citizens of the <--
29 United States and who have been residents of this
30 Commonwealth for a two-year period immediately prior to

1 ~~appointment, two of whom shall be public members [and six],~~ <--
2 ~~eight~~ of whom shall be persons who are State-certified real
3 ~~estate appraisers[.], one of whom shall be a certified~~ <--
4 ~~Pennsylvania evaluator and one of whom shall be a person who~~
5 ~~is a licensed and qualified home inspector under this act,~~
6 ~~except that the home inspector initially appointed pursuant~~
7 ~~to this paragraph need not be licensed by the board but, at~~
8 ~~the time of appointment, must have satisfied the education~~
9 ~~and experience requirements of this act for licensure as a~~
10 ~~home inspector. If a member is qualified in more than one~~
11 ~~profession specified in this paragraph, the appointment shall~~
12 ~~specify in which capacity the member is being appointed.~~

13 ~~* * *]~~ FOURTEEN MEMBERS WHO ARE CITIZENS OF THE UNITED <--
14 STATES AND WHO HAVE BEEN RESIDENTS OF THIS COMMONWEALTH FOR A
15 TWO-YEAR PERIOD IMMEDIATELY PRIOR TO APPOINTMENT. EIGHT OF
16 THE MEMBERS SHALL BE STATE-CERTIFIED REAL ESTATE APPRAISERS,
17 TWO OF THE MEMBERS SHALL BE CERTIFIED PENNSYLVANIA
18 EVALUATORS, TWO OF THE MEMBERS SHALL BE QUALIFIED HOME
19 INSPECTORS AND TWO OF THE MEMBERS SHALL BE PUBLIC MEMBERS. IF
20 A MEMBER IS QUALIFIED IN MORE THAN ONE PROFESSION SPECIFIED
21 IN THIS PARAGRAPH, THE APPOINTMENT SHALL SPECIFY IN WHICH
22 CAPACITY THE MEMBER IS BEING APPOINTED.

23 (B) TERM OF OFFICE.--THE PROFESSIONAL AND PUBLIC MEMBERS
24 SHALL SERVE FOUR-YEAR TERMS, EXCEPT AS PROVIDED IN SUBSECTION
25 (C) OR (C.1), AND SHALL BE APPOINTED BY THE GOVERNOR BY AND WITH
26 THE ADVICE AND CONSENT OF A MAJORITY OF THE MEMBERS ELECTED TO
27 THE SENATE.

28 * * *

29 (C.1) INITIAL APPOINTMENTS OF CERTIFIED PENNSYLVANIA
30 EVALUATORS AND QUALIFIED HOME INSPECTORS.--WITHIN 90 DAYS OF THE

1 EFFECTIVE DATE OF THIS SUBSECTION, THE GOVERNOR SHALL NOMINATE
2 ONE CERTIFIED PENNSYLVANIA EVALUATOR AND ONE QUALIFIED HOME
3 INSPECTOR TO SERVE A TWO-YEAR TERM AND ONE CERTIFIED
4 PENNSYLVANIA EVALUATOR AND ONE QUALIFIED HOME INSPECTOR TO SERVE
5 A FOUR-YEAR TERM.

6 * * *

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

11 * * *

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

14 Section 5. Powers and duties of board.

15 The board shall have the following powers and duties:

16 (1) To pass upon the qualifications and fitness of
17 applicants for certification or licensure and to adopt and
18 revise rules and regulations requiring applicants for
19 REGISTRATION, certification or licensure to pass examinations <--
20 relating to their qualifications for REGISTRATION, <--
21 certification or licensure.

22 * * *

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

28 * * *

29 (6) To establish fees for the operation of the board,
30 including fees for the issuance and renewal of registrations,

1 certificates and licenses and for examinations.

2 * * *

3 Section 6. Application and qualifications of certified real
4 estate appraisers.

5 * * *

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

7 Section 6.1. Application and qualifications of home inspectors
8 and home inspectors-in-training.

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

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

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

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

16 (4) The applicant:

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

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

28 (iii) has completed no less than 75 mentored home
29 inspections completed in the presence and under the
30 direct supervision of a home inspector licensed in this

1 Commonwealth. A home inspection report prepared by a home
2 inspector-in-training shall be used for training purposes
3 only and may not be provided to a client.

4 (5) The applicant has passed a board-approved
5 psychometrically valid licensing examination to be
6 administered pursuant to section 812.1 of the act of April 9,
7 1929 (P.L.177, No.175), known as The Administrative Code of
8 1929.

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

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

13 (8) There is no criminal history which would impede the
14 applicant's eligibility, determined by the board based on the
15 applicant's submission of the following:

16 (i) A report of the applicant's criminal history
17 record information under 18 Pa.C.S. § 9121(b) (relating
18 to general regulations).

19 (ii) If the applicant has resided outside this
20 Commonwealth for any time in the five years immediately
21 preceding the date of application, a report to the board
22 of Federal criminal identification and crime records
23 under 28 U.S.C. § 534(a) (4) (relating to acquisition,
24 preservation, and exchange of identification records and
25 information; appointment of officials).

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

30 (1) Is an active home inspector.

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

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

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

8 (ii) ~~has~~ performed or participated in 100 home <--
9 inspections and has passed a recognized or accredited
10 examination testing knowledge of the proper procedures
11 for conducting a home inspection.

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

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

18 (2) An individual licensed under the act of December 14,
19 1982 (P.L.1227, No.281), known as the Architects Licensure
20 Law.

21 (3) A home inspector-in-training practicing home
22 inspection in the presence and under the direct supervision
23 of a home inspector licensed in this Commonwealth, provided
24 the home inspector-in-training does not hold himself out as a
25 home inspector.

26 (d) Compliance.--Notwithstanding subsection (c), a person
27 licensed or registered as a professional engineer under the
28 Engineer, Land Surveyor and Geologist Registration Law, or a
29 person licensed or registered under the Architects Licensure
30 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.

1 (4) There is no criminal history which would impede the
2 applicant's eligibility, determined by the board based on the
3 applicant's submission of the following:

4 (i) A report of the applicant's criminal history
5 record information under 18 Pa.C.S. § 9121(b).

6 (ii) If the applicant has resided outside this
7 Commonwealth for any time in the five years immediately
8 preceding the date of application, a report to the board
9 of Federal criminal identification and crime records
10 under 28 U.S.C. § 534(a)(4).

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

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

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

21 (i) Insurance.--A person licensed as a home inspector shall
22 maintain insurance against errors and omissions in the
23 performance of a home inspection and general liability, with
24 coverages of not less than \$250,000 per occurrence and \$500,000
25 in the aggregate and with deductibles of not more than \$15,000.
26 An applicant must provide proof that the applicant has obtained
27 professional liability insurance. It is sufficient if the
28 applicant files with the application a copy of a letter from the
29 applicant's professional liability insurance carrier indicating
30 that the applicant will be covered against professional

1 liability in the required amounts effective upon the issuance of
2 the applicant's license to practice home inspection in this
3 Commonwealth. Upon issuance of the license, the licensee must,
4 within 30 days, submit to the board the certificate of insurance
5 or a copy of the policy declaration page. A home inspector shall
6 maintain professional liability insurance for at least one year
7 after the latest home inspection report the home inspector
8 delivers, unless the home inspection report was delivered prior
9 to the effective date of this section.

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

14 (1) The Engineer, Land Surveyor and Geologist
15 Registration Law, as to the practice of engineering, land
16 surveying or geology.

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

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

21 (4) The Architects Licensure Law.

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

24 (k) Other licensees.--The requirements of this act relating
25 to the licensing of home inspectors shall not affect the
26 obligations or immunities of an individual licensed as other
27 than a home inspector under this act that are imposed or
28 provided under this act or 68 Pa.C.S. Ch. 73 (relating to seller
29 disclosures) when the individual is acting under the
30 individual's license, nor the obligations or immunities of an

1 individual certified under this act as a real estate appraiser
2 when the individual is acting under the individual's license.

3 (1) Home inspector-in-training registrant.--

4 (1) The board shall, upon application and payment of the
5 application fee established by the board, issue a home
6 inspector-in-training registration, without examination, to
7 any person who meets the home inspector-in-training
8 educational requirements set by the board.

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

12 (i) Date and time of the inspection.

13 (ii) Address of the residence inspected.

14 (iii) Business name of the supervising inspector.

15 (iv) Name of the supervising inspector.

16 (v) License number of the supervising inspector.

17 (vi) Signature of the supervising inspector.

18 ~~(m) Definition. As used in this section, the term~~ <--
19 ~~"convicted" includes a judgment, an admission of guilt or a plea~~
20 ~~of nolo contendere.~~

21 Section 6.2. Conduct of home inspection.

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

28 (b) Immediate threat to health or safety.--If an immediate
29 threat to health or safety is observed during the course of a
30 home inspection and the home is occupied, the home inspector

1 shall disclose the immediate threat to health or safety to the
2 property owner and occupants of the property at the conclusion
3 of the home inspection. Posting a notice on a form prescribed by
4 the board by regulation on the front door of the occupied home
5 in a position that ensures the occupants see the notice shall
6 constitute proper disclosure.

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

8 Section 7. Reciprocity.

9 The board shall have the power to grant a reciprocal
10 certification to an applicant who is certified as an appraiser
11 or licensed as an appraiser trainee or home inspector in another
12 state and has demonstrated qualifications which equal or exceed
13 those required pursuant to this act in the determination of the
14 board.

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

17 Section 10. Certification renewal, licensure renewal and
18 records.

19 (a) Renewal term.--

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

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

26 * * *

27 (b.3) Continuing education for home inspectors.--A home
28 inspector shall be required to obtain 32 hours of continuing
29 education during the biennial renewal period. Continuing
30 education hours may be earned by completion of continuing

1 education courses in the field of home inspection during the
2 immediately preceding two years as approved by the board. Three
3 of the total required hours of continuing education must focus
4 on the difference between the National Manufactured Housing
5 Construction and Safety Standards Act of 1974 (Public Law 93-
6 383, 42 U.S.C. § 5401 et seq.) and the act of May 11, 1972
7 (P.L.286, No.70), known as the Industrialized Housing Act, and
8 the installation of manufactured and modular homes.

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

18 Section 8. Sections 11(a) (1), (3), (5) and (15) and (b), 12,
19 13, 14, 15(b) and 17(a) of the act are amended to read:

20 Section 11. Disciplinary and corrective measures.

21 (a) Authority of board.--The board may deny, suspend or
22 revoke registrations, certificates or licenses, or limit,
23 restrict or reprimand a registrant, certificateholder or
24 licensee for any of the following causes:

25 (1) Procuring or attempting to procure a registration,
26 certificate or license or renewal of a registration,
27 certificate or license pursuant to this act by knowingly
28 making a false statement, submitting false information or
29 refusing to provide complete information in response to a
30 question in an application for registration, certification or

1 licensure or renewal of registration, certification or
2 licensure through any form of fraud or misrepresentation.

3 * * *

4 (3) Paying, or offering to pay, any valuable
5 consideration other than provided for by this act to any
6 member or employee of the board to procure a registration,
7 certificate or license under this act.

8 * * *

9 (5) Performing an act or omitting an act when such
10 performance or omission involves dishonesty, fraud or
11 misrepresentation with intent to substantially benefit the
12 registrant, certificateholder or licensee in his profession
13 or with the intent to substantially injure another person.

14 * * *

15 (15) Having a license or certificate to perform
16 appraisals or home inspections suspended, revoked or refused
17 by an appraisal licensure or certification authority of
18 another state, territory or country, or receiving other
19 disciplinary actions by the appraisal or home inspection
20 licensure or certification authority of another state,
21 territory or country.

22 * * *

23 (b) Board action.--When the board finds that the
24 registration, certificate or license, application for
25 registration, certification or licensure or renewal of
26 registration, certification or licensure of any person may be
27 denied, revoked, restricted or suspended under the terms of
28 subsection (a), the board may:

29 (1) Deny the application for registration, certification
30 or licensure or for renewal of registration, certification or

1 licensure.

2 (2) Administer a public reprimand.

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

6 (4) Suspend enforcement of its findings thereof and
7 place a registrant, certificateholder or licensee on
8 probation with the right to vacate the probationary order for
9 noncompliance.

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

13 * * *

14 Section 12. Reinstatement of REGISTRATION, certificate or <--
15 license.

16 Unless ordered to do so by Commonwealth Court or an appeal
17 therefrom, the board shall not reinstate the certificate [or],
18 license or registration of a person to practice as a certified
19 real estate appraiser or as an appraiser trainee or as a
20 licensed home inspector or as a registered home inspector-in-
21 training, pursuant to this act, which has been revoked. Any
22 person whose certificate [or], license or registration has been
23 revoked may apply for reinstatement, after a period of at least
24 five years, but must meet all of the certification [or],
25 licensure or registration qualifications of this act, including
26 the examination requirement, if he or she desires to hold
27 himself or herself out or to practice as a real estate appraiser
28 or home inspector or home inspector-in-training pursuant to this
29 act at any time after such revocation.

30 Section 13. Reporting of multiple certification or licensure.

1 Any appraiser certified in this Commonwealth who is also
2 certified or licensed to perform appraisals in any other state,
3 territory or country shall report this information to the board
4 on the biennial renewal application. Any home inspector licensed
5 in this Commonwealth who is also certified or licensed to
6 perform home inspections in any other state, territory or
7 country shall report this information to the board on the
8 biennial renewal application. Any disciplinary action taken in
9 any other state, territory or country shall be reported to the
10 board on the biennial renewal application, or within 90 days of
11 disposition, whichever is sooner. Multiple licensure or
12 certification shall be noted by the board on the certified
13 appraiser's or licensed home inspector's record, and such state,
14 territory or country shall be notified by the board of any
15 disciplinary actions taken against said certified appraiser or
16 licensed home inspector in this Commonwealth.

17 Section 14. Surrender of suspended or revoked registration,
18 certificate or license.

19 The board shall require a person whose registration,
20 certificate or license has been suspended or revoked to return
21 the registration, certificate or license in such manner as the
22 board directs. Failure to do so shall be a misdemeanor of the
23 third degree.

24 Section 15. Penalties.

25 * * *

26 (b) Civil penalty.--In addition to any other civil remedy or
27 criminal penalty provided for in this act, the board, by a vote
28 of the majority of the maximum number of the authorized
29 membership of the board as provided by law, or by a vote of the
30 majority of the duly qualified and confirmed membership or a

1 minimum of three members, whichever is greater, may levy a civil
2 penalty of up to \$10,000 on any certificateholder [or], licensee
3 or registrant who violates any provision of this act [or], any
4 noncertificateholder who holds himself out as a real estate
5 appraiser in this Commonwealth or who performs an appraisal for
6 which certification or licensure is required under the Financial
7 Institutions Reform, Recovery, and Enforcement Act of 1989
8 (Public Law 101-73, 103 Stat. 183) an appraisal in any federally
9 related or nonfederally related transaction or any other
10 appraisal[.] or any nonlicensed individual who holds himself out
11 as a home inspector in this Commonwealth or who performs a home
12 inspection for which certification or licensure is required. The
13 board shall levy this penalty only after affording the accused
14 party the opportunity for a hearing, as provided in 2 Pa.C.S.
15 (relating to administrative law and procedure).

16 * * *

17 Section 17. Injunctive relief.

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

27 * * *

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

29 Section 17.1. Remedies for home inspection services consumers.

30 (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

1 or to prepare a home inspection report in which the
2 employment itself or the fee payable for the inspection is
3 contingent upon the conclusions in the report, preestablished
4 or prescribed findings or the closing of the transaction.

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

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

16 Section 17.2. Home inspection contracts.

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

- 19 (1) Signature of client.
- 20 (2) Scope of home inspection.
- 21 (3) Fee charged to client.
- 22 (4) Contact information of home inspector.
- 23 (5) License number of home inspector.
- 24 (6) A statement explaining the confidentiality between
25 the home inspector and the client.

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

- 30 (1) A limitation on the liability of the home inspector

1 for gross negligence or willful misconduct.

2 (2) A waiver or modification of any provision of this
3 section or section 6.2, 17.1 or 17.3.

4 Section 17.3. Home inspection reports.

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

7 (1) A description of the scope of the inspection,
8 including identification of the essential components and
9 systems and subsystems covered by the report.

10 (2) A description of material defects noted during the
11 inspection, along with a recommendation that certain experts
12 be retained to determine the extent of the defects and the
13 corrective action that should be taken.

14 (3) If, at the time of the inspection, there is visible
15 evidence of the presence of interior mold, the home inspector
16 must disclose in the home inspection report the visible
17 evidence and the location and advise the client to obtain a
18 professional evaluation.

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

20 (i) A home inspection is intended to assist in
21 evaluation of the overall condition of the dwelling. The
22 inspection is based on observation of the visible and
23 apparent condition of the structure and its components on
24 the date of inspection.

25 (ii) The results of this home inspection are not
26 intended to make a representation regarding the presence
27 or absence of latent or concealed defects that are not
28 reasonably ascertainable in a competently performed home
29 inspection. No warranty or guaranty is expressed or
30 implied.

1 (iii) If the person conducting your home inspection
2 is not a licensed structural engineer or other
3 professional whose license authorizes the rendering of an
4 opinion as to the structural integrity of a building or
5 the building's other component parts, you may be advised
6 to seek a professional opinion as to any defects or
7 concerns mentioned in the report.

8 (iv) This home inspection report is not to be
9 construed as an appraisal and may not be used as such for
10 any purpose.

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

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

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

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

5 Section 10. Repeals are as follows:

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

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

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

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

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

20 (i) This section.

21 (ii) Section 11 of this act.

22 (iii) The amendment of section 4(a) AND (B) of the <--
23 act.

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