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1 AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29, and
2 Title 62, relative to home inspection services.

3 BE IT AMENDED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

4 SECTION 1. Tennessee Code Annotated, Title 62, Chapter 6, is amended by deleting Part 3 in its
5 entirety, and replacing it with Sections 2 through 13 of this act.

6 SECTION 2. This act shall be known and may be cited as the "Tennessee Home Inspector License Act
7 of 2005."

8 SECTION 3. As used in this act, unless the context otherwise requires:

9 (1) "Client" means any person who hires or seeks to hire a home inspector to obtain a home
10 inspection or home inspection report;

11 (2) "Commissioner" means the commissioner of commerce and insurance, or the commissioner's
12 designee;

13 (3) "Home inspection" means a visual analysis for the purpose of providing a professional opinion
14 of the condition of a residential building, ancillary buildings, any reasonably accessible installed
15 components, and the operation of the building's systems, including any controls normally operated by the
16 owner of the building, for the following components:

17 (A) Heating systems;

18 (B) Cooling systems;

19 (C) Electrical systems;

20 (D) Plumbing systems;

21 (E) Structural components;

22 (F) Foundations;

23 (G) Roof coverings;

24 (H) Exterior and interior components; and

25 (I) Any other site aspects that affect the residential dwelling.

26 Home inspection does not include a compliance inspection for building codes or any other codes
27 adopted by this state or a political subdivision of this state. Home inspection does not include any work
28 which is within the scope of practice of architecture, engineering, or landscape architecture or is

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1 performed by a person qualified to use the title "registered interior designer," all as defined in chapter 2 of
2 this title.

3 (4) "Home inspection report" means a legibly written document prepared for compensation and
4 issued after a home inspection. The report shall include the following:

5 (A) A report on any system or component inspected that, in the opinion of the inspector,
6 is significantly deficient or near the end of the system or component's service life. A report under
7 this subdivision must include the reason why the system or component is significantly deficient or
8 near the end of the system or component's service life, unless the reason is self-evident;

9 (B) The inspector's recommendation to remedy or monitor a deficiency reported under
10 subdivision (A);

11 (C) A list of any systems or components that were designated for inspection in the
12 standards of practice adopted by the commission but that were not inspected;

13 (D) The reason a system or component listed under subdivision (C) was not inspected;

14 (E) A statement that the report does not address environmental hazards, including:

15 (i) Lead-based paint;

16 (ii) Radon;

17 (iii) Asbestos;

18 (iv) Cockroaches;

19 (v) Rodents;

20 (vi) Pesticides;

21 (vii) Treated lumber;

22 (viii) Mold;

23 (ix) Mercury;

24 (x) Carbon monoxide; or

25 (xi) Other similar environmental hazards;

26 (F) A statement that the report does not address wood destroying insects and organisms,

27 and

28 (G) A statement that the report does not address subterranean systems or system

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1 components (operational or nonoperational), including:

2 (i) Sewage disposal;

3 (ii) Water supply; or

4 (iii) Fuel storage or delivery.

5 (5) "Home inspector" means any person who is licensed under this act as a home inspector and
6 who engages in the business of performing home inspections and writing home inspection reports; and

7 (6) "Residential building" means a structure that is intended to be or is in fact used as a residence
8 consisting of from one (1) to four (4) family dwelling units.

9 SECTION 4.

10 (a) The commissioner has the power and the duty to:

11 (1) Administer and enforce the provisions of this chapter;

12 (2) Issue and renew licenses to home inspectors pursuant to the provisions of this chapter;

13 (3) Suspend, revoke, or fail to renew the license of a home inspector;

14 (4) Establish standards for the initial and continuing education of home inspectors, including
15 prescribing the form and content of examinations to determine the qualifications of persons applying for
16 licensure;

17 (5) Promulgate such rules and regulations as are reasonably necessary to effectuate the
18 purposes of this chapter. All such rules shall be promulgated in accordance with the provisions of the
19 Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5;

20 (6) Adopt and publish a code of ethics and standards of practice for home inspectors; and

21 (7) Charge and collect fees, including license application and renewal fees, to be utilized to fund
22 such activities as may be necessary to carry out the provisions of this chapter.

23 (b) The commissioner may, as authorized by § 4-5-205, appoint a committee of experts in the
24 field of home inspection to advise the commissioner with respect to any contemplated rulemaking under
25 this section.

26 (c) The commissioner may seek relief at law or equity to restrain or enjoin any act or practice in
27 violation of this chapter, or of any rule promulgated hereunder. Jurisdiction is conferred upon the

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1 chancery and circuit courts of this state to hear and determine such a suit. No bond shall be required for
2 the prosecution of the suit or for the issuance of an injunction.

3 SECTION 5. It is unlawful for any person, directly or indirectly, to engage in or conduct, or to advertise or
4 claim to be engaging in or conducting the business, or acting in the capacity of a home inspector as defined in this
5 chapter, within this state, without first obtaining a home inspector license as provided in this chapter.

6 SECTION 6.

7 (a) Any person who applies for licensure as a home inspector must submit an application on a
8 form as prescribed by the commissioner. The application shall be accompanied by the fee specified in
9 Section 4 of this act.

10 (b) Applicants for licensure shall furnish evidence satisfactory to the commissioner that the
11 applicant:

12 (1) Is at least eighteen (18) years of age;

13 (2) Has graduated from high school or earned a general education development
14 certificate;

15 (3) Has not been convicted of an a crime that has a direct bearing on the applicant's
16 ability to perform competently and fully as a licensee;

17 (4) Is not the subject of a disciplinary or enforcement action by another state or a local
18 jurisdiction in connection with the performance of home inspections or the licensing or certification
19 of home inspectors;

20 (5) Has successfully completed ninety (90) hours of a commissioner-approved training
21 program or course of study involving the performance of home inspections and the preparation of
22 home inspection reports;

23 (6) Has passed a commissioner-approved competency examination administered by the
24 state or an entity selected by the state; and

25 (7) Has obtained a certificate of insurance in an amount required by the commissioner for
26 general liability as well as errors and omissions to cover all activities contemplated under this
27 chapter.

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1 (c) During the first one hundred eighty (180) days after the effective date of this act, the
2 commissioner may issue a license to an applicant who meets the requirements of subsections (a) and (b)
3 of this section, excluding subsection (b)(5), if the applicant furnishes evidence satisfactory to the
4 commissioner that the applicant:

5 (1) Has been principally engaged in the performance of home inspections in this state for
6 at least two (2) years; and

7 (2) Has completed at least one hundred fifty (150) home inspections for compensation in
8 the applicant's career.

9 (d) Persons possessing a contractor's license issued by the board for licensing contractors shall
10 be exempt from the requirements of subsections (b)(5) and (b)(6) of this section.

11 SECTION 7. If the commissioner determines that an applicant meets the requirements of this chapter and
12 is qualified for a home inspector license, the commissioner shall issue a license to the applicant that shall expire
13 two (2) years following the date of issuance unless revoked or suspended prior thereto. The expiration date of the
14 license shall appear on the license and no other notice of its expiration need be given to its holder. The
15 commissioner shall maintain a roster, which shall be made available to the public, showing the name and place of
16 business of each home inspector currently licensed. A licensee shall notify the commissioner immediately of any
17 change of name, name under which the licensee conducts business, or business address.

18 SECTION 8.

19 (a) To renew a current, valid home inspector license, the holder of such license shall submit an
20 application on a form as prescribed by the commissioner. The application for renewal shall be
21 accompanied by the fee specified in Section 4 of this act. All documentation and fees that are
22 prerequisite to the renewal of a license shall be delivered to the commissioner not earlier than one
23 hundred twenty (120) days nor later than thirty (30) days prior to the expiration date of the license then
24 held.

25 (b) Applicants for license renewal shall furnish evidence satisfactory to the commissioner that the
26 applicant:

27 (1) Has completed thirty-two (32) hours of commissioner-approved continuing education;

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1 (2) Has not violated the provisions of this chapter or any rules and regulations
2 promulgated thereunder; and

3 (3) Has obtained a certificate of insurance in an amount required by the commissioner for
4 general liability as well as errors and omissions to cover all activities contemplated under this
5 chapter.

6 (c) The commissioner may refuse to renew any license if the licensee has continued to perform
7 home inspections in this state following the expiration of the license.

8 SECTION 9.

9 (a) The commissioner may take disciplinary action against a licensee or applicant, deny an
10 application for a license, assess a civil penalty of up to one thousand dollars (\$1,000) per violation, or
11 may suspend, revoke, or refuse to issue or renew a license when a licensee performs or attempts to
12 perform any of the following acts:

13 (1) Accepting or offering commissions or allowances, directly or indirectly, from or to
14 parties other than the client, unless fully disclosed to the client in writing;

15 (2) Performing or offering to perform repair or maintenance work on a property the
16 licensee has inspected in the preceding twelve (12) months;

17 (3) Using a home inspection to deliberately obtain work in another field or profession;

18 (4) Accepting compensation, financial or otherwise, from more than one interested party
19 for the same service without the consent of all interested parties;

20 (5) Failing to disclose to the client any financial interest or any relationship with may
21 affect the client's interest;

22 (6) Disclosing information concerning the results of a home inspection without the
23 approval of the client or the client's legal representative, except under a court order;

24 (7) Knowingly making a false or misleading representation about:

25 (A) The condition of a residential dwelling for which the licensee has performed
26 or has contracted to perform a home inspection; or

27 (B) The extent of the services the licensee has performed or will perform;

28 (8) Committing a felony in the course of the practice of home inspection;

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1 (9) Violating any provisions of this chapter or rules promulgated by the commissioner
2 under this chapter;

3 (10) Making a false or misleading representation:

4 (A) In a license or renewal application form; or

5 (B) In information provided to the commissioner;

6 (11) Failing to pay any fees or fines required by this chapter;

7 (12) Failing to continuously maintain the insurance required by this chapter;

8 (13) Communicating to the public false or misleading information about the type of
9 license held by the licensee;

10 (14) Engaging in a course of lewd or immoral conduct in connection with the delivery of
11 services to clients; or

12 (15) Failing to complete the continuing education requirements established by the
13 commissioner.

14 (b) The commissioner is authorized to issue citations against persons engaging in or conducting
15 in the business, or acting in the capacity of a home inspector as defined in this chapter without a license
16 in violation of Section 6 of this act. The commissioner shall promulgate rules and regulations to specify
17 those conditions necessary to the issuance of a citation, and the range of penalties for violations of this
18 chapter. Each citation shall:

19 (1) Be in writing and shall describe with particularity the basis for the citation; and

20 (2) Contain an order to cease all violations of this chapter and an assessment of a civil
21 penalty in an amount not less than fifty dollars (\$50.00) nor more than one thousand dollars
22 (\$1,000.00) per violation.

23 (c) The sanctions authorized pursuant to this part shall be in addition to any other remedies, civil
24 and criminal, available to any person harmed by a violation of this chapter.

25 (d) The provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5,
26 govern all matters and procedures respecting the hearing and judicial review of any contested case, as
27 defined therein, arising under this chapter.

28 SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held

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1 invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without
2 the invalid provision or application, and to that end the provisions of this act are declared to be severable.

3 SECTION 11. For the purpose of promulgating rules and regulations, this act shall take effect July 1,
4 2005, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2006, the public
5 welfare requiring it.