
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1001 Session of
2017

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TOEPEL, WARD, WARREN AND WATSON, MARCH 28, 2017

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MARCH 28, 2017

AN ACT

1 Regulating home inspectors; establishing the Home Inspection
2 Licensing Board; providing for licensure and practice, for
3 disciplinary action, for remedies and for penalties; making
4 an appropriation; and repealing provisions relating to home
5 inspections.

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26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 CHAPTER 1

29 PRELIMINARY PROVISIONS

30 Section 101. Short title.

1 This act shall be known and may be cited as the Home
2 Inspector Licensing Act.

3 Section 102. Declaration of policy.

4 The General Assembly finds and declares as follows:

5 (1) Home inspections may not identify safety issues if
6 the practice is not subject to responsible regulation.

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

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

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

16 Section 103. Definitions.

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

20 "Account." The Professional Licensure Augmentation Account.

21 "Applicant." An individual who applies for a license as a
22 home inspector.

23 "Board." The Home Inspection Licensing Board.

24 "Bureau." The Bureau of Occupational and Industrial Safety
25 in the Department of Labor and Industry.

26 "Client." A person or person acting through a legal
27 representative who contracts with a licensee to obtain a home
28 inspection and subsequent written home inspection report.

29 "Convicted." Includes a judgment, admission of guilt or a
30 plea of nolo contendere, or receiving probation without verdict,

1 disposition in lieu of trial or an Accelerated Rehabilitative
2 Disposition of the disposition of felony charges.

3 "Department." The Department of Labor and Industry of the
4 Commonwealth.

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

11 (1) Includes a consultation regarding the property that
12 is represented to be a home inspection or that is described
13 by a confusingly similar term.

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

15 (i) An examination of a single system or component
16 of a residential dwelling, such as an electrical or
17 plumbing system or roof.

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

20 (A) Wood destroying insects.

21 (B) Underground tanks and wells.

22 (C) Septic systems.

23 (D) Swimming pools and spas.

24 (E) Alarm systems.

25 (F) Air and water quality.

26 (G) Tennis courts and playground equipment.

27 (H) Pollutants, toxic chemicals and
28 environmental hazards.

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

1 "Home inspection report." A typewritten report on the
2 results of a home inspection.

3 "Home inspector." An individual licensed by the board to
4 perform home inspections.

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

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

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 "Secretary." The Secretary of Labor and Industry of the
17 Commonwealth.

18 CHAPTER 3

19 BOARD

20 Section 301. Board established.

21 (a) Establishment.--The Home Inspector Licensing Board is
22 established within the bureau. The board shall be composed of
23 the following members:

24 (1) The secretary or a designee of the secretary.

25 (2) The Attorney General or a designee of the Attorney
26 General.

27 (3) Members appointed by the secretary as follows:

28 (i) Six members who shall be home inspectors
29 licensed in this Commonwealth. For an initial
30 appointment, a home inspector must qualify for licensure

1 and obtain a license immediately upon availability.

2 (ii) Three members who shall be members of the
3 general public without expertise or training as a home
4 inspector.

5 (iii) One member who shall be a real estate agent or
6 broker licensed in this Commonwealth.

7 (iv) One member who shall be a professional engineer
8 or architect licensed in this Commonwealth.

9 (b) Term of office.--

10 (1) Except as set forth in paragraph (2), the term of
11 office for home inspector members and general public members
12 shall be four years.

13 (2) Three of the home inspector members and three of the
14 general public members shall be initially appointed to a two-
15 year term.

16 (c) Compensation.--The members of the board shall be paid a
17 per diem at the rate determined by the bureau for each day of
18 actual service in the performance of their duties under this
19 act.

20 (d) Meetings.--Meetings shall be called by the chairperson
21 of the board elected by a majority of the board members. A
22 quorum of the board shall consist of seven members.

23 Section 302. Powers and duties of board.

24 (a) General rule.--The board has the following powers and
25 duties:

26 (1) To pass upon the qualifications and fitness of
27 applicants for licenses and reciprocal licenses and to
28 promulgate regulations requiring applicants to pass
29 examinations relating to qualifications as a prerequisite to
30 the issuance of a license.

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

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

5 (4) To conduct hearings upon complaints concerning
6 violations of this act and the regulations promulgated under
7 this act and to seek the prosecution and enjoinder of
8 violations.

9 (5) To promulgate regulations establishing requirements
10 for continuing education under this act.

11 (6) To expend money necessary to the proper carrying out
12 of assigned duties.

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

20 (8) To submit annually to the Appropriations Committee
21 of the Senate and the Appropriations Committee of the House
22 of Representatives, within 15 days after the Governor has
23 submitted a budget to the General Assembly, a copy of the
24 budget request for the upcoming fiscal year which the bureau
25 previously submitted to the department.

26 (9) To establish and maintain a current list of home
27 inspectors who are licensed. The list shall be available for
28 public inspection, including by electronic means.

29 (10) To establish fees as set forth in this act. All
30 fees or other money collected by the board under this act

1 shall be used for the sole purpose of administration and
2 regulation of licensing under this act.

3 (b) Bureau support.--The bureau shall provide sufficient
4 staff, space, equipment and supplies for the board to discharge
5 its duties.

6 CHAPTER 5

7 LICENSURE

8 Section 501. Requirements for licensure.

9 (a) Applicants.--An applicant shall be considered to be
10 qualified for a license if the applicant submits proof
11 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.

16 (4) The applicant has completed a board-approved
17 training program or course of study involving the performance
18 of home inspections which shall be no less than 120 hours of
19 classroom instruction and 75 mentored home inspections
20 completed in the presence of and under the direct supervision
21 of a home inspector licensed in this Commonwealth who
22 oversees and takes full responsibility for the home
23 inspection and any report provided to the client.

24 (5) The applicant has passed a board-approved
25 examination.

26 (6) The application is accompanied by the application
27 fee as established by the board by regulation.

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

30 (8) The applicant has not been convicted of a felony

1 under the act of April 14, 1972 (P.L.233, No.64), known as
2 The Controlled Substance, Drug, Device and Cosmetic Act, or
3 of an offense under the laws of another jurisdiction which if
4 committed in this Commonwealth would be a felony under The
5 Controlled Substance, Drug, Device and Cosmetic Act, unless
6 the following apply:

7 (i) At least 10 years have elapsed from the date of
8 conviction.

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

16 (iii) The applicant otherwise satisfies the
17 qualifications required under this act.

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

21 (1) Is an active professional home inspector.

22 (2) Meets the qualifications described in subsection (a)
23 (1), (2), (3), (6), (7) and (8) and section 504.

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

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

29 (ii) has performed or participated in 100 home
30 inspections and has passed a recognized or accredited

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

3 (c) Transferability.--A license is not transferable.

4 Section 502. License status and continuing education.

5 (a) Duration of license.--A license shall be issued on a
6 biennial basis. The biennial expiration date shall be
7 established by regulation of the board. Application for renewal
8 of a license shall biennially be forwarded to an individual
9 holding a current license prior to the expiration date of the
10 current renewal biennium.

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

13 (1) File a renewal application with the board. The
14 licensee must successfully complete 32 hours of continuing
15 education in the field of home inspection during the
16 immediately preceding two years as approved by the board.

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

18 (c) Information change notification.--A licensee shall
19 notify the board within 30 days of:

20 (1) a change of name;

21 (2) a change of name under which the licensee conducts
22 business;

23 (3) a change of business address;

24 (4) a lapse, change or cancellation of insurance
25 coverage; or

26 (5) a misdemeanor or felony conviction, finding of guilt
27 or plea of nolo contendere or receiving probation without
28 verdict or Accelerated Rehabilitative Disposition.

29 (d) Inactive status.--A licensee may request an application
30 for inactive status. The application form must be completed and

1 returned to the board. Upon receipt of an application, the
2 individual shall be maintained on inactive status without fee
3 and shall be entitled to apply for a licensure renewal at any
4 time. An individual who requests the board to activate the
5 person's license and who has been on inactive status for less
6 than five consecutive years must, prior to receiving an active
7 license, satisfy the board's regulations for ensuring continued
8 education and remitting the required fee. A licensee who fails
9 to activate a licensee's license after five years must retake
10 the examination specified for initial licensure.

11 (e) Reporting of multiple licensure.--A licensee who is also
12 licensed to practice home inspection in another jurisdiction
13 shall report this information to the board on the biennial
14 registration application. Disciplinary action taken in another
15 jurisdiction shall be reported to the board on the biennial
16 registration application or within 90 days of final disposition,
17 whichever is sooner. The board shall note multiple licensures on
18 the licensee's record, and the board shall notify other
19 licensing jurisdictions of disciplinary actions taken against
20 the licensee in this Commonwealth.

21 Section 503. Examinations.

22 The board shall contract with a professional testing
23 organization for the examination of qualified applicants for
24 licensure. All written, oral and practical examinations shall be
25 prepared and administered by a qualified and approved
26 professional testing organization in the manner prescribed for
27 written examinations by section 812.1 of the act of April 9,
28 1929 (P.L.177, No.175), known as The Administrative Code of
29 1929.

30 Section 504. Manufactured and modular housing certificate.

1 (a) Certificate required.--In addition to a home inspector
2 license, a manufactured and modular housing certificate is
3 required to perform home inspections on manufactured or modular
4 housing.

5 (b) Applicants.--An applicant shall be considered to be
6 qualified for a manufactured and modular housing certificate if
7 the applicant submits proof satisfactory to the board that the
8 applicant has:

9 (1) satisfied all of the licensure requirements set forth in
10 section 501; and

11 (2) completed a six-hour board-approved training program
12 providing basic knowledge on the differences between the
13 National Manufactured Housing Construction and Safety Standards
14 Act of 1974 (Public Law 93-383, 42 U.S.C. § 5401 et seq.) and
15 the act of May 11, 1972 (P.L.286, No.70), known as the
16 Industrialized Housing Act, and knowledge pertaining to the
17 installation of manufactured and modular homes.

18 (c) Continuing education.--In addition to the requirements
19 set forth in section 502(b), to renew a manufactured and modular
20 housing certificate, a licensee must do all of the following:

21 (1) File a renewal application with the board.

22 (2) Successfully complete three hours of continuing
23 education pertaining to basic knowledge on the differences
24 between the National Manufactured Housing Construction and
25 Safety Standards Act of 1974 and the Industrialized Housing
26 Act and knowledge pertaining to the installation of
27 manufactured and modular homes during the immediately
28 preceding two years as approved by the board.

29 (3) Pay a fee established by regulation of the board.
30 Section 505. Licensure by reciprocity.

1 The board may grant a reciprocal license to an applicant who
2 is licensed or certified as a home inspector or similar practice
3 in another state and has demonstrated qualifications which equal
4 or exceed those required under this act in the determination of
5 the board. The board shall not grant a license under this
6 section to an applicant unless the state in which the applicant
7 is licensed affords reciprocal treatment to individuals who are
8 residents of this Commonwealth and who are licensed under this
9 act. The applicant must also submit a notarized statement that
10 the applicant has studied, is familiar with and will abide by
11 this act and regulations promulgated by the board.

12 Section 506. Licensure by endorsement.

13 (a) Issuance.--The board may issue a home inspector license
14 without examination to an applicant holding a home inspector
15 license in another state who submits proof satisfactory to the
16 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 act of April 14, 1972 (P.L.233, No.64), known as
26 The Controlled Substance, Drug, Device and Cosmetic Act, or
27 an offense under the laws of another jurisdiction, which, if
28 committed in this Commonwealth, would be a felony under The
29 Controlled Substance, Drug, Device and Cosmetic Act, unless:

30 (i) at least 10 years have elapsed from the date of

1 conviction;

2 (ii) the applicant satisfactorily demonstrates to
3 the board that the applicant has made significant
4 progress in personal rehabilitation since the conviction
5 such that licensure of the applicant should not be
6 expected to create a substantial risk of harm to the
7 health and safety of the applicant's clients or the
8 public or a substantial risk of further criminal
9 violation; and

10 (iii) the applicant otherwise satisfies the
11 qualifications contained in or authorized by this act.

12 Section 507. Registration or licensing of home inspectors by
13 political subdivisions.

14 No agency or political subdivision of this Commonwealth,
15 other than the board, shall impose the following on individuals
16 licensed under this chapter:

17 (1) A registration or licensing requirement for
18 conducting home inspections.

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

24 Section 508. Professional liability insurance.

25 (a) Requirement.-- A person holding a license under this act
26 shall maintain insurance against errors and omissions in the
27 performance of a home inspection and general liability, with
28 coverages of not less than \$250,000 per occurrence and \$500,000
29 in the aggregate and with deductibles of not more than \$5,000.

30 (b) Proof.--An applicant must provide proof that the

1 applicant has obtained professional liability insurance under
2 subsection (a). It is sufficient if the applicant files with the
3 application a copy of a letter from the applicant's professional
4 liability insurance carrier indicating that the applicant will
5 be covered against professional liability in the required
6 amounts effective upon the issuance of the applicant's license
7 to practice home inspection in this Commonwealth. Upon issuance
8 of the license, the licensee must, within 30 days, submit to the
9 board the certificate of insurance or a copy of the policy
10 declaration page.

11 (c) Term.--

12 (1) Except as set forth in paragraph (2), a home
13 inspector shall maintain insurance under subsection (a) for
14 at least two years after the latest home inspection report
15 the home inspector delivers.

16 (2) Paragraph (1) shall not apply to a home inspection
17 report that was delivered prior to the effective date of this
18 section.

19 Section 509. Statute of limitations.

20 An action to recover damages arising from a home inspection
21 report must be commenced within one year after the date the
22 report is delivered.

23 Section 510. Refusal, suspension and revocation of licenses.

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

26 (1) The licensee is negligent or incompetent in
27 performing home inspections.

28 (2) The licensee is unable to perform home inspections
29 with reasonable skill and safety by reason of mental or
30 physical illness or condition or physiological or

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

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

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

- 20 (i) performing home inspections; or
21 (ii) securing licensure.

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

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

1 jurisdiction.

2 (7) With respect to the performance of home inspections,
3 the licensee has acted in a manner to present an immediate
4 and clear danger to health, safety or property.

5 (8) The licensee possessed, used, acquired or
6 distributed a controlled substance.

7 (9) The licensee has been found guilty of unprofessional
8 conduct. Unprofessional conduct includes departure from or
9 failing to conform to operating practices or professional
10 standards as adopted by the board by regulation. In
11 proceedings based on this paragraph, actual injury to a
12 person or damage to property need not be 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 the board's findings and
28 place a 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. Chs. 5 Subch. A
5 (relating to practice and procedure of Commonwealth agencies)
6 and 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 public health and safety.
11 The board shall issue an order to that effect without a hearing,
12 but upon notice to the licensee concerned at the licensee's last
13 known address, which must include a written statement of all
14 allegations against the licensee. Subsection (c) shall not apply
15 to temporary suspension. Upon issuance of an order under this
16 subsection, the board shall commence formal action to suspend,
17 revoke or restrict the license as otherwise provided for in this
18 act. Within 30 days following the issuance of an order
19 temporarily suspending a license, the board shall conduct a
20 preliminary hearing to determine that there is a prima facie
21 case supporting the suspension. The licensee whose license has
22 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.

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

14 (4) Reinstatement of a license shall be made under
15 section 511.

16 (5) Subsection (c) shall not apply to automatic
17 suspension.

18 Section 511. Reinstatement of license.

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

24 Section 512. License renewal, records and fees.

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

28 (b) Fees.--If the revenue from fees, fines and civil
29 penalties imposed under this act is not sufficient to meet
30 expenditures over a two-year period, the board shall increase

1 fees by regulation so that the projected revenue will meet or
2 exceed projected expenditures.

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

9 CHAPTER 7

10 ADMINISTRATION AND ENFORCEMENT

11 Section 701. Unlawful practice.

12 (a) General rule.--An individual may not practice home
13 inspection or hold himself or herself 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 (b) Title.--An individual who holds a license or is
22 maintained on inactive status may use the title "Licensed Home
23 Inspector" and the abbreviation "L.H.I." No other individual may
24 use the title "Licensed Home Inspector" or the title "Home
25 Inspector" or hold himself or herself out to others as a home
26 inspector. This subsection includes advertising as a home
27 inspector and adopting or using a title or description, or a
28 derivative of "Licensed Home Inspector" or "Home Inspector" and
29 their related abbreviations, which implies directly or
30 indirectly that home inspection services are being provided.

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

4 (d) Terminology.--A business entity may not utilize in
5 connection with a business name or activity the words "home
6 inspector," "home inspection" or a derivative of "home
7 inspector" or "home inspection" and abbreviations, which implies
8 directly or indirectly that home inspection services are being
9 provided, unless the services of the business are provided by
10 licensees.

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

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

20 Section 702. Violation of act.

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

28 (b) Administrative.--In addition to a criminal penalty under
29 subsection (a), the board, by a vote of the majority of the
30 maximum number of the authorized membership of the board or by a

1 vote of the majority of the qualified and confirmed membership
2 or a minimum of five members, whichever is greater, may levy an
3 administrative penalty of up to \$1,000 for any of the following:

4 (1) A home inspector who violates a provision of this
5 act.

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

8 (3) An individual who holds himself or herself out as a
9 licensee without being properly licensed as provided in this
10 act.

11 (4) The responsible officer or employee of a
12 corporation, partnership, firm or other entity that violates
13 a provision of this act.

14 (c) Administrative agency law.--Action of the board under
15 subsection (b) is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating
16 to practice and procedure of Commonwealth agencies) and 7 Subch.
17 A (relating to judicial review of Commonwealth agency action).
18 Section 703. Degree of care of home inspectors.

19 (a) General rule.--The home inspector shall conduct a home
20 inspection with the degree of care that a reasonably prudent
21 home inspector would exercise.

22 (b) Standard.--In ascertaining the degree of care that would
23 be exercised by a reasonably prudent home inspector, the court
24 shall consider the standards of practice and codes of ethics as
25 established by the board by regulation.

26 (c) Immediate threat to health or safety.--If immediate
27 threats to health or safety are observed during the course of
28 the inspection, the home inspector shall disclose the immediate
29 threats to health or safety to the property owner and occupants
30 of the property at the conclusion of the home inspection.

1 Section 704. Consumer remedies.

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

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

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

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

28 (3) Offering or delivering a commission, referral fee or
29 kickback to the seller of the inspected property or to an
30 agent for the seller or buyer for the referral of business to

1 the home inspector, the employer of the home inspector or
2 other business or person.

3 (4) Accepting an engagement to perform a home inspection
4 or to prepare a home inspection report in which the
5 employment itself or the fee payable for the inspection is
6 contingent upon the conclusions in the report, preestablished
7 or prescribed findings or the closing of the transaction.

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

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

19 CHAPTER 9

20 PRACTICE OF HOME INSPECTION

21 Section 901. Home inspection contracts.

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

- 24 (1) Signature of client.
- 25 (2) Scope of home inspection.
- 26 (3) Fee charged to client.
- 27 (4) Contact information of home inspector.
- 28 (5) License number of home inspector.
- 29 (6) A statement explaining the confidentiality between
30 the home inspector and the client.

1 (b) Prohibited provisions.--The following types of
2 provisions in a contract with a home inspector for the
3 performance of a home inspection are contrary to public policy
4 and shall be void:

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

7 (2) A waiver or modification of any provision of this
8 chapter.

9 Section 902. Home inspection reports.

10 (a) Required contents.--A home inspection report must be
11 typewritten and include all of the following:

12 (1) A description of the scope of the inspection,
13 including identification of the essential components and
14 systems and subsystems covered by the report.

15 (2) A description of material defects noted during the
16 inspection, along with a recommendation that certain experts
17 be retained to determine the extent of the defects and the
18 corrective action that should be taken.

19 (3) If, at the time of the inspection, there is visible
20 evidence of conditions conducive to the presence of mold,
21 fungi or related biologicals, the home inspector must
22 disclose in the home inspection report the visible evidence
23 and the mold's location and advise the client to obtain a
24 professional evaluation.

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

26 A home inspection is intended to assist in
27 evaluation of the overall condition of the dwelling. The
28 inspection is based on observation of the visible and
29 apparent condition of the structure and its components on
30 the date of inspection.

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

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

14 This home inspection report is not to be construed
15 as an appraisal and may not be used as such for any
16 purpose.

17 (b) Confidentiality.--

18 (1) Except as otherwise required by this subsection or
19 by law, a home inspector may not deliver a home inspection
20 report to a person other than the client of the home
21 inspector without the client's consent.

22 (2) The property owner shall have the right, upon
23 request, to receive without charge a copy of a home
24 inspection report from the person for whom the home
25 inspection report was prepared.

26 (3) If immediate threats to health or safety are
27 observed during the course of the inspection, the client
28 hereby consents to allow the home inspector to disclose the
29 immediate threats to health or safety to the property owner
30 and occupants of the property.

1 (c) Repair estimates prohibited.--

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

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

8 (i) the report identifies the source of the
9 estimate;

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

11 (iii) the report states that the parties should
12 consider obtaining an estimate from a contractor who
13 performs the type of repair involved.

14 CHAPTER 21

15 MISCELLANEOUS PROVISIONS

16 Section 2101. Relationship to other laws.

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

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

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

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

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

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

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

2 (1) Apply to a person licensed under an act referred to
3 in subsection (a) when acting under the person's registration
4 or license.

5 (2) Apply to an officer or employee of a municipality or
6 local authority when acting in the person's official
7 capacity.

8 (3) Affect the obligations or immunities of a person
9 licensed under the act of February 19, 1980 (P.L.15, No.9),
10 known as the Real Estate Licensing and Registration Act, that
11 are imposed or provided under that act or 68 Pa.C.S. Ch. 73
12 (relating to seller disclosures) when the person is acting
13 under the person's license.

14 (4) Affect the obligations or immunities of a person
15 certified under the act of July 10, 1990 (P.L.404, No.98),
16 known as the Real Estate Appraisers Certification Act, when
17 the person is acting under the person's license.

18 (5) Apply to an employee of the Federal Government when
19 acting in the person's official capacity.

20 (6) Apply to an employee of a property management entity
21 which performs rental property inspections.

22 Section 2102. Regulations.

23 The board shall promulgate final regulations to carry out
24 this act within 18 months of the effective date of this section.
25 The board shall report, within 60 days of the effective date of
26 this section and every 30 days thereafter, on the status of the
27 regulations to the Consumer Protection and Professional
28 Licensure Committee of the Senate and the Professional Licensure
29 Committee of the House of Representatives. The board shall
30 promulgate further regulations as necessary to carry out duties

1 as required in this act.

2 Section 2103. Repeal.

3 Repeals are as follows:

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

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

7 Section 2104. Appropriation.

8 The sum of \$85,000, or as much of the sum as may be
9 necessary, is appropriated to the bureau for the payment of
10 costs associated with processing licenses and renewing licenses,
11 for the operation of the board and for other costs associated
12 with this act. The appropriation shall be repaid by the board
13 within three years of the beginning of issuance of licenses by
14 the board.

15 Section 2105. Effective date.

16 This act shall take effect as follows:

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

19 (i) Section 301.

20 (ii) Section 2102.

21 (iii) This section.

22 (2) The following provisions shall take effect in two
23 years:

24 (i) Chapter 5.

25 (ii) Except as set forth in paragraph (3), Chapters
26 7 and 21.

27 (3) Section 701(a) shall take effect 90 days after the
28 effective date of the initial regulations promulgated under
29 section 2102.

30 (4) The remainder of this act shall take effect in 60

1 days.