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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 21 Session of 2019

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

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REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MARCH 18, 2019

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AN ACT

1 Amending the act of May 23, 1945 (P.L.913, No.367), entitled "An  
2 act relating to and regulating the practice of the profession  
3 of engineering, including civil engineering, mechanical  
4 engineering, electrical engineering, mining engineering and  
5 chemical engineering, the profession of land surveying and  
6 the profession of geology and constituent parts and  
7 combinations thereof as herein defined; providing for the  
8 licensing and registration of persons practicing said  
9 profession, and the certification of engineers-in-training  
10 and surveyors-in-training, and the suspension and revocation  
11 of said licenses, registrations and certifications for  
12 violation of this act; prescribing the powers and duties of  
13 the State Registration Board for Professional Engineers, Land  
14 Surveyors and Geologists, the Department of State and the  
15 courts; prescribing penalties; and repealing existing laws,"  
16 providing for the regulation of the practice of home  
17 inspection; and making a related repeal.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 Section 1. The title of the act of May 23, 1945 (P.L.913,  
21 No.367), known as the Engineer, Land Surveyor and Geologist  
22 Registration Law, is amended to read:

23 AN ACT

24 Relating to and regulating the practice of the profession of

1 engineering, including civil engineering, mechanical  
2 engineering, electrical engineering, mining engineering and  
3 chemical engineering, the profession of land surveying [and],  
4 the profession of geology and the profession of home  
5 inspection and constituent parts and combinations thereof as  
6 herein defined; providing for the licensing and registration  
7 of persons practicing said profession, and the certification  
8 of engineers-in-training [and], surveyors-in-training,  
9 geologists-in-training and home inspectors-in-training and  
10 the suspension and revocation of said licenses, registrations  
11 and certifications for violation of this act; prescribing the  
12 powers and duties of the State Registration Board for  
13 Professional Engineers, Land Surveyors and Geologists, the  
14 Department of State and the courts; prescribing penalties;  
15 and repealing existing laws.

16 Section 2. Section 2 of the act is amended by adding  
17 subsections to read:

18 Section 2. Definitions.--As used in this act--

19 \* \* \*

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

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

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

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

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

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

5 (A) Wood destroying insects.

6 (B) Underground tanks and wells.

7 (C) Septic systems.

8 (D) Swimming pools and spas.

9 (E) Alarm systems.

10 (F) Air and water quality.

11 (G) Tennis courts and playground equipment.

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

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

15 (v) "Home Inspection Report" shall mean a typewritten report  
16 on the results of a home inspection.

17 (w) "Home Inspector" shall mean an individual licensed by  
18 the board to perform home inspections. The term does not include  
19 an individual licensed under any of the following laws when  
20 acting under the individual's registration or license:

21 (1) This act, as to professional engineers, professional  
22 land surveyors and professional geologists.

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 the  
26 "Pennsylvania Pesticide Control Act of 1973."

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

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

1     (x) "Home Inspector-in-training" shall mean a candidate for  
2 licensure as a home inspector who has been granted a certificate  
3 as a home inspector-in-training who shall be eligible, upon  
4 completion of the requisite number of mentored home inspections,  
5 for the board-approved examination prescribed for licensure as a  
6 home inspector.

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

14     (z) "Client" shall mean, when the term is applied to a home  
15 inspector, a person or person acting through a legal  
16 representative who contracts with a licensed home inspector to  
17 obtain a home inspection and subsequent written home inspection  
18 report.

19     Section 3. Sections 3, 4(a), (b) introductory paragraph, (1)  
20 and (3), (c), (d), (f), (g) and (i) and 4.1(a), (c) and (f) of  
21 the act are amended to read:

22     Section 3. Practice of Engineering, Land Surveying [or],  
23 Geology or Home Inspection Without Licensure and Registration  
24 Prohibited.--(a) In order to safeguard life, health or property  
25 and to promote the general welfare, it is unlawful for any  
26 person to practice or to offer to practice engineering in this  
27 Commonwealth, unless he is licensed and registered under the  
28 laws of this Commonwealth as a professional engineer, for any  
29 person to practice or to offer to practice land surveying,  
30 unless he is licensed and registered under the laws of this

1 Commonwealth as a professional land surveyor [or], for any  
2 person to practice or to offer to practice geology unless he is  
3 licensed and registered under the laws of this Commonwealth as a  
4 professional geologist or for any person to practice or to offer  
5 to practice home inspection unless he is licensed and registered  
6 under the laws of this Commonwealth as a home inspector.

7 Individuals licensed as professional engineers, professional  
8 land surveyors or registered landscape architects may perform  
9 geological work which is incidental to their engineering,  
10 surveying or landscape architecture without being licensed as a  
11 professional geologist.

12 (b) A person shall be construed to practice or offer to  
13 practice engineering, land surveying [or], geology or home  
14 inspection who practices any branch of the profession of  
15 engineering, land surveying [or], geology or home inspection; or  
16 who, by verbal claim, sign, advertisement, letterhead, card, or  
17 in any other way represents himself to be an engineer, land  
18 surveyor [or], geologist or home inspector, or through the use  
19 of some other title implies that he is an engineer, land  
20 surveyor [or], geologist or home inspector or that he is  
21 registered under this act; or who holds himself out as able to  
22 perform, or who does perform any engineering, land surveying  
23 [or], geological or home inspection service or work or any other  
24 service designated by the practitioner or recognized as  
25 engineering, land surveying [or], geology or home inspection.

26 Section 4. General Powers of Board.--The board shall have  
27 power--

28 (a) Approval of Engineering, Surveying [and], Geology and  
29 Home Inspection Curricula.--To investigate and to approve or  
30 disapprove engineering, surveying [and], geology and home

1 inspection curricula of this State, and other states,  
2 territories and countries for the education of students desiring  
3 to be licensed to engage in the practice of engineering, land  
4 surveying [or], geology or home inspection, and to revoke or  
5 suspend approvals where they are no longer deemed proper.

6 (b) Licensing Professional Engineers, Professional Land  
7 Surveyors [and], Professional Geologists and Home Inspectors.--  
8 To provide for and to regulate the licensing, and to license to  
9 engage in the practice of engineering, land surveying [or],  
10 geology or home inspection any person of good moral character  
11 and repute who speaks and writes the English language, if such  
12 person either--

13 (1) Holds an unexpired license or certificate of  
14 registration issued to him by proper authority of some other  
15 state, foreign country or territory of the United States in  
16 which the requirements and qualifications to engage in the  
17 practice of engineering, land surveying [or], geology or home  
18 inspection were at the time of the initial issuance of such  
19 license or certificate of registration at least equal to the  
20 existing standards of this Commonwealth: Provided, however, That  
21 such other state, territory or foreign country shall similarly  
22 license or register professional engineers, professional land  
23 surveyors [or], professional geologists or home inspectors  
24 licensed and registered in this Commonwealth. A person may be  
25 licensed under this subsection without examination.

26 \* \* \*

27 (3) Complies with the education and experience criteria and  
28 successfully completes the two-examination process for licensing  
29 as a professional engineer, as set forth in section 4.2, or as a  
30 professional land surveyor, as set forth in section 4.3 [or],

1 the examination process for licensing as a professional  
2 geologist as set forth in section 4.4 or the examination process  
3 for licensing as a home inspector as set forth in section 4.6.

4 (c) Investigations of Applications; Determination of  
5 Competency of Applicants.--To investigate the allegations  
6 contained in any application for licensure or certification  
7 under this act in order to determine the truth of such  
8 allegations and to determine the competency of any person  
9 applying for licensure to assume responsible charge of the work  
10 involved in the practice of engineering, land surveying [or],  
11 geology or home inspection, such competency to be determined by  
12 the grade and character of the engineering work, the grade and  
13 character of the land surveying work [or], the grade and  
14 character of geologic work or the grade and character of home  
15 inspection work actually performed. In relation to engineers and  
16 surveyors, the mere execution as a contractor of work designed  
17 by a professional engineer, or the supervision of the  
18 construction of such work as a foreman or superintendent, or the  
19 operation or maintenance of machinery or equipment, or work  
20 performed as a salesman of engineering equipment or apparatus,  
21 shall not be deemed to be active practice in engineering, unless  
22 such work has involved the actual practice of engineering.  
23 Engineering and land surveying work, performed under the  
24 supervision of a professional engineer or land surveyor,  
25 respectively, shall be given full credit. Whenever the board  
26 determines otherwise than by examination, that an applicant has  
27 not produced sufficient evidence to show that he is competent to  
28 be placed in responsible charge and shall refuse to examine or  
29 to license such applicant, it shall set forth in writing its  
30 findings and the reasons for its conclusions and furnish a copy

1 thereof to the applicant.

2 (d) Examinations; Fees.--To prescribe the subjects, manner,  
3 time and place of examinations for licenses as professional  
4 engineers, professional land surveyors [and], professional  
5 geologists and home inspectors and for certificates for  
6 engineers-in-training, geologists-in-training [and], surveyors-  
7 in-training and home inspectors-in-training, and the filing of  
8 applications for such examinations, and to prepare or provide  
9 for the preparation of such examinations, conduct or provide for  
10 the conduct of such examinations, to make written reports of  
11 such examinations, which reports shall be preserved for a period  
12 of not less than three years, to collect such fees for such  
13 examinations, and for licenses and certificates issued without  
14 examination, as may be fixed according to law, and to issue  
15 licenses and certificates to such persons as successfully pass  
16 such examinations.

17 \* \* \*

18 (f) Roster of Registrants.--To keep a roster showing the  
19 names and addresses of professional engineers, professional land  
20 surveyors [and], professional geologists and home inspectors  
21 licensed under this act, and under prior laws, and registered by  
22 the board, which roster shall be published in booklet form by  
23 the board following each biennial renewal. Copies of the roster  
24 shall be furnished upon request to each registered or certified  
25 person and may be furnished to other persons upon such terms as  
26 the board shall prescribe: Provided, however, That copies of the  
27 roster shall be furnished to the Planning Commission and the  
28 prothonotary of each county in the Commonwealth.

29 (g) Suspension and Revocation of Licenses; Registrations and  
30 Certificates; Reinstatements.--To suspend or revoke the license



1 and registration of any professional engineer, professional land  
2 surveyor [or], professional geologist or home inspector or the  
3 certificate of any engineer-in-training, geologist-in-training  
4 [or], surveyor-in-training or home inspector-in-training, who is  
5 found guilty by the board, by a majority vote of all its  
6 members, of the practice of any fraud, deceit or  
7 misrepresentation in obtaining his license, certification or  
8 registration, or of gross negligence, incompetency or misconduct  
9 in the practice of engineering, in the practice of land  
10 surveying [or], in the practice of geology or in the practice of  
11 home inspection, or of violation of the code of ethics of the  
12 engineering profession, and to reinstate suspended licenses,  
13 registrations and certificates in any cases where a majority of  
14 all the members of the board shall determine the same to be just  
15 and proper. Unless ordered to do so by a court, the board shall  
16 not reinstate the license, certificate or registration of a  
17 person to practice as a professional engineer, professional land  
18 surveyor, professional geologist, home inspector or an engineer-  
19 in-training, geologist-in-training [or a], surveyor-in-training  
20 or home inspector-in-training which has been revoked, and such  
21 person shall be required to apply for a license, certificate or  
22 registration after a period of five years in accordance with  
23 section 2 if he desires to practice at any time after such  
24 revocation. The board shall require a person whose license or  
25 registration has been suspended or revoked to return the license  
26 or registration in such manner as the board directs. Failure to  
27 do so shall be a misdemeanor of the third degree. Misconduct in  
28 the practice of engineering, land surveying [or], geology or  
29 home inspection shall include, but not be limited to conviction  
30 for a criminal offense such as extortion, bribery or fraud or

1 entry of a plea of nolo contendere to a charge thereof for  
2 conduct relating to the practice of engineering, land surveying  
3 [or], geology or home inspection, or has violated any provision  
4 of this act or any regulation promulgated by the board. For the  
5 purposes of this subsection, the code of ethics is as follows:

6 It shall be considered unprofessional and inconsistent with  
7 honorable and dignified bearing for any professional engineer,  
8 professional land surveyor [or], professional geologist or home  
9 inspector:

10 (1) To act for his client or employer in professional  
11 matters otherwise than as a faithful agent or trustee, or to  
12 accept any remuneration other than his stated recompense for  
13 services rendered.

14 (2) To attempt to injure falsely or maliciously, directly or  
15 indirectly, the professional reputation, prospects or business  
16 of anyone.

17 (3) To attempt to supplant another engineer, land surveyor  
18 [or], geologist or home inspector after definite steps have been  
19 taken toward his employment.

20 (4) To compete with another engineer, land surveyor [or],  
21 geologist or home inspector for employment by the use of  
22 unethical practices.

23 (5) To review the work of another engineer, land surveyor  
24 [or], geologist or home inspector for the same client, except  
25 with the knowledge of such engineer, land surveyor [or],  
26 geologist or home inspector, or unless the connection of such  
27 engineer, land surveyor [or], geologist or home inspector with  
28 the work has terminated.

29 (6) To attempt to obtain or render technical services or  
30 assistance without fair and just compensation commensurate with

1 the services rendered: Provided, however, the donation of such  
2 services to a civic, charitable, religious or eleemosynary  
3 organization shall not be deemed a violation.

4 (7) To advertise in self-laudatory language, or in any other  
5 manner, derogatory to the dignity of the profession.

6 (8) To attempt to practice in any field of engineering, land  
7 surveying [or], geology or home inspection in which the  
8 registrant is not proficient.

9 (9) To use or permit the use of his professional seal on  
10 work over which he was not in responsible charge. This clause  
11 does not apply to home inspectors.

12 (10) To aid or abet any person in the practice of  
13 engineering, land surveying [or], geology or home inspection not  
14 in accordance with the provision of this act or prior laws.

15 The board shall appoint, with the approval of the Governor,  
16 such hearing examiners as shall be necessary to conduct hearings  
17 as may be required under this subsection.

18 The board shall have the power to adopt and promulgate rules  
19 and regulations setting forth the functions, powers, standards  
20 and duties to be followed by the hearing examiners.

21 The hearing examiners shall have the power to conduct  
22 hearings in accordance with the regulations of the board, and to  
23 issue subpoenas requiring the attendance and testimony of  
24 individuals or the production of, pertinent books, records,  
25 documents and papers by persons whom they believe to have  
26 information relevant to any matter pending before the examiner.  
27 Such examiner shall also have the power to administer oaths.

28 The hearing examiner shall hear evidence submitted and  
29 arguments of counsel, if any, with reasonable dispatch, and  
30 shall promptly record his decision, supported by findings of

1 fact, and a copy thereof shall immediately be sent to the board  
2 and to counsel of record, or the parties, if not represented.

3 If application for review is made to the board within twenty  
4 days from the date of any decision made as a result of a hearing  
5 held by a hearing examiner, the board shall review the evidence,  
6 and if deemed advisable by the board, hear argument and  
7 additional evidence. As soon as practicable, the board shall  
8 make a decision and shall file the same with its finding of the  
9 facts on which it is based and send a copy thereof to each of  
10 the parties in dispute.

11 \* \* \*

12 (i) Administration and Enforcement of Laws.--To administer  
13 and enforce the laws of the Commonwealth relating to the  
14 practice of engineering, land surveying [~~and~~], geology and home  
15 inspection, and to instruct and require its agents to bring  
16 prosecutions for unauthorized and unlawful practices.

17 \* \* \*

18 Section 4.1. State Registration Board for Professional  
19 Engineers, Land Surveyors and Geologists.--(a) There is hereby  
20 established within the Department of State the State  
21 Registration Board for Professional Engineers, Land Surveyors  
22 and Geologists. The board shall consist of the Commissioner of  
23 Professional and Occupational Affairs, three members appointed  
24 by the Governor who shall be persons representing the public at  
25 large and [~~nine~~] eleven members appointed by the Governor, five  
26 of whom shall be registered professional engineers, two of whom  
27 shall be registered professional land surveyors [~~and~~], two of  
28 whom shall be registered professional geologists and two of whom  
29 shall be licensed home inspectors. Any land surveyor appointed  
30 to serve on the board shall have received the land surveyor

1 license upon the passage of the appropriate examination. Any  
2 geologist licensed under section 4.4 of this act shall be  
3 eligible for appointment to the board. The professional members  
4 of the board shall be so selected that not more than two of them  
5 shall specialize in any one of the five major disciplines of  
6 engineering: civil, mining and metallurgical, mechanical,  
7 electrical and chemical. Each member of the board shall be a  
8 citizen of the United States and a resident of this  
9 Commonwealth. Each professional member shall have been engaged  
10 in the practice of the respective profession for at least ten  
11 years and shall have been in responsible charge of work for at  
12 least five years. The home inspectors initially appointed  
13 pursuant to this subsection need not be licensed by the board  
14 but, at the time of appointment, must have satisfied the  
15 education and experience requirements of this act for licensure  
16 as a home inspector.

17 \* \* \*

18 (c) [Seven] Eight members of the board shall constitute a  
19 quorum. A member may not be counted as part of a quorum or vote  
20 on any issue, other than temporary and automatic suspension,  
21 under this act unless he is physically in attendance at the  
22 meeting.

23 \* \* \*

24 [(f) The board is subject to evaluation, review and  
25 termination within the time and in the manner provided in the  
26 act of December 22, 1981 (P.L.508, No.142), known as the "Sunset  
27 Act."]

28 \* \* \*

29 Section 4. Section 4.5(a) and (c) introductory paragraph of  
30 the act are amended and the section is amended by adding a

1 subsection to read:

2 Section 4.5. Continuing Professional Competency  
3 Requirements.--(a) In order to help safeguard life, health and  
4 property and to promote the public welfare, the practice of  
5 professional engineering, professional land surveying [and],  
6 professional geology and professional home inspection in this  
7 Commonwealth requires continuing professional competency.

8 \* \* \*

9 (c) [Each] Except as provided under subsection (c.1), each  
10 licensee shall be required to obtain twenty-four PDH units  
11 during the biennial renewal period. If a licensee exceeds the  
12 requirement in any renewal period, [a maximum of twelve] the  
13 excess PDH units may be carried forward into the subsequent  
14 renewal period. PDH units may be earned as follows:

15 \* \* \*

16 (c.1) A home inspector shall be required to obtain thirty-  
17 two PDH units during the biennial renewal period. PDH units may  
18 be earned as follows:

19 (1) Completion of continuing education courses in the field  
20 of home inspection during the immediately preceding two years as  
21 approved by the board.

22 (2) Three of the total required PDH units must focus on the  
23 difference between the National Manufactured Housing  
24 Construction and Safety Standards Act of 1974 (Public Law 93-  
25 383, 42 U.S.C. § 5401 et seq.) and the act of May 11, 1972  
26 (P.L.286, No.70), known as the "Industrialized Housing Act," and  
27 the installation of manufactured and modular homes.

28 \* \* \*

29 Section 5. The act is amended by adding a section to read:

30 Section 4.6. Procedure for Licensing as Home Inspectors.--

1 (a) An applicant shall be considered to be qualified for a  
2 license as a home inspector if the applicant submits proof  
3 satisfactory to the board of all of the following:

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

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

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

8 (4) The applicant has completed a board-approved training  
9 program or course of study involving the performance of home  
10 inspections which shall consist of the following:

11 (i) No less than one hundred twenty hours of classroom  
12 instruction which include six hours of education providing the  
13 basic knowledge on the differences between the National  
14 Manufactured Housing Construction and Safety Standards Act of  
15 1974 (Public Law 93-383, 42 U.S.C. § 5401 et seq.) and the act  
16 of May 11, 1972 (P.L.286, No.70), known as the "Industrialized  
17 Housing Act," and the installation of manufactured and modular  
18 homes.

19 (ii) No less than seventy-five mentored home inspections  
20 completed in the presence of and under the direct supervision of  
21 a home inspector licensed in this Commonwealth who oversees and  
22 takes full responsibility for the home inspection and any report  
23 provided to the client.

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

28 (6) The application is accompanied by the application fee as  
29 established by the board by regulation.

30 (7) The applicant is not addicted to the habitual use of

1 alcohol, narcotics or other habit-forming drugs.

2 (8) The applicant has not been convicted of a felony under  
3 the act of April 14, 1972 (P.L.233, No.64), known as "The  
4 Controlled Substance, Drug, Device and Cosmetic Act," or of an  
5 offense under the laws of another jurisdiction which if  
6 committed in this Commonwealth would be a felony under "The  
7 Controlled Substance, Drug, Device and Cosmetic Act," unless the  
8 applicant otherwise satisfies the qualifications contained in  
9 this act and:

10 (i) at least five years have elapsed from the date of  
11 conviction; or

12 (ii) the applicant satisfactorily demonstrates to the board  
13 that the applicant has made significant progress in personal  
14 rehabilitation since the conviction such that licensure of the  
15 applicant should not be expected to create a substantial risk of  
16 harm to the health and safety of clients or the public or a  
17 substantial risk of further criminal violation,  
18 in which case the board may issue a probationary license for the  
19 remainder of the five years required in subclause (i).

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

23 (1) Is an active home inspector.

24 (2) Meets the qualifications described in subsection (a)(1),  
25 (2), (3), (6), (7) and (8).

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

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



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

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

8 (1) An individual licensed as a professional engineer under  
9 this act.

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

13 (d) Notwithstanding subsection (c), a person licensed or  
14 registered as a professional engineer under this act, or a  
15 person licensed or registered under the "Architects Licensure  
16 Law," must comply with subsection (j) and sections 11.4, 11.5  
17 and 11.6 when performing a home inspection. A person licensed or  
18 registered as a professional engineer, or licensed or registered  
19 as an architect, who violates this subsection shall be subject  
20 to disciplinary action, including license or registration  
21 suspension and revocation, and penalties under this act and the  
22 "Architects Licensure Law," respectively.

23 (e) An individual who holds a license or is maintained on  
24 inactive status may use the title "Licensed Home Inspector" and  
25 the abbreviation "L.H.I." No other individual may use the title  
26 "Licensed Home Inspector" or the title "Home Inspector" or hold  
27 himself out to others as a home inspector. This subsection  
28 includes advertising as a home inspector and adopting or using a  
29 title or description, or a derivative of "Licensed Home  
30 Inspector" or "Home Inspector" and their related abbreviations,

1 which implies directly or indirectly that home inspection  
2 services are being provided.

3 (f) A license under this section is not transferable.

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

16 (h) The board may issue a home inspector license without  
17 examination to an applicant holding a home inspector license in  
18 another state who submits proof satisfactory to the board of all  
19 of the following:

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

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

25 (3) The applicant has submitted an application accompanied  
26 by the application fee.

27 (4) The applicant has not been convicted of a felony under  
28 "The Controlled Substance, Drug, Device and Cosmetic Act," or of  
29 an offense under the laws of another jurisdiction which if  
30 committed in this Commonwealth would be a felony under "The

1 Controlled Substance, Drug, Device and Cosmetic Act," unless the  
2 applicant otherwise satisfies the qualifications contained in  
3 this act and:

4 (i) at least five years have elapsed from the date of  
5 conviction; or

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

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

17 (1) A registration or licensing requirement for conducting  
18 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 a  
22 home inspector within the jurisdiction of the local government.

23 (j) A person licensed as a home inspector shall maintain  
24 insurance against errors and omissions in the performance of a  
25 home inspection and general liability, with coverages of not  
26 less than two hundred fifty thousand dollars per occurrence and  
27 five hundred thousand dollars in the aggregate and with  
28 deductibles of not more than fifteen thousand dollars. An  
29 applicant must provide proof that the applicant has obtained  
30 professional liability insurance. It is sufficient if the

1 applicant files with the application a copy of a letter from the  
2 applicant's professional liability insurance carrier indicating  
3 that the applicant will be covered against professional  
4 liability in the required amounts effective upon the issuance of  
5 the applicant's license to practice home inspection in this  
6 Commonwealth. Upon issuance of the license, the licensee must,  
7 within thirty days, submit to the board the certificate of  
8 insurance or a copy of the policy declaration page. A home  
9 inspector shall maintain professional liability insurance for at  
10 least one year after the latest home inspection report the home  
11 inspector delivers, unless the home inspection report was  
12 delivered prior to the effective date of this section.

13 (k) Nothing in this act shall be construed to allow a home  
14 inspector who is not licensed under any of the following laws to  
15 perform any activity that would constitute the practice of the  
16 profession regulated by that law:

17 (1) This act, as to the practice of engineering, land  
18 surveying or geology.

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

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

23 (4) The "Architects Licensure Law."

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

26 (1) The requirements of this act relating to the licensing  
27 of home inspectors shall not affect the obligations or  
28 immunities of an individual licensed under the act of February  
29 19, 1980 (P.L.15, No.9), known as the "Real Estate Licensing and  
30 Registration Act," that are imposed or provided under that act

1 or 68 Pa.C.S. Ch. 73 (relating to seller disclosures) when the  
2 individual is acting under the individual's license, nor the  
3 obligations or immunities of an individual certified under the  
4 act of July 10, 1990 (P.L.404, No.98), known as the "Real Estate  
5 Appraisers Certification Act," when the individual is acting  
6 under the individual's license.

7 (m) A home inspector-in-training certificate holder shall  
8 keep a record of the mentored home inspections completed, which  
9 shall, at a minimum, include the following information:

- 10 (1) Date and time of the inspection.  
11 (2) Address of the residence inspected.  
12 (3) Business name of the supervising inspector.  
13 (4) Name of the supervising inspector.  
14 (5) License number of the supervising inspector.  
15 (6) Signature of the supervising inspector.

16 (n) As used in this section, the term "convicted" includes a  
17 judgment, an admission of guilt or a plea of nolo contendere.

18 Section 6. Section 5(a), (b), (c), (d) and (e) of the act  
19 are amended and the section is amended by adding a subsection to  
20 read:

21 Section 5. Exemption from Licensure and Registration.--  
22 Except as specifically provided in this section, this act shall  
23 not be construed to require licensure and registration in the  
24 following cases:

25 (a) The practice of engineering, land surveying or geology  
26 by any person who acts under the supervision of a professional  
27 engineer, professional land surveyor or geologist, respectively,  
28 or by an employe of a person lawfully engaged in the practice of  
29 engineering, land surveying or geology and who, in either event,  
30 does not assume responsible charge of design or supervisions[;].

1 (b) The practice of engineering, land surveying or geology,  
2 not exceeding thirty days in the aggregate in one calendar year,  
3 by a nonresident not having a place of business in this  
4 Commonwealth, if such person is legally qualified to engage in  
5 the practice of engineering, land surveying or geology in the  
6 state or territory of his residence: Provided, That standards of  
7 such state or territory are at least equal to the standards of  
8 this Commonwealth[;].

9 (c) The practice of engineering, land surveying [or],  
10 geology or home inspection by officers and employes of the  
11 United States Government for the said government[;] and the  
12 practice of home inspection by an officer or employe of a  
13 municipality or local authority when acting in the individual's  
14 official capacity.

15 (d) Except as otherwise provided in subsection (g) of this  
16 section, the practice of engineering or land surveying by a  
17 regular employe of a public utility company, as defined by the  
18 Public Utility Code (66 Pa.C.S. § 101 et seq.) in connection  
19 with the facilities of such public utility, which are subject to  
20 regulation by the Pennsylvania Public Utility Commission:  
21 Provided, That such public utility shall employ at least one  
22 professional engineer, as defined in this act, who shall be in  
23 responsible charge of such utility's engineering work and shall  
24 employ at least one professional land surveyor, as defined in  
25 this act, who shall be in responsible charge of such utility's  
26 land surveying[;].

27 (e) The practice of architecture by a duly registered  
28 architect, and the doing of such engineering work as is  
29 incidental to his architectural work[;].

30 \* \* \*

1     (1) The performance of rental property inspections by an  
2 employe of a property management entity.

3     Section 7. Sections 6, 7(a), 9(a) and (c), 10.2, 11(a) and  
4 (b) and 11.1 of the act are amended to read:

5     Section 6. Practice by Firms and Corporations.--(a) The  
6 practice of engineering, of land surveying and of geology being  
7 the function of an individual or of individuals working in  
8 concerted effort, it shall be unlawful for any firm or  
9 corporation to engage in such practice, or to offer to practice,  
10 or to assume use or advertise any title or description,  
11 including the use of the term "engineer" or "engineering" in its  
12 firm or corporate name, conveying the impression that such firm  
13 or corporation is engaged in or is offering to practice such  
14 profession, unless the directing heads and employes of such firm  
15 or corporation in responsible charge of its activities in the  
16 practice of such profession are licensed and registered in  
17 conformity with the requirements of this act, and whose name,  
18 seal and signature, along with the date of signature, shall be  
19 stamped on all plans, specifications, plats and reports issued  
20 by such firm or corporation.

21     (b) A firm or corporation may not employ an individual in  
22 home inspection unless the individual is licensed as a home  
23 inspector by the board.

24     (c) A firm or corporation may not utilize in connection with  
25 a business name or activity the words "home inspector," "home  
26 inspection" or a derivative of "home inspector" or "home  
27 inspection" and abbreviations, which implies directly or  
28 indirectly that home inspection services are being provided,  
29 unless the services of the business are provided by licensed  
30 home inspectors.

1 Section 7. Seal of Registrants.--(a) Each person,  
2 registered under this act, shall obtain a seal of a design  
3 authorized by the board which shall bear the registrant's name  
4 and number and the legend "Registered Professional Engineer,"  
5 "Registered Professional Land [Surveyor" or] Surveyor,"  
6 "Registered Professional [Geologist." ] or "Licensed Home  
7 Inspector." Such seal, or a facsimile imprint of same, shall be  
8 stamped on all plans, specifications, plats and reports issued  
9 by a professional engineer, professional land surveyor [or],  
10 professional geologist or home inspector.

11 \* \* \*

12 Section 9. Fees.--(a) The fee for an applicant for  
13 licensure as a professional engineer, professional land surveyor  
14 [or], professional geologist or home inspector, including  
15 examination, and for examination or certification, or both, as  
16 an engineer-in-training or a surveyor-in-training, shall be as  
17 fixed by the board by regulation and shall be subject to review  
18 in accordance with the act of June 25, 1982 (P.L.633, No.181),  
19 known as the "Regulatory Review Act." If the revenues generated  
20 by fees, fines and civil penalties imposed in accordance with  
21 the provisions of this act are not sufficient to match  
22 expenditures over a two-year period, the board shall increase  
23 those fees by regulation, subject to review in accordance with  
24 the "Regulatory Review Act," such that the projected revenues  
25 will meet or exceed projected expenditures.

26 \* \* \*

27 (c) All persons now qualified and engaged in the practice of  
28 engineering, land surveying [and], geology and home inspection,  
29 or who shall hereafter be licensed by the board, shall register,  
30 biennially, with the board and pay the fee for each biennial



1 registration. All fees collected under the provisions of this  
2 act shall be received by the board and shall be paid into the  
3 Professional Licensure Augmentation Account.

4 Section 10.2. Reporting of Multiple Licensure.--Any licensee  
5 of this Commonwealth who is also licensed to practice  
6 engineering, land surveying [or], geology or home inspection in  
7 any other state, territory or country shall report this  
8 information to the board on the biennial renewal application.  
9 Any disciplinary action taken in other states, territories or  
10 countries shall be reported to the board on the biennial renewal  
11 application or within ninety days of final disposition,  
12 whichever is sooner. Multiple licensure shall be noted by the  
13 board on the engineer's, land surveyor's [or], geologist's or  
14 home inspector's record, and each state, territory or country  
15 shall be notified by the board of any disciplinary action taken  
16 against the licensee in this Commonwealth.

17 Section 11. Penalties.--(a) Whoever shall engage in the  
18 practice of engineering, the practice of land surveying [or],  
19 the practice of geology or the practice of home inspection  
20 without being licensed and registered as required by this act,  
21 or exempted therefrom, as provided in this act, or shall present  
22 or attempt to use, as his own, the license or certificate of  
23 registration of another, or shall give any false or forged  
24 evidence of any kind to the board, or to any member thereof, in  
25 order to obtain a license or registration as a professional  
26 engineer, professional land surveyor [or], professional  
27 geologist or home inspector or a certificate as an engineer-in-  
28 training [or], surveyor-in-training, geologist-in-training or  
29 home inspector-in-training, or shall use any expired, suspended  
30 or revoked certificate of registration, or shall otherwise

1 violate the provisions of this act, shall be guilty of a summary  
2 offense and upon conviction thereof for a first offense, shall  
3 be sentenced to pay a fine not exceeding one thousand dollars,  
4 or suffer imprisonment, not exceeding three months, or both and  
5 for a second or subsequent offense shall be guilty of a felony,  
6 and upon conviction thereof, shall be sentenced to pay a fine of  
7 not less than two thousand dollars but not more than five  
8 thousand dollars or to imprisonment for not less than one year  
9 but not more than two years, or both.

10 (b) In addition to any other civil remedy or criminal  
11 penalty provided for in this act, the board, by a vote of the  
12 majority of the maximum number of the authorized membership of  
13 the board as provided by law, or by a vote of the majority of  
14 the duly qualified and confirmed membership or a minimum of  
15 [~~six~~] seven members, whichever is greater, may levy a civil  
16 penalty of up to one thousand dollars on any current licensee  
17 who violates any provision of this act or on any person who  
18 practices the profession of an engineer, land surveyor [~~or~~],  
19 geologist or home inspector without being properly licensed to  
20 do so under this act. The board shall levy this penalty only  
21 after affording the accused party the opportunity for a hearing,  
22 as provided in Title 2 of the Pennsylvania Consolidated Statutes  
23 (relating to administrative law and procedure).

24 \* \* \*

25 Section 11.1. Injunction Against Unlawful Practice.--It  
26 shall be unlawful for any person to practice, or attempt to  
27 offer to practice, engineering, land surveying [~~or~~], geology or  
28 home inspection, as defined in this act, without having at the  
29 time of so doing a valid, unexpired, unrevoked and unsuspended  
30 license issued under this act. The unlawful practice of

1 engineering, land surveying [or], geology or home inspection, as  
2 defined in this act, may be enjoined by the courts on petition  
3 of the board or the Commissioner of Professional and  
4 Occupational Affairs. In any such proceeding, it shall not be  
5 necessary to show that any person is individually injured by the  
6 actions complained of. If the respondent is found guilty of the  
7 unlawful practice of engineering, land surveying [or], geology  
8 or home inspection, the court shall enjoin him from so  
9 practicing unless and until he has been duly licensed. Procedure  
10 in such cases shall be the same as in any other injunction suit.  
11 The remedy by injunction hereby given is in addition to any  
12 other civil or criminal prosecution and punishment.

13 Section 8. The act is amended by adding sections to read:

14 Section 11.3. Degree of Care of Home Inspectors.--(a) A  
15 home inspector shall conduct a home inspection with the degree  
16 of care that a reasonably prudent home inspector would exercise.  
17 In ascertaining the degree of care that would be exercised by a  
18 reasonably prudent home inspector, a court shall consider the  
19 standards of practice and codes of ethics as established by the  
20 board by regulation.

21 (b) If immediate threats to health or safety are observed  
22 during the course of the inspection and the home is occupied,  
23 the home inspector shall disclose the immediate threats to  
24 health or safety to the property owner and occupants of the  
25 property at the conclusion of the home inspection. Posting a  
26 notice on a form prescribed by the board by regulation on the  
27 front door of the occupied home in a position that ensures the  
28 occupants see the notice shall constitute proper disclosure.

29 Section 11.4. Consumer Remedies.--(a) The performance of a  
30 home inspection is a service subject to the act of December 17,

1 1968 (P.L.1224, No.387), known as the "Unfair Trade Practices  
2 and Consumer Protection Law."

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

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

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

23 (3) Offering or delivering a commission, referral fee or  
24 kickback to the seller of the inspected property or to an agent  
25 for the seller or buyer for the referral of business to the home  
26 inspector, the employer of the home inspector or other business  
27 or person.

28 (4) Accepting an engagement to perform a home inspection or  
29 to prepare a home inspection report in which the employment  
30 itself or the fee payable for the inspection is contingent upon

1 the conclusions in the report, preestablished or prescribed  
2 findings or the closing of the transaction.

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

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

14 Section 11.5. Home Inspection Contracts.--(a) A home  
15 inspection contract must be typewritten and include all of the  
16 following:

17 (1) Signature of client.

18 (2) Scope of home inspection.

19 (3) Fee charged to client.

20 (4) Contact information of home inspector.

21 (5) License number of home inspector.

22 (6) A statement explaining the confidentiality between the  
23 home inspector and the client.

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

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

30 (2) A waiver or modification of any provision of this

1 section or section 11.3, 11.4, or 11.6.

2 Section 11.6. Home Inspection Reports.--(a) A home  
3 inspection report must be typewritten and include all of the  
4 following:

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

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

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

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

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

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

27 (iii) If the person conducting your home inspection is not a  
28 licensed structural engineer or other professional whose license  
29 authorizes the rendering of an opinion as to the structural  
30 integrity of a building or the building's other component parts,

1 you may be advised to seek a professional opinion as to any  
2 defects or concerns mentioned in the report.

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

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

16 (c) A home inspector may not express either orally or in  
17 writing an estimate of the cost to repair a defect found during  
18 a home inspection.

19 (d) A home inspector shall not be held liable for the  
20 contents or omissions of a home inspection report if relied upon  
21 by any individual or person other than the client as identified  
22 by the executed contract for the specific home inspection.

23 (e) An action to recover damages arising from a home  
24 inspection report must be commenced within one year after the  
25 date the report is delivered regardless of when the claim is  
26 discovered by the client.

27 Section 9. Repeals are as follows:

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

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

1 Section 10. The State Registration Board for Professional  
2 Engineers, Land Surveyors and Geologists shall promulgate final  
3 regulations to carry out this act within 18 months of the  
4 effective date of this section. The board shall report, within  
5 60 days of the effective date of this section and every 30 days  
6 thereafter, on the status of the regulations to the Consumer  
7 Protection and Professional Licensure Committee of the Senate  
8 and the Professional Licensure Committee of the House of  
9 Representatives.

10 Section 11. This act shall take effect as follows:

11 (1) The following provisions shall take effect  
12 immediately:

13 (i) The amendment of section 4.1(a), (c) and (f) of  
14 the act.

15 (ii) Section 10 of this act.

16 (iii) This section.

17 (2) The amendment or addition of the following  
18 provisions shall take effect in two years:

19 (i) Section 2(u), (v), (w) and (x) of the act.

20 (ii) Section 3 of the act.

21 (iii) Section 4(a), (b)(1) and (3), (c), (d), (f),  
22 (g) and (i) of the act.

23 (iv) Section 4.5(a), (c) introductory paragraph and  
24 (c.1) of the act.

25 (v) Section 4.6 of the act, except as set forth in  
26 paragraph (3).

27 (vi) Section 5(a), (b), (c), (d), (e) and (l) of the  
28 act.

29 (vii) Section 6 of the act.

30 (viii) Section 7(a) of the act.



1 (ix) Section 9(a) and (c) of the act.

2 (x) Section 10.2 of the act.

3 (xi) Section 11(a) and (b) of the act.

4 (xii) Section 11.1 of the act.

5 (xiii) Section 11.3 of the act.

6 (xiv) Section 11.4 of the act.

7 (xv) Section 11.5 of the act.

8 (xvi) Section 11.6 of the act.

9 (xvii) Section 9 of this act.

10 (3) The addition of section 4.6(c) and (d) of the act  
11 shall take effect 90 days after the effective date of the  
12 regulations promulgated under section 10 of this act.

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