

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 21 Session of 2019

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

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 25, 2019

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.~~ AMENDING THE ACT OF <--
18 JULY 10, 1990 (P.L.404, NO.98), ENTITLED "AN ACT PROVIDING
19 FOR THE CERTIFICATION OF REAL ESTATE APPRAISERS; SPECIFYING
20 REQUIREMENTS FOR CERTIFICATION; PROVIDING FOR SANCTIONS AND
21 PENALTIES; AND MAKING AN APPROPRIATION," FURTHER PROVIDING
22 FOR TITLE OF ACT, FOR DEFINITIONS, FOR STATE BOARD OF
23 CERTIFIED REAL ESTATE APPRAISERS, FOR POWERS AND DUTIES OF
24 BOARD AND FOR APPLICATION AND QUALIFICATIONS; PROVIDING FOR
25 APPLICATION AND QUALIFICATIONS OF HOME INSPECTORS AND HOME
26 INSPECTORS-IN-TRAINING, FOR CONDUCT OF HOME INSPECTION AND
27 FOR FIRM OR CORPORATION; FURTHER PROVIDING FOR RECIPROCITY,
28 FOR CERTIFICATION RENEWAL, LICENSURE RENEWAL AND RECORDS, FOR
29 DISCIPLINARY AND CORRECTIVE MEASURES, FOR REINSTATEMENT OF

1 CERTIFICATE OR LICENSE, FOR REPORTING OF MULTIPLE
2 CERTIFICATION, FOR SURRENDER OF SUSPENDED OR REVOKED
3 CERTIFICATE OR LICENSE, FOR PENALTIES AND FOR INJUNCTIVE
4 RELIEF; PROVIDING FOR REMEDIES FOR HOME INSPECTION SERVICES
5 CONSUMERS, FOR HOME INSPECTION CONTRACTS AND FOR HOME
6 INSPECTION REPORTS; AND MAKING A RELATED REPEAL.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 ~~Section 1. The title of the act of May 23, 1945 (P.L.913, <--~~
10 ~~No.367), known as the Engineer, Land Surveyor and Geologist~~
11 ~~Registration Law, is amended to read:~~

12 AN ACT

13 ~~Relating to and regulating the practice of the profession of~~
14 ~~engineering, including civil engineering, mechanical~~
15 ~~engineering, electrical engineering, mining engineering and~~
16 ~~chemical engineering, the profession of land surveying [and],~~
17 ~~the profession of geology and the profession of home~~
18 ~~inspection and constituent parts and combinations thereof as~~
19 ~~herein defined; providing for the licensing and registration~~
20 ~~of persons practicing said profession, and the certification~~
21 ~~of engineers in training [and], surveyors in training,~~
22 ~~geologists in training and home inspectors in training and~~
23 ~~the suspension and revocation of said licenses, registrations~~
24 ~~and certifications for violation of this act; prescribing the~~
25 ~~powers and duties of the State Registration Board for~~
26 ~~Professional Engineers, Land Surveyors and Geologists, the~~
27 ~~Department of State and the courts; prescribing penalties;~~
28 ~~and repealing existing laws.~~

29 ~~Section 2. Section 2 of the act is amended by adding~~
30 ~~subsections to read:~~

31 ~~Section 2. Definitions. As used in this act~~

32 * * *

33 ~~(u) "Home Inspection" shall mean a noninvasive visual~~

~~1 examination of the systems and the essential components of a
2 residential dwelling designed to identify material defects in
3 those systems and components and performed for a fee in
4 connection with or preparation for a proposed or possible
5 residential real estate transfer. The term:~~

~~6 (1) Includes a consultation regarding the property that is
7 represented to be a home inspection or that is described by a
8 confusingly similar term.~~

~~9 (2) Does not include any of the following:~~

~~10 (i) An examination of a single system or component of a
11 residential dwelling, such as an electrical or plumbing system
12 or roof.~~

~~13 (ii) An examination that is limited to inspection for or of
14 one or more of the following:~~

~~15 (A) Wood destroying insects.~~

~~16 (B) Underground tanks and wells.~~

~~17 (C) Septic systems.~~

~~18 (D) Swimming pools and spas.~~

~~19 (E) Alarm systems.~~

~~20 (F) Air and water quality.~~

~~21 (G) Tennis courts and playground equipment.~~

~~22 (H) Pollutants, toxic chemicals and environmental hazards.~~

~~23 (iii) An examination associated with moving into or out of a
24 leased home.~~

~~25 (v) "Home Inspection Report" shall mean a typewritten report
26 on the results of a home inspection.~~

~~27 (w) "Home Inspector" shall mean an individual licensed by
28 the board to perform home inspections. The term does not include
29 an individual licensed under any of the following laws when
30 acting under the individual's registration or license:~~

1 ~~(1) This act, as to professional engineers, professional~~
2 ~~land surveyors and professional geologists.~~

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

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

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

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

11 ~~(x) "Home Inspector in training" shall mean a candidate for~~
12 ~~licensure as a home inspector who has been granted a certificate~~
13 ~~as a home inspector in training who shall be eligible, upon~~
14 ~~completion of the requisite number of mentored home inspections,~~
15 ~~for the board approved examination prescribed for licensure as a~~
16 ~~home inspector.~~

17 ~~(y) "Material Defect" shall mean a problem with a~~
18 ~~residential real property or any portion of it that would have a~~
19 ~~significant adverse impact on the value of the property or that~~
20 ~~involves an unreasonable risk to people on the property. The~~
21 ~~fact that an essential component, system or subsystem is near,~~
22 ~~at or beyond the end of its normal useful life is not by itself~~
23 ~~a material defect.~~

24 ~~(z) "Client" shall mean, when the term is applied to a home~~
25 ~~inspector, a person or person acting through a legal~~
26 ~~representative who contracts with a licensed home inspector to~~
27 ~~obtain a home inspection and subsequent written home inspection~~
28 ~~report.~~

29 ~~Section 3. Sections 3, 4(a), (b) introductory paragraph, (1)~~
30 ~~and (3), (c), (d), (f), (g) and (i) and 4.1(a), (c) and (f) of~~

1 ~~the act are amended to read:~~

2 ~~Section 3. Practice of Engineering, Land Surveying [or],~~
3 ~~Geology or Home Inspection Without Licensure and Registration~~
4 ~~Prohibited. (a) In order to safeguard life, health or property~~
5 ~~and to promote the general welfare, it is unlawful for any~~
6 ~~person to practice or to offer to practice engineering in this~~
7 ~~Commonwealth, unless he is licensed and registered under the~~
8 ~~laws of this Commonwealth as a professional engineer, for any~~
9 ~~person to practice or to offer to practice land surveying,~~
10 ~~unless he is licensed and registered under the laws of this~~
11 ~~Commonwealth as a professional land surveyor [or],~~ for any
12 ~~person to practice or to offer to practice geology unless he is~~
13 ~~licensed and registered under the laws of this Commonwealth as a~~
14 ~~professional geologist or for any person to practice or to offer~~
15 ~~to practice home inspection unless he is licensed and registered~~
16 ~~under the laws of this Commonwealth as a home inspector.~~
17 ~~Individuals licensed as professional engineers, professional~~
18 ~~land surveyors or registered landscape architects may perform~~
19 ~~geological work which is incidental to their engineering,~~
20 ~~surveying or landscape architecture without being licensed as a~~
21 ~~professional geologist.~~

22 ~~(b) A person shall be construed to practice or offer to~~
23 ~~practice engineering, land surveying [or],~~ geology or home
24 inspection who practices any branch of the profession of
25 ~~engineering, land surveying [or],~~ geology or home inspection; or
26 ~~who, by verbal claim, sign, advertisement, letterhead, card, or~~
27 ~~in any other way represents himself to be an engineer, land~~
28 ~~surveyor [or],~~ geologist or home inspector, or through the use
29 ~~of some other title implies that he is an engineer, land~~
30 ~~surveyor [or],~~ geologist or home inspector or that he is

1 ~~registered under this act; or who holds himself out as able to~~
2 ~~perform, or who does perform any engineering, land surveying~~
3 ~~[or], geological or home inspection service or work or any other~~
4 ~~service designated by the practitioner or recognized as~~
5 ~~engineering, land surveying [or], geology or home inspection.~~

6 ~~Section 4. General Powers of Board. The board shall have~~
7 ~~power—~~

8 ~~(a) Approval of Engineering, Surveying [and], Geology and~~
9 ~~Home Inspection Curricula. To investigate and to approve or~~
10 ~~disapprove engineering, surveying [and], geology and home~~
11 ~~inspection curricula of this State, and other states,~~
12 ~~territories and countries for the education of students desiring~~
13 ~~to be licensed to engage in the practice of engineering, land~~
14 ~~surveying [or], geology or home inspection, and to revoke or~~
15 ~~suspend approvals where they are no longer deemed proper.~~

16 ~~(b) Licensing Professional Engineers, Professional Land~~
17 ~~Surveyors [and], Professional Geologists and Home Inspectors.~~
18 ~~To provide for and to regulate the licensing, and to license to~~
19 ~~engage in the practice of engineering, land surveying [or],~~
20 ~~geology or home inspection any person of good moral character~~
21 ~~and repute who speaks and writes the English language, if such~~
22 ~~person either—~~

23 ~~(1) Holds an unexpired license or certificate of~~
24 ~~registration issued to him by proper authority of some other~~
25 ~~state, foreign country or territory of the United States in~~
26 ~~which the requirements and qualifications to engage in the~~
27 ~~practice of engineering, land surveying [or], geology or home~~
28 ~~inspection were at the time of the initial issuance of such~~
29 ~~license or certificate of registration at least equal to the~~
30 ~~existing standards of this Commonwealth: Provided, however, That~~

1 ~~such other state, territory or foreign country shall similarly~~
2 ~~license or register professional engineers, professional land~~
3 ~~surveyors [or], professional geologists or home inspectors~~
4 ~~licensed and registered in this Commonwealth. A person may be~~
5 ~~licensed under this subsection without examination.~~

6 * * *

7 ~~(3) Complies with the education and experience criteria and~~
8 ~~successfully completes the two examination process for licensing~~
9 ~~as a professional engineer, as set forth in section 4.2, or as a~~
10 ~~professional land surveyor, as set forth in section 4.3 [or],~~
11 ~~the examination process for licensing as a professional~~
12 ~~geologist as set forth in section 4.4 or the examination process~~
13 ~~for licensing as a home inspector as set forth in section 4.6.~~

14 ~~(c) Investigations of Applications; Determination of~~
15 ~~Competency of Applicants. To investigate the allegations~~
16 ~~contained in any application for licensure or certification~~
17 ~~under this act in order to determine the truth of such~~
18 ~~allegations and to determine the competency of any person~~
19 ~~applying for licensure to assume responsible charge of the work~~
20 ~~involved in the practice of engineering, land surveying [or],~~
21 ~~geology or home inspection, such competency to be determined by~~
22 ~~the grade and character of the engineering work, the grade and~~
23 ~~character of the land surveying work [or], the grade and~~
24 ~~character of geologic work or the grade and character of home~~
25 ~~inspection work actually performed. In relation to engineers and~~
26 ~~surveyors, the mere execution as a contractor of work designed~~
27 ~~by a professional engineer, or the supervision of the~~
28 ~~construction of such work as a foreman or superintendent, or the~~
29 ~~operation or maintenance of machinery or equipment, or work~~
30 ~~performed as a salesman of engineering equipment or apparatus,~~

1 ~~shall not be deemed to be active practice in engineering, unless~~
2 ~~such work has involved the actual practice of engineering.~~
3 ~~Engineering and land surveying work, performed under the~~
4 ~~supervision of a professional engineer or land surveyor,~~
5 ~~respectively, shall be given full credit. Whenever the board~~
6 ~~determines otherwise than by examination, that an applicant has~~
7 ~~not produced sufficient evidence to show that he is competent to~~
8 ~~be placed in responsible charge and shall refuse to examine or~~
9 ~~to license such applicant, it shall set forth in writing its~~
10 ~~findings and the reasons for its conclusions and furnish a copy~~
11 ~~thereof to the applicant.~~

12 ~~(d) Examinations; Fees. To prescribe the subjects, manner,~~
13 ~~time and place of examinations for licenses as professional~~
14 ~~engineers, professional land surveyors [and], professional~~
15 ~~geologists and home inspectors and for certificates for~~
16 ~~engineers in training, geologists in training [and], surveyors~~
17 ~~in training and home inspectors in training, and the filing of~~
18 ~~applications for such examinations, and to prepare or provide~~
19 ~~for the preparation of such examinations, conduct or provide for~~
20 ~~the conduct of such examinations, to make written reports of~~
21 ~~such examinations, which reports shall be preserved for a period~~
22 ~~of not less than three years, to collect such fees for such~~
23 ~~examinations, and for licenses and certificates issued without~~
24 ~~examination, as may be fixed according to law, and to issue~~
25 ~~licenses and certificates to such persons as successfully pass~~
26 ~~such examinations.~~

27 ~~* * *~~

28 ~~(f) Roster of Registrants. To keep a roster showing the~~
29 ~~names and addresses of professional engineers, professional land~~
30 ~~surveyors [and], professional geologists and home inspectors~~

1 ~~licensed under this act, and under prior laws, and registered by~~
2 ~~the board, which roster shall be published in booklet form by~~
3 ~~the board following each biennial renewal. Copies of the roster~~
4 ~~shall be furnished upon request to each registered or certified~~
5 ~~person and may be furnished to other persons upon such terms as~~
6 ~~the board shall prescribe: Provided, however, That copies of the~~
7 ~~roster shall be furnished to the Planning Commission and the~~
8 ~~prothonotary of each county in the Commonwealth.~~

9 ~~(g) Suspension and Revocation of Licenses; Registrations and~~
10 ~~Certificates; Reinstatements. To suspend or revoke the license~~
11 ~~and registration of any professional engineer, professional land~~
12 ~~surveyor [or], professional geologist or home inspector or the~~
13 ~~certificate of any engineer in training, geologist in training~~
14 ~~[or], surveyor in training or home inspector in training, who is~~
15 ~~found guilty by the board, by a majority vote of all its~~
16 ~~members, of the practice of any fraud, deceit or~~
17 ~~misrepresentation in obtaining his license, certification or~~
18 ~~registration, or of gross negligence, incompetency or misconduct~~
19 ~~in the practice of engineering, in the practice of land~~
20 ~~surveying [or], in the practice of geology or in the practice of~~
21 ~~home inspection, or of violation of the code of ethics of the~~
22 ~~engineering profession, and to reinstate suspended licenses,~~
23 ~~registrations and certificates in any cases where a majority of~~
24 ~~all the members of the board shall determine the same to be just~~
25 ~~and proper. Unless ordered to do so by a court, the board shall~~
26 ~~not reinstate the license, certificate or registration of a~~
27 ~~person to practice as a professional engineer, professional land~~
28 ~~surveyor, professional geologist, home inspector or an engineer~~
29 ~~in training, geologist in training [or a], surveyor in training~~
30 ~~or home inspector in training which has been revoked, and such~~

1 ~~person shall be required to apply for a license, certificate or~~
2 ~~registration after a period of five years in accordance with~~
3 ~~section 2 if he desires to practice at any time after such~~
4 ~~revocation. The board shall require a person whose license or~~
5 ~~registration has been suspended or revoked to return the license~~
6 ~~or registration in such manner as the board directs. Failure to~~
7 ~~do so shall be a misdemeanor of the third degree. Misconduct in~~
8 ~~the practice of engineering, land surveying [or], geology or~~
9 ~~home inspection shall include, but not be limited to conviction~~
10 ~~for a criminal offense such as extortion, bribery or fraud or~~
11 ~~entry of a plea of nolo contendere to a charge thereof for~~
12 ~~conduct relating to the practice of engineering, land surveying~~
13 ~~[or], geology or home inspection, or has violated any provision~~
14 ~~of this act or any regulation promulgated by the board. For the~~
15 ~~purposes of this subsection, the code of ethics is as follows:~~

16 ~~It shall be considered unprofessional and inconsistent with~~
17 ~~honorable and dignified bearing for any professional engineer,~~
18 ~~professional land surveyor [or], professional geologist or home~~
19 ~~inspector:~~

20 ~~(1) To act for his client or employer in professional~~
21 ~~matters otherwise than as a faithful agent or trustee, or to~~
22 ~~accept any remuneration other than his stated recompense for~~
23 ~~services rendered.~~

24 ~~(2) To attempt to injure falsely or maliciously, directly or~~
25 ~~indirectly, the professional reputation, prospects or business~~
26 ~~of anyone.~~

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

30 ~~(4) To compete with another engineer, land surveyor [or],~~

1 ~~geologist or home inspector for employment by the use of~~
2 ~~unethical practices.~~

3 ~~(5) To review the work of another engineer, land surveyor~~
4 ~~[or], geologist or home inspector for the same client, except~~
5 ~~with the knowledge of such engineer, land surveyor [or],~~
6 ~~geologist or home inspector, or unless the connection of such~~
7 ~~engineer, land surveyor [or], geologist or home inspector with~~
8 ~~the work has terminated.~~

9 ~~(6) To attempt to obtain or render technical services or~~
10 ~~assistance without fair and just compensation commensurate with~~
11 ~~the services rendered: Provided, however, the donation of such~~
12 ~~services to a civic, charitable, religious or eleemosynary~~
13 ~~organization shall not be deemed a violation.~~

14 ~~(7) To advertise in self laudatory language, or in any other~~
15 ~~manner, derogatory to the dignity of the profession.~~

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

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

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

25 ~~The board shall appoint, with the approval of the Governor,~~
26 ~~such hearing examiners as shall be necessary to conduct hearings~~
27 ~~as may be required under this subsection.~~

28 ~~The board shall have the power to adopt and promulgate rules~~
29 ~~and regulations setting forth the functions, powers, standards~~
30 ~~and duties to be followed by the hearing examiners.~~

1 ~~The hearing examiners shall have the power to conduct~~
2 ~~hearings in accordance with the regulations of the board, and to~~
3 ~~issue subpoenas requiring the attendance and testimony of~~
4 ~~individuals or the production of, pertinent books, records,~~
5 ~~documents and papers by persons whom they believe to have~~
6 ~~information relevant to any matter pending before the examiner.~~
7 ~~Such examiner shall also have the power to administer oaths.~~

8 ~~The hearing examiner shall hear evidence submitted and~~
9 ~~arguments of counsel, if any, with reasonable dispatch, and~~
10 ~~shall promptly record his decision, supported by findings of~~
11 ~~fact, and a copy thereof shall immediately be sent to the board~~
12 ~~and to counsel of record, or the parties, if not represented.~~

13 ~~If application for review is made to the board within twenty~~
14 ~~days from the date of any decision made as a result of a hearing~~
15 ~~held by a hearing examiner, the board shall review the evidence,~~
16 ~~and if deemed advisable by the board, hear argument and~~
17 ~~additional evidence. As soon as practicable, the board shall~~
18 ~~make a decision and shall file the same with its finding of the~~
19 ~~facts on which it is based and send a copy thereof to each of~~
20 ~~the parties in dispute.~~

21 ~~* * *~~

22 ~~(i) Administration and Enforcement of Laws. To administer~~
23 ~~and enforce the laws of the Commonwealth relating to the~~
24 ~~practice of engineering, land surveying [and], geology and home~~
25 ~~inspection, and to instruct and require its agents to bring~~
26 ~~prosecutions for unauthorized and unlawful practices.~~

27 ~~* * *~~

28 ~~Section 4.1. State Registration Board for Professional~~
29 ~~Engineers, Land Surveyors and Geologists. (a) There is hereby~~
30 ~~established within the Department of State the State~~

1 ~~Registration Board for Professional Engineers, Land Surveyors~~
2 ~~and Geologists. The board shall consist of the Commissioner of~~
3 ~~Professional and Occupational Affairs, three members appointed~~
4 ~~by the Governor who shall be persons representing the public at~~
5 ~~large and [nine] eleven members appointed by the Governor, five~~
6 ~~of whom shall be registered professional engineers, two of whom~~
7 ~~shall be registered professional land surveyors [and] two of~~
8 ~~whom shall be registered professional geologists and two of whom~~
9 ~~shall be licensed home inspectors. Any land surveyor appointed~~
10 ~~to serve on the board shall have received the land surveyor~~
11 ~~license upon the passage of the appropriate examination. Any~~
12 ~~geologist licensed under section 4.4 of this act shall be~~
13 ~~eligible for appointment to the board. The professional members~~
14 ~~of the board shall be so selected that not more than two of them~~
15 ~~shall specialize in any one of the five major disciplines of~~
16 ~~engineering: civil, mining and metallurgical, mechanical,~~
17 ~~electrical and chemical. Each member of the board shall be a~~
18 ~~citizen of the United States and a resident of this~~
19 ~~Commonwealth. Each professional member shall have been engaged~~
20 ~~in the practice of the respective profession for at least ten~~
21 ~~years and shall have been in responsible charge of work for at~~
22 ~~least five years. The home inspectors initially appointed~~
23 ~~pursuant to this subsection need not be licensed by the board~~
24 ~~but, at the time of appointment, must have satisfied the~~
25 ~~education and experience requirements of this act for licensure~~
26 ~~as a home inspector.~~

27 * * *

28 (c) ~~[Seven] Eight members of the board shall constitute a~~
29 ~~quorum. A member may not be counted as part of a quorum or vote~~
30 ~~on any issue, other than temporary and automatic suspension,~~

1 ~~under this act unless he is physically in attendance at the~~
2 ~~meeting.~~

3 * * *

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

8 * * *

9 ~~Section 4. Section 4.5(a) and (c) introductory paragraph of~~
10 ~~the act are amended and the section is amended by adding a~~
11 ~~subsection to read:~~

12 ~~Section 4.5. Continuing Professional Competency~~
13 ~~Requirements. (a) In order to help safeguard life, health and~~
14 ~~property and to promote the public welfare, the practice of~~
15 ~~professional engineering, professional land surveying [and],~~
16 ~~professional geology and professional home inspection in this~~
17 ~~Commonwealth requires continuing professional competency.~~

18 * * *

19 ~~(c) [Each] Except as provided under subsection (c.1), each~~
20 ~~licensee shall be required to obtain twenty four PDH units~~
21 ~~during the biennial renewal period. If a licensee exceeds the~~
22 ~~requirement in any renewal period, [a maximum of twelve] the~~
23 ~~excess PDH units may be carried forward into the subsequent~~
24 ~~renewal period. PDH units may be earned as follows:~~

25 * * *

26 ~~(c.1) A home inspector shall be required to obtain thirty~~
27 ~~two PDH units during the biennial renewal period. PDH units may~~
28 ~~be earned as follows:~~

29 ~~(1) Completion of continuing education courses in the field~~
30 ~~of home inspection during the immediately preceding two years as~~

1 ~~approved by the board.~~

2 ~~(2) Three of the total required PDH units must focus on the~~
3 ~~difference between the National Manufactured Housing~~
4 ~~Construction and Safety Standards Act of 1974 (Public Law 93~~
5 ~~383, 42 U.S.C. § 5401 et seq.) and the act of May 11, 1972~~
6 ~~(P.L.286, No.70), known as the "Industrialized Housing Act," and~~
7 ~~the installation of manufactured and modular homes.~~

8 * * *

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

10 ~~Section 4.6. Procedure for Licensing as Home Inspectors.~~

11 ~~(a) An applicant shall be considered to be qualified for a~~
12 ~~license as a home inspector if the applicant submits proof~~
13 ~~satisfactory to the board of all of the following:~~

14 ~~(1) The applicant is of good moral character.~~

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

16 ~~(3) The applicant has a high school diploma or its~~
17 ~~equivalent or equivalent life or occupational experience.~~

18 ~~(4) The applicant has completed a board approved training~~
19 ~~program or course of study involving the performance of home~~
20 ~~inspections which shall consist of the following:~~

21 ~~(i) No less than one hundred twenty hours of classroom~~
22 ~~instruction which include six hours of education providing the~~
23 ~~basic knowledge on the differences between the National~~
24 ~~Manufactured Housing Construction and Safety Standards Act of~~
25 ~~1974 (Public Law 93-383, 42 U.S.C. § 5401 et seq.) and the act~~
26 ~~of May 11, 1972 (P.L.286, No.70), known as the "Industrialized~~
27 ~~Housing Act," and the installation of manufactured and modular~~
28 ~~homes.~~

29 ~~(ii) No less than seventy five mentored home inspections~~
30 ~~completed in the presence of and under the direct supervision of~~

1 ~~a home inspector licensed in this Commonwealth who oversees and~~
2 ~~takes full responsibility for the home inspection and any report~~
3 ~~provided to the client.~~

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

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

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

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

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

22 ~~(ii) the applicant satisfactorily demonstrates to the board~~
23 ~~that the applicant has made significant progress in personal~~
24 ~~rehabilitation since the conviction such that licensure of the~~
25 ~~applicant should not be expected to create a substantial risk of~~
26 ~~harm to the health and safety of clients or the public or a~~
27 ~~substantial risk of further criminal violation,~~
28 ~~in which case the board may issue a probationary license for the~~
29 ~~remainder of the five years required in subclause (i).~~

30 ~~(b) The board shall issue a license as a home inspector to~~

~~1 an applicant who applies within two years of the effective date
2 of this subsection and complies with all of the following:~~

~~3 (1) Is an active home inspector.~~

~~4 (2) Meets the qualifications described in subsection (a)(1),
5 (2), (3), (6), (7) and (8).~~

~~6 (3) Submits proof satisfactory to the board that the
7 applicant has:~~

~~8 (i) been in active, continuous practice for at least five
9 years immediately preceding the effective date of this section;~~

~~10 or~~

~~11 (ii) has performed or participated in one hundred home
12 inspections and has passed a recognized or accredited
13 examination testing knowledge of the proper procedures for
14 conducting a home inspection.~~

~~15 (c) An individual may not practice home inspection or hold
16 himself out as a home inspector unless licensed by the board
17 except for the following:~~

~~18 (1) An individual licensed as a professional engineer under
19 this act.~~

~~20 (2) An individual licensed under the act of December 14,
21 1982 (P.L.1227, No.281), known as the "Architects Licensure
22 Law."~~

~~23 (d) Notwithstanding subsection (c), a person licensed or
24 registered as a professional engineer under this act, or a
25 person licensed or registered under the "Architects Licensure
26 Law," must comply with subsection (j) and sections 11.4, 11.5
27 and 11.6 when performing a home inspection. A person licensed or
28 registered as a professional engineer, or licensed or registered
29 as an architect, who violates this subsection shall be subject
30 to disciplinary action, including license or registration~~

1 ~~suspension and revocation, and penalties under this act and the~~
2 ~~"Architects Licensure Law," respectively.~~

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

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

14 ~~(g) The board may grant a reciprocal license to an applicant~~
15 ~~who is licensed or certified as a home inspector or similar~~
16 ~~practice in another state and has demonstrated qualifications~~
17 ~~which equal or exceed those required under this act in the~~
18 ~~determination of the board. The board shall not grant a license~~
19 ~~under this section to an applicant unless the state in which the~~
20 ~~applicant is licensed affords reciprocal treatment to~~
21 ~~individuals who are residents of this Commonwealth and who are~~
22 ~~licensed under this act. The applicant must also submit a~~
23 ~~notarized statement that the applicant has studied, is familiar~~
24 ~~with and will abide by this act and regulations promulgated by~~
25 ~~the board.~~

26 ~~(h) The board may issue a home inspector license without~~
27 ~~examination to an applicant holding a home inspector license in~~
28 ~~another state who submits proof satisfactory to the board of all~~
29 ~~of the following:~~

30 ~~(1) The applicant is of good moral character.~~

1 ~~(2) The applicant holds an unrestricted and active home~~
2 ~~inspector license from another state whose licensure~~
3 ~~requirements are substantially equivalent to the requirements~~
4 ~~for licensure in this Commonwealth.~~

5 ~~(3) The applicant has submitted an application accompanied~~
6 ~~by the application fee.~~

7 ~~(4) The applicant has not been convicted of a felony under~~
8 ~~"The Controlled Substance, Drug, Device and Cosmetic Act," or of~~
9 ~~an offense under the laws of another jurisdiction which if~~
10 ~~committed in this Commonwealth would be a felony under "The~~
11 ~~Controlled Substance, Drug, Device and Cosmetic Act," unless the~~
12 ~~applicant otherwise satisfies the qualifications contained in~~
13 ~~this act and:~~

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

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

24 ~~(i) No agency or political subdivision of this Commonwealth,~~
25 ~~other than the board, shall impose the following on individuals~~
26 ~~licensed under this section:~~

27 ~~(1) A registration or licensing requirement for conducting~~
28 ~~home inspections.~~

29 ~~(2) A license fee to obtain a local license, except that~~
30 ~~this prohibition shall not prevent a local government from~~

1 ~~imposing an occupational license tax on a person operating as a~~
2 ~~home inspector within the jurisdiction of the local government.~~

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

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

27 ~~(1) This act, as to the practice of engineering, land~~
28 ~~surveying or geology.~~

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

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

~~(4) The "Architects Licensure Law."~~

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

~~(1) The requirements of this act relating to the licensing
of home inspectors shall not affect the obligations or
immunities of an individual licensed under the act of February
19, 1980 (P.L.15, No.9), known as the "Real Estate Licensing and
Registration Act," that are imposed or provided under that act
or 68 Pa.C.S. Ch. 73 (relating to seller disclosures) when the
individual is acting under the individual's license, nor the
obligations or immunities of an individual certified under the
act of July 10, 1990 (P.L.404, No.98), known as the "Real Estate
Appraisers Certification Act," when the individual is acting
under the individual's license.~~

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

~~(1) Date and time of the inspection.~~

~~(2) Address of the residence inspected.~~

~~(3) Business name of the supervising inspector.~~

~~(4) Name of the supervising inspector.~~

~~(5) License number of the supervising inspector.~~

~~(6) Signature of the supervising inspector.~~

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

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

1 ~~Section 5. Exemption from Licensure and Registration.~~

2 ~~Except as specifically provided in this section, this act shall~~
3 ~~not be construed to require licensure and registration in the~~
4 ~~following cases:~~

5 ~~(a) The practice of engineering, land surveying or geology~~
6 ~~by any person who acts under the supervision of a professional~~
7 ~~engineer, professional land surveyor or geologist, respectively,~~
8 ~~or by an employe of a person lawfully engaged in the practice of~~
9 ~~engineering, land surveying or geology and who, in either event,~~
10 ~~does not assume responsible charge of design or supervisions[;].~~

11 ~~(b) The practice of engineering, land surveying or geology,~~
12 ~~not exceeding thirty days in the aggregate in one calendar year,~~
13 ~~by a nonresident not having a place of business in this~~
14 ~~Commonwealth, if such person is legally qualified to engage in~~
15 ~~the practice of engineering, land surveying or geology in the~~
16 ~~state or territory of his residence: Provided, That standards of~~
17 ~~such state or territory are at least equal to the standards of~~
18 ~~this Commonwealth[;].~~

19 ~~(c) The practice of engineering, land surveying [or],~~
20 ~~geology or home inspection by officers and employes of the~~
21 ~~United States Government for the said government[;] and the~~
22 ~~practice of home inspection by an officer or employe of a~~
23 ~~municipality or local authority when acting in the individual's~~
24 ~~official capacity.~~

25 ~~(d) Except as otherwise provided in subsection (g) of this~~
26 ~~section, the practice of engineering or land surveying by a~~
27 ~~regular employe of a public utility company, as defined by the~~
28 ~~Public Utility Code (66 Pa.C.S. § 101 et seq.) in connection~~
29 ~~with the facilities of such public utility, which are subject to~~
30 ~~regulation by the Pennsylvania Public Utility Commission:~~

1 ~~Provided, That such public utility shall employ at least one~~
2 ~~professional engineer, as defined in this act, who shall be in~~
3 ~~responsible charge of such utility's engineering work and shall~~
4 ~~employ at least one professional land surveyor, as defined in~~
5 ~~this act, who shall be in responsible charge of such utility's~~
6 ~~land surveying[;].~~

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

10 ~~* * *~~

11 ~~(l) The performance of rental property inspections by an~~
12 ~~employe of a property management entity.~~

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

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

1 ~~(b) A firm or corporation may not employ an individual in~~
2 ~~home inspection unless the individual is licensed as a home~~
3 ~~inspector by the board.~~

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

11 Section 7. Seal of Registrants. (a) Each person,
12 registered under this act, shall obtain a seal of a design
13 authorized by the board which shall bear the registrant's name
14 and number and the legend "Registered Professional Engineer,"
15 "Registered Professional Land [Surveyor" or] Surveyor,"
16 "Registered Professional [Geologist.]" or "Licensed Home
17 Inspector." Such seal, or a facsimile imprint of same, shall be
18 stamped on all plans, specifications, plats and reports issued
19 by a professional engineer, professional land surveyor [or],
20 professional geologist or home inspector.

21 * * *

22 Section 9. Fees. (a) The fee for an applicant for
23 licensure as a professional engineer, professional land surveyor
24 [or], professional geologist or home inspector, including
25 examination, and for examination or certification, or both, as
26 an engineer in training or a surveyor in training, shall be as
27 fixed by the board by regulation and shall be subject to review
28 in accordance with the act of June 25, 1982 (P.L.633, No.181),
29 known as the "Regulatory Review Act." If the revenues generated
30 by fees, fines and civil penalties imposed in accordance with

1 ~~the provisions of this act are not sufficient to match~~
2 ~~expenditures over a two year period, the board shall increase~~
3 ~~those fees by regulation, subject to review in accordance with~~
4 ~~the "Regulatory Review Act," such that the projected revenues~~
5 ~~will meet or exceed projected expenditures.~~

6 * * *

7 ~~(c) All persons now qualified and engaged in the practice of~~
8 ~~engineering, land surveying [and], geology and home inspection,~~
9 ~~or who shall hereafter be licensed by the board, shall register,~~
10 ~~biennially, with the board and pay the fee for each biennial~~
11 ~~registration. All fees collected under the provisions of this~~
12 ~~act shall be received by the board and shall be paid into the~~
13 ~~Professional Licensure Augmentation Account.~~

14 ~~Section 10.2. Reporting of Multiple Licensure. Any licensee~~
15 ~~of this Commonwealth who is also licensed to practice~~
16 ~~engineering, land surveying [or], geology or home inspection in~~
17 ~~any other state, territory or country shall report this~~
18 ~~information to the board on the biennial renewal application.~~
19 ~~Any disciplinary action taken in other states, territories or~~
20 ~~countries shall be reported to the board on the biennial renewal~~
21 ~~application or within ninety days of final disposition,~~
22 ~~whichever is sooner. Multiple licensure shall be noted by the~~
23 ~~board on the engineer's, land surveyor's [or], geologist's or~~
24 ~~home inspector's record, and each state, territory or country~~
25 ~~shall be notified by the board of any disciplinary action taken~~
26 ~~against the licensee in this Commonwealth.~~

27 ~~Section 11. Penalties. (a) Whoever shall engage in the~~
28 ~~practice of engineering, the practice of land surveying [or],~~
29 ~~the practice of geology or the practice of home inspection~~
30 ~~without being licensed and registered as required by this act,~~

1 ~~or exempted therefrom, as provided in this act, or shall present~~
2 ~~or attempt to use, as his own, the license or certificate of~~
3 ~~registration of another, or shall give any false or forged~~
4 ~~evidence of any kind to the board, or to any member thereof, in~~
5 ~~order to obtain a license or registration as a professional~~
6 ~~engineer, professional land surveyor [or], professional~~
7 ~~geologist or home inspector or a certificate as an engineer in~~
8 ~~training [or], surveyor in training, geologist in training or~~
9 ~~home inspector in training, or shall use any expired, suspended~~
10 ~~or revoked certificate of registration, or shall otherwise~~
11 ~~violate the provisions of this act, shall be guilty of a summary~~
12 ~~offense and upon conviction thereof for a first offense, shall~~
13 ~~be sentenced to pay a fine not exceeding one thousand dollars,~~
14 ~~or suffer imprisonment, not exceeding three months, or both and~~
15 ~~for a second or subsequent offense shall be guilty of a felony,~~
16 ~~and upon conviction thereof, shall be sentenced to pay a fine of~~
17 ~~not less than two thousand dollars but not more than five~~
18 ~~thousand dollars or to imprisonment for not less than one year~~
19 ~~but not more than two years, or both.~~

20 (b) ~~In addition to any other civil remedy or criminal~~
21 ~~penalty provided for in this act, the board, by a vote of the~~
22 ~~majority of the maximum number of the authorized membership of~~
23 ~~the board as provided by law, or by a vote of the majority of~~
24 ~~the duly qualified and confirmed membership or a minimum of~~
25 ~~[six] seven members, whichever is greater, may levy a civil~~
26 ~~penalty of up to one thousand dollars on any current licensee~~
27 ~~who violates any provision of this act or on any person who~~
28 ~~practices the profession of an engineer, land surveyor [or],~~
29 ~~geologist or home inspector without being properly licensed to~~
30 ~~do so under this act. The board shall levy this penalty only~~

1 ~~after affording the accused party the opportunity for a hearing,~~
2 ~~as provided in Title 2 of the Pennsylvania Consolidated Statutes~~
3 ~~(relating to administrative law and procedure).~~

4 * * *

5 ~~Section 11.1. Injunction Against Unlawful Practice. It~~
6 ~~shall be unlawful for any person to practice, or attempt to~~
7 ~~offer to practice, engineering, land surveying [or], geology or~~
8 ~~home inspection, as defined in this act, without having at the~~
9 ~~time of so doing a valid, unexpired, unrevoked and unsuspended~~
10 ~~license issued under this act. The unlawful practice of~~
11 ~~engineering, land surveying [or], geology or home inspection, as~~
12 ~~defined in this act, may be enjoined by the courts on petition~~
13 ~~of the board or the Commissioner of Professional and~~
14 ~~Occupational Affairs. In any such proceeding, it shall not be~~
15 ~~necessary to show that any person is individually injured by the~~
16 ~~actions complained of. If the respondent is found guilty of the~~
17 ~~unlawful practice of engineering, land surveying [or], geology~~
18 ~~or home inspection, the court shall enjoin him from so~~
19 ~~practicing unless and until he has been duly licensed. Procedure~~
20 ~~in such cases shall be the same as in any other injunction suit.~~
21 ~~The remedy by injunction hereby given is in addition to any~~
22 ~~other civil or criminal prosecution and punishment.~~

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

24 ~~Section 11.3. Degree of Care of Home Inspectors. (a) A~~
25 ~~home inspector shall conduct a home inspection with the degree~~
26 ~~of care that a reasonably prudent home inspector would exercise.~~
27 ~~In ascertaining the degree of care that would be exercised by a~~
28 ~~reasonably prudent home inspector, a court shall consider the~~
29 ~~standards of practice and codes of ethics as established by the~~
30 ~~board by regulation.~~

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

~~Section 11.4. Consumer Remedies. (a) The performance of a home inspection is a service subject to the act of December 17, 1968 (P.L.1224, No.387), known as the "Unfair Trade Practices and Consumer Protection Law."~~

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

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

~~(2) Inspecting for a fee any property in which the home inspector, the employer of the home inspector or other business or person has a financial interest or an interest in the transfer of the property, including receipt of a commission as an agent, unless the financial interest or interest in the transfer of the property is disclosed in writing to the buyer~~

1 ~~before the home inspection is performed and the buyer signs an~~
2 ~~acknowledgment of receipt of the disclosure.~~

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

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

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

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

24 ~~Section 11.5. Home Inspection Contracts. (a) A home~~
25 ~~inspection contract must be typewritten and include all of the~~
26 ~~following:~~

27 ~~(1) Signature of client.~~

28 ~~(2) Scope of home inspection.~~

29 ~~(3) Fee charged to client.~~

30 ~~(4) Contact information of home inspector.~~

1 ~~(5) License number of home inspector.~~

2 ~~(6) A statement explaining the confidentiality between the~~
3 ~~home inspector and the client.~~

4 ~~(b) The following types of provisions in a contract with a~~
5 ~~home inspector for the performance of a home inspection are~~
6 ~~contrary to public policy and the clause shall be unenforceable~~
7 ~~as it relates to:~~

8 ~~(1) A limitation on the liability of the home inspector for~~
9 ~~gross negligence or willful misconduct.~~

10 ~~(2) A waiver or modification of any provision of this~~
11 ~~section or section 11.3, 11.4, or 11.6.~~

12 ~~Section 11.6. Home Inspection Reports. (a) A home~~
13 ~~inspection report must be typewritten and include all of the~~
14 ~~following:~~

15 ~~(1) A description of the scope of the inspection, including~~
16 ~~identification of the essential components and systems and~~
17 ~~subsystems covered by the report.~~

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

22 ~~(3) If, at the time of the inspection, there is visible~~
23 ~~evidence of the presence of interior mold, the home inspector~~
24 ~~must disclose in the home inspection report the visible evidence~~
25 ~~and the location and advise the client to obtain a professional~~
26 ~~evaluation.~~

27 ~~(4) The following statements, set forth conspicuously:~~

28 ~~(i) A home inspection is intended to assist in evaluation of~~
29 ~~the overall condition of the dwelling. The inspection is based~~
30 ~~on observation of the visible and apparent condition of the~~

1 ~~structure and its components on the date of inspection.~~

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

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

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

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

26 ~~(c) A home inspector may not express either orally or in~~
27 ~~writing an estimate of the cost to repair a defect found during~~
28 ~~a home inspection.~~

29 ~~(d) A home inspector shall not be held liable for the~~
30 ~~contents or omissions of a home inspection report if relied upon~~

1 ~~by any individual or person other than the client as identified~~
2 ~~by the executed contract for the specific home inspection.~~

3 ~~(c) An action to recover damages arising from a home~~
4 ~~inspection report must be commenced within one year after the~~
5 ~~date the report is delivered regardless of when the claim is~~
6 ~~discovered by the client.~~

7 Section 9. ~~Repeals are as follows:~~

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

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

11 Section 10. ~~The State Registration Board for Professional~~
12 ~~Engineers, Land Surveyors and Geologists shall promulgate final~~
13 ~~regulations to carry out this act within 18 months of the~~
14 ~~effective date of this section. The board shall report, within~~
15 ~~60 days of the effective date of this section and every 30 days~~
16 ~~thereafter, on the status of the regulations to the Consumer~~
17 ~~Protection and Professional Licensure Committee of the Senate~~
18 ~~and the Professional Licensure Committee of the House of~~
19 ~~Representatives.~~

20 Section 11. ~~This act shall take effect as follows:~~

21 ~~(1) The following provisions shall take effect~~
22 ~~immediately:~~

23 ~~(i) The amendment of section 4.1(a), (c) and (f) of~~
24 ~~the act.~~

25 ~~(ii) Section 10 of this act.~~

26 ~~(iii) This section.~~

27 ~~(2) The amendment or addition of the following~~
28 ~~provisions shall take effect in two years:~~

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

30 ~~(ii) Section 3 of the act.~~

1 CERTIFICATION AND LICENSURE; PROVIDING FOR SANCTIONS AND
2 PENALTIES; AND MAKING AN APPROPRIATION.

3 SECTION 2. SECTION 2 OF THE ACT IS AMENDED BY ADDING
4 DEFINITIONS TO READ:

5 SECTION 2. DEFINITIONS.

6 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
7 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
8 CONTEXT CLEARLY INDICATES OTHERWISE:

9 * * *

10 "CLIENT." WHEN THE TERM IS APPLIED TO A HOME INSPECTOR, A
11 PERSON OR PERSON ACTING THROUGH A LEGAL REPRESENTATIVE WHO
12 CONTRACTS WITH A LICENSED HOME INSPECTOR TO OBTAIN A HOME
13 INSPECTION AND SUBSEQUENT WRITTEN HOME INSPECTION REPORT.

14 "HOME INSPECTION." A NONINVASIVE VISUAL EXAMINATION OF THE
15 SYSTEMS AND ESSENTIAL COMPONENTS OF A RESIDENTIAL DWELLING
16 DESIGNED TO IDENTIFY MATERIAL DEFECTS IN THOSE SYSTEMS AND
17 COMPONENTS AND PERFORMED FOR A FEE IN CONNECTION WITH OR
18 PREPARATION FOR A PROPOSED OR POSSIBLE RESIDENTIAL REAL ESTATE
19 TRANSFER. THE TERM:

20 (1) INCLUDES A CONSULTATION REGARDING THE PROPERTY THAT
21 IS REPRESENTED TO BE A HOME INSPECTION OR THAT IS DESCRIBED
22 BY A CONFUSINGLY SIMILAR TERM.

23 (2) DOES NOT INCLUDE ANY OF THE FOLLOWING:

24 (I) AN EXAMINATION OF A SINGLE SYSTEM OR COMPONENT
25 OF A RESIDENTIAL DWELLING, SUCH AS AN ELECTRICAL OR
26 PLUMBING SYSTEM OR ROOF.

27 (II) AN EXAMINATION THAT IS LIMITED TO INSPECTION
28 FOR OR OF ONE OR MORE OF THE FOLLOWING:

29 (A) WOOD DESTROYING INSECTS.

30 (B) UNDERGROUND TANKS AND WELLS.

- 1 (C) SEPTIC SYSTEMS.
- 2 (D) SWIMMING POOLS AND SPAS.
- 3 (E) ALARM SYSTEMS.
- 4 (F) AIR AND WATER QUALITY.
- 5 (G) TENNIS COURTS AND PLAYGROUND EQUIPMENT.
- 6 (H) POLLUTANTS, TOXIC CHEMICALS AND
- 7 ENVIRONMENTAL HAZARDS.

8 (III) AN EXAMINATION ASSOCIATED WITH MOVING INTO OR
9 OUT OF A LEASED HOME.

10 "HOME INSPECTION REPORT." A TYPEWRITTEN REPORT ON THE
11 RESULTS OF A HOME INSPECTION.

12 "HOME INSPECTOR." AN INDIVIDUAL LICENSED BY THE STATE BOARD
13 OF CERTIFIED REAL ESTATE APPRAISERS TO PERFORM HOME INSPECTIONS.
14 THE TERM DOES NOT INCLUDE AN INDIVIDUAL LICENSED UNDER ANY OF
15 THE FOLLOWING LAWS WHEN ACTING UNDER THE INDIVIDUAL'S
16 REGISTRATION OR LICENSE:

17 (1) THE ACT OF MAY 23, 1945 (P.L.913, NO.367), KNOWN AS
18 THE ENGINEER, LAND SURVEYOR AND GEOLOGIST REGISTRATION LAW,
19 AS TO PROFESSIONAL ENGINEERS, PROFESSIONAL LAND SURVEYORS AND
20 PROFESSIONAL GEOLOGISTS.

21 (2) THE ACT OF JANUARY 24, 1966 (1965 P.L.1535, NO.537),
22 KNOWN AS THE PENNSYLVANIA SEWAGE FACILITIES ACT.

23 (3) THE ACT OF MARCH 1, 1974 (P.L.90, NO.24), KNOWN AS
24 THE PENNSYLVANIA PESTICIDE CONTROL ACT OF 1973.

25 (4) THE ACT OF DECEMBER 14, 1982 (P.L.1227, NO.281),
26 KNOWN AS THE ARCHITECTS LICENSURE LAW.

27 (5) THE ACT OF JULY 9, 1987 (P.L.238, NO.43), KNOWN AS
28 THE RADON CERTIFICATION ACT.

29 "HOME INSPECTOR-IN-TRAINING." A CANDIDATE FOR LICENSURE AS A
30 HOME INSPECTOR WHO HAS BEEN GRANTED A REGISTRATION AS A HOME

1 INSPECTOR-IN-TRAINING.

2 "MATERIAL DEFECT." A PROBLEM WITH A RESIDENTIAL REAL
3 PROPERTY OR ANY PORTION OF IT THAT WOULD HAVE A SIGNIFICANT
4 ADVERSE IMPACT ON THE VALUE OF THE PROPERTY OR THAT INVOLVES AN
5 UNREASONABLE RISK TO PEOPLE ON THE PROPERTY. THE FACT THAT AN
6 ESSENTIAL COMPONENT, SYSTEM OR SUBSYSTEM IS NEAR, AT OR BEYOND
7 THE END OF ITS NORMAL USEFUL LIFE IS NOT BY ITSELF A MATERIAL
8 DEFECT.

9 * * *

10 SECTION 3. SECTION 4 (A) AND (K) OF THE ACT ARE AMENDED TO
11 READ:

12 SECTION 4. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS.

13 (A) CREATION.--THERE IS HEREBY CREATED THE STATE BOARD OF
14 CERTIFIED REAL ESTATE APPRAISERS AS A DEPARTMENTAL
15 ADMINISTRATIVE BOARD IN THE DEPARTMENT OF STATE. THE BOARD SHALL
16 CONSIST OF THE FOLLOWING MEMBERS:

17 (1) THE SECRETARY OF THE COMMONWEALTH OR A DESIGNEE.

18 (2) THE ATTORNEY GENERAL OR A DESIGNEE.

19 (3) THE SECRETARY OF BANKING OR A DESIGNEE.

20 (4) [~~EIGHT~~] TWELVE MEMBERS WHO ARE CITIZENS OF THE
21 UNITED STATES AND WHO HAVE BEEN RESIDENTS OF THIS
22 COMMONWEALTH FOR A TWO-YEAR PERIOD IMMEDIATELY PRIOR TO
23 APPOINTMENT, TWO OF WHOM SHALL BE PUBLIC MEMBERS [~~AND SIX~~]
24 EIGHT OF WHOM SHALL BE PERSONS WHO ARE STATE-CERTIFIED REAL
25 ESTATE APPRAISERS[.], ONE OF WHOM SHALL BE A TAX ASSESSOR AND
26 ONE OF WHOM SHALL BE A PERSON WHO IS A LICENSED AND QUALIFIED
27 HOME INSPECTOR UNDER THIS ACT, EXCEPT THAT THE HOME INSPECTOR
28 INITIALLY APPOINTED PURSUANT TO THIS PARAGRAPH NEED NOT BE
29 LICENSED BY THE BOARD BUT, AT THE TIME OF APPOINTMENT, MUST
30 HAVE SATISFIED THE EDUCATION AND EXPERIENCE REQUIREMENTS OF

1 THIS ACT FOR LICENSURE AS A HOME INSPECTOR.

2 * * *

3 (K) NOTICE.--REASONABLE NOTICE OF ALL MEETINGS SHALL BE
4 GIVEN IN CONFORMITY WITH [THE ACT OF JULY 3, 1986 (P.L.388,
5 NO.84), KNOWN AS THE SUNSHINE ACT] 65 PA.C.S. CH. 7 (RELATING TO
6 OPEN MEETINGS).

7 * * *

8 SECTION 4. SECTIONS 5(1), (3) AND (6) AND 6 HEADING OF THE
9 ACT ARE AMENDED TO READ:

10 SECTION 5. POWERS AND DUTIES OF BOARD.

11 THE BOARD SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

12 (1) TO PASS UPON THE QUALIFICATIONS AND FITNESS OF
13 APPLICANTS FOR CERTIFICATION OR LICENSURE AND TO ADOPT AND
14 REVISE RULES AND REGULATIONS REQUIRING APPLICANTS FOR
15 CERTIFICATION OR LICENSURE TO PASS EXAMINATIONS RELATING TO
16 THEIR QUALIFICATIONS FOR CERTIFICATION OR LICENSURE.

17 * * *

18 (3) TO EXAMINE FOR, DENY, APPROVE, ISSUE, REVOKE,
19 SUSPEND OR RENEW CERTIFICATES OF APPRAISERS, REGISTRATIONS OF
20 HOME INSPECTORS-IN-TRAINING AND LICENSES OF APPRAISER
21 TRAINEES AND HOME INSPECTORS PURSUANT TO THIS ACT AND TO
22 CONDUCT HEARINGS IN CONNECTION THEREWITH.

23 * * *

24 (6) TO ESTABLISH FEES FOR THE OPERATION OF THE BOARD,
25 INCLUDING FEES FOR THE ISSUANCE AND RENEWAL OF REGISTRATIONS,
26 CERTIFICATES AND LICENSES AND FOR EXAMINATIONS.

27 * * *

28 SECTION 6. APPLICATION AND QUALIFICATIONS OF CERTIFIED REAL
29 ESTATE APPRAISERS.

30 * * *

1 SECTION 5. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:
2 SECTION 6.1. APPLICATION AND QUALIFICATIONS OF HOME INSPECTORS
3 AND HOME INSPECTORS-IN-TRAINING.

4 (A) QUALIFICATIONS.--AN APPLICANT SHALL BE CONSIDERED TO BE
5 QUALIFIED FOR A LICENSE AS A HOME INSPECTOR IF THE APPLICANT
6 SUBMITS PROOF SATISFACTORY TO THE BOARD OF ALL OF THE FOLLOWING:

- 7 (1) THE APPLICANT IS OF GOOD MORAL CHARACTER.
8 (2) THE APPLICANT IS AT LEAST 18 YEARS OF AGE.
9 (3) THE APPLICANT HAS A HIGH SCHOOL DIPLOMA OR ITS
10 EQUIVALENT OR EQUIVALENT LIFE OR OCCUPATIONAL EXPERIENCE.

- 11 (4) THE APPLICANT:
12 (I) HAS COMPLETED NO LESS THAN 120 HOURS OF BOARD-
13 APPROVED CLASSROOM INSTRUCTION, WHICH INCLUDES SIX HOURS
14 OF EDUCATION PROVIDING THE BASIC KNOWLEDGE ON THE
15 DIFFERENCES BETWEEN THE NATIONAL MANUFACTURED HOUSING
16 CONSTRUCTION AND SAFETY STANDARDS ACT OF 1974 (PUBLIC LAW
17 93-383, 42 U.S.C. § 5401 ET SEQ.) AND THE ACT OF MAY 11,
18 1972 (P.L.286, NO.70), KNOWN AS THE INDUSTRIALIZED
19 HOUSING ACT, AND THE INSTALLATION OF MANUFACTURED AND
20 MODULAR HOMES;

21 (II) IS REGISTERED AS A HOME INSPECTOR-IN-TRAINING;
22 AND

- 23 (III) HAS COMPLETED NO LESS THAN 75 MENTORED HOME
24 INSPECTIONS COMPLETED IN THE PRESENCE AND UNDER THE
25 DIRECT SUPERVISION OF A HOME INSPECTOR LICENSED IN THIS
26 COMMONWEALTH. A HOME INSPECTION REPORT PREPARED BY A HOME
27 INSPECTOR-IN-TRAINING SHALL BE USED FOR TRAINING PURPOSES
28 ONLY AND MAY NOT BE PROVIDED TO A CLIENT.

29 (5) THE APPLICANT HAS PASSED A BOARD-APPROVED
30 PSYCHOMETRICALLY VALID LICENSING EXAMINATION TO BE

1 ADMINISTERED PURSUANT TO SECTION 812.1 OF THE ACT OF APRIL 9,
2 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF
3 1929.

4 (6) THE APPLICATION IS ACCOMPANIED BY THE APPLICATION
5 FEE AS ESTABLISHED BY THE BOARD BY REGULATION.

6 (7) THE APPLICANT IS NOT ADDICTED TO THE HABITUAL USE OF
7 ALCOHOL, NARCOTICS OR OTHER HABIT-FORMING DRUGS.

8 (8) THE APPLICANT HAS NOT BEEN CONVICTED OF A FELONY
9 UNDER THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS
10 THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR
11 OF AN OFFENSE UNDER THE LAWS OF ANOTHER JURISDICTION WHICH IF
12 COMMITTED IN THIS COMMONWEALTH WOULD BE A FELONY UNDER THE
13 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, UNLESS
14 THE APPLICANT OTHERWISE SATISFIES THE QUALIFICATIONS
15 CONTAINED IN THIS ACT AND:

16 (I) AT LEAST FIVE YEARS HAVE ELAPSED FROM THE DATE
17 OF CONVICTION; OR

18 (II) THE APPLICANT SATISFACTORILY DEMONSTRATES TO
19 THE BOARD THAT THE APPLICANT HAS MADE SIGNIFICANT
20 PROGRESS IN PERSONAL REHABILITATION SINCE THE CONVICTION
21 SUCH THAT LICENSURE OF THE APPLICANT SHOULD NOT BE
22 EXPECTED TO CREATE A SUBSTANTIAL RISK OF HARM TO THE
23 HEALTH AND SAFETY OF CLIENTS OR THE PUBLIC, IN WHICH CASE
24 THE BOARD MAY ISSUE A PROBATIONARY LICENSE FOR THE
25 REMAINDER OF THE FIVE YEARS REQUIRED IN SUBPARAGRAPH (I).

26 (B) ISSUANCE OF LICENSE.--THE BOARD SHALL ISSUE A LICENSE AS
27 A HOME INSPECTOR TO AN APPLICANT WHO APPLIES WITHIN TWO YEARS OF
28 THE EFFECTIVE DATE OF THIS SUBSECTION AND COMPLIES WITH ALL OF
29 THE FOLLOWING:

30 (1) IS AN ACTIVE HOME INSPECTOR.

1 (2) MEETS THE QUALIFICATIONS DESCRIBED IN SUBSECTION (A)
2 (1), (2), (3), (6), (7) AND (8).

3 (3) SUBMITS PROOF SATISFACTORY TO THE BOARD THAT THE
4 APPLICANT HAS:

5 (I) BEEN IN ACTIVE, CONTINUOUS PRACTICE FOR AT LEAST
6 FIVE YEARS IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF
7 THIS SECTION; OR

8 (II) HAS PERFORMED OR PARTICIPATED IN 100 HOME
9 INSPECTIONS AND HAS PASSED A RECOGNIZED OR ACCREDITED
10 EXAMINATION TESTING KNOWLEDGE OF THE PROPER PROCEDURES
11 FOR CONDUCTING A HOME INSPECTION.

12 (C) PRACTICE OF HOME INSPECTION.--AN INDIVIDUAL MAY NOT
13 PRACTICE HOME INSPECTION OR HOLD HIMSELF OUT AS A HOME INSPECTOR
14 UNLESS LICENSED BY THE BOARD EXCEPT FOR THE FOLLOWING:

15 (1) AN INDIVIDUAL LICENSED AS A PROFESSIONAL ENGINEER
16 UNDER THE ACT OF MAY 23, 1945 (P.L.913, NO.367), KNOWN AS THE
17 ENGINEER, LAND SURVEYOR AND GEOLOGIST REGISTRATION LAW.

18 (2) AN INDIVIDUAL LICENSED UNDER THE ACT OF DECEMBER 14,
19 1982 (P.L.1227, NO.281), KNOWN AS THE ARCHITECTS LICENSURE
20 LAW.

21 (3) A HOME INSPECTOR-IN-TRAINING PRACTICING HOME
22 INSPECTION IN THE PRESENCE AND UNDER THE DIRECT SUPERVISION
23 OF A HOME INSPECTOR LICENSED IN THIS COMMONWEALTH, PROVIDED
24 THE HOME INSPECTOR-IN-TRAINING DOES NOT HOLD HIMSELF OUT AS A
25 HOME INSPECTOR.

26 (D) COMPLIANCE.--NOTWITHSTANDING SUBSECTION (C), A PERSON
27 LICENSED OR REGISTERED AS A PROFESSIONAL ENGINEER UNDER THE
28 ENGINEER, LAND SURVEYOR AND GEOLOGIST REGISTRATION LAW, OR A
29 PERSON LICENSED OR REGISTERED UNDER THE ARCHITECTS LICENSURE
30 LAW, MUST COMPLY WITH SUBSECTION (I) AND SECTIONS 6.2, 17.1,

1 17.2 AND 17.3 WHEN PERFORMING A HOME INSPECTION. A PERSON
2 LICENSED OR REGISTERED AS A PROFESSIONAL ENGINEER, OR LICENSED
3 OR REGISTERED AS AN ARCHITECT, WHO VIOLATES THIS SUBSECTION
4 SHALL BE SUBJECT TO DISCIPLINARY ACTION, INCLUDING LICENSE OR
5 REGISTRATION SUSPENSION AND REVOCATION, AND PENALTIES UNDER THE
6 ENGINEER, LAND SURVEYOR AND GEOLOGIST REGISTRATION LAW AND THE
7 ARCHITECTS LICENSURE LAW, RESPECTIVELY.

8 (E) USE OF TITLE.--AN INDIVIDUAL WHO HOLDS A LICENSE OR IS
9 MAINTAINED ON INACTIVE STATUS MAY USE THE TITLE "LICENSED HOME
10 INSPECTOR" AND THE ABBREVIATION "L.H.I." NO OTHER INDIVIDUAL MAY
11 USE THE TITLE "LICENSED HOME INSPECTOR" OR THE TITLE "HOME
12 INSPECTOR" OR HOLD HIMSELF OUT TO OTHERS AS A HOME INSPECTOR.
13 THIS SUBSECTION INCLUDES ADVERTISING AS A HOME INSPECTOR AND
14 ADOPTING OR USING A TITLE OR DESCRIPTION, OR A DERIVATIVE OF
15 "LICENSED HOME INSPECTOR" OR "HOME INSPECTOR" AND THEIR RELATED
16 ABBREVIATIONS, WHICH IMPLIES DIRECTLY OR INDIRECTLY THAT HOME
17 INSPECTION SERVICES ARE BEING PROVIDED.

18 (F) NONTRANSFERABILITY OF LICENSE.--A LICENSE UNDER THIS
19 SECTION IS NOT TRANSFERABLE.

20 (G) EXAMINATION NOT REQUIRED.--THE BOARD MAY ISSUE A HOME
21 INSPECTOR LICENSE WITHOUT EXAMINATION TO AN APPLICANT HOLDING A
22 HOME INSPECTOR LICENSE IN ANOTHER STATE WHO SUBMITS PROOF
23 SATISFACTORY TO THE BOARD OF ALL OF THE FOLLOWING:

24 (1) THE APPLICANT IS OF GOOD MORAL CHARACTER.

25 (2) THE APPLICANT HOLDS AN UNRESTRICTED AND ACTIVE HOME
26 INSPECTOR LICENSE FROM ANOTHER STATE WHOSE LICENSURE
27 REQUIREMENTS ARE SUBSTANTIALLY EQUIVALENT TO THE REQUIREMENTS
28 FOR LICENSURE IN THIS COMMONWEALTH.

29 (3) THE APPLICANT HAS SUBMITTED AN APPLICATION
30 ACCOMPANIED BY THE APPLICATION FEE.

1 (4) THE APPLICANT HAS NOT BEEN CONVICTED OF A FELONY
2 UNDER THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC
3 ACT, OR OF AN OFFENSE UNDER THE LAWS OF ANOTHER JURISDICTION
4 WHICH IF COMMITTED IN THIS COMMONWEALTH WOULD BE A FELONY
5 UNDER THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC
6 ACT, UNLESS THE APPLICANT OTHERWISE SATISFIES THE
7 QUALIFICATIONS CONTAINED IN THIS ACT AND:

8 (I) AT LEAST FIVE YEARS HAVE ELAPSED FROM THE DATE
9 OF CONVICTION; OR

10 (II) THE APPLICANT SATISFACTORILY DEMONSTRATES TO
11 THE BOARD THAT THE APPLICANT HAS MADE SIGNIFICANT
12 PROGRESS IN PERSONAL REHABILITATION SINCE THE CONVICTION
13 SUCH THAT LICENSURE OF THE APPLICANT SHOULD NOT BE
14 EXPECTED TO CREATE A SUBSTANTIAL RISK OF HARM TO THE
15 HEALTH AND SAFETY OF CLIENTS OR THE PUBLIC, IN WHICH CASE
16 THE BOARD MAY ISSUE A PROBATIONARY LICENSE FOR THE
17 REMAINDER OF THE FIVE YEARS REQUIRED IN SUBPARAGRAPH (I).

18 (H) PROHIBITIONS.--NO AGENCY OR POLITICAL SUBDIVISION OF
19 THIS COMMONWEALTH, OTHER THAN THE BOARD, SHALL IMPOSE THE
20 FOLLOWING ON INDIVIDUALS LICENSED UNDER THIS SECTION:

21 (1) A REGISTRATION OR LICENSING REQUIREMENT FOR
22 CONDUCTING HOME INSPECTIONS.

23 (2) A LICENSE FEE TO OBTAIN A LOCAL LICENSE, EXCEPT THAT
24 THIS PROHIBITION SHALL NOT PREVENT A LOCAL GOVERNMENT FROM
25 IMPOSING AN OCCUPATIONAL LICENSE TAX ON A PERSON OPERATING AS
26 A HOME INSPECTOR WITHIN THE JURISDICTION OF THE LOCAL
27 GOVERNMENT.

28 (I) INSURANCE.--A PERSON LICENSED AS A HOME INSPECTOR SHALL
29 MAINTAIN INSURANCE AGAINST ERRORS AND OMISSIONS IN THE
30 PERFORMANCE OF A HOME INSPECTION AND GENERAL LIABILITY, WITH

1 COVERAGES OF NOT LESS THAN \$250,000 PER OCCURRENCE AND \$500,000
2 IN THE AGGREGATE AND WITH DEDUCTIBLES OF NOT MORE THAN \$15,000.
3 AN APPLICANT MUST PROVIDE PROOF THAT THE APPLICANT HAS OBTAINED
4 PROFESSIONAL LIABILITY INSURANCE. IT IS SUFFICIENT IF THE
5 APPLICANT FILES WITH THE APPLICATION A COPY OF A LETTER FROM THE
6 APPLICANT'S PROFESSIONAL LIABILITY INSURANCE CARRIER INDICATING
7 THAT THE APPLICANT WILL BE COVERED AGAINST PROFESSIONAL
8 LIABILITY IN THE REQUIRED AMOUNTS EFFECTIVE UPON THE ISSUANCE OF
9 THE APPLICANT'S LICENSE TO PRACTICE HOME INSPECTION IN THIS
10 COMMONWEALTH. UPON ISSUANCE OF THE LICENSE, THE LICENSEE MUST,
11 WITHIN 30 DAYS, SUBMIT TO THE BOARD THE CERTIFICATE OF INSURANCE
12 OR A COPY OF THE POLICY DECLARATION PAGE. A HOME INSPECTOR SHALL
13 MAINTAIN PROFESSIONAL LIABILITY INSURANCE FOR AT LEAST ONE YEAR
14 AFTER THE LATEST HOME INSPECTION REPORT THE HOME INSPECTOR
15 DELIVERS, UNLESS THE HOME INSPECTION REPORT WAS DELIVERED PRIOR
16 TO THE EFFECTIVE DATE OF THIS SECTION.

17 (J) CONSTRUCTION.--NOTHING IN THIS ACT SHALL BE CONSTRUED TO
18 ALLOW A HOME INSPECTOR WHO IS NOT LICENSED UNDER ANY OF THE
19 FOLLOWING LAWS TO PERFORM ANY ACTIVITY THAT WOULD CONSTITUTE THE
20 PRACTICE OF THE PROFESSION REGULATED BY THAT LAW:

21 (1) THE ENGINEER, LAND SURVEYOR AND GEOLOGIST
22 REGISTRATION LAW, AS TO THE PRACTICE OF ENGINEERING, LAND
23 SURVEYING OR GEOLOGY.

24 (2) THE ACT OF JANUARY 24, 1966 (1965 P.L.1535, NO.537),
25 KNOWN AS THE PENNSYLVANIA SEWAGE FACILITIES ACT.

26 (3) THE ACT OF MARCH 1, 1974 (P.L.90, NO.24), KNOWN AS
27 THE PENNSYLVANIA PESTICIDE CONTROL ACT OF 1973.

28 (4) 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 (K) OTHER LICENSEES.--THE REQUIREMENTS OF THIS ACT RELATING
2 TO THE LICENSING OF HOME INSPECTORS SHALL NOT AFFECT THE
3 OBLIGATIONS OR IMMUNITIES OF AN INDIVIDUAL LICENSED AS OTHER
4 THAN A HOME INSPECTOR UNDER THIS ACT THAT ARE IMPOSED OR
5 PROVIDED UNDER THIS ACT OR 68 PA.C.S. CH. 73 (RELATING TO SELLER
6 DISCLOSURES) WHEN THE INDIVIDUAL IS ACTING UNDER THE
7 INDIVIDUAL'S LICENSE, NOR THE OBLIGATIONS OR IMMUNITIES OF AN
8 INDIVIDUAL CERTIFIED UNDER THIS ACT AS A REAL ESTATE APPRAISER
9 WHEN THE INDIVIDUAL IS ACTING UNDER THE INDIVIDUAL'S LICENSE.

10 (L) HOME INSPECTOR-IN-TRAINING REGISTRANT.--

11 (1) THE BOARD SHALL, UPON APPLICATION AND PAYMENT OF THE
12 APPLICATION FEE ESTABLISHED BY THE BOARD, ISSUE A HOME
13 INSPECTOR-IN-TRAINING REGISTRATION, WITHOUT EXAMINATION, TO
14 ANY PERSON WHO MEETS THE HOME INSPECTOR-IN-TRAINING
15 EDUCATIONAL REQUIREMENTS SET BY THE BOARD.

16 (2) A HOME INSPECTOR-IN-TRAINING REGISTRANT SHALL KEEP A
17 RECORD OF THE MENTORED HOME INSPECTIONS COMPLETED, WHICH
18 SHALL, AT A MINIMUM, INCLUDE THE FOLLOWING INFORMATION:

19 (I) DATE AND TIME OF THE INSPECTION.

20 (II) ADDRESS OF THE RESIDENCE INSPECTED.

21 (III) BUSINESS NAME OF THE SUPERVISING INSPECTOR.

22 (IV) NAME OF THE SUPERVISING INSPECTOR.

23 (V) LICENSE NUMBER OF THE SUPERVISING INSPECTOR.

24 (VI) SIGNATURE OF THE SUPERVISING INSPECTOR.

25 (M) DEFINITION.--AS USED IN THIS SECTION, THE TERM
26 "CONVICTED" INCLUDES A JUDGMENT, AN ADMISSION OF GUILT OR A PLEA
27 OF NOLO CONTENDERE.

28 SECTION 6.2. CONDUCT OF HOME INSPECTION.

29 (A) GENERAL RULE.--A HOME INSPECTOR SHALL CONDUCT A HOME
30 INSPECTION WITH THE DEGREE OF CARE THAT A REASONABLY PRUDENT

1 HOME INSPECTOR WOULD EXERCISE. IN ASCERTAINING THE DEGREE OF
2 CARE THAT WOULD BE EXERCISED BY A REASONABLY PRUDENT HOME
3 INSPECTOR, A COURT SHALL CONSIDER THE STANDARDS OF PRACTICE AND
4 CODES OF ETHICS AS ESTABLISHED BY THE BOARD BY REGULATION.

5 (B) IMMEDIATE THREAT TO HEALTH OR SAFETY.--IF AN IMMEDIATE
6 THREAT TO HEALTH OR SAFETY IS OBSERVED DURING THE COURSE OF A
7 HOME INSPECTION AND THE HOME IS OCCUPIED, THE HOME INSPECTOR
8 SHALL DISCLOSE THE IMMEDIATE THREAT TO HEALTH OR SAFETY TO THE
9 PROPERTY OWNER AND OCCUPANTS OF THE PROPERTY AT THE CONCLUSION
10 OF THE HOME INSPECTION. POSTING A NOTICE ON A FORM PRESCRIBED BY
11 THE BOARD BY REGULATION ON THE FRONT DOOR OF THE OCCUPIED HOME
12 IN A POSITION THAT ENSURES THE OCCUPANTS SEE THE NOTICE SHALL
13 CONSTITUTE PROPER DISCLOSURE.

14 SECTION 6. SECTION 7 OF THE ACT IS AMENDED TO READ:

15 SECTION 7. RECIPROCITY.

16 THE BOARD SHALL HAVE THE POWER TO GRANT A RECIPROCAL
17 CERTIFICATION TO AN APPLICANT WHO IS CERTIFIED AS AN APPRAISER
18 OR LICENSED AS AN APPRAISER TRAINEE OR HOME INSPECTOR IN ANOTHER
19 STATE AND HAS DEMONSTRATED QUALIFICATIONS WHICH EQUAL OR EXCEED
20 THOSE REQUIRED PURSUANT TO THIS ACT IN THE DETERMINATION OF THE
21 BOARD.

22 SECTION 7. SECTION 10(A) AND (C) OF THE ACT ARE AMENDED AND
23 THE SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

24 SECTION 10. CERTIFICATION RENEWAL, LICENSURE RENEWAL AND
25 RECORDS.

26 (A) RENEWAL TERM.--

27 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), RENEWAL OF
28 REGISTRATION, CERTIFICATION OR LICENSURE SHALL BE ON A
29 BIENNIAL BASIS FOR PERSONS IN GOOD STANDING.

30 (2) THE BOARD MAY PRESCRIBE LIMITATIONS ON THE NUMBER OF

1 TIMES A REGISTERED HOME INSPECTOR-IN-TRAINING AND A LICENSED
2 APPRAISER TRAINEE MAY RENEW A REGISTRATION OR LICENSE.

3 * * *

4 (B.3) CONTINUING EDUCATION FOR HOME INSPECTORS.--A HOME
5 INSPECTOR SHALL BE REQUIRED TO OBTAIN 32 HOURS OF CONTINUING
6 EDUCATION DURING THE BIENNIAL RENEWAL PERIOD. CONTINUING
7 EDUCATION HOURS MAY BE EARNED BY COMPLETION OF CONTINUING
8 EDUCATION COURSES IN THE FIELD OF HOME INSPECTION DURING THE
9 IMMEDIATELY PRECEDING TWO YEARS AS APPROVED BY THE BOARD. THREE
10 OF THE TOTAL REQUIRED HOURS OF CONTINUING EDUCATION MUST FOCUS
11 ON THE DIFFERENCE BETWEEN THE NATIONAL MANUFACTURED HOUSING
12 CONSTRUCTION AND SAFETY STANDARDS ACT OF 1974 (PUBLIC LAW 93-
13 383, 42 U.S.C. § 5401 ET SEQ.) AND THE ACT OF MAY 11, 1972
14 (P.L.286, NO.70), KNOWN AS THE INDUSTRIALIZED HOUSING ACT, AND
15 THE INSTALLATION OF MANUFACTURED AND MODULAR HOMES.

16 (C) RECORDS.--A RECORD OF ALL PERSONS LICENSED AS APPRAISER
17 TRAINEES [AND] OR HOME INSPECTORS, ALL PERSONS CERTIFIED AS REAL
18 ESTATE APPRAISERS AND ALL PERSONS REGISTERED AS HOME INSPECTORS-
19 IN-TRAINING IN THIS COMMONWEALTH SHALL BE KEPT IN THE OFFICE OF
20 THE BOARD, SHALL BE OPEN TO PUBLIC INSPECTION AND COPYING UPON
21 PAYMENT OF A NOMINAL FEE FOR COPYING THE RECORD AND SHALL BE
22 ACCESSIBLE ON THE BOARD'S INTERNET WEBSITE. EACH REGISTRANT,
23 CERTIFICATEHOLDER AND LICENSEE SHALL ADVISE THE BOARD OF THE
24 ADDRESS OF HIS OR HER PRINCIPAL PLACE OF BUSINESS.

25 SECTION 8. SECTIONS 11(A) (1), (3), (5) AND (15) AND (B), 12,
26 13, 14, 15(B) AND 17(A) OF THE ACT ARE AMENDED TO READ:

27 SECTION 11. DISCIPLINARY AND CORRECTIVE MEASURES.

28 (A) AUTHORITY OF BOARD.--THE BOARD MAY DENY, SUSPEND OR
29 REVOKE REGISTRATIONS, CERTIFICATES OR LICENSES, OR LIMIT,
30 RESTRICT OR REPRIMAND A REGISTRANT, CERTIFICATEHOLDER OR

1 LICENSEE FOR ANY OF THE FOLLOWING CAUSES:

2 (1) PROCURING OR ATTEMPTING TO PROCURE A REGISTRATION,
3 CERTIFICATE OR LICENSE OR RENEWAL OF A REGISTRATION,
4 CERTIFICATE OR LICENSE PURSUANT TO THIS ACT BY KNOWINGLY
5 MAKING A FALSE STATEMENT, SUBMITTING FALSE INFORMATION OR
6 REFUSING TO PROVIDE COMPLETE INFORMATION IN RESPONSE TO A
7 QUESTION IN AN APPLICATION FOR REGISTRATION, CERTIFICATION OR
8 LICENSURE OR RENEWAL OF REGISTRATION, CERTIFICATION OR
9 LICENSURE THROUGH ANY FORM OF FRAUD OR MISREPRESENTATION.

10 * * *

11 (3) PAYING, OR OFFERING TO PAY, ANY VALUABLE
12 CONSIDERATION OTHER THAN PROVIDED FOR BY THIS ACT TO ANY
13 MEMBER OR EMPLOYEE OF THE BOARD TO PROCURE A REGISTRATION,
14 CERTIFICATE OR LICENSE UNDER THIS ACT.

15 * * *

16 (5) PERFORMING AN ACT OR OMITTING AN ACT WHEN SUCH
17 PERFORMANCE OR OMISSION INVOLVES DISHONESTY, FRAUD OR
18 MISREPRESENTATION WITH INTENT TO SUBSTANTIALLY BENEFIT THE
19 REGISTRANT, CERTIFICATEHOLDER OR LICENSEE IN HIS PROFESSION
20 OR WITH THE INTENT TO SUBSTANTIALLY INJURE ANOTHER PERSON.

21 * * *

22 (15) HAVING A LICENSE OR CERTIFICATE TO PERFORM
23 APPRAISALS OR HOME INSPECTIONS SUSPENDED, REVOKED OR REFUSED
24 BY AN APPRAISAL LICENSURE OR CERTIFICATION AUTHORITY OF
25 ANOTHER STATE, TERRITORY OR COUNTRY, OR RECEIVING OTHER
26 DISCIPLINARY ACTIONS BY THE APPRAISAL OR HOME INSPECTION
27 LICENSURE OR CERTIFICATION AUTHORITY OF ANOTHER STATE,
28 TERRITORY OR COUNTRY.

29 * * *

30 (B) BOARD ACTION.--WHEN THE BOARD FINDS THAT THE

1 REGISTRATION, CERTIFICATE OR LICENSE, APPLICATION FOR
2 REGISTRATION, CERTIFICATION OR LICENSURE OR RENEWAL OF
3 REGISTRATION, CERTIFICATION OR LICENSURE OF ANY PERSON MAY BE
4 DENIED, REVOKED, RESTRICTED OR SUSPENDED UNDER THE TERMS OF
5 SUBSECTION (A), THE BOARD MAY:

6 (1) DENY THE APPLICATION FOR REGISTRATION, CERTIFICATION
7 OR LICENSURE OR FOR RENEWAL OF REGISTRATION, CERTIFICATION OR
8 LICENSURE.

9 (2) ADMINISTER A PUBLIC REPRIMAND.

10 (3) REVOKE, SUSPEND, LIMIT OR OTHERWISE RESTRICT A
11 REGISTRATION, CERTIFICATE OR LICENSE AS DETERMINED BY THE
12 BOARD.

13 (4) SUSPEND ENFORCEMENT OF ITS FINDINGS THEREOF AND
14 PLACE A REGISTRANT, CERTIFICATEHOLDER OR LICENSEE ON
15 PROBATION WITH THE RIGHT TO VACATE THE PROBATIONARY ORDER FOR
16 NONCOMPLIANCE.

17 (5) RESTORE A SUSPENDED REGISTRATION, CERTIFICATE OR
18 LICENSE AND IMPOSE ANY DISCIPLINARY OR CORRECTIVE MEASURE
19 WHICH IT MIGHT ORIGINALLY HAVE IMPOSED.

20 * * *

21 SECTION 12. REINSTATEMENT OF CERTIFICATE OR LICENSE.

22 UNLESS ORDERED TO DO SO BY COMMONWEALTH COURT OR AN APPEAL
23 THEREFROM, THE BOARD SHALL NOT REINSTATE THE CERTIFICATE [OR],
24 LICENSE OR REGISTRATION OF A PERSON TO PRACTICE AS A CERTIFIED
25 REAL ESTATE APPRAISER OR AS AN APPRAISER TRAINEE OR AS A
26 LICENSED HOME INSPECTOR OR AS A REGISTERED HOME INSPECTOR-IN-
27 TRAINING, PURSUANT TO THIS ACT, WHICH HAS BEEN REVOKED. ANY
28 PERSON WHOSE CERTIFICATE [OR], LICENSE OR REGISTRATION HAS BEEN
29 REVOKED MAY APPLY FOR REINSTATEMENT, AFTER A PERIOD OF AT LEAST
30 FIVE YEARS, BUT MUST MEET ALL OF THE CERTIFICATION [OR],

1 LICENSURE OR REGISTRATION QUALIFICATIONS OF THIS ACT, INCLUDING
2 THE EXAMINATION REQUIREMENT, IF HE OR SHE DESIRES TO HOLD
3 HIMSELF OR HERSELF OUT OR TO PRACTICE AS A REAL ESTATE APPRAISER
4 OR HOME INSPECTOR OR HOME INSPECTOR-IN-TRAINING PURSUANT TO THIS
5 ACT AT ANY TIME AFTER SUCH REVOCATION.

6 SECTION 13. REPORTING OF MULTIPLE CERTIFICATION OR LICENSURE.

7 ANY APPRAISER CERTIFIED IN THIS COMMONWEALTH WHO IS ALSO
8 CERTIFIED OR LICENSED TO PERFORM APPRAISALS IN ANY OTHER STATE,
9 TERRITORY OR COUNTRY SHALL REPORT THIS INFORMATION TO THE BOARD
10 ON THE BIENNIAL RENEWAL APPLICATION. ANY HOME INSPECTOR LICENSED
11 IN THIS COMMONWEALTH WHO IS ALSO CERTIFIED OR LICENSED TO
12 PERFORM HOME INSPECTIONS IN ANY OTHER STATE, TERRITORY OR
13 COUNTRY SHALL REPORT THIS INFORMATION TO THE BOARD ON THE
14 BIENNIAL RENEWAL APPLICATION. ANY DISCIPLINARY ACTION TAKEN IN
15 ANY OTHER STATE, TERRITORY OR COUNTRY SHALL BE REPORTED TO THE
16 BOARD ON THE BIENNIAL RENEWAL APPLICATION, OR WITHIN 90 DAYS OF
17 DISPOSITION, WHICHEVER IS SOONER. MULTIPLE LICENSURE OR
18 CERTIFICATION SHALL BE NOTED BY THE BOARD ON THE CERTIFIED
19 APPRAISER'S OR LICENSED HOME INSPECTOR'S RECORD, AND SUCH STATE,
20 TERRITORY OR COUNTRY SHALL BE NOTIFIED BY THE BOARD OF ANY
21 DISCIPLINARY ACTIONS TAKEN AGAINST SAID CERTIFIED APPRAISER OR
22 LICENSED HOME INSPECTOR IN THIS COMMONWEALTH.

23 SECTION 14. SURRENDER OF SUSPENDED OR REVOKED REGISTRATION,
24 CERTIFICATE OR LICENSE.

25 THE BOARD SHALL REQUIRE A PERSON WHOSE REGISTRATION,
26 CERTIFICATE OR LICENSE HAS BEEN SUSPENDED OR REVOKED TO RETURN
27 THE REGISTRATION, CERTIFICATE OR LICENSE IN SUCH MANNER AS THE
28 BOARD DIRECTS. FAILURE TO DO SO SHALL BE A MISDEMEANOR OF THE
29 THIRD DEGREE.

30 SECTION 15. PENALTIES.

1 * * *

2 (B) CIVIL PENALTY.--IN ADDITION TO ANY OTHER CIVIL REMEDY OR
3 CRIMINAL PENALTY PROVIDED FOR IN THIS ACT, THE BOARD, BY A VOTE
4 OF THE MAJORITY OF THE MAXIMUM NUMBER OF THE AUTHORIZED
5 MEMBERSHIP OF THE BOARD AS PROVIDED BY LAW, OR BY A VOTE OF THE
6 MAJORITY OF THE DULY QUALIFIED AND CONFIRMED MEMBERSHIP OR A
7 MINIMUM OF THREE MEMBERS, WHICHEVER IS GREATER, MAY LEVY A CIVIL
8 PENALTY OF UP TO \$10,000 ON ANY CERTIFICATEHOLDER [OR] LICENSEE
9 OR REGISTRANT WHO VIOLATES ANY PROVISION OF THIS ACT [OR] ANY
10 NONCERTIFICATEHOLDER WHO HOLDS HIMSELF OUT AS A REAL ESTATE
11 APPRAISER IN THIS COMMONWEALTH OR WHO PERFORMS AN APPRAISAL FOR
12 WHICH CERTIFICATION OR LICENSURE IS REQUIRED UNDER THE FINANCIAL
13 INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989
14 (PUBLIC LAW 101-73, 103 STAT. 183) AN APPRAISAL IN ANY FEDERALLY
15 RELATED OR NONFEDERALLY RELATED TRANSACTION OR ANY OTHER
16 APPRAISAL[.] OR ANY NONLICENSED INDIVIDUAL WHO HOLDS HIMSELF OUT
17 AS A HOME INSPECTOR IN THIS COMMONWEALTH OR WHO PERFORMS A HOME
18 INSPECTION FOR WHICH CERTIFICATION OR LICENSURE IS REQUIRED. THE
19 BOARD SHALL LEVY THIS PENALTY ONLY AFTER AFFORDING THE ACCUSED
20 PARTY THE OPPORTUNITY FOR A HEARING, AS PROVIDED IN 2 PA.C.S.
21 (RELATING TO ADMINISTRATIVE LAW AND PROCEDURE).

22 * * *

23 SECTION 17. INJUNCTIVE RELIEF.

24 (A) INJUNCTION.--A VIOLATION OF SECTION 3 OR 6(C) OR (E) MAY
25 BE ENJOINED BY THE COURTS UPON PETITION OF THE SECRETARY OR THE
26 BOARD. IN ANY PROCEEDING UNDER THIS SECTION, IT SHALL NOT BE
27 NECESSARY TO SHOW THAT ANY PERSON IS INDIVIDUALLY INJURED BY THE
28 ACTIONS COMPLAINED OF. IF THE COURT FINDS THAT THE RESPONDENT
29 HAS VIOLATED SECTION 3 OR 6.1(C) OR (E), IT SHALL ENJOIN HIM OR
30 HER FROM SO PRACTICING OR HOLDING HIMSELF OR HERSELF OUT UNTIL

1 HE OR SHE HAS BEEN DULY CERTIFIED OR LICENSED. PROCEDURE IN SUCH
2 CASES SHALL BE THE SAME AS IN ANY OTHER INJUNCTION SUIT.

3 * * *

4 SECTION 9. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

5 SECTION 17.1. REMEDIES FOR HOME INSPECTION SERVICES CONSUMERS.

6 (A) UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW.--THE
7 PERFORMANCE OF A HOME INSPECTION IS A SERVICE SUBJECT TO THE ACT
8 OF DECEMBER 17, 1968 (P.L.1224, NO.387), KNOWN AS THE UNFAIR
9 TRADE PRACTICES AND CONSUMER PROTECTION LAW.

10 (B) WRONGFUL ACTS.--THE FOLLOWING ACTS ENGAGED IN BY A HOME
11 INSPECTOR, AN EMPLOYER OF A HOME INSPECTOR OR ANOTHER BUSINESS
12 OR PERSON THAT CONTROLS OR HAS A FINANCIAL INTEREST IN THE
13 EMPLOYER OF A HOME INSPECTOR SHALL BE DEEMED TO BE AN UNFAIR OR
14 DECEPTIVE ACT OR PRACTICE AS DEFINED BY SECTION 2(4) OF THE
15 UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW:

16 (1) PERFORMING OR OFFERING TO PERFORM FOR AN ADDITIONAL
17 FEE ANY REPAIRS TO A STRUCTURE WITH RESPECT TO WHICH THE HOME
18 INSPECTOR, THE EMPLOYER OF THE HOME INSPECTOR OR OTHER
19 BUSINESS OR PERSON HAS PREPARED A HOME INSPECTION REPORT
20 WITHIN THE PRECEDING 12 MONTHS, EXCEPT THAT THIS PARAGRAPH
21 SHALL NOT APPLY TO REMEDIATION FOR RADON OR WOOD-DESTROYING
22 INSECTS.

23 (2) INSPECTING FOR A FEE ANY PROPERTY IN WHICH THE HOME
24 INSPECTOR, THE EMPLOYER OF THE HOME INSPECTOR OR OTHER
25 BUSINESS OR PERSON HAS A FINANCIAL INTEREST OR AN INTEREST IN
26 THE TRANSFER OF THE PROPERTY, INCLUDING RECEIPT OF A BOARD AS
27 AN AGENT, UNLESS THE FINANCIAL INTEREST OR INTEREST IN THE
28 TRANSFER OF THE PROPERTY IS DISCLOSED IN WRITING TO THE BUYER
29 BEFORE THE HOME INSPECTION IS PERFORMED AND THE BUYER SIGNS
30 AN ACKNOWLEDGMENT OF RECEIPT OF THE DISCLOSURE.

1 (3) OFFERING OR DELIVERING A COMMISSION, REFERRAL FEE OR
2 KICKBACK TO THE SELLER OF THE INSPECTED PROPERTY OR TO AN
3 AGENT FOR THE SELLER OR BUYER FOR THE REFERRAL OF BUSINESS TO
4 THE HOME INSPECTOR, THE EMPLOYER OF THE HOME INSPECTOR OR
5 OTHER BUSINESS OR PERSON.

6 (4) ACCEPTING AN ENGAGEMENT TO PERFORM A HOME INSPECTION
7 OR TO PREPARE A HOME INSPECTION REPORT IN WHICH THE
8 EMPLOYMENT ITSELF OR THE FEE PAYABLE FOR THE INSPECTION IS
9 CONTINGENT UPON THE CONCLUSIONS IN THE REPORT, PREESTABLISHED
10 OR PRESCRIBED FINDINGS OR THE CLOSING OF THE TRANSACTION.

11 (C) HOME WARRANTY COMPANY.--A HOME WARRANTY COMPANY THAT IS
12 AFFILIATED WITH OR RETAINS THE HOME INSPECTOR DOES NOT VIOLATE
13 SUBSECTION (B) IF THE HOME WARRANTY COMPANY PERFORMS REPAIRS IN
14 ACCORDANCE WITH CLAIMS MADE UNDER A HOME WARRANTY CONTRACT.

15 (D) OTHER REMEDIES.--IN ADDITION TO OTHER REMEDIES AVAILABLE
16 UNDER THE UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW OR
17 OTHER APPLICABLE PROVISION OF LAW, THE OWNER OF A PROPERTY ON
18 WHICH REPAIRS ARE PERFORMED IN VIOLATION OF SUBSECTION (B) (1)
19 SHALL BE ENTITLED TO A FULL REFUND OF MONEY PAID FOR THOSE
20 REPAIRS, AND A PROMISSORY NOTE OR ANOTHER OBLIGATION TO PAY
21 GIVEN TO THE PERSON PERFORMING THOSE REPAIRS SHALL BE VOID.
22 SECTION 17.2. HOME INSPECTION CONTRACTS.

23 (A) REQUIRED PROVISIONS.--A HOME INSPECTION CONTRACT MUST BE
24 TYPEWRITTEN AND INCLUDE ALL OF THE FOLLOWING:

25 (1) SIGNATURE OF CLIENT.

26 (2) SCOPE OF HOME INSPECTION.

27 (3) FEE CHARGED TO CLIENT.

28 (4) CONTACT INFORMATION OF HOME INSPECTOR.

29 (5) LICENSE NUMBER OF HOME INSPECTOR.

30 (6) A STATEMENT EXPLAINING THE CONFIDENTIALITY BETWEEN

1 THE HOME INSPECTOR AND THE CLIENT.

2 (B) PROHIBITED PROVISIONS.--THE FOLLOWING TYPES OF
3 PROVISIONS IN A CONTRACT WITH A HOME INSPECTOR FOR THE
4 PERFORMANCE OF A HOME INSPECTION ARE CONTRARY TO PUBLIC POLICY,
5 AND THE CLAUSE SHALL BE UNENFORCEABLE AS IT RELATES TO:

6 (1) A LIMITATION ON THE LIABILITY OF THE HOME INSPECTOR
7 FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

8 (2) A WAIVER OR MODIFICATION OF ANY PROVISION OF THIS
9 SECTION OR SECTION 6.2, 17.1 OR 17.3.

10 SECTION 17.3. HOME INSPECTION REPORTS.

11 (A) CONTENTS.--A HOME INSPECTION REPORT MUST BE TYPEWRITTEN
12 AND INCLUDE ALL OF THE FOLLOWING:

13 (1) A DESCRIPTION OF THE SCOPE OF THE INSPECTION,
14 INCLUDING IDENTIFICATION OF THE ESSENTIAL COMPONENTS AND
15 SYSTEMS AND SUBSYSTEMS COVERED BY THE REPORT.

16 (2) A DESCRIPTION OF MATERIAL DEFECTS NOTED DURING THE
17 INSPECTION, ALONG WITH A RECOMMENDATION THAT CERTAIN EXPERTS
18 BE RETAINED TO DETERMINE THE EXTENT OF THE DEFECTS AND THE
19 CORRECTIVE ACTION THAT SHOULD BE TAKEN.

20 (3) IF, AT THE TIME OF THE INSPECTION, THERE IS VISIBLE
21 EVIDENCE OF THE PRESENCE OF INTERIOR MOLD, THE HOME INSPECTOR
22 MUST DISCLOSE IN THE HOME INSPECTION REPORT THE VISIBLE
23 EVIDENCE AND THE LOCATION AND ADVISE THE CLIENT TO OBTAIN A
24 PROFESSIONAL EVALUATION.

25 (4) THE FOLLOWING STATEMENTS, SET FORTH CONSPICUOUSLY:

26 (I) 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 (II) THE RESULTS OF THIS HOME INSPECTION ARE NOT
2 INTENDED TO MAKE A REPRESENTATION REGARDING THE PRESENCE
3 OR 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 (III) IF THE PERSON CONDUCTING YOUR HOME INSPECTION
8 IS NOT A LICENSED STRUCTURAL ENGINEER OR OTHER
9 PROFESSIONAL WHOSE LICENSE AUTHORIZES THE RENDERING OF AN
10 OPINION AS TO THE STRUCTURAL INTEGRITY OF A BUILDING OR
11 THE BUILDING'S OTHER COMPONENT PARTS, YOU MAY BE ADVISED
12 TO SEEK A PROFESSIONAL OPINION AS TO ANY DEFECTS OR
13 CONCERNS MENTIONED IN THE REPORT.

14 (IV) THIS HOME INSPECTION REPORT IS NOT TO BE
15 CONSTRUED AS AN APPRAISAL AND MAY NOT BE USED AS SUCH FOR
16 ANY PURPOSE.

17 (B) DELIVERY OF REPORT.--EXCEPT AS OTHERWISE REQUIRED BY
18 THIS SUBSECTION OR BY LAW, A HOME INSPECTOR MAY NOT DELIVER A
19 HOME INSPECTION REPORT TO A PERSON OTHER THAN THE CLIENT OF THE
20 HOME INSPECTOR WITHOUT THE CLIENT'S CONSENT. THE PROPERTY OWNER
21 SHALL HAVE THE RIGHT, UPON REQUEST, TO RECEIVE WITHOUT CHARGE A
22 COPY OF A HOME INSPECTION REPORT FROM THE PERSON FOR WHOM THE
23 HOME INSPECTION REPORT WAS PREPARED. IF IMMEDIATE THREATS TO
24 HEALTH OR SAFETY ARE OBSERVED DURING THE COURSE OF THE
25 INSPECTION AND IF THE PREMISES ARE OCCUPIED, THE CLIENT HEREBY
26 CONSENTS TO ALLOW THE HOME INSPECTOR TO DISCLOSE THE IMMEDIATE
27 THREATS TO HEALTH OR SAFETY TO THE PROPERTY OWNER AND OCCUPANTS
28 OF THE PROPERTY.

29 (C) COST OF REPAIRS.--A HOME INSPECTOR MAY NOT EXPRESS
30 EITHER ORALLY OR IN WRITING AN ESTIMATE OF THE COST TO REPAIR A

1 DEFECT FOUND DURING A HOME INSPECTION.

2 (D) LIABILITY.--A HOME INSPECTOR SHALL NOT BE HELD LIABLE
3 FOR THE CONTENTS OR OMISSIONS OF A HOME INSPECTION REPORT IF
4 RELIED UPON BY ANY INDIVIDUAL OR PERSON OTHER THAN THE CLIENT AS
5 IDENTIFIED BY THE EXECUTED CONTRACT FOR THE SPECIFIC HOME
6 INSPECTION.

7 (E) LIMITATION PERIOD.--AN ACTION TO RECOVER DAMAGES ARISING
8 FROM A HOME INSPECTION REPORT MUST BE COMMENCED WITHIN ONE YEAR
9 AFTER THE DATE THE REPORT IS DELIVERED REGARDLESS OF WHEN THE
10 CLAIM IS DISCOVERED BY THE CLIENT.

11 SECTION 10. REPEALS ARE AS FOLLOWS:

12 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
13 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THIS ACT.

14 (2) THE PROVISIONS OF 68 PA.C.S. CH. 75 ARE REPEALED.

15 SECTION 11. THE STATE BOARD OF CERTIFIED REAL ESTATE
16 APPRAISERS SHALL PROMULGATE FINAL REGULATIONS TO CARRY OUT THIS
17 ACT WITHIN 18 MONTHS OF THE EFFECTIVE DATE OF THIS SECTION. THE
18 BOARD SHALL REPORT, WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS
19 SECTION AND EVERY 30 DAYS THEREAFTER, ON THE STATUS OF THE
20 REGULATIONS TO THE CONSUMER PROTECTION AND PROFESSIONAL
21 LICENSURE COMMITTEE OF THE SENATE AND THE PROFESSIONAL LICENSURE
22 COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

23 SECTION 12. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

24 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
25 IMMEDIATELY:

26 (I) THIS SECTION.

27 (II) SECTION 11 OF THIS ACT.

28 (III) THE AMENDMENT OF SECTION 4(A) OF THE ACT.

29 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN TWO
30 YEARS.