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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1428 Session of  
2023

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INTRODUCED BY O'NEAL, JUNE 20, 2023

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REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, JUNE 20, 2023

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AN ACT

1 Amending the act of July 10, 1990 (P.L.404, No.98), entitled "An  
2 act providing for the certification of real estate  
3 appraisers; specifying requirements for certification;  
4 providing for sanctions and penalties; and making an  
5 appropriation," further providing for title of act, for  
6 definitions, for State Board of Certified Real Estate  
7 Appraisers, for powers and duties of board and for  
8 application and qualifications; providing for application and  
9 qualifications of home inspectors and home inspectors-in-  
10 training and for conduct of home inspection; further  
11 providing for reciprocity, for certification renewal,  
12 licensure renewal and records, for disciplinary and  
13 corrective measures, for reinstatement of certificate or  
14 license, for reporting of multiple certification, for  
15 surrender of suspended or revoked certificate or license, for  
16 penalties and for injunctive relief; providing for remedies  
17 for home inspection services consumers, for home inspection  
18 contracts and for home inspection reports; and making a  
19 repeal.

20 The General Assembly of the Commonwealth of Pennsylvania  
21 hereby enacts as follows:

22 Section 1. The title of the act of July 10, 1990 (P.L.404,  
23 No.98), known as the Real Estate Appraisers Certification Act,  
24 is amended to read:

25 AN ACT

26 Providing for the certification of real estate appraisers and  
27 licensure of home inspectors; specifying requirements for

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 and smart home 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), (b), (c.1) and (k) of the act are  
11 amended and the section is amended by adding a subsection to  
12 read:

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

14 (a) Creation.--There is hereby created the State Board of  
15 Certified Real Estate Appraisers as a departmental  
16 administrative board in the Department of State. The board shall  
17 consist of the following members:

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

19 (2) The Attorney General or a designee.

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

21 (4) [Ten members who are citizens of the United States

22 and who have been residents of this Commonwealth for a two-

23 year period immediately prior to appointment. Six of the

24 members shall be State-certified real estate appraisers, two

25 of the members shall be certified Pennsylvania evaluators and

26 two of the members shall be public members. Nothing in this

27 paragraph shall prohibit the appointment of a professional

28 member who is a certified Pennsylvania evaluator and also a

29 State-certified real estate appraiser, except that the

30 appointment shall specify in which capacity the member is

1 being appointed.] Fourteen members who are citizens of the  
2 United States and who have been residents of this  
3 Commonwealth for a two-year period immediately prior to  
4 appointment. Eight of the members shall be State-certified  
5 real estate appraisers, two of the members shall be certified  
6 Pennsylvania evaluators, two of the members shall be  
7 qualified home inspectors and two of the members shall be  
8 public members. If a member is qualified in more than one  
9 profession specified in this paragraph, the appointment shall  
10 specify in which capacity the member is being appointed.

11 (b) Term of office.--The professional and public members  
12 shall serve four-year terms, except as provided in subsection  
13 (c) or [(c.1)] (c.2), and shall be appointed by the Governor by  
14 and with the advice and consent of a majority of the members  
15 elected to the Senate.

16 \* \* \*

17 [(c.1) Initial appointments of certified Pennsylvania  
18 evaluators.--Within 90 days of the effective date of this  
19 subsection, the Governor shall nominate one certified  
20 Pennsylvania evaluator to serve a two-year term and one  
21 certified Pennsylvania evaluator to serve a four-year term.]

22 (c.2) Appointments of certified Pennsylvania evaluators and  
23 qualified home inspectors.--Within 90 days of the effective date  
24 of this subsection, the Governor shall nominate one certified  
25 Pennsylvania evaluator and one qualified home inspector to serve  
26 a two-year term and one certified Pennsylvania evaluator and one  
27 qualified home inspector to serve a four-year term.

28 \* \* \*

29 (k) Notice.--Reasonable notice of all meetings shall be  
30 given in conformity with [the act of July 3, 1986 (P.L.388,

1 No.84), known as the Sunshine Act] 65 Pa.C.S. Ch. 7 (relating to  
2 open meetings).

3 \* \* \*

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

6 Section 5. Powers and duties of board.

7 The board shall have the following powers and duties:

8 (1) To pass upon the qualifications and fitness of  
9 applicants for certification or licensure and to adopt and  
10 revise rules and regulations requiring applicants for  
11 registration, certification or licensure to pass examinations  
12 relating to their qualifications for registration,  
13 certification or licensure.

14 \* \* \*

15 (3) To examine for, deny, approve, issue, revoke,  
16 suspend or renew certificates of appraisers, registrations of  
17 home inspectors-in-training and licenses of appraiser  
18 trainees and home inspectors pursuant to this act and to  
19 conduct hearings in connection therewith.

20 \* \* \*

21 (6) To establish fees for the operation of the board,  
22 including fees for the issuance and renewal of registrations,  
23 certificates and licenses and for examinations.

24 \* \* \*

25 Section 6. Application and qualifications of certified real  
26 estate appraisers.

27 \* \* \*

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

29 Section 6.1. Application and qualifications of home inspectors  
30 and home inspectors-in-training.

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

4 (1) The applicant is of a good moral character. In  
5 assessing the moral character of an applicant with a criminal  
6 conviction, the board shall conduct an individualized  
7 assessment in accordance with 63 Pa.C.S. § 3113 (relating to  
8 consideration of criminal convictions).

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

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

12 (4) The applicant:

13 (i) has completed no less than 80 hours of board-  
14 approved instruction;

15 (ii) is registered as a home inspector-in-training;  
16 and

17 (iii) has completed no less than 50 mentored home  
18 inspections completed in the presence and under the  
19 direct supervision of a home inspector licensed in this  
20 Commonwealth. A home inspection report prepared by a home  
21 inspector-in-training shall be used for training purposes  
22 only and may not be provided to a client.

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

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

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

1 alcohol, narcotics or other habit-forming drugs.

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

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

8 (ii) If the applicant has resided outside this  
9 Commonwealth for any time in the five years immediately  
10 preceding the date of application, a report to the board  
11 of Federal criminal identification and crime records  
12 under 28 U.S.C. § 534(a) (4) (relating to acquisition,  
13 preservation, and exchange of identification records and  
14 information; appointment of officials).

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

19 (1) Is an active home inspector.

20 (2) Meets the qualifications described in subsection (a)  
21 (2), (3), (6), (7) and (8).

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

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

27 (ii) performed or participated in 100 home  
28 inspections and has passed a recognized or accredited  
29 examination testing knowledge of the proper procedures  
30 for conducting a home inspection.



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

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

7 (2) An individual licensed under the act of December 14,  
8 1982 (P.L.1227, No.281), known as the Architects Licensure  
9 Law.

10 (3) A home inspector-in-training practicing home  
11 inspection in the presence and under the direct supervision  
12 of a home inspector licensed in this Commonwealth, provided  
13 the home inspector-in-training does not hold himself out as a  
14 home inspector.

15 (d) Compliance.--Notwithstanding subsection (c), a person  
16 licensed or registered as a professional engineer under the  
17 Engineer, Land Surveyor and Geologist Registration Law, or a  
18 person licensed or registered under the Architects Licensure  
19 Law, must comply with subsection (i) and sections 6.2, 17.1,  
20 17.2 and 17.3 when performing a home inspection. A person  
21 licensed or registered as a professional engineer, or licensed  
22 or registered as an architect, who violates this subsection  
23 shall be subject to disciplinary action, including license or  
24 registration suspension and revocation, and penalties under the  
25 Engineer, Land Surveyor and Geologist Registration Law and the  
26 Architects Licensure Law, respectively.

27 (e) Use of title.--An individual who holds a license or is  
28 maintained on inactive status may use the title "Licensed Home  
29 Inspector" and the abbreviation "L.H.I." No other individual may  
30 use the title "Licensed Home Inspector" or the title "Home

1 Inspector" or hold himself out to others as a home inspector.  
2 This subsection includes advertising as a home inspector and  
3 adopting or using a title or description, or a derivative of  
4 "Licensed Home Inspector" or "Home Inspector" and their related  
5 abbreviations, which implies directly or indirectly that home  
6 inspection services are being provided.

7 (f) Nontransferability of license.--A license under this  
8 section is not transferable.

9 (g) Examination not required.--The board may issue a home  
10 inspector license without examination to an applicant holding a  
11 home inspector license in another state who submits proof  
12 satisfactory to the board of all of the following:

13 (1) The applicant is of a good moral character. In  
14 assessing the moral character of an applicant with a criminal  
15 conviction, the board shall conduct an individualized  
16 assessment in accordance with 63 Pa.C.S. § 3113.

17 (2) The applicant holds an unrestricted and active home  
18 inspector license from another state whose licensure  
19 requirements are substantially equivalent to the requirements  
20 for licensure in this Commonwealth.

21 (3) The applicant has submitted an application  
22 accompanied by the application fee.

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

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

28 (ii) If the applicant has resided outside this  
29 Commonwealth for any time in the five years immediately  
30 preceding the date of application, a report to the board

1 of Federal criminal identification and crime records  
2 under 28 U.S.C. § 534(a)(4).

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

6 (1) A registration or licensing requirement for  
7 conducting home inspections.

8 (2) A license fee to obtain a local license, except that  
9 this prohibition shall not prevent a local government from  
10 imposing an occupational license tax on a person operating as  
11 a home inspector within the jurisdiction of the local  
12 government.

13 (i) Insurance.--A person licensed as a home inspector shall  
14 maintain insurance against errors and omissions in the  
15 performance of a home inspection and general liability, with  
16 coverages of not less than \$250,000 per occurrence and \$500,000  
17 in the aggregate and with deductibles of not more than \$15,000.  
18 An applicant must provide proof that the applicant has obtained  
19 professional liability insurance. It is sufficient if the  
20 applicant files with the application a copy of a letter from the  
21 applicant's professional liability insurance carrier indicating  
22 that the applicant will be covered against professional  
23 liability in the required amounts effective upon the issuance of  
24 the applicant's license to practice home inspection in this  
25 Commonwealth. Upon issuance of the license, the licensee must,  
26 within 30 days, submit to the board the certificate of insurance  
27 or a copy of the policy declaration page. A home inspector shall  
28 maintain professional liability insurance for at least one year  
29 after the latest home inspection report the home inspector  
30 delivers, unless the home inspection report was delivered prior

1 to the effective date of this section.

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

6 (1) The Engineer, Land Surveyor and Geologist  
7 Registration Law, as to the practice of engineering, land  
8 surveying or geology.

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

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

13 (4) The Architects Licensure Law.

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

16 (k) Other licensees.--The requirements of this act relating  
17 to the licensing of home inspectors shall not affect the  
18 obligations or immunities of an individual licensed as other  
19 than a home inspector under this act that are imposed or  
20 provided under this act or 68 Pa.C.S. Ch. 73 (relating to seller  
21 disclosures) when the individual is acting under the  
22 individual's license, nor the obligations or immunities of an  
23 individual certified under this act as a real estate appraiser  
24 when the individual is acting under the individual's license.

25 (l) Home inspector-in-training registrant.--

26 (1) The board shall, upon application and payment of the  
27 application fee established by the board, issue a home  
28 inspector-in-training registration, without examination, to  
29 any person who meets the home inspector-in-training  
30 educational requirements set by the board.

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

4           (i) Date and time of the inspection.

5           (ii) Address of the residence inspected.

6           (iii) Business name of the supervising inspector.

7           (iv) Name of the supervising inspector.

8           (v) License number of the supervising inspector.

9           (vi) Signature of the supervising inspector.

10 Section 6.2. Conduct of home inspection.

11       (a) General rule.--A home inspector shall conduct a home  
12 inspection with the degree of care that a reasonably prudent  
13 home inspector would exercise. In ascertaining the degree of  
14 care that would be exercised by a reasonably prudent home  
15 inspector, a court shall consider the standards of practice and  
16 codes of ethics as established by the board by regulation.

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

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

27       Section 7. Reciprocity.

28       The board shall have the power to grant a reciprocal  
29 certification to an applicant who is certified as an appraiser  
30 or licensed as an appraiser trainee or home inspector in another

1 state and has demonstrated qualifications which equal or exceed  
2 those required pursuant to this act in the determination of the  
3 board.

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

6 Section 10. Certification renewal, licensure renewal and  
7 records.

8 (a) Renewal term.--

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

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

15 \* \* \*

16 (b.3) Continuing education for home inspectors.--A home  
17 inspector shall be required to obtain 32 hours of continuing  
18 education during the biennial renewal period. Continuing  
19 education hours may be earned by completion of continuing  
20 education courses in the field of home inspection during the  
21 immediately preceding two years as approved by the board. Three  
22 of the total required hours of continuing education must focus  
23 on the difference between 42 U.S.C. Ch. 70 (relating to  
24 manufactured home construction and safety standards) and the act  
25 of May 11, 1972 (P.L.286, No.70), known as the Industrialized  
26 Housing Act, and the installation of manufactured and modular  
27 homes.

28 (c) Records.--A record of all persons licensed as appraiser  
29 trainees [and] or home inspectors, all persons certified as real  
30 estate appraisers and all persons registered as home inspectors--

1 in-training in this Commonwealth shall be kept in the office of  
2 the board, shall be open to public inspection and copying upon  
3 payment of a nominal fee for copying the record and shall be  
4 accessible on the board's Internet website. Each registrant,  
5 certificateholder and licensee shall advise the board of the  
6 address of his or her principal place of business.

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

9 Section 11. Disciplinary and corrective measures.

10 (a) Authority of board.--The board may deny, suspend or  
11 revoke registrations, certificates or licenses, or limit,  
12 restrict or reprimand a registrant, certificateholder or  
13 licensee for any of the following causes:

14 (1) Procuring or attempting to procure a registration,  
15 certificate or license or renewal of a registration,  
16 certificate or license pursuant to this act by knowingly  
17 making a false statement, submitting false information or  
18 refusing to provide complete information in response to a  
19 question in an application for registration, certification or  
20 licensure or renewal of registration, certification or  
21 licensure through any form of fraud or misrepresentation.

22 \* \* \*

23 (3) Paying, or offering to pay, any valuable  
24 consideration other than provided for by this act to any  
25 member or employee of the board to procure a registration,  
26 certificate or license under this act.

27 \* \* \*

28 (5) Performing an act or omitting an act when such  
29 performance or omission involves dishonesty, fraud or  
30 misrepresentation with intent to substantially benefit the

1 registrant, certificateholder or licensee in his profession  
2 or with the intent to substantially injure another person.

3 \* \* \*

4 (15) Having a license or certificate to perform  
5 appraisals or home inspections suspended, revoked or refused  
6 by an appraisal licensure or certification authority of  
7 another state, territory or country, or receiving other  
8 disciplinary actions by the appraisal or home inspection  
9 licensure or certification authority of another state,  
10 territory or country.

11 \* \* \*

12 (b) Board action.--When the board finds that the  
13 registration, certificate or license, application for  
14 registration, certification or licensure or renewal of  
15 registration, certification or licensure of any person may be  
16 denied, revoked, restricted or suspended under the terms of  
17 subsection (a), the board may:

18 (1) Deny the application for registration, certification  
19 or licensure or for renewal of registration, certification or  
20 licensure.

21 (2) Administer a public reprimand.

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

25 (4) Suspend enforcement of its findings thereof and  
26 place a registrant, certificateholder or licensee on  
27 probation with the right to vacate the probationary order for  
28 noncompliance.

29 (5) Restore a suspended registration, certificate or  
30 license and impose any disciplinary or corrective measure



1 which it might originally have imposed.

2 \* \* \*

3 Section 12. Reinstatement of registration, certificate or  
4 license.

5 Unless ordered to do so by Commonwealth Court or an appeal  
6 therefrom, the board shall not reinstate the certificate [or],  
7 license or registration of a person to practice as a certified  
8 real estate appraiser or as an appraiser trainee or as a  
9 licensed home inspector or as a registered home inspector-in-  
10 training, pursuant to this act, which has been revoked. Any  
11 person whose certificate [or], license or registration has been  
12 revoked may apply for reinstatement, after a period of at least  
13 five years, but must meet all of the certification [or],  
14 licensure or registration qualifications of this act, including  
15 the examination requirement, if he or she desires to hold  
16 himself or herself out or to practice as a real estate appraiser  
17 or home inspector or home inspector-in-training pursuant to this  
18 act at any time after such revocation.

19 Section 13. Reporting of multiple certification or licensure.

20 Any appraiser certified in this Commonwealth who is also  
21 certified or licensed to perform appraisals in any other state,  
22 territory or country shall report this information to the board  
23 on the biennial renewal application. Any home inspector licensed  
24 in this Commonwealth who is also certified or licensed to  
25 perform home inspections in any other state, territory or  
26 country shall report this information to the board on the  
27 biennial renewal application. Any disciplinary action taken in  
28 any other state, territory or country shall be reported to the  
29 board on the biennial renewal application, or within 90 days of  
30 disposition, whichever is sooner. Multiple licensure or

1 certification shall be noted by the board on the certified  
2 appraiser's or licensed home inspector's record, and such state,  
3 territory or country shall be notified by the board of any  
4 disciplinary actions taken against said certified appraiser or  
5 licensed home inspector in this Commonwealth.

6 Section 14. Surrender of suspended or revoked registration,  
7 certificate or license.

8 The board shall require a person whose registration,  
9 certificate or license has been suspended or revoked to return  
10 the registration, certificate or license in such manner as the  
11 board directs. Failure to do so shall be a misdemeanor of the  
12 third degree.

13 Section 15. Penalties.

14 \* \* \*

15 (b) Civil penalty.--In addition to any other civil remedy or  
16 criminal penalty provided for in this act, the board, by a vote  
17 of the majority of the maximum number of the authorized  
18 membership of the board as provided by law, or by a vote of the  
19 majority of the duly qualified and confirmed membership or a  
20 minimum of three members, whichever is greater, may levy a civil  
21 penalty of up to \$10,000 on any certificateholder [or], licensee  
22 or registrant who violates any provision of this act [or], any  
23 noncertificateholder who holds himself out as a real estate  
24 appraiser in this Commonwealth or who performs an appraisal for  
25 which certification or licensure is required under the Financial  
26 Institutions Reform, Recovery, and Enforcement Act of 1989  
27 (Public Law 101-73, 103 Stat. 183) an appraisal in any federally  
28 related or nonfederally related transaction or any other  
29 appraisal[.] or any nonlicensed individual who holds himself out  
30 as a home inspector in this Commonwealth or who performs a home

1 inspection for which certification or licensure is required. The  
2 board shall levy this penalty only after affording the accused  
3 party the opportunity for a hearing, as provided in 2 Pa.C.S.  
4 (relating to administrative law and procedure).

5 \* \* \*

6 Section 17. Injunctive relief.

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

16 \* \* \*

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

18 Section 17.1. Remedies for home inspection services consumers.

19 (a) Unfair Trade Practices and Consumer Protection Law.--The  
20 performance of a home inspection is a service subject to the act  
21 of December 17, 1968 (P.L.1224, No.387), known as the Unfair  
22 Trade Practices and Consumer Protection Law.

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

29 (1) Performing or offering to perform for an additional  
30 fee any repairs to a structure with respect to which the home

1 inspector, the employer of the home inspector or other  
2 business or person has prepared a home inspection report  
3 within the preceding 12 months, except that this paragraph  
4 shall not apply to remediation for radon or wood-destroying  
5 insects.

6 (2) Inspecting for a fee any property in which the home  
7 inspector, the employer of the home inspector or other  
8 business or person has a financial interest or an interest in  
9 the transfer of the property, including receipt of a board as  
10 an agent, unless the financial interest or interest in the  
11 transfer of the property is disclosed in writing to the buyer  
12 before the home inspection is performed and the buyer signs  
13 an acknowledgment of receipt of the disclosure.

14 (3) Offering or delivering a commission, referral fee or  
15 kickback to the seller of the inspected property or to an  
16 agent for the seller or buyer for the referral of business to  
17 the home inspector, the employer of the home inspector or  
18 other business or person.

19 (4) Accepting an engagement to perform a home inspection  
20 or to prepare a home inspection report in which the  
21 employment itself or the fee payable for the inspection is  
22 contingent upon the conclusions in the report, preestablished  
23 or prescribed findings or the closing of the transaction.

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

28 (d) Other remedies.--In addition to other remedies available  
29 under the Unfair Trade Practices and Consumer Protection Law or  
30 other applicable provision of law, the owner of a property on

1 which repairs are performed in violation of subsection (b)(1)  
2 shall be entitled to a full refund of money paid for those  
3 repairs, and a promissory note or another obligation to pay  
4 given to the person performing those repairs shall be void.

5 Section 17.2. Home inspection contracts.

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

8 (1) Signature of client.

9 (2) Scope of home inspection.

10 (3) Fee charged to client.

11 (4) Contact information of home inspector.

12 (5) License number of home inspector.

13 (6) A statement explaining the confidentiality between  
14 the home inspector and the client.

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

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

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

23 Section 17.3. Home inspection reports.

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

26 (1) A description of the scope of the inspection,  
27 including identification of the essential components and  
28 systems and subsystems covered by the report.

29 (2) A description of material defects noted during the  
30 inspection, along with a recommendation that certain experts

1 be retained to determine the extent of the defects and the  
2 corrective action that should be taken.

3 (3) If, at the time of the inspection, there is visible  
4 evidence of the presence of interior mold, the home inspector  
5 must disclose in the home inspection report the visible  
6 evidence and the location and advise the client to obtain a  
7 professional evaluation.

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

9 (i) A home inspection is intended to assist in  
10 evaluation of the overall condition of the dwelling. The  
11 inspection is based on observation of the visible and  
12 apparent condition of the structure and its components on  
13 the date of inspection.

14 (ii) The results of this home inspection are not  
15 intended to make a representation regarding the presence  
16 or absence of latent or concealed defects that are not  
17 reasonably ascertainable in a competently performed home  
18 inspection. No warranty or guaranty is expressed or  
19 implied.

20 (iii) If the person conducting your home inspection  
21 is not a licensed structural engineer or other  
22 professional whose license authorizes the rendering of an  
23 opinion as to the structural integrity of a building or  
24 the building's other component parts, you may be advised  
25 to seek a professional opinion as to any defects or  
26 concerns mentioned in the report.

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

30 (b) Delivery of report.--Except as otherwise required by

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

12 (c) Liability.--A home inspector shall not be held liable  
13 for the contents or omissions of a home inspection report if  
14 relied upon by any individual or person other than the client as  
15 identified by the executed contract for the specific home  
16 inspection.

17 (d) Limitation period.--An action to recover damages arising  
18 from a home inspection report must be commenced within one year  
19 after the date the report is delivered regardless of when the  
20 claim is discovered by the client.

21 Section 10. Repeals are as follows:

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

24 (2) 68 Pa.C.S. Ch. 75 is repealed.

25 Section 11. The State Board of Certified Real Estate  
26 Appraisers shall promulgate final regulations to carry out this  
27 act within 18 months of the effective date of this section. The  
28 board shall report, within 60 days of the effective date of this  
29 section and every 30 days thereafter, on the status of the  
30 regulations to the Consumer Protection and Professional

1 Licensure Committee of the Senate and the Professional Licensure  
2 Committee of the House of Representatives.

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

4 (1) The following provisions shall take effect  
5 immediately:

6 (i) The amendment of section 4(a) and (b) of the  
7 act.

8 (ii) Section 11 of this act.

9 (iii) This section.

10 (2) The remainder of this act shall take effect in two  
11 years.