

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO SENATE BILL NO. 907

Sponsor:

Printer's No. 1032

1 Amend Bill, page 1, lines 1 through 19, by striking out all
2 of said lines and inserting
3 Amending the act of February 19, 1980 (P.L.15, No.9), entitled
4 "An act establishing the State Real Estate Commission and
5 providing for the licensing of real estate brokers and
6 salesmen," in definitions, further providing for definitions
7 and for State Real Estate Commission; in application of the
8 act and penalties, further providing for unlawful to conduct
9 business without license or registration certificate, for
10 civil suits, for criminal penalties and for civil penalty; in
11 powers and duties of the State Real Estate Commission -
12 general, further providing for duty to issue licenses and
13 registration certificates and for approval of schools,
14 providing for continuing education for licensed home
15 inspectors and further providing for administration and
16 enforcement; in qualifications and applications for licenses
17 and registration certificates, further providing for
18 reputation and inactive licensee and revoked license and
19 providing for home inspector license and home inspector-in-
20 training registration; in duties of licensees, further
21 providing for broker price opinion; making a repeal; and
22 making an editorial change.

23 Amend Bill, page 1, lines 22 through 26; pages 2 through 23,
24 lines 1 through 30; page 24, lines 1 through 11; by striking out
25 all of said lines on said pages and inserting

26 Section 1. The definitions of "license" and "school" in
27 section 201 of the act of February 19, 1980 (P.L.15, No.9),
28 known as the Real Estate Licensing and Registration Act, are
29 amended and the section is amended by adding definitions to
30 read:

31 Section 201. Definitions.

32 The following words and phrases when used in this act shall
33 have, unless the context clearly indicates otherwise, the
34 meanings given to them in this section:

35 * * *

1 "Client." When the term is applied to a home inspector, a
2 person or person acting through a legal representative who
3 contracts with a licensed home inspector to obtain a home
4 inspection and subsequent written home inspection report.

5 * * *

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

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

15 (2) Does not include:

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

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

21 (A) Wood destroying insects.

22 (B) Underground tanks and wells.

23 (C) Septic systems.

24 (D) Swimming pools and spas.

25 (E) Alarm and smart home systems.

26 (F) Air and water quality.

27 (G) Tennis courts and playground equipment.

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

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

32 "Home inspection report." A typewritten report on the
33 results of a home inspection.

34 "Home inspector-in-training." A candidate for licensure as a
35 licensed home inspector who has been granted a registration as a
36 home inspector-in-training.

37 "License." The term includes both a standard license and a
38 reciprocal license, or in the context of home inspection, a home
39 inspector license.

40 "Licensed home inspector." An individual licensed by the
41 commission to perform home inspections. The term does not
42 include an individual licensed under any of the following laws
43 when acting under the individual's registration or license:

44 (1) The act of May 23, 1945 (P.L.913, No.367), known as
45 the Engineer, Land Surveyor and Geologist Registration Law,
46 as a professional engineer, professional land surveyor and
47 professional geologist.

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

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

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

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

5 * * *

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

12 * * *

13 "School." Any person who conducts classes in real estate
14 subjects, including home inspection, but is not a college,
15 university or institute of higher learning duly accredited by
16 the Middle States Association of Colleges and Secondary Schools
17 or equivalent accreditation.

18 * * *

19 Section 2. Sections 202(a), (b) and (c) of the act are
20 amended and the section is amended by adding a subsection to
21 read:

22 Section 202. State Real Estate Commission.

23 (a) The State Real Estate Commission is hereby created and
24 shall consist of the Commissioner of Professional and
25 Occupational Affairs; the Director of the Bureau of Consumer
26 Protection, or [his] the director's designee; three members who
27 shall be persons representing the public at large; [five] six
28 other persons, each of whom shall at the time of [his]
29 appointment be a licensed and qualified real estate broker under
30 the existing law of this Commonwealth, and shall have been
31 engaged in the real estate business in this Commonwealth for a
32 period of not less than ten years immediately prior to [his] the
33 appointment; two shall be qualified home inspectors; and one
34 other person who shall have been licensed as a real estate
35 broker, or cemetery broker, for a period of at least five years
36 and shall have been engaged in selling cemetery lots for at
37 least ten years immediately prior to [his] appointment. Each of
38 said members of the commission shall be appointed by the
39 Governor. For a member to qualify as a home inspector, the
40 member must meet the requirements of a licensed home inspector
41 even if the license has not been granted, but must obtain a
42 license within one month of the license being available to
43 remain on the commission.

44 (a.1) Within 90 days of the effective date of this
45 subsection, the Governor shall nominate two qualified home
46 inspectors to serve.

47 (b) The term of office of each of said members shall be five
48 years from [his] the appointment, or until [his] a successor has
49 been appointed and qualified but not longer than six months
50 beyond the five-year period. In the event that any of said
51 members shall die or resign during [his] the term of office,

1 [his] a successor shall be appointed in the same way and with
2 the same qualifications as above set forth and shall hold office
3 for the unexpired term. No member shall be eligible to serve
4 more than two consecutive terms.

5 (c) A majority of the members currently serving on the
6 commission shall constitute a quorum. The commission shall elect
7 a chairman, vice-chairman and secretary from among its members.
8 A commission member who fails to attend three consecutive
9 meetings shall forfeit [his] the member's seat unless the
10 Commissioner of Professional and Occupational Affairs, upon
11 written request from the member, finds that the member should be
12 excused from a meeting because of illness or the death of a
13 family member.

14 * * *

15 Section 3. Sections 301, 302, 303, 305, 401, 402 and 404.1
16 heading of the act are amended to read:

17 Section 301. Unlawful to conduct business without license or
18 registration certificate.

19 It shall be unlawful for any person, directly or indirectly,
20 to engage in or conduct, or to advertise or hold [himself]
21 oneself out as engaging in or conducting the business, or acting
22 in the capacity of a broker or salesperson, cemetery broker,
23 cemetery salesperson, campground membership salesperson, time-
24 share salesperson, builder-owner salesperson, rental listing
25 referral agent, licensed home inspector, home inspector-in-
26 training or cemetery company within this Commonwealth without
27 first being licensed or registered as provided in this act,
28 unless [he] the person is exempted from obtaining a license or
29 registration certificate under the provisions of section 304 or
30 599.1(c).

31 Section 302. Civil suits.

32 No action or suit shall be instituted, nor recovery be had,
33 in any court of this Commonwealth by any person for compensation
34 for any act done or service rendered, the doing or rendering of
35 which is prohibited under the provisions of this act by a person
36 other than a licensed broker, salesperson, cemetery broker,
37 cemetery salesperson, campground membership salesperson, time-
38 share salesperson, builder-owner salesperson or rental listing
39 referral agent, unless such person was duly licensed and
40 registered hereunder as broker or salesperson at the time of
41 offering to perform any such act or service or procuring any
42 promise or contract for the payment of compensation for any such
43 contemplated act or service or the person is a licensed home
44 inspector providing home inspection services.

45 Section 303. Criminal penalties.

46 Any person who shall engage in or carry on the business, or
47 act in the capacity of a broker, salesperson, cemetery broker,
48 cemetery salesperson, campground membership salesperson, time-
49 share salesperson, builder-owner salesperson, rental listing
50 referral agent, licensed home inspector, home inspector-in-
51 training or cemetery company, within this Commonwealth, without

1 a license or registration certificate, or shall carry on or
2 continue business after the suspension or revocation of any such
3 license or registration certificate issued to [him] the person,
4 or shall employ any person as a salesperson or cemetery
5 salesperson to whom a license has not been issued, or whose
6 license or registration certificate as such shall have been
7 revoked or suspended, shall be guilty of a summary offense and
8 upon conviction thereof for a first offense shall be sentenced
9 to pay a fine not exceeding \$500 or suffer imprisonment, not
10 exceeding three months, or both and for a second or subsequent
11 offense shall be guilty of a felony of the third degree and upon
12 conviction thereof, shall be sentenced to pay a fine of not less
13 than \$2,000 but not more than \$5,000 or to imprisonment for not
14 less than one year but not more than two years, or both.

15 Section 305. Civil penalty.

16 In addition to any other civil remedy or criminal penalty
17 provided for in this act, the commission, by a vote of the
18 majority of the maximum number of the authorized membership of
19 the commission as provided by law, or by a vote of the majority
20 of the duly qualified and confirmed membership or a minimum of
21 five members, whichever is greater, may levy a civil penalty of
22 up to \$1,000 on any current licensee who violates any provision
23 of this act or on any person who practices real estate or as a
24 licensed home inspector or home inspector-in-training without
25 being properly licensed or registered to do so under this act.
26 The commission shall levy this penalty only after affording the
27 accused party the opportunity for a hearing, as provided in
28 Title 2 of the Pennsylvania Consolidated Statutes (relating to
29 administrative law and procedure).

30 Section 401. Duty to issue licenses and registration
31 certificates.

32 It shall be the duty of the department to issue licenses and
33 registration certificates to any person who shall comply with
34 the provisions of this act. The commission may establish limits
35 on the number of times a home inspector-in-training may renew a
36 registration.

37 Section 402. Approval of schools.

38 Any school which shall offer or conduct any course or courses
39 of study in real estate or home inspection shall first obtain
40 approval from, and thereafter abide by the rules and regulations
41 of the commission covering such schools.

42 Section 404.1. Continuing education for real estate brokers and
43 real estate salespersons.

44 * * *

45 Section 4. The act is amended by adding a section to read:

46 Section 404.2. Continuing education for licensed home
47 inspectors.

48 A licensed home inspector shall be required to obtain 32
49 hours of continuing education during the biennial renewal
50 period. Continuing education hours may be earned by completion
51 of continuing education courses in the field of home inspection

1 during the immediately preceding two years as approved by the
2 commission. Three of the total required hours of continuing
3 education must focus on the difference between 42 U.S.C. Ch. 70
4 (relating to manufactured home construction and safety
5 standards) and the act of May 11, 1972 (P.L.286, No.70), known
6 as the Industrialized Housing Act, and the installation of
7 manufactured and modular homes.

8 Section 5. Section 406 of the act is amended by adding a
9 paragraph to read:

10 Section 406. Administration and enforcement.

11 The commission shall have the power and its duty shall be to
12 administer and enforce the laws of the Commonwealth relating to:

13 * * *

14 (4) Those activities involving home inspection for which
15 licensing or registration is required under this act and to
16 instruct and require its agents to bring prosecutions for
17 unauthorized or unlawful activities.

18 Section 6. Section 501(a) and (c) of the act are amended to
19 read:

20 Section 501. Reputation; inactive licensee; revoked license.

21 (a) Licenses shall be granted only to and renewed only for
22 persons who bear a good reputation for honesty, trustworthiness,
23 integrity and competence to transact the business of broker,
24 salesperson, cemetery broker, cemetery salesperson, campground
25 membership salesperson, time-share salesperson, builder-owner
26 salesperson, licensed home inspector, home inspector-in-training
27 or rental listing referral agent, in such manner as to safeguard
28 the interest of the public, and only after satisfactory proof of
29 such qualifications has been presented to the commission as it
30 shall by regulation require. An applicant for renewal of a
31 reciprocal license shall provide evidence that the applicant
32 continues to hold a current license in the state where the
33 applicant's principal place of business is located.

34 * * *

35 (c) Unless ordered to do so by Commonwealth Court, the
36 commission shall not reinstate the license or registration,
37 within five years of the date of revocation, of any person whose
38 license or registration has been revoked under this act. Any
39 person whose license or registration has been revoked may
40 reapply for a license or registration at the end of the five-
41 year period but must meet all of the licensing or registration
42 qualifications of this act for the license or registration
43 applied for, to include the examination requirement.

44 Section 7. Chapter 5 of the act is amended by adding a
45 subchapter to read:

46 SUBCHAPTER K

47 HOME INSPECTOR LICENSE AND HOME INSPECTOR-IN-TRAINING

48 REGISTRATION

49 Section 599.1. Qualifications for licensure.

50 (a) Qualifications.--An applicant shall be considered to be
51 qualified for a license as a home inspector if the applicant

1 submits proof satisfactory to the commission of all of the
2 following:

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

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 80 hours of
13 commission-approved instruction;

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

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

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

27 (6) The application is accompanied by the application
28 fee as established by the commission by regulation.

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

31 (8) There is no criminal history which would impede the
32 applicant's eligibility, determined by the commission based
33 on the applicant's submission of the following:

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

37 (ii) If the applicant has resided outside this
38 Commonwealth for any time in the five years immediately
39 preceding the date of application, a report to the
40 commission of Federal criminal identification and crime
41 records under 28 U.S.C. § 534(a) (4) (relating to
42 acquisition, preservation, and exchange of identification
43 records and information; appointment of officials).

44 (b) Issuance of license.--The commission shall issue a
45 license as a home inspector to an applicant who applies within
46 two years of the effective date of this subsection and complies
47 with all of the following:

48 (1) Is an active home inspector.

49 (2) Meets the qualifications described in subsection (a)
50 (2), (3), (6), (7) and (8).

51 (3) Submits proof satisfactory to the commission that

1 the applicant has:

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

5 (ii) performed or participated in 100 home
6 inspections and has passed a recognized or accredited
7 examination testing knowledge of the proper procedures
8 for conducting a home inspection.

9 (c) Practice of home inspection.--An individual may not
10 practice home inspection or hold oneself out as a home inspector
11 unless licensed by the commission except for the following:

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

15 (2) An individual licensed under the act of December 14,
16 1982 (P.L.1227, No.281), known as the Architects Licensure
17 Law.

18 (3) A home inspector-in-training practicing home
19 inspection in the presence and under the direct supervision
20 of a licensed home inspector in this Commonwealth, provided
21 the home inspector-in-training does not hold oneself out as a
22 home inspector.

23 (d) Compliance.--Notwithstanding subsection (c), a person
24 licensed or registered as a professional engineer under the
25 Engineer, Land Surveyor and Geologist Registration Law, or a
26 person licensed or registered under the Architects Licensure
27 Law, must comply with subsection (i) and sections 599.2, 599.3,
28 599.4 and 599.5 when performing a home inspection. A person
29 licensed or registered as a professional engineer, or licensed
30 or registered as an architect, who violates this subsection
31 shall be subject to disciplinary action, including license or
32 registration suspension and revocation, and penalties under the
33 Engineer, Land Surveyor and Geologist Registration Law and the
34 Architects Licensure Law, respectively.

35 (e) Use of title.--An individual who holds a license or is
36 maintained on inactive status may use the title "Licensed Home
37 Inspector" and the abbreviation "L.H.I." No other individual may
38 use the title "Licensed Home Inspector" or the title "Home
39 Inspector" or hold oneself out to others as a home inspector.
40 This subsection shall include advertising as a home inspector
41 and adopting or using a title or description, or a derivative of
42 "Licensed Home Inspector" or "Home Inspector" and their related
43 abbreviations, which implies directly or indirectly that home
44 inspection services are being provided.

45 (f) Nontransferability of license.--A license under this
46 section is not transferable.

47 (g) Examination not required.--The commission may issue a
48 home inspector license without examination to an applicant
49 holding a home inspector license in another state who submits
50 proof satisfactory to the commission of all of the following:

51 (1) The applicant is of a good moral character. In

1 assessing the moral character of an applicant with a criminal
2 conviction, the commission shall conduct an individualized
3 assessment in accordance with 63 Pa.C.S. § 3113.

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

8 (3) The applicant has submitted an application
9 accompanied by the application fee.

10 (4) There is no criminal history which would impede the
11 applicant's eligibility, determined by the commission based
12 on the applicant's submission of the following:

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

15 (ii) If the applicant has resided outside this
16 Commonwealth for any time in the five years immediately
17 preceding the date of application, a report to the
18 commission of Federal criminal identification and crime
19 records under 28 U.S.C. § 534(a) (4).

20 (h) Prohibitions.--No agency or political subdivision of the
21 Commonwealth, other than the commission, shall impose the
22 following on individuals licensed under this section:

23 (1) A registration or licensing requirement for
24 conducting home inspections.

25 (2) A license fee to obtain a local license, except that
26 this prohibition shall not prevent a local government from
27 imposing an occupational license tax on a person operating as
28 a licensed home inspector within the jurisdiction of the
29 local government.

30 (i) Insurance.--A licensed home inspector shall maintain
31 insurance against errors and omissions in the performance of a
32 home inspection and general liability, with coverages of not
33 less than \$250,000 per occurrence and \$500,000 in the aggregate
34 and with deductibles of not more than \$15,000. An applicant must
35 provide proof that the applicant has obtained professional
36 liability insurance. It is sufficient if the applicant files
37 with the application a copy of a letter from the applicant's
38 professional liability insurance carrier indicating that the
39 applicant will be covered against professional liability in the
40 required amounts effective upon the issuance of the applicant's
41 license to practice home inspection in this Commonwealth. Upon
42 issuance of the license, the licensee must, within 30 days,
43 submit to the commission the certificate of insurance or a copy
44 of the policy declaration page. A licensed home inspector shall
45 maintain professional liability insurance for at least one year
46 after the latest home inspection report the licensed home
47 inspector delivers, unless the home inspection report was
48 delivered prior to the effective date of this section.

49 (j) Construction.--Nothing in this act shall be construed to
50 allow a home inspector who is not licensed under any of the
51 following laws to perform any activity that would constitute the

1 practice of the profession regulated by that law:

2 (1) The Engineer, Land Surveyor and Geologist
3 Registration Law, as to the practice of engineering, land
4 surveying or geology.

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

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

9 (4) The Architects Licensure Law.

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

12 (k) Other licensees.--The requirements of this act relating
13 to the licensure of home inspectors shall not affect the
14 obligations or immunities of an individual licensed under
15 another provision of this act that are imposed or provided under
16 this act or 68 Pa.C.S. Ch. 73 (relating to seller disclosures)
17 when the individual is acting under the individual's license,
18 nor the obligations or immunities of an individual certified
19 under the Real Estate Appraisers Certification Act when the
20 individual is acting under that certification.

21 (l) Home inspector-in-training registration.--

22 (1) The commission shall, upon application and payment
23 of the application fee established by the commission, issue a
24 home inspector-in-training registration, without examination,
25 to any person who meets the home inspector-in-training
26 educational requirements set by the commission.

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

30 (i) Date and time of the inspection.

31 (ii) Address of the residence inspected.

32 (iii) Business name of the supervising inspector

33 (iv) Name of the supervising inspector.

34 (v) License number of the supervising inspector.

35 (vi) Signature of the supervising inspector.

36 (m) Reporting of multiple licensure.--A licensed home
37 inspector in this Commonwealth who is also certified or licensed
38 to perform home inspections in any other state, territory or
39 country shall report this information to the commission on the
40 biennial renewal application. Any disciplinary action taken in
41 any other state, territory or country shall be reported to the
42 commission on the biennial renewal application, or within 90
43 days of disposition, whichever is sooner. Multiple licensure
44 shall be noted by the commission on the licensed home
45 inspector's record, and the state, territory or country shall be
46 notified by the commission of any disciplinary action taken
47 against the licensed home inspector in this Commonwealth.
48 Section 599.2. Conduct of home inspection.

49 (a) Ethics.--A licensed home inspector shall conduct a home
50 inspection with the degree of care that a reasonably prudent
51 licensed home inspector would exercise. In ascertaining the

1 degree of care that would be exercised by a reasonably prudent
2 licensed home inspector, a court shall consider the standards of
3 practice and codes of ethics as established by the commission by
4 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 licensed home
8 inspector shall disclose the immediate threat to health or
9 safety to the property owner and occupants of the property at
10 the conclusion of the home inspection. Posting a notice on a
11 form prescribed by the commission by regulation on the front
12 door of the occupied home in a position that ensures the
13 occupants see the notice shall constitute proper disclosure.
14 Section 599.3. Remedies for home inspection services clients.

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

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

26 (1) Performing or offering to perform for an additional
27 fee any repairs to a structure with respect to which the
28 licensed home inspector, the employer of the licensed home
29 inspector or other business or person has prepared a home
30 inspection report within the preceding 12 months, except that
31 this paragraph shall not apply to remediation for radon or
32 wood-destroying insects.

33 (2) Inspecting for a fee any property in which the
34 licensed home inspector, the employer of the licensed home
35 inspector or other business or person has a financial
36 interest or an interest in the transfer of the property,
37 including receipt of a commission as an agent, unless the
38 financial interest or interest in the transfer of the
39 property is disclosed in writing to the buyer before the home
40 inspection is performed and the buyer signs an acknowledgment
41 of receipt of the disclosure.

42 (3) Offering or delivering a commission, referral fee or
43 kickback to the seller of the inspected property or to an
44 agent for the seller or buyer for the referral of business to
45 the licensed home inspector, the employer of the licensed
46 home inspector or other business or person.

47 (4) Accepting an engagement to perform a home inspection
48 or to prepare a home inspection report in which the
49 employment itself or the fee payable for the inspection is
50 contingent upon the conclusions in the report, preestablished
51 or prescribed findings or the closing of the transaction.

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

6 (d) Other remedies.--In addition to other remedies available
7 under the Unfair Trade Practices and Consumer Protection Law or
8 other applicable provision of law, the owner of a property on
9 which repairs are performed in violation of subsection (b) (1)
10 shall be entitled to a full refund of money paid for those
11 repairs, and a promissory note or another obligation to pay
12 given to the person performing those repairs shall be void.
13 Section 599.4. Home inspection contracts.

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

- 16 (1) Signature of client.
- 17 (2) Scope of home inspection.
- 18 (3) Fee charged to client.
- 19 (4) Contact information of the licensed home inspector.
- 20 (5) License number of the licensed home inspector.
- 21 (6) A statement explaining the confidentiality between
22 the licensed home inspector and the client.

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

- 27 (1) A limitation on the liability of the licensed home
28 inspector for gross negligence or willful misconduct.
- 29 (2) A waiver or modification of any provision of this
30 section or section 599.2, 599.3 or 599.5.

31 Section 599.5. Home inspection reports.

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

- 34 (1) A description of the scope of the inspection,
35 including identification of the essential components and
36 systems and subsystems covered by the report.
- 37 (2) A description of material defects noted during the
38 inspection, along with a recommendation that certain experts
39 be retained to determine the extent of the defects and the
40 corrective action that should be taken.
- 41 (3) If, at the time of the inspection, there is visible
42 evidence of the presence of interior mold, the licensed home
43 inspector must disclose in the home inspection report the
44 visible evidence and the location and advise the client to
45 obtain a professional evaluation.

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

- 47 (i) A home inspection is intended to assist in
48 evaluation of the overall condition of the dwelling. The
49 inspection is based on observation of the visible and
50 apparent condition of the structure and its components on
51 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 defect or
13 concern 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 licensed home inspector may not
19 deliver a home inspection report to a person other than the
20 client of the licensed home inspector without the client's
21 consent. The property owner shall have the right, upon request,
22 to receive without charge a copy of a home inspection report
23 from the person for whom the home inspection report was
24 prepared. If immediate threats to health or safety are observed
25 during the course of the inspection and if the premises are
26 occupied, the client hereby consents to allow the licensed home
27 inspector to disclose the immediate threats to health or safety
28 to the property owner and occupants of the property.

29 (c) Liability.--A licensed home inspector shall not be held
30 liable for the contents or omissions of a home inspection report
31 if relied upon by any individual or person other than the client
32 as identified by the executed contract for the specific home
33 inspection.

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

38 Section 8. Section 608.6(h) of the act is amended to read:
39 Section 608.6. Broker price opinion.

40 * * *

41 (h) A registered appraisal management company may recruit,
42 engage and negotiate fees with a broker to prepare broker price
43 opinions and may receive orders for and submit broker price
44 opinions to [clients] consumers.

45 * * *

46 Section 9. Repeals are as follows:

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

49 (2) 68 Pa.C.S. Ch. 75 is repealed.

50 Section 10. The State Real Estate Commission shall
51 promulgate final regulations to implement this act within 18

1 months of the effective date of this section.
2 Section 11. This act shall take effect as follows:
3 (1) The following provisions shall take effect
4 immediately:
5 (i) The amendment of section 202(a) and (b) of the
6 act.
7 (ii) Section 10 of this act.
8 (iii) This section.
9 (2) The remainder of this act shall take effect in two
10 years.