

HOUSE BILL No. 6187

September 9, 2004, Introduced by Reps. Daniels, Gielegem, Pappageorge and Zelenko and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending section 303a (MCL 339.303a), as amended by 1995 PA
183, and by adding article 14.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 303a. The terms provided for in this act shall
2 commence on the following dates:

3	Accountancy	July 1
4	Architects	April 1
5	Athletic board of control	April 1
6	Barbers	October 1
7	Collection agencies	July 1
8	Community planners	July 1
9	Cosmetology	January 1

1	Employment agencies	October 1
2	Foresters	April 1
3	Hearing aid dealers	October 1
4	Home inspectors	July 1
5	Land surveyors	April 1
6	Landscape architects	July 1
7	Marriage counselors	October 1
8	Mortuary science	July 1
9	Nursing home administrators	January 1
10	Professional engineers	April 1
11	Real estate appraisers	July 1
12	Real estate brokers and salespersons	July 1
13	Residential builders	April 1
14	Social workers	October 1

15 **ARTICLE 14**

16 **Sec. 1401. As used in this article:**

17 (a) "Accessories" means appliances that are fixtures in the
 18 residence. Accessories include built-in appliances and vacuum
 19 systems but do not include a security system.

20 (b) "Client" means the person on whose behalf a home
 21 inspector is acting.

22 (c) "Electrical system" means the total system in a residence
 23 which facilitates the flow of electricity beginning with the main
 24 panel and extending to the subpanels and including branch
 25 circuits, and directly wired electrical and lighting fixtures.

26 (d) "Foundation" means 1 or more of the following upon which
 27 a residence is placed:

1 (i) Slab.

2 (ii) Crawl space.

3 (iii) Basement.

4 (iv) Piers.

5 (e) "Heating and air conditioning system" means a separate or
6 combined system used to distribute or radiate heat or cool air
7 throughout all or part of a residence. The radiation or
8 distribution of heat may be accomplished by means of a central
9 heat source or thermostatically controlled heat sources in 1 or
10 more rooms of a residence. Air conditioning does not include a
11 unit mounted in a wall or a window unless the unit utilizes ducts
12 to distribute the air.

13 (f) "Home inspector" means a person engaged in, or offering
14 to engage in, the business of providing home inspection services
15 but does not include any of the following:

16 (i) A person acting on behalf of a local, state, or federal
17 governmental unit or agency conducting an inspection or
18 investigation concerning compliance with either or both of the
19 following:

20 (A) Health or safety laws or regulations.

21 (B) Construction or building laws or regulations.

22 (ii) A person licensed, registered, or certified under 1 or
23 more of the following while conducting an inspection that is
24 reasonably related to a task or prospective task within the scope
25 of licensure, registration, or certification:

26 (A) Article 20.

27 (B) Article 24.

1 (C) Article 25.

2 (D) Article 26.

3 (E) The state plumbing act, 2002 PA 733, MCL 338.3511 to
4 338.3569.

5 (F) The electrical administrative act, 1956 PA 217, MCL
6 338.881 to 338.892.

7 (G) The Forbes mechanical contractors act, 1984 PA 192, MCL
8 338.971 to 338.988.

9 (g) "Home inspection services" means services provided to a
10 client, for consideration, that are designed to identify and
11 disclose the functional condition of the major systems and
12 accessories in a residence at the time of the inspection. Home
13 inspection services do not include an inspection designed only to
14 disclose any of the following:

15 (i) Compliance with local, state, or federal building or
16 construction laws or regulations.

17 (ii) Compliance with local, state, or federal health and
18 safety laws or regulations.

19 (iii) The presence or absence of pests, termites, or other
20 vermin or damage resulting from the presence of pests, termites,
21 or vermin.

22 (h) "Major deficiency" means a defect in 1 or more major
23 systems or accessories that may cause the reasonable likelihood
24 of harm to the safety of the occupants so as to require their
25 evacuation of the residence for more than 3 days or that may
26 result in the reasonable likelihood of a major system or
27 accessory becoming nonoperational.

(i) "Major system" means any 1 of the following:

(i) Electrical system.

(ii) Heating and air conditioning system.

(iii) Plumbing system.

(iv) Structure and foundation system.

(j) "Plumbing system" means that system regulating the inward and outward flow of water and sewage in a residence and includes, but is not limited to, water heaters, fixtures, faucets, valves, and pipes. Plumbing does not include wells, septic systems, water softeners, or sump pumps unless included in writing in the contract for home inspection services.

(k) "Residence" means a building used primarily for family living quarters and designed for occupancy of not more than 4 families in separate living quarters.

(l) "Structure" means the walls, windows, doors, and roof on the exterior of a residence and the walls, ceilings, floors, windows, and doors on the interior of a residence.

Sec. 1402. There is created a home inspectors board.

Sec. 1403. (1) Beginning the effective date of this article, an individual shall not provide, or offer to provide, home inspection services unless licensed under this article or unless the individual or services are exempted from licensure under this article as described in section 1401(f)(i) or (ii).

An individual shall not use the term "home inspector" or any other similar title that connotes licensure under this article.

(2) The license qualification and educational standards, as well as the examinations, of the national association of home

1 inspectors, as they exist on the effective date of this article,
2 are adopted and incorporated by reference for use by the
3 department for the licensure of applicants under this article.
4 The department, upon the advice of the board, shall determine
5 whether applicants not affiliated with the national association
6 of home inspectors otherwise meet the standards adopted under
7 this subsection. By promulgation of a rule, the department may
8 amend, supplement, or update the standards adopted under this
9 subsection.

10 (3) The department, in consultation with the board, may
11 promulgate rules to set standards for examination of applicants
12 who do not meet the education and experience standards described
13 in the standards adopted in or the rules promulgated under
14 subsection (2).

15 (4) The department shall license an individual as a home
16 inspector if the individual is licensed or otherwise regulated in
17 another state that has substantially the same standards for
18 licensure as this state, as determined by the board, and that
19 offers reciprocity to licensees in this state.

20 Sec. 1404. (1) Beginning the effective date of this
21 article, an individual providing or offering to provide home
22 inspection services shall comply with the requirements of this
23 section and section 1405.

24 (2) A home inspector who enters into a contract for home
25 inspection services that is not in conformance with this article
26 is subject to an action for damages brought by the client or
27 suspension or revocation of his or her license, or both.

1 (3) A home inspector shall inspect those major systems of a
2 residence that are the subject of a contract for home inspection
3 services only to the extent that those major systems and
4 accessories are readily accessible and visible to the home
5 inspector. A home inspector shall indicate in writing to the
6 client any accessory or major system, or any part of an accessory
7 or major system, that was not able to be inspected and the
8 reasons for the inability to inspect.

9 (4) A home inspector who inspects a residence shall not
10 repair or offer to repair a residence that was the subject of
11 home inspection services provided by that home inspector unless
12 the repair is pursuant to a home warranty provided by the home
13 inspector.

14 (5) The home inspector shall disclose to the client whether
15 he or she, an employee or agent, or an immediate family member
16 has an ownership interest in the residence being inspected.

17 (6) A home inspector shall disclose to the client whether he
18 or she, an employee or agent, or an immediate family member is a
19 member of a board of directors of, or an officer of, an entity
20 which has an ownership interest in the residence being
21 inspected.

22 (7) A home inspector shall furnish to the client a document
23 entitled "disclosure statement", which shall be presented at the
24 time the written home inspection report is conveyed to the client
25 and shall contain, at a minimum, both of the following:

26 (a) The scope of the home inspection services with a detailed
27 description of the major systems and accessories to be inspected,

1 the type of major deficiencies the home inspection is designed to
2 reveal, and items that are excluded from coverage under the
3 contract of home inspection services.

4 (b) A statement that a home inspector inspecting a particular
5 residence shall not repair or offer to repair a residence which
6 was the subject of home inspection services provided by that home
7 inspector unless the repair is pursuant to a home warranty
8 provided by the home inspector.

9 Sec. 1405. (1) A contract for home inspection services
10 shall be in writing, executed by the home inspector and either
11 the client or the client's agent, and in conformance with
12 subsection (4). A copy of the executed contract for home
13 inspection services shall be provided to the client or the
14 client's agent at the time of its execution.

15 (2) All terms of the contract for home inspection services
16 shall be contained in the written contract except that conditions
17 of the residence affecting the home inspector's ability to
18 conduct a home inspection shall be noted in a separate document
19 attached to the contract. Any changes or modifications of the
20 terms of the contract for home inspection services shall be
21 reduced to writing.

22 (3) Unless otherwise indicated in writing, the purchaser of a
23 residence being inspected is considered the client in the case of
24 a home inspection conducted as part of a sale of the residence.

25 (4) The following shall be contained in a contract for home
26 inspection services:

27 (a) A description of the home inspection services to be

1 provided.

2 (b) Any disclaimers including, but not limited to, the
3 absence of any warranties as to the adequacy of future
4 performance of a major system or accessory and the fact that the
5 home inspection is considered a valid assessment of the condition
6 of the residence only as of the date the home inspection was
7 conducted.

8 (c) Any exclusion of defects not reasonably apparent by
9 visual inspection.

10 (d) Any exclusion of any major system or accessory not
11 operable at the time of the conduct of the home inspection.

12 (5) After performing home inspection services, a home
13 inspector shall provide to the client a written home inspection
14 report containing the results of the home inspection. The home
15 inspection report shall include a list of the major systems or
16 accessories inspected and any major systems or accessories not
17 inspected. The home inspector shall list in the report any
18 conditions affecting or limiting the ability of the home
19 inspector to provide home inspection services pursuant to the
20 contract.

21 (6) The home inspection report shall include the following
22 statements:

23 (a) That defects not reasonably apparent by visual inspection
24 are excluded.

25 (b) That a major system or accessory not operable at the time
26 of the conduct of the home inspection is excluded.

27 (7) The home inspector shall indicate in the written home

1 inspection report the fact that the home inspection is considered
2 a valid assessment of the condition of the residence only as of
3 the date the home inspection was conducted.

4 (8) A home inspector shall retain a copy of the contract for
5 home inspection services and the written home inspection report
6 for at least 3 years after the date of the report.

7 Sec. 1406. (1) A client suffering damages due to a
8 violation of this article may bring an action for damages in a
9 court of competent jurisdiction.

10 (2) The remedies under this article are cumulative and the
11 use of 1 remedy does not bar the use of any other remedy provided
12 by law.