

# SENATE BILL No. 255

March 21, 2017, Introduced by Senator GREEN and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending sections 303a, 401, and 601 (MCL 339.303a, 339.401, and  
339.601), section 303a as amended by 2014 PA 265, section 401 as  
amended by 1988 PA 463, and section 601 as amended by 2016 PA 412,  
and by adding article 14.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 303a. The term of office of a member of a board appointed  
2       under this article shall commence on 1 of the following dates, as  
3       applicable:

4	Accountancy	July 1
5	Architects	April 1
6	Barbers	October 1

1	Collection agencies	July 1
2	Cosmetology	January 1
3	Employment agencies	October 1
4	Hearing aid dealers	October 1
5	<b>HOME INSPECTORS</b>	<b>JULY 1</b>
6	Land surveyors	April 1
7	Landscape architects	July 1
8	Mortuary science	July 1
9	Professional engineers	April 1
10	Real estate appraisers	July 1
11	Real estate brokers and salespersons	July 1
12	Residential builders	April 1

13        Sec. 401. (1) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN A SPECIFIC**  
 14 **ARTICLE, THE** specific amounts to be charged for licenses,  
 15 registrations, and other activities provided for in this act ~~shall~~  
 16 ~~be as~~ **ARE** prescribed in the state license fee act, ~~Act No. 152 of~~  
 17 ~~the Public Acts of 1979, being sections 338.2201 to 338.2277 of the~~  
 18 ~~Michigan Compiled Laws. 1979 PA 152, MCL 338.2201 TO 338.2277.~~

19        (2) **THE OCCUPATIONAL FUND IS CREATED WITHIN THE STATE**  
 20 **TREASURY. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS**  
 21 **FROM ANY SOURCE FOR DEPOSIT INTO THE FUND, INCLUDING MONEY FROM**  
 22 **THIS ACT AND THE STATE LICENSE FEE ACT, 1979 PA 152, MCL 338.2201**  
 23 **TO 338.2277. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE**  
 24 **FUND. THE STATE TREASURER SHALL CREDIT TO THE FUND INTEREST AND**  
 25 **EARNINGS FROM FUND INVESTMENTS. MONEY IN THE FUND AT THE CLOSE OF**  
 26 **THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE**  
 27 **GENERAL FUND. THE DEPARTMENT IS THE ADMINISTRATOR OF THE FUND FOR**

1 AUDITING PURPOSES.

2 (3) FEES ESTABLISHED UNDER THIS ACT ARE INTENDED TO BEAR A  
3 REASONABLE RELATION TO THE DEPARTMENT'S COST, INCLUDING OVERHEAD,  
4 OF THE SERVICE OR ACTION FOR WHICH THE FEE IS CHARGED AND SHALL BE  
5 DEPOSITED INTO THE FUND TO OFFSET THOSE COSTS. THE DEPARTMENT SHALL  
6 ADJUST ON AN ANNUAL BASIS THE LICENSE FEES PRESCRIBED UNDER THIS  
7 ACT BY AN AMOUNT DETERMINED BY THE STATE TREASURER TO REFLECT THE  
8 CUMULATIVE ANNUAL PERCENTAGE CHANGE IN THE DETROIT CONSUMER PRICE  
9 INDEX, SUBJECT TO A MAXIMUM ADJUSTMENT OF 5% IN ANY 1 YEAR. AS USED  
10 IN THIS SUBSECTION, "DETROIT CONSUMER PRICE INDEX" MEANS THE MOST  
11 COMPREHENSIVE INDEX OF CONSUMER PRICES AVAILABLE FOR THE DETROIT  
12 AREA FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES  
13 DEPARTMENT OF LABOR.

14 (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, ON  
15 APPROPRIATION, ONLY FOR THE OPERATION OF THE CORPORATIONS,  
16 SECURITIES, AND COMMERCIAL LICENSING BUREAU AND INDIRECT OVERHEAD  
17 EXPENSES OF THE DEPARTMENT THAT INCLUDE, BUT ARE NOT LIMITED TO,  
18 THE PURCHASE AND SALE TO THE GENERAL PUBLIC OF PRINTED LAWS AND  
19 RULES.

20 Sec. 601. (1) A person shall not engage in or attempt to  
21 engage in the practice of an occupation regulated under this act or  
22 use a title designated in this act unless the person possesses a  
23 license or registration issued by the department for the  
24 occupation.

25 (2) A school, institution, or person shall not operate or  
26 attempt to operate a barber college, school of cosmetology, or real  
27 estate school unless the school, institution, or person is licensed

1 or approved by the department.

2 (3) Subject to section 411, a person whose license or  
3 registration is suspended, revoked, or lapsed, as determined by the  
4 records of the department, is considered unlicensed or  
5 unregistered.

6 (4) Except as otherwise provided for in section 735, a person,  
7 school, or institution that violates subsection (1) or (2) is  
8 guilty of a misdemeanor, punishable by a fine of not more than  
9 \$500.00, or imprisonment for not more than 90 days, or both.

10 (5) Except as otherwise provided for in section 735, a person,  
11 school, or institution that violates subsection (1) or (2) a second  
12 or any subsequent time is guilty of a misdemeanor, punishable by a  
13 fine of not more than \$1,000.00, or imprisonment for not more than  
14 1 year, or both.

15 (6) Notwithstanding subsections (4) and (5), a person that is  
16 not licensed under **ARTICLE 14 AS A HOME INSPECTOR OR UNDER** article  
17 24 as a residential builder or a residential maintenance and  
18 alteration contractor and that violates subsection (1) or (2) is  
19 guilty ~~as follows:~~ **OF 1 OF THE FOLLOWING:**

20 (a) ~~In the case of~~ **FOR** a first offense, a misdemeanor  
21 punishable by a fine of not less than \$5,000.00 or more than  
22 \$25,000.00, or imprisonment for not more than 1 year, or both.

23 (b) ~~In the case of~~ **FOR** a second or subsequent offense, a  
24 misdemeanor punishable by a fine of not less than \$5,000.00 or more  
25 than \$25,000.00, or imprisonment for not more than 2 years, or  
26 both.

27 (c) ~~In the case of~~ **FOR** an offense that causes death or serious

1 injury, a felony punishable by a fine of not less than \$5,000.00 or  
2 more than \$25,000.00, or imprisonment for not more than 4 years, or  
3 both.

4 (7) Notwithstanding subsections (4) and (5), ~~a person that~~ **AN**  
5 **INDIVIDUAL WHO** is not licensed under article 20 as an architect,  
6 professional engineer, or professional land surveyor and ~~that~~ **WHO**  
7 violates subsection (1) or (2) is guilty as follows:

8 (a) ~~In the case of~~ **FOR** a first offense, a misdemeanor  
9 punishable by a fine of not less than \$5,000.00 or more than  
10 \$25,000.00 or imprisonment for not more than 93 days, or both.

11 (b) ~~In the case of~~ **FOR** a second or subsequent offense, a  
12 misdemeanor punishable by a fine of not less than \$5,000.00 or more  
13 than \$25,000.00 or imprisonment for not more than 1 year, or both.

14 (c) ~~In the case of~~ **FOR** an offense that causes death or serious  
15 injury, a felony punishable by a fine of not less than \$5,000.00 or  
16 more than \$25,000.00 or imprisonment for not more than 4 years, or  
17 both.

18 (8) If a trier of fact finds that a person has violated this  
19 act, the trier of fact shall require that person to make  
20 restitution, based on proofs submitted to and findings made by the  
21 trier of fact as provided by law.

22 (9) Notwithstanding the existence and pursuit of any other  
23 remedy, an affected person may maintain **AN ACTION FOR** injunctive  
24 ~~action~~ **RELIEF** to restrain or prevent a person from violating  
25 subsection (1) or (2). If successful in obtaining injunctive  
26 relief, the affected person is entitled to actual costs and  
27 attorney fees.

1       (10) This act does not apply to a person that is engaging in  
2 or practicing any of the following:

3       (a) Interior design.

4       (b) Residential building design. As used in this subdivision,  
5 "residential building design" means the rendering of residential  
6 design services for a detached 1- and 2-family residence building  
7 by a person that is exempt ~~from the requirements of~~ **UNDER** section  
8 2012 **FROM THE REQUIREMENTS OF ARTICLE 20.**

9       (c) Any activity for which the person is licensed under  
10 article 11 of the skilled trades regulation act, MCL 339.6101 to  
11 339.6133.

12       (d) Any activity for which the person is licensed under  
13 article 8 of the skilled trades regulation act, MCL 339.5801 to  
14 339.5819.

15       (e) Any activity for which the person is licensed under  
16 article 7 of the skilled trades regulation act, MCL 339.5701 to  
17 339.5739.

18       (11) As used in subsection (9), "affected person" means a  
19 person that is directly affected by the actions of a person **THAT IS**  
20 suspected of violating subsection (1) or (2) and includes, but is  
21 not limited to, a licensee or registrant, a board established under  
22 this act, the department, a person that utilizes the services of  
23 the person that is engaging in or attempting to engage in an  
24 occupation that is regulated under this act or using a title that  
25 is designated by this act without being licensed or registered by  
26 the department, or a private association that is composed primarily  
27 of members of the occupation in which the person is engaging in or

1 attempting to engage in or in which the person is using a title  
2 designated under this act without being registered or licensed by  
3 the department.

4 (12) ~~An~~ **THE DEPARTMENT MAY CONDUCT AN** investigation ~~may be~~  
5 ~~conducted~~ under article 5 to enforce this section. A person that  
6 violates this section is subject to this section and sections 506,  
7 602, and 606.

8 (13) The department, the attorney general, or a county  
9 prosecutor may utilize forfeiture as a remedy **FOR A VIOLATION OF**  
10 **THIS SECTION** in the manner provided for in section 606.

11 (14) The remedies under this section are independent and  
12 cumulative. The use of 1 remedy by a person does not bar the use of  
13 other lawful remedies by that person or the use of a lawful remedy  
14 by another person.

15 (15) An interior designer may perform services in connection  
16 with the design of interior spaces including preparation of  
17 documents relative to finishes, systems furniture, furnishings,  
18 fixtures, equipment, and interior partitions that do not affect the  
19 building mechanical, structural, electrical, or fire safety  
20 systems.

21 (16) At the time a court enters a conviction ~~under~~ **FOR A**  
22 **VIOLATION OF** subsection (4), (5), ~~or~~ (6), **OR (7)**, the court shall  
23 notify, by mail, facsimile transmission, or electronic mail, the  
24 department of the conviction.

#### 25 **ARTICLE 14**

#### 26 **SEC. 1401. AS USED IN THIS ARTICLE:**

27 (A) "CLIENT" MEANS A PERSON ON WHOSE BEHALF A HOME INSPECTOR

1 IS ACTING. THE TERM MAY INCLUDE A SELLER UNDER CERTAIN  
2 CIRCUMSTANCES.

3 (B) "ELECTRICAL SYSTEM" MEANS THE TOTAL SYSTEM, BEGINNING WITH  
4 THE UTILITY CONNECTION, IN A RESIDENCE THAT FACILITATES THE FLOW OF  
5 ELECTRICITY BEGINNING WITH THE MAIN PANEL AND EXTENDING TO THE  
6 SUBPANELS AND INCLUDING BRANCH CIRCUITS, AND DIRECTLY WIRED  
7 ELECTRICAL AND LIGHTING FIXTURES.

8 (C) "FOUNDATION" MEANS 1 OR MORE OF THE SUPPORTING ELEMENTS OF  
9 A STRUCTURE, INCLUDING, BUT NOT LIMITED TO, ANY OF THE FOLLOWING:

10 (i) SLAB.

11 (ii) CRAWL SPACE.

12 (iii) BASEMENT.

13 (iv) PIERS.

14 (D) "HEATING AND AIR CONDITIONING SYSTEM" MEANS A SEPARATE OR  
15 COMBINED SYSTEM THAT IS USED TO DISTRIBUTE OR RADIATE HEAT OR COOL  
16 AIR THROUGHOUT ALL OR PART OF A RESIDENCE.

17 (E) "HOME INSPECTION SERVICES" MEANS SERVICES PROVIDED TO A  
18 CLIENT, FOR CONSIDERATION, THAT ARE DESIGNED TO IDENTIFY AND  
19 DISCLOSE THE FUNCTIONAL CONDITION OF THE MAJOR SYSTEMS IN A  
20 RESIDENCE AT THE TIME OF THE INSPECTION. HOME INSPECTION SERVICES  
21 DO NOT INCLUDE AN INSPECTION DESIGNED ONLY TO DISCLOSE ANY OF THE  
22 FOLLOWING:

23 (i) COMPLIANCE WITH LOCAL, STATE, OR FEDERAL BUILDING OR  
24 CONSTRUCTION LAWS, CODES, OR REGULATIONS.

25 (ii) COMPLIANCE WITH LOCAL, STATE, OR FEDERAL HEALTH AND  
26 SAFETY LAWS OR REGULATIONS.

27 (iii) THE PRESENCE OR ABSENCE OF PESTS, TERMITES, OR OTHER



1 VERMIN OR DAMAGE RESULTING FROM THE PRESENCE OF PESTS, TERMITES, OR  
2 VERMIN.

3 (F) "HOME INSPECTOR" MEANS AN INDIVIDUAL WHO IS ENGAGED IN, OR  
4 OFFERING TO ENGAGE IN, THE BUSINESS OF PROVIDING HOME INSPECTION  
5 SERVICES BUT DOES NOT INCLUDE ANY OF THE FOLLOWING:

6 (i) AN INDIVIDUAL WHO IS ACTING ON BEHALF OF A LOCAL, STATE,  
7 OR FEDERAL GOVERNMENTAL UNIT OR AGENCY AND IS CONDUCTING AN  
8 INSPECTION OR INVESTIGATION CONCERNING COMPLIANCE WITH EITHER OR  
9 BOTH OF THE FOLLOWING:

10 (A) HEALTH OR SAFETY LAWS OR REGULATIONS.

11 (B) CONSTRUCTION OR BUILDING LAWS, CODES, OR REGULATIONS.

12 (ii) AN INDIVIDUAL WHO IS LICENSED, REGISTERED, OR CERTIFIED  
13 UNDER 1 OR MORE OF THE FOLLOWING WHILE CONDUCTING AN INSPECTION  
14 THAT IS REASONABLY RELATED TO A TASK OR PROSPECTIVE TASK WITHIN THE  
15 SCOPE OF LICENSURE, REGISTRATION, OR CERTIFICATION:

16 (A) ARTICLE 20.

17 (B) ARTICLE 24.

18 (C) ARTICLE 25.

19 (D) ARTICLE 26.

20 (E) ARTICLE 7, 8, OR 11 OF THE SKILLED TRADES REGULATION ACT,  
21 2016 PA 407, MCL 339.5701 TO 339.5739, 339.5801 TO 339.5819, AND  
22 339.6101 TO 339.6133.

23 (G) "MAJOR DEFICIENCY" MEANS A DEFECT IN 1 OR MORE MAJOR  
24 SYSTEMS THAT MAY CAUSE THE REASONABLE LIKELIHOOD OF HARM TO THE  
25 SAFETY OF THE OCCUPANTS OR THAT MAY RESULT IN THE REASONABLE  
26 LIKELIHOOD OF A MAJOR SYSTEM BECOMING NONOPERATIONAL.

27 (H) "MAJOR SYSTEM" MEANS ANY 1 OF THE FOLLOWING:

1 (i) ELECTRICAL SYSTEM.

2 (ii) HEATING AND AIR CONDITIONING SYSTEM.

3 (iii) PLUMBING SYSTEM.

4 (iv) STRUCTURE AND FOUNDATION.

5 (I) "PLUMBING SYSTEM" MEANS THAT SYSTEM REGULATING THE INWARD  
6 AND OUTWARD FLOW OF WATER AND SEWAGE IN A RESIDENCE AND INCLUDES,  
7 BUT IS NOT LIMITED TO, WATER HEATERS, FIXTURES, FAUCETS, VALVES,  
8 AND PIPES. PLUMBING DOES NOT INCLUDE WELLS, SEPTIC SYSTEMS, WATER  
9 SOFTENERS, OR SUMP PUMPS UNLESS INCLUDED IN WRITING IN THE CONTRACT  
10 FOR HOME INSPECTION SERVICES.

11 (J) "RESIDENCE" MEANS A BUILDING THAT IS USED PRIMARILY FOR  
12 FAMILY LIVING QUARTERS AND DESIGNED FOR OCCUPANCY BY NOT MORE THAN  
13 4 FAMILIES IN SEPARATE DWELLING UNITS. RESIDENCE DOES NOT INCLUDE  
14 ANY BUILDING NEWLY CONSTRUCTED OR NOT PREVIOUSLY OCCUPIED AS A  
15 DWELLING UNIT.

16 (K) "STRUCTURE" MEANS THE WALLS, WINDOWS, DOORS, AND ROOF ON  
17 THE EXTERIOR OF A RESIDENCE AND THE WALLS, CEILINGS, FLOORS,  
18 WINDOWS, AND DOORS ON THE INTERIOR OF A RESIDENCE.

19 SEC. 1402. THERE IS CREATED A HOME INSPECTORS BOARD.

20 SEC. 1403. (1) BEGINNING ON THE EFFECTIVE DATE OF THIS  
21 ARTICLE, AN INDIVIDUAL SHALL NOT PROVIDE, OR OFFER TO PROVIDE, HOME  
22 INSPECTION SERVICES UNLESS HE OR SHE IS LICENSED UNDER THIS ARTICLE  
23 OR UNLESS THE INDIVIDUAL OR SERVICES ARE EXEMPTED FROM LICENSURE  
24 UNDER THIS ARTICLE UNDER SECTION 1401(F) (i) OR (ii). AN INDIVIDUAL  
25 SHALL NOT USE THE TERM "HOME INSPECTOR" OR ANY OTHER SIMILAR TITLE  
26 THAT CONNOTES LICENSURE UNDER THIS ARTICLE UNLESS HE OR SHE IS  
27 LICENSED UNDER THIS ARTICLE. AN INDIVIDUAL WHO VIOLATES THIS

1 SECTION IS SUBJECT TO THE PENALTIES OF ARTICLE 6.

2 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), THE  
3 DEPARTMENT SHALL LICENSE AN INDIVIDUAL WHO FILES A COMPLETED  
4 APPLICATION AND PAYS THE APPROPRIATE APPLICATION AND LICENSE FEE  
5 AND WHO MEETS ALL OF THE FOLLOWING:

6 (A) EDUCATION REQUIREMENTS THAT CONSIST OF AT LEAST 80 CREDIT  
7 HOURS OF EDUCATION AS DETERMINED APPROPRIATE BY THE DEPARTMENT.

8 (B) PARTICIPATION IN AT LEAST 200 HOME INSPECTIONS CONDUCTED  
9 UNDER THE AUTHORITY AND DIRECTION OF A HOME INSPECTOR LICENSED  
10 UNDER THIS ARTICLE, AS EVIDENCED BY AN AFFIDAVIT OF THE LICENSEE.

11 (C) THE PASSAGE OF A PROCTORED EXAMINATION ACCEPTABLE TO THE  
12 DEPARTMENT AND THE BOARD. THE CURRENT EXAMINATION REFERRED TO AS  
13 THE NATIONAL HOME INSPECTION EXAMINATION DEVELOPED BY THE  
14 EXAMINATION BOARD OF PROFESSIONAL HOME INSPECTORS, AS IT EXISTS ON  
15 THE EFFECTIVE DATE OF THIS ARTICLE, IS CONSIDERED AN ACCEPTABLE  
16 EXAMINATION. ANY OTHER EXAMINATION THAT UTILIZES PSYCHOMETRIC  
17 STANDARDS AND THAT HAS SUBSTANTIALLY THE SAME SUBSTANTIVE AREAS OF  
18 TESTING, AS DETERMINED BY THE BOARD AND THE DEPARTMENT, MAY ALSO BE  
19 USED FOR PURPOSES OF THIS SUBDIVISION. THE DIRECTOR, IN  
20 CONSULTATION WITH THE BOARD, MAY BY RULE ADOPT ANY UPDATES OR  
21 ALTERNATIVES TO THE EXAMINATION DESCRIBED IN THIS SUBDIVISION.

22 (D) IS AT LEAST 18 YEARS OF AGE AND HAS NOT BEEN CONVICTED OF  
23 ANY FELONY.

24 (3) BEGINNING ON THE EFFECTIVE DATE OF THIS ARTICLE AND UNTIL  
25 THE EXPIRATION OF 12 MONTHS AFTER THAT EFFECTIVE DATE, THE  
26 DEPARTMENT SHALL ISSUE A LICENSE TO AN INDIVIDUAL WHO APPLIES FOR A  
27 LICENSE; SUBMITS THE APPROPRIATE LICENSE AND APPLICATION FEES;

1 DOCUMENTS, IN A MANNER ACCEPTABLE TO THE DEPARTMENT, THAT IN THE  
2 PRECEDING 3 CALENDAR YEARS HE OR SHE HAS BEEN ENGAGED IN PROVIDING  
3 HOME INSPECTION SERVICES AND DURING THAT PERIOD HAS CONDUCTED OR  
4 PARTICIPATED IN AT LEAST 200 FEE-PAID HOME INSPECTIONS; AND PASSES  
5 THE EXAMINATION DESCRIBED IN SUBSECTION (2)(C). AN INDIVIDUAL WHO  
6 MEETS THE CONDITIONS DESCRIBED IN THIS SUBSECTION IS NOT REQUIRED  
7 TO MEET THE REQUIREMENTS OF SUBSECTION (2)(A), (B), AND (D).

8 (4) THE DEPARTMENT SHALL ISSUE A LICENSE TO AN INDIVIDUAL AS A  
9 HOME INSPECTOR IF THE INDIVIDUAL IS LICENSED OR OTHERWISE REGULATED  
10 IN ANOTHER STATE THAT HAS SUBSTANTIALLY THE SAME STANDARDS FOR  
11 LICENSURE AS THIS STATE, AS DETERMINED BY THE DEPARTMENT, AND WHO  
12 MEETS ALL OTHER RELEVANT REQUIREMENTS IN THIS STATE.

13 SEC. 1404. (1) BEGINNING ON THE EFFECTIVE DATE OF THIS  
14 ARTICLE, AN INDIVIDUAL WHO PROVIDES OR OFFERS TO PROVIDE HOME  
15 INSPECTION SERVICES SHALL COMPLY WITH THE REQUIREMENTS OF THIS  
16 SECTION AND SECTION 1405.

17 (2) A HOME INSPECTOR WHO ENTERS INTO A CONTRACT FOR HOME  
18 INSPECTION SERVICES THAT DOES NOT MEET THE REQUIREMENTS OF THIS  
19 ARTICLE IS SUBJECT TO AN ACTION FOR DAMAGES BROUGHT BY THE CLIENT  
20 IN A COURT OF COMPETENT JURISDICTION, PENALTIES AND SANCTIONS  
21 CONTAINED IN ARTICLES 5 AND 6, OR BOTH.

22 (3) A HOME INSPECTOR SHALL INSPECT THOSE MAJOR SYSTEMS OF A  
23 RESIDENCE THAT ARE THE SUBJECT OF A CONTRACT FOR HOME INSPECTION  
24 SERVICES BUT IS ONLY REQUIRED TO INSPECT TO THE EXTENT THAT THOSE  
25 MAJOR SYSTEMS ARE READILY ACCESSIBLE AND VISIBLE TO THE HOME  
26 INSPECTOR. A HOME INSPECTOR SHALL INDICATE IN WRITING ANY MAJOR  
27 SYSTEM, OR ANY PART OF A MAJOR SYSTEM, THAT HE OR SHE WAS NOT ABLE

1 TO INSPECT AND THE REASONS FOR THE INABILITY TO INSPECT.

2 (4) THE HOME INSPECTOR SHALL DISCLOSE WHETHER HE OR SHE, AN  
3 EMPLOYEE OR AGENT, OR AN IMMEDIATE FAMILY MEMBER HAS AN OWNERSHIP  
4 INTEREST IN THE RESIDENCE BEING INSPECTED.

5 (5) A HOME INSPECTOR SHALL DISCLOSE WHETHER HE OR SHE, AN  
6 EMPLOYEE OR AGENT, OR AN IMMEDIATE FAMILY MEMBER IS A MEMBER OF A  
7 BOARD OF DIRECTORS OF, OR AN OFFICER OF, AN ENTITY THAT HAS AN  
8 OWNERSHIP INTEREST IN THE RESIDENCE BEING INSPECTED.

9 (6) A HOME INSPECTOR SHALL DISCLOSE AND PROVIDE AT THE TIME A  
10 WRITTEN HOME INSPECTION REPORT IS DELIVERED TO THE CLIENT AT LEAST  
11 BOTH OF THE FOLLOWING:

12 (A) THE SCOPE OF THE HOME INSPECTION SERVICES, INCLUDING A  
13 DETAILED DESCRIPTION OF THE MAJOR SYSTEMS TO BE INSPECTED, THE TYPE  
14 OF MAJOR DEFICIENCIES THE HOME INSPECTION IS DESIGNED TO REVEAL,  
15 AND ITEMS THAT ARE EXCLUDED FROM COVERAGE UNDER THE CONTRACT FOR  
16 HOME INSPECTION SERVICES.

17 (B) A STATEMENT THAT A HOME INSPECTOR INSPECTING A PARTICULAR  
18 RESIDENCE SHALL NOT REPAIR OR OFFER TO REPAIR A RESIDENCE THAT WAS  
19 THE SUBJECT OF HOME INSPECTION SERVICES PROVIDED BY THAT HOME  
20 INSPECTOR.

21 SEC. 1405. (1) A CONTRACT FOR HOME INSPECTION SERVICES SHALL  
22 BE IN WRITING, EXECUTED BY THE HOME INSPECTOR AND EITHER THE CLIENT  
23 OR THE CLIENT'S AGENT, AND MEET THE REQUIREMENTS OF SUBSECTION (4).  
24 A HOME INSPECTOR SHALL PROVIDE A COPY OF THE EXECUTED CONTRACT FOR  
25 HOME INSPECTION SERVICES TO THE CLIENT AT THE TIME OF ITS  
26 EXECUTION.

27 (2) ALL TERMS OF A CONTRACT FOR HOME INSPECTION SERVICES SHALL

1 BE CONTAINED IN THE WRITTEN CONTRACT EXCEPT THAT CONDITIONS OF THE  
2 RESIDENCE AFFECTING THE HOME INSPECTOR'S ABILITY TO CONDUCT A HOME  
3 INSPECTION SHALL BE NOTED IN THE REPORT PROVIDED TO THE CLIENT  
4 AFTER THE INSPECTION IS CONDUCTED. ANY CHANGES OR MODIFICATIONS OF  
5 THE TERMS OF A CONTRACT FOR HOME INSPECTION SERVICES SHALL BE  
6 REDUCED TO WRITING.

7 (3) UNLESS OTHERWISE INDICATED IN WRITING, THE PURCHASER OR  
8 OWNER OF A RESIDENCE BEING INSPECTED IS CONSIDERED THE CLIENT IN  
9 THE CASE OF A HOME INSPECTION CONDUCTED AS PART OF A SALE OF THE  
10 RESIDENCE.

11 (4) THE FOLLOWING SHALL BE CONTAINED IN A CONTRACT FOR HOME  
12 INSPECTION SERVICES:

13 (A) A DESCRIPTION OF THE HOME INSPECTION SERVICES TO BE  
14 PROVIDED.

15 (B) ANY DISCLAIMERS INCLUDING, BUT NOT LIMITED TO, THE ABSENCE  
16 OF ANY WARRANTIES AS TO THE ADEQUACY OF FUTURE PERFORMANCE OF A  
17 MAJOR SYSTEM AND THAT THE HOME INSPECTION IS CONSIDERED A VALID  
18 ASSESSMENT OF THE CONDITION OF THE RESIDENCE ONLY AS OF THE DATE  
19 THE HOME INSPECTION IS CONDUCTED.

20 (C) ANY EXCLUSION OF DEFECTS THAT ARE NOT REASONABLY APPARENT  
21 BY VISUAL INSPECTION.

22 (D) ANY EXCLUSION OF ANY MAJOR SYSTEM THAT IS NOT OPERABLE AT  
23 THE TIME OF THE CONDUCT OF THE HOME INSPECTION.

24 (E) THE DISCLOSURES REQUIRED IN SECTION 1404(4) AND (5).

25 (5) AFTER PERFORMING HOME INSPECTION SERVICES, A HOME  
26 INSPECTOR SHALL PROVIDE TO THE CLIENT A WRITTEN HOME INSPECTION  
27 REPORT THAT CONTAINS THE RESULTS OF THE HOME INSPECTION. THE HOME

1 INSPECTION REPORT SHALL INCLUDE A LIST OF THE MAJOR SYSTEMS THAT  
2 WERE INSPECTED AND ANY MAJOR SYSTEMS THAT WERE NOT INSPECTED. THE  
3 HOME INSPECTOR SHALL LIST IN THE REPORT ANY CONDITIONS THAT AFFECT  
4 OR LIMIT THE ABILITY OF THE HOME INSPECTOR TO PROVIDE HOME  
5 INSPECTION SERVICES UNDER THE CONTRACT.

6 (6) A HOME INSPECTION REPORT SHALL INCLUDE ALL OF THE  
7 FOLLOWING STATEMENTS:

8 (A) THAT DEFECTS THAT ARE NOT REASONABLY APPARENT BY VISUAL  
9 INSPECTION ARE EXCLUDED.

10 (B) THAT A MAJOR SYSTEM THAT IS NOT OPERABLE AT THE TIME OF  
11 THE CONDUCT OF THE HOME INSPECTION IS EXCLUDED.

12 (7) THE HOME INSPECTOR SHALL INDICATE IN A WRITTEN HOME  
13 INSPECTION REPORT THAT THE HOME INSPECTION IS CONSIDERED A VALID  
14 ASSESSMENT OF THE CONDITION OF THE RESIDENCE ONLY AS OF THE DATE  
15 THE HOME INSPECTION IS CONDUCTED.

16 (8) A HOME INSPECTOR SHALL RETAIN A COPY OF A CONTRACT FOR  
17 HOME INSPECTION SERVICES AND THE WRITTEN HOME INSPECTION REPORT FOR  
18 AT LEAST 18 MONTHS AFTER THE DATE OF THE REPORT.

19 (9) ANY DISPUTES BETWEEN A HOME INSPECTOR AND A CLIENT MAY BE  
20 RESOLVED BY ARBITRATION, IF THE CONTRACT SO PROVIDES. THE  
21 ARBITRATION SHALL BE CONDUCTED IN COMPLIANCE WITH THE RULES OF THE  
22 AMERICAN ARBITRATION ASSOCIATION.

23 (10) THE HOME INSPECTOR-CLIENT RELATIONSHIP IS PRIVILEGED.  
24 COMMUNICATIONS BETWEEN A HOME INSPECTOR AND CLIENT, INCLUDING THE  
25 HOME INSPECTION REPORT, ARE PRIVILEGED. A PERSON SHALL NOT  
26 INTENTIONALLY OR WILLFULLY INTERFERE IN THE HOME INSPECTOR-CLIENT  
27 RELATIONSHIP OR ANY COMMUNICATIONS ARISING FROM THE HOME INSPECTOR-

1 CLIENT RELATIONSHIP.

2 (11) A CLIENT OR THE DEPARTMENT MAY NOT FILE AN ADMINISTRATIVE  
3 OR CIVIL COMPLAINT AGAINST A HOME INSPECTOR UNDER THIS ARTICLE MORE  
4 THAN 12 MONTHS AFTER THE DATE OF THE INSPECTION.

5 SEC. 1406. THE REMEDIES UNDER THIS ARTICLE ARE CUMULATIVE AND  
6 THE USE OF 1 REMEDY DOES NOT BAR THE USE OF ANY OTHER REMEDY  
7 PROVIDED BY LAW.

8 SEC. 1407. THE DIRECTOR SHALL PROMULGATE RULES TO PROVIDE FOR  
9 ALL OF THE FOLLOWING:

10 (A) A REQUIREMENT THAT LICENSEES COMPLETE AT LEAST 20 HOURS OF  
11 CONTINUING EDUCATION FOR PROFESSIONAL COMPETENCE ANNUALLY.

12 (B) REQUIREMENTS FOR ACCEPTABLE COURSES OFFERED AT SEMINARS  
13 AND CONVENTIONS BY TRADE ASSOCIATIONS, RESEARCH INSTITUTES, RISK  
14 MANAGEMENT ENTITIES, MANUFACTURERS, SUPPLIERS, GOVERNMENTAL  
15 AGENCIES, CONSULTING AGENCIES, OR OTHER ENTITIES.

16 (C) ACCEPTABLE DISTANCE LEARNING.

17 (D) STANDARDS OF PERFORMANCE AND PRACTICE AND A CODE OF  
18 ETHICS.

19 (E) ALTERNATE FORMS OF DEMONSTRATING CONTINUING COMPETENCY,  
20 INCLUDING COMPREHENSIVE TESTING, PARTICIPATION IN MENTORING  
21 PROGRAMS, RESEARCH, PARTICIPATION IN CODE HEARINGS CONDUCTED BY THE  
22 INTERNATIONAL CODE COUNCIL, AND PUBLICATION OF ARTICLES IN A TRADE  
23 JOURNAL OR REGIONAL MAGAZINE AS AN EXPERT IN THE FIELD, IF THOSE  
24 ALTERNATE FORMS ARE DESIGNED TO MAINTAIN AND IMPROVE THE LICENSEE'S  
25 ABILITY TO PERFORM THE OCCUPATION WITH COMPETENCE.

26 (F) WHAT PROOF IS NECESSARY TO DEMONSTRATE THAT A LICENSEE HAS  
27 FULFILLED THE REQUIREMENTS OF CONTINUING COMPETENCY.



1        SEC. 1408. FEES FOR AN INDIVIDUAL WHO IS LICENSED OR SEEKING  
2        LICENSURE AS A HOME INSPECTOR UNDER THIS ARTICLE ARE AS FOLLOWS:

3        (A) NONREFUNDABLE APPLICATION PROCESSING FEE, \$100.00.

4        (B) PER YEAR LICENSE FEE, \$100.00.

5        (C) EXAMINATION FEE, IF APPLICABLE, \$200.00.

6        (D) EXAMINATION REVIEW FEE, IF APPLICABLE, \$20.00.

7        Enacting section 1. This amendatory act takes effect 1 year  
8        after the date it is enacted into law.