

SENATE BILL No. 180

March 5, 2015, 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 2008 PA
319, 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
2 appointed under this article shall commence on 1 of the following
3 dates, as applicable:

4	Accountancy	July 1
5	Architects	April 1
6	Barbers	October 1
7	Collection agencies	July 1

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

12 Sec. 401. (1) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN A SPECIFIC**
 13 **ARTICLE, THE** specific amounts to be charged for licenses,
 14 registrations, and other activities provided for in this act
 15 ~~shall be as~~ **ARE** prescribed in the state license fee act, ~~Act No.~~
 16 ~~152 of the Public Acts of 1979, being sections 338.2201 to~~
 17 ~~338.2277 of the Michigan Compiled Laws.~~ **1979 PA 152, MCL 338.2201**
 18 **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**
 24 **THE FUND. THE STATE TREASURER SHALL CREDIT TO THE FUND INTEREST**
 25 **AND EARNINGS FROM FUND INVESTMENTS. MONEY IN THE FUND AT THE**
 26 **CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT**
 27 **LAPSE TO THE GENERAL FUND. THE DEPARTMENT IS THE ADMINISTRATOR OF**
 28 **THE FUND FOR AUDITING PURPOSES.**

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

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

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

(2) A school, institution, or person shall not operate or attempt to operate a barber college, school of cosmetology, or real estate school unless the school, institution, or person is licensed or approved by the department.

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

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

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

15 (6) Notwithstanding subsections (4) and (5), a person **THAT**
16 **IS** not licensed under **ARTICLE 14 AS A HOME INSPECTOR OR UNDER**
17 article 24 as a residential builder or a residential maintenance
18 and alteration contractor ~~who~~ **AND THAT** violates subsection (1) or
19 (2) is 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
25 more than \$25,000.00 ~~—~~or imprisonment for not more than 2 years,
26 or both.

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

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

4 (7) Notwithstanding subsections (4) and (5), ~~a person~~ **AN**
5 **INDIVIDUAL WHO IS** not licensed under article 20 as an architect,
6 professional engineer, or professional land surveyor **AND** 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
13 more than \$25,000.00 or imprisonment for not more than 1 year, or
14 both.

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

19 (8) ~~Any~~ **A CONVICTION FOR ANY** violation of this act shall
20 include a requirement that restitution be made, based ~~upon~~ **ON**
21 proofs submitted to and findings made by the trier of fact as
22 provided by law.

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

1 and attorney fees.

2 (10) This act does not apply to a person **THAT IS** engaging in
3 or practicing **ANY OF** the following:

4 (a) Interior design.

5 (b) Residential building design. As used in this
6 subdivision, "residential building design" means the rendering of
7 residential design services for a detached 1- and 2-family
8 residence building by a person ~~exempted~~ **THAT IS EXEMPT UNDER**
9 **SECTION 2012** from the requirements of ~~section 2012~~ **ARTICLE 20**.

10 (c) Any activity for which the person is licensed under the
11 state plumbing act, 2002 PA 733, MCL 338.3511 to 338.3569.

12 (d) Any activity for which the person is licensed under the
13 Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to
14 338.988.

15 (e) Any activity for which the person is licensed under the
16 electrical administrative act, 1956 PA 217, MCL 338.881 to
17 338.892.

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

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

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

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

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

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

22 (16) ~~Upon entering a conviction under~~ **IF A COURT ENTERS A**
 23 **CONVICTION FOR A VIOLATION OF** subsection (4), (5), ~~or~~ (6), **OR**
 24 (7), ~~a~~ **THE** court ~~entering the conviction~~ shall notify, by mail,
 25 facsimile transmission, or electronic mail, the ~~bureau of~~
 26 ~~commercial services at the department.~~ **CORPORATIONS, SECURITIES,**
 27 **AND COMMERCIAL LICENSING BUREAU OF THAT CONVICTION.**

ARTICLE 14

SEC. 1401. AS USED IN THIS ARTICLE:

(A) "CLIENT" MEANS A PERSON ON WHOSE BEHALF A HOME INSPECTOR IS ACTING. THE TERM MAY INCLUDE A SELLER UNDER CERTAIN CIRCUMSTANCES.

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

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

(i) SLAB.

(ii) CRAWL SPACE.

(iii) BASEMENT.

(iv) PIERS.

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

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

(i) COMPLIANCE WITH LOCAL, STATE, OR FEDERAL BUILDING OR

1 CONSTRUCTION LAWS, CODES, OR REGULATIONS.

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

4 (iii) THE PRESENCE OR ABSENCE OF PESTS, TERMITES, OR OTHER
5 VERMIN OR DAMAGE RESULTING FROM THE PRESENCE OF PESTS, TERMITES,
6 OR VERMIN.

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

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

14 (A) HEALTH OR SAFETY LAWS OR REGULATIONS.

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

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

20 (A) ARTICLE 20.

21 (B) ARTICLE 24.

22 (C) ARTICLE 25.

23 (D) ARTICLE 26.

24 (E) THE STATE PLUMBING ACT, 2002 PA 733, MCL 338.3511 TO
25 338.3569.

26 (F) THE ELECTRICAL ADMINISTRATIVE ACT, 1956 PA 217, MCL
27 338.881 TO 338.892.

1 (G) THE FORBES MECHANICAL CONTRACTORS ACT, 1984 PA 192, MCL
2 338.971 TO 338.988.

3 (G) "MAJOR DEFICIENCY" MEANS A DEFECT IN 1 OR MORE MAJOR
4 SYSTEMS THAT MAY CAUSE THE REASONABLE LIKELIHOOD OF HARM TO THE
5 SAFETY OF THE OCCUPANTS OR THAT MAY RESULT IN THE REASONABLE
6 LIKELIHOOD OF A MAJOR SYSTEM BECOMING NONOPERATIONAL.

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

8 (i) ELECTRICAL SYSTEM.

9 (ii) HEATING AND AIR CONDITIONING SYSTEM.

10 (iii) PLUMBING SYSTEM.

11 (iv) STRUCTURE AND FOUNDATION.

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

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

23 (K) "STRUCTURE" MEANS THE WALLS, WINDOWS, DOORS, AND ROOF ON
24 THE EXTERIOR OF A RESIDENCE AND THE WALLS, CEILINGS, FLOORS,
25 WINDOWS, AND DOORS ON THE INTERIOR OF A RESIDENCE.

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

27 SEC. 1403. (1) BEGINNING ON THE EFFECTIVE DATE OF THIS

1 ARTICLE, AN INDIVIDUAL SHALL NOT PROVIDE, OR OFFER TO PROVIDE,
2 HOME INSPECTION SERVICES UNLESS HE OR SHE IS LICENSED UNDER THIS
3 ARTICLE OR UNLESS THE INDIVIDUAL OR SERVICES ARE EXEMPTED FROM
4 LICENSURE UNDER THIS ARTICLE UNDER SECTION 1401(F) (i) OR (ii) . AN
5 INDIVIDUAL SHALL NOT USE THE TERM "HOME INSPECTOR" OR ANY OTHER
6 SIMILAR TITLE THAT CONNOTES LICENSURE UNDER THIS ARTICLE UNLESS
7 HE OR SHE IS LICENSED UNDER THIS ARTICLE. AN INDIVIDUAL WHO
8 VIOLATES THIS SECTION IS SUBJECT TO THE PENALTIES OF ARTICLE 6.

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

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

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

19 (C) THE PASSAGE OF A PROCTORED EXAMINATION ACCEPTABLE TO THE
20 DEPARTMENT AND THE BOARD. THE CURRENT EXAMINATION REFERRED TO AS
21 THE NATIONAL HOME INSPECTION EXAMINATION DEVELOPED BY THE
22 EXAMINATION BOARD OF PROFESSIONAL HOME INSPECTORS, AS IT EXISTS
23 ON THE EFFECTIVE DATE OF THIS ARTICLE, IS CONSIDERED AN
24 ACCEPTABLE EXAMINATION. ANY OTHER EXAMINATION THAT UTILIZES
25 PSYCHOMETRIC STANDARDS AND THAT HAS SUBSTANTIALLY THE SAME
26 SUBSTANTIVE AREAS OF TESTING, AS DETERMINED BY THE BOARD AND THE
27 DEPARTMENT, MAY ALSO BE USED FOR PURPOSES OF THIS SUBDIVISION.

1 THE DIRECTOR, IN CONSULTATION WITH THE BOARD, MAY BY RULE ADOPT
2 ANY UPDATES OR ALTERNATIVES TO THE EXAMINATION DESCRIBED IN THIS
3 SUBDIVISION.

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

6 (3) BEGINNING ON THE EFFECTIVE DATE OF THIS ARTICLE AND
7 UNTIL THE EXPIRATION OF 12 MONTHS AFTER THAT EFFECTIVE DATE, THE
8 DEPARTMENT SHALL ISSUE A LICENSE TO AN INDIVIDUAL WHO APPLIES FOR
9 A LICENSE; SUBMITS THE APPROPRIATE LICENSE AND APPLICATION FEES;
10 DOCUMENTS, IN A MANNER ACCEPTABLE TO THE DEPARTMENT, THAT IN THE
11 PRECEDING 3 CALENDAR YEARS HE OR SHE HAS BEEN ENGAGED IN
12 PROVIDING HOME INSPECTION SERVICES AND DURING THAT PERIOD HAS
13 CONDUCTED OR PARTICIPATED IN AT LEAST 200 FEE-PAID HOME
14 INSPECTIONS; AND PASSES THE EXAMINATION DESCRIBED IN SUBSECTION
15 (2) (C). AN INDIVIDUAL WHO MEETS THE CONDITIONS DESCRIBED IN THIS
16 SUBSECTION IS NOT REQUIRED TO MEET THE REQUIREMENTS OF SUBSECTION
17 (2) (A), (B), AND (D).

18 (4) THE DEPARTMENT SHALL ISSUE A LICENSE TO AN INDIVIDUAL AS
19 A HOME INSPECTOR IF THE INDIVIDUAL IS LICENSED OR OTHERWISE
20 REGULATED IN ANOTHER STATE THAT HAS SUBSTANTIALLY THE SAME
21 STANDARDS FOR LICENSURE AS THIS STATE, AS DETERMINED BY THE
22 DEPARTMENT, AND WHO MEETS ALL OTHER RELEVANT REQUIREMENTS IN THIS
23 STATE.

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

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

6 (3) A HOME INSPECTOR SHALL INSPECT THOSE MAJOR SYSTEMS OF A
7 RESIDENCE THAT ARE THE SUBJECT OF A CONTRACT FOR HOME INSPECTION
8 SERVICES BUT IS ONLY REQUIRED TO INSPECT TO THE EXTENT THAT THOSE
9 MAJOR SYSTEMS ARE READILY ACCESSIBLE AND VISIBLE TO THE HOME
10 INSPECTOR. A HOME INSPECTOR SHALL INDICATE IN WRITING ANY MAJOR
11 SYSTEM, OR ANY PART OF A MAJOR SYSTEM, THAT HE OR SHE WAS NOT
12 ABLE TO INSPECT AND THE REASONS FOR THE INABILITY TO INSPECT.

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

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

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

23 (A) THE SCOPE OF THE HOME INSPECTION SERVICES, INCLUDING A
24 DETAILED DESCRIPTION OF THE MAJOR SYSTEMS TO BE INSPECTED, THE
25 TYPE OF MAJOR DEFICIENCIES THE HOME INSPECTION IS DESIGNED TO
26 REVEAL, AND ITEMS THAT ARE EXCLUDED FROM COVERAGE UNDER THE
27 CONTRACT FOR HOME INSPECTION SERVICES.

1 (B) A STATEMENT THAT A HOME INSPECTOR INSPECTING A
2 PARTICULAR RESIDENCE SHALL NOT REPAIR OR OFFER TO REPAIR A
3 RESIDENCE THAT WAS THE SUBJECT OF HOME INSPECTION SERVICES
4 PROVIDED BY THAT HOME INSPECTOR.

5 SEC. 1405. (1) A CONTRACT FOR HOME INSPECTION SERVICES SHALL
6 BE IN WRITING, EXECUTED BY THE HOME INSPECTOR AND EITHER THE
7 CLIENT OR THE CLIENT'S AGENT, AND MEET THE REQUIREMENTS OF
8 SUBSECTION (4). A HOME INSPECTOR SHALL PROVIDE A COPY OF THE
9 EXECUTED CONTRACT FOR HOME INSPECTION SERVICES TO THE CLIENT AT
10 THE TIME OF ITS EXECUTION.

11 (2) ALL TERMS OF A CONTRACT FOR HOME INSPECTION SERVICES
12 SHALL BE CONTAINED IN THE WRITTEN CONTRACT EXCEPT THAT CONDITIONS
13 OF THE RESIDENCE AFFECTING THE HOME INSPECTOR'S ABILITY TO
14 CONDUCT A HOME INSPECTION SHALL BE NOTED IN THE REPORT PROVIDED
15 TO THE CLIENT AFTER THE INSPECTION IS CONDUCTED. ANY CHANGES OR
16 MODIFICATIONS OF THE TERMS OF A CONTRACT FOR HOME INSPECTION
17 SERVICES SHALL BE REDUCED TO WRITING.

18 (3) UNLESS OTHERWISE INDICATED IN WRITING, THE PURCHASER OR
19 OWNER OF A RESIDENCE BEING INSPECTED IS CONSIDERED THE CLIENT IN
20 THE CASE OF A HOME INSPECTION CONDUCTED AS PART OF A SALE OF THE
21 RESIDENCE.

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

24 (A) A DESCRIPTION OF THE HOME INSPECTION SERVICES TO BE
25 PROVIDED.

26 (B) ANY DISCLAIMERS INCLUDING, BUT NOT LIMITED TO, THE
27 ABSENCE OF ANY WARRANTIES AS TO THE ADEQUACY OF FUTURE

1 PERFORMANCE OF A MAJOR SYSTEM AND THAT THE HOME INSPECTION IS
2 CONSIDERED A VALID ASSESSMENT OF THE CONDITION OF THE RESIDENCE
3 ONLY AS OF THE DATE THE HOME INSPECTION IS CONDUCTED.

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

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

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

9 (5) AFTER PERFORMING HOME INSPECTION SERVICES, A HOME
10 INSPECTOR SHALL PROVIDE TO THE CLIENT A WRITTEN HOME INSPECTION
11 REPORT THAT CONTAINS THE RESULTS OF THE HOME INSPECTION. THE HOME
12 INSPECTION REPORT SHALL INCLUDE A LIST OF THE MAJOR SYSTEMS THAT
13 WERE INSPECTED AND ANY MAJOR SYSTEMS THAT WERE NOT INSPECTED. THE
14 HOME INSPECTOR SHALL LIST IN THE REPORT ANY CONDITIONS THAT
15 AFFECT OR LIMIT THE ABILITY OF THE HOME INSPECTOR TO PROVIDE HOME
16 INSPECTION SERVICES UNDER THE CONTRACT.

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

19 (A) THAT DEFECTS THAT ARE NOT REASONABLY APPARENT BY VISUAL
20 INSPECTION ARE EXCLUDED.

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

23 (7) THE HOME INSPECTOR SHALL INDICATE IN A WRITTEN HOME
24 INSPECTION REPORT THAT THE HOME INSPECTION IS CONSIDERED A VALID
25 ASSESSMENT OF THE CONDITION OF THE RESIDENCE ONLY AS OF THE DATE
26 THE HOME INSPECTION IS CONDUCTED.

27 (8) A HOME INSPECTOR SHALL RETAIN A COPY OF A CONTRACT FOR

1 HOME INSPECTION SERVICES AND THE WRITTEN HOME INSPECTION REPORT
2 FOR AT LEAST 18 MONTHS AFTER THE DATE OF THE REPORT.

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

7 (10) THE HOME INSPECTOR-CLIENT RELATIONSHIP IS PRIVILEGED.
8 COMMUNICATIONS BETWEEN A HOME INSPECTOR AND CLIENT, INCLUDING THE
9 HOME INSPECTION REPORT, ARE PRIVILEGED. A PERSON SHALL NOT
10 INTENTIONALLY OR WILLFULLY INTERFERE IN THE HOME INSPECTOR-CLIENT
11 RELATIONSHIP OR ANY COMMUNICATIONS ARISING FROM THE HOME
12 INSPECTOR-CLIENT RELATIONSHIP.

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

17 SEC. 1406. THE REMEDIES UNDER THIS ARTICLE ARE CUMULATIVE
18 AND THE USE OF 1 REMEDY DOES NOT BAR THE USE OF ANY OTHER REMEDY
19 PROVIDED BY LAW.

20 SEC. 1407. THE DIRECTOR SHALL PROMULGATE RULES TO PROVIDE
21 FOR ALL OF THE FOLLOWING:

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

24 (B) REQUIREMENTS FOR ACCEPTABLE COURSES OFFERED AT SEMINARS
25 AND CONVENTIONS BY TRADE ASSOCIATIONS, RESEARCH INSTITUTES, RISK
26 MANAGEMENT ENTITIES, MANUFACTURERS, SUPPLIERS, GOVERNMENTAL
27 AGENCIES, CONSULTING AGENCIES, OR OTHER ENTITIES.

(C) ACCEPTABLE DISTANCE LEARNING.

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

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

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

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

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

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

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

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

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