

# HOUSE BILL No. 5320

February 12, 2014, Introduced by Rep. Jacobsen 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 2006 PA 489, 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 terms provided for in this act shall commence  
2 on the following dates:

3	Accountancy	July 1
4	Architects	April 1
5	Auctioneers	October 1

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

16           Sec. 401. (1) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN A SPECIFIC**  
17 **ARTICLE, THE** specific amounts to be charged for licenses,  
18 registrations, and other activities provided for in this act  
19 ~~shall be as~~ **ARE** prescribed in the state license fee act, ~~Act No.~~  
20 ~~152 of the Public Acts of 1979, being sections 338.2201 to~~  
21 ~~338.2277 of the Michigan Compiled Laws.~~ **1979 PA 152, MCL 338.2201**  
22 **TO 338.2277.**

23           (2) **THE OCCUPATIONAL FUND IS CREATED WITHIN THE STATE**  
24 **TREASURY. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS**  
25 **FROM ANY SOURCE FOR DEPOSIT INTO THE FUND, INCLUDING MONEY FROM**  
26 **THIS ACT AND THE STATE LICENSE FEE ACT, 1979 PA 152, MCL 338.2201**  
27 **TO 338.2277. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF**  
28 **THE FUND. THE STATE TREASURER SHALL CREDIT TO THE FUND INTEREST**

1 AND EARNINGS FROM FUND INVESTMENTS. MONEY IN THE FUND AT THE  
2 CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT  
3 LAPSE TO THE GENERAL FUND. THE DEPARTMENT IS THE ADMINISTRATOR OF  
4 THE FUND FOR AUDITING PURPOSES.

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

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

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

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

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

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

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

19 (6) Notwithstanding subsections (4) and (5), a person **THAT**  
 20 **IS** not licensed under **ARTICLE 14 AS A HOME INSPECTOR OR UNDER**  
 21 article 24 as a residential builder or a residential maintenance  
 22 and alteration contractor ~~who~~ **AND THAT** violates subsection (1) or  
 23 (2) is guilty ~~as follows:~~ **OF 1 OF THE FOLLOWING:**

24 (a) ~~In the case of~~ **FOR** a first offense, a misdemeanor  
 25 punishable by a fine of not less than \$5,000.00 or more than  
 26 \$25,000.00 ~~—~~ or imprisonment for not more than 1 year, or both.

27 (b) ~~In the case of~~ **FOR** a second or subsequent offense, a

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

4 (c) ~~In the case of~~ **FOR** an offense that causes death or  
5 serious injury, a felony punishable by a fine of not less than  
6 \$5,000.00 or more than \$25,000.00 ~~or~~ imprisonment for not more  
7 than 4 years, or both.

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

12 (a) ~~In the case of~~ **FOR** a first offense, a misdemeanor  
13 punishable by a fine of not less than \$5,000.00 or more than  
14 \$25,000.00 or imprisonment for not more than 93 days, or both.

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

19 (c) ~~In the case of~~ **FOR** an offense that causes death or  
20 serious injury, a felony punishable by a fine of not less than  
21 \$5,000.00 or more than \$25,000.00 or imprisonment for not more  
22 than 4 years, or both.

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

27 (9) Notwithstanding the existence and pursuit of any other

1 remedy, an affected person may maintain **AN ACTION FOR** injunctive  
 2 ~~action-RELIEF~~ to restrain or prevent a person from violating  
 3 subsection (1) or (2). If successful in obtaining injunctive  
 4 relief, the affected person ~~shall be-~~**IS** entitled to actual costs  
 5 and attorney fees.

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

8 (a) Interior design.

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

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

16 (d) Any activity for which the person is licensed under the  
 17 Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to  
 18 338.988.

19 (e) Any activity for which the person is licensed under the  
 20 electrical administrative act, 1956 PA 217, MCL 338.881 to  
 21 338.892.

22 (11) As used in subsection (9), "affected person" means a  
 23 person **THAT IS** directly affected by the actions of a person **THAT**  
 24 **IS** suspected of violating subsection (1) or (2) and includes, but  
 25 is not limited to, a licensee or registrant, a board established  
 26 ~~pursuant to-~~**UNDER** this act, the department, a person ~~who-~~**THAT** has  
 27 utilized the services of the person **THAT IS** engaging in or

1 attempting to engage in an occupation regulated under this act or  
 2 **IS** using a title designated by ~~by~~ **UNDER** this act without being  
 3 licensed or registered by the department, or a private  
 4 association **THAT IS** composed primarily of members of the  
 5 occupation in which the person is engaging in or attempting to  
 6 engage in or in which the person is using a title designated  
 7 under this act without being registered or licensed by the  
 8 department.

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

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

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

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

26 (16) ~~Upon entering a conviction under~~ **IF A COURT ENTERS A**  
 27 **CONVICTION FOR A VIOLATION OF** subsection (4), (5), ~~or~~ (6), **OR**

1 (7), a ~~THE~~ court entering the conviction shall notify, by mail,  
2 facsimile transmission, or electronic mail, the ~~bureau of~~  
3 ~~commercial services at the department.~~ CORPORATIONS, SECURITIES,  
4 AND COMMERCIAL LICENSING BUREAU OF THAT CONVICTION.

5 ARTICLE 14

6 SEC. 1401. AS USED IN THIS ARTICLE:

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

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

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

18 (i) SLAB.

19 (ii) CRAWL SPACE.

20 (iii) BASEMENT.

21 (iv) PIERS.

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

25 (E) "HOME INSPECTION SERVICES" MEANS SERVICES PROVIDED TO A  
26 CLIENT, FOR CONSIDERATION, THAT ARE DESIGNED TO IDENTIFY AND  
27 DISCLOSE THE FUNCTIONAL CONDITION OF THE MAJOR SYSTEMS IN A



1 RESIDENCE AT THE TIME OF THE INSPECTION. HOME INSPECTION SERVICES  
2 DO NOT INCLUDE AN INSPECTION DESIGNED ONLY TO DISCLOSE ANY OF THE  
3 FOLLOWING:

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

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

8 (iii) THE PRESENCE OR ABSENCE OF PESTS, TERMITES, OR OTHER  
9 VERMIN OR DAMAGE RESULTING FROM THE PRESENCE OF PESTS, TERMITES,  
10 OR VERMIN.

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

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

18 (A) HEALTH OR SAFETY LAWS OR REGULATIONS.

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

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

24 (A) ARTICLE 20.

25 (B) ARTICLE 24.

26 (C) ARTICLE 25.

27 (D) ARTICLE 26.

1 (E) THE STATE PLUMBING ACT, 2002 PA 733, MCL 338.3511 TO  
2 338.3569.

3 (F) THE ELECTRICAL ADMINISTRATIVE ACT, 1956 PA 217, MCL  
4 338.881 TO 338.892.

5 (G) THE FORBES MECHANICAL CONTRACTORS ACT, 1984 PA 192, MCL  
6 338.971 TO 338.988.

7 (G) "MAJOR DEFICIENCY" MEANS A DEFECT IN 1 OR MORE MAJOR  
8 SYSTEMS THAT MAY CAUSE THE REASONABLE LIKELIHOOD OF HARM TO THE  
9 SAFETY OF THE OCCUPANTS OR THAT MAY RESULT IN THE REASONABLE  
10 LIKELIHOOD OF A MAJOR SYSTEM BECOMING NONOPERATIONAL.

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

12 (i) ELECTRICAL SYSTEM.

13 (ii) HEATING AND AIR CONDITIONING SYSTEM.

14 (iii) PLUMBING SYSTEM.

15 (iv) STRUCTURE AND FOUNDATION.

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

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

27 (K) "STRUCTURE" MEANS THE WALLS, WINDOWS, DOORS, AND ROOF ON

1 THE EXTERIOR OF A RESIDENCE AND THE WALLS, CEILINGS, FLOORS,  
2 WINDOWS, AND DOORS ON THE INTERIOR OF A RESIDENCE.

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

4 SEC. 1403. (1) BEGINNING ON THE EFFECTIVE DATE OF THIS  
5 ARTICLE, AN INDIVIDUAL SHALL NOT PROVIDE, OR OFFER TO PROVIDE,  
6 HOME INSPECTION SERVICES UNLESS HE OR SHE IS LICENSED UNDER THIS  
7 ARTICLE OR UNLESS THE INDIVIDUAL OR SERVICES ARE EXEMPTED FROM  
8 LICENSURE UNDER THIS ARTICLE UNDER SECTION 1401(F) (i) OR (ii). AN  
9 INDIVIDUAL SHALL NOT USE THE TERM "HOME INSPECTOR" OR ANY OTHER  
10 SIMILAR TITLE THAT CONNOTES LICENSURE UNDER THIS ARTICLE UNLESS  
11 HE OR SHE IS LICENSED UNDER THIS ARTICLE. AN INDIVIDUAL WHO  
12 VIOLATES THIS SECTION IS SUBJECT TO THE PENALTIES OF ARTICLE 6.

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

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

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

23 (C) THE PASSAGE OF A PROCTORED EXAMINATION ACCEPTABLE TO THE  
24 DEPARTMENT AND THE BOARD. THE CURRENT EXAMINATION REFERRED TO AS  
25 THE NATIONAL HOME INSPECTION EXAMINATION DEVELOPED BY THE  
26 EXAMINATION BOARD OF PROFESSIONAL HOME INSPECTORS, AS IT EXISTS  
27 ON THE EFFECTIVE DATE OF THIS ARTICLE, IS CONSIDERED AN

1 ACCEPTABLE EXAMINATION. ANY OTHER EXAMINATION THAT UTILIZES  
2 PSYCHOMETRIC STANDARDS AND THAT HAS SUBSTANTIALLY THE SAME  
3 SUBSTANTIVE AREAS OF TESTING, AS DETERMINED BY THE BOARD AND THE  
4 DEPARTMENT, MAY ALSO BE USED FOR PURPOSES OF THIS SUBDIVISION.  
5 THE DIRECTOR, IN CONSULTATION WITH THE BOARD, MAY BY RULE ADOPT  
6 ANY UPDATES OR ALTERNATIVES TO THE EXAMINATION DESCRIBED IN THIS  
7 SUBDIVISION.

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

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

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

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

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

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

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

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

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

27           (A) THE SCOPE OF THE HOME INSPECTION SERVICES, INCLUDING A

1 DETAILED DESCRIPTION OF THE MAJOR SYSTEMS TO BE INSPECTED, THE  
2 TYPE OF MAJOR DEFICIENCIES THE HOME INSPECTION IS DESIGNED TO  
3 REVEAL, AND ITEMS THAT ARE EXCLUDED FROM COVERAGE UNDER THE  
4 CONTRACT FOR HOME INSPECTION SERVICES.

5 (B) A STATEMENT THAT A HOME INSPECTOR INSPECTING A  
6 PARTICULAR RESIDENCE SHALL NOT REPAIR OR OFFER TO REPAIR A  
7 RESIDENCE THAT WAS THE SUBJECT OF HOME INSPECTION SERVICES  
8 PROVIDED BY THAT HOME INSPECTOR.

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

15 (2) ALL TERMS OF A 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 THE REPORT PROVIDED  
19 TO THE CLIENT AFTER THE INSPECTION IS CONDUCTED. ANY CHANGES OR  
20 MODIFICATIONS OF THE TERMS OF A CONTRACT FOR HOME INSPECTION  
21 SERVICES SHALL BE REDUCED TO WRITING.

22 (3) UNLESS OTHERWISE INDICATED IN WRITING, THE PURCHASER OR  
23 OWNER OF A RESIDENCE BEING INSPECTED IS CONSIDERED THE CLIENT IN  
24 THE CASE OF A HOME INSPECTION CONDUCTED AS PART OF A SALE OF THE  
25 RESIDENCE.

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

1 (A) A DESCRIPTION OF THE HOME INSPECTION SERVICES TO BE  
2 PROVIDED.

3 (B) ANY DISCLAIMERS INCLUDING, BUT NOT LIMITED TO, THE  
4 ABSENCE OF ANY WARRANTIES AS TO THE ADEQUACY OF FUTURE  
5 PERFORMANCE OF A MAJOR SYSTEM AND THAT THE HOME INSPECTION IS  
6 CONSIDERED A VALID ASSESSMENT OF THE CONDITION OF THE RESIDENCE  
7 ONLY AS OF THE DATE THE HOME INSPECTION IS CONDUCTED.

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

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

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

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

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

23 (A) THAT DEFECTS THAT ARE NOT REASONABLY APPARENT BY VISUAL  
24 INSPECTION ARE EXCLUDED.

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

27 (7) THE HOME INSPECTOR SHALL INDICATE IN A WRITTEN HOME

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

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

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

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

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

21 SEC. 1406. THE REMEDIES UNDER THIS ARTICLE ARE CUMULATIVE  
22 AND THE USE OF 1 REMEDY DOES NOT BAR THE USE OF ANY OTHER REMEDY  
23 PROVIDED BY LAW.

24 SEC. 1407. THE DIRECTOR SHALL PROMULGATE RULES TO PROVIDE  
25 FOR ALL OF THE FOLLOWING:

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



1 (B) REQUIREMENTS FOR ACCEPTABLE COURSES OFFERED AT SEMINARS  
2 AND CONVENTIONS BY TRADE ASSOCIATIONS, RESEARCH INSTITUTES, RISK  
3 MANAGEMENT ENTITIES, MANUFACTURERS, SUPPLIERS, GOVERNMENTAL  
4 AGENCIES, CONSULTING AGENCIES, OR OTHER ENTITIES.

5 (C) ACCEPTABLE DISTANCE LEARNING.

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

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

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

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

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

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

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

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

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