

HOUSE BILL No. 4086

January 25, 2017, Introduced by Rep. Tedder 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 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
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 ~~shall~~
15 ~~be as~~ **ARE** prescribed in the state license fee act, Act No. 152 of
16 the Public Acts of 1979, being sections 338.2201 to 338.2277 of the
17 Michigan Compiled Laws. 1979 PA 152, MCL 338.2201 TO 338.2277.

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

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

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

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

24 (2) A school, institution, or person shall not operate or
25 attempt to operate a barber college, school of cosmetology, or real
26 estate school unless the school, institution, or person is licensed
27 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 the
3 records of the department, is considered unlicensed or
4 unregistered.

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

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

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

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

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

26 (c) ~~In the case of~~ **FOR** an offense that causes death or serious
27 injury, a felony punishable by a fine of not less than \$5,000.00 or

1 more than \$25,000.00 ~~or~~ imprisonment for not more than 4 years,
2 or both.

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

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

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

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

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

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

27 (10) This act does not apply to a person **THAT IS** engaging in

1 or practicing **ANY OF** the following:

2 (a) Interior design.

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

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

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

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

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

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

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

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

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

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

24 **ARTICLE 14**

25 **SEC. 1401. AS USED IN THIS ARTICLE:**

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

1 CIRCUMSTANCES.

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

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

9 (i) SLAB.

10 (ii) CRAWL SPACE.

11 (iii) BASEMENT.

12 (iv) PIERS.

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

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

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

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

26 (iii) THE PRESENCE OR ABSENCE OF PESTS, TERMITES, OR OTHER
27 VERMIN OR DAMAGE RESULTING FROM THE PRESENCE OF PESTS, TERMITES, OR

1 VERMIN.

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

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

9 (A) HEALTH OR SAFETY LAWS OR REGULATIONS.

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

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

15 (A) ARTICLE 20.

16 (B) ARTICLE 24.

17 (C) ARTICLE 25.

18 (D) ARTICLE 26.

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

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

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

27 (i) ELECTRICAL SYSTEM.

1 (ii) HEATING AND AIR CONDITIONING SYSTEM.

2 (iii) PLUMBING SYSTEM.

3 (iv) STRUCTURE AND FOUNDATION.

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

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

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

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

19 SEC. 1403. (1) BEGINNING ON THE EFFECTIVE DATE OF THIS
20 ARTICLE, AN INDIVIDUAL SHALL NOT PROVIDE, OR OFFER TO PROVIDE, HOME
21 INSPECTION SERVICES UNLESS HE OR SHE IS LICENSED UNDER THIS ARTICLE
22 OR UNLESS THE INDIVIDUAL OR SERVICES ARE EXEMPTED FROM LICENSURE
23 UNDER THIS ARTICLE UNDER SECTION 1401(F) (i) OR (ii). AN INDIVIDUAL
24 SHALL NOT USE THE TERM "HOME INSPECTOR" OR ANY OTHER SIMILAR TITLE
25 THAT CONNOTES LICENSURE UNDER THIS ARTICLE UNLESS HE OR SHE IS
26 LICENSED UNDER THIS ARTICLE. AN INDIVIDUAL WHO VIOLATES THIS
27 SECTION IS SUBJECT TO THE PENALTIES OF ARTICLE 6.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (2) ALL TERMS OF A CONTRACT FOR HOME INSPECTION SERVICES SHALL
27 BE CONTAINED IN THE WRITTEN CONTRACT EXCEPT THAT CONDITIONS OF THE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (C) ACCEPTABLE DISTANCE LEARNING.

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

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

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

27 SEC. 1408. FEES FOR AN INDIVIDUAL WHO IS LICENSED OR SEEKING

1 LICENSURE AS A HOME INSPECTOR UNDER THIS ARTICLE ARE AS FOLLOWS:

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

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

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

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

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