

BILL ANALYSIS

DATE: 2/27/09

COMMITTEE: Consumer Protection and
Professional Licensure

BILL NO.: SB 149

PRIME SPONSOR: Senator Greenleaf

PRINTER NO. 119

Senate Bill 149 would establish the Pennsylvania Board of Home Inspectors within the Bureau of Professional and Occupational Affairs and license home inspectors. The board would consist of the Commissioner who serves ex officio, seven appointed members: two public members, five professional members who have completed 100 fee-paid home inspections over the preceding five years, and the Attorney General.

The board shall meet within 30 days of the appointment of the initial members and establish procedures, develop license application forms and create public education program guidelines regarding licensure.

A professional member initially appointed need not be licensed but must satisfy eligibility requirements. A home inspector who becomes a board member shall obtain a license within six months of the date that initial licenses are issued.

The legislation grants the board authority to regulate the licensees and to administer and enforce the act. The board will have the authority to approve exams and courses of study and establish standards for continuing education and approve equivalent programs. The continuing education shall be not less than 32 hours every two years.

The bill appropriates \$85,000 from the Professional Licensure Augmentation Account to the Department of State for costs to establish licensure. The board is required to promulgate regulations within 18 months of the effective date.

Licensure

Senate Bill 149 would require an eligible applicant to comply with the following: He must be of good moral character, 18 years of age or older, successfully complete the Pennsylvania Pest Management Association's accredited wood destroying insect inspectors training course; as well as payment of fees and passage of exams.

Senate Bill 149 would prohibit the issuance of a license to an individual convicted of a drug felony within the last five years. An individual with a drug conviction outside of the five year prohibition must show rehabilitation.

The legislation allows home inspectors to be licensed for one year after the publishing of regulations without completion of a training program if the applicant has completed a written exam and no less than 100 inspections in the last five years. Proof of professional liability insurance is required.

All licensees must maintain liability insurance of not less than \$100,000 per occurrence and \$500,000 in the aggregate.

Home Inspection Reports

Licensed home inspectors must complete a report which includes a description of the scope of the inspection; material defects and recommendations to determine the extent of the defects and whether a defect poses an unreasonable risk to people on the property; a specific statement relating to licensure requirements and a statement that the inspection is not an appraisal. A licensee shall be prohibited from delivering a report to a person other than the client, except that the seller of a residence may receive one from the contracting party.

The board will be permitted to license an individual with an equivalent license in another jurisdiction if the other jurisdiction grants the same privileges to Pennsylvania licensees. All licensees must report licenses held in other states.

Unfair Trade Practices and Consumer Protection Law

The home inspection will be subject to the Unfair Trade Practices and Consumer Protection Law. With respect to licensed activity, an individual would violate the act for performance of repairs for an additional fee of a condition reported within the preceding 12 months; inspection of a property in which the inspector has a financial interest; offering a commission or referral fee to a seller or conducting an inspection if the fee is contingent on a specific conclusion or preestablished findings.

A home warranty company that retains the home inspector does not violate the act if the company performs repairs pursuant to a home warranty contract.

Any violation of the Act involving repairs within 12 months would permit a full refund to a home owner.

The bill prohibits contracts that provide a limitation on the liability of the home inspector for gross negligence of willful misconduct or a waiver of any provision of the bill. It also permits the scope of the inspection to be defined in contract.

A one year statute of limitations to recover damages arising from a home inspection report is provided in the bill and is part of existing law.

The board is authorized to establish fees. Fees and fines shall be paid into the Professional Licensure Augmentation Account. The licensees shall be subject to certain criminal and civil penalties.

Prohibited Acts

The board may refuse, suspend or revoke licenses for negligence or incompetence; activities involving fraud or deceit; conviction of a crime of moral turpitude; disciplinary action in another state, repeated violations of the statute or false advertisement or providing misleading information to the board.

The board may issue reprimands, require a licensee to submit to treatment or require surrender of a license.

The sections of the legislation relating to reports, liability insurance, unfair trade practices and contracts shall apply to engineers and architects who perform home inspections.

The bill would be effective in 60 days.