

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1032 Session of 1999

INTRODUCED BY GREENLEAF, LOEPER, MELLOW, HART, SALVATORE, O'PAKE, FUMO, BELL, BOSCOLA, BRIGHTBILL, CONTI, CORMAN, KUKOVICH, SCHWARTZ, THOMPSON, WENGER, WOZNIAK, LEMMOND AND MOWERY, JUNE 18, 1999

SENATOR TILGHMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, SEPTEMBER 26, 2000

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, relating to residential
3 real estate transfers; providing for disclosures by sellers
4 of residential real estate and for home inspections; and
5 making a repeal.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 68 of the Pennsylvania Consolidated
9 Statutes is amended by adding a part to read:

PART III

RESIDENTIAL REAL PROPERTY

12 Chapter

13 71. General Provisions

14 73. Seller Disclosures

15 75. Home Inspections

CHAPTER 71

GENERAL PROVISIONS

18 Sec.

1 7101. Short title of part.

2 7102. Definitions.

3 7103. Application of part.

4 § 7101. Short title of part.

5 This part shall be known and may be cited as the Residential  
6 Real Estate Transfers Law.

7 § 7102. Definitions.

8 Subject to additional definitions contained in subsequent  
9 provisions of this part which are applicable to specific  
10 provisions of this part, the following words and phrases when  
11 used in this part shall have the meanings given to them in this  
12 section unless the context clearly indicates otherwise:

13 "Agent." Any broker, associate broker or salesperson, as  
14 defined in the act of February 19, 1980 (P.L.15, No.9), known as  
15 the Real Estate Licensing and Registration Act.

16 "Agreement of transfer." A contract between a buyer and  
17 seller setting forth the terms of a residential real estate  
18 transfer.

19 "Buyer." Any person receiving any estate or interest in real  
20 property in a transfer subject to this part.

21 "Commission." The State Real Estate Commission.

22 "Final settlement." The time at which the buyer and seller  
23 have signed and delivered all papers and consideration necessary  
24 to convey title to the estate or interest in real property being  
25 conveyed.

26 "Material defect." A problem with a residential real  
27 property or any portion of it that would have a significant  
28 adverse impact on the value of the property or that involves an  
29 unreasonable risk to people on the property. The fact that a  
30 structural element, system or subsystem is near, at or beyond

1 the end of the normal useful life of such a structural element,  
2 system or subsystem is not by itself a material defect.

3 "Seller." Any person transferring any estate or interest in  
4 residential real property in a transfer subject to this part.

5 § 7103. Application of part.

6 (a) General rule.--This part shall apply to and the term  
7 "residential real estate transfer" when used in this part shall  
8 mean a transfer of any interest in real property located within  
9 this Commonwealth, other than a transfer described in subsection  
10 (b), that consists of not less than one nor more than four  
11 residential dwelling units, whether by sale, exchange,  
12 installment sales contract, lease with an option to purchase,  
13 grant or transfer of unit in a residential condominium or  
14 cooperative.

15 (b) Exceptions.--This part shall not apply to a transfer:

16 (1) Pursuant to court order, including, but not limited  
17 to, transfers ordered by a probate court in the  
18 administration of an estate, transfers pursuant to a writ of  
19 execution, transfers by a trustee in bankruptcy, transfers by  
20 eminent domain and condemnation and transfers resulting from  
21 a decree for specific performance.

22 (2) To a mortgagee by a mortgagor or successor in  
23 interest who is in default; to a beneficiary of a deed of  
24 trust by a trustee or successor in interest who is in  
25 default; by any foreclosure sale after default in an  
26 obligation secured by a mortgage; by a sale under a power of  
27 sale or any foreclosure sale under a decree of foreclosure  
28 after default in an obligation secured by a deed of trust or  
29 secured by any other instrument containing a power of sale;  
30 or by a mortgagee or a beneficiary under a deed of trust who

1 has acquired the real property at a sale conducted pursuant  
2 to a power of sale under a mortgage or deed of trust or a  
3 sale pursuant to a decree of foreclosure or who has acquired  
4 the real property by a deed in lieu of foreclosure.

5 (3) From one co-owner to one or more other co-owners.

6 (4) Made to a spouse or to a person or persons in the  
7 lineal line of consanguinity of one or more of the  
8 transferors.

9 (5) Between spouses resulting from a decree of  
10 dissolution of marriage or a decree of legal separation or  
11 from a property settlement agreement incidental to the  
12 decree.

13 (6) By a corporation, partnership or other association  
14 to its shareholders, partners or other equity owners in  
15 connection with the liquidation of the corporation,  
16 partnership or other association.

17 (7) Of a property to be converted by the buyer into a  
18 use other than residential use or to be demolished.

19 (8) Of unimproved real property.

20 CHAPTER 73

21 SELLER DISCLOSURES

22 Sec.

23 7301. Short title of chapter.

24 7302. Application of chapter.

25 7303. Disclosure of material defects.

26 7304. Disclosure form.

27 7305. Delivery of disclosure form.

28 7306. Information unavailable to seller.

29 7307. Information subsequently rendered inaccurate.

30 7308. Affirmative duty of seller.

- 1 7309. Nonliability of seller.
- 2 7310. Nonliability of agent.
- 3 7311. Failure to comply.
- 4 7312. Amendment of disclosure.
- 5 7313. Specification of items for disclosure no limitation on
- 6 other disclosure obligations.
- 7 7314. Cause of action.
- 8 7315. Preemption of local requirements.
- 9 § 7301. Short title of chapter.

10 This chapter shall be known and may be cited as the Real  
11 Estate Seller Disclosure Law.

12 § 7302. Application of chapter.

13 (a) General rule.--This chapter shall apply to all  
14 residential real estate transfers, except the following:

15 (1) Transfers by a fiduciary in the course of the  
16 administration of a decedent's estate, guardianship,  
17 conservatorship or trust.

18 (2) Transfers of new residential construction that has  
19 not been previously occupied when:

20 (i) the buyer has received a one-year or longer  
21 written warranty covering such construction;

22 (ii) the dwelling has been inspected for compliance  
23 with the applicable building code or, if there is no  
24 applicable code, for compliance with a nationally  
25 recognized model building code; and

26 (iii) a certificate of occupancy or a certificate of  
27 code compliance has been issued for the dwelling.

28 (b) Limitations in the case of condominiums or  
29 cooperatives.--Any seller of a unit in a condominium created  
30 under Subpart B of Part II (relating to condominiums) or a

1 similar provision of prior law or a cooperative as defined in  
2 section 4103 (relating to definitions) shall be obligated to  
3 make disclosures under this chapter only with respect to the  
4 seller's own unit and shall not be obligated by this chapter to  
5 make any disclosure with respect to any common elements or  
6 common facilities of the condominium or cooperative. The  
7 provisions of section 3407 (relating to resales of units) shall  
8 control disclosures a seller is required to make concerning  
9 common elements in a condominium, and section 4409 (relating to  
10 resales of cooperative interests) shall control disclosures a  
11 seller is required to make concerning common elements in a  
12 cooperative.

13 § 7303. Disclosure of material defects.

14 Any seller who intends to transfer any interest in real  
15 property shall disclose to the buyer any material defects with  
16 the property known to the seller by completing all applicable  
17 items in a property disclosure statement which satisfies the  
18 requirements of section 7304 (relating to disclosure form). A  
19 signed and dated copy of the property disclosure statement shall  
20 be delivered to the buyer in accordance with section 7305  
21 (relating to delivery of disclosure form) prior to the signing  
22 of an agreement of transfer by the seller and buyer with respect  
23 to the property.

24 § 7304. Disclosure form.

25 (a) General rule.--A form of property disclosure statement  
26 that satisfies the requirements of this chapter shall be  
27 promulgated by the State Real Estate Commission. Nothing in this  
28 chapter shall preclude a seller from using a form of property  
29 disclosure statement that contains additional provisions that  
30 require greater specificity or that call for the disclosure of

1 the condition or existence of other features of the property.

2 (b) Contents of property disclosure statement.--The form of  
3 property disclosure statement promulgated by the State Real  
4 Estate Commission shall call for disclosures with respect to all  
5 of the following subjects:

6 (1) Seller's expertise in contracting, engineering,  
7 architecture or other areas related to the construction and  
8 conditions of the property and its improvements.

9 (2) When the property was last occupied by the seller.

10 (3) Roof.

11 (4) Basements and crawl spaces.

12 (5) Termites/wood destroying insects, dry rot and pests.

13 (6) Structural problems.

14 (7) Additions, remodeling and structural changes to the  
15 property.

16 (8) Water and sewage systems or service.

17 (9) Plumbing system.

18 (10) Heating and air conditioning.

19 (11) Electrical system.

20 (12) Other equipment and appliances included in the  
21 sale.

22 (13) Soils, drainage and boundaries.

23 (14) Presence of hazardous substances.

24 (15) Condominiums and other homeowners associations.

25 (16) Legal issues affecting title or that would  
26 interfere with use and enjoyment of the property.

27 (c) Transitional rule.--Until a form of property disclosure  
28 statement has been promulgated by the commission, the form  
29 prescribed under the act of July 2, 1996 (P.L.500, No.84), known  
30 as the Real Estate Seller Disclosure Act, shall be deemed to be

1 the form contemplated under subsection (b).

2 § 7305. Delivery of disclosure form.

3 (a) Method of delivery.--The seller shall deliver the  
4 property disclosure statement to the buyer by personal delivery;  
5 first class mail; certified mail, return receipt requested; or  
6 facsimile transmission to the buyer or the buyer's agent.

7 (b) Parties to whom delivered.--For purposes of this  
8 chapter, delivery to one prospective buyer or buyer's agent is  
9 deemed delivery to all persons intending to take title as co-  
10 tenants, joint tenants or as a tenant by the entireties with the  
11 buyer. Receipt may be acknowledged on the statement, in an  
12 agreement of transfer for the residential real property or shown  
13 in any other verifiable manner.

14 § 7306. Information unavailable to seller.

15 If at the time the disclosures are required to be made, an  
16 item of information required to be disclosed is unknown or not  
17 available to the seller, the seller may make a disclosure based  
18 on the best information available to the seller.

19 § 7307. Information subsequently rendered inaccurate.

20 If information disclosed in accordance with this chapter is  
21 subsequently rendered inaccurate prior to final settlement as a  
22 result of any act, occurrence or agreement subsequent to the  
23 delivery of the required disclosures, the seller shall notify  
24 the buyer of the inaccuracy.

25 § 7308. Affirmative duty of seller.

26 The seller is not obligated by this chapter to make any  
27 specific investigation or inquiry in an effort to complete the  
28 property disclosure statement. In completing the property  
29 disclosure statement, the seller shall not make any  
30 representations that the seller or the agent for the seller

1 knows or has reason to know are false, deceptive or misleading  
2 and shall not fail to disclose a known material defect.

3 § 7309. Nonliability of seller.

4 (a) General rule.--A seller shall not be liable for any  
5 error, inaccuracy or omission of any information delivered  
6 pursuant to this chapter if:

7 (1) the seller had no knowledge of the error, inaccuracy  
8 or omission;

9 (2) the error, inaccuracy or omission was based on a  
10 reasonable belief that a material defect or other matter not  
11 disclosed had been corrected; or

12 (3) the error, inaccuracy or omission was based on  
13 information provided by a public agency, home inspector,  
14 contractor or person registered or licensed under an act  
15 referred to in section 7503(a) (relating to relationship to  
16 other laws) about matters within the scope of the agency's  
17 jurisdiction or such other person's occupation and the seller  
18 had no knowledge of the error, inaccuracy or omission.

19 (b) Delivery of information by public agency.--The delivery  
20 of any information required to be disclosed by this chapter to a  
21 prospective buyer by a public agency or other person providing  
22 information required to be disclosed under this chapter shall be  
23 deemed to comply with the requirements of this chapter and shall  
24 relieve the seller or the agent of the seller from any further  
25 duty under this chapter with respect to that item of  
26 information.

27 (c) Report by expert.--The delivery of a report or opinion  
28 prepared by a home inspector, contractor or person registered or  
29 licensed under an act referred to in section 7503(a) dealing  
30 with matters within the scope of the person's registration,

1 license or expertise shall be sufficient compliance for  
2 application of the exemption provided under subsection (a)(3) if  
3 the information is provided to the prospective buyer in writing.  
4 § 7310. Nonliability of agent.

5 An agent of a seller or a buyer shall not be liable for any  
6 violation of this chapter unless the agent had actual knowledge  
7 of a material defect that was not disclosed to the buyer or of a  
8 misrepresentation relating to a material defect.

9 § 7311. Failure to comply.

10 (a) General rule.--A residential real estate transfer  
11 subject to this chapter shall not be invalidated solely because  
12 of the failure of any person to comply with any provision of  
13 this chapter. However, any person who willfully or negligently  
14 violates or fails to perform any duty prescribed by any  
15 provision of this chapter shall be liable in the amount of  
16 actual damages suffered by the buyer as a result of a violation  
17 of this chapter. This subsection shall not be construed so as to  
18 restrict or expand the authority of a court to impose punitive  
19 damages or apply other remedies applicable under any other  
20 provision of law.

21 (b) Statute of limitations.--An action for damages as a  
22 result of a violation of this chapter must be commenced within  
23 two years after the date of final settlement.

24 § 7312. Amendment of disclosure.

25 Any disclosure made pursuant to this chapter may be amended  
26 in writing by the seller prior to the signing of an agreement of  
27 transfer by the seller and buyer.

28 § 7313. Specification of items for disclosure no limitation on  
29 other disclosure obligations.

30 (a) General rule.--The specification of items for disclosure

1 in this chapter or in any form of property disclosure statement  
2 promulgated by the State Real Estate Commission does not limit  
3 or abridge any obligation for disclosure created by any other  
4 provision of law or that may exist in order to avoid fraud,  
5 misrepresentation or deceit in the transaction.

6 (b) Responsibility of licensee.--Nothing in this chapter  
7 shall abrogate or diminish the responsibility of a licensee  
8 under the act of February 19, 1980 (P.L.15, No.9), known as the  
9 Real Estate Licensing and Registration Act.

10 (c) Duty to provide form.--An agent representing a seller  
11 must advise a seller of the seller's responsibilities under this  
12 chapter and must provide the seller with a copy of the form of  
13 property disclosure statement.

14 § 7314. Cause of action.

15 A buyer shall not have a cause of action under this chapter  
16 against the seller or the agent for either or both of the seller  
17 or the buyer for:

18 (1) material defects to the property disclosed to the  
19 buyer prior to the signing of an agreement of transfer by the  
20 seller and buyer;

21 (2) material defects that develop after the signing of  
22 the agreement of transfer by the seller and buyer; or

23 (3) material defects that occur after final settlement.

24 § 7315. Preemption of local requirements.

25 (a) General rule.--Except as provided in subsection (b), a  
26 municipality or local authority shall not have the power to  
27 mandate that:

28 (1) a seller or an agent of either or both the seller  
29 and the buyer make any particular disclosures to the buyer in  
30 connection with a residential real estate transfer; or

1 (2) provisions on any particular subject be included in  
2 an agreement of transfer.

3 (b) Exception.--Subsection (a) shall not apply to an  
4 ordinance or regulation adopted by a municipality or local  
5 authority before the effective date of this section and such an  
6 ordinance or regulation shall continue in full force and effect,  
7 except that the municipality or local authority shall not have  
8 the power after that date to amend the ordinance or regulation  
9 in a manner that:

10 (1) imposes new or expanded disclosure requirements;

11 (2) increases the scope of any provision that must be  
12 included in an agreement of transfer; or

13 (3) imposes new requirements on any agent, buyer or  
14 seller involved in a residential real estate transfer.

15 CHAPTER 75

16 HOME INSPECTIONS

17 Sec.

18 7501. Short title of chapter.

19 7502. Definitions and index of definitions.

20 7503. Relationship to other laws.

21 7504. Duty of care of home inspectors.

22 7505. Consumer remedies.

23 7506. ~~Contractual provisions~~ REQUIRED CONTRACTUAL

<—

24 PROVISION regarding home inspections.

25 7507. Contracts with home inspectors.

26 7508. Home inspection reports.

27 7509. Liability insurance.

28 7510. RELIANCE BY BUYER.

<—

29 ~~7510.~~ 7511. Penalties.

<—

30 ~~7511.~~ 7512. Statute of limitations.

<—

1 § 7501. Short title of chapter.

2 This chapter shall be known and may be cited as the Home  
3 Inspection Law.

4 § 7502. Definitions and index of definitions.

5 (a) Definitions.--The following words and phrases when used  
6 in this chapter shall have the meanings given to them in this  
7 section unless the context clearly indicates otherwise:

8 "Home inspection." A noninvasive, visual examination of some  
9 combination of the mechanical, electrical or plumbing systems or  
10 the structural and essential components of a residential  
11 dwelling designed to identify material defects in those systems  
12 and components, and performed for a fee in connection with or  
13 preparation for a proposed or possible residential real estate  
14 transfer. The term also includes any consultation regarding the  
15 property that is represented to be a home inspection or that is  
16 described by any confusingly similar term. The term does not  
17 include an examination of a single system or component of a  
18 residential dwelling such as, for example, its electrical or  
19 plumbing system or its roof. The term also does not include an  
20 examination that is limited to inspection for, or of, one or  
21 more of the following: wood destroying insects, underground  
22 tanks and wells, septic systems, swimming pools and spas, alarm  
23 systems, air and water quality, tennis courts and playground  
24 equipment, pollutants, toxic chemicals and environmental  
25 hazards.

26 "Home inspection report." A written report on the results of  
27 a home inspection.

28 "Home inspector." An individual who performs a home  
29 inspection.

30 "National home inspectors association." Any national

1 association of home inspectors that:

2 (1) Is OPERATED ON A NOT-FOR-PROFIT BASIS AND IS not ←—  
3 operated as a franchise.

4 (2) Has members in more than ten states.

5 (3) Requires that a person may not become a full member  
6 unless the person HAS PERFORMED OR PARTICIPATED IN MORE THAN ←—  
7 100 HOME INSPECTIONS AND has passed a recognized or  
8 accredited examination testing knowledge of the proper  
9 procedures for conducting a home inspection.

10 (4) Requires that its members comply with a code of  
11 conduct and attend continuing professional education classes  
12 as an ongoing condition of membership.

13 (b) Index of other definitions.--The following is a  
14 nonexclusive list of other definitions applying to this chapter  
15 and the sections in which they appear:

16 "Agent." Section 7102 (relating to definitions).

17 "Agreement of transfer." Section 7102 (relating to  
18 definitions).

19 "Buyer." Section 7102 (relating to definitions).

20 "Material defect." Section 7102 (relating to definitions).

21 "Residential real estate transfer." Section 7103 (relating  
22 to application of part).

23 "Seller." Section 7102 (relating to definitions).

24 § 7503. Relationship to other laws.

25 (a) General rule.--Nothing in this chapter shall be  
26 construed to allow a home inspector who is not registered or  
27 licensed under one or more of the following laws to perform any  
28 activity that would constitute the practice of the profession  
29 regulated by that law:

30 (1) The act of May 23, 1945 (P.L.913, No.367), known as

1 the Engineer, Land Surveyor and Geologist Registration Law.

2 (2) The act of January 24, 1966 (1965 P.L.1535, No.537),  
3 known as the Pennsylvania Sewage Facilities Act.

4 (3) The act of March 1, 1974 (P.L.90, No.24), known as  
5 the Pennsylvania Pesticide Control Act of 1973.

6 (4) The act of December 14, 1982 (P.L.1227, No.281),  
7 known as the Architects Licensure Law.

8 (5) The act of July 9, 1987 (P.L.238, No.43), known as  
9 the Radon Certification Act.

10 (6) The act of July 10, 1990 (P.L.404, No.98), known as  
11 the Real Estate Appraisers Certification Act.

12 (b) Exclusions.--This chapter shall not:

13 (1) Apply to a person registered or licensed under an  
14 act referred to in subsection (a) when acting pursuant to his  
15 registration or license.

16 (2) Apply to an officer or employee of a municipality or  
17 local authority when acting in his official capacity.

18 (3) Affect the obligations or immunities of a person  
19 licensed under the act of February 19, 1980 (P.L.15, No.9),  
20 known as the Real Estate Licensing and Registration Act, that  
21 are imposed or provided by that act or Chapter 73 (relating  
22 to seller disclosures) when the person is acting pursuant to  
23 his license.

24 (4) Affect the obligations or immunities of a person  
25 certified under the act of July 10, 1990 (P.L.404, No.98),  
26 known as the Real Estate Appraisers Certification Act, when  
27 the person is acting pursuant to the person's license.

28 § 7504. Duty of care of home inspectors.

29 (a) General rule.--It is the duty of a home inspector to  
30 conduct a home inspection with the degree of care that a

1 reasonably prudent home inspector would exercise.

2 (b) Standard.--In ascertaining the degree of care that would  
3 be exercised by a reasonably prudent home inspector, the court  
4 shall consider the standards of practice and codes of ethics of  
5 national home inspector associations.

6 § 7505. Consumer remedies.

7 (a) General rule.--The performance of a home inspection is a  
8 service that is subject to the act of December 17, 1968  
9 (P.L.1224, No.387), known as the Unfair Trade Practices and  
10 Consumer Protection Law.

11 (b) Prohibited acts.--Any of the following acts engaged in  
12 by a home inspector, an employer of a home inspector or another  
13 business or person that controls or has a financial interest in  
14 the employer of a home inspector shall be deemed to be an unfair  
15 or deceptive act or practice as defined by section 2(4)(i)  
16 through (xxi) of the Unfair Trade Practices and Consumer  
17 Protection Law:

18 (1) Performing or offering to perform for an additional  
19 fee any repairs to a structure with respect to which the home  
20 inspector, the employer of the home inspector or such other  
21 business or person has prepared a home inspection report  
22 within the preceding 12 months, except that this paragraph  
23 shall not apply to remediation for radon or wood destroying  
24 insects.

25 (2) Inspecting for a fee any property in which the home  
26 inspector, the employer of the home inspector or such other  
27 business or person has any financial interest or any interest  
28 in the transfer of the property, including without limitation  
29 receipt of a commission as an agent, unless the financial  
30 interest or interest in the transfer of the property is

1 disclosed in writing to the buyer before the home inspection  
2 is performed and the buyer signs an acknowledgment of receipt  
3 of the disclosure.

4 (3) Offering or delivering any commission, referral fee  
5 or kickback to the seller of the inspected property or to an  
6 agent for either or both of the seller and the buyer for the  
7 referral of any business to the home inspector, the employer  
8 of the home inspector or such other business or person.

9 (4) Accepting an engagement to perform a home inspection  
10 or to prepare a home inspection report in which the  
11 employment itself or the fee payable for the inspection is  
12 contingent upon the conclusions in the report, preestablished  
13 or prescribed findings or the closing of the transaction.

14 (c) Exception.--A home warranty company that is affiliated  
15 with or retains the home inspector does not violate subsection  
16 (b) if the home warranty company performs repairs pursuant to  
17 claims made under a home warranty contract.

18 (d) Remedies.--In addition to any other remedies available  
19 under the Unfair Trade Practices and Consumer Protection Law or  
20 other applicable provision of law, the owner of a property on  
21 which repairs are performed in violation of subsection (b)(1)  
22 shall be entitled to a full refund of any moneys paid for those  
23 repairs and any promissory note or other obligation to pay given  
24 to the person performing those repairs shall be void.

25 § 7506. ~~Contractual provisions~~ REQUIRED CONTRACTUAL PROVISION ←  
26 regarding home inspections.

27 ~~(a) General rule.~~—A provision of an agreement of transfer ←  
28 regarding the right of the buyer to obtain a home inspection  
29 report and providing for the consequences, if any, ~~to the~~ ←  
30 ~~parties based on the results of the report shall not be~~

1 ~~enforceable unless it requires~~ SHALL PROVIDE that the home      <—  
2 inspection be performed by a full member in good standing of a  
3 national home inspection association in accordance with the  
4 ethical standards and code of conduct or practice of that  
5 association. A home inspection performed by a person who has not  
6 attained full membership in a national home inspection  
7 association satisfies the requirements of this ~~subsection~~      <—  
8 SECTION if the person is supervised by a full member in good      <—  
9 standing of a national home inspection association who agrees to  
10 be responsible for the home inspection report by signing the  
11 report.

12     ~~(b) Reliance. A buyer shall be entitled to rely in good      <—  
13 faith, without independent investigation, on a written  
14 representation by a home inspector that the home inspector is a  
15 full member in good standing of a national home inspection  
16 association.~~

17 § 7507. Contracts with home inspectors.

18     (a) Prohibited provisions.--The following types of  
19 provisions in a contract with a home inspector for the  
20 performance of a home inspection are contrary to public policy  
21 and shall be void:

22           (1) a limitation on the liability of the home inspector  
23           for gross negligence or willful misconduct;

24           (2) a waiver or modification of any provision of this  
25           chapter.

26     (b) Scope of inspection.--The scope of a home inspection,  
27 the services to be performed and the systems and conditions to  
28 be inspected or excluded from inspection may be defined by a  
29 contract between the home inspector and the client.

30 § 7508. Home inspection reports.

1 (a) Required contents.--A home inspection report must be in  
2 writing and shall include:

3 (1) A description of the scope of the inspection,  
4 including without limitation an identification of the  
5 structural elements, systems and subsystems covered by the  
6 report.

7 (2) A description of any material defects noted during  
8 the inspection, along with any recommendation that certain  
9 experts be retained to determine the extent of the defects  
10 and any corrective action that should be taken. A "material  
11 defect" as defined in section 7102 (relating to definitions)  
12 that poses an unreasonable risk to people on the property  
13 shall be conspicuously identified as such.

14 (3) The following statements, set forth conspicuously:

15 "A home inspection is intended to assist in  
16 evaluation of the overall condition of the dwelling. The  
17 inspection is based on observation of the visible and  
18 apparent condition of the structure and its components on  
19 the date of inspection."

20 "The results of this home inspection are not intended  
21 to make any representation regarding the presence or  
22 absence of latent or concealed defects that are not  
23 reasonably ascertainable in a competently performed home  
24 inspection. No warranty or guaranty is expressed or  
25 implied."

26 "If the person conducting your home inspection is not  
27 a licensed structural engineer or other professional  
28 whose license authorizes the rendering of an opinion as  
29 to the structural integrity of a building or its other  
30 component parts, you may be advised to seek a

1 professional opinion as to any defects or concerns  
2 mentioned in the report."

3 "This home inspection report is not to be construed  
4 as an appraisal and may not be used as such for any  
5 purpose."

6 (b) Confidentiality.--Except as otherwise required by law, a  
7 home inspector shall not deliver a home inspection report to any  
8 person other than the client of the home inspector without the  
9 client's consent. The seller shall have the right, upon request,  
10 to receive without charge a copy of a home inspection report  
11 from the person for whom it was prepared.

12 (c) Repair estimates prohibited.--A home inspector shall not  
13 express either orally or in writing an estimate of the cost to  
14 repair any defect found during a home inspection, except that  
15 such an estimate may be included in a home inspection report if:

16 (1) the report identifies the source of the estimate;

17 (2) the estimate is stated as a range of costs; and

18 (3) the report states that the parties should consider  
19 obtaining an estimate from a contractor who performs the type  
20 of repair involved.

21 § 7509. Liability insurance.

22 (a) Required insurance.--A home inspector shall maintain  
23 insurance against errors and omissions in the performance of a  
24 home inspection and general liability, with coverages of not  
25 less than \$100,000 per occurrence and \$500,000 in the aggregate  
26 and with deductibles of not more than \$2,500.

27 (b) Term.--

28 (1) Except as set forth in paragraph (2), a home  
29 inspector shall maintain insurance under subsection (a) for  
30 at least one year after the latest home inspection report the

1 home inspector delivers.

2 (2) Paragraph (1) shall not apply to a home inspection  
3 report that was delivered prior to ~~(the Legislative Reference~~ <—  
4 ~~Bureau shall insert here the effective date of this act)~~. THE <—  
5 EFFECTIVE DATE OF THIS SECTION.

6 § 7510. RELIANCE BY BUYER.

7 A BUYER SHALL BE ENTITLED TO RELY IN GOOD FAITH, WITHOUT  
8 INDEPENDENT INVESTIGATION, ON A WRITTEN REPRESENTATION BY A HOME  
9 INSPECTOR THAT THE HOME INSPECTOR IS A FULL MEMBER IN GOOD  
10 STANDING OF A NATIONAL HOME INSPECTION ASSOCIATION.

11 ~~§ 7510.~~ § 7511. Penalties. <—

12 (a) Criminal penalty.--A person who violates section 7509  
13 (relating to liability insurance) or who provides a false  
14 representation under section ~~7506(b) (relating to contractual~~ <—  
15 ~~provisions regarding home inspections)~~ 7510 (RELATING TO <—  
16 RELIANCE BY BUYER) commits a summary offense and upon conviction  
17 thereof for a first offense shall be sentenced to pay a fine not  
18 exceeding \$500 or to imprisonment for not more than three  
19 months, or both, and for a second or subsequent offense commits  
20 a ~~felony~~ MISDEMEANOR of the third degree and upon conviction <—  
21 thereof shall be sentenced to pay a fine of not less than \$2,000  
22 but not more than \$5,000 or to imprisonment for not less than  
23 one year but not more than two years, or both.

24 (b) Fine.--A person who violates any provision of section  
25 7508 (relating to home inspection reports) shall, upon  
26 conviction in a summary proceeding before a district justice, be  
27 sentenced to pay a fine not exceeding \$500 and, ~~in default of~~ <—  
28 ~~payment of such fine and costs, be imprisoned in the county jail~~  
29 ~~one day for each \$50 of fine and costs unpaid.~~

30 ~~§ 7511.~~ § 7512. Statute of limitations. <—

1       An action to recover damages arising from a home inspection  
2 report must be commenced within one year after the date the  
3 report is delivered.

4       Section 2. The act of July 2, 1996 (P.L.500, No.84), known  
5 as the Real Estate Seller Disclosure Act, is repealed.

6       Section 3. This act shall take effect in one year.