

# HOUSE BILL No. 6088

May 8, 2008, Introduced by Reps. Accavitti, Stakoe, Melton, Mayes, Condino, Hopgood and Wojno 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 2007 PA 157, 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
6	Barbers	October 1
7	Collection agencies	July 1

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

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

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

1 LAPSE TO THE GENERAL FUND. THE DEPARTMENT SHALL BE THE  
2 ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.

3 (3) FEES ESTABLISHED WITHIN THIS ACT SHALL BE INTENDED TO  
4 BEAR A REASONABLE RELATION TO THE COST, INCLUDING OVERHEAD, OF  
5 THE SERVICE OR ACTION AND SHALL BE DEPOSITED INTO THE FUND TO  
6 OFFSET THE DEPARTMENT'S COSTS ASSOCIATED WITH REGULATION OF THIS  
7 ACT. THE DEPARTMENT SHALL ADJUST ON AN ANNUAL BASIS THE LICENSE  
8 FEES PRESCRIBED IN THIS ACT BY AN AMOUNT DETERMINED BY THE STATE  
9 TREASURER TO REFLECT THE CUMULATIVE ANNUAL PERCENTAGE CHANGE IN  
10 THE DETROIT CONSUMER PRICE INDEX, NOT TO EXCEED 5%. AS USED IN  
11 THIS SUBSECTION, "DETROIT CONSUMER PRICE INDEX" MEANS THE MOST  
12 COMPREHENSIVE INDEX OF CONSUMER PRICES AVAILABLE FOR THE DETROIT  
13 AREA FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES  
14 DEPARTMENT OF LABOR.

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

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

25 (2) A school, institution, or person shall not operate or  
26 attempt to operate a barber college, school of cosmetology, or  
27 real estate school unless the school, institution, or person is

1 licensed or approved by the department.

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

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

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

16 (6) Notwithstanding subsections (4) and (5), a person not  
17 licensed under **ARTICLE 14 AS A HOME INSPECTOR OR** article 24 as a  
18 residential builder or a residential maintenance and alteration  
19 contractor who violates subsection (1) or (2) is guilty as  
20 follows:

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

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

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

5 (7) Any violation of this act shall include a requirement  
6 that restitution be made, based upon proofs submitted to and  
7 findings made by the trier of fact as provided by law.

8 (8) Notwithstanding the existence and pursuit of any other  
9 remedy, an affected person may maintain injunctive action to  
10 restrain or prevent a person from violating subsection (1) or  
11 (2). If successful in obtaining injunctive relief, the affected  
12 person shall be entitled to actual costs and attorney fees.

13 (9) This act does not apply to a person engaging in or  
14 practicing the following:

15 (a) Interior design.

16 (b) Building design.

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

19 (d) Any activity for which the person is licensed under the  
20 Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to  
21 338.988.

22 (e) Any activity for which the person is licensed under the  
23 electrical administrative act, 1956 PA 217, MCL 338.881 to  
24 338.892.

25 (10) As used in subsection (8), "affected person" means a  
26 person directly affected by the actions of a person suspected of  
27 violating subsection (1) or (2) and includes, but is not limited

1 to, a licensee or registrant, a board established pursuant to  
2 this act, the department, a person who has utilized the services  
3 of the person engaging in or attempting to engage in an  
4 occupation regulated under this act or using a title designated  
5 by this act without being licensed or registered by the  
6 department, or a private association composed primarily of  
7 members of the occupation in which the person is engaging in or  
8 attempting to engage in or in which the person is using a title  
9 designated under this act without being registered or licensed by  
10 the department.

11 (11) An investigation may be conducted under article 5 to  
12 enforce this section. A person who violates this section shall be  
13 subject to this section and sections 506, 602, and 606.

14 (12) The department, the attorney general, or a county  
15 prosecutor may utilize forfeiture as a remedy in the manner  
16 provided for in section 606.

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

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

27 (15) Upon entering a conviction under subsection (4), (5),

1 or (6), a court entering the conviction shall notify, by mail,  
2 facsimile transmission, or electronic mail, the bureau of  
3 commercial services at the department.

4 ARTICLE 14

5 SEC. 1401. AS USED IN THIS ARTICLE:

6 (A) "CLIENT" MEANS THE PERSON ON WHOSE BEHALF A HOME  
7 INSPECTOR IS ACTING.

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

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

15 (i) SLAB.

16 (ii) CRAWL SPACE.

17 (iii) BASEMENT.

18 (iv) PIERS.

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

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

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

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

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

8 (F) "HOME INSPECTOR" MEANS A PERSON ENGAGED IN, OR OFFERING  
9 TO ENGAGE IN, THE BUSINESS OF PROVIDING HOME INSPECTION SERVICES  
10 BUT DOES NOT INCLUDE ANY OF THE FOLLOWING:

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

15 (A) HEALTH OR SAFETY LAWS OR REGULATIONS.

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

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

21 (A) ARTICLE 20.

22 (B) ARTICLE 24.

23 (C) ARTICLE 25.

24 (D) ARTICLE 26.

25 (E) THE STATE PLUMBING ACT, 2002 PA 733, MCL 338.3511 TO  
26 338.3569.

27 (F) THE ELECTRICAL ADMINISTRATIVE ACT, 1956 PA 217, MCL



1 338.881 TO 338.892.

2 (G) THE FORBES MECHANICAL CONTRACTORS ACT, 1984 PA 192, MCL  
3 338.971 TO 338.988.

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

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

9 (i) ELECTRICAL SYSTEM.

10 (ii) HEATING AND AIR CONDITIONING SYSTEM.

11 (iii) PLUMBING SYSTEM.

12 (iv) STRUCTURE AND FOUNDATION.

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

19 (J) "RESIDENCE" MEANS A BUILDING USED PRIMARILY FOR FAMILY  
20 LIVING QUARTERS AND DESIGNED FOR OCCUPANCY OF NOT MORE THAN 4  
21 FAMILIES IN SEPARATE LIVING QUARTERS.

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

25 SEC. 1402. (1) THERE IS CREATED A HOME INSPECTORS BOARD.

26 (2) OF THE PUBLIC MEMBERS, 1 SHALL BE A CODE INSPECTOR  
27 REGISTERED UNDER THE BUILDING OFFICIALS AND INSPECTORS

1 REGISTRATION ACT, 1986 PA 54, MCL 338.2301 TO 338.2313, AND 1  
2 SHALL BE A MEMBER OF A CONSUMER GROUP RECOGNIZED BY THE DIRECTOR.

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

11 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), THE  
12 DEPARTMENT SHALL LICENSE AN INDIVIDUAL FILING A COMPLETED  
13 APPLICATION AND PAYING THE APPROPRIATE APPLICATION AND LICENSE  
14 FEE AND WHO MEETS ALL OF THE FOLLOWING:

15 (A) TRAINING AND EDUCATION REQUIREMENTS CONSISTING OF AT  
16 LEAST 20 CREDIT HOURS OF EDUCATION OR EQUIVALENT TRAINING AS  
17 DETERMINED APPROPRIATE BY THE DEPARTMENT.

18 (B) PARTICIPATION IN NOT FEWER THAN 200 HOME INSPECTIONS  
19 CONDUCTED UNDER THE AUTHORITY AND DIRECTION OF A HOME INSPECTOR  
20 LICENSED UNDER THIS ARTICLE, AS EVIDENCED BY A AFFIDAVIT OF THE  
21 LICENSEE.

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

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

7 (3) BEGINNING THE EFFECTIVE DATE OF THIS ARTICLE AND UNTIL  
8 THE EXPIRATION OF 24 MONTHS AFTER THAT EFFECTIVE DATE, THE  
9 DEPARTMENT SHALL ISSUE A LICENSE TO AN INDIVIDUAL WHO APPLIES AND  
10 SUBMITS THE APPROPRIATE LICENSE AND APPLICATION FEES AND  
11 DOCUMENTS, IN A MANNER ACCEPTABLE TO THE DEPARTMENT, AT LEAST 3  
12 YEARS OF EXPERIENCE IN PROVIDING HOME INSPECTION SERVICES AND THE  
13 CONDUCT OF OR THE PARTICIPATION IN AT LEAST 200 HOME INSPECTIONS,  
14 BOTH OCCURRING DURING THE PRECEDING 5 CALENDAR YEARS. AN  
15 INDIVIDUAL MEETING THE CONDITIONS DESCRIBED IN THIS SUBSECTION IS  
16 NOT REQUIRED TO MEET THE REQUIREMENTS OF SUBSECTION (2).

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

22 SEC. 1404. (1) BEGINNING THE EFFECTIVE DATE OF THIS ARTICLE,  
23 AN INDIVIDUAL PROVIDING OR OFFERING TO PROVIDE HOME INSPECTION  
24 SERVICES SHALL COMPLY WITH THE REQUIREMENTS OF THIS SECTION AND  
25 SECTION 1405.

26 (2) A HOME INSPECTOR WHO ENTERS INTO A CONTRACT FOR HOME  
27 INSPECTION SERVICES THAT IS NOT IN CONFORMANCE WITH THIS ARTICLE

1 IS SUBJECT TO AN ACTION FOR DAMAGES BROUGHT BY THE CLIENT OR  
2 PENALTIES AND SANCTIONS CONTAINED IN ARTICLES 5 AND 6, OR BOTH.

3 (3) A HOME INSPECTOR SHALL INSPECT THOSE MAJOR SYSTEMS OF A  
4 RESIDENCE THAT ARE THE SUBJECT OF A CONTRACT FOR HOME INSPECTION  
5 SERVICES ONLY TO THE EXTENT THAT THOSE MAJOR SYSTEMS ARE READILY  
6 ACCESSIBLE AND VISIBLE TO THE HOME INSPECTOR. A HOME INSPECTOR  
7 SHALL INDICATE IN WRITING ANY MAJOR SYSTEM, OR ANY PART OF A  
8 MAJOR SYSTEM, THAT WAS NOT ABLE TO BE INSPECTED AND THE REASONS  
9 FOR THE INABILITY TO INSPECT.

10 (4) A HOME INSPECTOR WHO INSPECTS A RESIDENCE SHALL NOT  
11 REPAIR OR OFFER TO REPAIR A RESIDENCE THAT WAS THE SUBJECT OF  
12 HOME INSPECTION SERVICES PROVIDED BY THAT HOME INSPECTOR UNLESS  
13 THE REPAIR IS PURSUANT TO A HOME WARRANTY PROVIDED BY THE HOME  
14 INSPECTOR.

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

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

22 (7) A HOME INSPECTOR SHALL DISCLOSE AND PROVIDE AT THE TIME  
23 THE WRITTEN HOME INSPECTION REPORT IS CONVEYED TO THE CLIENT AT  
24 LEAST BOTH OF THE FOLLOWING:

25 (A) THE SCOPE OF THE HOME INSPECTION SERVICES WITH A  
26 DETAILED DESCRIPTION OF THE MAJOR SYSTEMS TO BE INSPECTED, THE  
27 TYPE OF MAJOR DEFICIENCIES THE HOME INSPECTION IS DESIGNED TO

1 REVEAL, AND ITEMS THAT ARE EXCLUDED FROM COVERAGE UNDER THE  
2 CONTRACT OF HOME INSPECTION SERVICES.

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

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

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

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

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

26 (A) A DESCRIPTION OF THE HOME INSPECTION SERVICES TO BE  
27 PROVIDED.

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

7 (C) ANY EXCLUSION OF DEFECTS NOT REASONABLY APPARENT BY  
8 VISUAL INSPECTION.

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

11 (5) AFTER PERFORMING HOME INSPECTION SERVICES, A HOME  
12 INSPECTOR SHALL PROVIDE TO THE CLIENT A WRITTEN HOME INSPECTION  
13 REPORT CONTAINING THE RESULTS OF THE HOME INSPECTION. THE HOME  
14 INSPECTION REPORT SHALL INCLUDE A LIST OF THE MAJOR SYSTEMS  
15 INSPECTED AND ANY MAJOR SYSTEMS NOT INSPECTED. THE HOME INSPECTOR  
16 SHALL LIST IN THE REPORT ANY CONDITIONS AFFECTING OR LIMITING THE  
17 ABILITY OF THE HOME INSPECTOR TO PROVIDE HOME INSPECTION SERVICES  
18 PURSUANT TO THE CONTRACT.

19 (6) THE HOME INSPECTION REPORT SHALL INCLUDE THE FOLLOWING  
20 STATEMENTS:

21 (A) THAT DEFECTS NOT REASONABLY APPARENT BY VISUAL  
22 INSPECTION ARE EXCLUDED.

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

25 (7) THE HOME INSPECTOR SHALL INDICATE IN THE WRITTEN HOME  
26 INSPECTION REPORT THE FACT THAT THE HOME INSPECTION IS CONSIDERED  
27 A VALID ASSESSMENT OF THE CONDITION OF THE RESIDENCE ONLY AS OF

1 THE DATE THE HOME INSPECTION WAS CONDUCTED.

2 (8) A HOME INSPECTOR SHALL RETAIN A COPY OF THE CONTRACT FOR  
3 HOME INSPECTION SERVICES AND THE WRITTEN HOME INSPECTION REPORT  
4 FOR AT LEAST 3 YEARS AFTER THE DATE OF THE REPORT.

5 SEC. 1406. (1) A CLIENT SUFFERING DAMAGES DUE TO A VIOLATION  
6 OF THIS ARTICLE MAY BRING AN ACTION FOR DAMAGES IN A COURT OF  
7 COMPETENT JURISDICTION.

8 (2) A PERSON VIOLATING THIS ARTICLE IS SUBJECT TO CRIMINAL  
9 PENALTIES AND ADMINISTRATIVE SANCTIONS, IF APPLICABLE, UNDER  
10 ARTICLE 6.

11 (3) THE REMEDIES UNDER THIS ARTICLE ARE CUMULATIVE AND THE  
12 USE OF 1 REMEDY DOES NOT BAR THE USE OF ANY OTHER REMEDY PROVIDED  
13 BY LAW.

14 SEC. 1407. THE DIRECTOR SHALL PROMULGATE RULES TO PROVIDE  
15 FOR THE FOLLOWING:

16 (A) A PROGRAM OF CONTINUING EDUCATION OR CONTINUING  
17 COMPETENCY THAT SETS REQUIREMENTS FOR DETERMINING THAT A COURSE  
18 MEETS THE MINIMUM CRITERIA FOR DEVELOPING AND MAINTAINING  
19 CONTINUING COMPETENCY.

20 (B) REQUIREMENTS FOR ACCEPTABLE COURSES OFFERED AT SEMINARS  
21 AND CONVENTIONS BY TRADE ASSOCIATIONS, RESEARCH INSTITUTES, RISK  
22 MANAGEMENT ENTITIES, MANUFACTURERS, SUPPLIERS, GOVERNMENTAL  
23 AGENCIES, CONSULTING AGENCIES, OR OTHER ENTITIES.

24 (C) ACCEPTABLE DISTANCE LEARNING.

25 (D) ALTERNATE FORMS OF CONTINUING COMPETENCY, INCLUDING  
26 COMPREHENSIVE TESTING, PARTICIPATION IN MENTORING PROGRAMS,  
27 RESEARCH, PARTICIPATION IN CODE HEARINGS CONDUCTED BY THE

1 INTERNATIONAL CODE COUNCIL, AND PUBLICATION OF ARTICLES IN A  
2 TRADE JOURNAL OR REGIONAL MAGAZINE AS AN EXPERT IN THE FIELD. THE  
3 ALTERNATE FORMS SHALL BE DESIGNED TO MAINTAIN AND IMPROVE THE  
4 LICENSEE'S ABILITY TO PERFORM THE OCCUPATION WITH COMPETENCE AND  
5 SHALL PRESCRIBE PROOFS THAT ARE NECESSARY TO DEMONSTRATE THAT THE  
6 LICENSEE HAS FULFILLED THE REQUIREMENTS OF CONTINUING COMPETENCY.

7 SEC. 1408. FEES FOR A PERSON LICENSED OR SEEKING LICENSURE  
8 AS A HOME INSPECTOR UNDER THIS ARTICLE ARE AS FOLLOWS:

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

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

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

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

13 Enacting section 1. This amendatory act takes effect October  
14 1, 2008.