

Chapter 75

Home Inspection Law

§ 7501. Short title of chapter

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

§ 7502. Definitions and index of definitions

(A) DEFINITIONS--The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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

"HOME INSPECTION REPORT" A written report on the results of a home inspection.

"HOME INSPECTOR" An individual who performs a home inspection.

"NATIONAL HOME INSPECTORS ASSOCIATION" Any national association of home inspectors that:

(1) Is operated on a not-for-profit basis and is not operated as a franchise.

(2) Has members in more than ten states.

(3) Requires that a person may not become a full member unless the person has performed or participated in more than 100 home inspections and has passed a recognized or accredited examination testing knowledge of the proper procedures for conducting a home inspection.

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

(B) INDEX OF OTHER DEFINITIONS--The following is a nonexclusive list of other definitions applying to this chapter and the sections in which they appear:

"AGENT" Section 7102 (relating to definitions)

"AGREEMENT OF TRANSFER" Section 7102 (relating to definitions)

"BUYER" Section 7102 (relating to definitions)

"MATERIAL DEFECT" Section 7102 (relating to definitions)

"RESIDENTIAL REAL ESTATE TRANSFER" Section 7103 (relating to application of part)

"SELLER" Section 7102 (relating to definitions)

§ 7503. Relationship to other laws

(A) GENERAL RULE--Nothing in this chapter shall be construed to allow a home inspector who is not registered or licensed under one or more of the following laws to perform any activity that would constitute the practice of the profession regulated by that law:

- (1) The act of May 23, 1945 (P.L. 913, No. 367), known as the Engineer, Land Surveyor and Geologist Registration Law.
- (2) The act of January 24, 1966 (1965 P.L. 1535, No. 537), known as the Pennsylvania Sewage Facilities Act.
- (3) The act of March 1, 1974 (P.L. 90, No. 24), known as the Pennsylvania Pesticide Control Act of 1973.
- (4) The act of December 14, 1982 (P.L. 1227, No. 281), known as the Architects Licensure Law.
- (5) The act of July 9, 1987 (P.L. 238, No. 43), known as the Radon Certification Act.
- (6) The act of July 10, 1990 (P.L. 404, No. 98), known as the Real Estate Appraisers Certification Act.

(B) EXCLUSIONS--This chapter shall not:

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

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

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

(4) Affect the obligations or immunities of a person certified under the Real Estate Appraisers Certification Act when the person is acting pursuant to the person's license.

§ 7504. Duty of care of home inspectors

(A) GENERAL RULE--It is the duty of a home inspector to conduct a home inspection with the degree of care that a reasonably prudent home inspector would exercise.

(B) STANDARD--In ascertaining the degree of care that would be exercised by a reasonably prudent home inspector, the court shall consider the standards of practice and codes of ethics of national home inspector associations.

§ 7505. Consumer remedies

(A) GENERAL RULE--The performance of a home inspection is a service that is subject to the act of December 17, 1968 (P.L. 1224, No. 387), known as the Unfair Trade Practices and Consumer Protection Law.

(B) PROHIBITED ACTS--Any of the following acts engaged in by a home inspector, an employer of a home inspector or another business or person that controls or has a financial interest in the employer of a home inspector shall be deemed to be an unfair or deceptive act or practice as defined by section 2(4)(i) through (xxi) of the Unfair Trade Practices and Consumer Protection Law:

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

(2) Inspecting for a fee any property in which the home inspector, the employer of the home inspector or such other business or person has any financial interest or any interest in the transfer of the property, including without limitation receipt of a commission as an agent, unless the financial interest or interest in the transfer of the property is disclosed in writing to the buyer before the home inspection is performed and the buyer signs an acknowledgment of receipt of the disclosure.

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

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

(C) EXCEPTION--A home warranty company that is affiliated with or retains the home inspector does not violate subsection (b) if the home warranty company performs repairs pursuant to claims made under a home warranty contract.

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

§ 7506. Required contractual provision regarding home inspections

Except as provided in this section, a provision of an agreement of transfer regarding the right of the buyer to obtain a home inspection report and providing for the consequences, if any, shall provide that the home inspection be performed by a full member in good standing of a national home inspection association in accordance with the ethical standards and code of conduct or practice of that association; provided that a home inspection performed by a person who has not attained full membership in a national home inspection association satisfies the requirements of this section if the person is:

(1) licensed or registered as a professional engineer under the act of May 23, 1945 (P.L.913, No. 367), known as the Engineer, Land Surveyor and Geologist Registration Law;

(2) licensed or registered under the act of December 14, 1982 (P.L. 1227, No. 281), known as the Architects Licensure Law; or

(3) supervised by a full member in good standing of a national home inspection association who agrees to be responsible for the home inspection report by signing the report.

§ 7507. Contracts with home inspectors

(A) PROHIBITED PROVISIONS.-- The following types of provisions in a contract with a home inspector for the performance of a home inspection are contrary to public policy and shall be void:

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

(2) A waiver or modification of any provision of this chapter.

(B) SCOPE OF INSPECTION--The scope of a home inspection, the services to be performed and the systems and conditions to be inspected or excluded from inspection may be defined by a contract between the home inspector and the client.

§ 7508. Home inspection reports

(A) REQUIRED CONTENTS--A home inspection report must be in writing and shall include:

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

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

(3) The following statements: set forth conspicuously:

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

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

"If the person conducting your home inspection is not a licensed structural engineer or other professional whose license authorizes the rendering of an opinion as to the structural integrity of a building or its other component parts, you may be advised to seek a professional opinion as to any defects or concerns mentioned in the report."

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

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

(C) REPAIR ESTIMATES PROHIBITED.-- A home inspector shall not express either orally or in writing an estimate of the cost to repair any defect found during a home inspection, except that such an estimate may be included in a home inspection report if:

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

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

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

§ 7509. Liability insurance

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

(B) TERM--

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

(2) Paragraph (1) shall not apply to a home inspection report that was delivered prior to the effective date of this section.

§ 7510. Reliance by buyer

A buyer shall be entitled to rely in good faith, without independent investigation, on a written representation by a home inspector that the home inspector is:

(1) licensed or registered as a professional engineer under the act of May 23, 1945 (P.L.913, No.367), known as the engineer, land surveyor and geologist registration law;

(2) licensed or registered under the act of December 14, 1982 (P.L.1227, No.281), known as the architects licensure law; or

(3) a full member in good standing of a national home inspection association.

§ 7511. Penalties

(A) CRIMINAL PENALTY--A person who violates section 7509 (relating to liability insurance) or who provides a false representation under section 7510 (relating to reliance by buyer) commits a summary offense and, upon conviction thereof for a first offense, shall be sentenced to pay a fine not exceeding \$ 500 or to imprisonment for not more than three months, or both, and for a second or subsequent offense commits a misdemeanor of the third degree and, upon conviction thereof, shall be sentenced to pay a fine of not less than \$ 2,000 but not more than \$ 5,000 or to imprisonment for not less than one year but not more than two years, or both.

(B) FINE--A person who violates any provision of section 7508 (relating to home inspection reports) shall, upon conviction in a summary proceeding before a district justice, be sentenced to pay a fine not exceeding \$ 500.

§ 7512. Statute of limitations

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

§ 7513. Engineers and architects.

Notwithstanding Section 7503 (B) (1) (relating to relationship to other laws), the following sections: 7505 (relating to consumers remedies), 7507 (A) (1) and (B) (relating to contracts with home inspectors), 7508 (relating to home inspection reports) and 7509 (relating to liability insurance), shall apply to a person licensed or registered as a professional engineer under the Act of May 23, 1945 (P.L. 913, No. 367), known as the Engineer, Land Surveyor and Geologist Registration Law, or a person licensed or registered under the act of December 14, 1982 (P.L.1227, No.281), known as the Architects Licensure Law, when performing a home inspection.