January 21, 2000

SENATE BILL No. 243

DIGEST OF SB 243 (Updated January 19, 2000 11:37 AM - DI 71)

Citations Affected: IC 25-1; IC 25-20.2; IC 34-30; noncode.

Synopsis: Licensing of home inspectors. Establishes the Indiana home inspectors licensing board to regulate home inspectors and associate home inspectors in Indiana. Sets the qualifications for licensed home inspectors and associate home inspectors. Provides that a person who performs home inspections for compensation without a license commits a Class B infraction. Requires that a civil action based upon the professional services of a licensed home inspector in Indiana must be filed within two years from the date of the act or omission that is the subject of the complaint.

Effective: July 1, 2000; January 1, 2001.

Merritt

January 10, 2000, read first time and referred to Committee on Public Policy.
January 20, 2000, reported favorably — Do Pass.

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January 21, 2000

Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

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SENATE BILL No. 243

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 25-1-2-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2.1. Rather than being issued annually, the following permits, licenses, certificates of registration, or evidences of authority granted by a state agency must be issued for a period of two (2) years or for the period specified in the article under which the permit, license, certificate of registration, or evidence of authority is issued if the period specified in the article is longer than two (2) years:

(1) Certified public accountants, public accountants, and accounting practitioners.
(2) Architects and landscape architects.
(3) Dry cleaners.
(4) Professional engineers.
(5) Land surveyors.
(6) Real estate brokers.
(7) Real estate agents.
(8) Security dealers' licenses issued by the securities

commissioner.
(9) Dental hygienists.
(10) Dentists.
(11) Veterinarians.
(12) Physicians.
(13) Chiropractors.
(14) Physical therapists.
(15) Optometrists.
(16) Pharmacists and assistants, drugstores or pharmacies.
(17) Motels and mobile home park licenses.
(18) Nurses.
(19) Podiatrists.
(20) Occupational therapists and occupational therapy assistants.
(21) Respiratory care practitioners.
(22) Social workers, marriage and family therapists, and mental health counselors.
(23) Real estate appraiser licenses and certificates issued by the real estate appraiser licensure and certification board.
(24) Wholesale legend drug distributors.
(25) Physician assistants.
(26) Dietitians.
(27) Hypnotists.
(28) Home inspectors and associate home inspectors.

SECTION 2. IC 25-1-2-6, AS AMENDED BY P.L.24-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:
(1) Indiana board of accountancy.
(2) Indiana grain buyers and warehouse licensing agency.
(3) Indiana auctioneer commission.
(4) Board of registration for architects.
(5) State board of barber examiners.
(6) State board of cosmetology examiners.
(7) Medical licensing board of Indiana.
(8) Secretary of state.
(9) State board of dentistry.
(10) State board of funeral and cemetery service.

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(11) Worker's compensation board of Indiana.
(12) Indiana state board of health facility administrators.
(13) Committee of hearing aid dealer examiners.
(14) Indiana state board of nursing.
(15) Indiana optometry board.
(16) Indiana board of pharmacy.
(17) Indiana plumbing commission.
(18) Board of podiatric medicine.
(19) Private detectives licensing board.
(20) State board of registration for professional engineers.
(21) Board of environmental health specialists.
(22) State psychology board.
(23) Indiana real estate commission.
(24) Speech-language pathology and audiology board.
(25) Department of natural resources.
(26) State boxing commission.
(27) Board of chiropractic examiners.
(28) Mining board.
(29) Indiana board of veterinary medical examiners.
(30) State department of health.
(31) Indiana physical therapy committee.
(32) Respiratory care committee.
(33) Occupational therapy committee.
(34) Social worker, marriage and family therapist, and mental health counselor board.
(35) Real estate appraiser licensure and certification board.
(36) State board of registration for land surveyors.
(37) Physician assistant committee.
(38) Indiana dietitians certification board.
(39) Indiana hypnotist committee.
(40) **Indiana home inspectors licensing board.**
(41) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

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SECTION 3. IC 25-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. (a) There is established the Indiana professional licensing agency. The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects (IC 25-4-1-2).
(3) Indiana auctioneer commission (IC 25-6.1-2-1).
(4) State board of barber examiners (IC 25-7-5-1).
(5) State boxing commission (IC 25-9-1).
(6) State board of cosmetology examiners (IC 25-8-3-1).
(7) State board of funeral and cemetery service (IC 25-15-9).
(8) State board of registration for professional engineers (IC 25-31-1-3).
(9) Indiana plumbing commission (IC 25-28.5-1-3).
(10) Indiana real estate commission (IC 25-34.1).
(11) Until July 1, 1996, Indiana State board of television and radio service examiners (IC 25-36-1-4).
(12) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).
(13) Private detectives licensing board (IC 25-30-1-5.1).
(14) State board of registration for land surveyors (IC 25-21.5-2-1).
(15) Indiana home inspectors licensing board (IC 25-20.2-2-1).

(b) Nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 4. IC 25-1-7-1, AS AMENDED BY P.L.24-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and
(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

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"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects (IC 25-4-1-2).
(3) Indiana auctioneer commission (IC 25-6.1-2-1).
(4) State board of barber examiners (IC 25-7-5-1).
(5) State boxing commission (IC 25-9-1).
(6) Board of chiropractic examiners (IC 25-10-1).
(7) State board of cosmetology examiners (IC 25-8-3-1).
(8) State board of dentistry (IC 25-14-1).
(9) State board of funeral and cemetery service (IC 25-15-9).
(10) State board of registration for professional engineers (IC 25-31-1-3).
(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Medical licensing board of Indiana (IC 25-22.5-2).
(13) Indiana state board of nursing (IC 25-23-1).
(14) Indiana optometry board (IC 25-24).
(15) Indiana board of pharmacy (IC 25-26).
(16) Indiana plumbing commission (IC 25-28.5-1-3).
(17) Board of podiatric medicine (IC 25-29-2-1).
(18) Board of environmental health specialists (IC 25-32-1).
(19) State psychology board (IC 25-33).
(20) Speech-language pathology and audiology board (IC 25-35.6-2).
(21) Indiana real estate commission (IC 25-34.1-2).
(22) Indiana board of veterinary medical examiners (IC 15-5-1.1).
(23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
(24) Respiratory care committee (IC 25-34.5).
(25) Private detectives licensing board (IC 25-30-1-5.1).
(26) Occupational therapy committee (IC 25-23.5).
(27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(29) State board of registration for land surveyors (IC 25-21.5-2-1).
(30) Physician assistant committee (IC 25-27.5).
(31) Indiana athletic trainers board (IC 25-5.1-2-1).
(32) Indiana dietitians certification board (IC 25-14.5-2-1).
(33) Indiana hypnotist committee (IC 25-20.5-1-7).

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(34) Indiana physical therapy committee (IC 25-27).
(35) **Indiana home inspectors licensing board (IC 25-20.2-2-1).**
(36) Any other occupational or professional agency created after June 30, 1981.

SECTION 5. IC 25-1-8-1, AS AMENDED BY P.L.24-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects (IC 25-4-1-2).
(3) Indiana auctioneer commission (IC 25-6.1-2-1).
(4) State board of barber examiners (IC 25-7-5-1).
(5) State boxing commission (IC 25-9-1).
(6) Board of chiropractic examiners (IC 25-10-1).
(7) State board of cosmetology examiners (IC 25-8-3-1).
(8) State board of dentistry (IC 25-14-1).
(9) State board of funeral and cemetery service (IC 25-15).
(10) State board of registration for professional engineers (IC 25-31-1-3).
(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Medical licensing board of Indiana (IC 25-22.5-2).
(13) Mining board (IC 22-10-1.5-2).
(14) Indiana state board of nursing (IC 25-23-1).
(15) Indiana optometry board (IC 25-24).
(16) Indiana board of pharmacy (IC 25-26).
(17) Indiana plumbing commission (IC 25-28.5-1-3).
(18) Board of environmental health specialists (IC 25-32-1).
(19) State psychology board (IC 25-33).
(20) Speech-language pathology and audiology board (IC 25-35.6-2).
(21) Indiana real estate commission (IC 25-34.1-2-1).
(22) Indiana board of veterinary medical examiners (IC 15-5-1.1-3).
(23) Department of insurance (IC 27-1).
(24) State police department (IC 10-1-1-1), for purposes of certifying polygraph examiners under IC 25-30-2.
(25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
(26) Private detectives licensing board (IC 25-30-1-5.1).
(27) Occupational therapy committee (IC 25-23.5-2-1).
(28) Social worker, marriage and family therapist, and mental

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health counselor board (IC 25-23.6-2-1).

(29) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(30) State board of registration for land surveyors (IC 25-21.5-2-1).

(31) Physician assistant committee (IC 25-27.5).

(32) Indiana athletic trainers board (IC 25-5.1-2-1).

(33) Board of podiatric medicine (IC 25-29-2-1).

(34) Indiana dietitians certification board (IC 25-14.5-2-1).

(35) Indiana physical therapy committee (IC 25-27).

(36) **Indiana home inspectors licensing board (IC 25-20.2-2-1).**

(37) Any other occupational or professional agency created after June 30, 1981.

SECTION 6. IC 25-20.2 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]:

ARTICLE 20.2. HOME INSPECTORS

Chapter 1. Short Title and Definitions

Sec. 1. This article may be cited as the "Indiana Home Inspectors Licensing Act".

Sec. 2. The definitions in this chapter apply throughout this article.

Sec. 3. "Agency" refers to the Indiana professional licensing agency established by IC 25-1-6-3.

Sec. 4. "Board" refers to the Indiana home inspectors licensing board established by IC 25-20.2-2-1.

Sec. 5. "Client" means a person who hires or seeks to hire a licensed home inspector or a licensed associate home inspector to obtain an inspection of and a written report on the condition of a residential building.

Sec. 6. "Home inspection" means a noninvasive, physical examination that is performed on real property and:

(1) examines, through visual means and the normal user controls, without the use of mathematical sciences, the:

(A) mechanical, electrical, or plumbing systems; or

(B) structural or other essential components;

or both, of a residential dwelling; and

(2) is designed to identify visible defects in and the current condition of the systems, structures, and components described in subdivision (1).

The term does not include a code compliance inspection.

Sec. 7. "Home inspection report" means a written report

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prepared and issued after a home inspection.

Sec. 8. "Licensed associate home inspector" means a person who:

(1) has not fulfilled the requirements for a home inspector license;

(2) is licensed as an associate home inspector under this article; and

(3) performs home inspections under the supervision of a licensed home inspector.

Sec. 9. "Licensed home inspector" means a person who:

(1) performs home inspections; and

(2) is licensed as a home inspector under this article.

Sec. 10. "Licensee" means a person who performs home inspections and who is licensed under this article as a home inspector or an associate home inspector.

Sec. 11. "Residential dwelling" means a structure consisting of at least one (1) but not more than five (5) dwelling units, whether occupied or unoccupied.

Chapter 2. Indiana Home Inspectors Licensing Board

Sec. 1. The Indiana home inspectors licensing board is created.

Sec. 2. The board is composed of seven (7) members, all of whom must be Indiana residents, appointed by the governor as follows:

(1) Four (4) members who:

(A) are licensed home inspectors; and

(B) have been actively engaged in the practice of performing home inspections in Indiana for at least five (5) years before their appointment to the board.

(2) One (1) member who:

(A) is a home builder; and

(B) has been actively engaged in the practice of home building in Indiana for at least five (5) years before the member's appointment to the board.

(3) One (1) member who:

(A) is a licensed real estate salesperson under IC 25-34.1-3-3.1 or a licensed real estate broker under IC 25-34.1-3-4.1; and

(B) has been actively engaged in the practice of residential real estate sales in Indiana for at least five (5) years before the member's appointment to the board.

(4) One (1) member who represents the general public and is not associated with the real estate business in any way other

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than as a consumer.

Sec. 3. (a) Except as provided in subsection (b), the term of office for each member of the board is three (3) years.

(b) A member shall hold office until a successor is appointed and qualified.

(c) If a vacancy occurs on the board, the governor shall appoint an individual to serve the unexpired term of the previous member or until a successor is appointed and qualified.

(d) A member may not serve on the board for more than six (6) consecutive years.

Sec. 4. (a) The board shall elect from its membership a chairperson and a vice chairperson. The chairperson and the vice chairperson shall serve in that capacity for one (1) year and until a successor is elected. However, the chairperson and the vice chairperson may not serve in that capacity for more than two (2) consecutive years.

(b) The chairperson shall preside at all meetings. The vice chairperson shall preside at meetings in the absence of the chairperson and shall perform other duties as the chairperson may direct.

Sec. 5. The agency shall employ an executive director. The executive director shall:

(1) provide reasonable notice to the board members of the time and place of each meeting;

(2) keep a record of all:

(A) meetings;

(B) votes taken by the board; and

(C) other proceedings, transactions, communications, official acts, and records of the board;

(3) keep a current file of all licenses and licensees; and

(4) perform any other duties that the board may prescribe.

Sec. 6. (a) The board shall meet at least two (2) times each calendar year upon the call of the chairperson or the written request of a majority of the members of the board.

(b) The chairperson shall establish the time and place for each meeting.

(c) A majority of the current members of the board constitutes a quorum for the purpose of transacting business at a meeting. The board may take action only upon the affirmative vote of a majority of the members appointed to the board.

Sec. 7. (a) Each member of the board is entitled to the minimum salary per diem as provided by IC 4-10-11-2.1(b).

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(b) Each member of the board is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) The compensation and expenses of board members and the expenses of the board shall be paid from the home inspectors licensing fund established under IC 25-20.2-6-2.

Sec. 8. The board may:

(1) administer and enforce this article;

(2) adopt rules under IC 4-22-2 and prescribe forms for licenses, applications, and other documents that are necessary or appropriate for the administration and enforcement of this article;

(3) issue, deny, suspend, and revoke licenses in accordance with this article, which licenses remain the property of the board;

(4) subject to IC 25-1-7, investigate complaints concerning licensees or persons the board has reason to believe should be licensees, including complaints respecting failure to comply with this article or the rules, and, when appropriate, take action under IC 25-20.2-4;

(5) bring actions in the name of the state of Indiana in an appropriate circuit court to enforce compliance with this article or the rules adopted under this article;

(6) inspect the records of a licensee in accordance with the rules and standards prescribed by the board;

(7) conduct, or designate a member or other representative to conduct, public hearings on any matter for which a hearing is required under this article and exercise all powers granted under IC 4-21.5;

(8) adopt a seal containing the words "Indiana Home Inspectors Licensing Board" and, through its executive director, certify copies and authenticate all acts of the board;

(9) use counsel, consultants, and other persons who are necessary or appropriate to administer and enforce this article and the rules adopted under this article;

(10) enter into contracts and authorize expenditures that are necessary or appropriate, subject to IC 25-1-6, to administer and enforce this article and the rules;

(11) maintain the board's office, files, records, and property

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in the city of Indianapolis;

(12) establish continuing education requirements of not more than twenty (20) hours per year for licensed home inspectors;

(13) grant, deny, suspend, and revoke approval of examinations and courses of study;

(14) adopt rules to establish, prescribe, or change fees for licenses, renewal licenses, examinations, sanctions, penalties, or other services provided under this article;

(15) issue probationary licenses under terms and conditions the board considers necessary to ensure compliance with this article and the rules and standards established by the board;

(16) establish standards for licensed home inspectors who serve as supervisors for licensed associate home inspectors under IC 25-20.2-3-4(e); and

(17) exercise other specific powers conferred on the board by this article.

Sec. 9. The board shall adopt rules establishing:

(1) standards for the competent practice of home inspections;

(2) a code of ethics for licensed home inspectors and licensed associate home inspectors; and

(3) report writing standards for licensed home inspectors and licensed associate home inspectors.

Sec. 10. All funds collected under this article shall, at the end of each month, be reported to the auditor of state and deposited with the treasurer of state for deposit in the home inspectors licensing fund established under IC 25-20.2-6-2. All expenses incurred in the administration of this article shall be paid from the home inspectors licensing fund.

Chapter 3. Licensing

Sec. 1. An agency or political subdivision of the state (other than the board) may not impose a registration or license requirement or a license or an employment fee or charge on licensees for activities defined in this article.

Sec. 2. (a) Except as provided in subsection (b), a person may not conduct a home inspection for compensation in Indiana without a license as a home inspector or an associate home inspector.

(b) This article does not apply to:

(1) a person who is employed as a code enforcement official by the state or a political subdivision and who acts within the scope of the person's employment;

(2) a person who is:

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(A) registered as an architect under IC 25-4-1;
(B) registered as a professional engineer under IC 25-31; or
(C) licensed as a plumbing contractor or journeyman plumber under IC 25-28.5;
and who acts within the scope of the person's registration or license;
(3) a person who is licensed under IC 25-34.1 as a real estate broker, broker-salesperson, or salesperson and who acts within the scope of the person's license;
(4) a person who is:
(A) licensed as a real estate appraiser; or
(B) certified as a general or residential real estate appraiser;
under IC 25-34.1 and who acts within the scope of the person's license or certificate;
(5) a person who is regulated by the state as an insurance adjuster and who acts within the scope of the person's profession;
(6) a person who is certified or registered as a pesticide applicator or a wood destroying pest inspector and who acts within the scope of the practice for which the person is certified or registered;
(7) a person who makes home inspections under the supervision of a licensed home inspector to meet the requirements of this article for licensure as a home inspector or an associate home inspector; or
(8) a tradesperson or home builder who holds a license from a political subdivision and who acts within the scope of the person's license.

Sec. 3. (a) To obtain a home inspector license, an individual must:
(1) be at least eighteen (18) years of age;
(2) have graduated from high school or earned a state of Indiana general educational development (GED) diploma;
(3) not have a conviction for:
(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or
(B) a crime that has a direct bearing on the individual's ability to practice competently;
(4) not be listed on a national or state registry of sex offenders;

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(5) pay the fee established by the board;
(6) pass a written examination prepared and administered by the board or its duly appointed agent;
(7) secure, maintain, and file with the board a certificate of insurance that:
(A) provides for general liability coverage in an amount of not less than one hundred thousand dollars ($100,000);
(B) lists the state as an additional insured; and
(C) is backed by a policy stating that cancellation and nonrenewal of the policy is not effective unless at least ten (10) days notice of the cancellation or nonrenewal has been received in writing by the board;
(8) have performed at least two hundred fifty (250) home inspections that were verified by the board and found to be in compliance with the home inspection standards established by the board; and
(9) have been licensed as an associate home inspector for not less than one (1) year.

(b) A license issued under subsection (a) expires two (2) years from the date of issuance of the license.

(c) A licensed home inspector may renew a license upon:
(1) paying the renewal fee established by the board; and
(2) completing the continuing education requirements established by the board.

Sec 4. (a) To obtain an associate home inspector license, an individual must:
(1) meet the requirements for licensure under section 3(a)(1) through 3(a)(7) of this chapter;
(2) become associated with a licensed home inspector who will supervise the home inspections required under section 3(a)(8) of this chapter for a home inspector license; and
(3) have completed a board approved training program or course of study and successfully passed an exit examination.

(b) An associate home inspector license expires one (1) year after the date of issuance of the license.

(c) A licensed associate home inspector may renew an associate home inspector license upon:
(1) paying the renewal fee established by the board; and
(2) completing the continuing education requirements established by the board.

(d) A person may not hold an associate home inspector license for more than five (5) years. If after holding an associate home

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inspector license for five (5) years, a licensed associate home inspector has not met all the requirements to become a licensed home inspector, the person's associate home inspector license expires. A person whose associate home inspector license has expired under this subsection may reapply for a new associate home inspector license under subsection (a).

(e) To meet the requirement in section 3(a)(8) of this chapter for licensure as a home inspector, a licensed associate home inspector must perform two hundred fifty (250) home inspections under the supervision of one (1) or more board approved licensed home inspectors under the following conditions:

(1) The licensed home inspector shall attend and supervise at least ten (10) home inspections performed by the licensed associate home inspector, at intervals determined by the board, and provide comments and guidance to ensure the licensed associate home inspector's compliance with the standards of practice, code of ethics, and report writing standards established by the board under IC 25-20.2-2-9.

(2) The licensed home inspector shall review at least two hundred forty (240) additional home inspection reports and provide comments and guidance to ensure the licensed associate home inspector's compliance with the standards of practice, code of ethics, and report writing standards established by the board under IC 25-20.2-2-9.

(3) The licensed associate home inspector and the licensed home inspector shall maintain separate logs of all supervised home inspections. The log must contain at least the following information:

(A) the client's name and address;

(B) the address of the inspected property;

(C) the date of the inspection;

(D) the date the written report was reviewed by the licensed home inspector; and

(E) any appropriate comments.

(4) The supervising licensed home inspector may establish, with board approval, additional and appropriate training to advance the skills of the licensed associate home inspector.

(5) The supervising licensed home inspector may charge a fee for the person's service as a supervising inspector.

Sec. 5. (a) A resident of another state who substantially meets the requirements of this article may be licensed as a home inspector in Indiana.

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(b) A nonresident home inspector described in subsection (a) shall file with the board a written consent stating that:

(1) an action arising from the conduct of the licensee's business in Indiana may be commenced in the county in Indiana in which the cause of action accrues;

(2) service of process may be made upon the board as agent for the nonresident licensee; and

(3) service of process in accordance with the Indiana Rules of Trial Procedure subjects the licensee to the jurisdiction of the courts in the county in which the cause of action accrues.

Sec. 6. A licensee shall notify the board immediately of any change of:

(1) name;

(2) name under which the licensee conducts business; or

(3) business address.

Chapter 4. Enforcement

Sec. 1. (a) The board may discipline or impose sanctions on a licensee for any of the following violations:

(1) Disclosing information concerning the results of a home inspection without the approval of a client or the client's legal representative, except under a court order.

(2) Accepting compensation for the same service from more than one (1) interested party without the consent of all interested parties.

(3) Accepting commissions or allowances, directly or indirectly, from other parties dealing with the licensee's client in connection with work for which the licensee is responsible.

(4) Failing to disclose to a client information about a business interest of the licensee that may affect the client in connection with the home inspection.

(5) Knowingly making a false representation about the condition of the premises covered by an inspection or about the extent of the services to be performed.

(6) Committing a felony in the course of the practice of home inspection or committing any act constituting a violation of IC 25-20.2-3-3(a)(3) or IC 25-20.2-3-3(a)(4).

(7) Violating this article or the rules adopted by the board under this article.

(8) Making a false or misleading representation:

(A) upon an application under this article; or

(B) in providing information requested by the board.

(9) Failing to pay required fees or fines or to maintain the

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insurance required under this article.

(10) Communicating false or misleading advertising about the type of license held.

(11) Engaging in a course of lewd or immoral conduct in connection with the delivery of services to clients.

(12) Failing to complete the continuing education requirements established by the board.

(b) The board may impose any of the following sanctions, singly or in combination, if the board finds that a licensee commits a violation described in subsection (a):

(1) Permanently revoke a licensee's license.

(2) Suspend a licensee's license.

(3) Censure a licensee.

(4) Issue a letter of reprimand.

(5) Place a licensee on probation and require the licensee to:

(A) report regularly to the board upon the matters that are the basis of the probation; or

(B) continue or renew professional education under the supervision of another licensee approved by the board until a satisfactory degree of skill is attained in those areas that are the basis of the probation.

(6) Assess an administrative fine, not to exceed the costs of investigation and enforcement.

Sec. 2. (a) Except as provided in subsection (b), the board may not impose disciplinary sanctions against a licensee until the board provides the following:

(1) Notice of the nature of the charges and allegations that constitute a basis for discipline.

(2) The opportunity for a hearing before the board and notice of the date and time of a hearing before the board.

(b) The board may summarily suspend a license for up to ninety (90) days before a final adjudication or during an appeal of the board's determination if the board finds that the licensee represents a clear and immediate danger to the public's health, safety, or property if the licensee is allowed to continue to practice. The summary suspension may be renewed, upon a hearing before the board, for up to ninety (90) days.

Sec. 3. (a) A person who performs home inspections for compensation without a license under this article as either a home inspector or an associate home inspector commits a Class B infraction. When entering a judgment for an infraction under this section, the court shall add to any penalty imposed the amount of

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any fee or other compensation earned in the commission of the infraction. Each transaction constitutes a separate infraction.

(b) In all actions for the collection of a fee or other compensation for performing home inspections, the party seeking relief must allege and prove that, at the time the cause of action arose, the party seeking relief was not in violation of this section.

(c) The requirements of this section may be waived for individuals moving to Indiana from another jurisdiction if the following requirements are met:

(1) The other jurisdiction grants the same privileges to licensees of Indiana.

(2) The individual is licensed in the other jurisdiction.

(3) The licensing requirements of the other jurisdiction are substantially similar to the requirements of this article.

(4) The applicant states that the applicant has studied, is familiar with, and will abide by this article and the rules adopted by the board under this article.

Chapter 5. Liability and Immunity From Liability

Sec. 1. (a) An action for damages, whether brought in contract or tort or on any other basis, based upon professional services that were rendered or that should have been rendered by a licensed home inspector or a licensed associate home inspector may not be brought, commenced, or maintained in a court in Indiana unless the action is filed not later than two (2) years after the date of the alleged act or omission.

(b) A licensed home inspector or a licensed associate home inspector is not liable to a person for damages that arise from an act or omission relating to a home inspection if that person is not a party to the contract under which the home inspection is conducted.

(c) A person who:

(1) is a professional licensed in Indiana;

(2) acts within the scope of the person's profession; and

(3) is not a licensed home inspector or a licensed associate home inspector;

is not liable for the findings, errors, or omissions of a home inspection unless the person has fraudulently provided or concealed information that induced a licensed home inspector's or a licensed associate home inspector's finding, error, or omission that is the basis of the claim.

(d) A person who in good faith recommends or endorses a licensed home inspector or a licensed associate home inspector

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without compensation, remuneration, rebate, or other form of consideration is not liable for the actions of the licensed home inspector or licensed associate home inspector, including errors, omissions, the failure to perform contracted duties of a home inspection, or the failure to meet the standards of practice, report writing standards, or code of ethics established by the board under IC 25-20.2-2-9.

Sec. 2. A licensed home inspector, acting as a supervisor of:

(1) a licensed associate home inspector under IC 25-20.2-3-4(e); or

(2) a licensed home inspector or licensed associate home inspector placed on probation under IC 25-20.2-4-1(b);

without charging a fee, is not liable to any person for damages that arise from an act or omission relating to a home inspection performed by a licensed associate home inspector or by a licensed home inspector or licensed associate home inspector placed on probation.

Chapter 6. Home Inspectors Licensing Fund

Sec. 1. As used in this chapter, "fund" refers to the home inspectors licensing fund established in section 2 of this chapter.

Sec. 2. (a) The home inspectors licensing fund is established for the purpose of paying the costs of administering this article. The fund consists of fees and fines remitted by licensees or applicants under this article and any amounts appropriated to the fund by the general assembly. The fund shall be administered by the board.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The board shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 7. IC 34-30-2-98.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: **Sec. 98.8. IC 25-20.2-5-1 and IC 25-20.2-5-2 (Concerning home inspections).**

SECTION 8. [EFFECTIVE JANUARY 1, 2001] **(a) As used in this SECTION, "board" refers to the Indiana home inspectors licensing board established by IC 25-20.2-2-1, as added by this act.**

(b) Notwithstanding IC 25-20.2-3-3(a)(9), as added by this act, before December 31, 2001, the board may issue to an individual,

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upon the individual's application and payment of fees, a home inspector license if the individual:

(1) meets the requirements of IC 25-20.2-3-3(a)(1) through IC 25-20.2-3-3(a)(7), as added by this act;

(2) has been engaged in the practice of home inspections for not less than six (6) months; and

(3) has performed at least two hundred fifty (250) home inspections in Indiana.

(c) The board may consider and accept the successful completion of equivalent licensing requirements in another state instead of one (1) or more of the requirements of IC 25-20.2-3-3(a)(1) through IC 25-20.2-3-3(a)(8), as added by this act.

(d) This SECTION expires December 31, 2001.

SECTION 9. [EFFECTIVE JULY 1, 2000] **(a) As used in this SECTION, "board" refers to the Indiana home inspectors licensing board established by IC 25-20.2-2-1, as added by this act.**

(b) Notwithstanding IC 25-20.2-3-3(a)(9), as added by this act, an individual may be appointed to the board under IC 25-20.2-2-2(1), as added by this act, if the individual:

(1) meets the requirements of IC 25-20.2-3-3(a)(1) through IC 25-20.2-3-3(a)(7), as added by this act;

(2) has been engaged in the practice of home inspections for not less than six (6) months; and

(3) has performed at least two hundred fifty (250) home inspections in Indiana.

(c) Before January 1, 2001, the governor shall make the appointments required by this act. Notwithstanding IC 25-20.2-2-3(a), as added by this act, the initial appointments to the board made under IC 25-20.2-2-2, as added by this act, must be staggered so that:

(1) three (3) of the initial appointments are for three (3) years;

(2) two (2) of the initial appointments are for two (2) years; and

(3) two (2) of the initial appointments are for one (1) year.

(d) This SECTION expires December 31, 2004.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 243, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 243 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 6, Nays 0.

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