

HOUSE BILL 1009

Unofficial Copy
C2

1999 Regular Session
9r2239
CF 9r2223

By: **Delegates Love and Donoghue**
Introduced and read first time: February 12, 1999
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Business Occupations and Professions - Home Inspectors - Registration**

3 FOR the purpose of creating a State Board of Home Inspectors; requiring certain
4 home inspectors to be registered; establishing the membership of the Board;
5 establishing the powers and duties of the Board; specifying certain requirements
6 for home inspectors; providing for the denial, revocation, or suspension of
7 certain registrations; providing for a certain penalty; defining terms; and
8 generally relating to the registration of home inspectors.

9 BY repealing
10 Article - Real Property
11 Section 10-801 and the subtitle "Subtitle 8. Home Inspections"
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 1998 Supplement)

14 BY adding to
15 Article - Business Occupations and Professions
16 Section 7A-101 through 7A-402 to be under the new title "Title 7A. Home
17 Inspectors"
18 Annotated Code of Maryland
19 (1995 Replacement Volume and 1998 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That Section(s) 10-801 and the subtitle "Subtitle 8. Home Inspections"
22 of Article - Real Property of the Annotated Code of Maryland be repealed.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
24 read as follows:

1 **Article - Business Occupations and Professions**

2 TITLE 7A. HOME INSPECTORS.

3 SUBTITLE 1. DEFINITIONS.

4 7A-101.

5 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

6 (B) "BOARD" MEANS THE STATE BOARD OF HOME INSPECTORS.

7 (C) "HOME INSPECTION" MEANS A WRITTEN EVALUATION BASED ON A
8 GENERAL AND LIMITED VISUAL EXAMINATION OF THE FOLLOWING ACCESSIBLE
9 COMPONENTS OF A RESIDENTIAL BUILDING:

10 (1) HEATING SYSTEM;

11 (2) COOLING SYSTEM;

12 (3) PLUMBING SYSTEM;

13 (4) ELECTRICAL SYSTEM;

14 (5) STRUCTURAL COMPONENTS;

15 (6) FOUNDATION;

16 (7) ROOFING;

17 (8) MASONRY STRUCTURES;

18 (9) GROUNDS IMMEDIATELY SURROUNDING THE RESIDENTIAL
19 BUILDING; OR20 (10) ANY OTHER RELATED RESIDENTIAL BUILDING COMPONENT UNLESS
21 EXPRESSLY EXCLUDED BY SEPARATE CONTRACT.

22 (D) "HOME INSPECTOR" MEANS AN INDIVIDUAL WHO:

23 (1) PERFORMS HOME INSPECTION SERVICES FOR COMPENSATION; AND

24 (2) IS REGISTERED UNDER THIS TITLE.

25 (E) "PARTIAL HOME INSPECTION" MEANS AN EVALUATION PROVIDED BY A
26 REGISTERED HOME INSPECTOR AS A RESULT OF A GENERAL AND LIMITED VISUAL
27 EXAMINATION OF ONE OR MORE, BUT NOT ALL, OF THE REAL PROPERTY
28 COMPONENTS AND SYSTEMS.

SUBTITLE 2. STATE BOARD OF HOME INSPECTORS.

7A-201.

THERE IS A STATE BOARD OF HOME INSPECTORS IN THE DEPARTMENT.

7A-202.

(A) (1) THE BOARD CONSISTS OF SEVEN MEMBERS.

(2) OF THE SEVEN MEMBERS OF THE BOARD:

(I) TWO SHALL BE CONSUMER MEMBERS;

(II) TWO SHALL BE HOME INSPECTORS WHO ARE MEMBERS OF THE AMERICAN SOCIETY OF HOME INSPECTORS (ASHI);

(III) TWO SHALL BE MEMBERS OF THE NATIONAL ASSOCIATION OF HOME INSPECTORS (NAHI); AND

(IV) ONE SHALL BE A REGISTERED HOME INSPECTOR WHO IS NOT A MEMBER OF ASHI OR NAHI.

(3) THE GOVERNOR SHALL APPOINT THE MEMBERS WITH THE ADVICE OF THE SECRETARY.

(B) EACH MEMBER OF THE BOARD SHALL:

(1) BE A CITIZEN OF THE UNITED STATES; AND

(2) BE A RESIDENT OF THE STATE.

(C) EACH CONSUMER MEMBER OF THE BOARD:

(1) SHALL BE A MEMBER OF THE GENERAL PUBLIC;

(2) MAY NOT BE SUBJECT TO REGULATION BY THE BOARD;

(3) MAY NOT BE REQUIRED TO MEET THE QUALIFICATIONS FOR THE PROFESSIONAL MEMBERS OF THE BOARD;

(4) MAY NOT PROVIDE HOME INSPECTION SERVICES; AND

(5) WHILE A MEMBER OF THE BOARD, MAY NOT HAVE A FINANCIAL INTEREST IN OR RECEIVE COMPENSATION FROM A PERSON REGULATED BY THE BOARD.

(D) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE THE OATH REQUIRED UNDER ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(E) (1) OF THE APPOINTED MEMBERS TO THE INITIAL BOARD:

- 1 (I) TWO SHALL SERVE FOR 1 YEAR;
- 2 (II) TWO SHALL SERVE FOR 2 YEARS; AND
- 3 (III) THREE SHALL SERVE FOR 3 YEARS.
- 4 (2) THE FIRST FIVE HOME INSPECTORS APPOINTED TO THE INITIAL
5 BOARD:
- 6 (I) ARE NOT REQUIRED TO BE REGISTERED BY THE BOARD; AND
- 7 (II) MUST BE EITHER A MEMBER OF ASHI, NAHI, OR HAVE BEEN AN
8 ESTABLISHED HOME INSPECTOR FOR AT LEAST 1 YEAR AND CONDUCTED AT LEAST
9 100 HOME INSPECTIONS.
- 10 (3) INITIAL APPOINTMENTS SHALL BE MADE BEFORE OCTOBER 1, 1999.
- 11 (4) THE TERM OF A MEMBER OF THE BOARD IS 3 YEARS AND BEGINS ON
12 OCTOBER 1.
- 13 (5) A MEMBER SERVES UNTIL SEPTEMBER 30 IN THE YEAR THE
14 MEMBER'S TERM EXPIRES AND UNTIL A QUALIFIED SUCCESSOR IS APPOINTED.
- 15 (6) A MEMBER APPOINTED AFTER A TERM BEGINS SERVES FOR THE
16 REMAINDER OF THE TERM AND UNTIL A QUALIFIED SUCCESSOR IS APPOINTED.
- 17 (7) A MEMBER OF THE BOARD MAY BE REAPPOINTED.
- 18 (8) A MEMBER OF THE BOARD IS LIMITED TO TWO CONSECUTIVE TERMS
19 IN ADDITION TO A PARTIAL TERM IMMEDIATELY PRIOR TO THE FIRST FULL TERM ON
20 THE BOARD.
- 21 (F) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
22 MISCONDUCT.
- 23 7A-203.
- 24 (A) (1) THE INITIAL MEETING OF THE BOARD SHALL BE 60 DAYS AFTER THE
25 GOVERNOR APPOINTS THE MEMBERS OF THE BOARD.
- 26 (2) THE BOARD SHALL ELECT A CHAIRMAN, A VICE CHAIRMAN, AND A
27 SECRETARY.
- 28 (3) (I) THE TERM FOR OFFICERS IS 1 YEAR.
- 29 (II) AT THE END OF A TERM AN OFFICER MAY NOT BE REELECTED
30 TO THE MOST RECENTLY HELD OFFICE.
- 31 (III) THE CHAIRMAN AND VICE CHAIRMAN SHALL BE REGISTERED
32 HOME INSPECTORS.

1 (B) (1) THE BOARD SHALL MEET AT LEAST TWO TIMES EACH YEAR.

2 (2) THE BOARD SHALL MEET AT THE TIMES AND PLACES IN THE STATE
3 THAT IT DETERMINES.

4 (3) THE BOARD MAY, WITH A 7-DAY NOTICE, HOLD SPECIAL MEETINGS
5 UPON REQUEST OF THE CHAIRMAN OR THREE BOARD MEMBERS.

6 (C) A QUORUM CONSISTS OF A MAJORITY OF MEMBERS OF THE BOARD.

7 (D) THE BOARD MAY NOT ACT UNLESS A MAJORITY OF THE MEMBERS ARE
8 PRESENT AND CONCUR.

9 (E) EACH MEMBER OF THE BOARD IS ENTITLED TO:

10 (1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET; AND

11 (2) REIMBURSEMENT FOR TRAVEL AND OTHER EXPENSES AS PROVIDED
12 IN THE BUDGET AND IN CONFORMANCE WITH THE STANDARD STATE TRAVEL
13 REGULATIONS.

14 (F) THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE
15 BUDGET.

16 7A-204.

17 THE BOARD MAY ADOPT AND ENFORCE REGULATIONS TO CARRY OUT THIS
18 TITLE.

19 SUBTITLE 3. REGISTRATION.

20 7A-301.

21 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL SHALL
22 BE REGISTERED BY THE BOARD BEFORE THE INDIVIDUAL MAY PROVIDE HOME
23 INSPECTION SERVICES IN THE STATE.

24 (B) THIS SECTION DOES NOT APPLY TO:

25 (1) AN INDIVIDUAL WHO IS EMPLOYED AS A BUILDING CODE
26 ENFORCEMENT OFFICIAL BY THE STATE OR ANY POLITICAL SUBDIVISION OF THE
27 STATE ACTING WITHIN THE SCOPE OF THAT EMPLOYMENT;

28 (2) AN INDIVIDUAL WHO IS EMPLOYED AS A FEDERAL OR STATE
29 INSPECTOR WHILE ACTING WITHIN THE SCOPE OF THAT EMPLOYMENT;

30 (3) A PLUMBER, ELECTRICIAN, REAL ESTATE APPRAISER, REAL ESTATE
31 BROKER OR AGENT, HEATING, VENTILATION, AIR-CONDITIONING, OR
32 REFRIGERATION CONTRACTOR WHO IS LICENSED IN THIS STATE, WHILE ACTING
33 WITHIN THE SCOPE OF THAT LICENSE;

1 (4) A ROOFER, GENERAL CONTRACTOR, REMODELER, OR PEST CONTROL
2 SPECIALIST, WHILE ACTING WITHIN THE SCOPE OF THAT OCCUPATION; OR

3 (5) ANY OTHER PROFESSIONALS WHOSE SERVICES MAY BE REQUIRED
4 IN THE BUILDING OR REMODELING OF REAL PROPERTY AND WHO DO NOT CLAIM TO
5 BE REGISTERED HOME INSPECTORS.

6 7A-302.

7 (A) AN INDIVIDUAL SHALL BE REGISTERED BY THE BOARD BEFORE THE
8 INDIVIDUAL MAY PRACTICE AS A REGISTERED HOME INSPECTOR.

9 (B) (1) THE BOARD MAY ISSUE A REGISTRATION ONLY TO AN INDIVIDUAL.

10 (2) A REGISTERED HOME INSPECTOR MAY PROVIDE HOME INSPECTION
11 SERVICES FOR A BUSINESS ENTITY.

12 (C) A REGISTRATION ISSUED BY THE BOARD IS THE PROPERTY OF THE BOARD.

13 (D) AN INDIVIDUAL WHOSE REGISTRATION HAS BEEN SUSPENDED OR
14 REVOKED SHALL IMMEDIATELY RETURN THE REGISTRATION TO THE BOARD.

15 (E) A REGISTRATION SHALL BE DISPLAYED IN THE MANNER DETERMINED BY
16 THE BOARD.

17 (F) AN ADVERTISEMENT OF HOME INSPECTION SERVICES SHALL BE SUBJECT
18 TO THE REQUIREMENTS OF THE BOARD.

19 7A-303.

20 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
21 REGISTERED HOME INSPECTOR SHALL:

22 (1) SUBMIT TO THE BOARD A COMPLETED APPLICATION ON A FORM
23 PROVIDED BY THE BOARD;

24 (2) SUBMIT IN WRITING TO THE BOARD PROOF OF SUCCESSFULLY
25 COMPLETING 48 HOURS OF A BOARD CERTIFIED TRAINING COURSE FOR HOME
26 INSPECTORS;

27 (3) OBSERVE THREE HOME INSPECTIONS PERFORMED BY A
28 REGISTERED HOME INSPECTOR;

29 (4) SUBMIT PROOF OF GENERAL LIABILITY INSURANCE IN AN AMOUNT
30 NOT LESS THAN \$50,000;

31 (5) SUBMIT PROOF OF A VALID HIGH SCHOOL DIPLOMA OR ITS
32 EQUIVALENT OR HAVE EDUCATION EXPERIENCE THE BOARD CONSIDERS TO BE
33 EQUIVALENT TO A HIGH SCHOOL DIPLOMA; AND

34 (6) PAY THE APPLICABLE FEES.

1 (B) ITEMS (2) AND (3) IN SUBSECTION (A) OF THIS SECTION MAY BE WAIVED IF
2 AN INDIVIDUAL SUBMITS PROOF OF:

3 (1) FULL MEMBERSHIP IN ASHI OR NAHI; OR

4 (2) STATUS AS AN ESTABLISHED HOME INSPECTOR FOR AT LEAST 1
5 YEAR AND COMPLETION OF AT LEAST 100 FULL HOME INSPECTIONS.

6 (C) NOTWITHSTANDING THE REQUIREMENTS IN SUBSECTION (A) OF THIS
7 SECTION, AN INDIVIDUAL WHO IS A MEMBER OF A PRIVATE ASSOCIATION WHOSE
8 STANDARDS OF PRACTICE HAVE BEEN APPROVED BY THE BOARD SHALL DECLARE
9 ON THE APPLICATION WHICH STANDARDS OF PRACTICE AND CODE OF ETHICS
10 RECOGNIZED BY THE BOARD THE INDIVIDUAL WILL USE TO PERFORM HOME
11 INSPECTIONS.

12 7A-304.

13 THE BOARD SHALL:

14 (1) REVIEW AN APPLICATION AND NOTIFY THE APPLICANT UNDER THIS
15 TITLE WITHIN 30 DAYS AFTER RECEIVING THE APPLICATION; AND

16 (2) PROVIDE IN WRITING TO A REJECTED APPLICANT THE REASON FOR
17 THE REJECTION.

18 7A-305.

19 (A) A REGISTRATION SHALL EXPIRE EVERY 2 YEARS ON OCTOBER 1.

20 (B) A REGISTRATION SHALL BE RENEWED BY FILING WITH THE BOARD:

21 (1) CERTIFICATION OF 20 HOURS OF CONTINUING EDUCATION UNITS;
22 AND

23 (2) PAYMENT OF A RENEWAL FEE ESTABLISHED BY THE BOARD.

24 (C) AT LEAST 30 DAYS BEFORE A REGISTRATION EXPIRES THE BOARD SHALL
25 NOTIFY THE REGISTERED HOME INSPECTOR THAT THE REGISTRATION IS ABOUT TO
26 EXPIRE.

27 7A-306.

28 A REGISTERED HOME INSPECTOR WHO FAILS TO RENEW A REGISTRATION
29 WITHIN 12 MONTHS OF THE EXPIRATION DATE MAY RENEW THE REGISTRATION IF
30 THE INSPECTOR PAYS TO THE BOARD A LATE FEE.

31 7A-307.

32 (A) THE BOARD SHALL PLACE THE REGISTERED HOME INSPECTOR ON
33 INACTIVE STATUS IF THE REGISTERED HOME INSPECTOR REQUESTS THAT THE
34 REGISTRATION BE PLACED ON INACTIVE STATUS.

1 (B) AN APPLICANT FOR INACTIVE STATUS SHALL FOLLOW THE PROCEDURES
2 AND REQUIREMENTS ESTABLISHED BY THE BOARD.

3 7A-308.

4 (A) AN INDIVIDUAL WHO WILLFULLY AND KNOWINGLY VIOLATES THE
5 REGISTRATION PROVISIONS UNDER THIS TITLE IS SUBJECT TO DISCIPLINARY
6 ACTION BY THE BOARD.

7 (B) THE BOARD MAY DENY A REGISTRATION TO ANY APPLICANT, SUSPEND OR
8 REVOKE A REGISTRATION, OR IMPOSE PROBATIONARY CONDITIONS ON A
9 REGISTRATION IF THE APPLICANT OR REGISTERED HOME INSPECTOR HAS:

10 (1) USED FRAUD, DECEIT, OR WILLFUL MISREPRESENTATION IN
11 OBTAINING, ATTEMPTING TO OBTAIN, OR RENEWING A REGISTRATION;

12 (2) PERFORMED HOME INSPECTION SERVICES AS DEFINED UNDER THIS
13 TITLE WITHOUT RECEIVING A REGISTRATION FROM THE BOARD;

14 (3) ACTING NEGLIGENTLY OR INCOMPETENTLY IN TRAINING AN
15 INDIVIDUAL TO BECOME A REGISTERED HOME INSPECTOR;

16 (4) BEEN CONVICTED OF A CRIME OF MORAL TURPITUDE; OR

17 (5) WILLFULLY VIOLATED THIS TITLE OR A REGULATION ADOPTED BY
18 THE BOARD.

19 SUBTITLE 4. MISCELLANEOUS; PENALTY.

20 7A-401.

21 A REGISTERED HOME INSPECTOR SHALL PROVIDE, TO THE INDIVIDUAL WHO
22 RECEIVES A HOME INSPECTION OR A PARTIAL HOME INSPECTION, A WRITTEN
23 REPORT ON THE HOME INSPECTION THAT INCLUDES:

24 (1) A DESCRIPTION OF THE CONDITION OF BUILDING SYSTEMS AND
25 COMPONENTS INSPECTED;

26 (2) A DESCRIPTION OF THE CONDITION OF BUILDING SYSTEMS OR
27 COMPONENTS CONTRACTED TO BE INSPECTED;

28 (3) A STATEMENT OUTLINING, AT A MINIMUM, THE SCOPE OF THE
29 INSPECTION AND LISTING THE EXCLUSIONS;

30 (4) THE HOME INSPECTOR'S REGISTRATION NUMBER IN THE MANNER
31 DESCRIBED BY THE BOARD; AND

32 (5) THE FOLLOWING STATEMENTS IN 10 POINT BOLD TYPE:

33 (I) "AN INSPECTION IS INTENDED TO ASSIST IN EVALUATION OF
34 THE OVERALL CONDITIONS OF A BUILDING. THE INSPECTION IS BASED ON

1 OBSERVATION OF THE VISIBLE AND APPARENT CONDITION OF THE BUILDING AND
2 ITS COMPONENTS ON THE DATE OF THE INSPECTION."

3 (II) "THE RESULTS OF THIS HOME INSPECTION ARE NOT INTENDED
4 TO MAKE ANY REPRESENTATION REGARDING LATENT OR CONCEALED DEFECTS
5 THAT MAY EXIST, AND NO WARRANTY OR GUARANTY IS EXPRESSED OR IMPLIED."

6 (III) "IF YOUR INSPECTOR IS NOT A REGISTERED SPECIALIST IN THE
7 BUILDING PROFESSION OR OTHER PROFESSIONAL WHOSE LICENSE AUTHORIZES
8 THE RENDERING OF AN OPINION AS TO STRUCTURAL INTEGRITY OF A BUILDING OR
9 AN OPINION REGARDING OTHER COMPONENTS OR SYSTEMS, YOU MAY WISH TO
10 SEEK THE PROFESSIONAL OPINION OF ONE REGISTERED IN THE SPECIALTY
11 RELATED TO THE STRUCTURAL INTEGRITY OR COMPONENTS OR SYSTEMS OF
12 CONCERN TO YOU REGARDING ANY POSSIBLE DEFECTS OR OTHER OBSERVATIONS
13 SET FORTH IN THIS REPORT."

14 (IV) "ONLY INSPECTIONS PERFORMED BY A MARYLAND
15 REGISTERED HOME INSPECTOR WILL BE RECOGNIZED BY THE SELLER AS
16 CONTRACTUAL VALID HOME INSPECTIONS."

17 (V) "ANY CLAIM TO RECOVER DAMAGES RESULTING FROM THE
18 HOME INSPECTION MUST BE MADE WITHIN 1 YEAR FROM THE DATE OF SETTLEMENT
19 OR IS FOREVER BARRED."

20 7A-402.

21 AN INDIVIDUAL WHO WILLFULLY AND KNOWINGLY VIOLATES THE
22 REGISTRATION PROVISIONS UNDER THIS TITLE IS GUILTY OF A MISDEMEANOR AND
23 UPON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 1999.