

SENATE BILL 517

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1999 Regular Session
9r2223
CF 9r2239

By: **Senator Astle**

Introduced and read first time: February 5, 1999

Assigned to: Economic and Environmental Affairs

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 adding to

10 Article - Business Occupations and Professions
11 Section 7A-101 through 7A-402 to be under the new title "Title 7A. Home
12 Inspectors"
13 Annotated Code of Maryland
14 (1995 Replacement Volume and 1998 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Business Occupations and Professions**

18 TITLE 7A. HOME INSPECTORS.

19 SUBTITLE 1. DEFINITIONS.

20 7A-101.

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

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

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

- 1 (1) HEATING SYSTEM;
- 2 (2) COOLING SYSTEM;
- 3 (3) PLUMBING SYSTEM;
- 4 (4) ELECTRICAL SYSTEM;
- 5 (5) STRUCTURAL COMPONENTS;
- 6 (6) FOUNDATION;
- 7 (7) ROOFING;
- 8 (8) MASONRY STRUCTURES;
- 9 (9) GROUNDS IMMEDIATELY SURROUNDING THE RESIDENTIAL
10 BUILDING; OR
- 11 (10) ANY OTHER RELATED RESIDENTIAL BUILDING COMPONENT UNLESS
12 EXPRESSLY EXCLUDED BY SEPARATE CONTRACT.

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

- 14 (1) PERFORMS HOME INSPECTION SERVICES FOR COMPENSATION; AND
- 15 (2) IS REGISTERED UNDER THIS TITLE.

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

20 SUBTITLE 2. STATE BOARD OF HOME INSPECTORS.

21 7A-201.

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

23 7A-202.

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

25 (2) OF THE SEVEN MEMBERS OF THE BOARD:

26 (I) TWO SHALL BE CONSUMER MEMBERS;

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

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

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

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

7 (B) EACH MEMBER OF THE BOARD SHALL:

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

9 (2) BE A RESIDENT OF THE STATE.

10 (C) EACH CONSUMER MEMBER OF THE BOARD:

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

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

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

15 (4) MAY NOT PROVIDE HOME INSPECTION SERVICES; AND

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

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

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

22 (I) TWO SHALL SERVE FOR 1 YEAR;

23 (II) TWO SHALL SERVE FOR 2 YEARS; AND

24 (III) THREE SHALL SERVE FOR 3 YEARS.

25 (2) THE FIRST FIVE HOME INSPECTORS APPOINTED TO THE INITIAL
26 BOARD:

27 (I) ARE NOT REQUIRED TO BE REGISTERED BY THE BOARD; AND

28 (II) MUST BE EITHER A MEMBER OF ASHI, NAHI, OR HAVE BEEN AN
29 ESTABLISHED HOME INSPECTOR FOR AT LEAST 1 YEAR AND CONDUCTED AT LEAST
30 100 HOME INSPECTIONS.

31 (3) INITIAL APPOINTMENTS SHALL BE MADE BEFORE OCTOBER 1, 1999.

1 (4) THE TERM OF A MEMBER OF THE BOARD IS 3 YEARS AND BEGINS ON
2 OCTOBER 1.

3 (5) A MEMBER SERVES UNTIL SEPTEMBER 30 IN THE YEAR THE
4 MEMBER'S TERM EXPIRES AND UNTIL A QUALIFIED SUCCESSOR IS APPOINTED.

5 (6) A MEMBER APPOINTED AFTER A TERM BEGINS SERVES FOR THE
6 REMAINDER OF THE TERM AND UNTIL A QUALIFIED SUCCESSOR IS APPOINTED.

7 (7) A MEMBER OF THE BOARD MAY BE REAPPOINTED.

8 (8) A MEMBER OF THE BOARD IS LIMITED TO TWO CONSECUTIVE TERMS
9 IN ADDITION TO A PARTIAL TERM IMMEDIATELY PRIOR TO THE FIRST FULL TERM ON
10 THE BOARD.

11 (F) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
12 MISCONDUCT.

13 7A-203.

14 (A) (1) THE INITIAL MEETING OF THE BOARD SHALL BE 60 DAYS AFTER THE
15 GOVERNOR APPOINTS THE MEMBERS OF THE BOARD.

16 (2) THE BOARD SHALL ELECT A CHAIRMAN, A VICE CHAIRMAN, AND A
17 SECRETARY.

18 (3) (I) THE TERM FOR OFFICERS IS 1 YEAR.

19 (II) AT THE END OF A TERM AN OFFICER MAY NOT BE REELECTED
20 TO THE MOST RECENTLY HELD OFFICE.

21 (III) THE CHAIRMAN AND VICE CHAIRMAN SHALL BE REGISTERED
22 HOME INSPECTORS.

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

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

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

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

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

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

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

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

4 (F) THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE
5 BUDGET.

6 7A-204.

7 THE BOARD MAY ADOPT AND ENFORCE REGULATIONS TO CARRY OUT THIS
8 TITLE.

9 SUBTITLE 3. REGISTRATION.

10 7A-301.

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

14 (B) THIS SECTION DOES NOT APPLY TO:

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

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

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

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

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

29 7A-302.

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

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

33 (2) A REGISTERED HOME INSPECTOR MAY PROVIDE HOME INSPECTION
34 SERVICES FOR A BUSINESS ENTITY.

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

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

4 (E) A REGISTRATION SHALL BE DISPLAYED IN THE MANNER DETERMINED BY
5 THE BOARD.

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

8 7A-303.

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

11 (1) SUBMIT TO THE BOARD A COMPLETED APPLICATION ON A FORM
12 PROVIDED BY THE BOARD;

13 (2) SUBMIT IN WRITING TO THE BOARD PROOF OF SUCCESSFULLY
14 COMPLETING 48 HOURS OF A BOARD CERTIFIED TRAINING COURSE FOR HOME
15 INSPECTORS;

16 (3) OBSERVE THREE HOME INSPECTIONS PERFORMED BY A
17 REGISTERED HOME INSPECTOR;

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

20 (5) COMPLETE 100 HOME INSPECTIONS AS A REGISTERED ASSOCIATE
21 HOME INSPECTOR;

22 (6) SUBMIT PROOF OF A VALID HIGH SCHOOL DIPLOMA OR ITS
23 EQUIVALENT OR HAVE EDUCATION EXPERIENCE THE BOARD CONSIDERS TO BE
24 EQUIVALENT TO A HIGH SCHOOL DIPLOMA; AND

25 (7) PAY THE APPLICABLE FEES.

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

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

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

31 (C) NOTWITHSTANDING THE REQUIREMENTS IN SUBSECTION (A) OF THIS
32 SECTION, AN INDIVIDUAL WHO IS A MEMBER OF A PRIVATE ASSOCIATION WHOSE
33 STANDARDS OF PRACTICE HAVE BEEN APPROVED BY THE BOARD SHALL DECLARE
34 ON THE APPLICATION WHICH STANDARDS OF PRACTICE AND CODE OF ETHICS

1 RECOGNIZED BY THE BOARD THE INDIVIDUAL WILL USE TO PERFORM HOME
2 INSPECTIONS.

3 SUBTITLE 4. MISCELLANEOUS; PENALTY.

4 7A-401.

5 A REGISTERED HOME INSPECTOR SHALL PROVIDE, TO THE INDIVIDUAL WHO
6 RECEIVES A HOME INSPECTION OR A PARTIAL HOME INSPECTION, A WRITTEN
7 REPORT ON THE HOME INSPECTION THAT INCLUDES:

8 (1) A DESCRIPTION OF THE CONDITION OF BUILDING SYSTEMS AND
9 COMPONENTS INSPECTED;

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

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

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

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

17 (I) "AN INSPECTION IS INTENDED TO ASSIST IN EVALUATION OF
18 THE OVERALL CONDITIONS OF A BUILDING. THE INSPECTION IS BASED ON
19 OBSERVATION OF THE VISIBLE AND APPARENT CONDITION OF THE BUILDING AND
20 ITS COMPONENTS ON THE DATE OF THE INSPECTION."

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

24 (III) "IF YOUR INSPECTOR IS NOT A REGISTERED SPECIALIST IN THE
25 BUILDING PROFESSION OR OTHER PROFESSIONAL WHOSE LICENSE AUTHORIZES
26 THE RENDERING OF AN OPINION AS TO STRUCTURAL INTEGRITY OF A BUILDING OR
27 AN OPINION REGARDING OTHER COMPONENTS OR SYSTEMS, YOU MAY WISH TO
28 SEEK THE PROFESSIONAL OPINION OF ONE REGISTERED IN THE SPECIALTY
29 RELATED TO THE STRUCTURAL INTEGRITY OR COMPONENTS OR SYSTEMS OF
30 CONCERN TO YOU REGARDING ANY POSSIBLE DEFECTS OR OTHER OBSERVATIONS
31 SET FORTH IN THIS REPORT."

32 (IV) "ONLY INSPECTIONS PERFORMED BY A MARYLAND
33 REGISTERED HOME INSPECTOR WILL BE RECOGNIZED BY THE SELLER AS
34 CONTRACTUAL VALID HOME INSPECTIONS."

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

1 7A-402.

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

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