

SENATE BILL 196

C2

8lr0091

By: **Chair, Finance Committee (By Request - Departmental - Labor, Licensing and Regulation)**

Introduced and read first time: January 18, 2008

Rules suspended

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 25, 2008

CHAPTER _____

1 AN ACT concerning

2 **State Commission of Real Estate Appraisers and Home Inspectors - Home**
3 **Inspectors - Licensing, Disclosure, and Insurance Requirements**

4 FOR the purpose of altering the minimum number of hours and certain approval
5 requirements of a certain training course that must be completed by certain
6 applicants for a home inspector license; requiring a certain training course to
7 include successful completion of a certain examination; altering the insurance
8 requirements for certain applicants for a home inspector license; requiring proof
9 of compliance with certain insurance requirements for the renewal of certain
10 home inspector licenses; ~~requiring certain home inspectors to provide certain~~
11 ~~persons certain credentials and a certain disclosure~~ altering a certain disclosure
12 requirement; requiring certain home inspectors to maintain a certain amount of
13 general liability insurance; requiring certain applicants for a home inspector
14 license to submit certain proof to the State Commission of Real Estate
15 Appraisers and Home Inspectors with certain applications; prohibiting the
16 Commission from issuing and renewing certain licenses under certain
17 circumstances; requiring certain licensees to give the Commission certain notice
18 within a certain time period; authorizing the Commission to impose certain
19 sanctions on certain applicants and licensees for failure to maintain certain
20 insurance; and generally relating to the licensing, disclosure, and insurance
21 requirements for home inspectors.

22 BY repealing and reenacting, with amendments,
23 Article - Business Occupations and Professions

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 16-3A-03, 16-3A-05, 16-3A-07, 16-4A-01, and 16-701.1
2 Annotated Code of Maryland
3 (2004 Replacement Volume and 2007 Supplement)

4 BY adding to
5 Article – Business Occupations and Professions
6 Section 16-4A-04
7 Annotated Code of Maryland
8 (2004 Replacement Volume and 2007 Supplement)

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

11 **Article – Business Occupations and Professions**

12 16-3A-03.

13 Effective July 1, 2002, an applicant for a home inspector license shall:

14 (1) have completed a minimum of [48] **72** hours of an [off-site]
15 **ON-SITE** training course approved by a national home inspection organization [or]
16 **AND** the Commission **THAT AT A MINIMUM REQUIRES SUCCESSFUL COMPLETION**
17 **OF THE NATIONAL HOME INSPECTOR EXAMINATION OR ITS EQUIVALENT AS**
18 **DETERMINED BY THE COMMISSION;**

19 (2) have a high school diploma or its equivalent;

20 (3) have [general liability] insurance [in an amount not less than
21 \$50,000] **AS REQUIRED UNDER § 16-4A-04 OF THIS TITLE;**

22 (4) submit to the Commission an application on the form that the
23 Commission provides; and

24 (5) pay to the Commission an application fee of \$50.

25 16-3A-05.

26 If an applicant qualifies for a home inspector license under this title, the
27 Commission shall send the applicant a notice that states:

28 (1) the applicant has qualified for the license; and

29 (2) the Commission will issue the home inspector license to an
30 applicant upon receipt of[

31 (i) proof of general liability insurance in an amount not less
32 than \$50,000; and

1 (ii)] a license fee not to exceed \$400.

2 16-3A-07.

3 (a) Unless a license is renewed for a 2-year term as provided in this section,
4 the license expires on a staggered basis as determined by the Secretary.

5 (b) At least 1 month before a license expires, the Commission shall mail to
6 the licensee, at the last known address of the licensee:

7 (1) a renewal application form; and

8 (2) a notice that states:

9 (i) the date on which the current license expires; and

10 (ii) the amount of the renewal fee.

11 (c) Before a license expires, the licensee may renew it for an additional
12 2-year term, if the licensee:

13 (1) otherwise is entitled to be licensed;

14 (2) pays to the Commission a renewal fee not to exceed \$400; [and]

15 (3) submits a renewal application on the form that the Commission
16 provides; AND

17 (4) **SUBMITS PROOF OF COMPLIANCE WITH THE INSURANCE**
18 **REQUIREMENT OF § 16-4A-04 OF THIS TITLE.**

19 (d) The Commission shall renew the license of and issue a license to each
20 licensee who meets the requirements of this section.

21 16-4A-01.

22 (a) ~~PROMPTLY AFTER AGREEING TO PERFORM AN INSPECTION AND~~
23 ~~BEFORE A HOME IS INSPECTED, A HOME INSPECTOR SHALL PROVIDE THE~~
24 ~~PERSON THAT HAS ENTERED INTO A CONTRACT FOR THE PURCHASE OF THE~~
25 ~~PROPERTY;~~

26 (1) ~~A LIST OF THE CREDENTIALS OF;~~

27 (1) ~~THE HOME INSPECTOR; AND~~

~~(H) THE INDIVIDUAL WHO WILL ACTUALLY PERFORM THE HOME INSPECTION IF THAT INDIVIDUAL IS DIFFERENT FROM THE HOME INSPECTOR; AND~~

~~(2) A DISCLOSURE IN 14-POINT BOLD TYPE THAT STATES:~~

~~“AN INSPECTION IS INTENDED TO ASSIST IN EVALUATION OF THE OVERALL CONDITION OF A BUILDING. THE INSPECTION IS BASED ON OBSERVATION OF THE VISIBLE AND APPARENT CONDITION OF THE BUILDING AND ITS COMPONENTS ON THE DATE OF INSPECTION.”~~

~~THE RESULTS OF THIS HOME INSPECTION ARE NOT INTENDED TO MAKE ANY REPRESENTATION REGARDING LATENT OR CONCEALED DEFECTS THAT MAY EXIST, AND 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.~~

~~ONLY HOME INSPECTIONS PERFORMED BY MARYLAND LICENSED HOME INSPECTORS WILL BE RECOGNIZED BY THE BUYER AS A VALID HOME INSPECTION UNDER A REAL ESTATE CONTRACT.”~~

~~(B)~~ A licensed home inspector shall give to each person for whom the licensee performs a home inspection for compensation or to the person’s representative, a written report that states:

(1) the scope and the exclusions of the inspection;

(2) the conditions observed during the home inspection that are subject to the adopted standards of practice and code of ethics approved by the Commission;

(3) the license number of the licensee; and

(4) a disclosure in 14-point bold type that includes the following statements:

(i) “An inspection is intended to assist in the evaluation of the overall condition of a building. The inspection is based on observation of the visible and apparent condition of the building and its components on the date of the inspection”;

1 (ii) “The results of this home inspection are not intended to
2 make any representation regarding latent or concealed defects that may exist, and no
3 warranty or guaranty is expressed or implied”;

4 (iii) “If your home inspector is not a licensed structural engineer
5 or other professional whose license authorizes the rendering of an opinion as to
6 structural integrity of a building or the condition of its components or systems, you
7 may wish to seek the professional opinion of a licensed structural engineer or other
8 professional regarding any possible defects or other observations set forth in this
9 report”; and

10 (iv) ~~§ A STATEMENT THAT~~ “Only home inspections performed by
11 Maryland licensed home inspectors will be recognized ~~by the buyer~~ as a valid home
12 inspection under a real estate contract”.

13 ~~§(b) (C)~~ The licensee shall give the person or the person’s representative
14 the report:

15 (1) by the date set in a written agreement by the parties to the home
16 inspection; or

17 (2) within 7 business days after the home inspection was performed, if
18 no date was set in a written agreement by the parties to the home inspection.

19 ~~§(c) (D)~~ Any limitation of the liability of the licensee for any damages
20 resulting from the report on the home inspection shall be agreed to in writing by the
21 parties to the home inspection prior to the performance of the home inspection.

22 **16-4A-04.**

23 (A) **A HOME INSPECTOR LICENSED BY THE COMMISSION SHALL**
24 **MAINTAIN GENERAL LIABILITY INSURANCE IN THE AMOUNT OF AT LEAST**
25 **\$150,000.**

26 (B) (1) **AN APPLICANT SHALL SUBMIT PROOF OF THE INSURANCE**
27 **REQUIRED UNDER THIS SECTION TO THE COMMISSION WITH THE LICENSE**
28 **APPLICATION.**

29 (2) **THE COMMISSION MAY NOT ISSUE A LICENSE TO AN**
30 **APPLICANT UNLESS THE APPLICANT SUBMITS PROOF OF THE INSURANCE.**

31 (C) **UNLESS AN APPLICANT MEETS THE INSURANCE REQUIREMENTS OF**
32 **THIS SECTION, THE COMMISSION MAY NOT RENEW THE LICENSE.**

1 **(D) A LICENSEE SHALL GIVE THE COMMISSION NOTICE OF THE**
2 **CANCELLATION OF INSURANCE REQUIRED UNDER THIS SECTION AT LEAST 10**
3 **DAYS BEFORE THE EFFECTIVE DATE OF THE CANCELLATION.**

4 16-701.1.

5 Subject to the hearing provisions of § 16-602 of this title, the Commission may
6 deny a home inspector license to any applicant, reprimand any home inspector
7 licensee, or suspend or revoke a home inspector license if the applicant or licensee:

8 (1) fraudulently or deceptively obtains or attempts to obtain a license
9 for the applicant or licensee or for another;

10 (2) fraudulently or deceptively uses a license;

11 (3) engages in conduct that demonstrates bad faith, incompetency,
12 negligence or untrustworthiness, or that constitutes dishonest, fraudulent, or
13 improper dealings;

14 (4) under the laws of the United States or of any state, is convicted of:

15 (i) a felony; or

16 (ii) a misdemeanor that is directly related to the fitness and
17 qualification of the applicant or licensee to provide home inspection services;

18 **(5) FAILS TO MAINTAIN THE INSURANCE REQUIRED UNDER §**
19 **16-4A-04 OF THIS TITLE;**

20 **[(5)] (6)** violates any provision of this title;

21 **[(6)] (7)** violates any regulation adopted under this title; or

22 **[(7)] (8)** aids, abets, or assists any person in violating any provision
23 of this title or any regulation adopted under this title.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2008.