

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1515

AN ACT to amend the Indiana Code concerning professions and occupations and to make an appropriation.

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

SECTION 1. IC 25-1-2-2.1, AS AMENDED BY P.L.162-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: 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.

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- (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) Athlete agents.
- (29) Manufactured home installers.

(30) Home inspectors.

SECTION 2. IC 25-1-2-6, AS AMENDED BY P.L.162-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: 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 and landscape 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.
- (11) Worker's compensation board of Indiana.
- (12) Indiana state board of health facility administrators.



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- (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) Attorney general (only for the regulation of athlete agents).
- (41) Manufactured home installer licensing board.
- (42) **Home inspectors licensing board.**
- (43) 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, AS AMENDED BY P.L.162-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: 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 and landscape 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) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).
- (12) Private detectives licensing board (IC 25-30-1-5.1).
- (13) State board of registration for land surveyors (IC 25-21.5-2-1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) Home inspectors licensing board (IC 25-20.2-3-1).**

(b) Except for appeals of denials of license renewals to the executive director authorized by section 5.5 of this chapter, 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.162-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: 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

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(2) the subject of a complaint filed with the division.

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

"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 and landscape 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).

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- (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).
- (34) Indiana physical therapy committee (IC 25-27).
- (35) Manufactured home installer licensing board (IC 25-23.7).
- (36) **Home inspectors licensing board (IC 25-20.2-3-1).**
- (37) Any other occupational or professional agency created after June 30, 1981.

SECTION 5. IC 25-1-8-1, AS AMENDED BY SEA 257-2003, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: 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 and landscape 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 10-11-2-4), for purposes of

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- 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 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) Manufactured home installer licensing board (IC 25-23.7).
- (37) **Home inspectors licensing board (IC 25-20.2-3-1).**
- (38) Any other occupational or professional agency created after June 30, 1981.

SECTION 6. IC 25-1-11-1, AS AMENDED BY P.L.162-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: 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 and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2).
- (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 registration of land surveyors (IC 25-21.5-2-1).
- (8) State board of funeral and cemetery service (IC 25-15-9).
- (9) State board of registration for professional engineers (IC 25-31-1-3).
- (10) Indiana plumbing commission (IC 25-28.5-1-3).
- (11) Indiana real estate commission (IC 25-34.1-2-1).
- (12) Real estate appraiser licensure certification board (IC 25-34.1-8).
- (13) Private detectives licensing board (IC 25-30-1-5.1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) **Home inspectors licensing board (IC 25-20.2-3-1).**



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SECTION 7. IC 25-20.2 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 20.2. HOME INSPECTIONS

Chapter 1. Application of Article

Sec. 1. (a) This article applies to an individual who conducts home inspections for compensation.

(b) This article does not apply to the following:

(1) An individual who is acting within the scope of the individual's employment as:

(A) a code enforcement official for the state or a political subdivision of the state; or

(B) a representative of a state or local housing agency or authority acting under the authority of the United States Department of Housing and Urban Development.

(2) An individual who is:

(A) either:

(i) registered as an architect under IC 25-4;

(ii) registered as a professional engineer under IC 25-31;

or

(iii) licensed as a plumbing contractor or journeyman plumber under IC 25-28.5; and

(B) acting within the scope of the individual's registration or license.

(3) An individual who is licensed under IC 25-34.1 as a real estate broker, broker-salesperson, or salesperson and is acting within the scope of the individual's license.

(4) An individual who is licensed or certified under IC 25-34.1 as a real estate appraiser and is acting within the scope of the individual's license or certificate.

(5) An individual who holds a certificate of authority under IC 27-1-27-2 as a public adjuster and is acting within the scope of the individual's certificate.

(6) An individual who holds a permit, certificate, or license to:

(A) use and apply pesticides; or

(B) make diagnostic inspections and reports for wood destroying pests;

under IC 15-3-3.6 and is acting within the scope of the individual's certificate or license.

(7) An individual who holds a license from a political subdivision as a tradesperson or home builder and is acting within the scope of the individual's license.

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Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Agency" refers to the Indiana professional licensing agency established by IC 25-1-6-3.

Sec. 3. "Applicant" means an individual who applies for a license as a home inspector.

Sec. 4. "Board" refers to the home inspectors licensing board established by IC 25-20.2-3-1.

Sec. 5. "Client" means an individual who hires or seeks to hire a licensed home inspector to obtain a home inspection or home inspection report.

Sec. 6. "Home inspection" means a visual analysis for the purpose of providing a professional opinion of the condition of a residential dwelling and the dwelling's carports or garages, any reasonably accessible installed components, and the operation of the dwelling's systems, including any controls normally operated by the owner of the dwelling, for the following components:

- (1) Heating systems.
- (2) Cooling systems.
- (3) Electrical systems.
- (4) Plumbing systems.
- (5) Structural components.
- (6) Foundations.
- (7) Roof coverings.
- (8) Exterior and interior components.
- (9) Any other site aspects that affect the residential dwelling.

The term does not include a code compliance inspection.

Sec. 7. "Home inspection report" means a legibly written report prepared for compensation and issued after a home inspection. The report must include the following:

- (1) A report on any system or component inspected that, in the professional opinion of the inspector, is significantly deficient or near the end of the system or component's service life. A report under this subdivision must include the reason why the system or component is significantly deficient or near the end of the system or component's service life, unless the reason is self-evident.
- (2) The inspector's recommendation to remedy or monitor a deficiency reported under subdivision (1).
- (3) A list of any systems or components that were designated for inspection in the standards of performance adopted by the

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board but that were not inspected.

(4) The reason a system or component listed under subdivision (3) was not inspected.

(5) A statement that the report does not address environmental hazards, including:

- (A) lead-based paint;
- (B) radon;
- (C) asbestos;
- (D) cockroaches;
- (E) rodents;
- (F) pesticides;
- (G) treated lumber;
- (H) mold;
- (I) mercury;
- (J) carbon monoxide; or
- (K) other similar environmental hazards.

(6) A statement that the report does not address wood destroying insects and organisms.

(7) A statement that the report does not address subterranean systems or system components (operational or nonoperational), including:

- (A) sewage disposal;
- (B) water supply; or
- (C) fuel storage or delivery.

Sec. 8. "Licensed home inspector" means an individual who is licensed under this article as a home inspector.

Sec. 9. "Licensee" means a person who performs home inspections and who is licensed under this article as a home inspector.

Sec. 10. "Residential dwelling" means a structure consisting of at least one (1) but not more than five (5) units, each designed for occupancy by a single family, whether the units are occupied or unoccupied.

Chapter 3. Home Inspectors Licensing Board

Sec. 1. The home inspectors licensing board is established.

Sec. 2. (a) The board is composed of seven (7) members appointed by the governor as follows:

- (1) Four (4) members, each of whom:
 - (A) is licensed in Indiana as a home inspector; and
 - (B) has been actively engaged in performing home inspections in Indiana for at least five (5) years immediately before the member's appointment to the

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board.

(2) One (1) member who:

(A) is a home builder; and

(B) has been actively engaged in home building in Indiana for at least five (5) years immediately 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 selling, trading, exchanging, optioning, leasing, renting, managing, listing, or appraising residential real estate in Indiana for at least five (5) years immediately before the member's appointment to the board.

(4) One (1) member who represents the public at large and is not associated with the home inspection, home building, or real estate business other than as a consumer.

(b) The members of the board must be residents of Indiana.

Sec. 3. (a) Each member of the board serves a term of three (3) years and until a successor is appointed and qualified.

(b) The governor may remove a board member at any time for incompetency, neglect of duty, or unprofessional conduct.

(c) If a vacancy occurs in the membership of the board, the governor shall appoint an individual to serve for the remainder of the unexpired term.

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

Sec. 4. (a) Each year the board shall elect a member as chairperson and a member as vice chairperson.

(b) The chairperson and the vice chairperson shall serve in their respective capacities for one (1) year and until a successor is elected.

(c) The chairperson and the vice chairperson may not serve in those capacities for more than two (2) consecutive years.

Sec. 5. (a) The chairperson shall preside at all meetings at which the chairperson is present. The vice chairperson shall preside at meetings in the absence of the chairperson and shall perform other duties as the chairperson directs.

(b) If the chairperson and vice chairperson are absent from a meeting of the board when a quorum exists, the members who are present may elect a presiding officer who shall serve as acting

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chairperson until the conclusion of the meeting or until the arrival of the chairperson or vice chairperson.

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 date, time, and place for each meeting.

(c) A majority of the current members of the board constitutes a quorum.

(d) The affirmative vote of a majority of the members appointed to the board is necessary for the board to take official action.

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

Sec. 8. The board shall:

- (1) administer and enforce this article;
- (2) adopt rules under IC 4-22-2 that are reasonably necessary or appropriate for the administration and enforcement of this article;
- (3) prescribe the requirements for and the form of licenses, applications, and other documents that are required by this article;
- (4) grant, deny, suspend, and revoke approval of examinations and courses of study;
- (5) issue, deny, suspend, and revoke licenses in accordance with this article;
- (6) in accordance with IC 25-1-7, investigate complaints concerning licensees or persons the board has reason to believe should be licensees, including complaints concerning failure to comply with this article or rules adopted under this article, and, when appropriate, take action under IC 25-20.2-8;
- (7) bring actions in the name of the state in an appropriate circuit court in order to enforce compliance with this article or rules adopted under this article;
- (8) establish fees in accordance with IC 25-1-8;
- (9) inspect the records of a licensee in accordance with rules adopted by the board;

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(10) 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;

(11) adopt a seal containing the words "Indiana Home Inspectors Licensing Board" and, through the board's secretary, certify copies and authenticate all acts of the board;

(12) in accordance with IC 25-1-6:

(A) use counsel, consultants, and other persons;

(B) enter into contracts; and

(C) authorize expenditures;

that are reasonably necessary or appropriate to administer and enforce this article and rules adopted under this article;

(13) establish continuing education requirements for licensed home inspectors in accordance with IC 25-1-4;

(14) maintain the board's office, files, records, and property in the city of Indianapolis; and

(15) exercise all other powers specifically conferred on the board by this article.

Sec. 9. The board shall adopt rules under IC 4-22-2 establishing:

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

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

(3) standards for home inspection reports prepared by licensed home inspectors.

Chapter 4. Licensing Agency; Board Secretary

Sec. 1. The agency shall provide the board with a competent person to serve as secretary of the board. The secretary is not a member of the board. The secretary, through the agency, shall:

(1) provide reasonable notice to board members of the date, time, and place of each meeting and provide notice in compliance with IC 5-14-1.5;

(2) keep a complete and accurate 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 assigned by the board.

Sec. 2. The agency shall provide the board with clerical or other assistants, including investigators, necessary for the proper performance of the board's duties.



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Sec. 3. The secretary shall receive and account for all money collected under this article and, at the end of each month, report to the auditor of state and deposit the money into the state general fund with the treasurer of state.

Sec. 4. All expenses incurred in the administration of this article shall be paid from the state general fund.

Chapter 5. Licensing Requirements

Sec. 1. Unless exempt under this article, a person may not conduct a home inspection for compensation without first obtaining a license as a home inspector.

Sec. 2. (a) An individual who applies for a license as a home inspector must do the following:

(1) Furnish evidence satisfactory to the board showing that the individual:

(A) is at least eighteen (18) years of age;

(B) has graduated from high school or earned an Indiana general educational development (GED) diploma; and

(C) has not been:

(i) convicted of an act that would constitute a ground for disciplinary sanction under IC 25-1-11;

(ii) convicted of a crime that has a direct bearing on the individual's ability to perform competently and fully as a licensee;

(iii) listed on a national or state registry of sex offenders; or

(iv) the subject of a disciplinary or enforcement action by another state or a local jurisdiction in connection with the performance of home inspections or the licensing or certification of home inspectors.

(2) Verify the information submitted on the application form.

(3) Complete a board approved training program or course of study involving the performance of home inspections and the preparation of home inspection reports and pass an examination prescribed or approved by the board.

(4) Submit to the board a certificate of insurance or other evidence of financial responsibility that is acceptable to the board and that:

(A) is issued by an insurance company or other legal entity authorized to transact business in Indiana;

(B) provides for general liability coverage of at least one hundred thousand dollars (\$100,000);

(C) lists the state as an additional insured;

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(D) states that cancellation and nonrenewal of the underlying policy or other evidence of financial responsibility is not effective until the board receives at least ten (10) days prior written notice of the cancellation or nonrenewal; and

(E) contains any other terms and conditions established by the board.

(5) Pay a licensing fee established by the board.

(b) An individual applying for a license as a home inspector must apply on a form prescribed and provided by the board.

Sec. 3. (a) The other licensing requirements of this chapter may be waived for an individual moving to Indiana from another jurisdiction, and the individual may be granted a license as a home inspector if the individual meets the following requirements:

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

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

(b) An individual seeking a license as a home inspector under this section must:

(1) apply on a form prescribed and provided by the board; and

(2) pay the applicable licensing fee established by the board.

Sec. 4. (a) A nonresident whom the board determines meets the requirements of this article and who files the written consent described in subsection (b) may be licensed as a home inspector in Indiana.

(b) A nonresident applicant shall file with the board a written consent stating that, if licensed:

(1) the applicant agrees to the commencement of any action arising out of the conduct of the applicant's business in Indiana in the county in which the events giving rise to the cause of action occurred;

(2) the applicant:

(A) agrees to provide to the board the name and address of an agent to receive service of process in Indiana; or

(B) consents to the board acting as the applicant's agent for

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the purpose of receiving service of process, if:

- (i) an agent's name and address have not been filed with the board; or
- (ii) the agent's name and address on file with the board are incorrect; and

(3) the applicant agrees that service of process in accordance with the Indiana Rules of Trial Procedure is proper service and subjects the applicant to the jurisdiction of Indiana courts.

Sec. 5. All licenses issued by the board remain the property of the board.

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 6. License Renewal

Sec. 1. A license for a home inspector issued under this article expires two (2) years after the date of issuance.

Sec. 2. An individual who applies to renew a license as a licensed home inspector must:

- (1) furnish evidence showing successful completion of the continuing education requirements of this chapter; and
- (2) pay the renewal fee established by the board.

Sec. 3. (a) Renewal notices must be sent in accordance with IC 25-1-2-6(c).

(b) The renewal fee must be paid in accordance with IC 25-1-8-2(d).

Sec. 4. Before the end of each license period, each licensee must complete the continuing education required by the board. This requirement may not exceed twenty (20) hours per year.

Sec. 5. (a) The board shall adopt rules concerning the continuing education required for the renewal of a license under this chapter.

(b) The rules must do the following:

- (1) Establish procedures for approving organizations that provide continuing education.
- (2) Establish a fee for each hour of continuing education that is required after a license is issued or renewed.
- (3) Prescribe the content, duration, and organization of continuing education courses that contribute to the general competence of home inspectors.

Chapter 7. Authority of Other Jurisdictions to License Home

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Inspectors

Sec. 1. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 2. An agency or political subdivision of the state (other than the board) may not:

- (1) impose a registration or licensing requirement; or
- (2) charge a license, an employment, or another fee;

on individuals licensed under this article for activities defined in this article.

Chapter 8. Disciplinary Proceedings; Enforcement

Sec. 1. The board may take disciplinary actions against or impose sanctions on a licensee under IC 25-1-11 for any of the following:

- (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) 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 any repair work recommended in the licensee's home inspection report.
- (4) Accepting compensation, directly or indirectly, from the licensee's client in connection with any repair work recommended in the licensee's home inspection report.
- (5) Failing to disclose to a client information about a business interest of the licensee that may affect the client in connection with any work for which the licensee is responsible.
- (6) Knowingly making a false or misleading representation about:
 - (A) the condition of a residential dwelling for which the licensee has performed or has contracted to perform a home inspection; or
 - (B) the extent of the services the licensee has performed or will perform.
- (7) Committing a felony in the course of the practice of home inspection or committing any act constituting a violation of IC 25-20.2-5-2(a)(1)(C).
- (8) Violating any provisions of this article or rules adopted by the board under this article.
- (9) Making a false or misleading representation:
 - (A) in a license or renewal application form; or

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(B) in information provided to the board.

- (10) Failing to pay any fees or fines required by this article.**
- (11) Failing to continuously maintain the insurance or other evidence of financial responsibility required by this article.**
- (12) Communicating to the public false or misleading information about the type of license held by the licensee.**
- (13) Engaging in a course of lewd or immoral conduct in connection with the delivery of services to clients.**
- (14) Failing to complete the continuing education requirements established by the board.**

Sec. 2. The procedures set forth in IC 4-21.5 govern the board's conduct of disciplinary hearings.

Sec. 3. 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 would represent a clear and immediate danger to the public's health, safety, or property if allowed to perform home inspections. The summary suspension may be renewed upon a hearing before the board for up to ninety (90) days.

Sec. 4. (a) If the board determines that an individual not licensed under this article is engaged in or believed to be engaged in activities for which a license is required under this article, the board may issue an order to that individual requiring the individual to show cause why the individual should not be ordered to cease and desist from such activities. The show cause order must set forth a date, time, and place for a hearing at which the affected individual may appear and show cause why the individual should not be subject to licensing under this article.

(b) If the board, after a hearing, determines that the activities in which the individual is engaged are subject to licensing under this article, the board may issue a cease and desist order that identifies the individual and describes activities that are the subjects of the order.

(c) A cease and desist order issued under this section is enforceable in circuit courts.

Sec. 5. (a) An individual who:

- (1) performs or offers to perform home inspections for compensation without being licensed as a home inspector and without being exempt from licensing under law;**
- (2) presents as the individual's own the license of another;**
- (3) intentionally gives false or materially misleading information to the board or to a board member in connection**

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with licensing matters;

(4) impersonates another licensee;

(5) uses an expired, a suspended, a revoked, or an otherwise restricted license; or

(6) otherwise violates this article;

commits a Class B infraction.

(b) When entering a judgment for an infraction under this section, the court shall add to any penalty imposed the amount of any fee or other compensation earned by the individual in the commission of the infraction.

(c) Each transaction involving activities defined by this article constitutes a separate violation of this section.

Sec. 6. 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 section 5 of this chapter.

Sec. 7. An individual who applies for a license or a licensee who is aggrieved by an order or a determination of the board is entitled to a judicial review under IC 4-21.5.

Sec. 8. The attorney general shall act as the legal adviser for the board and provide any legal assistance necessary to carry out this article.

Chapter 9. Liability and Immunity From Liability

Sec. 1. 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 may not be brought, commenced, or maintained unless the action is filed not more than two (2) years after the date the cause of action accrues.

Sec. 2. A licensed home inspector is not liable to a person for damages that arise from an act or omission relating to a home inspection if the person is not a party to the contract under which the home inspection is conducted.

Sec. 3. A person who in good faith recommends or endorses a licensed home inspector without compensation, remuneration, rebate, or other form of consideration is not liable for the actions of the licensed home inspector, including errors, omissions, the failure to perform contracted duties of a home inspection, or the failure to meet the standards of performance, report writing standards, or code of ethics established by the board.

SECTION 8. IC 25-34.1-2-5 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commission may:

- (1) administer and enforce the provisions of this article;
- (2) adopt rules in accordance with IC 4-22-2 and prescribe forms for licenses, applications, principal broker certifications, and other documents which 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 shall remain the property of the commission;
- (4) subject to IC 25-1-7, investigate complaints concerning licensees or persons the commission has reason to believe should be licensees, including complaints respecting failure to comply with this article or the rules, and, when appropriate, take action pursuant to IC 25-34.1-6;
- (5) bring actions, in the name of the state of Indiana, in an appropriate circuit court in order to enforce compliance with this article or the rules;
- (6) inspect the records of a licensee in accordance with rules and standards prescribed by the commission;
- (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 in IC 4-21.5;
- (8) adopt a seal containing the words "Indiana Real Estate Commission" and, through its executive director, certify copies and authenticate all acts of the commission;
- (9) utilize counsel, consultants, and other persons who are necessary or appropriate to administer and enforce this article and the rules;
- (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 commission's office, files, records, and property in the city of Indianapolis;
- (12) grant, deny, suspend, and revoke approval of examinations and courses of study as provided in IC 25-34.1-5;
- (13) provide for the filing and approval of surety bonds which are required by IC 25-34.1-5; and
- (14) **adopt rules in accordance with IC 4-22-2 necessary for the administration of the investigative fund established under IC 25-34.1-8-7.5; and**

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(15) exercise other specific powers conferred upon the commission by this article.

SECTION 9. IC 25-34.1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. **(a) Except as provided in subsection (b), 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 general fund. All expenses incurred in the administration of this article shall be paid from the general fund.**

(b) The commission shall establish a fee of not more than ten dollars (\$10) for real estate brokers and salespersons to provide funds for the purpose of administering and enforcing the provisions of this article, including investigating and taking enforcement action against real estate fraud and real estate appraisal fraud. All funds collected under this subsection shall be deposited in the investigative fund established by IC 25-34.1-8-7.5.

SECTION 10. IC 25-34.1-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commission shall establish fees under IC 25-1-8-2 to implement section 8 of this chapter.

(b) Notwithstanding IC 25-1-8-2, a fee ~~described in subsection (a) established under IC 25-1-8-2 to implement section 8 of this chapter~~ may not be less than fifty dollars (\$50).

(c) The commission shall establish fees to provide funding for the investigative fund established by IC 25-34.1-8-7.5. The fees under this subsection may not be more than ten dollars (\$10).

~~(c)~~ **(d)** The board may collect a fee required by federal law and transmit the fees to the federal government as required by federal law.

~~(d)~~ **(e)** A fee described in subsection (a) is in addition to any fees required by federal law.

SECTION 11. IC 25-34.1-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The board shall submit recommendations to the commission concerning the following:

(1) Implementation and operation of the real estate appraiser licensure and certification program under IC 25-34.1-3-8.

(2) Rules governing real estate appraisers licensed and certified under IC 25-34.1-3-8.

(3) Establishing a fee in an amount necessary to fund the investigative fund established by section 7.5 of this chapter but not more than ten dollars (\$10).

(4) Rules governing the administration of the investigative fund established by section 7.5 of this chapter.

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SECTION 12. IC 25-34.1-8-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7.5. (a) The investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against real estate fraud and real estate appraisal fraud. The fund shall be administered by the attorney general and the professional licensing agency.**

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of money from a fee imposed upon licensed or certified appraisers and real estate brokers and salespersons under IC 25-34.1-2-6 and IC 25-34.1-3-9.

(c) The treasurer of state 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.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the investigative fund exceeds five hundred thousand dollars (\$500,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds five hundred thousand dollars (\$500,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the professional licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against real estate and appraisal fraud under this article. The attorney general and the professional licensing agency shall divide the money in the fund equally.

SECTION 13. IC 25-34.1-8-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 15. The office of the attorney general and the professional licensing agency may use the investigative fund established by section 7.5 of this chapter to hire investigators and other employees to administer and enforce the provisions of this article and to investigate and prosecute real estate fraud and real estate appraisal fraud.**

SECTION 14. IC 34-30-2-98.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 98.8. IC 25-20.2-9-1 through IC 25-20.2-9-3 (Concerning actions of home inspectors).**

SECTION 15. [EFFECTIVE JULY 1, 2003] **(a) As used in this SECTION, "board" refers to the home inspectors licensing board**



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established by IC 25-20.2-3-1, as added by this act.

(b) An individual who performs home inspections after June 30, 2003, does not violate IC 25-20.2-5-1 or IC 25-20.2-8-5(a)(1), both as added by this act, and may not be disciplined or sanctioned for failure to have a home inspector's license if the person obtains a home inspector's license not later than July 1, 2005.

(c) Notwithstanding the requirements of IC 25-20.2-5-2, as added by this act, before July 1, 2005, the board may issue to an individual, upon the individual's application and payment of fees, a home inspector license if the individual:

- (1) meets the requirements of IC 25-20.2-5-2(a), as added by this act, excluding IC 25-20.2-5-2(a)(3);
- (2) has been engaged in the practice of home inspections for at least six (6) months; and
- (3) documents the performance of at least twenty-five (25) home inspections performed for compensation in the previous twelve (12) months or at least one hundred (100) home inspections performed for compensation in the individual's career.

(d) 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 25-20.2-5-2(a), as added by this act.

(e) This SECTION expires January 1, 2006.

SECTION 16. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "board" refers to the home inspectors licensing board established by IC 25-20.2-3-1, as added by this act.

(b) Before July 1, 2004, the governor shall make the initial appointments to the board. In making each initial appointment, the governor shall indicate the length of the term for which the individual is appointed.

(c) Notwithstanding IC 25-20.2-3-3, as added by this act, the initial terms of office for the seven (7) individuals appointed to the board by the governor are as follows:

- (1) Three (3) members for a term of three (3) years.
- (2) Two (2) members for a term of two (2) years.
- (3) Two (2) members for a term of one (1) year.

(d) The initial terms begin July 1, 2004.

(e) An individual who does not meet all the requirements of IC 25-20.2-5-2(a), as added by this act, may be appointed to the board under IC 25-20.2-3-2(a)(1), as added by this act, if the individual:

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(1) meets the requirements of IC 25-20.2-5-2(a)(1)(A) through IC 25-20.2-5-2(a)(1)(C), as added by this act;

(2) has been performing home inspections for at least six (6) months immediately before the person's appointment; and

(3) documents the performance of at least twenty-five (25) home inspections performed for compensation in the previous twelve (12) months or at least one hundred (100) home inspections performed for compensation in the individual's career.

(f) A board member appointed in accordance with subsection (e) must obtain the requisite license in accordance with IC 25-20.2-5-2, as added by this act, on or before July 1, 2005. If a board member does not obtain the requisite license on or before July 1, 2005, the board member shall be considered to have resigned from the board on July 1, 2005, and the governor shall fill the vacancy in accordance with IC 25-20.2-3-3(c), as added by this act. If a board member resigns under this SECTION for failure to obtain a home inspector's license, the acts of the board member and the board before July 1, 2005, are legal and valid.

(g) Not later than January 1, 2005, the board shall adopt rules under IC 4-22-2 to carry out this act.

(h) This SECTION expires June 30, 2007.

SECTION 17. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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