

CHAPTER 170  
FORMERLY  
HOUSE BILL NO. 182  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 24 AND 29 OF THE DELAWARE CODE RELATING TO THE LICENSURE OF HOME INSPECTORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend Title 24 of the Delaware Code by inserting a new Chapter 41 to read as follows:

“Chapter 41. HOME INSPECTORS.

Subchapter I. Board of Home Inspectors.

§ 4101. Objectives.

(a) The primary objective of the Board of Home Inspectors, to which all other objectives and purposes are secondary, is to protect the general public, specifically those persons who are the direct recipients of services regulated by this chapter, from unsafe practices and from occupational practices which tend to reduce competition or fix the price of services rendered.

(b) The secondary objectives of the Board are to maintain minimum standards of practitioner competency and to maintain certain standards in the delivery of services to the public. In meeting its objectives, the Board shall develop standards assuring professional competence; shall monitor complaints brought against practitioners regulated by the Board; shall adjudicate at informal hearings; shall promulgate rules and regulations; and shall impose sanctions where necessary against licensed practitioners.

§ 4102. Definitions.

The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them under this section, except where the context clearly indicates a different meaning:

(1) "Board" shall mean the State Board of Home Inspectors established in this chapter.

(2) "Division" shall mean the State Division of Professional Regulation.

(3) "Excessive use or abuse of drugs" shall mean any use of narcotics, controlled substances, or illegal drugs without a prescription from a licensed practitioner, or the abuse of alcoholic beverage such that it impairs the ability to perform the work of a home inspector.

(4) “Home” shall mean any residential property, or manufactured or modular home, which is a single-family dwelling, duplex, triplex, quadruplex, condominium unit, or cooperative unit. The term does not include the common areas of condominiums or cooperatives.

(5) “Home inspection” shall mean a visual analysis for the purposes of providing a written professional opinion of the condition of a building and its carports and garages, any reasonably accessible installed components and the operation of the building systems, including the controls normally operated by the owner, for the following components of a residential building of four units or fewer: heating system, electrical system, cooling system, plumbing system, structural components, foundation, roof covering, exterior and interior components and site aspects as they affect the building.

(6) "Licensed home inspector" shall mean a person, who has met the licensing requirements of this chapter and who holds a current, valid license issued under this chapter.

(7) "Person" shall mean an individual, firm, partnership, corporation, association, joint stock company, limited partnership, limited liability company, and any other legal entity and includes a legal successor of those entities.

(8) "Personal supervision" shall mean the active oversight by the licensed home inspector of the home inspector trainee. The trainee may assist in the completion of a home inspection report, and may co-sign a home inspection report, provided that the trainee has been under the personal supervision of the licensed home inspector, and provided further that the licensed home inspector shall review and sign the home inspection report and accept total responsibility for said home inspection report.

(9) "State" shall mean the State of Delaware.

(10) "Substantially related" shall mean the nature of the criminal conduct for which the person was convicted, has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the practice of home inspecting.

(11) "Trainee" shall mean a person who has satisfied the requirements as set forth in § 4109 of this chapter and any requirements as set forth in the rules and regulations as established by the Board.

§ 4103. Board of Home Inspectors; appointments; composition; qualifications; term; vacancies; suspension or removal; unexcused absences; compensation.

(a) There is created a State Board of Home Inspectors, which shall enforce and administer this chapter.

(b) The Board shall consist of 5 members, who are residents of this State, and are appointed by the Governor. Three of the 5 members shall be licensed home inspectors, one of which shall be a certified HUD inspector, engaged primarily in the home inspection business. The initial members of the Board required to be licensed home inspectors shall be given a reasonable amount of time after their appointment to the Board to become licensed home inspectors pursuant to the licensure requirements set forth in this chapter. Two of the 5 members shall be public members. A public member shall not be, nor ever have been, a home inspector nor a member of the immediate family of a home inspector; shall not have been employed by a home inspector or a company engaged in the practice of home inspection; shall not have a material interest in the providing of goods and services to home inspectors; nor have been engaged in an activity directly related to home inspection.

(c) Except as provided in subsection (d) of this section, each member shall serve a term of 3 years, and may succeed himself or herself for 1 additional term; provided, however, that where a member was initially appointed to fill a vacancy, such member may succeed himself or herself for only 1 additional full term. Any person appointed to fill a vacancy on the Board shall hold office for the remainder of the unexpired term of the former member. Each term of office shall expire on the date specified in the appointment; however, the member shall remain eligible to participate in Board proceedings unless and until replaced by the Governor.

(d) A person, who has never served on the Board, may be appointed to the Board for 2 consecutive terms; but no such person shall thereafter be eligible for 2 consecutive appointments. No person, who has been twice appointed to the Board or who has served on the Board for 6 years within any 9-year period, shall again be appointed to the Board until an interim period of at least 1 term has expired since such person last served.

(e) Any act or vote by a person appointed in violation of this section shall be invalid. An amendment or revision of this chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (d) of this section, unless such an amendment or revision amends this section to permit such an appointment.

(f) A member of the Board shall be suspended or removed by the Governor for misfeasance, nonfeasance, malfeasance, misconduct, incompetency, or neglect of duty. A member subject to disciplinary hearing shall be disqualified from Board business until the charge is adjudicated or the matter is otherwise concluded. A member may appeal any suspension or removal to the Superior Court.

(g) No member of the Board, while serving on the Board, shall hold elective office in any professional association of home inspectors; this includes a prohibition against serving as head of the professional association's Political Action Committee (PAC).

(h) The provisions set forth in Chapter 58 of Title 29 shall apply to all members of the Board.

(i) Any member, who is absent without adequate reason for 3 consecutive meetings, or who fails to attend at least half of all regular business meetings during any calendar year, shall be guilty of neglect of duty.

(j) Each member of the Board shall be reimbursed for all expenses involved in each meeting, including travel, according to Division policy; and, in addition shall receive not more than \$50 for each meeting attended but not more than \$500 in any calendar year. After 10 meetings have been attended, the member shall not be compensated for any subsequent meetings attended in that year.

§ 4104. Organization; meetings; officers; quorum.

(a) The Board shall hold regularly scheduled business meetings at least once in each quarter of a calendar year, and at such times as the chair deems necessary, or, at the request of a majority of Board members.

(b) The Board annually shall elect a chair and vice-chair. Each officer shall serve for 1 year and shall not succeed himself or herself for more than 2 consecutive terms.

(c) A majority of the members shall constitute a quorum for the purpose of transacting business. No disciplinary action shall be taken without the affirmative vote of at least 3 members of the Board.

(d) Minutes of all meetings shall be maintained and the Division shall maintain copies. At any hearing where evidence is presented, a record from which a verbatim transcript can be prepared shall be made. The expense of preparing any transcript shall be incurred by the person requesting it.

§ 4105. Records.

The Division shall keep a register of all approved applications for licensed home inspectors and home inspector trainees, and complete records relating to meetings of the Board, examinations, rosters, changes and additions to the Board's rules and regulations, complaints, hearings, and such other matters as the Board shall determine. Such records shall be prima facie evidence of the proceedings of the Board.

§ 4106. Powers and Duties.

(a) The Board of Home Inspectors shall have authority to:

(1) Formulate rules and regulations, with appropriate notice to those affected, including rules and regulations governing any training, experience, or educational requirements to licensure as a home inspector; all rules and regulations shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act [Chapter 101 of Title 29] of this State. Each rule or regulation shall implement or clarify a specific section of this chapter;

(2) Designate the application form to be used by all applicants and process all applications;

(3) Designate the written, standardized examination to be taken by all persons applying for licensure and certification. The Board shall determine whether to use an exam that is prepared by a national entity. Applicants who qualify for licensure or certification by reciprocity shall have achieved a passing score on all parts of the designated examination or a comparable, alternative national or regional examination, if the designated examination was not available at the time of the applicant's original licensure;

(4) Evaluate the credentials of all persons applying for a license as a home inspector in this State, in order to determine whether such persons meet the qualifications for licensing set forth in this chapter;

(5) Grant licenses to, and renew licenses of, all persons who meet the qualifications for licensure and delegate license issuance to the Division for applications that meet criteria established by the Board and the Director;

(6) Register applicants as home inspector trainees;

(7) Issue temporary licenses to persons who qualify;

(8) Establish by rule and regulation continuing education standards required for license renewal;

(9) Evaluate certified records to determine whether an applicant for licensure, who previously has been licensed, certified, or registered in another jurisdiction as a home inspector, has engaged in any act or offense that would be grounds for disciplinary action under this chapter and whether there are disciplinary proceedings or unresolved complaints pending against such applicant for such acts or offenses;

(10) Refer all complaints from licensees and the public concerning licensed home inspectors or concerning practices of the Board or of the profession, to the Division for investigation pursuant to § 8735 of Title 29; and assign a member of the Board to assist the Division in an advisory capacity with the investigation of the technical aspects of the complaint;

(11) Conduct hearings and issue orders in accordance with the Administrative Procedures Act, Chapter 101 of Title 29; and

(12) Where it has been determined after a hearing, that penalties or sanctions should be imposed, to designate and impose the appropriate sanction or penalty.

(b) The Board of Home Inspectors shall promulgate regulations specifically identifying those crimes which are substantially related to the practice of home inspection.

Subchapter II. License.

§ 4107. License required.

(a) No person, partnership, association, or corporation shall hold himself, herself, or itself out to the public in this State as being qualified to act as a home inspector, or advertise, or engage in the practice of inspecting homes or assume to act as a home inspector, or use in connection with the person's, partnership's, association's or corporation's name, or otherwise

assume or use, any title or description conveying or tending to convey the impression that the person, partnership, association or corporation is qualified to act as a home inspector, unless such person has been duly licensed under this chapter.

(b) Whenever a license to practice as a home inspector in this State has expired or been suspended or revoked, it shall be unlawful for the person to act as a home inspector in this State.

(c) No person shall act as a home inspector trainee or hold himself or herself out to be a home inspector trainee unless such person has been duly registered by the Board under this chapter.

§ 4108. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant, who is applying for licensure as a home inspector under this chapter, for the relevant license, shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(1) Has successfully completed high school or its equivalent;

(2) Has passed a written, standardized examination as designated by the Board;

(3) Has acquired the required training and experience requirements for licensure as may be established by the Board, including any educational courses of study as established by the Board;

(4) Shall not have been the recipient of any administrative penalties regarding that applicant's practice as a home inspector, including but not limited to fines, formal reprimands, license suspensions or revocation, (except for license revocations for nonpayment of license renewal fees), probationary limitations, and/or has not entered into any "consent agreements" which contain conditions placed by a Board on that applicant's professional conduct and practice, including any voluntary surrender of a license. The Board may determine after a hearing or review of documentation whether such administrative penalty is grounds to deny licensure;

(5) Shall not have any impairment related to drugs or alcohol that would limit the applicant's ability to act as a home inspector in a manner consistent with the safety of the public;

(6) Shall not have been convicted of a crime that is substantially related to the practice of home inspection; however, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(6), if it finds all of the following:

a. For waiver of a felony conviction, more than 5 years have elapsed since the date of conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service;

b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service;

c. The applicant is capable of practicing home inspection in a competent and professional manner; and

d. The granting of the waiver will not endanger the public health, safety or welfare.

(7) Has no disciplinary proceedings or unresolved complaints pending against the applicant in any jurisdiction where the applicant has previously been or currently is licensed, certified, or registered.

(b) Where the Board has found to its satisfaction that an applicant has been intentionally fraudulent, or that false information has been intentionally supplied, it shall report its findings to the Attorney General for further action.

(c) Where the application of a person that is not under investigation in this or any other jurisdiction has been refused or rejected and such applicant feels that the Board has acted without justification, has imposed higher or different standards for the applicant than for other applicants, registrants, or licensees, or has in some other manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

(d) A person already engaged in the business of performing home inspections at the effective time of this chapter is allowed ninety (90) days from such effective time of this chapter to comply with the provisions of this chapter for the purpose of qualifying to perform home inspections. Such person will qualify for a license without being required to satisfy paragraphs (a)(1), (a)(2), and (a)(3) of this section if such person can document to the satisfaction of the Board that he or she has conducted not fewer than 100 home inspections in Delaware for compensation and has been engaged in the practice of home inspection for compensation for not fewer than five years prior to the effective date of this Act. Nothing in this paragraph (d)

shall exempt a licensed home inspector from complying with any continuing education requirements for licensed home inspectors as may be established by the Board.

§ 4109. Home inspector trainee; requirements of supervision.

(a) Persons, who are presented to the Board by a supervising home inspector for registration as a home inspector trainee, shall provide a notarized statement to the Board that the trainee:

(1) Shall perform only those specific functions, which have been delineated in the supervising home inspector's statement;

(2) Shall practice only under the direct supervision of a licensed home inspector;

(3) Shall identify themselves to the public as a home inspector trainee;

(4) Shall not have been convicted of a crime that is substantially related to the practice of home inspection; however, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(6), if it finds all of the following:

a. For waiver of a felony conviction, more than 5 years have elapsed since the date of conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service;

b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service;

c. The applicant is capable of practicing home inspection in a competent and professional manner; and

d. The granting of the waiver will not endanger the public health, safety or welfare.”.

(5) Has acquired the required training and experience requirements to act as a home inspector trainee as may be established by the Board, including any educational courses of study as established by the Board.

(b) An applicant, who has been registered by the Board as a home inspector trainee, may assist in the completion of a home inspection report, including an opinion of value, and may co-sign a home inspection, provided that the home inspector trainee is actively and personally supervised by a licensed home inspector.

(c) In addition, the supervising licensed home inspector shall review and sign all home inspection reports prepared under the supervising licensed home inspector's supervision by the home inspector trainee and shall accept total responsibility for the home inspection report.

(d) The Board in its regulations shall determine the number of home inspector trainees that a supervising home inspector may supervise and the requirements of their supervision.

§ 4110. Temporary license.

(a) A home inspector from another state, who is licensed or certified by the home inspector licensing or certifying agency in such state, may apply for registration to receive temporary licensing privileges in this State for the purpose of completing specific home inspection services by paying all required fees and filing with the Board a notarized application, on a form prescribed by the Board for such purpose, which shall set forth and include:

(1) The applicant's name, address, social security number, and such other information as may be necessary to identify the applicant;

(2) The type of license or certificate held by the applicant and the license or certificate number;

(3) The dates of licensure or certification and the expiration date of the applicant's current license or certificate;

(4) Whether the license or certificate was issued as a result of passing a licensure or certification examination, by reciprocity, or by some other means;

(5) A statement that the person has met the requirements of § 4108(a)(4), (5), (6), and (7) of this title;

(6) A statement that the applicant agrees to abide by all home inspector laws and rules of this State and to cooperate with any investigation initiated as provided under this chapter;

(7) Identification of the property to be inspected and the anticipated duration of the assignment; and

(8) Such other information as may be necessary to determine the applicant's eligibility for temporary home inspector licensing privileges in this State.

(b) Licensing privileges granted under the provisions of this section shall expire upon completion of the specific home inspection assignment for which the Board has issued the temporary license.

(c) The Division is empowered to issue a temporary license to a home inspector from another state, who has documented compliance with the requirements of this section.

§ 4111. Endorsement.

(a) Upon payment of the appropriate fee and submission and acceptance of a written application on forms provided by the Board, the Board shall grant a license to each applicant, who shall present proof of current licensure in good standing in another state, the District of Columbia, or territory of the United States, whose standards for licensure are substantially similar to those of this State. A license in "good standing" is defined in § 4108(a)(4), (5), (6), and (7) of this title.

(b) An applicant, who is licensed in a state whose standards are not substantially similar to those of this State, shall have practiced for a minimum of 5 years after licensure; provided however, that the applicant meets all other qualifications for endorsement in this section.

(c) An applicant, who is a graduate of a foreign college or university or who has completed formal training as a home inspector in a foreign jurisdiction, and who is not licensed in another state, the District of Columbia, or territory of the United States, shall submit a certified copy of the applicant's college or university record or documentation evidencing formal training as a home inspector for evaluation by the Board, in addition to fulfilling the applicable requirements for licensure of §§ 4108 and 4109 of this title.

§ 4112. Fees.

The amount to be charged for each fee imposed under this chapter shall approximate and reasonably reflect all costs necessary to defray the expenses of the Board, as well as the proportional expenses incurred by the Division in its service on behalf of the Board. There shall be a separate fee charged for each service or activity, but no fee shall be charged for a purpose not specified in this chapter. The application fee shall not be combined with any other fee or charge. The Division, or any other state agency acting in its behalf, shall compute, for each separate service or activity, the appropriate fees for the licensure biennium.

§ 4113. Issuance and renewal of licenses.

(a) The Board shall issue a license to each applicant, who meets all of the requirements of this chapter for licensure as a home inspector and who pays the fee established under § 4112 of this title.

(b) Each license shall be renewed biennially, in such manner as is determined by the Division, and upon payment of the appropriate fee and submission of a renewal form provided by the Division, and proof that the licensee has met the continuing education requirements established by the Board, and shall meet the requirements of § 4108(a)(4), (5), (6) and (7) of this chapter. The Board may determine, after a hearing, whether the failure to meet the requirements of § 4108(a)(4), (5), (6) and (7) is grounds to deny renewal. The Board may withhold renewal of any applicant failing to meet the requirements of § 4108(a)(4), (5), (6) and (7) pending investigation and the conclusion of disciplinary proceedings under §§ 4115 and 4116 of this chapter.

(c) The Board, in its rules and regulations, shall determine the late fee and period of time within which a licensed home inspector may still renew that home inspector's license, notwithstanding the fact that such licensee has failed to renew on or before the renewal date.

(d) A licensee, upon written request, may be placed in an inactive status in accordance with the Board's rules and regulations. The renewal fee of such person shall be prorated according to the amount of time such person was inactive. Such person may reenter practice upon written notification to the Board of the intent to do so and completion of continuing education as required in the Board's rules and regulations.

§ 4114. Grounds for discipline.

(a) A practitioner licensed under this chapter shall be subject to disciplinary actions set forth in § 4116 of this title, if, after a hearing, the Board finds that the home inspector:

(1) Has employed or knowingly cooperated in fraud or material deception in order to acquire a license as a home inspector; has impersonated another person holding a license, or allowed another person to use that home inspector's license, or aided or abetted a person not licensed as a home inspector to represent himself or herself as a home inspector.

(2) Has illegally, incompetently or negligently practiced home inspection.

(3) Has been convicted of a crime that is substantially related to the practice of home inspection. A copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence therefor.

(4) Has excessively used or abused drugs either in the past 2 years or currently; excessive use or abuse of drugs shall mean any use of narcotics, controlled substances, or illegal drugs without a prescription from a licensed practitioner, or the abuse of alcoholic beverage such that it impairs the practitioner's ability to perform the work of a home inspector.

(5) Has violated a lawful provision of this chapter, or any lawful regulation established thereunder.

(6) Has had that home inspector's own license as a home inspector suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the Board by certified record; and the Board has determined that the facts found by the appropriate authority in the other jurisdiction constitute 1 or more of the acts defined in this chapter. Every person licensed as a home inspector in this State shall be deemed to have given consent to the release of this information by the Board or other comparable agencies in another jurisdiction, and have waived all objections to the admissibility of previously adjudicated evidence of such acts or offenses.

(7) Has failed to notify the Board that the home inspector's license as home inspector in another state has been subject to discipline, or has been surrendered, suspended, or revoked. A certified copy of the record of disciplinary action, surrender, suspension or revocation shall be conclusive evidence thereof.

(b) Subject to the provisions of subchapter IV of Chapter 101 of Title 29, no license shall be restricted, suspended, or revoked by the Board, and no practitioner's right to practice home inspection shall be limited by the Board until such practitioner has been given notice, and an opportunity to be heard, in accordance with the Administrative Procedures Act, Chapter 101 of Title 29. Notice shall be accomplished by mail to the last address of record provided by the licensee. It is the licensee's responsibility to notify the Division of a change of address within 15 days.

#### § 4115. Complaints.

(a) All complaints shall be received and investigated by the Division in accordance with § 8735 of Title 29.

(b) When it is determined that an individual is engaging, or has engaged, in the practice of home inspection, or is using the title "home inspector" or other title implying that the individual is competent to act as a "home inspector" and is not licensed under the laws of this State, the Board may institute proceedings under 29 Del. C. § 10161 for issuance of a cease and desist order and a fine.

#### § 4116. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that 1 of the conditions or violations set forth in § 4114 of this title applies to a practitioner regulated by this chapter:

(1) Issue a letter of reprimand.

(2) Place a practitioner on probationary status, and require the practitioner to:

a. Report regularly to the Board on the matters, which are the basis of the probation.

b. Limit all practice and professional activities to those areas prescribed by the Board.

(3) Suspend any practitioner's license.

(4) Revoke any practitioner's license.

(5) Impose a monetary penalty not to exceed \$1,000 for each violation.

(b) The Board may withdraw or reduce conditions of probation when it finds that the deficiencies, which required such action, have been remedied.

(c) (1) In the event of a formal or informal complaint concerning the activity of a person licensed to practice home inspection that presents a clear and immediate danger to the public health, the Board may temporarily suspend the person's license to practice home inspection, pending a hearing, upon the written order of the Secretary of State or the Secretary's designee, with the concurrence of the Board chair or the Board chair's designee. An order temporarily suspending a license to practice home inspection may not be issued unless the person or the person's attorney received at least 24 hours' written or oral notice before the temporary suspension so that the person or the person's attorney can file a written response to the proposed suspension. The decision as to whether to issue the temporary order of suspension will be decided on the written submissions. An order of temporary suspension pending a hearing may remain in effect for no longer than 60 days from the date of the

issuance of the order unless the temporarily suspended person requests a continuance of the hearing date. If the temporarily suspended person requests a continuance, the order of temporary suspension remains in effect until the hearing is convened and a decision is rendered by the Board.

(2) A person whose license to practice home inspection has been temporarily suspended pursuant to this section must be notified of the temporary suspension immediately and in writing. Notification consists of a copy of the complaint and the order of temporary suspension pending a hearing personally served upon the person or sent by certified mail, return receipt requested, to the person's last known address.

(3) A person whose license to practice home inspection has been temporarily suspended pursuant to this section may request an expedited hearing. The Board shall schedule the hearing on an expedited basis, provided that the Board receives the request within 5 calendar days from the date on which the person received notification of the decision to temporarily suspend the person's license to practice home inspection.

(4) The Board shall convene a hearing within 60 days of the date of issuance of the order of temporary suspension to consider the evidence regarding the matters alleged in the complaint. If the person requests in a timely manner an expedited hearing, the Board shall convene a hearing within 15 days of the Board's receipt of the request. Upon the final decision of the Board, an order of temporary suspension is vacated as a matter of law and is replaced by the disciplinary action, if any, ordered by the Board.

§ 4117. Hearing procedures.

(a) If a complaint is filed with the Board pursuant to § 8735 of Title 29, alleging violation of § 4116 of this title, the Board shall set a time and place to conduct a hearing on the complaint. Notice of the hearing shall be given and the hearing shall be conducted in accordance with the Administrative Procedures Act, Chapter 101 of Title 29.

(b) All hearings shall be informal without use of rules of evidence. If the Board finds, by a majority vote of all members, that the complaint has merit, the Board shall take such action permitted under this chapter, as it deems necessary. The Board's decision shall be in writing and shall include its reasons for such decision. The Board's decision shall be mailed immediately to the practitioner.

(c) Where the practitioner is in disagreement with the action of the Board, the practitioner may appeal the Board's decision to the Superior Court within 30 days of service, or of the postmarked date of the copy of the decision mailed to the practitioner. Upon such appeal the Court shall hear the evidence on the record. Stays shall be granted in accordance with § 10144 of Title 29.

§ 4118. Reinstatement of a suspended license; removal from probationary status.

(a) As a condition to reinstatement of a suspended license, or removal from probationary status, the Board may reinstate such license if, after a hearing or review of documentation, the Board is satisfied that the licensee has taken the prescribed corrective actions and otherwise satisfied all of the conditions of the suspension and/or the probation.

(b) Applicants for reinstatement shall pay the appropriate fees and submit documentation required by the Board as evidence that all the conditions of a suspension and/or probation have been met. Proof that the applicant has met the continuing education requirements of this chapter may also be required, as appropriate.

Subchapter III. Other Provisions.

§ 4119. Exception.

Nothing in this chapter prevents:

(1) A person who is employed by a governmental entity from inspecting residential buildings if the inspection is within official duties and responsibilities.

(2) A person from performing a home inspection if the inspection will be used solely by a bank, savings and loan association or credit union to monitor progress on the construction of a residential structure.

(3) A person who is employed as a property manager for a residential structure and whose official duties and responsibilities include inspecting the residential structure from performing an inspection on the structure if the person does not receive separate compensation for the inspection work.

(4) A person who is regulated in another profession, such as a licensed professional engineer or a certified HUD inspector, from acting within the scope of that person's license, registration or certification.

Section 2. Amend Title 29, Chapter 87, Section 8735 of the Delaware Code by inserting a new subsection "(a)(35)" to read as follows:



“(35) Board of Home Inspectors as set forth in Chapter 41 of Title 24.”.

Section 3. Amend Title 29, Chapter 87, subsection 8735(a)(33) of the Delaware Code by striking the word “and” at the end thereof.

Section 4. Amend Title 29, Chapter 87, subsection 8735(a)(34) of the Delaware Code by striking the period [.] and substituting in lieu thereof the language “; and”.

Section 5. Amend Title 29, Chapter 101, Section 10161 of the Delaware Code by inserting a new subsection “(a)(53)” to read as follows:

“(53) Board of Home Inspectors.”.

Section 6. Amend Title 29, Chapter 101, subsection 10161(a)(51) of the Delaware Code by striking the word “and” at the end thereof.

Section 7. Amend Title 29, Chapter 101, subsection 10161(a)(52) of the Delaware Code by striking the period [.] at the end thereof and substituting in lieu thereof the language “; and”.

Section 8. Effective Date. This Act is effective starting 24 months from its enactment into law.

Approved August 06, 2011