

SECOND REGULAR SESSION

HOUSE BILL NO. 1291

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES NANCE (Sponsor), WEBBER, SMITH (150), BERRY, JONES (117), GATSCHENBERGER, KRATKY, SCHNEIDER, NICHOLS, KELLEY (126), JONES (89), THOMSON, BRANDOM, BERNSKOETTER, MCGHEE, ALLEN, BROWN (116), LEARA, SIFTON, BARNES, DIEHL, ZERR, RIZZO AND KORMAN (Co-sponsors).

4113L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 339, RSMo, by adding thereto fourteen new sections relating to the licensing of home inspectors, with penalty provisions and an effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 339, RSMo, is amended by adding thereto fourteen new sections, to be known as sections 339.900, 339.903, 339.906, 339.909, 339.912, 339.915, 339.918, 339.921, 339.924, 339.927, 339.930, 339.933, 339.936, and 339.939, to read as follows:

339.900. As used in sections 339.900 to 339.939, the following terms mean:

- (1) "Board", the Missouri home inspectors board;**
- (2) "Client", a person or persons who engage the services of a licensed home inspector to perform a home inspection by paying the inspection fee and approving the inspection agreement;**
- (3) "Component", a part of a system, as defined in this section;**
- (4) "Division", the division of professional registration;**
- (5) "Home inspection", the process by which a home inspector, for payment, visually examines the readily accessible systems and components of a residential building and describes such systems in writing in accordance with the standards of practice established by the board;**
- (6) "Home inspection report", a written report of a home inspection;**
- (7) "Home inspector", an individual who is retained to perform a home inspection for compensation;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (8) "Readily accessible", available for visual inspection without requiring the
16 movement of personal property, dismantling, destructive measures, or any action in the
17 opinion of the inspector that would likely involve risk of injury to the inspector, another
18 person, or property;

19 (9) "Residential building", a structure of one to four family dwelling units;

20 (10) "State-licensed inspector", an individual licensed by the board under sections
21 339.900 to 339.939;

22 (11) "System", a combination of interacting or interdependent components, as
23 defined in this section, assembled to carry out one or more functions.

339.903. 1. No person shall act as a home inspector, or directly or indirectly engage
2 or assume to engage in the business of home inspection, or advertise or hold himself or
3 herself out as engaging in or conducting such business without first obtaining a license
4 issued by the board as provided in sections 339.900 to 339.939.

5 2. No license shall be issued under sections 339.900 to 339.939 to a partnership,
6 association, corporation, firm, LLC or group.

7 3. Any person who is not state licensed under sections 339.900 to 339.939 may assist
8 a state-licensed home inspector in the performance of an inspection provided that the
9 person is personally supervised by a state-licensed inspector and any inspection report
10 rendered in connection with the inspection is reviewed and signed by the state-licensed
11 home inspector.

12 4. The provisions of sections 339.900 to 339.939 shall not be construed to require
13 a license for:

14 (1) Any person, partnership, association, or corporation who as owner performs
15 inspections of property owned by such person, partnership, association, or corporation;

16 (2) Any employee of a political subdivision, state, or federal agency who performs
17 inspection services within the scope of his or her employment;

18 (3) Any person providing the inspection of two or less of the following: heating
19 system, cooling system, electrical system, plumbing system, foundation, siding, roofing,
20 masonry chimney, or the structural frame or other essential components or systems of a
21 residential dwelling;

22 (4) A real estate broker, real estate salesperson, real estate appraiser, architect, or
23 engineer acting within the scope of his or her license;

24 (5) Any person acting on behalf of the Federal Housing Administration (FHA) in
25 the capacity of an approved FHA fee inspector;

26 (6) Any person employed by or acting on behalf of a licensed insurance company
27 doing business in this state.

28 **5. A home inspection shall not be construed to include:**

29 **(1) A compliance inspection for any code or government regulation; or**

30 **(2) An examination for, including but not limited to, the conditions and operation**
31 **of kitchen-type appliances; laundry equipment; onsite water supplies or wells; private**
32 **waste systems; irrigation systems; fire suppression systems; swimming pools and heaters;**
33 **hot tubs, saunas, or spas; exterior cooking equipment; low voltage systems; the**
34 **determination of the presence of wood-destroying organisms or pests; the determination**
35 **of the presence of fungi, mold, bacteria, asbestos, lead-based paint, gases or conditions of**
36 **air quality, acoustics and other components or conditions as identified by the board.**

339.906. 1. There is hereby created within the division of professional registration
2 **the "Missouri Home Inspectors' Board", which shall consist of five members appointed by**
3 **the governor with the advice and consent of the senate. Each member shall be a citizen of**
4 **the United States, a resident of this state, and a registered voter for a period of one year**
5 **prior to the person's appointment. Four members shall be licensed home inspectors, and**
6 **one member shall be a public member. The public member shall have never been engaged**
7 **in the businesses of home inspections, real estate appraisal, real estate sales, or making**
8 **loans secured by real estate or the spouse of such person. The board shall elect from its**
9 **membership a president and vice president each of whom shall be elected at the times, and**
10 **serve for the terms, as are determined by the board.**

11 **2. The home inspector members initially appointed by the governor shall have**
12 **home inspection experience in the state of Missouri for not less than five years preceding**
13 **their initial appointment, have completed at least one thousand home inspections for**
14 **compensation, and be members in good standing of a nationally recognized home inspector**
15 **association requiring psychometrically valid and legally defensible examination. The**
16 **governor shall not exclude a state-licensed home inspector from appointment as a successor**
17 **inspector member of the board by virtue of membership or lack of membership of the**
18 **state-licensed home inspector in any particular home inspector association.**

19 **3. Of the initial members appointed, two members shall be appointed for two-year**
20 **terms, two members for three-year terms, and one member for a four-year term. All**
21 **successor members shall be appointed for four-year terms. All members shall serve until**
22 **their successors have been appointed and qualified. Vacancies occurring in the**
23 **membership of the board for any reason shall be filled by appointment by the governor for**
24 **the unexpired term. The governor may remove a member for cause. An executive director**
25 **for the board shall be employed by the division of professional registration.**

26 **4. The board shall meet at least once a year to conduct its business. The board may**
27 **hold such additional meetings as may be required in the performance of its duties. A**
28 **quorum of the board shall consist of a majority of its voting members.**

29 **5. Each member of the board shall be entitled to a per diem allowance of up to**
30 **seventy dollars for each meeting day or part of a day of the board at which the member is**
31 **present and shall be entitled to reimbursement of the member's actual and necessary**
32 **expenses incurred in the discharge of the member's official duties.**

339.909. 1. The board shall have the following powers and duties and may adopt
2 **rules in accordance with the provisions of chapter 536 to establish:**

3 **(1) Qualifications for the licensing of home inspectors as the board deems necessary**
4 **for the public interest;**

5 **(2) Rules which prescribe and define the curriculum related to home inspection that**
6 **will satisfy the qualification requirements for licensure;**

7 **(3) Approved courses of instruction that prescribe and define the curriculum**
8 **related to home inspection that will satisfy the qualification requirements for licensure;**

9 **(4) Rules establishing the criteria for the supervision and training of home**
10 **inspector apprentices;**

11 **(5) An application process and administrative procedures for processing**
12 **applications and issuing home inspector licenses and for conducting disciplinary**
13 **proceedings under the provisions of sections 339.900 to 339.939;**

14 **(6) Procedures by which the board may issue a license on a reciprocal basis with**
15 **other states without examination to a nonresident who is licensed or certified, and in good**
16 **standing in another state under standards that are substantially equal to those established**
17 **by the board and in sections 339.900 to 339.939;**

18 **(7) Standards related to acceptable knowledge and competence necessary to**
19 **perform inspections of residential real estate as required by sections 339.900 to 339.939;**

20 **(8) Standards of professional and ethical conduct for home inspectors;**

21 **(9) Continuing education requirements for the renewal of licensure that will meet**
22 **the requirements of sections 339.900 to 339.939;**

23 **(10) Rules which define systems and items that are outside the scope of a home**
24 **inspection and which are not otherwise included in sections 339.900 to 339.939; and**

25 **(11) Reasonable rules as deemed necessary or desirable by the board to carry out**
26 **and enforce the provisions of sections 339.900 to 339.939.**

27 **2. The board:**

28 **(1) Shall prescribe the form and content of examinations to determine the**
29 **qualifications of persons who apply for licenses to engage in home inspection;**

30 (2) Shall establish a list of approved education program providers and may
31 approve courses of instruction in an accredited college or university related to the
32 inspection of homes and such other areas deemed relevant by the board;

33 (3) May contract with a testing service to provide and conduct such examinations;

34 (4) Shall have authority to determine who meets the criteria for licensure;

35 (5) Shall investigate to verify such applicant's qualifications. If the results of the
36 investigation are satisfactory to the board and the applicant is otherwise qualified, the
37 board shall issue to the applicant a license authorizing the applicant to act as a
38 state-licensed home inspector in Missouri;

39 (6) Shall set the amount of fees authorized by sections 339.900 to 339.939 and
40 required by rules promulgated under section 536.021. The fees shall be set at a level to
41 produce revenue that does not substantially exceed the cost and expense of administering
42 this chapter; and

43 (7) Shall perform such other functions and duties as may be necessary to carry out
44 the provisions of sections 339.900 to 339.939.

45 3. Any rule or portion of a rule, as that term is defined in section 536.010, that is
46 created under the authority delegated in this section shall become effective only if it
47 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
48 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
49 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
50 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
51 grant of rulemaking authority and any rule proposed or adopted after January 1, 2013,
52 shall be invalid and void.

 339.912. 1. There is hereby created in the state treasury the "Missouri Home
2 Inspectors' Fund", which shall consist of moneys collected under sections 339.900 to
3 339.939. The fund shall be administered by the division of professional registration, which
4 shall collect and transfer the fees authorized in sections 339.900 to 339.939 to the director
5 of revenue for deposit in the fund. Moneys in the fund shall be used solely for the purposes
6 of the Missouri home inspectors' board as authorized in sections 339.900 to 339.939.

7 2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys
8 remaining in the fund at the end of the biennium shall not revert to the credit of the
9 general revenue fund until the amount in the fund at the end of the biennium exceeds two
10 times the amount of the appropriation from the board's funds for the preceding fiscal year
11 or, if the board requires by rule permit renewal less frequently than yearly, then three
12 times the appropriation from the board's fund for the preceding fiscal year. The amount,
13 if any, in the fund which shall lapse is that amount in the fund which exceeds the

14 appropriate multiple of the appropriations from the board's funds for the preceding fiscal
15 year.

339.915. 1. Applications for licensure as a home inspector shall be submitted to the
2 board on forms prescribed by the board and furnished to the applicant. The application
3 shall contain the applicant's statements showing the applicant's education, experience and
4 such other information as the board may require. Each application shall contain a
5 statement that it is made under oath or affirmation and that the information contained
6 therein is true and correct to the best knowledge and belief of the applicant, subject to the
7 penalties provided for the making of a false affidavit or declaration. Each application shall
8 be accompanied by the fees required by the board.

9 2. Each applicant for licensure shall:

10 (1) Demonstrate the knowledge and competence necessary to perform inspections
11 of residential real estate as prescribed by rule;

12 (2) Be of good moral character;

13 (3) Have successfully completed a board approved training program of not less
14 than eighty classroom or field training hours, have successfully completed a board
15 approved combination and field training program of not less than eighty hours, or have
16 completed a board approved apprentice program as provided for in section 339.916;

17 (4) Have passed an examination offered or approved by the board or as provided
18 for in sections 339.900 to 339.939; and

19 (5) Have complied with section 43.543 for the issuance of a license;

20 (6) Pay the appropriate fee set by the board.

21 3. If an applicant is not licensed within three years after passing an examination
22 given under sections 339.900 to 339.939, the applicant shall be required to retake the
23 examination prior to state licensure.

24 4. An applicant who fails an examination taken under sections 339.900 to 339.939
25 may apply for reexamination as specified by board rule.

339.918. 1. Any person desiring to practice as an apprentice for home inspecting
2 in this state shall apply to the board, pay the appropriate fee and comply with the
3 apprenticeship rules established by the board. A home inspector apprentice license shall
4 be issued by the board prior to the individual beginning the apprenticeship program. In
5 order to satisfy requirements for licensure, the home inspector apprentice shall complete
6 fifty home inspections under the direct supervision of a licensed home inspector apprentice
7 supervisor and other criteria determined by the board.

8 2. Any person desiring to act as a home inspector apprentice supervisor shall have
9 completed five hundred inspections for compensation, hold a current license with the

10 board, apply to the board for approval and be granted a supervisor license, and pay the
11 appropriate fee. A home inspector apprentice supervisor license is required prior to
12 supervising home inspector apprentices.

339.921. 1. The division shall mail a renewal notice to the last known address of
2 each licensee prior to the renewal date. Failure to provide the board with the information
3 required for renewal, or to pay the renewal fee after such notice shall result in the license
4 expiring. The license shall be reinstated if, within two years of the renewal date, the
5 applicant submits the required documentation and pays the applicable fees as approved
6 by the board.

7 2. A new license to replace any lost, destroyed or mutilated license may be issued
8 subject to the rules of the board.

339.924. 1. Each educational provider shall submit application for approval each
2 calendar year, and shall maintain a record of all attendance and satisfactory results for
3 each program attendee.

4 2. In adopting rules under this section, the board shall approve courses of
5 instruction, seminars, and other home inspection education courses and programs
6 previously or hereafter developed by, or under the auspices of, professional home
7 inspection associations and utilized by those associations for purposes of designation,
8 licensure, or renewal of licensure of members of the association.

9 3. For purposes of licensure or renewal of licensure, the board shall establish or
10 approve credit for education which may include courses of instruction, programs, teaching,
11 program development, and preparation of textbooks, articles, or other instructional
12 materials.

339.927. 1. The board may refuse to issue or renew any license issued under
2 sections 339.900 to 339.939 for one or any combination of causes stated in subsection 2 of
3 this section. The board shall notify the applicant in writing of the reasons for the refusal
4 and shall advise the applicant of the right to file a complaint with the administrative
5 hearing commission as provided by chapter 621.

6 2. The board may cause a complaint to be filed with the administrative hearing
7 commission as provided by chapter 621, against any state-licensed home inspector or any
8 person who has failed to renew or had surrendered his or her license for any one or any
9 combination of the following causes:

10 (1) Procuring or attempting to procure a license under section 339.912 by making
11 a false statement, submitting false information, refusing to provide complete information
12 in response to a question in an application for licensure, or through any form of fraud or
13 misrepresentation;

14 **(2) Failing to meet the minimum qualifications for licensure or renewal established**
15 **by sections 339.900 to 339.939;**

16 **(3) Paying money or other valuable consideration, other than as provided for by**
17 **section 339.912, to any member or employee of the board to procure a license under**
18 **sections 339.900 to 339.939;**

19 **(4) The person has been finally adjudicated and found guilty, or entered a plea of**
20 **guilty or nolo contendere, in a criminal prosecution under the laws of any state or the**
21 **United States for any offense reasonably related to the qualifications, functions, or duties**
22 **of any profession licensed or regulated under sections 339.900 to 339.939, for any offense**
23 **of which an essential element is fraud, dishonesty, sexual misconduct, or an act of violence,**
24 **regardless of the imposition of sentence;**

25 **(5) Incompetency, misconduct, dishonesty, fraud, or misrepresentation in the**
26 **performance of the functions or duties of any profession licensed or regulated by sections**
27 **339.900 to 339.939;**

28 **(6) Violation of any of the standards for the development or communication of**
29 **home inspections as provided in sections 339.900 to 339.939 or the rules applied thereafter;**

30 **(7) Any person violating, assisting, or enabling any person to willfully disregard**
31 **any of the provisions of sections 339.900 to 339.939 or the rules of the board for the**
32 **administration and enforcement of the provisions of sections 339.900 to 339.939;**

33 **(8) Accepting an inspection assignment when the employment itself is contingent**
34 **upon the inspector's reporting a predetermined analysis or opinion or where the fee to be**
35 **paid for the performance of the inspection assignment is contingent upon the opinion or**
36 **conclusion reached or upon the consequences resulting from the inspection assignment;**

37 **(9) Violating the confidential nature of records to which the person gained access**
38 **through employment or engagement to perform an inspection assignment or specialized**
39 **inspection services;**

40 **(10) Violating any term or condition of a license issued by the board under the**
41 **authority of sections 339.900 to 339.939;**

42 **(11) Violation of any professional trust or confidence;**

43 **(12) Obtaining or attempting to obtain any fee, charge, tuition, or other**
44 **compensation by fraud, deception, or misrepresentation;**

45 **(13) Use of any advertisement or solicitation which is false, misleading, or deceptive**
46 **to the general public or persons to whom the advertisement or solicitation is primarily**
47 **directed;**

48 **(14) Disciplinary action against the holder of a license or other right to practice any**
49 **profession regulated under sections 339.900 to 339.939, or similar professions, imposed by**

50 another state, territory, federal agency, or country upon grounds for which revocation or
51 suspension is authorized in this state.

52 3. After the filing of such complaint, the proceedings shall be conducted in
53 accordance with the provisions of chapter 621. Upon a finding by the administrative
54 hearing commission that the grounds provided in subsection 2 of this section for
55 disciplinary action are met, the board may, singly or in combination, publicly censure or
56 place the person named in the complaint on probation on such terms and conditions as the
57 board deems appropriate for a period not to exceed five years, or may suspend for a period
58 not to exceed three years, or revoke the license. The holder of a license revoked under this
59 section shall not apply for licensure as a state-licensed home inspector or apprentice for at
60 least five years after the date of revocation.

61 4. Applicants for relicensure or reinstatement after revocation shall be required to
62 successfully complete the examination for original licensure required by section 339.915
63 as a condition to reinstatement of licensure or relicensure subsequent to revocation.

339.930. State-licensed home inspectors shall retain originals or true copies of
2 contracts engaging an inspector's services for inspector assignments, specialized inspection
3 services, inspection reports, and supporting data assembled and formulated in preparing
4 inspection reports for three years and a day. The service period for retention of the
5 records applicable to each engagement of the services of the state-licensed home inspector
6 shall run from the date of the inspection report. Such records shall be made available by
7 the state-licensed home inspector for inspection and copying by the board on reasonable
8 notice to the state-licensed home inspector.

339.933. 1. Except as provided in subsection 2 of this section, sections 339.900 to
2 339.939 shall preempt any rule, regulation, or order adopted by a political subdivision of
3 the state relating to the licensing or regulation of home inspectors or home inspection
4 businesses.

5 2. Under section 324.016, no new licensing activity or other statutory requirements
6 shall become effective until expenditures or personnel are specifically appropriated for the
7 purpose of conducting the business as required and the initial rules filed, if appropriate,
8 have become effective.

339.936. Prior to January 1, 2014, the education, training, and experience
2 requirements of sections 339.900 to 339.939 shall be deemed established if the applicant:

3 (1) Has been a home inspector for two years prior to January 1, 2012; and

4 (2) Has full membership in good standing with a nationally recognized professional
5 home inspection association; and

6 **(3) Provides evidence of completing two hundred fifty home inspection reports for**
7 **which the individual was paid and can produce invoices for verification.**

339.939. 1. An action to recover damages for any act or omission of a home
2 **inspector relating to a home inspection that he or she conducts can only be commenced**
3 **within one year after the date of the inspection report.**

4 **2. Any person or corporation who knowingly violates any provision of sections**
5 **339.900 to 339.939 is guilty of a class B misdemeanor. Any officer or agent of a**
6 **corporation, or member or agent of a partnership or association, LLC, or group, who**
7 **knowingly and personally participates in or is an accessory to any violation of sections**
8 **339.900 to 339.939 is guilty of a class B misdemeanor. This section shall not be construed**
9 **to release any person from civil liability or criminal prosecution under any other law of**
10 **this state. The board may cause a complaint to be filed for a violation of section 339.903**
11 **in any court of competent jurisdiction, and perform such other acts as may be necessary**
12 **to enforce the provisions of sections 339.900 to 339.939.**

Section B. This act shall become effective January 1, 2014.

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