Chapter No. 442
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SENATE BILL NO. 2698

Originated in Senate LKWelch Secretary

SENATE BILL NO. 2698

AN ACT TO AMEND SECTIONS 73-60-1, 73-60-3, 73-60-7, 73-60-23, 73-60-29 AND 73-60-45, MISSISSIPPI CODE OF 1972, TO REMOVE ALL REFERENCES TO THE HOME INSPECTOR REGULATORY BOARD AND TRANSFER ITS DUTIES TO THE MISSISSIPPI REAL ESTATE COMMISSION; TO REPEAL SECTION 73-60-5, MISSISSIPPI CODE OF 1972, WHICH CREATES THE HOME INSPECTOR REGULATORY BOARD AND PROVIDES FOR ITS MEMBERSHIP; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-60-1, Mississippi Code of 1972, is amended as follows:

73-60-1. The following words shall have the meaning ascribed in this section unless the context clearly indicates otherwise:

(a) "Client" means any person who engages or seeks to engage the services of a home inspector for the purpose of obtaining an inspection of and written report on the conditions of a residential building.

(b) "Home inspection" means the process by which a home inspector examines the observable systems and components of improvements to residential real property that are readily accessible.

(c) "Home inspection report" means a written evaluation prepared and issued by a home inspector concerning the condition of the improvements to residential real property.

(d) "Home inspector" means any person, who for compensation, conducts a home inspection.

* * *

(* * *e) "Residential real property" means a structure intended to be, or that is in fact, used as a residence and consisting of one (1) to four (4) family dwelling units.

(* * *f) "Commission" means the Mississippi Real Estate Commission as established under Section 73-35-5, Mississippi Code of 1972.

SECTION 2. Section 73-60-3, Mississippi Code of 1972, is amended as follows:

73-60-3. This chapter shall be administered and enforced by the Mississippi Real Estate Commission, which shall have the duties and powers to:

(a) Receive applications for licensure as a home inspector under this chapter, establish appropriate administrative procedures for the processing of applications and issue licenses to qualified applicants pursuant to the provisions of this chapter;

(b) Implement recommendations made to the commission * * * with respect to upgrading and improving the

experience, education and examination requirements that are required for a home inspector license;

(c) Adopt and publish a code of ethics and standards of practice for persons licensed under this chapter;

(d) Collect all licensing fees required or permitted by this chapter;

(e) Take appropriate action upon a decision and the related findings of fact made by * * * the commission, or a hearing officer employed by the commission, if, after an administrative hearing, the * * * commission or hearing officer (i) determines that a licensed home inspector under this chapter has violated the code of ethics and standards established under this section, and (ii) recommends that the license of the home inspector be suspended or revoked, that renewal be denied, or that some other disciplinary action be taken;

(f) Develop and adopt a licensing examination, which would meet nationally recognized standards, to determine the knowledge of an applicant of the home inspector profession;

(g) Solicit bids and enter into contracts with one (1) or more educational testing services or organizations approved by the board for the preparation of questions and answers for licensure examinations under this chapter;

(h) Develop the application and license forms;

(i) Adopt rules and regulations for the administration of this chapter that are not inconsistent with the provisions of

this chapter or the Constitution and laws of Mississippi or of the United States;

(j) Employ an assistant to the commission administrator who shall keep a record of all proceedings, transactions, communications and official acts of the commission and * * * perform such other duties as the commission * * * may require; and

(k) Employ such other staff and technical assistance as may be necessary to properly administer the requirements of this chapter.

SECTION 3. Section 73-60-7, Mississippi Code of 1972, is amended as follows:

73-60-7. (1) The * * * Mississippi Real Estate Commission shall have the duties and powers to:

(a) Be responsible for matters relating to home inspectors' code of ethics and standards, home inspector qualifications, testing standards and disciplinary functions.

(b) Hold meetings, public hearings and administrative hearings and prepare examination specifications for licensed home inspectors.

(c) Conduct investigations, subpoena individuals and records, administer oaths, take testimony and receive evidence and to do all other things necessary and proper to discipline a person licensed under this chapter and to enforce this chapter. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Chancery Court of the First Judicial District of Hinds

County, Mississippi, upon application by the commission, may issue to this person an order requiring him to appear before the commission, or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as contempt of court.

(d) Further define by regulation, the type of educational experience, home inspector experience and equivalent experience that will meet the statutory requirements.

(e) * * * Suspend or revoke licenses pursuant to the disciplinary proceedings provided for in this chapter.

(f) Present an annual budget to the Mississippi Legislature for approval. A copy of the budget shall be given to the commission.

(2) The members of the commission * * * shall be immune from any civil action or criminal prosecution for initiating or assisting in any lawful investigation of the actions of, or participating in any disciplinary proceeding concerning, a home inspector licensed pursuant to this chapter, provided that such action is taken without malicious intent and in the reasonable belief that the action was taken pursuant to the powers and duties vested in the members of the commission * * * under this chapter.

SECTION 4. Section 73-60-23, Mississippi Code of 1972, is amended as follows:

73-60-23. (1) Each person who applies for renewal of his license shall successfully complete home inspector continuing education courses approved by the commission at the rate of twenty (20) hours every two (2) years. No license may be renewed except upon the successful completion of the required courses or their equivalent or upon a waiver of those requirements for good cause shown as determined by the commission pursuant to rule * * *.

(2) The commission shall establish criteria for certifying providers of continuing education for home inspectors. All such continuing education providers must be approved by the commission.

(3) Each renewal applicant shall certify, on his or her renewal application, full compliance with continuing education requirements. The provider of approval of continuing education shall retain and submit to the commission, after the completion of each course, evidence of those successfully completing the course.

SECTION 5. Section 73-60-29, Mississippi Code of 1972, is amended as follows:

73-60-29. The commission shall charge and collect appropriate fees for its services under this chapter. The fees charged shall not exceed the amounts indicated below and shall be set by the * * * <u>commission</u>.

LICENSURE FEES:

Application and examination.....$175.00

Initial and renewal license.....$325.00

Delinquent renewal penalty.....100% of renewal fee

SERVICES:

For each change of address.....$25.00

For each duplicate license.....$25.00

To change status as a licensee from active to inactive.$25.00

For each bad check received by the commission.....$25.00

All fees charged and collected under this chapter shall be paid by the commission at least once a week, accompanied by a detailed statement thereof, to the credit of the fund known as the "Home Inspector License Fund," hereby created in the State Treasury. All monies which are collected under this chapter shall be paid into and credited to such fund for the use of the * * * commission in carrying out the provisions of the chapter including the payment of salaries and expenses, printing an annual directory of licensees, and for educational purposes. All interest earned on the Home Inspector License Fund shall be retained by the * * * commission for purposes consistent with this chapter. * * * The commission shall prepare an annual statement of income and expenses related to its regulatory related administrative function.

SECTION 6. Section 73-60-45, Mississippi Code of 1972, is amended as follows:

73-60-45. The * * * commission may employ legal counsel to represent it in any proceedings when legal counsel is required.

SECTION 7. Section 73-60-5, Mississippi Code of 1972, which creates the Home Inspector Regulatory Board and provides for its membership, is repealed.

SECTION 8. This act shall take effect and be in force from and after July 1, 2013, and shall stand repealed on July 1, 2017.

PASSED BY THE SENATE
February 6, 2013

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 12, 2013

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

GOVERNOR

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4:50 pm