

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0641.01 Yelana Love x2295

SENATE BILL 15-140

SENATE SPONSORSHIP

Todd,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF HOME INSPECTORS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, home inspectors are not subject to regulation by any state agency. **Section 1** of the bill creates the "Home Inspector Licensure Act", which requires home inspectors to obtain a license to perform home inspections in Colorado. The bill creates the home inspector's licensing board (board) in the division of professions and occupations in the department of regulatory agencies. The board is required to establish standards and procedures for the licensure, examination, suspension, revocation, and renewal of licensure of home

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

inspectors. The board is also required to establish application, examination, and renewal fees.

The bill requires a person seeking a license as a home inspector to submit application materials and an application fee to the board. A home inspector's license is valid for 2 years and renewable upon application and completion of continuing education approved by the board.

Section 2 requires a review of the board's duties and functions in licensing home inspectors after 6 years under the existing sunset laws.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 28.5 to
3 title 12 as follows:

4 **ARTICLE 28.5**

5 **Home Inspectors**

6 **12-28.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND
7 MAY BE CITED AS THE "HOME INSPECTOR LICENSURE ACT".

8 **12-28.5-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "BOARD" MEANS THE HOME INSPECTOR LICENSING BOARD
11 CREATED IN SECTION 12-28.5-104.

12 (2) "CLIENT" MEANS A PERSON OR ENTITY WHO CONTRACTS, FOR
13 COMPENSATION, THE SERVICES OF A HOME INSPECTOR FOR THE PURPOSE
14 OF OBTAINING A HOME INSPECTION OF A RESIDENTIAL BUILDING.

15 (3) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
16 PROFESSIONS AND OCCUPATIONS, CREATED IN SECTION 24-1-122 (2) (g),
17 C.R.S.

18 (4) "ENGAGE IN HOME INSPECTION" MEANS TO PROVIDE OR OFFER
19 TO PROVIDE A HOME INSPECTION FOR COMPENSATION OR OTHER VALUABLE
20 CONSIDERATION OR TO HOLD ONESELF OUT TO THE PUBLIC AS QUALIFIED
21 TO PROVIDE HOME INSPECTION SERVICES.

1 (5) "HOME INSPECTION" MEANS A LIMITED VISUAL SURVEY OF THE
2 COMPONENTS OF A RESIDENTIAL BUILDING ACCORDING TO THE
3 BOARD-APPROVED STANDARDS OF PRACTICE, WHICH COMPONENTS
4 INCLUDE: HEATING SYSTEMS; COOLING SYSTEMS; PLUMBING SYSTEMS;
5 ELECTRICAL SYSTEMS; STRUCTURAL SYSTEMS, INCLUDING EXTERIOR AND
6 INTERIOR SURFACES; FOUNDATION; AND ROOF.

7 (6) (a) "HOME INSPECTOR" MEANS A PERSON WHO IS ENGAGED IN
8 HOME INSPECTIONS.

9 (b) "HOME INSPECTOR" DOES NOT INCLUDE THE FOLLOWING
10 PROFESSIONALS ACTING WITHIN THE SCOPE OF THEIR PROFESSIONS:

11 (I) PROFESSIONAL ENGINEERS;

12 (II) ARCHITECTS;

13 (III) STATE MUNICIPAL OR COUNTY CODE INSPECTORS;

14 (IV) PROPERTY MAINTENANCE INSPECTORS;

15 (V) PLUMBERS;

16 (VI) ELECTRICIANS;

17 (VII) ROOFERS;

18 (VIII) HVAC TECHNICIANS;

19 (IX) INSURANCE ADJUSTERS; OR

20 (X) APPRAISERS.

21 (7) "NATIONAL HOME INSPECTOR ASSOCIATION" MEANS A HOME
22 INSPECTOR ASSOCIATION THAT:

23 (a) IS OPERATED ON A NONPROFIT BASIS;

24 (b) HAS MEMBERS IN AT LEAST TEN STATES;

25 (c) REQUIRES MEMBERS TO PASS AN EXAMINATION THAT TESTS
26 KNOWLEDGE OF PROPER PROCEDURES FOR CONDUCTING A HOME
27 INSPECTION; AND

1 (d) REQUIRES MEMBERS TO COMPLY WITH A CODE OF ETHICS.

2 (8) "RESIDENTIAL BUILDING" MEANS A STRUCTURE THAT IS
3 INTENDED TO BE, OR IS IN FACT, USED AS A RESIDENCE AND THAT
4 COMPRISES FROM ONE TO FOUR FAMILY DWELLING UNITS. THE TERM DOES
5 NOT INCLUDE COMMERCIAL USE SPACE, COMMERCIAL UNITS, OR COMMON
6 AREAS.

7 (9) "STANDARD OF PRACTICE" MEANS THE STANDARD OF PRACTICE
8 FOR HOME INSPECTION ADOPTED BY THE BOARD.

9 **12-28.5-103. Rule-making authority.** THE DIRECTOR, UNDER THE
10 DIRECTION OF THE BOARD, SHALL PROMULGATE RULES AS NECESSARY TO
11 CARRY OUT THE BOARD'S DUTIES UNDER THIS ARTICLE, INCLUDING BUT
12 NOT LIMITED TO:

13 (a) THE ESTABLISHMENT OF AN APPLICATION PROCESS FOR A
14 PERSON SEEKING LICENSURE AS A HOME INSPECTOR;

15 (b) THE PUBLICATION OF THE STANDARDS OF PRACTICE FOR HOME
16 INSPECTORS;

17 (c) THE CREATION, MAINTENANCE, AND PUBLICATION OF A LIST OF
18 HOME INSPECTORS LICENSED IN THE STATE; AND

19 (d) ANY OTHER RULES NECESSARY TO IMPLEMENT THIS ARTICLE.

20 **12-28.5-104. Home inspector licensing board.** (1) THERE IS
21 HEREBY CREATED IN THE DIVISION OF PROFESSIONS AND OCCUPATIONS THE
22 HOME INSPECTOR LICENSING BOARD. THE BOARD CONSISTS OF THE
23 FOLLOWING FIVE MEMBERS APPOINTED BY THE GOVERNOR:

24 (a) THREE MEMBERS WHO ARE LICENSED HOME INSPECTORS IN
25 COLORADO. INITIAL MEMBERS NEED NOT BE LICENSED BUT MUST BE
26 LICENSED BY JULY 1, 2016. OF THESE THREE INSPECTORS, NO MORE THAN
27 ONE LICENSED HOME INSPECTOR SHALL BE FROM ANY ONE STATE OR

1 NATIONAL HOME INSPECTOR ORGANIZATION; AND

2 (b) TWO MEMBERS FROM THE PUBLIC WHO OWN A RESIDENTIAL
3 BUILDING IN COLORADO.

4 (2) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS
5 SUBSECTION (2), EACH MEMBER OF THE BOARD SHALL SERVE A
6 THREE-YEAR TERM AND MAY BE APPOINTED FOR NO MORE THAN TWO
7 CONSECUTIVE TERMS UNLESS THEIR INITIAL TERM IS LESS THAN THREE
8 YEARS.

9 (b) THREE MEMBERS SHALL SERVE INITIAL TERMS OF TWO YEARS.
10 THE GOVERNOR SHALL DETERMINE WHICH APPOINTEES WILL SERVE AN
11 INITIAL TWO-YEAR TERM.

12 (c) ANY VACANCY OCCURRING DURING A TERM SHALL BE FILLED
13 BY APPOINTMENT BY THE GOVERNOR FOR THE UNEXPIRED TERM.

14 (3) EACH MEMBER SHALL BE A RESIDENT OF COLORADO. THE
15 THREE MEMBERS WHO ARE HOME INSPECTORS SHALL:

16 (a) BE LICENSED TO PERFORM HOME INSPECTIONS IN COLORADO,
17 EXCEPT FOR THE INITIAL BOARD MEMBERS WHO SHALL BE LICENSED BY
18 JULY 1, 2016;

19 (b) HAVE EXPERIENCE PERFORMING HOME INSPECTIONS FOR FIVE
20 YEARS IMMEDIATELY PRECEDING THEIR APPOINTMENT; AND

21 (c) HAVE COMPLETED AT LEAST ONE THOUSAND HOME
22 INSPECTIONS FOR COMPENSATION.

23 (4) NO LATER THAN THIRTY DAYS AFTER ALL MEMBERS HAVE BEEN
24 APPOINTED TO THE BOARD, AND ANNUALLY THEREAFTER, THE BOARD
25 SHALL MEET FOR THE PURPOSE OF ORGANIZING AND ELECTING OFFICERS
26 AS THE BOARD DEEMS NECESSARY. THE BOARD SHALL MEET ON A
27 QUARTERLY BASIS, AT TIMES AND PLACES AS THE BOARD SHALL

1 DETERMINE, AND AT OTHER TIMES AND PLACES AS MAY BE SPECIFIED UPON
2 THE CALL OF THE CHAIRPERSON OR A MAJORITY OF THE BOARD MEMBERS.

3 (5) A MAJORITY OF BOARD MEMBERS IS REQUIRED TO CONDUCT
4 BUSINESS.

5 (6) ANY MEMBER WHO IS ABSENT FOR THREE CONSECUTIVE
6 MEETINGS OR WHO FAILS TO ATTEND FIFTY PERCENT OF ALL MEETINGS
7 DURING ANY CALENDAR YEAR IS DEEMED TO HAVE RESIGNED FROM THE
8 BOARD.

9 (7) THE GOVERNOR MAY REMOVE A MEMBER OF THE BOARD FOR
10 MISCONDUCT, NEGLECT OF DUTY, OR INCOMPETENCE. REMOVAL BY THE
11 GOVERNOR IS FINAL AND NOT SUBJECT TO REVIEW.

12 (8) EACH MEMBER OF THE BOARD SHALL RECEIVE THE SAME
13 COMPENSATION AND REIMBURSEMENT OF EXPENSES AS IS PROVIDED FOR
14 MEMBERS OF BOARDS AND COMMISSIONS IN THE DIVISION OF PROFESSIONS
15 AND OCCUPATIONS PURSUANT TO SECTION 24-34-102 (13), C.R.S.
16 PAYMENT FOR ALL PER DIEM COMPENSATION AND EXPENSES SHALL BE
17 MADE OUT OF ANNUAL APPROPRIATIONS FROM THE DIVISION OF
18 PROFESSIONS AND OCCUPATIONS CASH FUND PROVIDED FOR IN SECTION
19 24-34-105, C.R.S.

20 (9) A MEMBER OF THE BOARD OR THE BOARD'S STAFF, A PERSON
21 ACTING AS A WITNESS OR CONSULTANT TO THE BOARD, AND A WITNESS
22 TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE IS
23 IMMUNE FROM LIABILITY IN A CIVIL ACTION FOR ACTS OCCURRING WHILE
24 ACTING IN HIS OR HER CAPACITY AS A BOARD MEMBER, MEMBER OF THE
25 BOARD'S STAFF, CONSULTANT, OR WITNESS IF THE PERSON IS ACTING IN
26 GOOD FAITH WITHIN THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY,
27 MADE A REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO

1 WHICH HE OR SHE ACTED, AND ACTED WITH THE REASONABLE BELIEF THAT
2 THE ACTION WAS WARRANTED BY THE FACTS.

3 **12-28.5-105. Powers and duties of board.** (1) THE BOARD
4 SHALL, AT A MINIMUM:

5 (a) ESTABLISH QUALIFICATIONS FOR THE LICENSURE OF HOME
6 INSPECTORS AS THE BOARD FINDS NECESSARY, IN ADDITION TO THE
7 REQUIREMENTS IN SECTIONS 12-28.5-107 TO 12-28.5-109;

8 (b) ESTABLISH REQUIREMENTS FOR TRAINING PROGRAMS AND
9 CONTINUING EDUCATION PROVIDERS, AND MAINTAIN AND PUBLISH A LIST
10 OF APPROVED TRAINING PROGRAMS AND CONTINUING EDUCATION
11 PROVIDERS;

12 (c) ESTABLISH PROCEDURES FOR DISCIPLINING A HOME INSPECTOR;

13 (d) GRANT THE LICENSES OF DULY QUALIFIED HOME INSPECTOR
14 APPLICANTS IN ACCORDANCE WITH THIS ARTICLE;

15 (e) EXAMINE LICENSE APPLICANTS FOR QUALIFICATIONS;

16 (f) ESTABLISH FEES FOR HOME INSPECTION APPLICATIONS AND
17 EXAMINATIONS. THE AMOUNT OF THE APPLICATION FEE, TOGETHER WITH
18 ANY ASSOCIATED RENEWAL, RECIPROCITY, AND EXAMINATION FEES, SHALL
19 BE THE MINIMUM AMOUNT NECESSARY TO PAY FOR THE DIRECT COSTS
20 ASSOCIATED WITH THE ADMINISTRATION OF THIS ARTICLE RELATED TO THE
21 REGULATION OF HOME INSPECTORS;

22 (g) PRESCRIBE THE FORMS TO BE USED FOR APPLICATIONS FOR
23 HOME INSPECTOR LICENSES; AND

24 (h) ADOPT RULES NECESSARY TO ADMINISTER THIS ARTICLE.

25 **12-28.5-106. Unlawful acts - penalties.** (1) AFTER JUNE 30,
26 2016, IT IS UNLAWFUL FOR A PERSON TO:

27 (a) ENGAGE IN HOME INSPECTIONS, FOR COMPENSATION, WITHOUT

1 A VALID LICENSE ISSUED BY THE HOME INSPECTOR LICENSING BOARD;

2 (b) KNOWINGLY EMPLOY, OR KNOWINGLY SUPPLY FOR
3 EMPLOYMENT, A PERSON TO PERFORM HOME INSPECTION SERVICES WHO
4 DOES NOT POSSESS A HOME INSPECTION LICENSE;

5 (c) FALSELY HOLD ONESELF OUT AS QUALIFIED TO CONDUCT HOME
6 INSPECTIONS; OR

7 (d) VIOLATE ANY OTHER PROVISION OF THIS ARTICLE.

8 (2) ANY PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION
9 COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED
10 IN SECTION 18-1.3-501, C.R.S. ANY PERSON WHO SUBSEQUENTLY
11 VIOLATES ANY PROVISION OF SUBSECTION (1) OF THIS SECTION WITHIN
12 FIVE YEARS AFTER THE DATE OF A CONVICTION FOR A VIOLATION OF
13 SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 5 FELONY AND SHALL
14 BE PUNISHED AS PROVIDED IN SECTION 18-1.3-401, C.R.S.

15 (3) A LICENSED HOME INSPECTOR SHALL CARRY THE HOME
16 INSPECTOR'S LICENSE WHILE ENGAGING IN WORK AS A HOME INSPECTOR
17 AND SHALL SHOW THE LICENSE TO ANY CLIENT UPON REQUEST.

18 **12-28.5-107. Licensure by examination - fee.** (1) THE BOARD
19 SHALL PRESCRIBE THE FORM AND CONTENT OF AN EXAMINATION TO
20 DETERMINE THE QUALIFICATIONS OF A PERSON WHO APPLIES FOR A
21 LICENSE TO ENGAGE IN HOME INSPECTION. THE EXAMINATION SHALL BE
22 DESIGNED TO TEST THE COMPETENCE IN HOME INSPECTION PRACTICE AND
23 ADMINISTERED IN ACCORDANCE WITH NATIONALLY RECOGNIZED
24 PSYCHOMETRIC STANDARDS IN A MANNER ACCEPTABLE TO THE BOARD. TO
25 AVOID CONFLICTS OF INTEREST, THE BOARD SHALL ESTABLISH AND
26 ADMINISTER THE EXAMINATION INDEPENDENTLY OF ANY HOME INSPECTOR
27 MEMBERSHIP ASSOCIATION, TRAINING PROGRAM, SCHOOL, OR FRANCHISE.

1 THE DIVISION, UNDER DIRECTION OF THE BOARD, MAY CONTRACT WITH A
2 NATIONAL INDEPENDENT TESTING SERVICE TO PROVIDE AND CONDUCT THE
3 EXAMINATIONS.

4 (2) A PERSON SEEKING A LICENSE AS A HOME INSPECTOR SHALL
5 APPLY TO THE BOARD IN WRITING ON FORMS PRESCRIBED BY THE BOARD
6 AND SHALL PROVIDE THE FOLLOWING:

7 (a) THE APPLICANT'S NAME, RESIDENCE ADDRESS, AND BUSINESS
8 ADDRESS;

9 (b) A DESCRIPTION OF THE APPLICANT'S QUALIFICATIONS TO
10 BECOME A HOME INSPECTOR, INCLUDING THE LENGTH AND NATURE OF THE
11 APPLICANT'S EXPERIENCE;

12 (c) DOCUMENTATION OF SUCCESSFUL COMPLETION OF HIGH
13 SCHOOL OR A HIGH SCHOOL EQUIVALENCY PROGRAM;

14 (d) DOCUMENTATION OF SUCCESSFUL COMPLETION OF A
15 CLASSROOM OR ON-LINE TRAINING PROGRAM OF NOT LESS THAN NINETY
16 HOURS THAT IS APPROVED BY THE BOARD;

17 (e) PROOF OF SUCCESSFUL COMPLETION OF AN EXAMINATION
18 APPROVED BY THE BOARD;

19 (f) PROOF OF COMPLETION OF AT LEAST TEN TRAINING INSPECTIONS
20 UNDER THE DIRECT SUPERVISION OF A TRAINING INSPECTOR APPROVED BY
21 THE BOARD. THE TRAINING INSPECTOR SHALL HAVE A MINIMUM OF FIVE
22 YEARS' EXPERIENCE AND HAVE COMPLETED ONE THOUSAND PAID HOME
23 INSPECTIONS OR HAVE MET SPECIFIC QUALIFICATIONS AS DETERMINED BY
24 THE BOARD;

25 (g) PROOF THAT THE APPLICANT MAINTAINS ERRORS AND
26 OMISSIONS INSURANCE AND GENERAL LIABILITY INSURANCE IN THE
27 MINIMUM AMOUNT OF ONE HUNDRED THOUSAND DOLLARS;

1 (h) A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
2 CONDUCTED BY THE COLORADO BUREAU OF INVESTIGATION; AND

3 (i) OTHER INFORMATION THE BOARD REQUIRES.

4 (3) EACH APPLICATION FOR A HOME INSPECTOR LICENSE SHALL BE
5 ACCOMPANIED BY A FEE IN THE AMOUNT DETERMINED BY THE BOARD.

6 **12-28.5-108. Licensure by endorsement.** NOTWITHSTANDING
7 SECTION 12-28.5-107, THE BOARD MAY ISSUE A LICENSE TO AN APPLICANT
8 WHO HOLDS A HOME INSPECTOR LICENSE IN ANOTHER STATE OR
9 JURISDICTION THAT REGULATES HOME INSPECTORS IF THE APPLICANT
10 PROVIDES PROOF THAT HE OR SHE POSSESSES AN ACTIVE LICENSE IN GOOD
11 STANDING FROM ANOTHER STATE OR JURISDICTION THAT REQUIRES
12 QUALIFICATIONS SUBSTANTIALLY EQUIVALENT TO OR EXCEEDING THE
13 QUALIFICATIONS FOR LICENSURE IN COLORADO, AS DETERMINED BY THE
14 BOARD. AN APPLICANT UNDER THIS SECTION SHALL PAY AN APPLICATION
15 FEE IN THE AMOUNT DETERMINED BY THE BOARD.

16 **12-28.5-109. License by prior practice.** (1) NOTWITHSTANDING
17 SECTION 12-28.5-107, ON OR BEFORE JULY 1, 2016, THE BOARD SHALL
18 ISSUE A HOME INSPECTOR LICENSE TO AN INDIVIDUAL WHO:

19 (a) COMPLETES AN APPLICATION ON FORMS PRESCRIBED BY THE
20 BOARD;

21 (b) SUBMITS PROOF THAT HE OR SHE:

22 (I) HAS BEEN ENGAGED IN THE PRACTICE OF HOME INSPECTIONS
23 FOR COMPENSATION FOR AT LEAST TWO YEARS PRIOR TO APPLICATION;

24 (II) HAS PERFORMED AT LEAST TWO HUNDRED HOME INSPECTIONS
25 FOR COMPENSATION; AND

26 (III) MAINTAINS ERRORS AND OMISSIONS INSURANCE AND
27 GENERAL LIABILITY INSURANCE IN THE MINIMUM OF ONE HUNDRED

1 THOUSAND DOLLARS;

2 (c) SUCCESSFULLY COMPLETES A FINGERPRINT-BASED CRIMINAL
3 HISTORY RECORD CHECK CONDUCTED BY THE COLORADO BUREAU OF
4 INVESTIGATION; AND

5 (d) PAYS AN APPLICATION FEE IN THE AMOUNT ESTABLISHED BY
6 THE BOARD.

7 **12-28.5-110. License renewal - reinstatement - rules.** (1) A
8 HOME INSPECTOR LICENSE EXPIRES AFTER TWO YEARS AND IS RENEWABLE
9 UPON:

10 (a) COMPLETION OF A RENEWAL APPLICATION FORM PRESCRIBED
11 BY THE BOARD;

12 (b) PAYMENT OF A LICENSE RENEWAL FEE IN THE AMOUNT
13 ESTABLISHED BY THE BOARD; AND

14 (c) SUBMITTING DOCUMENTATION THAT THE PERSON HAS
15 COMPLETED TWENTY HOURS OF CONTINUING EDUCATION COURSES
16 APPROVED BY THE BOARD.

17 **12-28.5-111. Scope of home inspection.** (1) THE PURPOSE OF THE
18 HOME INSPECTION IS TO GIVE A LIMITED VISUAL EVALUATION OF THE
19 CONDITION OF THE RESIDENTIAL BUILDING AND ITS MAJOR COMPONENTS.
20 THE HOME INSPECTION IS NEITHER INTENDED NOR REPRESENTED TO BE
21 TECHNICALLY EXHAUSTIVE. THE HOME INSPECTION REPORT MUST INCLUDE
22 ANY KNOWN DEFICIENCIES DETECTED ON THE DAY OF THE INSPECTION
23 THAT IN THE SOLE JUDGMENT OF THE INSPECTOR ARE CONSIDERED TO
24 ADVERSELY AFFECT THE FUNCTION OR INTEGRITY OF SPECIFIC ITEMS,
25 COMPONENTS, OR SYSTEMS INSPECTED AS DEFINED BY THE STANDARDS OF
26 PRACTICE.

27 (2) (a) A HOME INSPECTION IS LIMITED TO READILY ACCESSIBLE

1 AREAS OF THE BUILDING AND IS BASED ON OBSERVATION OF THE APPARENT
2 CONDITION OF THE BUILDING AND THE AREA OF INSPECTION ON THE DATE
3 OF THE INSPECTION.

4 (b) A HOME INSPECTOR IS NOT REQUIRED TO MAKE ANY
5 REPRESENTATION REGARDING:

6 (I) LATENT OR CONCEALED DEFECTS THAT MAY EXIST;

7 (II) A WARRANTY OR GUARANTEE OF ANY ASPECT OF THE
8 INSPECTION, UNLESS SPECIFIED IN ADVANCE BY WRITTEN CONTRACT; OR

9 (III) AN ASSESSMENT OF ENVIRONMENTAL HAZARDS OR PEST
10 INFESTATIONS.

11 (3) DURING A HOME INSPECTION, A HOME INSPECTOR IS NOT
12 REQUIRED TO PERFORM ENGINEERING TESTS OR CALCULATIONS. A HOME
13 INSPECTOR IS NOT REQUIRED TO EVALUATE PROPER SIZING OF LOADS OR
14 CAPACITIES NOR COMPLIANCE WITH APPLICABLE LOCAL, STATE, OR
15 NATIONAL CODES, REGULATIONS, OR RULES.

16 (4) THE HOME INSPECTOR IS NOT REQUIRED TO INSPECT ANY AREA
17 THAT, IN THE SOLE JUDGMENT OF THE INSPECTOR, COULD BE CONSIDERED
18 HARMFUL OR DANGEROUS TO THE INSPECTOR OR MAY CAUSE DAMAGE TO
19 THE PROPERTY IN ANY WAY. THE USE OF SPECIAL INSTRUMENTS OR
20 TESTING DEVICES BY THE HOME INSPECTOR IS NOT REQUIRED.

21 **12-28.5-112. Consumer protection - prohibited activities.**

22 (1) A HOME INSPECTOR SHALL PRESENT THE RESULTS OF A HOME
23 INSPECTION IN A WRITTEN REPORT, WHICH MAY BE IN THE FORM OF A
24 CHECKLIST, NARRATIVE, OR COMBINATION THEREOF. EACH HOME
25 INSPECTION IS A NONTRANSFERABLE, CONFIDENTIAL REPORT FROM THE
26 HOME INSPECTOR TO THE CLIENT. THE CLIENT WAIVES CONFIDENTIALITY
27 REGARDING THE REPORT BY SHARING THE REPORT OR ITS CONTENTS WITH

1 ANY THIRD PARTY.

2 (2) IN ORDER TO PROTECT CONSUMERS, A HOME INSPECTOR SHALL:

3 (a) ACT IN GOOD FAITH IN THE PERFORMANCE OF A HOME
4 INSPECTION, WHICH INCLUDES REPORTING CONDITIONS OF THE HOME
5 INSPECTION THAT MAY INCLUDE OFFERING OPINIONS;

6 (b) REMAIN OBJECTIVE AND BASE OPINIONS ON THE INSPECTOR'S
7 AREAS OF EDUCATION, TRAINING, OR EXPERIENCE; AND

8 (c) AVOID CONFLICTS OF INTEREST OR ACTIVITIES THAT
9 COMPROMISE PROFESSIONAL INDEPENDENCE, OBJECTIVITY, OR INSPECTION
10 INTEGRITY, INCLUDING THE INSPECTION OF PROPERTIES FOR
11 COMPENSATION IN WHICH A HOME INSPECTOR HAS, OR EXPECTS TO HAVE,
12 A FINANCIAL INTEREST.

13 (3) HOME INSPECTORS SHALL NOT:

14 (a) DISCLOSE INSPECTION RESULTS OR CLIENT INFORMATION
15 WITHOUT CLIENT APPROVAL; HOWEVER, HOME INSPECTORS MAY DISCLOSE
16 IMMEDIATE SAFETY HAZARDS TO THE OCCUPANTS;

17 (b) ACCEPT ANY COMPENSATION OR FUTURE REFERRALS THAT ARE
18 DEPENDENT ON REPORTING SPECIFIC FINDINGS OR ON THE SALE OF
19 PROPERTY;

20 (c) DIRECTLY OR INDIRECTLY COMPENSATE ANY PARTY HAVING A
21 FINANCIAL INTEREST IN CLOSING OR SETTLEMENT OF REAL ESTATE
22 TRANSACTIONS FOR THE REFERRAL OF INSPECTIONS OR FOR INCLUSION ON
23 A LIST OF RECOMMENDED INSPECTORS, PREFERRED PROVIDERS, OR SIMILAR
24 ARRANGEMENTS;

25 (d) ACCEPT COMPENSATION, DIRECTLY OR INDIRECTLY, FOR
26 RECOMMENDING CONTRACTORS, SERVICES, OR PRODUCTS TO INSPECTION
27 CLIENTS OR OTHER PARTIES HAVING AN INTEREST IN INSPECTED

1 PROPERTIES; OR

2 (e) ACCEPT COMPENSATION TO REPAIR, REPLACE, OR UPGRADE,
3 ANY SYSTEMS OR COMPONENTS COVERED IN A HOME INSPECTION FOR ONE
4 YEAR AFTER THE INSPECTION.

5 **12-28.5-113. Liability - statute of limitations.** (1) AN ACTION TO
6 RECOVER DAMAGES FOR ANY ERROR OR OMISSION OF A HOME INSPECTOR
7 RELATING TO A HOME INSPECTION THAT HE OR SHE CONDUCTS CAN ONLY
8 BE COMMENCED WITHIN ONE YEAR AFTER THE DATE THE HOME INSPECTION
9 IS COMPLETED.

10 (2) ONLY A CLIENT MAY RECOVER DAMAGES ARISING FROM A
11 HOME INSPECTION OR A HOME INSPECTION REPORT.

12 **12-28.5-114. Discipline procedures.** (1) A HOME INSPECTOR IS
13 IN VIOLATION OF THIS ARTICLE IF THE INSPECTOR:

14 (a) HAS BEEN CONVICTED OF A FELONY OR HAS HAD ACCEPTED BY
15 A COURT A PLEA OF GUILTY OR NOLO CONTENDERE TO A FELONY IF THE
16 FELONY IS RELATED TO THE ABILITY TO ACT AS A HOME INSPECTOR. A
17 CERTIFIED COPY OF THE JUDGMENT OF A COURT OF COMPETENT
18 JURISDICTION OF THE CONVICTION OR PLEA IS CONCLUSIVE EVIDENCE OF
19 THE CONVICTION OR PLEA. IN CONSIDERING THE DISCIPLINARY ACTION,
20 THE BOARD SHALL BE GOVERNED BY THE PROVISIONS OF SECTION
21 24-5-101, C.R.S.

22 (b) HAS VIOLATED, OR ATTEMPTED TO VIOLATE, DIRECTLY OR
23 INDIRECTLY, OR ASSISTED IN OR ABETTED THE VIOLATION OF, OR
24 CONSPIRED TO VIOLATE THIS ARTICLE, A RULE PROMULGATED PURSUANT
25 TO THIS ARTICLE, OR AN ORDER OF THE BOARD ISSUED PURSUANT TO THIS
26 ARTICLE;

27 (c) HAS ACCEPTED ANY FEES, COMPENSATION, OR OTHER

1 VALUABLE CONSIDERATION TO INFLUENCE THE OUTCOME OF A HOME
2 INSPECTION;

3 (d) HAS USED ADVERTISING THAT IS MISLEADING, DECEPTIVE, OR
4 FALSE;

5 (e) HAS USED FRAUD OR MISREPRESENTATION IN OBTAINING A
6 LICENSE UNDER THIS ARTICLE;

7 (f) HAS CONDUCTED A HOME INSPECTION IN A FRAUDULENT
8 MANNER OR USED MISREPRESENTATION IN ANY SUCH ACTIVITY;

9 (g) HAS ACTED IN A MANNER THAT DOES NOT MEET, OR FAILED TO
10 ACT IN A MANNER THAT MEETS, THE STANDARDS OF PROFESSIONAL HOME
11 INSPECTING AS ADOPTED BY THE BOARD BY RULE. A CERTIFIED COPY OF A
12 MALPRACTICE JUDGMENT OF A COURT OF COMPETENT JURISDICTION IS
13 CONCLUSIVE EVIDENCE OF THE ACT OR OMISSION, BUT EVIDENCE OF THE
14 ACT OR OMISSION IS NOT LIMITED TO A MALPRACTICE JUDGMENT.

15 (h) HAS PERFORMED HOME INSPECTION SERVICES BEYOND HIS OR
16 HER LEVEL OF COMPETENCY; OR

17 (i) HAS BEEN SUBJECT TO AN ADVERSE OR DISCIPLINARY ACTION
18 IN ANOTHER STATE, TERRITORY, OR COUNTRY RELATING TO A LICENSE,
19 CERTIFICATE, OR OTHER AUTHORIZATION TO PRACTICE AS A HOME
20 INSPECTOR. A DISCIPLINARY ACTION RELATING TO A LICENSE OR
21 CERTIFICATE AS A HOME INSPECTOR LICENSED OR CERTIFIED UNDER THIS
22 ARTICLE OR ANY RELATED OCCUPATION IN ANY OTHER STATE, TERRITORY,
23 OR COUNTRY FOR DISCIPLINARY REASONS IS PRIMA FACIE EVIDENCE OF
24 GROUNDS FOR DISCIPLINARY ACTION OR DENIAL OF LICENSURE BY THE
25 BOARD. THIS PARAGRAPH (i) APPLIES ONLY TO VIOLATIONS BASED UPON
26 ACTS OR OMISSIONS IN THE OTHER STATE, TERRITORY, OR COUNTRY THAT
27 ARE ALSO VIOLATIONS OF THIS ARTICLE.

1 (2) IF AN APPLICANT OR LICENSEE HAS VIOLATED ANY PROVISION
2 OF THIS SECTION, THE BOARD MAY DENY OR REFUSE TO RENEW THE
3 LICENSE, OR, AS SPECIFIED IN SUBSECTIONS (3) AND (6) OF THIS SECTION,
4 REVOKE OR SUSPEND THE LICENSE, ISSUE A LETTER OF ADMONITION TO A
5 LICENSEE, OR PLACE A LICENSEE ON PROBATION.

6 (3) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
7 INSTANCE OF MISCONDUCT BY A LICENSED HOME INSPECTOR THAT, IN THE
8 OPINION OF THE BOARD, DOES NOT WARRANT FORMAL ACTION BY THE
9 BOARD BUT SHOULD NOT BE DISMISSED AS BEING WITHOUT MERIT, THE
10 BOARD MAY SEND A LETTER OF ADMONITION BY CERTIFIED MAIL TO THE
11 HOME INSPECTOR AGAINST WHOM A COMPLAINT WAS MADE. THE LETTER
12 SHALL ADVISE THE HOME INSPECTOR OF THE RIGHT TO MAKE A WRITTEN
13 REQUEST, WITHIN TWENTY DAYS AFTER RECEIPT OF THE LETTER OF
14 ADMONITION, TO THE BOARD TO BEGIN FORMAL DISCIPLINARY
15 PROCEEDINGS AS PROVIDED IN THIS SECTION TO ADJUDICATE THE
16 CONDUCT OR ACTS ON WHICH THE LETTER WAS BASED.

17 (4) THE BOARD MAY START A PROCEEDING FOR DISCIPLINE OF A
18 LICENSEE WHEN THE BOARD HAS REASONABLE GROUNDS TO BELIEVE THAT
19 A LICENSEE HAS COMMITTED ANY ACT OR FAILED TO ACT PURSUANT TO
20 THE GROUNDS ESTABLISHED IN SUBSECTION (1) OF THIS SECTION OR WHEN
21 A REQUEST FOR A HEARING IS TIMELY MADE UNDER SUBSECTION (3) OF
22 THIS SECTION.

23 (5) DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED IN THE
24 MANNER PRESCRIBED BY THE "STATE ADMINISTRATIVE PROCEDURE ACT",
25 ARTICLE 4 OF TITLE 24, C.R.S.

26 (6) AS AUTHORIZED IN SUBSECTION (2) OF THIS SECTION,
27 DISCIPLINARY ACTIONS BY THE BOARD MAY CONSIST OF THE FOLLOWING:

1 (a) **Revocation of a license.** (I) REVOCATION OF A LICENSE BY
2 THE BOARD MEANS THAT THE LICENSED PERSON SHALL SURRENDER HIS OR
3 HER LICENSE IMMEDIATELY TO THE BOARD.

4 (II) ANY PERSON WHOSE LICENSE TO PRACTICE IS REVOKED IS
5 INELIGIBLE TO APPLY FOR A LICENSE ISSUED UNDER THIS ARTICLE UNTIL
6 MORE THAN TWO YEARS HAVE ELAPSED FROM THE DATE OF SURRENDER OF
7 THE LICENSE. A REAPPLICATION AFTER THE TWO-YEAR PERIOD IS TREATED
8 AS A NEW APPLICATION.

9 (b) **Suspension of a license.** SUSPENSION OF A LICENSE BY THE
10 BOARD IS FOR A PERIOD TO BE DETERMINED BY THE BOARD.

11 (c) **Probationary status.** THE BOARD MAY IMPOSE PROBATIONARY
12 STATUS ON A LICENSEE. IF THE BOARD PLACES A LICENSEE ON PROBATION,
13 THE BOARD MAY INCLUDE CONDITIONS FOR CONTINUED PRACTICE THAT
14 THE BOARD DEEMS APPROPRIATE TO ASSURE THAT THE LICENSEE IS
15 OTHERWISE QUALIFIED TO PRACTICE IN ACCORDANCE WITH GENERALLY
16 ACCEPTED PROFESSIONAL STANDARDS OF PROFESSIONAL HOME
17 INSPECTING, AS SPECIFIED IN BOARD RULES, INCLUDING ANY OR ALL OF
18 THE FOLLOWING:

19 (I) A REQUIREMENT THAT THE LICENSEE TAKE COURSES OF
20 TRAINING OR EDUCATION AS NEEDED TO CORRECT DEFICIENCIES FOUND IN
21 THE HEARING;

22 (II) A REVIEW OR SUPERVISION OF HIS OR HER PRACTICE AS MAY
23 BE NECESSARY TO DETERMINE THE QUALITY OF THE PRACTICE AND TO
24 CORRECT DEFICIENCIES IN THE PRACTICE; AND

25 (III) THE IMPOSITION OF RESTRICTIONS UPON THE NATURE OF HIS
26 OR HER HOME INSPECTING TO ASSURE THAT HE OR SHE DOES NOT PRACTICE
27 BEYOND THE LIMITS OF HIS OR HER CAPABILITIES.

1 (7) IN ADDITION TO ANY OTHER DISCIPLINE AUTHORIZED
2 PURSUANT TO THIS SECTION, THE BOARD MAY ASSESS A FINE OF NOT MORE
3 THAN TWO THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION AGAINST
4 ANY PERSON WHO VIOLATES THIS ARTICLE, THE RULES PROMULGATED
5 PURSUANT TO THIS ARTICLE, OR A BOARD ORDER. THE BOARD SHALL
6 TRANSMIT ANY FINES COLLECTED FROM A LICENSEE TO THE STATE
7 TREASURER FOR DEPOSIT IN THE GENERAL FUND.

8 (8) A PERSON PARTICIPATING IN GOOD FAITH IN MAKING A
9 COMPLAINT OR REPORT OR PARTICIPATING IN AN INVESTIGATIVE OR
10 ADMINISTRATIVE PROCEEDING BEFORE THE BOARD PURSUANT TO THIS
11 ARTICLE IS IMMUNE FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT
12 OTHERWISE MIGHT RESULT BY REASON OF THE ACTION.

13 (9) A LICENSEE WHO HAS DIRECT KNOWLEDGE THAT A PERSON HAS
14 VIOLATED THIS ARTICLE SHALL REPORT HIS OR HER KNOWLEDGE TO THE
15 BOARD.

16 (10) THE BOARD, ON ITS OWN MOTION OR UPON APPLICATION AT
17 ANY TIME AFTER THE IMPOSITION OF DISCIPLINE AS PROVIDED IN THIS
18 SECTION, MAY RECONSIDER ITS PRIOR ACTION AND REINSTATE OR RESTORE
19 A LICENSE, TERMINATE PROBATION, OR REDUCE THE SEVERITY OF ITS
20 PRIOR DISCIPLINARY ACTION. THE DECISION OF WHETHER TO TAKE ANY
21 FURTHER ACTION OR HOLD A HEARING WITH RESPECT TO A PRIOR
22 DISCIPLINARY ACTION RESTS IN THE SOLE DISCRETION OF THE BOARD.

23 **12-28.5-115. Hearings.** THE BOARD MAY HOLD HEARINGS ON ANY
24 MATTER ARISING UNDER THIS ARTICLE AND THE BOARD SHALL CONDUCT
25 THE HEARINGS IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

26 **12-28.5-116. Judicial review.** ANY PERSON AGGRIEVED BY A
27 FINAL ACTION OR ORDER OF THE BOARD MAY SEEK JUDICIAL REVIEW

1 PURSUANT TO SECTION 24-4-106, C.R.S.

2 **12-28.5-117. Disposition of fees.** THE BOARD SHALL TRANSMIT
3 ALL FEES COLLECTED PURSUANT TO THIS ARTICLE TO THE STATE
4 TREASURER, WHO SHALL CREDIT THE SAME TO THE DIVISION OF
5 PROFESSIONS AND OCCUPATIONS CASH FUND, AS ESTABLISHED IN SECTION
6 24-34-105, C.R.S.

7 **12-28.5-118. Repeal of part - review of functions.** THIS ARTICLE
8 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021. BEFORE THE REPEAL, THE
9 DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE POWERS,
10 DUTIES, AND FUNCTIONS OF THE BOARD REGARDING THE LICENSURE OF
11 HOME INSPECTORS AS SPECIFIED IN THIS ARTICLE, IN ACCORDANCE WITH
12 SECTION 24-34-104, C.R.S.

13 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **add**
14 (52.5) (d) as follows:

15 **24-34-104. General assembly review of regulatory agencies**
16 **and functions for termination, continuation, or reestablishment.**

17 (52.5) The following agencies, functions, or both, terminate on
18 September 1, 2021:

19 (d) THE LICENSING OF HOME INSPECTORS BY THE HOME INSPECTOR
20 LICENSING BOARD IN ACCORDANCE WITH ARTICLE 28.5 OF TITLE 12, C.R.S.

21 **SECTION 3. Effective date.** This act takes effect July 1, 2015.

22 **SECTION 4. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.