

45:8-72

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2004 **CHAPTER:** 18
NJSA: 45:8-72 (Grandfathering of licensed home inspectors)
BILL NO: S1467 (Substituted for A2519)

SPONSOR(S): Sarlo and others

DATE INTRODUCED: April 29, 2004

COMMITTEE: **ASSEMBLY:** ----

SENATE: Commerce

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** May 24, 2004

SENATE: May 20, 2004

DATE OF APPROVAL: June 10, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (1st reprint enacted)

S1467

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A2519

[SPONSOR'S STATEMENT:](#) (Begins on page 2 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [3-18-2004](#)
[5-13-2004](#)

Identical to Senate Committee Statement for S1467

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 2004, CHAPTER 18, *approved June 10, 2004*
Senate, No. 1467 (*First Reprint*)

1 AN ACT concerning the licensing of home inspectors and amending
2 P.L.1997, c.323 and P.L.1999, c.76.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 12 of P.L.1997, c.323 (C.45:8-72) is amended to read
8 as follows:

9 12. ¹[During the first 360 days after the effective date of]¹
10 [P.L.2003, c.77]¹[P.L. .c. (C.) (now before the Legislature as
11 this bill) , the] The¹ committee shall issue to any individual upon
12 application a home inspector license, provided that the applicant meets
13 the requirements of subsections a., b., and d. of section 8 of this act
14 and: a. has been engaged in the practice of home inspections for
15 compensation for not less than three years prior to [June 30, 2004]
16 December 30, 2005 and has performed not less than 300 home
17 inspections for compensation prior to [June 30, 2004] December 30,
18 2005; or b. has performed not less than 400 home inspections for
19 compensation prior to [June 30, 2004] December 30, 2005.

20 (cf: P.L.2003, c.77, s.1)

21

22 2. Section 1 of P.L.1999, c.76 (C.56:8-19.1) is amended to read as
23 follows:

24 1. Notwithstanding any provision of P.L.1960, c.39 (C.56:8-1 et
25 seq.) to the contrary, there shall be no right of recovery of punitive
26 damages, attorney fees, or both, under section 7 of P.L.1971, c.247
27 (C.56:8-19), against a real estate broker, broker-salesperson or
28 salesperson licensed under R.S.45:15-1 et seq. for the communication
29 of any false, misleading or deceptive information provided to the real
30 estate broker, broker-salesperson or salesperson, by or on behalf of the
31 seller of real estate located in New Jersey, if the real estate broker,
32 broker-salesperson or salesperson demonstrates that he:

33 a. Had no actual knowledge of the false, misleading or deceptive
34 character of the information; and

35 b. Made a reasonable and diligent inquiry to ascertain whether the
36 information is of a false, misleading or deceptive character. For
37 purposes of this section, communications by a real estate broker,
38 broker-salesperson or salesperson which shall be deemed to satisfy the
39 requirements of a "reasonable and diligent inquiry" include, but shall
40 not be limited to, communications which disclose information:

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted May 10, 2004.

1 (1) provided in a report or upon a representation by a person,
2 licensed or certified by the State of New Jersey, including, but not
3 limited to, an appraiser, home inspector, plumber or electrical
4 contractor, or an unlicensed home inspector until December 30, 2005.
5 of a particular physical condition pertaining to the real estate derived
6 from inspection of the real estate by that person;

7 (2) provided in a report or upon a representation by any
8 governmental official or employee, if the particular information of a
9 physical condition is likely to be within the knowledge of that
10 governmental official or employee; or

11 (3) that the real estate broker, broker-salesperson or salesperson
12 obtained from the seller in a property condition disclosure statement,
13 which form shall comply with regulations promulgated by the director
14 in consultation with the New Jersey Real Estate Commission, provided
15 that the real estate broker, broker-salesperson or salesperson informed
16 the buyer that the seller is the source of the information and that, prior
17 to making that communication to the buyer, the real estate broker,
18 broker-salesperson or salesperson visually inspected the property with
19 reasonable diligence to ascertain the accuracy of the information
20 disclosed by the seller.

21 Nothing in this section shall be interpreted to affect the obligations
22 of a real estate broker, broker-salesperson or salesperson pursuant to
23 the "New Residential Construction Off-Site Conditions Disclosure
24 Act," P.L.1995, c.253 (C.46:3C-1 et seq.), or any other law or
25 regulation.

26 (cf: P.L.1999, c.76, s.1)

27
28 3. This act shall take effect immediately.

29
30
31 _____
32
33 Revises "grandfathering" provisions for eligibility to be a licensed
34 home inspector.

SENATE, No. 1467

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED APRIL 29, 2004

Sponsored by:

Senator PAUL SARLO

District 36 (Bergen, Essex and Passaic)

SYNOPSIS

Revises "grandfathering" provisions for eligibility to be a licensed home inspector.

CURRENT VERSION OF TEXT

As introduced.



S1467 SARLO

2

1 AN ACT concerning the licensing of home inspectors and amending
2 P.L.1997, c.323 and P.L.1999, c.76.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 12 of P.L.1997, c.323 (C.45:8-72) is amended to read
8 as follows:

9 12. During the first 360 days after the effective date of [P.L.2003,
10 c.77] P.L. .c. (C.) (now before the Legislature as this bill) , the
11 committee shall issue to any individual upon application a home
12 inspector license, provided that the applicant meets the requirements
13 of subsections a., b., and d. of section 8 of this act and: a. has been
14 engaged in the practice of home inspections for compensation for not
15 less than three years prior to [June 30, 2004] December 30, 2005 and
16 has performed not less than 300 home inspections for compensation
17 prior to [June 30, 2004] December 30, 2005; or b. has performed not
18 less than 400 home inspections for compensation prior to [June 30,
19 2004] December 30, 2005.

20 (cf: P.L.2003, c.77, s.1)

21

22 2. Section 1 of P.L.1999, c.76 (C.56:8-19.1) is amended to read as
23 follows:

24 1. Notwithstanding any provision of P.L.1960, c.39 (C.56:8-1 et
25 seq.) to the contrary, there shall be no right of recovery of punitive
26 damages, attorney fees, or both, under section 7 of P.L.1971, c.247
27 (C.56:8-19), against a real estate broker, broker-salesperson or
28 salesperson licensed under R.S.45:15-1 et seq. for the communication
29 of any false, misleading or deceptive information provided to the real
30 estate broker, broker-salesperson or salesperson, by or on behalf of the
31 seller of real estate located in New Jersey, if the real estate broker,
32 broker-salesperson or salesperson demonstrates that he:

33 a. Had no actual knowledge of the false, misleading or deceptive
34 character of the information; and

35 b. Made a reasonable and diligent inquiry to ascertain whether the
36 information is of a false, misleading or deceptive character. For
37 purposes of this section, communications by a real estate broker,
38 broker-salesperson or salesperson which shall be deemed to satisfy the
39 requirements of a "reasonable and diligent inquiry" include, but shall
40 not be limited to, communications which disclose information:

41 (1) provided in a report or upon a representation by a person,
42 licensed or certified by the State of New Jersey, including, but not

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 limited to, an appraiser, home inspector, plumber or electrical
2 contractor, or an unlicensed home inspector until December 30, 2005,
3 of a particular physical condition pertaining to the real estate derived
4 from inspection of the real estate by that person;

5 (2) provided in a report or upon a representation by any
6 governmental official or employee, if the particular information of a
7 physical condition is likely to be within the knowledge of that
8 governmental official or employee; or

9 (3) that the real estate broker, broker-salesperson or salesperson
10 obtained from the seller in a property condition disclosure statement,
11 which form shall comply with regulations promulgated by the director
12 in consultation with the New Jersey Real Estate Commission, provided
13 that the real estate broker, broker-salesperson or salesperson informed
14 the buyer that the seller is the source of the information and that, prior
15 to making that communication to the buyer, the real estate broker,
16 broker-salesperson or salesperson visually inspected the property with
17 reasonable diligence to ascertain the accuracy of the information
18 disclosed by the seller.

19 Nothing in this section shall be interpreted to affect the obligations
20 of a real estate broker, broker-salesperson or salesperson pursuant to
21 the "New Residential Construction Off-Site Conditions Disclosure
22 Act," P.L.1995, c.253 (C.46:3C-1 et seq.), or any other law or
23 regulation.

24 (cf: P.L.1999, c.76, s.1)

25
26 3. This act shall take effect immediately.
27
28

29 STATEMENT
30

31 This bill amends the "Home Inspection Professional Licensing Act,"
32 P.L.1997, c.323 (C.45:8-61 et seq.), to extend the deadline by which
33 time a person must be licensed under the act's "grandfather" provision
34 to December 30, 2005.

35 The bill revises the requirements for those eligible to be
36 "grandfathered" so that an individual so eligible shall have either: (1)
37 been engaged in the practice of home inspections for compensation for
38 not less than three years prior to December 30, 2005 and performed
39 not less than 300 home inspections for compensation prior to
40 December 30, 2005; or (2) performed not less than 400 home
41 inspections for compensation prior to December 30, 2005. The law
42 currently requires that an individual must have either: (1) been
43 engaged in the practice of home inspections for compensation for not
44 less than three years prior to June 30, 2004 and performed not less
45 than 300 home inspections for compensation prior to June 30, 2004;
46 or (2) performed not less than 400 home inspections for compensation

1 prior to June 30, 2004.

2 Section 1 of P.L.1999, c.76 (C.56:8-19.1) provides that a real
3 estate broker, broker-salesperson or salesperson is exempt from
4 punitive damages and recovery of attorney fees under the consumer
5 fraud law, for any communication by him of any false, misleading or
6 deceptive information provided to him by or on behalf of the seller of
7 the real estate located in this State, if he has no actual knowledge of
8 the false, misleading or deceptive character of the information and
9 performs a "reasonable and diligent inquiry" to determine the accuracy
10 of the information provided by the seller.

11 N.J.S.A.56:8-19.1 defines "reasonable and diligent inquiry" to allow
12 a real estate broker, broker-salesperson or salesperson to rely on
13 information from certain licensed individuals, including licensed home
14 inspectors. The bill permits real estate brokers, broker-salespersons
15 or salespersons to similarly rely on such information from unlicensed
16 home inspectors until December 30, 2005.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1467

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 10, 2004

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1467.

As amended, this bill amends the "Home Inspection Professional Licensing Act," P.L.1997, c.323 (C.45:8-61 et seq.), to extend the deadline by which time a person must be licensed under the act's "grandfather" provision to December 30, 2005.

The bill revises the requirements for those eligible to be "grandfathered" so that an individual so eligible shall have either: (1) been engaged in the practice of home inspections for compensation for not less than three years prior to December 30, 2005 and performed not less than 300 home inspections for compensation prior to December 30, 2005; or (2) performed not less than 400 home inspections for compensation prior to December 30, 2005. The law currently requires that an individual must have either: (1) been engaged in the practice of home inspections for compensation for not less than three years prior to June 30, 2004 and performed not less than 300 home inspections for compensation prior to June 30, 2004; or (2) performed not less than 400 home inspections for compensation prior to June 30, 2004.

Section 1 of P.L.1999, c.76 (C.56:8-19.1) provides that a real estate broker, broker-salesperson or salesperson is exempt from punitive damages and recovery of attorney fees under the consumer fraud law, for any communication by him of any false, misleading or deceptive information provided to him by or on behalf of the seller of the real estate located in this State, if he has no actual knowledge of the false, misleading or deceptive character of the information and performs a "reasonable and diligent inquiry" to determine the accuracy of the information provided by the seller.

N.J.S.A. 56:8-19.1 defines "reasonable and diligent inquiry" to allow a real estate broker, broker-salesperson or salesperson to rely on information from certain licensed individuals, including licensed home inspectors. The bill permits real estate brokers, broker-salespersons or salespersons to similarly rely on such information from unlicensed home inspectors until December 30, 2005.

The committee amended the bill to eliminate a technical inconsistency. As introduced, the bill delays the "grandfather" licensure provision until December 30, 2005, or approximately 18 months, but only allows the Home Inspection Advisory Committee to issue licenses under this provision for a period of 360 days after the enactment of the bill. The amendment eliminates the 360 day period from the provision, thus eliminating the inconsistency.

ASSEMBLY, No. 2519

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MARCH 11, 2004

Sponsored by:

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

Assemblyman PETER J. BIONDI

District 16 (Morris and Somerset)

SYNOPSIS

Revises "grandfathering" provisions for eligibility to be a licensed home inspector.

CURRENT VERSION OF TEXT

As introduced.



A2519 IMPREVEDUTO, BIONDI

2

1 AN ACT concerning the licensing of home inspectors and amending
2 P.L.1997, c.323.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 12 of P.L.1997, c.323 (C.45:8-72) is amended to read
8 as follows:

9 12. During the first 360 days after the effective date of [P.L.2003,
10 c.77] P.L. .c. (C.) (now before the Legislature as this bill) , the
11 committee shall issue to any individual upon application a home
12 inspector license, provided that the applicant meets the requirements
13 of subsections a., b., and d. of section 8 of this act and: a. has been
14 engaged in the practice of home inspections for compensation for not
15 less than three years prior to [June 30, 2004] December 30, 2005 and
16 has performed not less than 300 home inspections for compensation
17 prior to [June 30, 2004] December 30, 2005; or b. has performed not
18 less than 400 home inspections for compensation prior to [June 30,
19 2004] December 30, 2005.

20 (cf: P.L.2003, c.77, s.1)

21

22 2. This act shall take effect immediately.

23

24

25

STATEMENT

26

27 This bill amends the "Home Inspection Professional Licensing Act,"
28 P.L.1997, c.323 (C.45:8-61 et seq.), to extend the deadline by which
29 time a person be licensed under the act's "grandfather" provision to
30 provide a home inspection in this State to December 30, 2005.

31 The bill revises the requirements for those eligible to be
32 "grandfathered" so that an individual so eligible shall have either: (1)
33 been engaged in the practice of home inspections for compensation for
34 not less than three years prior to December 30, 2005 and performed
35 not less than 300 home inspections for compensation prior to
36 December 30, 2005; or (2) performed not less than 400 home
37 inspections for compensation prior to December 30, 2005. The law
38 currently requires that an individual must have either: (1) been
39 engaged in the practice of home inspections for compensation for not
40 less than three years prior to June 30, 2004 and performed not less
41 than 300 home inspections for compensation prior to June 30, 2004;
42 or (2) performed not less than 400 home inspections for compensation
43 prior to June 30, 2004.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

ASSEMBLY REGULATED PROFESSIONS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2519

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 2004

The Assembly Regulated Professions and Independent Authorities Committee reports favorably, and with committee amendments, Assembly Bill No. 2519.

As amended, this bill amends the "Home Inspection Professional Licensing Act," P.L.1997, c.323 (C.45:8-61 et seq.), to extend the deadline by which time a person must be licensed under the act's "grandfather" provision to December 30, 2005.

The bill revises the requirements for those eligible to be "grandfathered" so that an individual so eligible shall have either: (1) been engaged in the practice of home inspections for compensation for not less than three years prior to December 30, 2005 and performed not less than 300 home inspections for compensation prior to December 30, 2005; or (2) performed not less than 400 home inspections for compensation prior to December 30, 2005. The law currently requires that an individual must have either: (1) been engaged in the practice of home inspections for compensation for not less than three years prior to June 30, 2004 and performed not less than 300 home inspections for compensation prior to June 30, 2004; or (2) performed not less than 400 home inspections for compensation prior to June 30, 2004.

COMMITTEE AMENDMENTS

The committee amended section 1 of P.L.1999, c.76 (C.56:8-19.1), which provides that a real estate broker, broker-salesperson or salesperson is exempt from punitive damages and recovery of attorney fees under the consumer fraud law, for any communication by him or on behalf of the seller of the real estate located in this State, if he has no actual knowledge of the false, misleading or deceptive character of the information and performs a "reasonable and diligent inquiry" to determine the accuracy of the information provided by the seller.

N.J.S.A. 56:8-19.1 defines "reasonable and diligent inquiry" to allow a real estate broker, broker-salesperson or salesperson to rely on

information from certain licensed individuals, including licensed home inspectors. The committee's amendments permit real estate brokers, broker-salespersons or salespersons to similarly rely on such information from unlicensed home inspectors until December 30, 2005.

ASSEMBLY REGULATED PROFESSIONS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2519

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 13, 2004

The Assembly Regulated Professions and Independent Authorities Committee reports favorably and with committee amendments Assembly Bill No. 2519 (1R).

As amended, this bill amends the "Home Inspection Professional Licensing Act," P.L.1997, c.323 (C.45:8-61 et seq.), to extend the deadline by which time a person must be licensed under the act's "grandfather" provision to December 30, 2005.

The bill revises the requirements for those eligible to be "grandfathered" so that an individual so eligible shall have either: (1) been engaged in the practice of home inspections for compensation for not less than three years prior to December 30, 2005 and performed not less than 300 home inspections for compensation prior to December 30, 2005; or (2) performed not less than 400 home inspections for compensation prior to December 30, 2005. The law currently requires that an individual must have either: (1) been engaged in the practice of home inspections for compensation for not less than three years prior to June 30, 2004 and performed not less than 300 home inspections for compensation prior to June 30, 2004; or (2) performed not less than 400 home inspections for compensation prior to June 30, 2004.

Section 1 of P.L.1999, c.76 (C.56:8-19.1) provides that a real estate broker, broker-salesperson or salesperson is exempt from punitive damages and recovery of attorney fees under the consumer fraud law, for any communication by him of any false, misleading or deceptive information provided to him by or on behalf of the seller of the real estate located in this State, if he has no actual knowledge of the false, misleading or deceptive character of the information and performs a "reasonable and diligent inquiry" to determine the accuracy of the information provided by the seller.

N.J.S.A.56:8-19.1 defines "reasonable and diligent inquiry" to allow a real estate broker, broker-salesperson or salesperson to rely on

information from certain licensed individuals, including licensed home inspectors. The bill permits real estate brokers, broker-salespersons or salespersons to similarly rely on such information from unlicensed home inspectors until December 30, 2005.

COMMITTEE AMENDMENTS

The committee amended the bill to eliminate a technical inconsistency. As introduced, the bill delays the "grandfather" licensure provision until December 30, 2005, or approximately 18 months, but only allows the Home Inspection Advisory Committee to issue licenses under this provision for a period of 360 days after the enactment of the bill. The amendment eliminates the 360 day period from the provision, thus eliminating the inconsistency.

As amended, this bill is identical to Senate Bill No. 1467 (1R).