



BILL SUMMARY

<u>COMMITTEE:</u>	Urban Affairs	<u>DATE:</u>	1 03 0/00
<u>PRIME SPONSOR:</u>	Greenleaf	<u>BILL NO.:</u>	SB 1032
<u>PREPARED BY:</u>	Jeri E. Stumpf	<u>PRINTER'S NO.:</u>	2140
		<u>PHONE NO.:</u>	3-5373

A. SUMMARY OF THE BILL:

This legislation would amend Title 68 (Real and Personal Property) relating to residential real estate transfers by providing for: 1) additional disclosures by sellers of residential real estate, and 2) home inspections.

Senate Bill 1032:

- 1) Codifies the provisions of the "Real Estate Seller Disclosure Act" (Act 84 of 1996).
- 2) Repeals Act 84 of 1996.

NOTE: The provisions in Senate Bill 1032 reinstate the provisions of Act 84 of 1996 without substantive changes. The disclosure form, however, prescribing in Act 84 is eliminated as a result of the repeal and the State Real Estate Commission under provisions of Senate Bill 1032 is required to promulgate regulations to establish a new form reflecting any changes necessitated by the passage of Senate Bill 1032.

- 3) Enacts the "Home Inspection Law" as Chapter 75 of Title 68 which includes consumer remedies, prohibited acts, contracts between consumer and home inspectors, home inspection reports, confidentiality, liability, and fines and penalties.

Senate Bill 1032 also:

- Requires home inspectors to be certified by a national certification organization if a renegotiating offering price is suggested by a potential buyer which is different than the

offering price in the original agreement of sale based on a home inspection which established material defects (structural), as defined in the legislation, in the home based on the inspection.

- Allows individuals not certified by a national certification organization to continue to do home inspections.
- Requires organizations that certify home inspectors to do so based on testing; and an apprenticeship program where the individual has performed 100 supervised home inspections in order to be certified. The national certification organization must also provide continuing education courses for home inspectors.
- Permits home inspectors to also do home repairs, However, a home inspector who determines the need for repairs based on a material defect they found could not also be the party repairing the defects during the twelve month period immediately following the establishment of the defect. This is to prevent the potential conflict of interest where a home inspector finds the problem and fixes the problem.
- Exempts new residential construction not previously occupied from the provisions of the Act.
- Defines material defect as “A problem with a residential real property or any portion of it that would have a significant adverse impact on the value of the property or that involves an unreasonable risk to people on the property. The fact that a structural element, system or subsystem is near, at or beyond the end of a normal useful life of such a structural element, system or subsystem is not by itself a material defect.”
- Defines home inspection as “A noninvasive, visual examination of some combination of the mechanical, electrical or plumbing systems or the structural and essential components of a residential dwelling designed to identify material defects in those systems and component, and performed for a fee in connection with or preparation for a proposed or possible residential real estate transfer. The term also includes any consultation regarding the property that is represented to be a home inspection or that is described by any confusingly similar term. The term does not include an examination of a single system or component of a residential dwelling such as, for example, its electrical or plumbing system or its roof”
The term also does not include an examination that is limited to inspection for, or of, one or more of the following; wood destroying insects, underground tanks and wells, septic systems, swimming pools and spas, alarm systems, air and water quality, tennis courts and playground equipment, pollutants, toxic chemicals and environmental hazards.
- Defines home inspector as ‘An individual who performs a home inspection’

- Defines national home inspectors association as “Any national association of home inspectors that:
 - Is operated on a not-for-profit basis and is not operated as a franchise
 - Has members in more than ten states.
 - Requires that a person may not become a full member unless the person has performed and participated in more than one hundred home inspections and has passed a recognized or accredited examination testing knowledge of the proper procedures for conducting a home inspection
 - Requires that its members comply with a code of conduct and attend continuing professional education classes as an ongoing condition of membership.
- Prohibits home inspectors from engaging in the following acts:
 - Performing or offering to perform repairs to a structure for which the home inspector or the employer of the home inspector prepared a home inspection report within the preceding 12 months.
 - Inspecting for a fee any property in which the home inspector or the employer of the home inspector has any financial interest or any interest in the transfer of the property, unless the financial interest is disclosed in writing to the buyer before the home inspection is performed and the buyer acknowledges this disclosure in writing.
 - Offering or delivering any compensation or reward having a total value of more than \$100 during any one-year period to the seller of the inspected property or to an agent for either seller or buyer for the referral of any business to the home inspector or the employer of the home inspector.
 - Accepting an engagement to perform a home inspection or to prepare a home inspection report in which the employment itself or the fee payable for the inspection is contingent upon the conclusions of the report.
- Prohibits the following types of provisions in home inspection contracts:
 - Limitations on the liability of the home inspector for gross negligence or willful misconduct
 - Waivers or modifications of any provisions of the Act.

- Prohibits home inspectors from expressing orally or in writing an estimate of the cost to repair any defect found during a home inspection, except that such an estimate may be included in a home inspection report under the following conditions:
 - The report identifies the source of the estimate.
 - The estimate is stated as a range of costs.
 - The report states that the parties should consider obtaining an estimate from a contractor who performs the type of repair involved.
- Requires that home inspectors maintain insurance against errors and omissions in the performance of a home inspection and general liability with coverage of not less than \$100,000 per occurrence and \$500,000 in the aggregate and with deductibles of not more than \$2,500.

B. SUMMARY OF RELEVANT EXISTING LAW:

Title 68 Pa. C.S. (Real and Personal Property) and Act 84 of 1996.

JES/rhp

Senate Bill 1032 History SB 1032 By Senators GREENLEAF, LOEPER, MELLOW, HART,
SALVATORE, O'PAKE,
FUMO, BELL, BOSCOLA, BRIGHTBILL, CONTI, CORMAN, KUKOVICH, SCHWARTZ,
THOMPSON, WENGER, WOZNIAK, LEMMOND and MOWERY.

Prior Printer's Nos. 1269, 1473, 1802.

Printer's No. 2140.

An Act amending Title 68 (Real and Personal Property) of the Pennsylvania Consolidated Statutes, relating to residential real estate transfers; providing for disclosures by sellers of residential real estate and for home inspections; and making a repeal.

Referred to URBAN AFFAIRS AND HOUSING, June 18, 1999
Reported as amended, Nov. 8, 1999
First consideration, Nov. 8, 1999
Second consideration, Dec. 7, 1999
Re-referred to RULES AND EXECUTIVE NOMINATIONS, Dec. 7, 1999
Re-reported as committed, Feb. 7, 2000
Amended on third consideration, March 20, 2000
Re-referred to APPROPRIATIONS, March 21, 2000
Re-reported as amended, Sept. 26, 2000
Third consideration and final passage, Oct. 3, 2000 (48-0)
 In the House
Referred to URBAN AFFAIRS, Oct. 5, 2000
Reported as committed, Oct. 11, 2000
First consideration, Oct. 11, 2000
Laid on the table, Oct. 11, 2000
Removed from table, Nov. 15, 2000
Second consideration, Nov. 15, 2000
Re-referred to APPROPRIATIONS, Nov. 15, 2000
Re-reported as committed, Nov. 20, 2000
Third consideration and final passage, Nov. 21, 2000 (191-5)
 Signed in Senate, Nov. 21, 2000
 Signed in House, Nov. 21, 2000
 In hands of the Governor, Nov. 22, 2000
 Last day for action, Dec. 30, 2000
 Approved by the Governor, Dec. 20, 2000
 Act No. 114