

By: Senator(s) DeLano

To: Business and Financial  
Institutions

SENATE BILL NO. 2418

1 AN ACT TO BRING FORWARD SECTIONS 73-60-1, 73-60-3, 73-60-5,  
2 73-60-7, 73-60-9, 73-60-11, 73-60-13, 73-60-15, 73-60-17,  
3 73-15-19, 73-15-21, 73-15-23, 73-15-25, 73-15-27, 73-15-29,  
4 73-60-19, 73-60-21, 73-60-23, 73-60-25, 73-60-27, 73-60-29,  
5 73-60-31, 73-60-33, 73-60-35, 73-60-37, 73-60-39, 73-60-41,  
6 73-60-43, 73-60-45 AND 73-60-47, MISSISSIPPI CODE OF 1972, FOR THE  
7 PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 73-60-1, Mississippi Code of 1972, is  
10 brought forward as follows:

11 73-60-1. The following words shall have the meaning ascribed  
12 in this section unless the context clearly indicates otherwise:

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

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



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

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

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

29 (f) "Appraisal Board" means the Mississippi Real Estate  
30 Appraisal Board as established under Section 73-34-8, Mississippi  
31 Code of 1972.

32 (g) "Home Inspector Board" means the Home Inspector  
33 Regulatory Board that is created pursuant to this chapter.

34 **SECTION 2.** Section 73-60-3, Mississippi Code of 1972, is  
35 brought forward as follows:

36 73-60-3. This chapter shall be administered and enforced by  
37 the Mississippi Real Estate Appraisal Board, which shall have the  
38 duties and powers to:

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

44 (b) Implement recommendations made to the Mississippi  
45 Real Estate Appraisal Board by the Home Inspector Regulatory Board



46 with respect to upgrading and improving the experience, education  
47 and examination requirements that are required for a home  
48 inspector license;

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

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

53 (e) Take appropriate action upon a decision and the  
54 related findings of fact made by the Home Inspector Board, or a  
55 hearing officer employed by the Home Inspector Board, if, after an  
56 administrative hearing, the Home Inspector Board or hearing  
57 officer (i) determines that a licensed home inspector under this  
58 chapter has violated the code of ethics and standards established  
59 under this section, and (ii) recommends that the license of the  
60 home inspector be suspended or revoked, that renewal be denied, or  
61 that some other disciplinary action be taken;

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

65 (g) Solicit bids and enter into contracts with one or  
66 more educational testing services or organizations approved by the  
67 Home Inspector Board for the preparation of questions and answers  
68 for licensure examinations under this chapter;

69 (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 Appraisal Board administrator who shall keep a record of all proceedings, transactions, communications and official acts of the Appraisal Board and perform such other duties as the Appraisal Board 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 73-60-5, Mississippi Code of 1972, is brought forward as follows:

73-60-5. (1) There is hereby created, as an adjunct board to the Mississippi Real Estate Appraisal Board, a board to be known as the Home Inspector Regulatory Board, which shall consist of five (5) members appointed by the Governor, with the advice and consent of the Senate, to include one (1) representative from each congressional district, one (1) from the state at large and all shall be licensed home inspectors. Two (2) members shall be appointed to serve for a term of three (3) years, two (2) members shall be appointed to serve for a term of two (2) years and one (1) member shall be appointed to serve for a term of one (1) year.



Thereafter, each member shall be appointed to serve for a term of four (4) years.

(2) The Home Inspector Regulatory Board shall advise the Mississippi Real Estate Appraisal Board or its designee on all matters relating to this chapter. The Home Inspector Regulatory Board shall meet no less than four (4) times annually and shall be reimbursed for expenses on a per diem basis pursuant to state law.

**SECTION 4.** Section 73-60-7, Mississippi Code of 1972, is brought forward as follows:

73-60-7. (1) The Home Inspector Regulatory Board 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 Appraisal Board, may issue to this person an order requiring him or her to appear



119 before the Appraisal Board, or the officer designated by him or  
120 her, there to produce documentary evidence if so ordered or to  
121 give evidence touching the matter under investigation or in  
122 question. Failure to obey the order of the court may be punished  
123 by the court as contempt of court.

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

127 (e) Recommend suspension or revocation of licenses  
128 pursuant to the disciplinary proceedings provided for in this  
129 chapter.

130 (f) Present an annual budget to the Mississippi  
131 Legislature for approval. A copy of the budget shall be given to  
132 the Appraisal Board.

133 (2) The members of the Appraisal Board and the Home  
134 Inspector Board shall be immune from any civil action or criminal  
135 prosecution for initiating or assisting in any lawful  
136 investigation of the actions of, or participating in any  
137 disciplinary proceeding concerning, a home inspector licensed  
138 pursuant to this chapter, provided that such action is taken  
139 without malicious intent and in the reasonable belief that the  
140 action was taken pursuant to the powers and duties vested in the  
141 members of the Appraisal Board and Home Inspector Board under this  
142 chapter.



**SECTION 5.** Section 73-60-9, Mississippi Code of 1972, is brought forward as follows:

73-60-9. (1) No person may engage in or transact any home inspection business, or hold himself or herself out to the public as a home inspector, or offer to engage in or transact any home inspection business in this state unless the person is licensed by the Appraisal Board.

(2) No license shall be issued under the provisions of this chapter to a partnership, association, corporation, limited liability company or partnership, firm or group. However, nothing in this chapter precludes a licensed home inspector from performing home inspection for and on behalf of a partnership, association, corporation, limited liability company or partnership, firm or group or from entering into contracts or enforcing contracts as partnership, association, corporation, limited liability company or partnership, firm or group.

**SECTION 6.** Section 73-60-11, Mississippi Code of 1972, is brought forward as follows:

73-60-11. (1) An application for an original license shall be made in writing to the Appraisal Board on forms as the Appraisal Board may prescribe and shall be accompanied by the required fee and proof of liability insurance and errors and omissions insurance.

(2) To qualify for a license under this chapter, a person shall:



(a) Have successfully completed high school or its equivalent;

(b) Be at least twenty-one (21) years of age;

(c) Have successfully completed an approved course of study of at least sixty (60) hours that may include field work as prescribed by the Appraisal Board;

(d) Have passed an examination as prescribed by the Appraisal Board;

(e) Provide a certificate of insurance for errors and omissions and general liability insurance (in the required amounts) pursuant to Section 73-60-15; and

(f) Have passed a background investigation pursuant to Section 73-60-47.

(3) The Appraisal Board must review each application for a license submitted to it and must notify each applicant that the application is either accepted or rejected. The Appraisal Board must send notification of acceptance or rejections to the applicant at the address provided by the applicant in the application within thirty (30) days of receiving the application. If the application is rejected, the notice sent to the applicant must state the reasons for the rejection.

**SECTION 7.** Section 73-60-13, Mississippi Code of 1972, is brought forward as follows:

73-60-13. (1) All home inspectors are required to carry general liability insurance and errors and omissions insurance.



(2) Such policy and certificates shall provide that cancellation or nonrenewal of the policy shall not be effective unless and until at least ten (10) days' notice of cancellation or nonrenewal has been received in writing by the Appraisal Board.

(3) Insurance coverage limits shall be no less than Two Hundred Fifty Thousand Dollars (\$250,000.00) for general liability and no less than Two Hundred Fifty Thousand Dollars (\$250,000.00) for errors and omissions, per occurrence.

**SECTION 8.** Section 73-60-15, Mississippi Code of 1972, is brought forward as follows:

73-60-15. (1) An action by a client to recover damages for any act or omission of a home inspector relating to a home inspection that he conducts shall be commenced within three (3) years after the date a home inspection is completed or the action shall be barred. Further, a licensed home inspector shall not be liable for any latent defects that may be contained in the observable systems and components of improvements to residential real property that he has inspected and has issued a home inspection report.

(2) Any professional who is licensed by the State of Mississippi when acting within the scope of his profession and is not a licensed home inspector shall not be liable for the findings, errors or omissions of the home inspection, provided that he has not provided physical work on the residential building; has not committed proven fraud in the real estate



transaction; and has no personal or financial interest in the ownership of the residential building.

(3) Any person who in good faith or intention recommends or endorses a home inspector without compensation, remuneration, rebate or any other form of consideration shall not be liable for the actions of that home inspector, including errors, omissions, failure to perform any contracted duties of a home inspection, or failure to meet the standards of practice, report writing standards or code of ethics.

**SECTION 9.** Section 73-60-17, Mississippi Code of 1972, is brought forward as follows:

73-60-17. (1) A licensed home inspector is required to follow the Standards of Practice and Code of Ethics as adopted and published by the commission.

(2) A home inspection report must be issued by a home inspector to a client as specified in the Standards of Practice.

**SECTION 10.** Section 73-60-19, Mississippi Code of 1972, is brought forward as follows:

73-60-19. The requirements of this chapter shall not prevent the following from performing a visual inspection of a home that is within the scope of their license without further license from the board: specialty contractor, general contractor, architect, engineer, insurance adjuster, individual employed by a governmental entity, person employed by a bank, savings and loan



or credit union, licensed real estate broker or salesperson, a  
licensed appraiser or a home builder.

**SECTION 11.** Section 73-60-21, Mississippi Code of 1972, is  
brought forward as follows:

73-60-21. Except as provided in Section 33-1-39, a license  
under this chapter shall expire two (2) years after its date of  
issuance. The Appraisal Board may issue a renewal license without  
examination, on submission of a completed renewal application,  
payment of the required license renewal fee, and successful  
completion of continuing education requirements.

**SECTION 12.** Section 73-60-23, Mississippi Code of 1972, is  
brought forward as follows:

73-60-23. (1) Each person who applies for renewal of his or  
her license shall successfully complete home inspector continuing  
education courses approved by the Appraisal Board 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 Appraisal Board pursuant to rule  
with the recommendation of the Home Inspector Board.

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



(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 13.** Section 73-60-25, Mississippi Code of 1972, is brought forward as follows:

73-60-25. A home inspector license may be issued to a home inspector from another state who satisfies one (1) of the following requirements: (a) holds a valid certificate of certification, registration or home inspector license in good standing issued by another state, which has requirements for licensure substantially identical to those of this state, or (b) has passed the examination offered by the American Society of Home Inspectors or the National Association of Home Inspectors. The issuance of a license by reciprocity to a military-trained applicant, military spouse or person who establishes residence in this state shall be subject to the provisions of Section 73-50-1 or 73-50-2, as applicable.

**SECTION 14.** Section 73-60-27, Mississippi Code of 1972, is brought forward as follows:

73-60-27. (1) On or after July 1, 2001, any person who acts as a home inspector, or holds himself or herself out as a home inspector, without being licensed under this chapter, shall, in addition to any other penalty provided by law, be liable for an



291 administrative fine not to exceed One Thousand Dollars (\$1,000.00)  
292 for a first offense and not to exceed Five Thousand Dollars  
293 (\$5,000.00) for a second or subsequent offense as determined by  
294 the Appraisal Board.

295 (2) The Appraisal Board has the authority and power to  
296 investigate any and all unlicensed activity.

297 (3) No licensed home inspector may perform repairs on a  
298 residential building as part of or result of the home inspection.

299 (4) After October 1, 2001, no person licensed under this  
300 chapter shall offer to perform or perform inspection services on  
301 new construction for a fee without having first obtained a  
302 residential home builders license from the Mississippi Board of  
303 Contractors and certification by the Southern Building Code  
304 Congress or any other national professional code organization.

305 **SECTION 15.** Section 73-60-29, Mississippi Code of 1972, is  
306 brought forward as follows:

307 73-60-29. The Appraisal Board shall charge and collect  
308 appropriate fees for its services under this chapter. The fees  
309 charged shall not exceed the amounts indicated below and shall be  
310 set by the Appraisal Board.

311 **LICENSURE FEES:**

312 Application and examination.....\$175.00  
313 Initial and renewal license.....\$325.00  
314 Delinquent renewal penalty.....100% of renewal fee

315 **SERVICES:**



316 For each change of address.....\$ 25.00  
317 For each duplicate license.....\$ 25.00  
318 To change status as a licensee from active to inactive.....\$ 25.00  
319 For each bad check received by the commission.....\$ 25.00

320 All fees charged and collected under this chapter shall be  
321 paid by the Appraisal Board at least once a week, accompanied by a  
322 detailed statement thereof, to the credit of the fund known as the  
323 "Home Inspector License Fund," hereby created in the State  
324 Treasury. All monies which are collected under this chapter shall  
325 be paid into and credited to such fund for the use of the Home  
326 Inspector Board in carrying out the provisions of the chapter,  
327 including the payment of salaries and expenses, printing an annual  
328 directory of licensees, and for educational purposes. All  
329 interest earned on the Home Inspector License Fund shall be  
330 retained by the Home Inspector Board for purposes consistent with  
331 this chapter. The Appraisal Board shall submit a monthly  
332 statement to the Home Inspector Board detailing any expenses which  
333 it bears as a share in the expense of administering this chapter,  
334 for which expenses it shall be reimbursed in the amount approved  
335 by the Home Inspector Board. The Appraisal Board shall prepare an  
336 annual statement of income and expenses related to its  
337 regulatory-related administrative function.

338 **SECTION 16.** Section 73-60-31, Mississippi Code of 1972, is  
339 brought forward as follows:



73-60-31. The Appraisal Board may refuse to issue, renew, or may revoke or suspend, a license or may place on probation, censure, reprimand or take other disciplinary action with regard to any license issued under this chapter, including the issuance of fines for each violation, for any one (1) or combination of the following causes:

(a) Violations of this chapter or the Appraisal Board's rules promulgated pursuant hereto;

(b) Violation of terms of license probation;

(c) Conviction of a felony or making a plea of guilty or nolo contendere within five (5) years prior to the date of application;

(d) Operating without adequate insurance coverage required for licensees;

(e) Fraud in the procurement or performance of a contract to conduct a home inspection; and

(f) Failure to submit to or pass a background investigation pursuant to Section 73-60-47.

**SECTION 17.** Section 73-60-33, Mississippi Code of 1972, is brought forward as follows:

73-60-33. (1) The Appraisal Board may investigate the actions of an applicant or of a person holding or claiming to hold a license upon complaint in writing of any person setting forth facts which, if proved, would constitute a violation of this chapter or rules promulgated hereunder.



(2) Whenever it appears to the Appraisal Board that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, they may, in their discretion, seek any or all of the following remedies:

(a) When in the public interest to prevent harm to the welfare and safety of the public, issue a cease and desist order, with or without a prior hearing against the person or persons engaged in the prohibited activities, directing them to cease and desist from further illegal activity; or

(b) Bring an action in chancery court to enjoin the acts or practices to enforce compliance with this chapter or any rule or order hereunder. Upon a proper showing a permanent or temporary injunction, restraining order or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(3) With the exception of actions authorized by subsection (2) (a) and (b) above, the Appraisal Board shall, before taking any disciplinary action that it may deem proper with regard to a license, at least twenty (20) days prior to the date set for a hearing, notify the applicant or licensee in writing of any charges made and the time and place for a hearing of the charges. Such written notice may be served by personal delivery or certified or registered mail at the licensee's last known address as reflected on their licensing application.



(4) The Appraisal Board shall, after a hearing, issue an order either issuing, renewing, refusing to issue or renew, reinstating or revoking the license.

**SECTION 18.** Section 73-60-35, Mississippi Code of 1972, is brought forward as follows:

73-60-35. (1) Upon the revocation or suspension of a license, the licensee shall immediately surrender the license to the Appraisal Board. If the licensee fails to do so, the Appraisal Board shall have the right to seize the license.

(2) If circumstances of suspension or revocation so indicate, the Appraisal Board may require an examination of the licensee before restoring his license.

**SECTION 19.** Section 73-60-37, Mississippi Code of 1972, is brought forward as follows:

73-60-37. The Appraisal Board shall maintain a roster of names and addresses of all licenses and of all persons whose licenses have been suspended or revoked. This roster shall be published on a web site designated by the Appraisal Board. All licensees under this chapter shall inform the Appraisal Board of any change in their business or home address.

**SECTION 20.** Section 73-60-39, Mississippi Code of 1972, is brought forward as follows:

73-60-39. A person already engaged in the business of performing home inspections on July 1, 2001, is allowed ninety (90) days from July 1, 2001, to comply with the provisions of this



chapter for the purpose of qualifying to perform home inspections. Such person will qualify for a license without being required to take an examination if he or she can document to the satisfaction of the Appraisal Board that he or she has conducted not less than twenty (20) fee-paid home inspections in the previous twelve (12) months or one hundred (100) fee-paid home inspections over his or her career or that he or she has received certification as a home inspector from a nationally recognized education center in a curriculum approved by the United States Department of Housing and Urban Development and the United States Department of Education.

**SECTION 21.** Section 73-60-41, Mississippi Code of 1972, is brought forward as follows:

73-60-41. The information contained in or filed with any registration application or renewal application is subject to public disclosure. Information in the possession of, submitted to or obtained by the Appraisal Board in connection with any investigation or examination under this chapter shall be confidential and exempt from the requirements of the Mississippi Public Records Act of 1983. No such information may be disclosed by the Appraisal Board or its employees unless necessary or appropriate in connection with a particular investigation or proceeding under this chapter or for any law enforcement purpose, in the absence of an order of a court of competent jurisdiction requiring such disclosure.



**SECTION 22.** Section 73-60-43, Mississippi Code of 1972, is brought forward as follows:

73-60-43. Any condition, stipulation or provision binding any person engaging the services of a home inspector to waive compliance with any provision of this chapter or any rule or order hereunder is void.

**SECTION 23.** Section 73-60-45, Mississippi Code of 1972, is brought forward as follows:

73-60-45. The Home Inspector Board may employ legal counsel to represent it in any proceedings when legal counsel is required.

**SECTION 24.** Section 73-60-47, Mississippi Code of 1972, is brought forward as follows:

73-60-47. (1) (a) To qualify for a Mississippi home inspector license, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination that the applicant does not possess a background which calls into question public trust, as set forth below in subsection (2), and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Section 73-60-31.

(b) To assist the commission in conducting its licensure investigation, on or after July 1, 2021, all applicants for a Mississippi home inspector license, and all applicants for renewal of any home inspector license shall undergo a fingerprint-based criminal history records check of the



Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the Appraisal Board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

(c) Any and all state or national criminal history records information obtained by the Appraisal Board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the Appraisal Board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the Appraisal Board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the commission to any other person or agency.

(d) The Appraisal Board shall provide to the department the fingerprints of the applicant, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to



the use of the fingerprints and other identifying information required by the state or national repositories.

(e) The Appraisal Board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the Appraisal Board in requesting and obtaining state and national criminal history records information on the applicant.

(2) (a) The Appraisal Board must ensure that applicants for home inspector licenses do not possess a background that could call into question public trust. An applicant found by the Appraisal Board to possess a background which calls into question the applicant's ability to maintain public trust shall not be issued a home inspector license.

(b) The Appraisal Board shall not issue a home inspector license if:

(i) The applicant has had a home inspector license revoked in any governmental jurisdiction within the five-year period immediately preceding the date of the application;

(ii) The applicant has been convicted of, or pled guilty or nolo contendere to, a felony in a domestic or foreign court involving an act of fraud, dishonesty or a breach of trust, or money laundering at any time preceding the date of the application if, in the discretion of the Appraisal Board following notice to the applicant and a hearing, good cause exists to deny or not renew licensure.



513                   (c) Applicants for a home inspector license or renewal  
514 of a home inspector license who hold any other license falling  
515 under the jurisdiction of the Appraisal Board requiring a  
516 background check shall not be required to pay for more than one  
517 (1) background check during a calendar year.

518                   (d) The Appraisal Board shall adopt rules and  
519 regulations necessary to implement, administer and enforce the  
520 provisions of this section.

521           **SECTION 25.** This act shall take effect and be in force from  
522 and after July 1, 2025.

