

ESSB 6606 - H COMM AMD
By Committee on Appropriations

ADOPTED AS AMENDED 03/06/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
4 section apply throughout this chapter unless the context clearly
5 requires otherwise.

6 (1) "Board" means the home inspector advisory licensing board.

7 (2) "Department" means the department of licensing.

8 (3) "Director" means the director of the department of licensing.

9 (4) "Entity" or "entities" means educational groups or
10 organizations, national organizations or associations, or a national
11 test organization.

12 (5) "Home inspection" means a professional examination of the
13 current condition of a house.

14 (6) "Home inspector" means a person who carries out a noninvasive
15 examination of the condition of a home, often in connection with the
16 sale of that home, using special training and education to carry out
17 the inspection.

18 (7) "Report" means a written report prepared and issued after a
19 home inspection.

20 (8) "Wood destroying organism" means insects or fungi that consume,
21 excavate, develop in, or otherwise modify the integrity of wood or wood
22 products. "Wood destroying organism" includes but is not limited to
23 carpenter ants, moisture ants, subterranean termites, dampwood
24 termites, beetles in the family Anobiidae, and wood decay fungi, known
25 as wood rot.

26 NEW SECTION. **Sec. 2.** LICENSURE REQUIRED. (1) Beginning September
27 1, 2009, a person shall not engage in or conduct, or advertise or hold
28 himself or herself out as engaging in or conducting, the business of or

1 acting in the capacity of a home inspector within this state without
2 first obtaining a license as provided in this chapter.

3 (2) Any person performing the duties of a home inspector on the
4 effective date of this act has until July 1, 2010, to meet the
5 licensing requirements of this chapter. However, if a person
6 performing the duties of a home inspector on the effective date of this
7 act has proof that he or she has worked as a home inspector for at
8 least two years and has conducted at least one hundred home
9 inspections, he or she may apply to the board before September 1, 2009,
10 for licensure without meeting the instruction and training requirements
11 of this chapter.

12 (3) The director may begin issuing licenses under this section
13 beginning on July 1, 2009.

14 NEW SECTION. **Sec. 3.** DUTIES OF A LICENSED HOME INSPECTOR. A
15 person licensed under this chapter is responsible for performing a
16 visual and noninvasive inspection of the following readily accessible
17 systems and components of a home and reporting on the general condition
18 of those systems and components at the time of the inspection in his or
19 her written report: The roof, foundation, exterior, heating system,
20 air-conditioning system, structure, plumbing and electrical systems,
21 and other aspects of the home as may be identified by the board. The
22 inspection must include looking for certain fire and safety hazards as
23 defined by the board. The standards of practice to be developed by the
24 board will be used as the minimum standards for an inspection. The
25 duties of the home inspector with regard to wood destroying organisms
26 are provided in section 19 of this act.

27 NEW SECTION. **Sec. 4.** HOME INSPECTOR ADVISORY LICENSING BOARD.
28 (1) The state home inspector advisory licensing board is created. The
29 board consists of seven members appointed by the governor, who shall
30 advise the director concerning the administration of this chapter. Of
31 the appointments to this board, six must be actively engaged as home
32 inspectors immediately prior to their appointment to the board, and one
33 must be currently teaching in a home inspector education program.
34 Insofar as possible, the composition of the appointed home inspector
35 members of the board must be generally representative of the geographic

1 distribution of home inspectors licensed under this chapter. No more
2 than two board members may be members of a particular national home
3 inspector association or organization.

4 (2) A home inspector must have the following qualifications to be
5 appointed to the board:

6 (a) Actively engaged as a home inspector in the state of Washington
7 for five years;

8 (b) Licensed as a home inspector under this chapter, except for
9 initial appointments; and

10 (c) Performed a minimum of five hundred home inspections in the
11 state of Washington.

12 (3) Members of the board are appointed for three-year terms. Terms
13 must be staggered so that not more than two appointments are scheduled
14 to be made in any calendar year. Members hold office until the
15 expiration of the terms for which they were appointed. The governor
16 may remove a board member for just cause. The governor may appoint a
17 new member to fill a vacancy on the board for the remainder of the
18 unexpired term. All board members are limited to two consecutive
19 terms.

20 (4) Each board member is entitled to compensation for each day
21 spent conducting official business and to reimbursement for travel
22 expenses in accordance with RCW 43.03.240, 43.03.050, and 43.03.060.

23 NEW SECTION. **Sec. 5.** DIRECTOR'S AUTHORITY. The director has the
24 following authority in administering this chapter:

25 (1) To adopt, amend, and rescind rules approved by the board as
26 deemed necessary to carry out this chapter;

27 (2) To administer licensing examinations approved by the board and
28 to adopt or recognize examinations prepared by other entities as
29 approved by the board; and

30 (3) To adopt standards of professional conduct, practice, and
31 ethics as approved by the board.

32 NEW SECTION. **Sec. 6.** BOARD'S AUTHORITY. The board has the
33 following authority in administering this chapter:

34 (1) To establish rules, including board organization and assignment
35 of terms, and meeting frequency and timing, for adoption by the
36 director;

1 (2) To establish the minimum qualifications for licensing
2 applicants as provided in this chapter;

3 (3) To approve the method of administration of examinations
4 required by this chapter or by rule as established by the director;

5 (4) To approve the content of or recognition of examinations
6 prepared by other entities for adoption by the director;

7 (5) To set the time and place of examinations with the approval of
8 the director; and

9 (6) To establish and review standards of professional conduct,
10 practice, and ethics for adoption by the director. These standards
11 must address what constitutes certain fire and safety hazards as used
12 in section 3 of this act.

13 NEW SECTION. **Sec. 7.** QUALIFICATIONS FOR LICENSURE. In order to
14 become licensed as a home inspector, an applicant must submit the
15 following to the department:

16 (1) An application on a form developed by the department;

17 (2) Proof of a minimum of one hundred twenty hours of classroom
18 instruction approved by the board;

19 (3) Proof of up to forty hours of field training supervised by a
20 licensed home inspector; and

21 (4) Evidence of successful passage of the written exam as required
22 in section 8 of this act.

23 NEW SECTION. **Sec. 8.** WRITTEN EXAMS. Applicants for licensure
24 must pass an exam that is psychometrically valid, reliable, and legally
25 defensible by the state. The exam is to be developed, maintained, and
26 administered by the department. The board shall recommend to the
27 director whether to use an exam that is prepared by a national entity.
28 If an exam prepared by a national entity is used, a section specific to
29 Washington shall be developed by the director and included as part of
30 the entire exam.

31 NEW SECTION. **Sec. 9.** LICENSE LENGTH AND RENEWAL. Licenses are
32 issued for a term of two years and expire on the applicant's second
33 birthday following issuance of the license.

1 NEW SECTION. **Sec. 10.** ADVERTISING. The term "licensed home
2 inspector" and the license number of the inspector must appear on all
3 advertising, correspondence, and documents incidental to a home
4 inspection. However, businesses and organizations that conduct
5 national or interstate general marketing and advertising campaigns may
6 omit the license number of the inspector in advertising so long as it
7 is included on all documents incident to a home inspection.

8 NEW SECTION. **Sec. 11.** CONTINUING EDUCATION REQUIREMENTS. (1) As
9 a condition of renewing a license under this chapter, a licensed home
10 inspector shall present satisfactory evidence to the board of having
11 completed the continuing education requirements provided for in this
12 section.

13 (2) Each applicant for license renewal shall complete at least
14 twenty-four hours of instruction in courses approved by the board every
15 two years.

16 NEW SECTION. **Sec. 12.** WRITTEN REPORTS. (1) A licensed home
17 inspector shall provide a written report of the home inspection to each
18 person for whom the inspector performs a home inspection within a time
19 period set by the board in rule. The issues to be addressed in the
20 report shall be set by the board in rule.

21 (2) A licensed home inspector, or other licensed home inspectors or
22 employees who work for the same company or for any company in which the
23 home inspector has a financial interest, shall not, from the time of
24 the inspection until one year from the date of the report, perform any
25 work other than home inspection-related consultation on the home upon
26 which he or she has performed a home inspection.

27 NEW SECTION. **Sec. 13.** SUSPENSION OF LICENSE. (1) The director
28 shall immediately suspend the license of a person who has been
29 certified pursuant to RCW 74.20A.320 by the department of social and
30 health services as a person who is not in compliance with a child
31 support order. If the person has continued to meet all other
32 requirements for a license under this chapter during the suspension,
33 reissuance of the license is automatic upon the board's receipt of a
34 release issued by the department of social and health services stating
35 that the licensee is in compliance with the child support order. The

1 procedure in RCW 74.20A.320 is the exclusive administrative remedy for
2 contesting the establishment of noncompliance with a child support
3 order, and suspension of a license under this subsection, and satisfies
4 the requirements of RCW 34.05.422.

5 (2) The director, with the assistance of the board, shall establish
6 by rule under what circumstances a home inspector license may be
7 suspended or revoked. These circumstances shall be based upon accepted
8 industry standards and the board's cumulative experience.

9 (3) Any person aggrieved by a decision of the director under this
10 section may appeal the decision as provided in chapter 34.05 RCW. The
11 adjudicative proceeding shall be conducted under chapter 34.05 RCW by
12 an administrative law judge appointed pursuant to RCW 34.12.030.

13 NEW SECTION. **Sec. 14.** CIVIL INFRACTIONS. The department has the
14 authority to issue civil infractions under chapter 7.80 RCW in the
15 following instances:

16 (1) Conducting or offering to conduct a home inspection without
17 being licensed in accordance with this chapter;

18 (2) Presenting or attempting to use as his or her own the home
19 inspector license of another;

20 (3) Giving any false or forged evidence of any kind to the director
21 or his or her authorized representative in obtaining a license;

22 (4) Falsely impersonating any other licensee; or

23 (5) Attempting to use an expired or revoked license.

24 All fines and penalties collected or assessed by a court because of
25 a violation of this section must be remitted to the department to be
26 deposited into the business and professions account created in RCW
27 43.24.150.

28 NEW SECTION. **Sec. 15.** The uniform regulation of business and
29 professions act, chapter 18.235 RCW, governs unlicensed practice, the
30 issuance and denial of licenses, and the discipline of licensees under
31 this chapter.

32 NEW SECTION. **Sec. 16.** RELIEF BY INJUNCTION. The director is
33 authorized to apply for relief by injunction without bond, to restrain
34 a person from the commission of any act that is prohibited under
35 section 14 of this act. In such a proceeding, it is not necessary to

1 allege or prove either that an adequate remedy at law does not exist,
2 or that substantial or irreparable damage would result from continued
3 violation. The director, individuals acting on the director's behalf,
4 and members of the board are immune from suit in any action, civil or
5 criminal, based on disciplinary proceedings or other official acts
6 performed in the course of their duties in the administration and
7 enforcement of this chapter.

8 NEW SECTION. **Sec. 17.** EXEMPTION FROM LICENSING. The following
9 persons are exempt from the licensing requirements of this chapter when
10 acting within the scope of their license or profession:

- 11 (1) Engineers;
- 12 (2) Architects;
- 13 (3) Electricians licensed under chapter 19.28 RCW;
- 14 (4) Plumbers licensed under chapter 18.106 RCW;
- 15 (5) Pesticide operators licensed under chapter 17.21 RCW; or
- 16 (6) Structural pest inspectors licensed under chapter 15.58 RCW.

17 NEW SECTION. **Sec. 18.** RECIPROCITY. Persons licensed as home
18 inspectors in other states may become licensed as home inspectors under
19 this chapter as long as the other state has licensing requirements that
20 meet or exceed those required under this chapter and the person seeking
21 a license under this chapter passes the Washington portion of the exam
22 under section 8 of this act.

23 NEW SECTION. **Sec. 19.** STRUCTURAL PEST INSPECTOR. Any person
24 licensed under this chapter who is not also licensed as a pest
25 inspector under chapter 15.58 RCW shall only refer in his or her report
26 to rot or conducive conditions for wood destroying organisms and shall
27 refer the identification of or damage by wood destroying insects to a
28 structural pest inspector licensed under chapter 15.58 RCW.

29 NEW SECTION. **Sec. 20.** Captions used in this chapter are not any
30 part of the law.

31 **Sec. 21.** RCW 18.235.020 and 2007 c 256 s 12 are each amended to
32 read as follows:

- 33 (1) This chapter applies only to the director and the boards and

1 commissions having jurisdiction in relation to the businesses and
2 professions licensed under the chapters specified in this section.
3 This chapter does not apply to any business or profession not licensed
4 under the chapters specified in this section.

5 (2)(a) The director has authority under this chapter in relation to
6 the following businesses and professions:

7 (i) Auctioneers under chapter 18.11 RCW;

8 (ii) Bail bond agents and bail bond recovery agents under chapter
9 18.185 RCW;

10 (iii) Camping resorts' operators and salespersons under chapter
11 19.105 RCW;

12 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

13 (v) Cosmetologists, barbers, manicurists, and estheticians under
14 chapter 18.16 RCW;

15 (vi) Court reporters under chapter 18.145 RCW;

16 (vii) Driver training schools and instructors under chapter 46.82
17 RCW;

18 (viii) Employment agencies under chapter 19.31 RCW;

19 (ix) For hire vehicle operators under chapter 46.72 RCW;

20 (x) Limousines under chapter 46.72A RCW;

21 (xi) Notaries public under chapter 42.44 RCW;

22 (xii) Private investigators under chapter 18.165 RCW;

23 (xiii) Professional boxing, martial arts, and wrestling under
24 chapter 67.08 RCW;

25 (xiv) Real estate appraisers under chapter 18.140 RCW;

26 (xv) Real estate brokers and salespersons under chapters 18.85 and
27 18.86 RCW;

28 (xvi) Security guards under chapter 18.170 RCW;

29 (xvii) Sellers of travel under chapter 19.138 RCW;

30 (xviii) Timeshares and timeshare salespersons under chapter 64.36
31 RCW; (~~and~~)

32 (xix) Whitewater river outfitters under chapter 79A.60 RCW; and

33 (xx) Home inspectors under chapter 18.-- RCW (the new chapter
34 created in section 25 of this act).

35 (b) The boards and commissions having authority under this chapter
36 are as follows:

37 (i) The state board of registration for architects established in
38 chapter 18.08 RCW;

- 1 (ii) The cemetery board established in chapter 68.05 RCW;
2 (iii) The Washington state collection agency board established in
3 chapter 19.16 RCW;
4 (iv) The state board of registration for professional engineers and
5 land surveyors established in chapter 18.43 RCW governing licenses
6 issued under chapters 18.43 and 18.210 RCW;
7 (v) The state board of funeral directors and embalmers established
8 in chapter 18.39 RCW;
9 (vi) The state board of registration for landscape architects
10 established in chapter 18.96 RCW; and
11 (vii) The state geologist licensing board established in chapter
12 18.220 RCW.

13 (3) In addition to the authority to discipline license holders, the
14 disciplinary authority may grant or deny licenses based on the
15 conditions and criteria established in this chapter and the chapters
16 specified in subsection (2) of this section. This chapter also governs
17 any investigation, hearing, or proceeding relating to denial of
18 licensure or issuance of a license conditioned on the applicant's
19 compliance with an order entered under RCW 18.235.110 by the
20 disciplinary authority.

21 **Sec. 22.** RCW 43.24.150 and 2005 c 25 s 1 are each amended to read
22 as follows:

23 (1) The business and professions account is created in the state
24 treasury. All receipts from business or professional licenses,
25 registrations, certifications, renewals, examinations, or civil
26 penalties assessed and collected by the department from the following
27 chapters must be deposited into the account:

- 28 (a) Chapter 18.11 RCW, auctioneers;
29 (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
30 (c) Chapter 18.96 RCW, landscape architects;
31 (d) Chapter 18.145 RCW, court reporters;
32 (e) Chapter 18.165 RCW, private investigators;
33 (f) Chapter 18.170 RCW, security guards;
34 (g) Chapter 18.185 RCW, bail bond agents;
35 (h) Chapter 18.-- RCW, home inspectors (the new chapter created in
36 section 25 of this act);
37 (i) Chapter 19.16 RCW, collection agencies;

- 1 ~~((i))~~ (j) Chapter 19.31 RCW, employment agencies;
- 2 ~~((j))~~ (k) Chapter 19.105 RCW, camping resorts;
- 3 ~~((k))~~ (l) Chapter 19.138 RCW, sellers of travel;
- 4 ~~((l))~~ (m) Chapter 42.44 RCW, notaries public; and
- 5 ~~((m))~~ (n) Chapter 64.36 RCW, timeshares.

6 Moneys in the account may be spent only after appropriation.
7 Expenditures from the account may be used only for expenses incurred in
8 carrying out these business and professions licensing activities of the
9 department. Any residue in the account shall be accumulated and shall
10 not revert to the general fund at the end of the biennium.

11 (2) The director shall biennially prepare a budget request based on
12 the anticipated costs of administering the business and professions
13 licensing activities listed in subsection (1) of this section, which
14 shall include the estimated income from these business and professions
15 fees.

16 NEW SECTION. **Sec. 23.** A new section is added to chapter 15.58 RCW
17 to read as follows:

18 A person licensed as a home inspector under chapter 18.--- RCW (the
19 new chapter created in section 25 of this act) is exempt from licensing
20 as a structural pest inspector except when reporting on the
21 identification of or damage by wood destroying insects.

22 NEW SECTION. **Sec. 24.** A new section is added to chapter 18.85 RCW
23 to read as follows:

24 The commission must establish procedures, to be adopted in rule by
25 the director, for real estate agents to follow when providing potential
26 home buyers with home inspector referrals.

27 NEW SECTION. **Sec. 25.** Sections 1 through 20 of this act
28 constitute a new chapter in Title 18 RCW.

29 NEW SECTION. **Sec. 26.** If specific funding for the purposes of
30 this act, referencing this act by bill or chapter number, is not
31 provided by June 30, 2008, in the omnibus appropriations act, this act
32 is null and void."

33 Correct the title.