

# HOUSE BILL REPORT

## ESSB 5788

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### As Passed House - Amended:

April 6, 2007

**Title:** An act relating to the licensing of home inspectors.

**Brief Description:** Requiring the licensing of home inspectors.

**Sponsors:** By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Spanel, Brandland and Kohl-Welles).

### Brief History:

#### Committee Activity:

Commerce & Labor: 3/27/07, 3/30/07 [DPA].

#### Floor Activity:

Passed House - Amended: 4/6/07, 93-2.

### Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Requires the Department of Licensing to conduct a study of the regulation of home inspectors.

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## HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass as amended. Signed by 7 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Green, Moeller and Williams.

**Staff:** Joan Elgee (786-7106).

### Background:

Home inspectors are not required to be registered, certified, or licensed with the state. A person who conducts wood destroying organism inspections, however, must obtain a structural pest inspector license from the Washington State Department of Agriculture.

The Legislature may request the Department of Licensing (Department) to conduct a sunrise review of proposals for regulation of professions not currently regulated. The sunrise review

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law states legislative intent that a business profession should be regulated only to protect the public interest. Further, a business profession should be regulated by the state only when:

- unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;
- the public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and
- the public cannot be effectively protected by other means in a more cost-beneficial manner.

Under the sunrise law, a group proposing to be regulated or any other interested party which proposes that a profession be regulated ("applicant group") must address a list of factors to the extent requested by the Legislature. These factors include a definition of the problem, the efforts made to address the problem, the alternatives considered, the benefit to the public if regulation is granted, and the extent to which regulation might harm the public.

The Department has adopted a sunrise process, which includes conducting a public hearing on the report submitted by the applicant group. The Department then reports to the Legislature on the background of the proposal, the Department's findings, and the Department's advisory recommendations.

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**Summary of Amended Bill:**

The Department must conduct a study of the home inspector profession and make recommendations to the Legislature as to whether home inspectors should be regulated for the purpose of protecting the public interest under the criteria specified in the sunrise law. The Department must consider the factors, to the extent appropriate, set forth in the sunrise law.

As part of the study, the Department must hold public hearings. Notice of the hearings must be published in the Washington State Register. In addition, the Department must request names of interested individuals and organizations from legislators and other identified interested parties and send these persons copies of the notice published in the register.

The Department must submit a report detailing its findings and recommendations to the appropriate legislative committees by December 1, 2007.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) This is a consumer protection bill. People purchasing a home and having an inspection have the right to know that the person doing the inspection is competent. Many changes that people requested have been made. Under this bill, pest inspectors do not need to be home inspectors and architects and engineers are exempt. Some people will never be satisfied.

This bill is better than nothing but it is a weak bill. It doesn't address enforcement or ethical problems. The enforcement provisions should be put back in. Insurance is required for errors and omissions but contracts often limit liability to amount paid for the fee. In addition, it is common for contracts to have voluminous exclusions.

Sunrise is a good idea; we didn't know about it last year.

We support the exemption of structural pest inspectors for those who only do pest inspections.

The cost of the licensing fee is a concern. Maybe the program should be merged with the pest inspector program.

The education should be increased; it is only 3 weeks. Inspecting homes is complex. We require 200 hours to appraise a house; inspection is more complicated than appraising. The education should be increased to 160 hours.

(In support with concerns) We are concerned with enforcement and would like RCW 18.235 referenced. The exam may not be psychometrically defensible. Two different agencies would be involved and there may be confusion. There are other administrative considerations.

(With concerns) If the home industry could develop something, we would support it. We need a stakeholder process and a sunrise review.

(Opposed) We didn't have time to participate in the sunrise review. Now, it looks like most of the work in a sunrise review is done by the profession rather than the Department. If you do a review, you'll find no need for licensing. The number of complaints is less than 1 percent. However, it's a new field being flooded with persons of questionable competency and with amendments we support licensing. It could be a problem for consumers.

A previous bill was influenced by educators. We created a group in response to this bill. Some of our group favor licensing and some do not, but we want to make sure a bill helps consumers. We were trying to create a bill and present it to stakeholders but a TV station presented a sensational piece and now we have been reacting.

A bill should have the standards, training, and testing that have been developed by professional organizations. The exam needs to be psychometrically reliable and defensible. The exam in the current bill is arbitrary.

Consumers will not be harmed by additional study. We need more time; the bill needs more work.

The licensing fee under this bill is mid \$600 - \$700. Putting the program in the Department of Agriculture (DOA) would cut the fees.

The current law on pest inspectors is confusing, has loopholes, and is vague. The requirement to get a structural pest inspector license will be redundant. The DOA does not do anything about people doing pest inspections who are unlicensed. The bond requirement for pest inspectors is too low for a home inspector. No other state couples a pest inspection with a home inspection.

The background and training are not clear. This bill does not go far enough. Inspectors need on-the-job training.

I emailed home inspectors; 75 home inspectors emailed me back and all were opposed.

**Persons Testifying:** (In support) Senator Spanel, prime sponsor; Mike Gusa; and Art Losey, Washington State Pest Control Association.

(In support with concerns) Jerry McDonald, Department of Licensing.

(With concerns) Bob Mitchell, Washington Realtors.

(Opposed) Bruce Mackintosh and Sandy Hartman, Washington Home Inspector Legislative Advisory Group; Bruce Niemi, Spencer Home Inspection; Dwayne Roundy, AAA Inspection; Noel Zak, Examination Board of Professional Home Inspectors; David Richardson, Cascade Inspections, Inc.; Larry Stamp, Cameo Home Inspection Services; Walter Crow; and Paul Neis, Harbor Home Inspections.

**Persons Signed In To Testify But Not Testifying:** None.