

HOUSE BILL REPORT

ESSB 6606

As Reported by House Committee On:

Commerce & Labor
Appropriations

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

Brief Description: Requiring the licensing of home inspectors.

Sponsors: Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Spanel, Kohl-Welles, Honeyford, Prentice, Murray and Rasmussen).

Brief History:

Committee Activity:

Commerce & Labor: 2/26/08, 2/28/08 [DPA];
Appropriations: 3/3/08 [DPA(APP w/o CL)].

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

- Establishes licensing requirements for home inspectors.
- Provides for the Department of Licensing to administer the provisions, with approval from the Home Inspector Advisory Licensing Board.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse, Green, Moeller and Williams.

Staff: Alison Hellberg (786-7152).

Background:

The Department of Licensing (Department) regulates various businesses and professions. The Legislature may request the Department to conduct a sunrise review of proposals for regulation of professions not currently regulated. The statute establishing this process states

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no regulation shall be imposed on any business profession except for the exclusive purpose of protecting the public interest. It also states that 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 review law, a group proposing to be regulated, or any other interested party which proposes that a profession be regulated, 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 review 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, findings, and advisory recommendations. In November of 2007 the Department completed a sunrise review of the home inspector industry. The review recommended licensure of the home inspector profession.

The state's Pesticide Control Act (PCA) requires pesticides to be registered by the Washington State Department of Agriculture. The PCA also requires pesticide dealers, dealer managers, and public and private pest control consultants to be licensed. One category of licensee is a structural pest inspector, who inspects buildings for wood-destroying organisms, their damage, or conditions conducive to their infestation.

The Department regulates many businesses and professions under specific licensing laws. Each business and profession is under either the disciplinary authority of the Director of the Department, or a board or commission charged with regulating that particular profession. The Uniform Regulation of Business and Professions Act (URBPA) provides consolidated disciplinary procedures for these licensed businesses and professions.

Summary of Amended Bill:

A home inspection is a professional examination of the current condition of a house. Beginning on September 1, 2009, a person who engages in, or advertises as engaging in, the business of home inspection must obtain a license from the Department. The Department may begin to issue licenses on July 1, 2009.

Certain people who have been performing the duties of a home inspector may apply for licensure without meeting the instruction and training requirements. The person must have

been a home inspector for at least two years, have conducted at least 100 home inspections, and apply prior to September 1, 2009.

Duties of Home Inspection Licensees

A licensed home inspector is responsible for performing a visual and noninvasive inspection of readily accessible systems and components of a home, including the roof, foundation, exterior, heating system, air-conditioning system, structure, plumbing, and electrical systems. The licensee must also look for fire and safety hazards. Licensees must provide a written report of the home inspection to each customer.

A licensed home inspector, or other employees of a company in which the home inspector has a financial interest, may not perform work other than home inspection-related consultation on a home he or she inspected within one year of issuing a written report.

Requirements for Licensure

Prior to applying with the Department for licensure, an applicant must complete at least 120 hours of approved classroom instruction and up to 40 hours of field training supervised by a licensed home inspector. Applicants must also pass an exam administered by the Department that is psychometrically valid, reliable, and legally defensible by the state. Home inspector licensees from other states may become licensed in Washington if the other state has similar licensing requirements and the person seeking a license passes the Washington portion of the examination.

Licenses must be renewed every two years. Each applicant for license renewal must complete at least 24 hours of instruction every two years.

Home Inspector Advisory Licensing Board

The Home Inspector Advisory Licensing Board (Board) is created with seven members appointed by the Governor. Six of the members must be actively engaged as home inspectors for at least five years, licensed as a home inspector, and have performed a minimum of 500 home inspections. The seventh member must be currently teaching in a home inspector education program.

Members are appointed to three-year terms and are limited to two consecutive terms. The composition of the Board should be generally representative of the geographic distribution of home inspector licensees. No more than two board members may be members of a particular national home inspector association or organization.

With the approval of the Board, the Director may adopt, amend, or rescind rules related to the licensing of home inspectors, including:

- minimum qualifications for licensing applicants;
- method of administration of examinations;
- content of or recognition of examinations prepared by other entities;
- standards of professional conduct and ethics; and
- circumstances in which a home inspector license may be suspended or revoked.

Exemptions from Licensure

Several persons are exempt from home inspector licensing when acting within the scope of their license or profession. These include engineers, architects, electricians, plumbers, pesticide operators, and structural pest inspectors.

A home inspector licensee is exempt from licensing as a structural pest inspector except when reporting on the identification of or damage by wood destroying insects.

Other Duties of the Department

A license of a person who is not in compliance with a child support order will immediately be suspended. The license may be reissued if the person continues to meet all other licensing requirements and the Board receives a receipt from the Department of Social and Health Services stating that the licensee is in compliance with the child support order.

The Department has authority to issue civil infractions for the following behaviors:

- conducting or offering to conduct a home inspection without being licensed;
- presenting or attempting to use the license of another;
- giving false or forged evidence in a license application;
- falsely impersonating another licensee; or
- attempting to use an expired or revoked license.

The Director is authorized to apply for relief by injunction without bond to restrain a person from committing any of these acts. It is not necessary to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from a continued violation. The URPBA governs unlicensed practice, issuance and denial of licenses, and the discipline of licensees.

Amended Bill Compared to Engrossed Substitute Bill:

The Director of the Department is authorized to begin issuing home inspector licenses on July 1, 2009. The Director of the Department's authority to adopt fees is removed, as well as other references to fees. The expiration date of licenses is changed to the applicant's second birthday following the issuance of the license rather than the last day of the month the license was issued. The URBPA is applied to the discipline of home inspector licensees.

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) The parties have worked very hard over the last two years to come to a consensus on this bill. It was a difficult process and required a tremendous amount of compromise. The sunrise review process was very helpful because it allowed parties to come together.

This bill combines stringent testing, professional education, and supervised inspections. It also separates pest management from home inspectors, which is how other states address that issue. A reasonable level of regulation is good for consumers.

(In support with concerns) The problem with removing the dual certification requirement is that the bill also loses the bonding and insurance requirements. The bill should either be amended to require home inspectors to get errors and omission insurance, or require home inspectors to be licensed as structural pest inspectors. The bill should also be amended to lower the hours of classroom instruction. There should be some level of training to identify pest issues.

Licensing of home inspectors is essential to prevent abuse against consumers. This bill could, however, be strengthened. The bill describes a home inspection as a "visual and noninvasive" inspection. In order to assess many problems, such as dryrot, an inspection needs to be invasive. The education requirements are also insufficient. The enforcement mechanism is limited and the URPBA should apply. It should also include a prohibition against unfair and deceptive advertising and acts.

(In support with amendment) Appraisers do some of the acts described in this bill. Appraisers should be exempted from home inspector licensing.

(Information only) The Department of Licensing has a few technical suggestions for easier implementation of the bill.

(Opposed) None.

Persons Testifying: (In support) Senator Spanel, prime sponsor; Sandy Hartman, Washington Home Inspectors Legislative Advisory Group; Paul Luczyk, Paul Neis, and Hugh Kelso, American Society of Home Inspectors; Charles Bueil, Bellingham Technical College and Charles Bueil Inspection; Patrick Knight, Advanced Home Inspectors Association and WIN Home Inspection; Troy Walton, Inter-National Association of Home Inspectors; and Bob Mitchell, Washington Realtors.

(In support with concerns) Michael Gusa, Kalikow and Gusa; and Duane Roundy, Kaplan Inspection Training Associates and Washington State Pest Control.

(In support with amendment) Jim Irish, Appraisers Coalition of Washington.

(Information only) Lee Malott, Department of Licensing.

Persons Signed In To Testify But Not Testifying: (In support) Howard Maxfield, American Society of Home Inspectors.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Commerce & Labor. Signed by 33 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey,

Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDonald, McIntire, Morrell, Pettigrew, Priest, Ross, Schmick, Schual-Berke, Seaquist, Sullivan and Walsh.

Staff: Owen Rowe (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Commerce & Labor:

A null and void clause was added, making the bill null and void unless funded in the budget.

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. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) There are costs related to licensing enforcement; this is a reasonable estimate by the Department of Licensing.

(With concerns) Real estate appraisers should be exempt from home inspector licensing.

(Opposed) None.

Persons Testifying: (In support) Joanne Mackintosh, Washington Home Inspectors LAG.

(With concerns) Jim Irish, Appraisers Coalition of Washington; and Sheridan Shaffer, Appraisers Coalition of Washington.

Persons Signed In To Testify But Not Testifying: Terry Kohl, Washington Home Inspectors LAG.