

SENATE BILL REPORT

ESSB 5788

As Amended by House, April 6, 2007

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, Brandland and Kohl-Welles).

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/12/07, 2/27/07 [DPS, DNP].

Passed Senate: 3/12/07, 45-2.

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5788 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Clements, Ranking Minority Member; Franklin, Hewitt, Murray and Prentice.

Minority Report: Do not pass.

Signed by Senator Holmquist.

Staff: Jennifer Strus (786-7316)

Background: Home inspectors are not required to be registered, certified, or licensed in this state. Many home inspectors are licensed by the Washington State Department of Agriculture (WSDA) to perform structural pest inspections.

Summary of Engrossed Substitute Bill: Beginning on September 1, 2008, no person can advertise or hold him or herself out as a home inspector or conduct home inspections without first being licensed by the state Department of Licensing (DOL).

Qualifications for Licensure: To become licensed as a home inspector, an applicant must submit the following to L&I: (1) an application on a form designated by DOL; (2) the appropriate fee; (3) proof of 120 hours of classroom education approved by the board; (4) evidence of successful passage of a written exam; and (5) proof of current state licensure as a structural pest inspector.

Home inspections are defined as a visual analysis of a building and its carports and garages, any reasonably accessible installed components and operation of the building systems for the

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following components of a building of four residential units or less: heating and electrical system; structural components, cooling and plumbing systems; foundation; roof covering; exterior and interior components and site aspect as they affect the building. Home inspection also includes an inspection for wood destroying organisms.

Exemptions: Architects and engineers are exempt from the licensing requirements. Also exempt from the licensing requirements are pesticide applicators and operators licensed by the Department of Agriculture and licensed structural pest inspectors who perform only wood destroying organism inspections.

Grandfather Clause: On July 1, 2008, any person who has been actively engaged in conducting home inspections, and has been licensed as a structural pest inspector by the state Department of Agriculture for at least two years, and has conducted at least 100 complete home inspections may apply for a license without first meeting the exam or instruction requirements. The person must pass the written exam before his or her license can be renewed.

Licensing Board: A state home inspector licensing board is created consisting of eight members appointed by the Director of DOL. Of the eight members, five must be actively engaged as home inspectors immediately before their appointment to the board; one must be a licensed real estate agents; one must be currently teaching in a home inspector certification program; and one must be a member of the general public. The composition of the home inspector members must be representative of the occupational distribution of home inspectors in the state.

A home inspector must have the following qualifications to be appointed to the board: (1) five years experience as a home inspector in Washington; (2) licensed as a home inspector in this state; and (3) has performed 350 home inspections in this state.

Board members are entitled to compensation for each day spent conducting official business and to travel reimbursement.

Licensing Board's Authority: The board has the authority to do the following: establish rules, including board organization and assignment, for adoption by the Director; establish minimum qualifications for licensing applicants; approve the method by which exams will be administered; approve adoption or recognition of exams to be used by DOL; set the time and place for exams with approval of DOL; and establish and review standards of professional conduct, practice and ethics for adoption by DOL.

Written Exams: The board will determine where and when the licensing exams will be held, with the DOL Director's approval. The exam is divided into five sections with 40 questions in each section. Applicants must pass each section with a score of 75 percent or better. The sections of the exam are as follows: (1) ethics and standards of practice; (2) structure, roofing, site, exterior, and interior; (3) heating, ventilation, and air conditioning; (4) plumbing; and (5) electrical.

To qualify to take the exam, an applicant must provide documents that he or she has passed a state accredited home inspection course of at least 120 hours of classroom education. Persons performing home inspections as of the effective date of this section may receive up to 25

hours credit towards the 120 hours of classroom education by proof of experience. If a candidate fails an exam, he or she may apply for reexamination.

License Length and Renewal: The licenses are issued for two years and expire on the last day of the month during which the license was issued. Any license not renewed is considered expired and any home inspection activity that occurs during this time is considered a violation of this bill.

Continuing Education Requirements: Before a home inspection license will be renewed, the applicant must present satisfactory evidence that he or she has completed 30 hours of instruction every two years in courses approved by the board.

Exclusions from Inspections: The home inspector is not required to determine the following when conducting a home inspection: (1) the condition of systems or components not readily accessible; (2) remaining life of any system; (3) strength, adequacy, effectiveness, or efficiency of any system or component; (4) cause of any condition or deficiency; (5) methods, materials, or costs of corrections; (6) future conditions; (7) compliance with regulatory requirements; and (8) presence of environmental hazards.

In conducting the home inspection, home inspectors are not required to enter any area that will likely be dangerous to the inspector or damage the property, its systems or components, and underfloor crawl spaces or attics that are not readily accessible.

Written Reports: All licensed home inspectors must provide a written report, within five days of completing the report, to each person for whom the inspector performs a home inspection.

Insurance: All active home inspectors must carry errors and omissions insurance at a minimum of \$100,000 or post a bond at the same level to cover all activities under this chapter, including inspection for wood destroying organisms. They must also carry general liability insurance.

Prohibited Activities: From the time the inspection is conducted until the house upon which the inspection was conducted is sold, the home inspector may not advertise or solicit to perform any repair services on any item in the home whether or not listed in the report.

DOL has the authority to issue civil infractions in the following instances: (1) conducting or offering to conduct a home inspection without being licensed; (2) presenting, or attempting to use as his or her own, another's home inspector license; (3) giving false or forged evidence in obtaining a license; (4) falsely impersonating any other licensee; and (5) attempting to use an expired or revoked license.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The public has a right to know that people providing home inspection services know what they are doing. The bill does not list the qualifications of the person supervising the parallel on-site inspections that an

applicant must do to be licensed and it should say that. It also might be hard to get home inspectors to supervise applicants because those applicants will someday be in competition with the supervisor. It is very important to make sure home inspectors know what they are doing because they are the only one involved in a real estate deal that is paid to give an unbiased opinion. There is a need to make sure these folks are credible and competent to do that work. There is no reason to unify the home inspector license and the structural pest inspection license. Home inspectors should be required to be members of a nationally recognized home inspector certification group. The advisory board should be made up of just home inspectors and not have any real estate agents on it. There should be an immunity clause in the statute that protects the home inspector from disgruntled people one year after the inspection has occurred.

CON: The legislative advisory group has been meeting for a little over a year. All major national groups are represented on this group. The Legislature should allow this group to continue working to see if they can come up with a compromise that everyone can live with. The bill is seriously flawed. A home inspector can retake an exam and never have to take the class due to the grandfather clause. Having dual license under one agency is opposed. There should be two licenses. The DOL Director shouldn't have all the power in the penalty phase. The state does not need to require anymore than belonging to a national home inspector organization if the goal is to provide a group of qualified professionals.

OTHER: The bill parallels the American Society of Home Inspectors (ASHI) model bill and distinctly detracts from consumer protection. If the bill was serious about wood destroying organisms it would be mentioned in the bill. This bill supports collusion with real estate agents. There should be a bi-partisan committee convened to fully vet this issue.

Persons Testifying: PRO: Senator Spanel, prime sponsor; Sandy Hartman, Washington Legislative Advisory Group; Tom Knapp, World Inspection Network Home Inspections; Justin Nickelsen, Nickelsen Home Inspections; Paul Luczyk, Washington Home.

CON: Joanne Mackintosh, ASHI; Dave Richardson, Cascade Inspections, Inc.; Reid Guthrie, The Home Detective.

OTHER: Rene LaMarche, Carrenden, Inc.

Signed in, Unable to Testify & Submitted Written Testimony: PRO: Duane Roundy, AAA Inspection Services; Bryce MacKintosh, Hugh Kelso, Washington Home Inspector Legislative Advisory Group; Stan Bowman, American Institute of Architects Washington Council; Michael O'Handley, Editor: The Inspector's Journal.

CON: George Sharrett, Sound Choice Home Inspections; Art Losey, citizen.

House Amendment(s): The bill is stricken and replaced with a requirement that the Department of Licensing will conduct a study of the home inspection profession and make recommendations as to whether the profession should be regulated under the criteria set forth in the sunrise law. The report must be submitted by December 1, 2007.