
Commerce & Labor Committee

ESSB 6606

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).

<p style="text-align: center;">Brief Summary of Engrossed Substitute Bill</p> <ul style="list-style-type: none">• 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.

Hearing Date: 2/22/08

Staff: Alison Hellberg (786-7152).

Background:

The Department of Licensing (Department) regulates certain businesses and professions. Each regulated business and profession has a separate set of laws regarding disciplinary actions, investigating violations of the law, and imposing sanctions for violations.

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 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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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 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 because of the evidence of consumer harm, the lack of methods of recourse, the lack of any form of standardization in education and experience, the potential for collusion between the real estate and home inspection professions, and the evidence of inconsistency of inspection practices.

The state's Pesticide Control Act (Act) requires pesticides to be registered by the Washington State Department of Agriculture. The Act 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.

Summary of 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. 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 120 hours of approved classroom instruction and 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.

Rules Authority: The Director has authority to adopt, amend, and rescind rules approved by the Board to carry out provisions related to the licensing of home inspectors.

Appropriation: None.

Fiscal Note: Requested on 2/19/08.

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