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SENATE BILL 5788

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State of Washington

60th Legislature

2007 Regular Session

By Senators Spanel, Brandland and Kohl-Welles

Read first time 01/31/2007. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to the licensing of home inspectors; adding a new  
2 chapter to Title 18 RCW; creating new sections; and prescribing  
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

9 (2) "Classroom education" means training in observing and  
10 identifying defects in structural components, foundations, roof  
11 coverings, insulation and ventilation, exterior and interior  
12 components; wood destroying organism inspections; and plumbing,  
13 heating, cooling, and electrical systems.

14 (3) "Component" means a readily accessible and observable aspect of  
15 a system, such as a floor or wall, but not individual pieces such as  
16 boards or nails where many pieces make up a system.

17 (4) "Department" means the department of licensing.

18 (5) "Director" means the director of the department of licensing.

1 (6) "Home inspection" means a visual analysis for the purposes of  
2 providing a professional opinion of the condition of a building and its  
3 carports and garages, any reasonably accessible installed components  
4 and the operation of the building systems, including the controls  
5 normally operated by the owner, for the following components of a  
6 residential building of four units or less: Heating system, electrical  
7 system, cooling system, plumbing system, structural components,  
8 foundation, roof covering, exterior and interior components, and site  
9 aspects as they affect the building. "Home inspection" also means an  
10 inspection for wood destroying organisms.

11 (7) "Home inspection report" means a written report prepared and  
12 issued after a home inspection. The inspector shall include the  
13 following in the report:

14 (a) On those systems and components inspected which, in the  
15 professional opinion of the inspector, are significantly deficient or  
16 near the end of its service life;

17 (b) A reason why, if not self-evident, the system or component is  
18 significantly deficient or near the end of its service life;

19 (c) The home inspector's recommendations to correct or monitor the  
20 reported deficiency;

21 (d) Whether or not there is damage from wood destroying organisms;  
22 and

23 (e) Any systems and components designated for inspection in the  
24 standards developed by the board under section 5 of this act.

25 (8) "Home inspector" means any person licensed under this chapter  
26 as a home inspector and who engages in the business of performing home  
27 inspections and writing home inspection reports.

28 (9) "Readily accessible" means available for visual inspection  
29 without requiring moving of personal property, dismantling,  
30 destructible measures, or any action that likely will involve risk to  
31 persons or property.

32 NEW SECTION. **Sec. 2.** LICENSURE REQUIRED. (1) Beginning July 1,  
33 2008, a person shall not engage in or conduct, or advertise or hold  
34 himself or herself out as engaging in or conducting the business of or  
35 acting in the capacity of a home inspector within this state without  
36 first obtaining a license as provided in this chapter.

1 (2) On July 1, 2008, any person who has been actively engaged in  
2 the business of conducting home inspections for at least two years and  
3 who has conducted at least one hundred home inspections may apply to  
4 the board for initial licensure without meeting the examination or  
5 instruction requirements of this chapter.

6 NEW SECTION. **Sec. 3.** HOME INSPECTOR LICENSING BOARD. (1) The  
7 state home inspector licensing board is created. The board consists of  
8 eight members appointed by the director, who shall advise the director  
9 concerning the administration of this chapter. Of the appointments to  
10 this board, four shall be actively engaged as home inspectors  
11 immediately prior to their appointment to the board, two shall be  
12 persons licensed as real estate agents, one shall be currently teaching  
13 in a home inspector certificate program, and one shall be a member of  
14 the general public with no family or business connection with the home  
15 inspector business or practice. Insofar as possible, the composition  
16 of the appointed home inspector members of the board shall be generally  
17 representative of the occupational distribution of home inspectors  
18 licensed under this chapter.

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

21 (a) Five years' experience actively engaged as a home inspector in  
22 the state of Washington;

23 (b) Licensed as a home inspector under this chapter; and

24 (c) Performed two hundred fifty home inspections in the state of  
25 Washington.

26 (3) Members of the board are appointed for three-year terms. Terms  
27 must be staggered so that not more than two appointments are scheduled  
28 to be made in any calendar year. Members hold office until the  
29 expiration of the terms for which they were appointed. The director  
30 may remove a board member for just cause. The director may appoint a  
31 new member to fill a vacancy on the board for the remainder of the  
32 unexpired term. All board members are limited to two consecutive  
33 terms.

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

1        NEW SECTION.    **Sec. 4.**    DIRECTOR'S AUTHORITY.    The director has the  
2 following authority in administering this chapter:

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

5            (2) To adopt fees as provided in RCW 43.24.086;

6            (3) To administer licensing examinations approved by the board and  
7 to adopt or recognize examinations prepared by other organizations as  
8 approved by the board;

9            (4) To adopt standards of professional conduct, practice, and  
10 ethics as approved by the board; and

11           (5) To enter into an assurance of discontinuance in lieu of issuing  
12 a statement of charges or conducting a hearing.    The assurance must  
13 consist of a statement of the law in question and an agreement to not  
14 violate the stated provision.    Violation of an assurance under this  
15 section is grounds for disciplinary action.

16        NEW SECTION.    **Sec. 5.**    BOARD'S AUTHORITY.    The board has the  
17 following authority in administering this chapter:

18           (1) To establish rules, including board organization and assignment  
19 of terms, and meeting frequency and timing, for adoption by the  
20 director;

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

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

25           (4) To approve the adoption or recognition of examinations prepared  
26 by other organizations for adoption by the director;

27           (5) To set the time and place of examinations with the approval of  
28 the director; and

29           (6) To establish and review standards of professional conduct,  
30 practice, and ethics for adoption by the director.

31        NEW SECTION.    **Sec. 6.**    QUALIFICATIONS FOR LICENSURE.    In order to  
32 become licensed as a home inspector, an applicant must meet the  
33 following requirements:

34           (1) Be of good moral and ethical character as attested to by  
35 letters of reference submitted by the applicant or as otherwise  
36 determined by the board;

- 1 (2) Possess a high school diploma or its equivalent;
- 2 (3) Complete one hundred twenty hours of live classroom education
- 3 as approved by the board;
- 4 (4) Perform twenty parallel, on-site home inspections under the
- 5 supervision of a licensed home inspector. The licensed home inspector
- 6 may not charge a fee for the supervision. Copies of the final five
- 7 home inspections must be submitted with the application;
- 8 (5) Pass an examination as approved by the board; and
- 9 (6) Be legally authorized to do business in Washington.

10 NEW SECTION. **Sec. 7.** APPLICATION FOR LICENSING. An application  
11 for licensing must be filed with the director on a form provided by the  
12 director and must contain statements made under oath demonstrating the  
13 applicant's qualifications. The director may require any information  
14 and documentation that reasonably relates to the need to determine  
15 whether the applicant meets the criteria for licensing. The  
16 application fee for initial licensing shall be determined by the  
17 director as provided in RCW 43.24.086. The application, together with  
18 the fee, must be submitted to the department prior to the application  
19 deadline established by the director. Fees for initial licensing must  
20 include the examination and issuance of a certificate. If the director  
21 finds the applicant ineligible for licensing, the director shall retain  
22 the application fee.

23 NEW SECTION. **Sec. 8.** WRITTEN EXAMS. Examinations of applicants  
24 for licensing must be held at times and places as determined by the  
25 board with the director's approval. The scope of the examination must  
26 be directed to an applicant's ability to conduct a home inspection in  
27 a manner to ensure the safety of life, health, and property. A  
28 candidate failing an examination may apply for reexamination.  
29 Subsequent examinations must be granted upon payment of a fee.

30 NEW SECTION. **Sec. 9.** LICENSE LENGTH AND RENEWAL. (1) Licenses  
31 are issued for a term of two years and expire on the last day of the  
32 month the license was issued. Licenses must be in a form prescribed by  
33 the board and approved by the director. Licenses that are not renewed  
34 are considered to be expired and any home inspection activity which

1 would require a license to perform which occurs after the expiration of  
2 the license is a violation of this chapter.

3 (2) Any person who receives an initial license under section 2(2)  
4 of this act must, upon renewal of his or her license, pass the  
5 examination required in section 6(5) of this act.

6 (3) Any licensee who fails to timely renew his or her license may  
7 renew his or her license only upon payment of renewal and late fees as  
8 set by the director. A licensee who fails to renew his or her license  
9 within six months from the date it expires is considered to have  
10 forfeited his or her rights to renew the license and can only be  
11 licensed by filing an application as an initial applicant and meeting  
12 all the requirements of an initial applicant.

13 NEW SECTION. **Sec. 10.** ADVERTISING. The term "licensed home  
14 inspector" along with the license number of the inspector must appear  
15 on all advertising, correspondence, and documents incidental to a home  
16 inspection.

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

22 (2) Each applicant for license renewal shall annually complete at  
23 least twenty hours of instruction in courses approved by the board.

24 NEW SECTION. **Sec. 12.** INSURANCE. All active practicing licensed  
25 home inspectors shall carry errors and omissions insurance to cover all  
26 activities contemplated under this chapter. In addition, all active  
27 licensees shall also carry general liability insurance to cover all  
28 activities contemplated by this chapter.

29 NEW SECTION. **Sec. 13.** HOME INSPECTORS AS CORPORATIONS PROHIBITED.  
30 A license as a home inspector may not be issued to a corporation,  
31 limited liability company, partnership, firm, or group. However, this  
32 section does not prevent a licensed home inspector from rendering home  
33 inspections for or on behalf of a corporation, limited liability

1 company, partnership, firm, or group, when the home inspection report  
2 is performed, prepared, and signed by a licensed home inspector.

3 NEW SECTION. **Sec. 14.** WRITTEN REPORTS. (1) A licensed home  
4 inspector shall provide a written report of the home inspection to each  
5 person for whom the inspector performs a home inspection within five  
6 calendar days from the date of the inspections.

7 (2) A licensed home inspector shall not, from the time of the  
8 inspection until the date of the act of sale on the home inspected,  
9 advertise or solicit to perform repair services in any item listed in  
10 the inspection report or any other type of service on the home upon  
11 which he or she has performed a home inspection.

12 NEW SECTION. **Sec. 15.** RECIPROCITY. The director may, upon  
13 application and payment of a fee determined by the director as provided  
14 in RCW 43.24.086, issue a license and certificate without examination  
15 as a home inspector to a person who holds a license of qualification as  
16 a home inspector issued by the proper authority of any state,  
17 territory, or possession of the United States if the applicant's  
18 qualifications as evaluated by the board meet the requirements of this  
19 chapter and the rules adopted by the director.

20 NEW SECTION. **Sec. 16.** HOME INSPECTOR'S ACCOUNT. The home  
21 inspector's account is created in the custody of the state treasurer.  
22 All receipts from fines and fees collected under this chapter must be  
23 deposited into the account. Expenditures from the account may be used  
24 only to carry out the duties required for the operation and enforcement  
25 of this chapter. Only the director may authorize expenditures from the  
26 account. The account is subject to allotment procedures under chapter  
27 43.88 RCW, but an appropriation is not necessary.

28 NEW SECTION. **Sec. 17.** UNPROFESSIONAL CONDUCT. In addition to the  
29 unprofessional conduct described in RCW 18.235.130, the following  
30 conduct, acts, and conditions constitute unprofessional conduct:

- 31 (1) Violating this chapter or the rules adopted under this chapter;
- 32 (2) Not meeting the qualifications for licensing set forth by this
- 33 chapter;

1 (3) Failure to comply with an assurance of discontinuance entered  
2 into with the director; or

3 (4) Committing any other act, or failing to act, which act or  
4 failure are customarily regarded as being contrary to the accepted  
5 professional conduct or standard generally expected of those conducting  
6 home inspections.

7 NEW SECTION. **Sec. 18.** HEARING BEFORE THE DIRECTOR. The  
8 procedures governing adjudicative proceedings before agencies under  
9 chapter 34.05 RCW govern all hearings before the director or his or her  
10 designee. Upon a finding that a license holder or applicant has  
11 committed unprofessional conduct, the director may issue an order  
12 providing for one or any combination of the following:

- 13 (1) Revocation of the license;
- 14 (2) Suspension of the license for a fixed or indefinite term;
- 15 (3) Restriction or limitation of the practice;
- 16 (4) Issuance of a civil fine not to exceed five thousand dollars  
17 for each violation;
- 18 (5) Requiring satisfactory completion of a specific program of  
19 remedial education or treatment;
- 20 (6) Monitoring of the practice by a peer approved by the director;
- 21 (7) Reprimand or censure;
- 22 (8) Compliance with conditions of probation for a designated period  
23 of time;
- 24 (9) Withholding of a license request;
- 25 (10) Refund of fees billed to and collected from the consumer; or
- 26 (11) Other corrective action.

27 Any of the actions under this section may be totally or partly  
28 stayed by the director. All costs associated with compliance with  
29 orders issued under this section are the obligation of the license  
30 holder or applicant.

31 NEW SECTION. **Sec. 19.** INVESTIGATION OF COMPLAINTS. Any person  
32 may submit a written complaint to the department charging a license  
33 holder or applicant with unprofessional conduct and specifying the  
34 grounds for the charge. If the director determines that the complaint  
35 merits investigation, or if the director has reason to believe, without  
36 a formal complaint, that a license holder or applicant may have engaged



1 in unprofessional conduct, the director may investigate to determine if  
2 there has been unprofessional conduct. A person who files a complaint  
3 under this section in good faith is immune from suit in any civil  
4 action related to the filing or contents of the complaint.

5 NEW SECTION. **Sec. 20.** SUSPENSION OF LICENSE. The board shall  
6 immediately suspend the license or practice permit of a person who has  
7 been certified pursuant to RCW 74.20A.320 by the department of social  
8 and health services as a person who is not in compliance with a child  
9 support order. If the person has continued to meet all other  
10 requirements for a license under this chapter during the suspension,  
11 reissuance of the license is automatic upon the board's receipt of a  
12 release issued by the department of social and health services stating  
13 that the licensee is in compliance with the child support order. The  
14 procedure in RCW 74.20A.320 is the exclusive administrative remedy for  
15 contesting the establishment of noncompliance with a child support  
16 order, and suspension of a license under this subsection, and satisfies  
17 the requirements of RCW 34.05.422.

18 NEW SECTION. **Sec. 21.** CIVIL INFRACTIONS. The following acts are  
19 prohibited and any person committing any of the following acts is  
20 guilty of a class 1 civil infraction under chapter 7.80 RCW:

- 21 (1) Conducting or offering to conduct a home inspection without  
22 being licensed in accordance with this chapter;
- 23 (2) Presenting or attempting to use as his or her own the home  
24 inspector license of another;
- 25 (3) Giving any false or forged evidence of any kind to the director  
26 or his or her authorized representative in obtaining a license;
- 27 (4) Falsely impersonating any other licensee; or
- 28 (5) Attempting to use an expired or revoked license.

29 All fees, fines, and penalties collected or assessed by a court  
30 because of a violation of this section must be remitted to the  
31 department to be deposited into the home inspector's account created in  
32 section 16 of this act.

33 NEW SECTION. **Sec. 22.** RELIEF BY INJUNCTION. The director is  
34 authorized to apply for relief by injunction without bond, to restrain  
35 a person from the commission of any act that is prohibited under this

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

9 NEW SECTION. **Sec. 23.** UNIFORM REGULATION OF BUSINESS AND  
10 PROFESSIONS ACT GOVERNS. The uniform regulation of business and  
11 professions act, chapter 18.235 RCW, governs unlicensed practice, the  
12 issuance and denial of licenses, and the discipline of licensees under  
13 this chapter.

14 NEW SECTION. **Sec. 24.** GENERAL EXCLUSIONS. (1) The home inspector  
15 is not required to determine the following:

- 16 (a) The condition of systems or components that are not readily  
17 accessible;
- 18 (b) The remaining life of any system or component;
- 19 (c) The strength, adequacy, effectiveness, or efficiency of any  
20 system or component;
- 21 (d) The cause of any condition or deficiency;
- 22 (e) The methods, materials, or costs of corrections;
- 23 (f) Future conditions including but not limited to failure of  
24 systems and components;
- 25 (g) The suitability of the property for any specialized use;
- 26 (h) Compliance with regulatory requirements;
- 27 (i) The market value of the property or its marketability; and
- 28 (j) The presence of environmental hazards including, but not  
29 limited to, toxins, carcinogens, noise, and contaminants in soil,  
30 water, and air.

31 (2) Home inspectors are not required to enter the following:

- 32 (a) Any area that will likely be dangerous to the inspector or  
33 other persons or damage the property or its systems or components; or
- 34 (b) The underfloor crawl spaces or attics that are not readily  
35 accessible.

1        NEW SECTION.    **Sec. 25.**    Currently, for a home inspector to conduct  
2 a pest inspection, he or she must have a structural pest inspector  
3 license issued by the state department of agriculture.    It is the  
4 legislature's intent that home inspectors do conduct pest inspections  
5 as part of their overall responsibilities but that they not have to  
6 obtain dual licenses in order to do so.    To accomplish this goal, the  
7 legislature intends that the structural pest inspection license program  
8 housed within the state department of agriculture be transferred to the  
9 department of licensing.    Both departments are instructed to determine  
10 the best way to accomplish this transfer and report back to the  
11 legislature, with recommended legislation, no later than December 15,  
12 2007.

13        NEW SECTION.    **Sec. 26.**    Sections 1 through 24 of this act  
14 constitute a new chapter in Title 18 RCW.

15        NEW SECTION.    **Sec. 27.**    Captions used in this act are not any part  
16 of the law.

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