

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



HOME INSPECTORS' LICENSING LAW

TITLE 5 CHAPTER 65.1

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RHODE ISLAND CONTRACTORS'

REGISTRATION BOARD

HOME INSPECTORS LICENSING LAW

CHAPTER 65.1

[Effective July 1, 2001]

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§ 5-65.1-1 Short title. [Effective July 1, 2001.] – This chapter shall be known and may be cited as the "Rhode Island Home Inspector Licensing Law".

§ 5-65.1-2 Definitions. [Effective July 1, 2001.] – When used in this chapter:

(1) "Associate home inspector" means a person who is employed by a licensed home inspector to conduct a home inspection of a residential building on behalf of a client for a fee under the direct supervision of the licensed home inspector and is licensed pursuant to the provisions of this chapter.

(2) "Board" means the contractors' registration board.

(3) "Client" means any person who engages, or seeks to engage, the services of a home inspector for the purpose of obtaining an inspection of and written report upon the condition of a residential building.

(4) "Home inspector" means any person licensed as a home inspector to conduct a home inspection of a residential building on behalf of a client for a fee pursuant to the provisions of this chapter.

(5) "Home inspection" means an inspection and a written evaluation of the following readily visible and accessible components of a residential building: heating, cooling, plumbing, and electrical systems, structural components, foundation, roof, masonry structure, exterior and interior components and any other related residential housing components, unless the scope of the inspection is otherwise clearly limited in writing in the inspection report. Unless otherwise expressly agreed to in writing, a home inspection is based solely on observation of the readily visible and apparent condition of the foregoing components of a residential building as they exist on the date of the inspection, and it is not the purpose of the inspection to identify violations of or noncompliance with governmental codes or regulation. A home inspection shall, at a minimum, conform with any standards of practice promulgated by the board.

(6) "Public body" or "agency" means any executive, legislative, judicial, regulatory or administrative body of the state or any political subdivision thereof; including, but not limited to, public officials elected or appointed and any department, division, agency, commission, board, office, bureau, authority, any school, fire, or water district, or other agency or quasi-public agency of state or local government which exercises governmental functions.

(7) "Residential building" means a structure consisting of one to four (4) family dwelling units that has been occupied as a dwelling prior to the time when a home inspection is requested or contracted for in accordance with this chapter, but shall not include any structure newly constructed and not previously occupied.

§ 5-65.1-3 Board – Powers of and duties. [Effective July 1, 2001.] – (a) The board shall have the following powers and duties:

(1) Administer and enforce the provisions of this chapter;

(2) Issue and renew licenses to home inspectors and associate home inspectors pursuant to the provisions of this chapter;

(3) Suspend, revoke, or fail to renew the license of a home inspector;

(4) Sanction or administer qualifying examinations for home inspector and associate home inspector applicants, and establish competency requirements;

(5) Establish standards for the continuing education of home inspectors;

(6) Adopt and publish a code of ethics and standards of practice for licensed home inspectors and associate home inspectors;

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- (7) Prescribe or change the charges for examinations and other services performed;
- (8) Adopt rules and regulations pursuant to the Administrative Procedures Act necessary to effectuate the purposes of this chapter; and
- (9) Hear contested claims or cases, contested enforcement proceedings, and contested administrative fines in accordance with the Administrative Procedures Act and, the administrative regulations promulgated by the board.

§ 5-65.1-4 Eligibility for licensure as home inspector. [Effective July 1, 2001]. – (a) To be eligible for licensure as a home inspector, an applicant shall fulfill the following requirements:

- (1) Be of good moral character;
 - (2) Have successfully completed high school or its equivalent;
 - (3) Have been engaged as a licensed associate home inspector for no less than one year, and have performed not less than one hundred (100) home inspections for compensation, or have been a registered/licensed contractor in good standing in any state for an aggregate of not less than five (5) years; and
 - (4) Have passed an examination approved or administered by the board. The examination may have been passed before the effective date of this chapter; or
- (b) For the first three hundred and sixty-five (365) days after the effective date of this chapter, the board shall issue a license to any person upon application, provided that the applicant meets:

- (1) The requirements of subdivisions (a)(1), (2) and (4), and either (i) has been engaged in the practice of home inspections for compensation for not less than one year prior to July 1, 2000 and has performed not less than one hundred (100) home inspections for compensation, prior to July, 2001, or (ii) is a registered/licensed contractor in good standing in any state for an aggregate of not less than five (5) years; or
- (2) The requirements of subdivisions (a)(1) and (2) of this section and has been engaged in the practice of home inspections for compensation for not less than two years and performed not less than 150 home inspections for compensation prior to July 1, 2000.

§ 5-65.1-5 Eligibility for licensure as associate home inspector. [Effective July 1, 2001]. – (a) To be eligible for licensure as an associate home inspector, an applicant shall fulfill the following requirements:

- (1) Be of good moral character;
- (2) Have successfully completed high school or its equivalent;
- (3) Have assisted in not less than fifty (50) home inspections in the presence of a licensed home inspector; and,
- (4) Have passed an examination approved or administered by the board. The examination may have been passed before the effective date of this chapter.

§ 5-65.1-6 Identification cards and mandatory disclosures. [Effective July 1, 2001]. – (a) Upon the issuance of a license by the board, an identification card shall also be issued to each licensed person.

- (b) All licensees subject to the provisions of this chapter must include their license number on all advertising proposals, contracts, inspection reports, and invoices displayed in a conspicuous manner.

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(c) Every written report of a home inspection provided to a client by a licensee must include:

(1) A notice that any complaints regarding the home inspection or the home inspector or associate home inspector who performed it may be directed to the board, and shall also include the current address and telephone number of the board.

(2) Where applicable, a disclosure that an inspection was performed by an associate home inspector.

§ 5-65.1-7 Applicability. [Effective July 1, 2001.] – (a) Any person who conducts a home inspection as defined by this chapter shall be licensed pursuant to this chapter, and comply with all the requirements of this chapter and any subsequent rules or regulations promulgated by the board.

(b) The provisions of this chapter shall not apply to the following provided the person does not hold him or herself out as a home inspector or one who performs home inspections as defined in this chapter:

(1) Any person who is employed by a governmental agency or public body and acting within the scope of that government employment;

(2) Any person regulated by the state as an architect, professional engineer, electrical contractor, or master plumber, who is acting within the scope of practice of his or her profession or occupation;

(3) Any state licensed real estate broker, broker-salesperson, or salesperson, who is acting within the scope of his or her profession;

(4) Any state licensed real estate appraiser or certified general or residential real estate appraiser, who is acting within the scope of his or her profession;

(5) Any person regulated by the state as an insurance adjuster, who is acting within the scope of his or her profession;

(6) Any person certified or registered as a pesticide applicator, who is acting within the scope of his or her profession;

(7) Any person performing an inspection under the supervision of a licensed home inspector for the purpose of meeting the requirements of subdivision (a)(3) of § 5-65.1-5 to qualify for licensure as an associate home inspector; and

(8) Any person registered/licensed as a contractor in good standing in any state acting within the scope of his or her occupation and experience.

(9) Any person conducting real estate inspections as a part of the insurance underwriting process.

§ 5-65.1-8 Reciprocity. [Effective July 1, 2001.] – Upon payment to the board of requisite fee and submission of a completed application approved by the board, the board shall issue a home inspector license to any person who:

(1) Holds a valid license issued by another state or possession of the United States or the District of Columbia, which has standards substantially equivalent to those of this state as determined by the board; or

(2) Is licensed in this state as a state certified real estate appraiser or to practice architecture or professional engineering, provided the person meets the requirements set forth in subdivisions (a)(1), (a)(2), and (a)(4) of § 5-65.1-4.

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§ 5-65.1-9 Fees. [Effective July 1, 2001]. – (a) The board is hereby empowered and directed to establish a fee schedule for the application, continuing education, examination and re-examination of applicants for licensing; provided, however, that the fee for home inspector and associate home inspector licenses, and all subsequent renewals shall be two hundred dollars (\$200). All licenses issued by the board shall be valid for two (2) years.

(b) Any fees established, prescribed, or changed by the board shall be to the extent necessary to defray all proper expenses incurred by the board and any staff employed to administer this chapter, except that fees shall not be fixed at a level that will raise revenues in excess of the amount estimated to be so required.

(c) All fees and fines collected by the board shall be deposited as general revenues.

§ 5-65.1-10 Insurance requirements. [Effective July 1, 2001]. – (a) Every licensed home inspector and associate home inspector shall secure, maintain, and file with the board a certificate of insurance for an errors and omissions policy and a certificate of insurance for a general liability policy; both shall be for a minimum amount of two hundred and fifty thousand dollars (\$250,000) in the aggregate.

(b) Every proof of an errors and omissions or general liability policy required to be filed with the board shall not be effective unless it provides that the insurance may not be canceled until at least ten (10) days notice of intention to cancel or to not renew has been received in writing by the board.

§ 5-65.1-11 Grounds for discipline – Injunctions. [Effective July 1, 2001]. – (a) After hearing, in accordance with the administrative regulations promulgated by the board, the board may revoke, suspend, or refuse to issue, reinstate, or reissue a license if the board determines that a licensee or applicant has:

(1) Disclosed any information concerning the results of the home inspection without the approval of a client or the client's representatives;

(2) Accepted compensation from more than one interested party for the same service without the consent of all interested parties;

(3) Accepted commissions or allowances, directly or indirectly, from other parties dealing with their client in connection with the inspection for which the licensee is responsible;

(4) Failed to disclose promptly to a client information about any business interest of the licensee which may affect the client in connection with the home inspection;

(5) Obtained a license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;

(6) Engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise, or false pretense;

(7) Engaged in gross negligence, gross malpractice, or gross incompetence;

(8) Engaged in repeated acts of negligence, malpractice, or incompetence;

(9) Engaged in professional or occupational misconduct as may be determined by the board;

(10) Been convicted of any crime involving moral turpitude or any crime relating adversely to the activity regulated by the board. For the purpose of this subsection a plea of guilty, or nolo contendere shall be deemed a conviction;

(11) Had his or her authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;

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(12) Attempted to limit liability for negligent or wrongful errors or omissions by use of a clause within a performance contract that limits the damages for negligent or wrongful errors or omissions;

(13) Failed to provide a written report of the completed home inspection;

(14) Violated or failed to comply with any order of the board or provisions of this chapter or any rule or regulation promulgated and administered by the board thereunder;

(15) Become incapable, for medical or any other material reason, of discharging the functions of a licensee in a manner consistent with the public's health, safety, and welfare;

(16) Failed to obtain or maintain the insurance required by § 5-65.1-10; or

(17) Knowingly assisted an unlicensed person to act in violation of this chapter.

(18) Failed to comply with the provisions of § 5-20.8-8.

(b) In addition to all other remedies, when it appears to the board that a person has engaged in, or is engaging in, any act, practice or transaction which violates the provisions of this chapter, the board may direct the attorney general to apply to the court for an injunction restraining the person from violating the provisions of this chapter.

(c) The board may, after a hearing, impose a fine in an amount not to exceed five hundred dollars (\$500) for the first violation of this chapter, or any rules or regulations promulgated by the board.

(2) For each second violation of a particular subsection of this chapter or of a rule or regulation promulgated by the board, a fine not to exceed one thousand dollars (\$1,000) may be imposed after a hearing by the board.

(d) The board, may, in lieu of a fine or other sanction, order a licensee to attend continuing education courses as appropriate. Failure to adhere to the requirement could result in immediate revocation of a license.

§ 5-65.1-12 Licensing requirement and prohibitions. [Effective July 1, 2001]. – (a) Any person who provides, presents, calls or represents himself or herself as a home inspector for compensation shall be licensed in accordance with the provisions of this chapter.

(b) No person, not licensed as a home inspector or associate home inspector, shall advertise or hold himself or herself out as a home inspector, or impersonate a home inspector or associate home inspector.

§ 5-65.1-13 Violations – Penalties. [Effective July 1, 2001]. – (a) Any person who violates a final order of the board is deemed guilty of a misdemeanor and, upon conviction, may be imprisoned for a term not exceeding one year, or fined not more than one thousand dollars (\$1,000) for each offense.

(b) In addition to any sentence or fine imposed by the court under subsection (a) of this section, the court may order a defendant to comply with any outstanding fine(s) previously imposed by the board pursuant to this chapter. A final order of the board may also be enforced in a civil contempt proceeding brought upon complaint in the district court.

§ 5-65.1-14 Home inspector appointments to the board. [Effective July 1, 2001]. – Notwithstanding any provisions in § 5-65-14 to the contrary, for a period of one year after the effective date of this chapter [July 1, 2001] the initial two (2) home inspectors appointed to the board are not required, at the time of their initial appointment, to be licensed under the provisions of this chapter, provided the appointed home inspectors have been engaged as

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home inspectors in this state for not less than five (5) years immediately preceding their appointment, and have performed not less than one thousand (1000) home inspections for compensation. Subsequent appointees to the board shall be licensed pursuant to this chapter and shall possess the foregoing minimum qualifications.