



H.B. 29

124th General Assembly
(As Introduced)

Reps. DePiero, Olman, Allen, Sullivan, Krupinski, Cirelli, Jerse, Barrett

BILL SUMMARY

- Creates the State Board of Home Inspectors to administer the regulatory program.
- Requires the licensure and regulation of individuals who perform home inspections.
- Creates the Home Inspectors Fund in the state treasury.
- Establishes criminal penalties for violation of the bill's provisions.

CONTENT AND OPERATION

The State Board of Home Inspectors

The bill creates the State Board of Home Inspectors and places it for administrative purposes within the Department of Commerce. (Sec. 4768.03.)

Appointment to the Board

The Board consists of five members, each of whom must be Ohio residents, have performed at least 500 home inspections for compensation, and if other than an initial appointee, or reappointee of the initial Board, have held a valid home inspector license for at least five years preceding appointment to the Board. The Governor, with advice and consent of the Senate, must make appointments to the Board within 30 days after the effective date of the bill. Of the initial appointments, two are for a term of four years, two are for a term of three years, and one is for a term of two years. Each term after initial appointment is four years, ending on the same day in the same month as the term began. Vacancies to the Board are filled in the same manner as appointments are made. A Board member who fills a vacancy prior to the expiration of the previous member's term holds office for the remainder of the term. Any member continues in office subsequent to the member's term until that member's successor takes office and no

member may serve more than two successive terms. Members are reimbursed for expenses related to their duties on the Board and compensated in an amount determined by the Director of Administrative Services, for each day, or a pro rata portion of a day, that the member is employed in the official duties of the Board. (Sec. 4768.03.)

Duties of the Board

Annually, the Board selects, from its members, one chairperson and one vice-chairperson. At that time, the Board may select a person who need not be a Board member, to serve as secretary to the Board. The Board must meet at least four times per year, but is allowed to hold additional meetings as it determines necessary. Meeting dates and times are determined by the chairperson and must be provided in writing to each member at least ten days prior to the meeting, unless shorter notice is warranted. The bill allows the meetings to occur by electronic means or by telephone. A majority of the Board members constitutes a quorum, which is necessary to transact and to vote on all matters before the Board. The Board has the power to issue, modify, or revoke orders necessary to administer the laws governing home inspectors and associate home inspectors.

Within 180 days following the appointment of the initial Board members, the Board must adopt rules that do all of the following:

(1) Specify any residential housing component that is not described in the definition of "home inspection" and that the Board determines should be examined visually during a home inspection;

(2) Establish standards of practice to be followed by persons licensed by the Board. The standards of practice must specify, without limitation, items that must be visually examined with respect to the heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof, exterior and interior components, or any other related residential housing component specified by the Board. The standards of practice are to be no less stringent than the standards of practice adopted by a nationally recognized association for home inspectors existing on the effective date of this section of the bill, provided the association has standards for home inspection. The bill does not address the possibility of competing or conflicting standards.

(3) Establish a code of ethics for home inspectors, associate home inspectors, and persons who, in order to satisfy eligibility requirements to become an associate home inspector, conduct home inspections under the supervision of a home inspector. The code of ethics must specify guidelines for acting honestly and in good faith toward a client and avoiding conflicts of interest.

(4) Govern disciplinary proceedings conducted by the Board and reinstatement of licenses that have been suspended;

(5) Establish the amount of license fees required to be submitted with an application for licensure and fees associated with license renewal. For the first two years that the bill is in effect, those fees may not exceed \$250 per year, per licensee. Thereafter, the amount of the fees must be sufficient to defray all necessary expenses incurred in the administration of the bill's provisions and the rules adopted under it, but must not exceed the amount estimated to be required to defray those expenses.

(6) Establish the information that must be provided on an application for licensure by the Board;

(7) Specify the course of study that an applicant must successfully complete to be eligible for licensure as an associate home inspector. The course of study must consist of at least 120 hours of training, including training in the classroom and training that involves observation of home inspections;

(8) Establish requirements and standards for the continuing education of home inspectors;

(9) Establish provisions governing the registration of persons who conduct home inspections under the supervision of a home inspector in order to satisfy the eligibility requirements for licensure as an associate home inspector;

(10) Establish requirements governing what constitutes a home inspector's adequate supervision of a person performing home inspections for the purpose of satisfying eligibility requirements to become an associate home inspector;

(11) Establish any other provisions necessary for the administration of the bill's provisions and rules adopted under the bill. (Sec. 4768.04.)

In addition to the other duties of the Board, the bill requires the Board to adhere to existing child support laws that require the suspension, non-renewal, or refusal to license an individual who is in default of child support payments or who otherwise violates applicable child support laws. (Sec. 4768.15 and sec. 2301.373 (not in the bill).)

Licensing home inspectors and associate home inspectors

Effective 480 days after the effective date of the bill, all persons conducting home inspections for clients must be licensed by the Board and the inspection must be performed in accordance with a written contract binding on all parties to the contract (sec. 4768.02; Section 2).

To become a licensed home inspector or a licensed associate home inspector, a person must submit to the Board a signed application, pledging that the applicant will comply with the standard of practice and code of ethics established in rules and a statement that the applicant understands the type of activities that give rise to disciplinary action. The applicant must also submit an application fee in an amount established by the Board. The bill specifies that licenses may only be issued to individuals and not to business entities. Home inspector and associate home inspector licenses are valid for two years. (Sec. 4768.05.)

The bill allows the Board to refuse to issue or renew a license to anyone who violates the code of ethics; wrongly accepts commissions, allowances or compensation; fails to make a required disclosure; has been convicted of a crime involving dishonesty; fails to properly supervise home inspections of associates or persons meeting the requirements to become an associate. (Sec. 4768.11.)

Applicants for licensure as a home inspector

An applicant for licensure as a home inspector must have held a valid associate home inspector license for at least one year and must have performed at least 200 home inspections for compensation under the supervision of a licensed home inspector. The applicant also must have completed high school or its equivalent and have successfully completed an examination offered or prescribed by the Board or an examination approved by a nationally recognized association of home inspectors existing on the effective date of the bill. (Sec. 4768.05(B).)

For the 480 days that follow the effective date of the bill, the Board is required to issue a home inspector license to an individual if the individual applies to the Board on a form provided by the Board, pays a fee as prescribed by the Board in rule, and can demonstrate to the satisfaction of the Board all of the following:

(1) That the applicant passed a national accredited home inspection examination or completed an educational program in home inspection certified by the Board;

(2) Have performed, prior to applying, at least 250 home inspections for compensation;

(3) That the applicant has obtained a general liability insurance policy in a minimum amount of \$500,000 or other amount specified by the Board. (Section 3.)

Applicants for licensure as associate home inspectors

An applicant for licensure as an associate home inspector must meet the following requirements:

- (1) Successful completion of high school or its equivalent;
- (2) Successful completion of a curriculum approved by the Board consisting of at least 120 hours with not less than 80 hours of time in a classroom;
- (3) Performance of at least 50 home inspections under the direct supervision of a licensed home inspector by registering with the Board to do so;
- (4) Successful completion of an examination offered or prescribed by the Board or an examination approved by the Board and offered by a nationally recognized association of home inspectors existing on the effective date of the bill;
- (5) Have provided proof of an errors and omissions insurance policy in a minimum amount of \$250,000 or another amount specified by the Board;
- (6) Have provided proof of a general liability insurance policy in a minimum amount of \$500,000 or another amount specified by the Board.

Applicants for licensure as a provisional home inspector

An individual may apply for a provisional home inspector license. This type of license is available for only three years and 270 days after the effective date of the bill. The requirements for a provisional home inspector license are less rigorous than those of a home inspector, but they allow an individual who can satisfy the requirements of a provisional licensee to work toward a home inspector license within the three years and 270 days after the bill's effective date.

An applicant for a provisional home inspector license must apply to the Board and pay a fee. The applicant must also demonstrate proof that prior to applying, the applicant performed not less than 100 home inspections for compensation and that the applicant has proof of insurance, in the same amounts as required for associate home inspectors. (*See below, "**Insurance**."*)

The bill requires the Board to issue a home inspector license to each licensed provisional home inspector who satisfies all of the following within three years and 270 days after the effective date of the bill:

- (1) Applies for a home inspector license on a form provided by the Board;
- (2) Pays a fee in an amount prescribed by the Board in rule;

(3) Complies with the continuing education requirements established in the bill (*see below*, "**Continuing education and renewal licenses**");

(4) Completes at least 250 home inspections for compensation after the date that the licensee receives a provisional home inspection license;

(5) Passes a nationally accredited home inspection examination or completes an educational program in home inspection certified by the Board.

A provisional licensee who does not meet the five requirements listed above within three years and 270 days after the bill's effective date will be required to satisfy the license requirements for an initial application to receive a home inspector or associate home inspector license. (*See above*, "**Licensing home inspectors and associate home inspectors**.") (Section 3.)

Education requirements for home inspectors who receive a license under a "grandfathering" provision

Individuals who obtain a home inspection license by first becoming a provisional licensee and then satisfying the requirements to become a licensed home inspector within the three years and 270 days allowed under that type of license must complete eight hours of education approved by the Board regarding the standards and rules enacted in the bill within 12 months of obtaining the home inspector license. The same is true for individuals who obtain a home inspector license within 470 days of the bill's effective date by meeting the standards established in Section 3 of the bill. (*See above*, "**Applicants for licensure as a home inspector**.")

Continuing education and renewal licenses

The bill requires licensed home inspectors and licensed associate home inspectors to submit to the Board, every two years, proof of successful completion of not less than 20 and not more than 40 hours of continuing education in courses or seminars offered or approved by the Board. A licensee who fails to submit the proof of successful completion of continuing education requirements will not receive a license renewal and must comply with the requirements for initial licensure to become relicensed. The bill specifies that changes to the continuing education requirements will not deprive a licensee of credits earned prior to the change. (Sec. 4768.06(A).) A licensee must file the renewal application at least 30 days, but no earlier than 120 days prior to the expiration of the licensee's current license. A licensee who fails to obtain a renewal license before the expiration of the licensee's current license, but within six months thereafter, may still obtain a renewal license by paying a late fee in addition to the licensing renewal fee. If the licensee fails to obtain a renewal license within six months of

the expiration of the licensee's current, valid license, then to again be licensed the person must comply with the procedures to obtain an initial new license. (Sec. 4768.06(B).)

Insurance

All associate home inspectors or persons working toward an associate home inspector license under the supervision of a licensed home inspector must file with the Board proof of an errors and omissions insurance policy in a minimum amount of \$250,000 per occurrence and a general liability insurance policy in a minimum amount of \$500,000 or other amount specified by the Board. The Board may also accept other proof of financial responsibility, including indemnity bonds or "standby" letters of credit. Proof of insurance or other proof of financial responsibility must provide that cancellation or nonrenewal of a policy is not effective unless written notice of the intent to cancel or not to renew has been received by the Board no fewer than ten days prior to the cancellation or nonrenewal. (Sec. 4768.05(C) and (G).)

Enforcement

The bill gives the Board the power to investigate complaints on the Board's initiative or upon receipt of a complaint alleging a violation of the bill's provisions or the rules adopted under them. The Board has the authority to employ investigators and auditors to obtain information. All information that arises as a result of an investigation must be kept confidential by the Board unless otherwise required by law. (Sec. 4768.08.) Under the bill, the Board and any hearing officers it employs, have the power to compel, by order or subpoena, the attendance of witnesses to testify in relation to any matter over which the Board has jurisdiction and the production of documents pertaining to any matter over which the Board has jurisdiction. The bill gives the Board and its hearing officers the same power as judges of county courts to administer oaths, compel the attendance of witnesses and punish witnesses for refusal to testify. The Board also may apply to the court of common pleas in any county for an award of a subpoena or a subpoena duces tecum to compel a person to appear, or to compel a person to produce documents. A person's failure to appear then is governed by contempt of court laws. (Sec. 4768.09.)

Injunctions

The bill specifies that the Board may apply to any court of common pleas to enjoin a violation of the law governing home inspection licensing or the rules adopted under the bill. (Sec. 4768.12.)

Hearings

If the Board determines that reasonable and substantial evidence exists that a licensee has violated or is violating the bill's provisions or the rules adopted under the bill, the Board must notify the licensee within five days of the determination. The licensee may request a hearing in accordance with the Administrative Procedure Act. A hearing officer, retained by the Board, determines whether the licensee has committed a violation and must notify the licensee of the determination not later than five days after it is made. The notice must describe the basis for the determination. The licensee has 15 days after the hearing officer notifies the complainant and the licensee to request that the Board review the determination. The Board must review the determination at its next regularly scheduled meeting and either affirm or reverse the decision of the hearing officer and notify the complainant and the licensee of its decision within five business days.

If the Board determines that a licensee has committed a violation of the licensing laws or the rules adopted under those laws, after review of the hearing officer's report and evidence, the Board must order disciplinary action that it considers appropriate, which may include reprimand, or suspension or revocation of a license. Under the bill, the decision of the Board is final, subject to review under the Administrative Procedure Act. (Sec. 4768.10.)

Liabilities and penalties

The bill provides that every partnership, corporation, or association that employs or retains the services of a licensee, whether the licensee is an independent contractor or under the supervision or control of the partnership, corporation, or association, is jointly and severally liable for any damages incurred by a person as a result of an act or omission concerning a home inspection report prepared or facilitated in the preparation by a licensee while employed or retained by the business entity. (Sec. 4768.14.)

The bill also provides that any person who is not licensed who performs a home inspection for a client, is guilty of a third degree misdemeanor (not more than 60 days imprisonment and not more than a \$500 fine) on the first offense and a first degree misdemeanor (not more than six months imprisonment and not more than a \$1,000 fine) for each subsequent offense. (Sec. 4768.99.)

Fund

The bill creates the Home Inspectors Fund in the state treasury. All money collected under the provisions of the bill must be deposited into that fund and used

solely for the purpose to pay costs associated with administering the home inspection licensing laws (sec. 4768.13).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-31-01	p. 107

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