

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 617

Insurance Committee Substitute Adopted 5/6/93

House Committee Substitute Favorable 6/28/93

House Committee Substitute #2 Favorable 6/30/94

Short Title: Regulate Fee-Paid Home Inspectors.

(Public)

Sponsors:

Referred to:

April 20, 1993

A BILL TO BE ENTITLED

AN ACT TO REGULATE THE USE OF THE TITLE "LICENSED HOME INSPECTOR" AND TO REQUIRE PERSONS WHO PERFORM HOME INSPECTIONS FOR COMPENSATION TO BE LICENSED.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 9F.

"NORTH CAROLINA HOME INSPECTOR LICENSURE BOARD.

"§ 143-151.43. Short title.

This Article is the Home Inspector Licensure Act and may be cited by that name.

"§ 143-151.44. Purpose.

This Article safeguards the public health, safety, and welfare and protects the public from being harmed by unqualified persons by regulating the use of the title 'Licensed Home Inspector' and by providing for the licensure and regulation of those who perform home inspections for compensation.

"§ 143-151.45. Definitions.

The following definitions apply in this Article:

- 1 (1) Associate home inspector. – An individual who is employed by a
2 licensed home inspector to conduct a home inspection of a residential
3 building on behalf of the licensed home inspector.
4 (2) Board. – The North Carolina Home Inspector Licensure Board.
5 (3) Compensation. – A fee or anything else of value.
6 (4) Home inspection. – A written evaluation of one or more of the
7 following components of a residential building: heating system,
8 cooling system, plumbing system, electrical system, structural
9 components, foundation, roof, masonry structure, exterior and interior
10 components, or any other related residential housing component.
11 (5) Home inspector. – An individual who engages in the business of
12 performing home inspections for compensation.
13 (6) Residential building. – A structure intended to be, or that is in fact,
14 used as a residence by one or more individuals.

15 **§ 143-151.46. North Carolina Home Inspector Licensure Board established;**
16 **members; terms; vacancies.**

17 (a) Membership. – The North Carolina Home Inspector Licensure Board is
18 established in the Department of Insurance. The Board shall be composed of the
19 Commissioner of Insurance or the Commissioner's designee and seven additional
20 members appointed as follows:

- 21 (1) A public member who is not in one of the professional categories in
22 subdivisions (2) through (4) of this subsection, appointed by the
23 General Assembly upon the recommendation of the Speaker of the
24 House of Representatives.
25 (2) Four home inspectors, two of whom shall be appointed by the General
26 Assembly upon the recommendation of the President Pro Tempore of
27 the Senate, one of whom shall be appointed by the General Assembly
28 upon the recommendation of the Speaker of the House of
29 Representatives, and one of whom shall be appointed by the Governor.
30 (3) A licensed general contractor appointed by the Governor upon the
31 recommendation of the North Carolina Home Builders Association.
32 (4) A licensed real estate broker appointed by the Governor upon the
33 recommendation of the North Carolina Association of Realtors.

34 All members of the Board must be citizens of the State. Appointments by the
35 General Assembly must be made in accordance with G.S. 120-121.

36 (b) Terms. – The members shall be appointed for staggered terms and the initial
37 appointments shall be made prior to August 1, 1995. The appointees shall hold office
38 until July 1 of the year in which their respective terms expire and until their successors
39 are appointed and qualified.

40 Of the members initially appointed, the home inspector appointed by the Governor
41 shall serve a one-year term. The home inspector appointed by the General Assembly
42 upon the recommendation of the Speaker of the House of Representatives and the
43 licensed real estate broker shall serve two-year terms. One home inspector appointed by
44 the General Assembly upon the recommendation of the President Pro Tempore of the

1 Senate and the licensed contractor shall serve three-year terms. The remaining home
2 inspector appointed by the General Assembly upon the recommendation of the
3 President Pro Tempore of the Senate and the citizen of the State shall serve four-year
4 terms.

5 Thereafter, as the term of each member expires, a successor shall be appointed for a
6 term of four years.

7 (c) Vacancies. – Vacancies in the Board occurring for any reason shall be filled
8 for the unexpired term by the appointing official making the original appointment.
9 Vacancies in positions appointed by the General Assembly upon the recommendation of
10 the President Pro Tempore of the Senate or the Speaker of the House of Representatives
11 shall be filled in accordance with G.S. 120-122.

12 **"§ 143-151.47. Compensation of Board members.**

13 Members of the Board shall receive no salary for serving on the Board. Members
14 may be reimbursed for their travel and other expenses in accordance with G.S. 93B-5
15 but may not receive the per diem authorized by that statute.

16 **"§ 143-151.48. Election of officers; meetings of Board.**

17 (a) Officers. – Within 30 days after making appointments to the Board, the
18 Governor shall call the first meeting of the Board. The Board shall elect a chair and a
19 vice-chair who shall hold office according to rules adopted by the Board.

20 (b) Meetings. – The Board shall hold at least two regular meetings each year as
21 provided by rules adopted by the Board. The Board may hold additional meetings upon
22 the call of the chair or any two Board members. A majority of the Board membership
23 constitutes a quorum.

24 **"§ 143-151.49. Powers and responsibilities of Board.**

25 (a) General. – The Board has the power to do all of the following:

- 26 (1) Determine the qualifications and fitness of applicants for a new or
27 renewed license.
- 28 (2) Adopt and publish a code of ethics and standard of practice for persons
29 licensed under this Article.
- 30 (3) Issue, renew, deny, revoke, and suspend licenses under this Article.
- 31 (4) Conduct investigations, subpoena individuals and records, and do all
32 other things necessary and proper to discipline persons licensed under
33 this Article and to enforce this Article.
- 34 (5) Employ professional, clerical, investigative, or special personnel
35 necessary to carry out the provisions of this Article.
- 36 (6) Purchase or rent office space, equipment, and supplies necessary to
37 carry out the provisions of this Article.
- 38 (7) Adopt a seal by which it shall authenticate its proceedings, official
39 records, and licenses.
- 40 (8) Conduct administrative hearings in accordance with Article 3A of
41 Chapter 150B of the General Statutes.
- 42 (9) Establish fees as allowed by this Article.
- 43 (10) Publish and make available upon request the licensure standards
44 prescribed under this Article and all rules adopted by the Board.

1 (11) Request and receive the assistance of State educational institutions or
2 other State agencies.

3 (12) Establish continuing education requirements for persons licensed
4 under this Article.

5 (13) Adopt rules necessary to implement this Article.

6 (b) Exam. – In developing a licensing examination to determine the knowledge
7 of an applicant, the Board must emphasize knowledge gained through experience.

8 **"§ 143-151.50. License required to perform home inspections for compensation or**
9 **to claim to be a 'licensed home inspector'.**

10 (a) Requirement. – To perform a home inspection for compensation on or after
11 October 1, 1996, or to claim to be a licensed home inspector or a licensed associate
12 home inspector on or after that date, an individual must be licensed by the Board. An
13 individual who is not licensed by the Board may perform a home inspection without
14 compensation.

15 (b) Form of License. – The Board may issue a license only to an individual and
16 may not issue a license to a partnership, an association, a corporation, a firm, or another
17 group. A licensed home inspector or licensed associate home inspector, however, may
18 perform home inspections for or on behalf of a partnership, an association, a
19 corporation, a firm, or another group, may conduct business as one of these entities, and
20 may enter into and enforce contracts as one of these entities.

21 **"§ 143-151.51. Requirements to be licensed as a home inspector.**

22 To be licensed as a home inspector, an applicant must do all of the following:

23 (1) Submit a completed application to the Board upon a form provided by
24 the Board.

25 (2) Pass a licensing examination prescribed by the Board.

26 (3) Have minimum net assets or a bond in an amount determined by the
27 Board. The amount may not be less than five thousand dollars (\$5,000)
28 nor more than ten thousand dollars (\$10,000).

29 (4) Pay the applicable fees.

30 (5) Meet one of the following three conditions:

31 a. Have a high school diploma or its equivalent, have been
32 engaged as a licensed associate home inspector for at least one
33 year, and have completed 100 home inspections for
34 compensation.

35 b. Have education and experience the Board considers to be
36 equivalent to that required by subpart a. of this subdivision.

37 c. Be licensed as a general contractor under Article 1 of Chapter
38 87 of the General Statutes, as an architect under Chapter 83A of
39 the General Statutes, or as a professional engineer under
40 Chapter 89C of the General Statutes.

41 **"§ 143-151.52. Requirements to be licensed as an associate home inspector.**

42 To be licensed as an associate home inspector, a person must do all of the following:

43 (1) Submit a completed application to the Board upon a form provided by
44 the Board.

- 1 (2) Pass a licensing examination prescribed by the Board.
- 2 (3) Pay the applicable fees.
- 3 (4) Have a high school diploma or its equivalent.
- 4 (5) Be affiliated or intend to be affiliated with a licensed home inspector
5 and submit a sworn statement by the licensed home inspector with
6 whom the applicant is or intends to be affiliated certifying that the
7 licensed home inspector will actively supervise and train the applicant.

8 **"§ 143-151.53. Notification of applicant following evaluation of application.**

9 The Board must review each application for a license submitted to it and must notify
10 each applicant that the application is either accepted or rejected. The Board must send
11 the notification of acceptance or rejection within 30 days of receiving the application. If
12 the Board rejects an application, the notice sent to the applicant must state the reasons
13 for the rejection.

14 **"§ 143-151.54. Miscellaneous license provisions.**

15 A license issued by the Board is the property of the Board. If the Board suspends or
16 revokes a license issued by it, the individual to whom it is issued must give it to the
17 Board upon demand. An individual who is licensed by the Board must display the
18 license certificate in the manner prescribed by the Board. A license holder whose
19 address changes must report the change to the Board.

20 **"§ 143-151.55. Renewal of license; inactive licenses.**

21 (a) Renewal. – A license expires on September 30 of each year. A license may
22 be renewed by filing an application for renewal with the Board and paying the required
23 renewal fee. The Board must notify license holders at least 30 days before their licenses
24 expire. The Board must renew the license of a person who files an application for
25 renewal, pays the required renewal fee, has fulfilled the continuing education
26 requirements set by the Board, and is not in violation of this Article when the
27 application is filed. If the Board imposes a continuing education requirement as a
28 condition of renewing a license, the Board must ensure that the courses needed to fulfill
29 the requirement are available in all geographic areas of the State.

30 (b) Late Renewal. – The Board may provide for the late renewal of a license
31 upon the payment of a late fee, but no late renewal of a license may be granted more
32 than five years after the license expires.

33 (c) Inactive License. – A license holder may apply to the Board to be placed on
34 inactive status. An applicant for inactive status must follow the procedure set by the
35 Board. A license holder who is granted inactive status is not subject to the license
36 renewal requirements during the period the license holder remains on inactive status.

37 A license holder whose application is granted and is placed on inactive status may
38 apply to the Board to be reinstated to active status at any time. The Board may set
39 conditions for reinstatement to active status. An individual who is on inactive status
40 and applies to be reinstated to active status must comply with the conditions set by the
41 Board.

42 **"§ 143-151.56. Suspension, revocation, and refusal to renew license.**

(a) The Board may deny or refuse to issue or renew a license, may suspend or revoke a license, or may impose probationary conditions on a license if the license holder or applicant for licensure has engaged in any of the following conduct:

- (1) Employed fraud, deceit, or misrepresentation in obtaining or attempting to obtain or renew a license.
- (2) Committed an act of malpractice, gross negligence, or incompetence in the practice of home inspections.
- (3) Without having a current license, either performed home inspections for compensation or claimed to be licensed.
- (4) Engaged in conduct that could result in harm or injury to the public.
- (5) Been convicted of or pled guilty or **nolo contendere** to any crime involving moral turpitude.
- (6) Been adjudicated insane or incompetent and has not presented proof of recovery from the condition.
- (7) Engaged in any act or practice that violates any of the provisions of this Article or any rule issued by the Board, or aided, abetted, or assisted any person in a violation.

(b) A denial of licensure, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license holder may be ordered by the Board after a hearing held in accordance with Chapter 150B of the General Statutes and rules adopted by the Board. An application may be made to the Board for reinstatement of a revoked license if the revocation has been in effect for at least one year.

§ 143-151.57. Fees.

(a) Maximum Fees. – The Board may adopt fees that do not exceed the amounts set in the following table for administering this Article:

<u>Item</u>	<u>Maximum Fee</u>
<u>Application for home inspector license</u>	<u>\$25.00</u>
<u>Application for associate home inspector license</u>	<u>15.00</u>
<u>Home inspector examination</u>	<u>75.00</u>
<u>Issuance of home inspector license</u>	<u>150.00</u>
<u>Issuance of associate home inspector license</u>	<u>100.00</u>
<u>Late renewal of home inspector license</u>	<u>25.00</u>
<u>Late renewal of associate home inspector license</u>	<u>15.00</u>
<u>inspector</u>	<u>15.00</u>
<u>Copies of Board rules or licensure standards</u>	<u>Cost of printing and mailing.</u>

(b) Subsequent Application. – An individual who applied for a license as a home inspector and who failed the home inspector examination is not required to pay an additional application fee if the individual submits another application for a license as a home inspector. The individual must pay the examination fee, however, to be eligible to take the examination again.

§ 143-151.58. Duties of licensed home inspector or licensed associate home inspector.

1 A licensed home inspector or licensed associate home inspector must give to each
2 person for whom the inspector performs a home inspection for compensation a written
3 report of the home inspection. The inspector must give the person the report by the date
4 set in a written agreement by the parties to the home inspection. If the parties to the
5 home inspection did not agree on a date in a written agreement, the inspector must give
6 the person the report within three business days after the inspection was performed.

7 **"§ 143-151.59. Violation is a misdemeanor.**

8 A person who violates a provision of this Article is guilty of a Class 2 misdemeanor.
9 Each unlawful act or practice constitutes a distinct and separate offense.

10 **"§ 143-151.60. Injunctions.**

11 The Board may make application to any appropriate court for an order enjoining
12 violations of this Article. Upon a showing by the Board that any person has violated or
13 is about to violate this Article, the court may grant an injunction or a restraining order or
14 take other appropriate action.

15 **"§ 143-151.61. Certain applicants do not have to be licensed as an associate home**
16 **inspector before being eligible for licensure as a home inspector.**

17 The requirement that an applicant for licensure as a home inspector first have a
18 license as an associate home inspector does not apply to a person who, prior to October
19 1, 1996, had been engaged in the business of performing home inspections for
20 compensation for at least one year and had conducted at least 100 home inspections for
21 compensation. All other requirements for licensure as a home inspector, including
22 passing a licensing examination provided by the Board, apply to an applicant who is
23 exempted by this section from the requirement of prior licensure as an associate home
24 inspector.

25 **"§ 143-151.62. Persons and practices not affected.**

26 This Article does not apply to any of the following:

- 27 (1) A person who is employed as a code enforcement official by the State
28 or a political subdivision of the State and is certified pursuant to
29 Article 9C of Chapter 143 of the General Statutes, when acting within
30 the scope of that employment.
- 31 (2) A plumbing or heating contractor who does not claim to be a home
32 inspector and is licensed under Article 2 of Chapter 87 of the General
33 Statutes, when acting pursuant to that Article.
- 34 (3) An electrical contractor who does not claim to be a home inspector and
35 is licensed under Article 4 of Chapter 87 of the General Statutes, when
36 acting pursuant to that Article.
- 37 (4) A real estate broker or a real estate sales representative who does not
38 claim to be a home inspector and is licensed under Article 1 of Chapter
39 93A of the General Statutes, when acting pursuant to that Article.
- 40 (5) A structural pest control licensee licensed under the provisions of
41 Article 4C of Chapter 106 of the General Statutes, an employee of the
42 licensee, or a certified applicator licensed under the provisions of
43 Article 4C of Chapter 106 of the General Statutes who does not claim

1 to be a home inspector, while performing structural pest control
2 activities pursuant to that Article.

3 **"§ 143-151.63. Administration.**

4 (a) The Division of Engineering and Building Code in the Department of
5 Insurance shall provide clerical and other staff services required by the Board, and shall
6 administer and enforce all provisions of this Article and all rules adopted under this
7 Article, subject to the direction of the Board. The Board shall reimburse the Division
8 for its services to the Board.

9 (b) Any monies received by the Board pursuant to this Article shall be deposited
10 in the State treasury to the account of the Board and shall be used to administer this
11 Article.

12 (c) The books and records of the Board are subject to the oversight of the State
13 Auditor, as provided in G.S. 93B-4."

14 Sec. 2. This act is effective upon ratification.