

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 168

S.P. 65

In Senate, January 11, 1999

An Act to License Home Inspectors.

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator HARRIMAN of Cumberland.
Cosponsored by Senator RAND of Cumberland, Representative: LEMONT of Kittery.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §12004-A, sub-§9-C is enacted to read:**

6 9-C. Maine Board \$35/Day 32 MRSA §14003
of Home Inspectors

8 **Sec. 2. 10 MRSA §8001, sub-§38, ¶¶KK and LL, as enacted by PL**
10 1995, c. 560, Pt. H, §4 and affected by §17, are amended to read:

12 KK. Board of Boiler Rules; and

14 LL. Board of Elevator and Tramway Safety; and

16 **Sec. 3. 10 MRSA §8001, sub-§38, ¶MM is enacted to read:**

18 MM. Maine Board of Home Inspectors.

20 **Sec. 4. 32 MRSA c. 124 is enacted to read:**

22 **CHAPTER 124**

24 **HOME INSPECTOR LICENSURE**

26 **§14001. Definitions**

28 As used in this chapter, unless the context otherwise
30 indicates, the following terms have the following meanings.

32 1. Apprentice inspector. "Apprentice inspector" means a
34 person who is in training under the direct supervision of a
professional inspector or a home inspector to become qualified to
perform home inspections.

36 2. Board. "Board" means the Maine Board of Home Inspectors.

38 3. Commissioner. "Commissioner" means the Commissioner of
40 Professional and Financial Regulation.

42 4. Core home inspection courses. "Core home inspection
44 courses" means educational courses approved by the board,
including but not limited to structural, electrical, mechanical,
46 plumbing, roofing, business, legal, standards of practice, report
writing, appliances and ethics courses, all of which must relate
to a home inspection.

48 5. Department. "Department" means the Department of
50 Professional and Financial Regulation.

2 6. Direct supervision. "Direct supervision" means the
instruction and supervision of an individual performing a home
4 inspection or preparing a report of a home inspection by a
professional inspector or a home inspector licensed under this
chapter who is:

6
8 A. Responsible for the actions of an individual performing
a home inspection or preparing a report of a home inspection;

10 B. Available if and when needed to consult with or assist
an individual performing a home inspection or preparing a
12 report of a home inspection; and

14 C. Physically present at the time and place of the
inspection.

16
18 7. Home inspection. "Home inspection" means a written or
oral opinion as to the condition of real property and the
improvements to real property, including structural items,
20 electrical items, mechanical systems, plumbing systems and
equipment.

22
24 8. Home inspector. "Home inspector" means a person who is
licensed and who represents to the public that the person is
trained and qualified to perform home inspections under the
26 indirect supervision of a professional inspector and who accepts
employment for the purpose of performing a home inspection for a
28 buyer or seller of real property.

30 9. Indirect supervision. "Indirect supervision" means the
instruction and supervision of an individual performing a home
32 inspection or preparing a report of a home inspection by a
professional inspector licensed under this chapter who is:

34
36 A. Responsible for the actions of an individual performing
a home inspection or preparing a report of a home
inspection; and

38
40 B. Available if and when needed to consult with or assist
an individual performing a home inspection or preparing a
42 report of a home inspection but who is not required to be
physically present at the time and place of the inspection.

44 10. Inspector. "Inspector" means a person who is licensed
as an apprentice inspector, a home inspector or a professional
46 inspector under this chapter.

48 11. License. "License" means an apprentice license, a home
inspector license or a professional inspector license issued
50 under this chapter.

2 12. Licensee. "Licensee" means a person holding an
apprentice inspector license, a home inspector license or a
4 professional inspector license issued under this chapter.

6 13. Professional inspector. "Professional inspector" means
a person who is a licensee and who represents to the public that
8 the person is trained and qualified to perform a home inspection
and who accepts employment for the purpose of performing a home
10 inspection for a buyer or seller of real property.

12 §14002. License required

14 Except as provided by section 14013, a person may not
conduct, for a fee or other valuable considerations, a home
16 inspection relating to real property located in this State
without first obtaining a professional inspector, home inspector
18 or apprentice inspector license as provided by this chapter.

20 §14003. Maine Board of Home Inspectors; establishment

22 1. Establishment. The Maine Board of Home Inspectors as
established by Title 5, section 12004-A, subsection 9-C is
24 established within the Department of Professional and Financial
Regulation and shall carry out the purposes of this chapter.

26 2. Members. The board is composed of 7 members appointed
28 by the Governor. Each member must be a resident of this State.
The board consists of:

30 A. One professional inspector actively engaged in the
32 practice of home inspecting at the time of appointment and
must have been primarily engaged in the practice of home
34 inspecting for at least 5 years before the member's
appointment;

36 B. One representative of a mortgage lending organization;

38 C. One residential or real estate appraiser; and

40 D. Four public members, 3 of whom are familiar with home
42 inspection.

44 No more than 2 members of the board may hold a real estate broker
license.

46 3. Appointments. The Governor shall make initial
48 appointments within 60 days of the effective date of this
chapter. The professional inspector initially appointed must be
50 licensed in accordance with this chapter on or before July 1,

2001. The commissioner shall call the first meeting of the board, which must take place within 30 days of the completion of the appointments of the initial members. The board shall elect a chair and secretary from among its members at its first meeting of each year, provided that no person may serve as chair for more than 3 years.

4. Terms of office. The Governor shall appoint 2 of the initial board members for a term of one year; 2 for a term of 2 years; and 3 for a term of 3 years. Their successors are appointed for terms of 3 years each.

5. Removal. The Governor may remove any member of the board for cause.

6. Meetings; quorum. The board shall hold at least 3 regular meetings a year. Additional meetings may be held upon the call of the chair or upon the written request of 2 board members. A majority of the members of the board constitutes a quorum for the transaction of business under this chapter.

§14004. Powers and duties of board

The board has the following powers and duties in addition to all other powers and duties otherwise set forth in this chapter.

1. Standards. The board shall administer and enforce this chapter, set forth education and examination standards and evaluate the qualifications for licensure and certification.

2. Rules. The board may adopt, in accordance with the Maine Administrative Procedure Act, rules necessary to carry out the purposes of this chapter including rules establishing fees. Rules adopted pursuant to this chapter are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.

3. Complaints. The board shall investigate or cause to be investigated all complaints made on its own motion or on written complaint filed with the board and all cases of noncompliance with or violation of this chapter or any rules adopted by the board.

4. Disciplinary action. The board may take disciplinary action following an investigation pursuant to subsection 3. If a violation of any law or rules established pursuant to this chapter is determined, the board may take one or more of the disciplinary actions set forth in Title 10, section 8003, subsection 5.

5. Records. The board shall keep records and minutes necessary to the ordinary conduct of its functions.

2 6. Reports. The board shall submit to the commissioner its
4 annual report of its operations for the preceding fiscal year no
 later than August 1st.

6 7. Register. The department shall make available, at cost,
8 a register containing the names of all individuals licensed by
 the board.

10 8. Officers. The board shall elect from among its members
12 a chair, a secretary and other officers as it determines
 necessary. The secretary shall keep records and minutes of all
14 activities and meetings.

16 9. Code of ethics. The board shall adopt a code of ethics
18 generally in keeping with standards established by the national
 professional associations concerned with the areas of board
 responsibility.

20 10. Hearings. The board shall conduct hearings in
22 conformity with the Maine Administrative Procedure Act to assist
24 with investigations and to determine whether grounds exist for
 suspension, revocation or denial of a license, or as otherwise
26 determined necessary to the fulfillment of its responsibilities
 under this chapter.

28 §14005. Issuance of licenses

30 1. Application; qualifications. The board shall issue an
32 apprentice license, a home inspector license or a professional
34 inspector license to any person who has successfully complied
 with the application process established by the board, paid the
 required fee established under section 14007 and who meets the
 following qualifications:

36 A. To be licensed as a professional inspector:

38 (1) An applicant meets the requirements and has been
40 licensed as an apprentice inspector for at least 3
42 months and licensed as a home inspector for at least 12
 months and has performed at least 175 home inspections
 under indirect supervision before filing an application;

44 (2) An applicant for an original professional
46 inspector license submits satisfactory evidence to the
48 board of successful completion of not fewer than 30
50 classroom hours of core home inspection courses and 8
 classroom hours related to the study of standards of
 practice, legal issues or ethics related to the
 profession of home inspection. These classroom hours

2 are in addition to those required for an apprentice
3 inspector license or a home inspector license; and

4 (3) An applicant must be determined competent by the
5 board on the basis of an examination required by
6 section 14006;

8 B. To be licensed as a home inspector:

10 (1) An applicant meets the requirements and has been
11 licensed as an apprentice inspector for at least 3
12 months and has performed at least 25 home inspections
13 under direct supervision before filing an application;

14 (2) An applicant must satisfy the board as to that
15 applicant's honesty, trustworthiness, integrity and
16 competency;

17 (3) An applicant for an original home inspector
18 license submits satisfactory evidence to the board of
19 successful completion of not fewer than 90 classroom
20 hours of core home inspection courses. The board by
21 rule may specify the length and content of the core
22 home inspection courses required by this subparagraph;

23 (4) An applicant must be determined competent by the
24 board on the basis of an examination required by
25 section 14006; and

26 (5) The applicant must be sponsored by a professional
27 inspector licensed under this chapter; or

28 C. To be licensed as an apprentice inspector:

30 (1) An applicant must be an individual, a citizen of
31 the United States or a lawfully admitted alien, and a
32 resident of this State at the time of the filing of the
33 application;

34 (2) The applicant must be sponsored by a professional
35 inspector licensed under this section;

36 (3) The applicant must be at least 18 years of age; and

37 (4) The applicant must satisfy the board as to the
38 applicant's honesty, trustworthiness and integrity.

39 2. Substitution of relevant experience. The board by rule
40 shall provide for the substitution of relevant experience or
41 additional education in lieu of the number of home inspections
42 required by this section.

2 required by this section and in lieu of the requirement that the
3 applicant be licensed as an apprentice inspector or a home
4 inspector before issuance of a license as a home inspector or
5 professional inspector. The rules adopted by the board under
6 this section may not require an applicant to complete more than
7 60 additional classroom hours of core home inspection courses.
8 Rules adopted pursuant to this subsection are routine technical
9 rules as defined by Title 5, chapter 375, subchapter II-A.

10 3. Application forms. An applicant must file an
11 application for a license with the board on forms prescribed by
12 the board.

13 4. Apprentice sponsorship. Before a licensed professional
14 inspector may sponsor an apprentice inspector or a home
15 inspector, the professional inspector must provide sufficient
16 proof to the board that the professional inspector has completed
17 not fewer than 200 home inspections while licensed as a
18 professional inspector under this chapter.

19 A license issued under this chapter entitles the licensee to
20 inspect all types of real property in the State.

21 §14006. Examination

22 All applicants for a professional inspector or home
23 inspector license are required to pass a written examination in
24 subjects the board considers necessary to determine the fitness
25 of the applicant to practice. The board shall establish the
26 passing score for all examinations. Examinations are held at
27 such times as the board determines necessary. To qualify for
28 examination, an applicant required to take an examination under
29 this section must submit evidence of compliance with the
30 education requirements set forth in section 14005.

31 §14007. Fees

32 1. Application and examination fees. Application and
33 examination fees may be established by the board by rule in
34 amounts that are reasonable and necessary for their respective
35 uses. License fees may not exceed the following amounts:

36 A. Seventy-five dollars to file an original application for
37 a license as an apprentice inspector;

38 B. One hundred twenty-five dollars to file an original
39 application for a license as a home inspector;

40 C. One hundred fifty dollars to file an original
41 application for a license as a professional inspector;

2 D. One hundred twenty-five dollars for the biennial license
3 renewal of an apprentice inspector;

4 E. One hundred seventy-five dollars for the biennial
5 license renewal of a home inspector;

6 F. Two hundred dollars for the biennial license renewal of
7 a professional inspector; and

8 G. One hundred dollars for taking a license examination.

9 2. License replacement fee. The board may establish a fee
10 not to exceed \$20 for a request for a change of place of business
11 or to replace a lost or destroyed license.

12 **§14008. Terms of licenses**

13 1. Biennial renewal. Licenses expire biennially on
14 December 31st or on another date the commissioner determines.
15 Notice of expiration must be mailed to each licensee's last known
16 address at least 30 days in advance of the expiration of the
17 license. The notice must include any requests for information
18 necessary for renewal.

19 Licenses may be renewed up to 90 days after the date of
20 expiration upon payment of a late fee of \$50 in addition to the
21 renewal fee. Any person who submits an application for renewal
22 more than 90 days after the license renewal date is subject to
23 all requirements governing new applicants under this chapter,
24 except that the board may, giving due consideration to the
25 protection of the public, waive the education or examination
26 requirements if that renewal application is made within 2 years
27 from the date of that expiration.

28 2. Continuing education programs. The board shall
29 recognize, prepare or administer mandatory continuing education
30 programs for inspectors. A home inspector must submit
31 satisfactory evidence to the board of successful completion of at
32 least 4 classroom hours of core home inspection courses annually
33 before a license renewal is issued. A professional inspector
34 must submit satisfactory evidence to the board of successful
35 completion of at least 8 classroom hours of core home inspection
36 courses annually before a license renewal is issued.

37 **§14009. Place of business**

38 Each licensee shall designate and maintain a principal place
39 of business and shall conspicuously display the license therein.
40 A nonresident licensee is not required to maintain a place of
41 business.

2 business in this State if the licensee maintains an active place
3 of business in the state of domicile.

4 **§14010. Changes**

6 The licensee shall report any change of address or name or
7 other material change in the conditions or qualifications set
8 forth in the original application no later than 10 days after the
9 change. Upon proper application and payment of the prescribed
10 fee, the board records must be changed and a new license issued
11 for the unexpired term of the current license, if appropriate.

12 **§14011. Waiver for out-of-state applicants**

14 The board may waive any license requirement for an applicant
15 with a valid license from another state having license
16 requirements substantially equivalent to those of this State.

18 **§14012. Prohibited acts**

20 A professional inspector, a home inspector or an apprentice
21 inspector licensed under this chapter may not:

24 1. Contingent assignment. Accept an assignment for home
25 inspection if the employment or fee is contingent on the
26 reporting of a specific, predetermined condition of the
27 improvements to real property or is contingent on the reporting
28 of specific findings other than those known by the inspector to
29 be facts at the time of accepting the assignment;

30 2. Dishonesty, fraud or misrepresentation. Act in a manner
31 or engage in a practice that is dishonest or fraudulent or that
32 involves deceit or misrepresentation;

34 3. Negligence; incompetence. Perform a home inspection in
35 a negligent or incompetent manner;

38 4. Undisclosed principal. Act in the dual capacity of
39 inspector and undisclosed principal in a transaction;

40 5. Real estate broker or salesperson. Act in the dual
41 capacity of inspector and real estate broker or salesperson in a
42 transaction;

44 6. Perform repairs or maintenance. Perform or agree to
45 perform any repairs or maintenance in connection with a home
46 inspection pursuant to the provisions of any earnest money
47 contract, lease agreement or exchange of home; or
48

2 7. Violation of rules. Violate the rules adopted by the
3 board or any provisions of this chapter.

4 **§14013. Exemptions**

6 This chapter does not apply to any electrician, plumber,
7 carpenter or any other person who repairs, maintains or inspects
8 real property or improvements to real property and who does not
9 represent to the public through personal solicitation or public
10 advertising that the person is in the business of home
11 inspection. The provisions of this chapter may not be construed
12 to prevent any person from performing any acts that the person is
13 authorized to perform pursuant to a license or registration
14 issued by this State or any governmental subdivision of this
15 State.

16 **§14014. Grandfathering**

17 1. Requirements. A person who applies for licensure and
18 remits the application and appropriate fees by January 1, 2001
19 must be licensed by the board if:

20 A. The applicant has previously passed the examination of
21 the American Society of Home Inspectors, or its successor
22 organization, or an equivalent examination approved by the
23 board; or

24 B. The applicant submits satisfactory evidence of having
25 used or been identified by the title "home inspector" and
26 has a combination of home inspector education and
27 diversified and appropriate experience totaling 6 years;
28 except that if the home inspector has one year or less of
29 home inspector education, then 2 years of home inspector
30 experience acceptable to the board may be substituted for
31 each year of home inspector education required. A person is
32 considered to have used or been identified by the title
33 "home inspector" if the person demonstrates to the
34 satisfaction of the board that the person was either
35 self-employed as a home inspector or, in the course of
36 regular employment, rendered or offered to render to another
37 person home inspection services.

38 **§14015. Inactive licenses**

39 The board, by rule, may adopt terms and conditions by which
40 an inspector may apply for, renew or place a license on inactive
41 status and rules by which an inactive inspector may return to
42 active status. Rules adopted pursuant to this section are
43 routine technical rules as defined by Title 5, chapter 375,
44 subchapter II-A.

2 **§14016. Home inspection forms**

4 The board, by rule, shall prescribe standard forms and adopt
6 rules that require inspectors to use the forms to reduce
8 discrepancies and to create consistency in preparing reports of
 home inspections. Rules adopted pursuant to this section are
 routine technical rules as defined by Title 5, chapter 375,
 subchapter II-A.

10

12

SUMMARY

14

 This bill establishes the Maine Board of Home Inspectors.
16 There are 3 categories of licensure: apprentice inspector, home
 inspector and professional inspector. Each category of licensure
18 has specific educational and experiential requirements. There is
 a provision for grandfathering individuals working as home
20 inspectors before January 1, 2001 provided they meet the
 eligibility requirements set forth in the law.

22

 The fee structure for application, licensure, renewal and
24 examination will be determined by the board. Continuing education
 requirements will also be established by the board for licensure
 renewal.

26

 Any joint standing committee of the Legislature that
28 recommends to the Legislature the regulation of an occupational
 profession not previously regulated must include an evaluation of
30 the need for regulation pursuant to the Maine Revised Statutes,
 Title 5, section 12015, subsection 3.

32