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DEPARTMENT OF

**Professional &
Financial Regulation**

STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF PROF. AND OCC. REGULATION

***Report of the Commissioner of Professional and
Financial Regulation***

To the

**Joint Standing Committee on
Innovation, Development, Economic Advancement
and Business**

**Resolve, To Require Professional Licensure for
Home Inspectors**

Submitted Pursuant to Resolve 2019, Ch. 61

January 10, 2020

Resolve, To Require Professional Licensure for Home Inspectors
Resolve 2019, c. 61
Sunrise Review

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Resolve, To Require Professional Licensure for Home Inspectors
Resolve 2019, c. 61
Sunrise Review

Sunrise Review: Overview

The Maine Legislature established the Sunrise Review process to determine whether a proposed regulation, or expansion of regulation, of a certain profession or occupation is necessary *to protect the health, safety and welfare of the public*. The rationale underlying Sunrise Review is that the State of Maine should only impose regulation when necessary to protect Maine people from harm, and then, impose only the minimum level of regulation to ensure public health and safety.

A Sunrise Review also seeks to identify the potential impact of proposed regulation on the availability and cost of services to consumers. State regulation through licensing should not be used to create unnecessary barriers of entry to a profession that could limit consumer access to services or increase their cost, or for other economic purposes.

The Sunrise Review process is set forth in Maine law 5 MRS §12015 (3), which requires the committee of jurisdiction to take one of three steps to obtain relevant information about any proposal to create or expand a regulatory program. The committee steps include:

- A. Holding a public hearing to specifically address the Sunrise Review evaluation criteria contained in Title 32, section 60-J;
- B. Requesting the Commissioner of the Department of Professional and Financial Regulation (“Commissioner” and “DPFR”) to perform an “independent assessment” of survey responses to the evaluation criteria from the group proposing regulation or expansion of regulation, as well as from opponents and other interested parties; or
- C. Requesting the Commissioner of DPFR to create a technical committee to assess responses to the evaluation criteria from the parties referenced above.

Steps B and C above require the Commissioner to report findings and recommendations to the committee. The committee may also consider information outside of the Commissioner’s finding and report. After the committee reviews the Commissioner’s report, along with any additional material it wishes to consider, it may move forward with legislation to regulate the occupation/profession or decline to do so. The committee is not bound to accept the Commissioner’s recommendations.

If the committee concludes that state regulation is warranted, the committee drafts legislation for consideration by the full legislature. According to Title 5, the committee’s recommendation must include “a written statement describing the manner in which the assessment of answers to the evaluation criteria was conducted and a concise summary of the evaluation.” (Title 5 §12015).

Charge from the Legislature

During the First Regular Session of the 129th Maine Legislature, Representative Chris Kessler introduced LD 671, “*An Act To Require Professional Licensure for Property Inspectors*,” which proposed requiring property inspectors to be licensed in Maine. The Joint Standing Committee on Innovation, Development, Economic Advancement and Business (the “Committee”) held a public hearing on February 28, 2019, to consider LD 671. Subsequently, an informal meeting of interested persons was held on March 22, 2019 to determine the level of interest in requesting an independent assessment of the need for state regulation by the Commissioner of DPFR. Eleven interested parties attended the informal meeting and their comments were included in a meeting summary authored by the Committee’s policy analyst. The bill later retitled “*Resolve, To Require Professional Licensure for Home Inspectors*,” was passed by the Legislature, codified as Resolve 2019, c. 61 without the Governor’s signature and became effective on June 9, 2019. Resolve c. 61 is attached as *Appendix A*.

Evaluation Criteria

Title 32, section 60-J establishes thirteen evaluation criteria which must be addressed by the applicant group or individual proposing regulation. It is customary for the Commissioner to request and consider responses to an evaluation criteria survey from proponents of proposed regulation, as well as opponents and any interested party. Opponents and other interested parties are asked to address the same criteria, although responses to all criteria are not required. A list of the Sunrise evaluation criteria is attached as *Appendix B*.

The Process

Following enactment of Resolve 2019, c. 61, the Commissioner prepared a survey instrument based on the statutory evaluation criteria and distributed it on August 12, 2019. The survey and cover letter are attached as *Appendix C*. The distribution list included groups and individuals who provided public testimony on the original bill and other groups and individuals who had expressed an interest in participating in the survey process. The Commissioner encouraged those receiving the survey to distribute copies to any other groups or individuals who might wish to be heard and/or submit relevant information.

Thirteen survey responses and one letter clarifying the position of the Maine Coalition of Home Inspector Professionals (MeCHIPs) were submitted to the Commissioner’s Office.

The Commissioner also received a summary of comments of the March 22, 2019 stakeholder discussion from the Committee’s policy analyst.

The survey responses and the March 22, 2019 meeting summary are posted on the Commissioner’s website under ‘Legislative Reports’ at <https://www.maine.gov/pfr/legal/legislative-reports#professional> and are attached as *Appendix D*.

Discussion and Analysis

Sunrise Criterion #1: Data on Group. *A description of the professional or occupational group proposed for regulation or expansion of regulation, including the number of individuals or business entities that would be subject to regulation, the names and addresses of associations, organizations and other groups representing the practitioners and an estimate of the number of practitioners in each group;*

It is difficult to determine the number of individuals in Maine who hold themselves out as home inspectors as there is no single listing or registry. The Commissioner conducted a review of various home inspection-related websites and determined the following as of 12/2/19:

- the American Society of Home Inspectors (ASHI) indicates that it has 30 Maine members (19 certified, 11 affiliated);
- the International Association of Certified Home Inspectors (InterNACHI) database indicates that it has a total of 186 Maine members (102 certified, including 18 Certified Master Inspectors, and 84 associate members); and
- the MeCHIPs website indicates that it has 20 Maine “professional members” and 10 “affiliated members” working toward the “professional member” designation.

These professional trade associations are described in Sunrise Criterion #4 below. Some home inspectors are associated with more than one professional association and so the membership numbers above may be overlapping.

Department Analysis: Based on the information above, the number of Maine-based home inspectors associated with a professional trade association is less than 250. The number of home inspectors working in Maine who are not certified by any professional home inspection organization is not known.

Sunrise Criterion #2: Specialized Skill. *Whether practice of the profession or occupation proposed for regulation or expansion of regulation requires such a specialized skill that the public is not qualified to select a competent practitioner without assurances that minimum qualifications have been met;*

The focus of this statutory criterion is on the ability of the public to do their own due diligence in choosing a home inspector, not on the home inspectors’ qualifications.

The survey responses indicate generally that a home inspector should have knowledge of the building process acquired through education, training and examination. According to the standards of practice of MeCHIPs, home inspection is described as:

“[A] visual inspection of the readily accessible areas of the included items, components, and systems to determine if, at the time of the inspection, they are performing their intended function without regard to life expectancy. The purpose of the inspection is to identify visible defects and/or conditions that, in the judgment of the Inspector, adversely

affect the function and/or integrity of the items, components, and systems inspected with regard for the health and safety of the dwelling occupant(s). Inspections performed under these Standards are considered to be visual and rely upon the opinion, judgment, and experience of the Inspector. They are not intended to be technically exhaustive.”

A home inspection is an objective visual inspection. An inspector is not liable for failing to discover hidden defects and conditions. Home inspections by certified home inspectors depend in large part on an inspector’s judgment and experience in the field. Home inspections do not include specialized areas such as tests for radon, mold, drinking water, septic systems.

The survey responses indicated generally that a combination of high school education, skills training, passing a national exam through the American Society of Home Inspectors and obtaining continuing education offered by organizations similar to MeCHIPS and InterNACHI are the responders’ preferred pathways to becoming a home inspector. Some responders also indicated that work experience as a tradesperson in the building construction industry accompanied by training in building codes used in the construction industry would adequately prepare an individual for his or her role as a home inspector. Mentoring with an established, experienced home inspector was also mentioned as a way of gaining necessary experience.

Commenters generally agreed that home inspectors should be honest, independent, unbiased, knowledgeable, thorough in their inspections, able to provide a detailed outline of the condition of a home for safety reasons, and able to communicate clearly about the condition of major components of the home as well as noting minor issues. Some commenters noted that they use an inspection report with a checklist format and a pre-inspection contract that explains the purpose and scope of a home inspection recommended by one of the certifying organizations of which they are a member.

Department Analysis: The public has access to resources designed to provide information about the purpose and scope of home inspections and specific information about home inspectors who have obtained private certification and experience performing home inspections. Credential information about certified members of the home inspection community in Maine is available through the websites of professional associations including MeCHIPS, InterNACHI and ASHI. Home inspectors listed on one or more of these websites can be considered qualified to perform home inspections, having qualified for certification through skills training and passage of an examination through a private certification program. Social media outlets have also become a source of instant feedback for consumers seeking information about home inspectors.

Maine law does not mandate that home buyers obtain a home inspection. It is a consumer’s choice whether to obtain an inspection and from whom. Several commenters noted that consumers should do their own due diligence in finding a home inspector, just as they would research options before buying a vehicle or boat.

Sunrise Criterion #3: Public Health, Safety and Welfare. *The nature and extent of potential and actual harm to the public if the profession or occupation is not regulated, the extent to which*

there is a threat to the public's health, safety or welfare and production of evidence of potential harm, including a description of any complaints filed with state law enforcement authorities, courts, departmental agencies, other professional or occupational boards or private lodged against practitioners of the profession or occupation in this State within the past 5 years;

Several responders indicated that they were not aware of any specific instances of harm to the public as a result of home inspection. Although one survey response opined about potential or hypothetical harm to the public, specific examples of harm resulting from home inspections were not provided. Most responders stated that they were aware of very few complaints from their home inspection clients. A few survey responders noted non-specific instances in which a consumer had been dissatisfied with the certain aspects of an inspection report itself, but then indicated that these situations were typically settled quickly between the inspector or inspection company and the consumer.

To supplement responders' information, the Commissioner asked the Maine Attorney General's Office ("AG") to provide copies of consumer complaints involving home inspectors between 2012 and 2019. The AG's Consumer Protection Division offers a voluntary mediation service to address consumer complaints. The AG identified and shared seven complaints involving home inspection during that 7-year period. Of those complaints, two were by unsatisfied consumers which resulted in the inspection company refunding the inspection fee to the consumer or a charity of the consumer's choice. Three complaints resulted from a misunderstanding or lack of understanding by consumers about areas that are not typically addressed in a home inspection. One complaint was filed by a Maine consumer against a New Hampshire inspection company and was redirected to the New Hampshire licensing agency. One pending complaint was filed by a consumer who was advised that the house was "plumb." The consumer later engaged a structural engineer who determined the house was not plumb and needed repair.

The Commissioner also conducted a cursory review of Maine court cases that turn on a home inspector's work product or inspection report. The Commissioner did not find court cases in which a home inspector's work product or inspection report was the primary issue. There are cases in which a home inspection was performed but the inspection was not the main subject of the case.

Department Analysis: A showing of actual harm to the public at large in the absence of state regulation is central to determining whether state regulation is an appropriate use of a state's constitutional police power to safeguard its citizens. It appears from the very small number of documented complaints and court cases that consumers of home inspection services are not facing the danger of imminent or wide spread harm.

Sunrise Criteria #4: Voluntary and past regulatory efforts. *A description of the voluntary efforts made by practitioners of the profession or occupation to protect the public through self-regulation, private certifications, membership in professional or occupational associations or academic credentials and a statement of why these efforts are inadequate to protect the public;*

A. Voluntary Efforts

There are at least three voluntary professional home inspector associations which seek to protect the public by self-regulation, certification and membership:

1. Maine Coalition of Home Inspection Professionals (“MeCHIPs”), Gardiner, ME

According to the MeCHIPs’ website, it was “founded in January 1999 to create a professional forum for Home Inspectors, to provide a place for the exchange of information regarding the Home Inspection industry, and to effectively represent Home Inspection Professionals.” Professional membership in this organization is voluntary. MeCHIPs requires its members to comply with its adopted bylaws, standards of practice, and code of ethics, use a written home inspection report, earn 48 CEUs over a 3-year period, use a written contract with an arbitration clause, have passed the “National Home Inspector Examination” offered by ASHI, and have performed a minimum of 25 paid home inspections. MeCHIPs also offers a wide variety of home inspection continuing education programs.

2. American Society of Home Inspectors

According to its website, The American Society of Home Inspectors (“ASHI”) is a national non-profit professional association and certifying body for home inspectors. It has established standards of practice and a code of ethics for its members. Its mission is to set and promote standards for property inspections and to provide the educational programs needed to achieve excellence in the profession and to meet the needs of its members. ASHI offers the National Home Inspection Examination to anyone, but passage of the exam is one of several requirements in order to be designated as a Certified ASHI Home Inspector.

3. International Association of Certified Home Inspectors (“InterNACHI”)

According to its website, The International Association of Certified Home Inspectors, “InterNACHI,” is a nonprofit corporation with tax-exempt status as a trade association. InterNACHI provides training, certification, and continuing education for its membership, which includes property inspectors, licensed real estate agents, and building contractors. InterNACHI members follow standards of practice and are bound by a code of ethics. InterNACHI’s mission includes educating homeowners about the functions, materials, systems and components of their properties.

B. Past Regulatory Efforts

Maine legislative records reflect one prior attempt to enact a licensing law for home inspectors. In 1999, LD 168 “*An Act to License Home Inspectors*” was submitted and considered by the 119th Maine Legislature. The bill was not enacted, however, it laid the groundwork for establishing MeCHIPs.

Department Analysis: There are three voluntary professional associations that effectively self-regulate their members. They require their members to comply with standards of practice and codes of ethics.

Some commenters indicated that although the private certification organizations are important as educational, training and examination sources, they do not keep out bad actors. No specific information on bad actors was provided.

Maine legislative records reflect that one prior attempt to enact a licensing law for home inspectors has been made in 1999. The bill was not enacted.

Sunrise Criterion #5: Cost; benefit. *The extent to which regulation or expansion of regulation of the profession or occupation will increase the cost of goods or services provided by practitioners and the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers;*

Most survey responders commented directly or indirectly that if state regulation were imposed, inspectors on the margins of the home inspection community might leave the profession, which would impact competition, thereby, increasing the cost of service to consumers. Other responders indicated that the number of inspectors would decrease but that the cost of services to consumers would increase only minimally. A few commenters indicated that nothing would change if state regulation were imposed, provided license fees were low.

Department Analysis: When the State imposes new license requirements on a group of individuals that has never been the subject of state regulation, two trends can be anticipated. First, the number of available service providers will likely decrease. Individuals who provide home inspection services but who cannot afford, for whatever reason, to comply with newly imposed license requirements will likely leave the profession or practice without a license. Second, the cost of home inspections may increase as the availability of licensed inspectors decreases; and new overhead costs associated with state regulation might be passed on to consumers.

Sunrise Criterion #6: Service availability of regulation. *The extent to which regulation or expansion of regulation of the profession or occupation would increase or decrease the availability of services to the public;*

Department Analysis: See Sunrise Criterion #5

Sunrise Criterion #7: Existing laws and regulations. *The extent to which existing legal remedies are inadequate to prevent or redress the kinds of harm potentially resulting from nonregulation and whether regulation can be provided through an existing state agency or in conjunction with presently regulated practitioners;*

Depending on the consumer's complaint, aggrieved consumers may have the following options available:

- A private right of action under the Maine Unfair Trade Practices Act ¹
The private right of action provision is designed to encourage early settlement of disputes by requiring the consumer to give the seller a written demand for relief, describing the acts complained of and the losses claimed, at least 30 days prior to filing the lawsuit.²
- Small Claims Court
“Small claims court provides a speedy and inexpensive way to resolve disputes when the plaintiff's claim is \$6,000 or less. Cases are heard and decided in Maine District Court by a judge without a jury.” ³
- Civil Law Suit
If the damage claim exceeds \$6,000, consumers have the right to file a civil lawsuit.
- Arbitration
Some consumers who hire a home inspector may be asked to sign a pre-inspection contract which may contain a binding arbitration clause whereby disputes between the parties to the contract are settled by an independent arbitrator. Arbitration is usually more expeditious for the consumer than filing a law suit.
- Voluntary Mediation
The AG's Consumer Protection Division offers a voluntary mediation process referred to in Sunrise Criterion #3.

Department Analysis: Aggrieved consumers have a range of processes to seek compensation for damages including through the court system, arbitration or mediation.

State regulatory bodies established to regulate professions and occupations do not currently have statutory authority to order restitution.

Sunrise Criterion # 8: Method of regulation. *Why registration, certification, license to use the title, license to practice or another type of regulation is being proposed, why that regulatory alternative was chosen and whether the proposed method of regulation is appropriate;*

Resolve 2019, c. 61 does not specify the type of state regulation to be considered, although survey responses frequently refer to state licensing, one form of state regulation. No other forms of state regulation were referenced by the survey responders.

¹ 5 M.R.S. §§ 205-A - 214

² Consumer Law Guide, Maine Office of Attorney General, Chapter 3, Sec. 3.1

³ Consumer Law Guide, Maine Office of Attorney General, Chapter 27, Sec. 2.2

Department Analysis: Because the Maine Legislature has not determined whether the public health, safety and welfare is in jeopardy in the absence of state regulation, it is premature to discuss regulatory models.

Sunrise Criterion #9: Other states. *A list of other states that regulate the profession or occupation, the type of regulation, copies of other states' laws and available evidence from those states of the effect of regulation on the profession or occupation in terms of a before-and-after analysis;*

Department Analysis: Maine is one of 16 states that does not regulate home inspectors. New Hampshire was mentioned in some survey responses as an appropriate model for Maine. New Hampshire has a 7-member licensing board. It requires 80 hours of pre-licensure education and passage of the National Home Inspector Examination. New Hampshire has adopted specific and detailed inspection rules for the conduct of inspections and the topics inspection reports must address. Because of the specificity and level of detail of the rules, an inspector's professional judgment and discretion are limited under the New Hampshire model. The New Hampshire statute and program rules are attached as *Appendix E*.

A list of states that have adopted some form of state regulation for home inspectors is attached as *Appendix F*.

Sunrise Criterion #10: Previous efforts. *The details of any previous efforts in this State to implement regulation of the profession or occupation;*

Department Analysis: Maine legislative records reflect one prior attempt to enact a licensing law for home inspectors. In 1999, LD 168 "An Act to License Home Inspectors" considered by the 119th Maine Legislature. The bill was not enacted.

Sunrise Criterion #11: Mandated benefits. (not applicable)

Sunrise Criterion #12: Minimal competence. *Whether the proposed requirements for regulation exceed the standards of minimal competence and what those standards are;*

ASHI standards for certification: New home inspector members join ASHI as Associates and must accomplish several tasks to become ASHI Certified Inspectors. Associate members must pass the National Home Inspector's Examination, complete the ASHI standards of practice and code of ethics education module, undergo an inspection report verification process, and conduct 250 paid home inspections. To remain active in the organization, all members must complete a minimum of 20 hours of continuing education each year.

InterNACHI standards for certification: Members must pass the InterNACHI inspector exam, pass the code of ethics course, complete the standards of practice course, submit four simulated inspection reports and join as an InterNACHI-Certified Home Inspector.

MeCHIPs standard for certification: Members must demonstrate a minimum level of proficiency and qualification. Standards for existing home inspectors include the submission of a minimum number of completed, paid inspections that comply with the board standard. Standards for new inspectors include the required completion of an accredited home inspection training program or a test.

Department Analysis: The resolve does not suggest criteria for licensure. Existing private certification standards are described above.

Sunrise Criterion #13: Financial analysis. *The method proposed to finance the proposed regulation and financial data pertaining to whether the proposed regulation can be reasonably financed by current or proposed licensees through dedicated revenue mechanisms.*

Department Analysis: It is premature to attempt to analyze financing methods. The details of a potential state program, the type and breadth of state regulation, the size of the licensing pool and the location of such a program in state government would determine the costs associated with state regulation. Licensing costs are borne by the regulated professionals. The smaller the pool, the greater the cost per professional. A pool of 250 home inspectors would be considered a fairly small pool and the costs of licensure could be higher than for some other licensed professionals.

Observation

Although it appears from the information provided that home inspectors may not pose a serious threat to public welfare, the question for the Committee is whether, as a matter of public policy, the Committee believes that state licensure is necessary to protect the public.

Appendix A
Resolve 2019, c. 61

Resolve, To Require Professional Licensure for Home Inspectors

Sec. 1. Commissioner of Professional and Financial Regulation to conduct a sunrise review regarding the proposal to license home inspectors.

Resolved: That the Commissioner of Professional and Financial Regulation shall conduct an independent assessment pursuant to the sunrise review requirements in the Maine Revised Statutes, Title 32, chapter 1-A, subchapter 2 of the proposal to license home inspectors.

Sec. 2. Reporting date established.

Resolved: That no later than January 10, 2020 the Commissioner of Professional and Financial Regulation shall submit a report with any necessary legislation following the independent assessment under section 1 to the Joint Standing Committee on Innovation, Development, Economic Advancement and Business. The committee is authorized to submit legislation on the subject matter of the report to the Second Regular Session of the 129th Legislature.

Appendix B
Sunrise Review Criteria

1: Data on Group. A description of the professional or occupational group proposed for regulation or expansion of regulation, including the number of individuals or business entities that would be subject to regulation, the names and addresses of associations, organizations and other groups representing the practitioners and an estimate of the number of practitioners in each group;

2: Specialized skill. Whether practice of the profession or occupation proposed for regulation or expansion of regulation requires such a specialized skill that the public is not qualified to select a competent practitioner without assurances that minimum qualifications have been met;

3: Public health; safety; welfare. The nature and extent of potential and actual harm to the public if the profession or occupation is not regulated, the extent to which there is a threat to the public's health, safety or welfare and production of evidence of potential harm, including a description of any complaints filed with state law enforcement authorities, courts, departmental agencies, other professional or occupational boards or private lodged against practitioners of the profession or occupation in this State within the past 5 years;

4: Voluntary and past regulatory efforts. A description of the voluntary efforts made by practitioners of the profession or occupation to protect the public through self-regulation, private certifications, membership in professional or occupational associations or academic credentials and a statement of why these efforts are inadequate to protect the public;

5: Cost; benefit. The extent to which regulation or expansion of regulation of the profession or occupation will increase the cost of goods or services provided by practitioners and the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers;

6: Service availability of regulation. The extent to which regulation or expansion of regulation of the profession or occupation would increase or decrease the availability of services to the public;

7: Existing laws and regulations. The extent to which existing legal remedies are inadequate to prevent or redress the kinds of harm potentially resulting from nonregulation and whether regulation can be provided through an existing state agency or in conjunction with presently regulated practitioners;

8: Method of regulation. Why registration, certification, license to use the title, license to practice or another type of regulation is being proposed, why that regulatory alternative was chosen and whether the proposed method of regulation is appropriate;

9: Other states. A list of other states that regulate the profession or occupation, the type of regulation, copies of other states' laws and available evidence from those states of the effect of regulation on the profession or occupation in terms of a before-and-after analysis;

10: Previous efforts. The details of any previous efforts in this State to implement regulation of the profession or occupation;

11: Mandated benefits.

12: Minimal competence. Whether the proposed requirements for regulation exceed the standards of minimal competence and what those standards are; and

13: Financial analysis. The method proposed to finance the proposed regulation and financial data pertaining to whether the proposed regulation can be reasonably financed by current or proposed licensees through dedicated revenue mechanisms.

Appendix C
Sunrise Survey and Cover Letter



Request for Information from Interested Parties:

Sunrise Review for Resolve c. 61

“Resolve, To Require Professional Licensure for Home Inspectors”

Department of Professional and Financial Regulation

Office of the Commissioner

August 12, 2019

Sunrise Review Survey: Regulation of Home Inspectors in Maine
Pursuant to 2019 Resolve c. 61

Please return the completed survey to Melissa Hinkley, Commissioner's Office, Department of Professional and Financial Regulation, 35 State House Station, Augusta, ME 04333-0035 or by email to Melissa.A.Hinkley@maine.gov by September 30, 2019.

General Information:

Completed by:

Title or Occupation:

Organization Represented: (if applicable)

Evaluation Criteria (32 M.R.S.A. §60-J)

1. Please describe the minimum skill, knowledge and training that a home inspector should possess.

2. What standards should be used to measure the competency of a home inspector? Why?

3. In your opinion, what obligation(s) does a home inspector owe to consumers who hire that inspector?

4. Is the public in jeopardy with the absence of state regulation of home inspectors? Why or why not?

5. Are you aware of any instances of harm to a member of the public by an act of a home inspector? Please describe.

6. How many home inspectors currently providing services in Maine lack the minimum skills, knowledge and experience that a home inspector should possess?

7. Has your company adopted private certifications as a mandatory standard for members or employed home inspectors? Why or why not? Which certifications?

8. Has your company adopted voluntary certifications or training for members or employed home inspectors? Why or why not? Which certifications?

9. As an individual home inspector, what voluntary or mandatory certifications have you obtained? What specific home inspector training have you obtained? What certifications or training have you found to be most beneficial? Why?

10. Does your organization require home inspectors to be members of state, national or international professional home inspector organizations? Why? Which organizations?

11. Are you, as a practicing home inspector, a member of any state, national or international professional home inspector organizations?

12. How would state regulation of home inspectors affect the cost of services to Maine consumers? Please provide examples or evidence supporting your response.

13. How would state regulation of home inspectors affect current service providers (individual home inspectors)? Please provide a rationale for your response.

14. Please provide information about methods used by other states to regulate the home inspector occupation.

Please provide any additional information that may be helpful to this study and forward the questionnaire to an individual or company that may wish to provide information.

August 13, 2019

<TITLE> <FIRST NAME> <LAST NAME>
<ADDRESS LINE 1>
<ADDRESS LINE 2>
<CITY> <STATE> <ZIP>

Re: Sunrise Review Process for Ch. 61

Dear <TITLE> <LAST NAME>:

The Joint Standing Committee on Innovation, Development, Economic Advancement and Business has directed the Department of Professional and Financial Regulation to conduct a sunrise review regarding Ch.61 *“Resolve, To Require Professional Licensure for Home Inspectors.”*

Pursuant to 5 MRSA § 12015 sunrise review must be undertaken whenever proposed legislation would license or otherwise regulate an occupation or profession that is not currently regulated or would substantially expand the regulation of a currently regulated occupation or profession. The process seeks to determine whether such regulation is necessary or appropriate to protect the public.

Importantly, a fundamental consideration within the sunrise process is whether public health and safety is jeopardized by the absence of regulation. It is essential for proponents of new or expanded regulation to address that question. A copy of the relevant Maine statutes that provide for sunrise review are enclosed for your reference.

Specifically, sunrise review requires the Department to evaluate the responses of the proponents of new or expanded regulation to the information criteria set forth in 32 MRSA § 60-J. Other interested individuals or organizations may also participate by responding to the survey questions to allow the Department to access a broad range of information and all points of view.

This letter is intended to notify organizations and individuals who have expressed interest in this study of the Department’s intent to begin the sunrise review. It is the Department’s intention to conduct the sunrise review process and develop a comprehensive sunrise report with recommendations and proposed legislation, if appropriate, which will be submitted to the Committee on or before January 10, 2020.

As a first step in the sunrise review process, we have enclosed a survey instrument designed to elicit basic information on the issues and the positions of interested parties on the question of whether the public health, safety and welfare is jeopardized in the absence of state regulation of home inspectors. Please complete all or any portion of the survey and return it along with any additional information that would assist the Department in its evaluation process.

Completed surveys should be returned to Melissa Hinkley, Assistant to the Commissioner, by e-mail (melissa.a.hinkley@maine.gov) or regular mail (35 State House Station, Augusta, ME 04333) on or before September 30, 2019.

If you have questions about the survey or the sunrise review process, please contact the Commissioner's Office at 624-8511.

Sincerely,

Anne L. Head
Commissioner

cc: Senator Erin Herbig, Senate Chair
Representative Mattea Daughtry, House Chair
Joint Standing Committee on Innovation, Development, Economic Development and
Business
Sam Senft, OPLA Policy Analyst

Enclosures (4)

Appendix D
Survey Responses and Stakeholder Meeting Summary



**Request for Information from Interested Parties:
Sunrise Review for Resolve c. 61**

**“Resolve, To Require Professional Licensure for Home
Inspectors”**

**Department of Professional and Financial Regulation
Office of the Commissioner
August 12, 2019**

Sunrise Review Survey: Regulation of Home Inspectors in Maine

Pursuant to 2019 Resolve c. 61

Please return the completed survey to Melissa Hinkley, Commissioner's Office, Department of Professional and Financial Regulation, 35 State House Station, Augusta, ME 04333-0035 or by email to Melissa.A.Hinkley@maine.gov by September 30, 2019.

General Information:

Completed by: J. Andrew Cashman, Preti Flaherty

Title or Occupation: Attorney

Organization Represented: Maine Association of REALTORS®

Evaluation Criteria (32 M.R.S.A. §60-J)

1. Please describe the minimum skill, knowledge and training that a home inspector should possess.

We believe there should be some level of pre-licensing education/training, testing, and continuing education required for licensure. The New Hampshire licensing requirements may be a good basis for Maine's implementation – and regulatory parity between the states would be advantageous. As a minimum, training should cover home construction, components, and systems. Standards should detail what to look at, what tests to perform, and what criteria to apply. Perhaps a standard checklist should be required to provide consistency.

2. What standards should be used to measure the competency of a home inspector? Why?

Standards should reflect those developed in coordination with the Maine Association of Home Inspection Professionals and incorporate national home inspector association standards through ASHI and/or InterNACHI. Standards

should be meaningful, achievable, and pertinent to homes in our climate and of the age of our housing stock.

3. In your opinion, what obligation(s) does a home inspector owe to consumers who hire that inspector?

The inspector's duty to the consumer is to provide a competent, thorough inspection and clearly articulate in writing what areas of the home are part of the inspection and what areas are not part of the inspection. If areas are not covered or are beyond the knowledge and experience of the inspector, they should recommend additional professionals. The inspector's report should be provided to the consumer in writing. The inspector should have liability insurance and should pass a criminal background check.

4. Is the public in jeopardy with the absence of state regulation of home inspectors? Why or why not?

Absolutely. Without regulation, bad actors cannot be prohibited from conducting inspections and will continue to conduct bad inspections - word of mouth does not provide adequate protections due to the financial and safety dangers presented by an insufficient inspection. Financially, the risk to the public is great: buyers rely on the inspection; brokers must change disclosure based on it; and the buyer and seller negotiate based on the inspection report. The Maine Real Estate Commission gives great weight to building inspections when a buyer has a complaint about a problem in their new home. Yet there is often confusion as to the scope and veracity of the inspections. From a life-safety perspective, the public is absolutely in danger. A poor inspection may not uncover improperly vented heating systems; dangerous electrical systems at risk for creating a fire; dangerous water or air conditions; dangerous mold buildup; unhealthy pest infestations; structural deficiencies that could lead to collapse; environmental contamination from bad septic systems or fuel tanks; and so on. If these issues are not identified during an inspection the results could be catastrophic - risking the lives of those occupying the home. There were several bills considered this session that implicated inspections - including one concerning chimney inspections that arose because the sponsor's son had not realized that the chimney system was not inspected and only learned by chance that it was improperly connected and could have endangered the safety of the entire family. It is imperative that enforced standards and continuing education be available to ensure that every home inspector in Maine has the training to identify these issues - and that unqualified

persons be prohibited from conducting inspections. The health and financial consequences are simply too serious.

5. Are you aware of any instances of harm to a member of the public by an act of a home inspector? Please describe.

Increasingly, we are hearing from our REALTOR® members about many poor inspections and even fraudulent inspectors. These are anecdotal and do not reflect the behavior of all inspectors but the complaints from our members and their clients are increasing dramatically. Today, a consumer's recourse for an inspection complaint is generally the cost of the inspection - usually around \$350 because most inspectors require the potential buyer to sign a contract limiting damages to the amount of the fee that the buyer has paid the inspector for their work. The consumer cannot seek redress against an inspector in small claims court or anywhere else. Something missed in an inspection may require considerable expense - thousands, tens or even hundreds of thousands of dollars to remedy. A buyer may have chosen never to complete the purchase had they received a complete and competent inspection. Additionally, safety issues, as described above, endanger the life-safety of individuals. If requested, we can provide examples of inadequate inspections.

6. How many home inspectors currently providing services in Maine lack the minimum skills, knowledge and experience that a home inspector should possess?

A review of the InterNACHI and ASHI websites show that approximately 120 Maine inspectors are members of one or both of those organizations. However, there is no data to know how many people offer inspections that aren't members of those organizations. Another problem is people that have no certifications whatsoever but possibly some experience in construction providing "inspections" based on their knowledge as a builder but with no training, certification, or experience as an inspector. This is particularly problematic when construction work slows down during an economic downturn and contractors begin offering "inspections."

7. Has your company adopted private certifications as a mandatory standard for members or employed home inspectors? Why or why not? Which certifications?

Not applicable.

8. Has your company adopted voluntary certifications or training for members or employed home inspectors? Why or why not? Which certifications?

Not applicable.

9. As an individual home inspector, what voluntary or mandatory certifications have you obtained? What specific home inspector training have you obtained? What certifications or training have you found to be most beneficial? Why?

Not applicable.

10. Does your organization require home inspectors to be members of state, national or international professional home inspector organizations? Why? Which organizations?

Not applicable.

11. Are you, as a practicing home inspector, a member of any state, national or international professional home inspector organizations?

Not applicable.

12. How would state regulation of home inspectors affect the cost of services to Maine consumers? Please provide examples or evidence supporting your response.

We do not believe the cost of services would be significantly impacted. This is based on the experiences of numerous members who are dual licensed in NH and ME. When NH adopted licensing of home inspectors these members report that there was little to no increase in the cost of inspections.

13. How would state regulation of home inspectors affect current service providers (individual home inspectors)? Please provide a rationale for your response.

If professional standards were adopted that reflect the current practices of private certifications then it should have little to no impact on professional inspectors (those that have made the effort to get those certifications) but it would push out the bad actors that offer “inspections” but have no true qualifications or training to provide those inspections. In our experience, these are the inspections that create problems for homebuyers by providing poor or incompetent inspections.

14. Please provide information about methods used by other states to regulate the home inspector occupation.

Please see the “September 2018 Hot Topic Alert Home Inspector Licensing” from the National Association of REALTORS® (NAR) (<https://realtorpartv.realtor/wpa-content/uploads/2018/10/Home-Inspector-Licensingpdf>) This provides a survey of the regulatory landscape for building inspectors. As you will see, Maine is in a distinct minority. The majority of states have some form of regulation: licensing, required services, and delineating liability. New Hampshire passed their home inspector law in 2008, effective January 1, 2010. NH requires 80-hours of pre-licensing education, proof of liability insurance and a criminal background check. They have two-year licenses with a \$200 fee and 20 hours of CE required per license period. Consumers may seek restitution against an inspector in small claims court. Regulatory consistency between Maine and New Hampshire is helpful because many people operate in Maine and New Hampshire.

Please provide any additional information that may be helpful to this study and forward the questionnaire to an individual or company that may wish to provide information.



August 27, 2019

Anne L. Head
35 State House Station
Augusta, ME 04333

SENT VIA REGULAR EMAIL AND EMAIL TO: melissa.a.hinkley@maine.gov

RE: Sunrise Review Process for Ch. 61 / Regulation of Home Inspectors in Maine

Dear Ms. Head:

I appreciate the opportunity to participate in the sunrise review process.

My position on the topic is as follows:

Despite the fact that my company as a whole and I personally stand to gain both professionally and financially should licensing requirements be put in place, I strongly believe that requiring Professional Licensure for Home Inspectors is not necessary nor is it advantageous for the people of Maine.

I have attached my response to the survey questions which supports my position as stated above.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Darryl E. Chandler, President/CEO
Focused Property Inspections Darryl@fpi-web.com



Request for Information from Interested Parties:

Sunrise Review for Resolve c. 61

“Resolve, To Require Professional Licensure for Home Inspectors”

**Department of Professional and Financial Regulation
Office of the Commissioner
August 12, 2019**

Sunrise Review Survey: Regulation of Home Inspectors in Maine Pursuant to 2019 Resolve c. 61

Please return the completed survey to Melissa Hinkley, Commissioner's Office, Department of Professional and Financial Regulation, 35 State House Station, Augusta, ME 04333-0035 or by email to Melissa.A.Hinkley@maine.gov by September 30, 2019.

General Information:

Completed by: Darryl E. Chandler

Title or Occupation: President, CEO

Organization Represented: (if applicable) ChanCorp, Inc. dba Focused Property Inspections

Evaluation Criteria (32 M.R.S.A. §60-J)

1. Please describe the minimum skill, knowledge and training that a home inspector should possess.

Basic knowledge of construction standards, systems and components of a home as well as good communication skills.

2. What standards should be used to measure the competency of a home inspector? Why?

Measurable standards for home inspections were established in the 1970's and have undergone constant review and revision ever since. There are many professional organizations that have very defined standards. Two of the biggest organizations are the American Society of Home Inspectors (ASHI) and the International Association of Certified Home Inspectors (InterNACHI). If you were to review the standards set forth by ASHI, InterNACHI, and other professional inspection organizations you would find them very close in comparison, with little to no differences, therefore I do not believe that one standard is better than another. A competent home inspector will not only identify the set of standards that they follow for each inspection but will conduct each and every inspection according to the identified standards without deviation. It's very easy to go online and find a professional Property Inspector that belongs to one or more of the professional organizations that have been setting standards for decades.

3. In your opinion, what obligation(s) does a home inspector owe to consumers who hire that inspector?

In my opinion, a proper contract backed by proper insurance.

A home inspector is obligated to provide the consumer with the products and services that are set out in the Pre-Inspection Contract that is signed by both parties before an inspection is performed.

In order to obtain insurance in the inspection industry an inspector must submit a copy of their pre-inspection contract to their insurance provider for approval and, as a condition of coverage, agree to use the contract for each inspection. There are certain pre-set conditions relating to the contract which are required in order to have proper insurance coverage, such as:

- It must identify the set of standards that will be used to conduct the inspection.
- It must define the client's right to cure in the event of a dispute.
- It must be signed by the client.

4. Is the public in jeopardy with the absence of state regulation of home inspectors? Why or why not?

No. Buying a new or used asset (i.e. boat, car, or house, etc.) always exposes the consumer to some level of risk. The level of risk can be reduced by having a professional review the asset prior to purchase. This is done all the time. Boat can have hull and mechanical inspections, cars can be test driven and taken to a local mechanic, and houses can have general building and other ancillary inspections. In all three incidents, the consumer gets to decide who they think is qualified to evaluate the asset on their behalf. Does one use the boat yard mechanic or bring in someone from the outside? Does one use the mechanic next door or just let dad test drive the car? Does one use an easy to find property inspector or use the general contract that they have known for years?

You see, in all three scenarios above, the inspections are all voluntary and not mandated by any law. So it's up to the consumer to find the professional that they feel is qualified to give them the confidence to make the right decisions for themselves. Every situation is different. Do I use an inspector, a mechanic, or just trust a family member or friend. The public at large is not in jeopardy of the personal buying decision of an individual.

Couple the above with the fact that the home inspection industry as a whole has a very low complaint rate and, of the complaints that are filed, the average insurance payout is less than \$1,200.00. With such a low complaint rate and low cost to cure it does not appear that the public is in jeopardy with the absence of state regulation of home inspectors.

5. Are you aware of any instances of harm to a member of the public by an act of a home inspector? Please describe.

Off hand, I am not aware of any instances of harm directly related to the act of a home inspector. I do, however, carry insurance on all my inspectors, as inspectors are human and mistakes can happen.

6. How many home inspectors currently providing services in Maine lack the minimum skills, knowledge and experience that a home inspector should possess?

Maybe 1,000, no maybe 2000, no maybe 1,000,000, or maybe 1. The point is that the consumer sets the standards and expectations with the professionals that they chose to hire. Anyone guessing at how many inspectors lack the minimum skills, knowledge and experience is just showing that they don't understand how the process works. Maine does not have minimum standards and therefore the answer should be "0". According to the information provided by the Maine Association of Realtors, there were 17,864 real estate transactions in the state of Maine in 2018 and 17,633 transactions in 2017. ASHI has figured that about 80% of real estate transactions involve an inspection. That's roughly a two year average of 14,199 inspections per year. How many consumers had a friend, relative, or a contractor do the inspection versus how many hired a professional inspector?

The American Society of Home Inspectors (ASHI), at last check, had 42 members state wide with only 18 of those members being ASHI Certified Inspectors. The International Association of Certified Home Inspectors (InterNACHI), at last check, had 190 members state wide with only 104 of those members being Certified Professional Inspectors and of those 104, only 19 of those being Certified Master Inspectors. So instead of asking a question when all answers are fictitious, how about we look at the number of professionals already serving the people of the great State of Maine.

* Please note that because of low sale volume, there are no ASHI or InterNACHI registered inspectors north of the Bangor or Bucksport areas. These areas are being served mainly by contractors that would not be allowed to do inspections should the proposed regulation be implemented.

7. Has your company adopted private certifications as a mandatory standard for members or employed home inspectors? Why or why not? Which certifications?

We have an in-house training program that we put all our inspectors through. Outside of the successful completion of this program we do not mandate additional certifications. Our pay scale, however is set up to incentivise the inspectors to seek additional training and

certifications. The more ASHI and InterNACHI training an inspector completes, the higher they move up on the pay scale.

8. Has your company adopted voluntary certifications or training for members or employed home inspectors? Why or why not? Which certifications?

Yes. As indicated above, each of our inspectors are encouraged, through our pay scale, to become ASHI and InterNACHI certified as they are the nations top two Inspector Educational Training platforms available.

9. As an individual home inspector, what voluntary or mandatory certifications have you obtained? What specific home inspector training have you obtained? What certifications or training have you found to be most beneficial? Why?

State of Maine Radon Measurement Provider Certification, State of Maine Subsurface Wastewater Disposal System Certified System Inspector. I am a Certified Professional Inspector through both ASHI and InterNACHI as well as a Certified Master Inspector by the Master Inspector Certification Board.

Both ASHI and InterNACHI have been beneficial with InterNACHI being more user friendly.

10. Does your organization require home inspectors to be members of state, national or international professional home inspector organizations? Why? Which organizations?

No. Most of the Professional Organizations are educational platforms that set industry standards to educate to. One does not have to be a member of any organization in order to follow their standards. The standards of professional organizations are easily found online. An inspector can train to those standards without actually belonging to the organization. As a matter of fact, all insurance companies in the inspection industry require the inspector to state in the Pre-Inspection Contract which standards the inspector is using for each inspection. The Insurance Industry does not require the Inspector to belong to the professional organization that sets the standards but only that the inspector follow the standard set forth in their contract.

11. Are you, as a practicing home inspector, a member of any state, national or international professional home inspector organizations?

Yes. I am an active member of both ASHI and InterNACHI as well as being an instructor in the Property Inspection Industry.

12. How would state regulation of home inspectors affect the cost of services to Maine consumers? Please provide examples or evidence supporting your response.

Regulation places a cost on the industry being regulated. I believe under Maine Law that the cost of regulating a profession has to be supported by the licensing fee from individual licensees. The projected cost of the oversight of the inspection industry is \$300,000 to \$400,000 and with only 242 registered inspectors the licensing fees would be between \$1,240 to \$1,675 per year. Now that is if all 242 inspectors registered with ASHI and InterNACHI stay in the industry. More than likely only those currently certified with each organization are actually going to continue doing inspections. This will drive up the cost of a license to \$2,000 to \$3,000 per inspector per year. My company does inspections in both Maine and New Hampshire. The cost of inspections in New Hampshire have risen from \$300 to \$450 per inspection since the state passed regulations requiring licensing. The driving factor of the increase is the additional operating costs that have been passed on to the consumer.

13. How would state regulation of home inspectors affect current service providers (individual home inspectors)? Please provide a rationale for your response.

I believe several current providers would get out of the industry. As I previously stated, there are roughly 242 Inspectors in the state with roughly 17,749 real estate transactions each year. Using ASHI's 80% guide line that means there are approximately 14,199 inspections performed each year. That is an average of 58.7 inspections per inspector per year. At an average of \$400 per inspection that means with 242 inspectors registered with ASHI and InterNACHI the average inspector makes \$23,469.75 per year. This is not enough to absorb the additional cost for low volume inspectors. There are engineers, contractors, and retirees that will do inspections on the side of their normal duties at a rate of a few a month. I believe that new regulation would drive this competition from participating. A full-time inspector has to do about 200 inspections at \$400 (\$80,000 per year) in order to make roughly \$50,000 per year and to cover operating costs. Most of the 242 Inspectors registered with ASHI and InterNACHI here in the State of Maine are not even coming close to the 200 Inspections needed for a profitable operation. This means that the vast majority of the inspectors in the state are part-time or not participating at this time. These low volume or part-time inspectors are still qualified by ASHI and InterNACHI but will cease to provide these talents due the burden of the additional operational costs of regulation.

* Please note that because of low sale volume, there are no ASHI or InterNACHI registered inspectors north of the Bangor or Bucksport areas. These areas are being served mainly by contractors that would not be allowed to do inspections should the proposed regulation be implemented.

14. Please provide information about methods used by other states to regulate the home inspector occupation.

There are states that require the inspector to simply register with the state, others that require schooling, and still others that require an apprenticeship program, and so on. According to Citadel/Home InspectorPro Insurance there is no difference in claim rates between states with inspector regulation and the states without. Citadel/Home InspectorPro Insurance is the biggest insurance provider for the inspection industry, insuring 40% of the Inspector/Inspection Companies nationwide.

Please provide any additional information that may be helpful to this study and forward the questionnaire to an individual or company that may wish to provide information.

As stated above, Citadel/Home InspectorPro Insurance insures 40% of the Inspection Industry. So here are some interesting facts about the Inspection Industry here in Maine as well as nationwide:

1. Inspections average 1 claim per 3000 inspections performed.
2. Full-time inspectors average 1 claim every 10-15 years.
3. Regulated states (licensed) and unregulated states (unlicensed) have the same claim rates.
4. Regulated states pay higher insurance premiums than unregulated states, with New Mexico, Wisconsin, Massachusetts, and Rhode Island paying the highest, at upwards of \$12,000 per inspector per year. Maine insurance premiums are currently between \$1,800 to \$2,200 per inspector per year. The inspection insurance industry has pulled out of New Jersey and is looking at pulling out of New Mexico due to over regulation which is leading to too high a risk of exposure.
5. Based on the national average
 - a. 65% of claims against inspectors are found to be without merit with a \$0.00 pay out to the claimant.
 - b. 20% of claims against inspectors are found to be without merit and are settled for less than \$500.
 - c. 10% of claims against inspectors may be with or without merit and are settled for between \$500 and \$5000.
 - d. 3% of claims against inspectors are found to have merit and are settled for between \$5,000 and \$15,000.
 - e. 1% of claims against inspectors are found to have merit and are settled for between \$15,000 and \$25,000.
 - f. 1% of claims against inspectors are found to have merit and are settled for greater than \$25,000.

Maine Claims Data

1. Maine Inspectors have had 27 claims over the past 3 years. That is an average of 9 claims per year of the estimated 17,749 real estate transactions each year. This is a claims rate of 0.05%.
2. 65% of those 27 claims, or 9 per year, were without merit resulting in a \$0 payout to the claimant. So 5.85 claims or roughly 6 claims had no merit or \$0.00 payout.
3. The remaining 3 inspector claims were settled for an average of less than \$1,200 each or just under \$3,600 per year for the past 3 years.

In closing:

The results are the same, regulated vs unregulated states, have the same claim rate. The only true way to protect the consumer is for the consumer to understand the limitations and the scope of the inspection standards being used to evaluate the property and to make sure that the Inspector/Inspection Company is fully insured. It is the insurance that backs up the inspector and the report that protects the consumer against any financial loss due to inspector error or omission, not licensing or whether the inspector belongs to any local or national organization.

Maine's Inspectors, along with other real estate professionals, have developed an industry that serves the people of Maine with the highest of standards. The industry along with other real estate professionals has done an exceptional job weeding out the unqualified, which is supported by the very low claim rate and low average payout.

Is it worth the \$300,000 to \$400,000 to oversee an industry with such a low claim rate (0.05%) or such a very low payout (less than \$3,600 per year)? I don't believe it is. The potential ramifications of shaking up an industry that is providing so well for the people of Maine are likely far greater than the value of return for the people of Maine. Driving up cost to the consumer through regulations with no additional benefit the public at large will only lead to more consumers forgoing inspections, in turn leaving them more at risk and exposed to potential financial liabilities. Removing the ability of the consumer to use a contractor, electrician, plumber, or an engineer instead of a home inspector will leave huge portions of the state without individuals to fill the role. This will also put more demand on existing inspectors that will ultimately drive up prices.

The facts are clear. The decision to regulate the Inspection Industry, which has such a low claim rate, would be more emotionally or hidden agenda driven than it would be fact driven.

I have been in the Inspection Industry for over 20 years. I run a multi-inspector firm, with seven inspectors and two office staff. I am an educator in the industry and teach inspection standards for many professional organizations.

So let me be very clear, I stand to gain significantly, both professionally and financially, should Maine move forward with regulating the inspection industry. With that being said, I don't believe it would be just or fair to the people of our Great State of Maine to implement regulation of the inspection industry. Regulation would make it harder and more costly for the public at large to purchase properties without providing added value to the people.

Thank you for your time and consideration. Should have any further questions, please do not hesitate to contact me.

Yours Truly,

A handwritten signature in blue ink that reads "Darryl E. Chandler". The signature is written in a cursive style with a blue background behind it.

Darryl E. Chandler, President/CEO

Focused Property Inspections

347 Main St., Unit 1B

(207) 839-6595

Darryl@fpi-web.com

**Request for Information from Interested
Parties:**

Sunrise Review for Resolve c. 61

*“Resolve, To Require Professional Licensure for Home
Inspectors”*

**Department of Professional and Financial Regulation
Office of the Commissioner**

August 12, 2019

Sunrise Review Survey: Regulation of Home Inspectors in Maine

Pursuant to 2019 Resolve c. 61

Please return the completed survey to Melissa Hinkley, Commissioner's Office, Department of Professional and Financial Regulation, 35 State House Station, Augusta, ME 04333-0035 or by email to Melissa.A.Hinkley@maine.gov by September 30, 2019.

General Information:

Completed by: Michael G. Dion

Title or Occupation: President(Owner)

Organization Represented: DC Inspections, LLC

P.O. Box 1822

Biddeford, Me. 04005

1. Please describe the minimum skills, knowledge and training that a home inspector should possess.

An Inspector's skills should include knowledge and ability to identify, evaluate and provide a clear narrative of issues found in the critical components of a house. Those components should include issues such as: foundation walls, retaining walls, slab floors, grading and drainage. Inspector should have the ability to evaluate the structural integrity of a house, as well as the condition of the doors, windows and roof. An inspector must also be knowledgeable in primary components of the heating and air conditioning as well as the electrical system. It would be fair to say that a good inspector should also be able to produce technical writing to clearly describe all of the various components and point out any problems or potential problems.

2. What standards should be used to measure the competency of a home inspector?
Why?

Each home inspector should have a comprehensive background in the building industry or equivalent certified educational training program as a home inspector. Competency should also be measured by its successfully completion of all required testing prior to becoming a member of MeCHIP's (Maine Coalition of Home Inspection Professionals). After becoming a member you are still required to keep up your training by successfully obtaining over a 3 year period 48 CEUs (Certified Educational Units) in courses totally related to home inspections. Plus the same

requirements needed to become a member of InterNACHI (International Association of Certified Home Inspectors), which mandates each member to pass with a minimum success rate of 80% for each test in each critical area of a home. InterNACHI provides members with a web site for additional education units (CEU's) and MeCHIP's provides members with courses from October to May.

3. In your opinion, what obligation(s) does a home inspector owe to consumers who hire that inspector?

A home inspector should provide each client with a clear understanding that they are contracting the inspector to report out on the soundness of major components of the home, as well as minor issues, through testing and visual reviews. Issuing a comprehensive report with pictures, noting results from the testing and reviews of each area of a home.

4. Is the public in jeopardy with the absence of state regulation of home inspectors? Why or why not?

In my opinion I do not believe the public is in jeopardy but at the same time I do believe inspectors should belong to an oversight organization, such as MEChips. An organization that provides standards, code of ethics under which an inspector provides their services. An organization providing expertise as well as educational opportunities to keep inspectors up to date with current regulations.

5. Are you aware of any instances of harm to a member of the public by an act of a home inspector? Please describe.

I am not aware of any instances

6. How many home inspectors currently providing services in Maine lack the minimum skills, knowledge and experience that a home inspector should possess?

I am not aware of how many inspectors are in the State of Maine, but I realize the amount of detailed information provided to the customer does exist in the final reports. Based on reports from other inspectors that I have been able to review some have minimal feedback and utilize boxes checked indicating X acceptable, X concerns, X replacement with limited narrative. While others, as I do provide detailed narrative and pictures to backup the inspection.

7. Has your company adopted private certifications as a mandatory standard for members or employed home inspectors? Why or why not? Which certifications?

My business is a small business but I do expect professional high quality service in each inspection and each report I provide to a client. My background has been in the carpentry industry for the past 45 years. I still did formal education with Allied Business School in a course for Home Inspection. In 2006 I

received my Certificate of Completion after I had completed 100 course hours and successfully passed their final exam. Later took the additional testing for membership with InterNACHI, which lead me to MeCHIP's. I am currently advancing my education and will become a Master Certified Inspector with InterNACHI.

8. Has your company adopted voluntary certifications or training for members or employed home inspectors? Why or why not? Which certifications?

My wife is part of my team and she is currently working to become Certified with InterNACHI. She was my study partner in 2005-2006 and worked with me in the field taking notes. She also handled portions of the final formal report issued to clients. She has 20 plus years being the oversight for 30 plus buildings working with contractors. She has had formal training with FEMA (Federal Emergency Management Administration) for both handling crisis situations as well going out and evaluating crisis hit areas for funding support. I have had the FEMA training as well.

9. As an individual home inspector, what voluntary or mandatory certifications have you obtained? What specific home inspector training have you obtained? What certifications or training have you found to be most beneficial? Why?

As noted throughout the questions: InterNACHI, MEChips, currently working on Master Certified Inspector plus my 45 years of hands on construction from framing to finish work. Formal training from Allied Business Schools, Inc. All the training has complemented each other, but MEChips allows me through meetings and training sessions to learn from the experiences of other inspectors.

10. Does your organization require home inspectors to be members of state, national or international professional home inspector organizations? Why? Which organizations?

We are just a two person organization and currently the second person is pursuing her certification through InterNACHI.

11. Are you, as a practicing home inspector, a member of any state, national or international professional home inspector organizations?

InterNACHI and MEChips

12. How would state regulation of home inspectors affect the cost of services to Maine consumers? Please provide examples or evidence supporting your response.

Hard to say until we could see the financial burden that inspectors would have to take on that would be passed on to clients.

13. How would state regulation of home inspectors affect current service providers (individual home inspectors)? Please provide a rationale for your response.

I can only base my response on the level of service I currently provide and that would not change.

14. Please provide information about methods used by other states to regulate the home inspector occupation.

I do not do home inspections outside of the State of Maine so I have no experience with other State's regulations.

Please provide any additional information that may be helpful to this study and forward the questionnaire to an individual or company that may wish to provide information.

I believe that the Sunrise Review Committee should have at the table members of MeCHIP's in order to assist in writing this law and consider having them as part of the review board should this become a law. I also feel that the MeCHIP's members as well as Inter NACHI have a voice in the law written. As both associations have done an excellent job at evaluating inspectors and confirming that they have the tools and knowledge necessary to provide clients with a quality inspection report.



DEPARTMENT OF

**Professional &
Financial Regulation**

STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF LICENSING AND REGISTRATION

Request for Information from Interested Parties:

Sunrise Review for Resolve c. 61

*“Resolve, To Require Professional Licensure for
Home Inspectors”*

**Department of Professional and Financial
Regulation**

Office of the Commissioner

August 12, 2019

Sunrise Review Survey: Regulation of Home Inspectors in Maine

Pursuant to 2019 Resolve c. 61

Please return the completed survey to Melissa Hinkley, Commissioner's Office, Department of Professional and Financial Regulation, 35 State House Station, Augusta, ME 04333-0035 or by email to Melissa.A.Hinkley@maine.gov by September 30, 2019.

General Information:

Completed by: W. L. Flanders, P.E.

Title or Occupation: Recently retired Building Inspection Engineer

Organization Represented: (if applicable) Self-employed as independent contractor.

Evaluation Criteria (32 M.R.S.A. §60-J)

1. Please describe the minimum skill, knowledge and training that a home inspector should possess.

High school education + 2 years trade school or 10 years as a tradesperson.

2. What standards should be used to measure the competency of a home inspector?
Why?

Standards should be developed by existing, competent home inspectors. Because they are the people in the know.

3. In your opinion, what obligation(s) does a home inspector owe to consumers who hire that inspector?

To provide an unbiased, professional product.

4. Is the public in jeopardy with the absence of state regulation of home inspectors? Why or why not?

No. The public is in jeopardy when real estate agents recommend home inspectors who wear blinders so they will get the next recommendation from that agent.

5. Are you aware of any instances of harm to a member of the public by an act of a home inspector? Please describe.

No

6. How many home inspectors currently providing services in Maine lack the minimum skills, knowledge and experience that a home inspector should possess?

Full number unknown but they do exist in my experience.

7. Has your company adopted private certifications as a mandatory standard for members or employed home inspectors? Why or why not? Which certifications?

Yes, to minimize insurance premiums. Professional Engineer license.

8. Has your company adopted voluntary certifications or training for members or employed home inspectors? Why or why not? Which certifications?

No, CEUs are required.

9. As an individual home inspector, what voluntary or mandatory certifications have you obtained? What specific home inspector training have you obtained? What certifications or training have you found to be most beneficial? Why?

Too numerous to list. Annual continuing education in residential construction methods and standards.

10. Does your organization require home inspectors to be members of state, national or international professional home inspector organizations? Why? Which organizations?

No.

11. Are you, as a practicing home inspector, a member of any state, national or international professional home inspector organizations? No

12. How would state regulation of home inspectors affect the cost of services to Maine consumers? Please provide examples or evidence supporting your response.

Cost would go up to match the cost of regulation. Duh

13. How would state regulation of home inspectors affect current service providers (individual home inspectors)? Please provide a rational for your response.

Unknown.

14. Please provide information about methods used by other states to regulate the home inspector occupation.

Unknown to me. Requires research.

Please provide any additional information that may be helpful to this study and forward the questionnaire to an individual or company that may wish to provide information.

It has been my experience that the state cannot and does not adequately police current trade licensees so why add another?

Please see my written testimony on LD671 dated 2/25/19 emailed to IDEA.



DEPARTMENT OF

**Professional &
Financial Regulation**

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF LICENSING AND REGISTRATION

Request for Information from Interested
Parties:

Sunrise Review for Resolve c. 61

"Resolve, To Require Professional Licensure for Home
Inspectors "

**Department of Professional and Financial
Regulation Office of the Commissioner
August 12, 2019**

Sunrise Review Survey: Regulation of Home Inspectors in Maine Pursuant to 2019 Resolve c. 61

Please return the completed survey to Melissa Hinkley, Commissioner's Office, Department of Professional and Financial Regulation, 35 State House Station, Augusta, ME 04333-0035 or by email to Melissa.A.Hinkley@maine.gov by September 30, 2019.

General Information:

Completed by: Scott Goodwin

Title or Occupation: Owner Good Home Property Inspections, Inc. Engle

Organization Represented: (if applicable)

Evaluation Criteria (32 M.R.S.A. S60-J)

1. Please describe the minimum skill, knowledge and training that a home inspector should possess.

General back ground in construction
Completed training w/ a national organization like INTERACT or similar
Completed local training if available.

2. What standards should be used to measure the competency of a home inspector? Why?

A national organization like INTERACT that has established national standards so that all inspectors, real estate agents, buyers & sellers know or can look up & understand these standards.

3. In your opinion, what obligation(s) does a home inspector owe to consumers who hire

that inspector?

The inspector is obligated to provide a thorough, unbiased inspection. Report to the consumer. The inspector's job is to inform the customer, as much as possible, about what condition the home they are buying is in at the time of the inspection. The purchase or sale of the home is not a consideration.

4. Is the public in jeopardy with the absence of state regulation of home inspectors? Why or why not?

I do not believe so. The market is self-regulating. The inspectors that perform well, do thorough inspections, educate, & continue education & continue to strive for more will get the most work. Happy customers will ~~also~~ promote the good ones & the bad ones will be weeded out.

5. Are you aware of any instances of harm to a member of the public by an act of a home

inspector? Please describe.

Not personally, I am not aware.

6. How many home inspectors currently providing services in Maine lack the minimum skills, knowledge and experience that a home inspector should possess?

I do not know this. My feeling is there are some but most of my customers want to know my experience & training. Unless they are outright lying is hard to perform inspections without experience & provide a thorough report.

7. Has your company adopted private certifications as a mandatory standard for members or

INTER NACHI
ME CHIPS

employed home inspectors? Why or why not? Which certifications?

Yes. I believe education & CEU training is important business. We required training w/ a national organization like Arthur Gary school of real estate, InterNACHI or ASHI, We also require to local state organizations like MECHIPS.

8. Has your company adopted voluntary certifications or training for members or employed home inspectors? Why or why not? Which certifications?

We accept any addition certificates of training if they are provided by a professional ~~or~~ or accredited organization such as state training, Real estate training, A licensed plumber or electrician.

employed home inspectors? Why or

9. As an individual home inspector, what voluntary or mandatory certifications have you obtained? What specific home inspector training have you obtained? What certifications or training have you found to be most beneficial? Why?

- Arthur Gary school of Real Estate Home inspector training
- InterNACHI National exam, InterNACHI Certified
- MECHIPS member 20 hrs CEU Annually
- National Radon Safe
- NRSB certifi

to be most beneficial? Why?

10. Does your organization require home inspectors to be members of state, national or international professional home inspector organizations? Why? Which organizations?

0

11. Are you, as a practicing home inspector, a member of any state, national or international professional home inspector organizations?

12. How would state regulation of home inspectors affect the cost of services to Maine consumers? Please

consumers: Please provide examples of evidence supporting your response.

The costs would increase based on licensing fee's & state required education fees. Whatever additional fee's are required would be passed on to the end user. I also see less inspectors getting into the business which would increase service costs, travel time & supply vs demand cost.

13. How would state regulation of home inspectors affect current service providers

(individual home inspectors)? Please provide a rationale for your response.

With any new regulations you will lose some current providers if they feel the time, effort or costs ~~are too much~~ to acquire or maintain their licenses. In a state that does not license contractors, who build the homes & ~~build~~ buildings, some inspectors will feel discriminated against.

14. Please provide information about methods used by other states to regulate the home inspector occupation.

I have no practical knowledge of how other states operate, I would see where a state certification test or mandated annual CEU credits per year could achieve the same result as actual licensing.

Please provide any additional information that may be helpful to this study and forward the questionnaire to an individual or company that may wish to provide information.



DEPARTMENT OF

**Professional &
Financial Regulation**

STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF LICENSING AND REGISTRAR

Request for Information from Interested Parties:

Sunrise Review for Resolve c. 61

*“Resolve, To Require Professional Licensure for
Home Inspectors”*

**Department of Professional and Financial
Regulation**

Office of the Commissioner

August 12, 2019

***Sunrise Review Survey: Regulation of Home Inspectors in
Maine***

Pursuant to 2019 Resolve c. 61

Please return the completed survey to Melissa Hinkley, Commissioner's Office, Department of Professional and Financial Regulation, 35 State House Station, Augusta, ME 04333-0035 or by email to Melissa.A.Hinkley@maine.gov by September 30, 2019.

General Information:

Completed by: Hank Henning

Title or Occupation: Home Inspector, Retired

Organization Represented:

Evaluation Criteria (32 M.R.S.A. §60-J)

1. Please describe the minimum skill, knowledge and training that a home inspector should possess.

A professional home inspector should have sufficient knowledge, experience, skill and expertise to evaluate the condition of a structure and its systems, and to convey his or her findings to a client in a manner that is informative and understandable.

Most inspectors transition from other occupations, many, but not all of which were in the building trades, and bringing their skills and experiences with them. As part of making the transition, they usually evaluate their strengths and weaknesses and then acquire supplemental qualifications where they consider it necessary. Some do it by attending training courses, taking online classes, joining organizations and other means. Apprenticeships are rare and difficult to come by. Another route into the profession is by purchasing a franchise, which usually comes with some level of training by the

franchise vendor. Those entrants seem to be less likely to arrive with experience-based knowledge.

A simplified answer might be the ability to achieve a passing grade on the National Home Inspector Examination.

2. What standards should be used to measure the competency of a home inspector? Why?

The market measures the competency of an inspector. A competent inspector will usually thrive. An incompetent inspector will usually have trouble generating enough business to survive and have to find another source of income.

3. In your opinion, what obligation(s) does a home inspector owe to consumers who hire that inspector?

A home inspector is obliged to perform a limited visual inspection of a structure and its systems and to convey his findings and observations to the client in a useful, understandable form, on a timely basis. A home inspector is obliged to abide by the terms of the contract he has executed with his client and to adhere to his Standard of Practice

4. Is the public in jeopardy with the absence of state regulation of home inspectors? Why or why not?

Home inspection is a relatively young profession in Maine. Home inspections have only been commonly done for about thirty years although home inspectors have been active for much longer than that. To my knowledge, remarkably few problems have arisen without State regulation. Problems, although rare, are usually settled quickly and amicably between parties or occasionally in the court system. Most professional inspectors now carry Errors and Omissions insurance for the mutual protection of themselves and their clients.

5. Are you aware of any instances of harm to a member of the public by an act of a home inspector? Please describe.

No

6. How many home inspectors currently providing services in Maine lack the minimum skills, knowledge and experience that a home inspector should possess?

I have no knowledge of practicing home inspectors who lack the necessary skills to perform their services. In all cases, skills accumulate through experience. No level of regulation can ensure an experienced level of competence for someone new to the field.

7. Has your company adopted private certifications as a mandatory standard for members or employed home inspectors? Why or why not? Which certifications?

Most home inspectors are single person operations. My company never employed inspectors other than myself.

Has your company adopted voluntary certifications or training for members or employed home inspectors? Why or why not? Which certifications?

When in business, I participated in a broad array of voluntary training and certifications, including, but not limited to:

State of Maine Registered Air and Water Tester ESA
certified mold inspector.

16 hour Asbestos inspector course and refresher

EPA RRP certification

Lead dust wipe technician

Maine Indoor Air Council Contractor Training

Maine Indoor Air Council seminars

Maine Indoor Air Council Annual Conferences

Continuing education through MeCHIPs

8. As an individual home inspector, what voluntary or mandatory certifications have you obtained? What specific home inspector training have you obtained? What certifications or training have you found to be most beneficial? Why?

See Item 8

All equally beneficial. No time gaining new knowledge or refreshing old knowledge is wasted

9. Does your organization require home inspectors to be members of state, national or international professional home inspector organizations? Why? Which organizations?

I am a member of the Maine Coalition of Home Inspection Professionals. It is local. It keeps me current and more than fulfills my Continuing Educational needs.

10. Are you, as a practicing home inspector, a member of any state, national or international professional home inspector organizations?

I am a member of the Maine Coalition of Home Inspection Professionals. It is local. It keeps me current and more than fulfills my Continuing Educational needs.

11. How would state regulation of home inspectors affect the cost of services to Maine consumers? Please provide examples or evidence supporting your response.

I have always believed that a State licensing requirement would significantly increase the amount of the fees that home inspectors could and would charge. It is a reasonable

assumption that a licensing requirement would limit competition or at least be perceived to do so. When licensing became required for Radon testing, it changed from something we did for little or no profit to a significant income producing enterprise.

12. How would state regulation of home inspectors affect current service providers (individual home inspectors)? Please provide a rationale for your response.

Properly structured, State regulation should have little or no effect on current professional service providers, except for the imposition of a licensing fee, and perhaps requirements for continuing education, which are now optional. Most current providers are successfully doing what they consider necessary to provide a marketable service and avoid litigation.

13. Please provide information about methods used by other states to regulate the home inspector occupation.

I have no firsthand knowledge and little interest about how things are done in other states. I know that only a few more than half of the states in the country regulate house inspectors, and that each of the states that do have a different approach.

Please provide any additional information that may be helpful to this study and forward the questionnaire to an individual or company that may wish to provide information.

I do not believe that imposing State regulation on a profession that is running smoothly without State oversight can be considered an improvement. Properly establishing and then operating a professional licensing board to regulate, at most a few hundred practitioners, who are providing an optional service to the community would be an irresponsible allocation of public funds. With no knowledge of the actual number of practicing home inspectors in Maine, it is a reasonable assumption that the number is too small for licensing fees alone to be sufficient to fund the operation of a licensing board without a significant contribution from the General Fund.

Sunrise Review Survey: Regulation of Home Inspectors in Maine Pursuant to 2019 Resolve c, 61

Please return the completed survey to Melissa Hinkley, Commissioner's Office, Department of Professional and Financial Regulation, 35 State House Station, Augusta, ME 04333-0035 or by email to Melissa.A.Hinkley@maine.gov by September 30, 2019.

General Information:

Completed by: Keith Lefebvre
Title or Occupation: on: Certified Home Inspector

Organization Represented: (if applicable)

Evaluation Criteria (32 M.R.S.A. S60-J)

1. Please describe the minimum skill, knowledge and training that a home inspector should

possess:
I believe a Home Inspector should
be certified through an organization
as International or ASHI.

2. What standards should be used to measure the competency of a home inspector?
Why?

the inspector:
The Home inspector should be professional and
conduct the inspection per SOP of the organization
they are certified with and produce a thorough
report identifying defects, deficiencies and safety items.

4. Is the public in jeopardy with the absence of state regulation of home inspectors? Why or why not?

I do not believe the public is in jeopardy
because all the regulations can be put in place
but if the state does not have the staff to
police the inspectors and hold them accountable,
it will not change a thing.

3. In your opinion, what obligation(s) does a home inspector owe to consumers who hire that inspector?
 5. Are you aware of any instances of harm to a member of the public by an act of a home inspector? Please describe.

I am not aware of any and I have been in field for 5 years and the person I took the mess over from was 9 years and he had not heard of any

6. How many home inspectors currently providing services in Maine lack the minimum skills, knowledge and experience that a home inspector should possess?

answer this question!

7. Has your company adopted private certifications as a mandatory standard for members or employed home inspectors? Why or why not? Which certifications?

I am the owner and only inspector in my business and I am certified with InterNACHI & believe I have an edge on the inspectors not certified and learn a lot through the process and CE

8. Has your company adopted voluntary certifications or training for members or employed home inspectors? Why or why not? Which certifications?

N/A

9. As an individual home inspector, what voluntary or mandatory certifications have you obtained? What specific home inspector training have you obtained? What certifications or training have you found to be most beneficial? Why?

I am certified with InterNACHI and a member of MeChips. I do continuous education with InterNACHI and earn CE's with MeChips.

10. Does your organization require home inspectors to be members of state, national or international professional home inspector organizations? Why? Which organizations?

I have no employees; but would
they become certified if I did.

11. Are you, as a practicing home inspector, a member of any state, national or international professional home inspector organizations?

am a practicing Home Inspector
& a member of InterNACHI.

1

12. How would state regulation of home inspectors affect the cost of services to Maine consumers? Please provide examples or evidence supporting your response.

I am associated

How would state regulation of home inspectors affect current service providers

(individual home inspectors)? Please provide a rationale for your response.

I guess that would depend on the type of regulation. If the National Exam was needed, it could greatly reduce the number of inspectors. Many people do not test well. The great thing with certification is you can retake the test if failed & try doing more studying of the

14. Please provide information about methods used by other states to regulate the home inspector occupation.

I do not have information on this.

(individual home inspectors)? Please provide a rationale for your

Please provide any additional information that may be helpful to this study and forward the questionnaire to an individual or company that may wish to provide

questionnaire to an individual or company that may wish to provide information.

I do not believe that state regulation will really make a difference unless the state can follow up with complaints. Anything can be policed but if there are no officers to do the policing then it is no good. I do not believe a National Exam is the answer. A doctor / Lawyer / nurse passing the boards does not make them good at what they do. Anyone can be book smart and pass a test. More often than not the best in the field are those that learn by doing and do not fair well testing. That is what I like about certifications with the likes of InternACHI. If you do not pass the exam you go back to the modules you did not do well in and learn it more until you pass. I do think some inspectors should have a certification that should be provided to the state. A National Exam could eliminate some very good, reputable, highly respected Certified Inspectors

From a
InternACHI
ISHI
etc.

License inspectors by passing the
testing inspector
self

License becomes a state regulation
Can

be

Professional. I am and I ~~will~~ produce
an exceptional report. Now that's
speaking for myself, but I would be
surprised if most of the Certified
Inspectors do not feel the same way

Thank Keith Lofebure



DEPARTMENT OF

**Professional &
Financial Regulation**

STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF LICENSING AND REGISTRAR

Request for Information from Interested Parties: Sunrise Review for Resolve c. 61

*“Resolve, To Require Professional Licensure for Home
Inspectors”*

**Department of Professional and Financial Regulation
Office of the Commissioner
August 12, 2019**

Sunrise Review Survey: Regulation of Home Inspectors in Maine

Pursuant to 2019 Resolve c. 61

*Please return the completed survey to Melissa Hinkley, Commissioner's Office,
Department of Professional and Financial Regulation, 35 State House Station,
Augusta, ME 04333-0035 or by email to Melissa.A.Hinkley@maine.gov by
September 30, 2019.*

General Information:

Completed by: Christopher Malliet

Title or Occupation: Owner, Long Cove Inspections LLC

Organization Represented: (if applicable)

Evaluation Criteria (32 M.R.S.A. §60-J)

1. Please describe the minimum skill, knowledge and training that a home inspector should possess.

Minimum skill should be a general knowledge of the components and systems that are involved in a home, how they interact with each other and how occupant safety and building durability may be impacted by deficiencies. Training can be achieved in a variety of ways including mentoring by an established inspector, training through organizations such as ASHI or InterNachi, possibly by classroom training as well as just charging ahead as an individual. Previous experience in the building trades is clearly beneficial. Continuing education should also be required as standards and Building Codes are changing. Membership in one or more organizations (ASHI, InterNachi, MeChips, Maine Indoor Air Quality Council etc.) would further establish credibility.

MeChips (Maine Coalition of Home Inspection Professionals) also requires candidates for full membership to pass a proctored examination

that is recognized nationally as well as having 25 paid inspections which may be reviewed by the Board Members. I support these requirements although the paid inspections requirement puts the public at some risk by putting an inexperienced inspector in the field.

2. What standards should be used to measure the competency of a home inspector? Why?

I do not know the answer beyond saying that an inspector may be considered competent by passing the National exam and achieving membership in an organization such as MeChips InterNachi or ASHI. In my experience, realtors are very cautious about whose name they will give out as competent inspectors. This is really the most stringent proficiency test as realtors are the primary source of referrals for home inspectors.

3. In your opinion, what obligation(s) does a home inspector owe to consumers who hire that inspector?

The inspector is obligated to perform the inspection according to a Code of Ethics and Minimum Standards of Practice defined by one of the organizations mentioned above. In reality, all groups I have looked at have essentially similar standards.

4. Is the public in jeopardy with the absence of state regulation of home inspectors? Why or why not?

There may be some risk to the public but my personal belief is that there are currently enough filters in place that only a very small percentage of Maine Home Inspectors would be able to act in an unethical or incompetent way. Regulation would only really catch the bad actor after the fact if a complaint is made. In my opinion, regulation is a solution looking for a problem.

5. Are you aware of any instances of harm to a member of the public by an act of a home inspector? Please describe.

I have heard anecdotes about inspectors missing details or hazards but I have not personally encountered this situation. Home Inspection is not an exact science and the definition and degree of a defect may vary

from inspector to inspector. The inspection describes conditions AT THE TIME OF INSPECTION ONLY.

Peeling paint on wood trim should be called out, for instance. But it is entirely possible to mask deteriorated wood with putty and paint before selling only to have the defect show up a year later. It is possible to floor over damaged flooring with a new product. It is possible to conceal damage by piling furniture or boxes of possessions in a given location. Condensation and water damage in walls can be difficult to detect. A good inspector should pick up on these situations but it becomes a judgement call when dealing with an older home as to whether it is a condition or a defect.

6. How many home inspectors currently providing services in Maine lack the minimum skills, knowledge and experience that a home inspector should possess?

I have no idea as there is no way to accurately count the number of active home inspectors in the State of Maine. As stated above, it is also not an exact art nor is qualification described exactly anywhere so any statement about a lack of skill should be considered subjective.

7. Has your company adopted private certifications as a mandatory standard for members or employed home inspectors? Why or why not? Which certifications?

I work alone .

8. Has your company adopted voluntary certifications or training for members or employed home inspectors? Why or why not? Which certifications?

No, because I work alone and have no plans to hire anyone.

9. As an individual home inspector, what voluntary or mandatory certifications have you obtained? What specific home inspector training have you obtained? What certifications or training have you found to be most beneficial? Why?

MeChips membership has been by far the most informative and useful certification.

Requirements for professional membership are described above. I am also certified by Internachi and a Registered Maine Tester for Radon in air and Water. I have taken numerous online training courses and also achieved Certified Residential Thermographer status after a three-day training session. I have been a member of the Maine Indoor Air Quality Council for years and I find that to be another excellent source for education. I have attended many of their workshops and training sessions.

10. Does your organization require home inspectors to be members of state, national or international professional home inspector organizations? Why? Which organizations? N.A.

11. Are you, as a practicing home inspector, a member of any state, national or international professional home inspector organizations?

Yes, MeChips and InterNachi

- 12)How would state regulation of home inspectors affect the cost of services to Maine consumers? Please provide examples or evidence supporting your response.

Insofar as it might involve certification and registration, I would raise my rates to cover the additional cost. Another consideration is that if an exclusive group of inspectors is created by legislation, some competition will be eliminated allowing charges to rise. I currently pay nearly \$2,000 per year for E and O and Liability Insurance. I also pay an annual registration fee to the State for registration as a Radon tester. I also pay a fee to register as a Limited Liability Corporation. These are overhead costs that must be factored into the cost of being in business, just as regulation costs would be.

13) How would state regulation of home inspectors affect current service providers (individual home inspectors)? Please provide a rationale for your response.

Regulation would create an exclusive class of inspectors, possibly raising the bar for inspection quality. It would "thin the herd" as one inspector put it. On the other hand, because of any requirements associated with regulation and, costs and charges would rise somewhat.

14) Please provide information about methods used by other states to regulate the home inspector occupation.

I have no knowledge of other states regulatory policies but I am sure you could look at New Hampshire or Massachusetts quite easily. It may be desirable to model any regulation after a standard used by a nearby state.

Please provide any additional information that may be helpful to this study and forward the questionnaire to an individual or company that may wish to provide information.

I cannot think of anything but feel free to contact me if I can help in any way. I am open-minded about regulation.

Chris Malliet

Long Cove Inspections LLC
chris@homeinspectormaine.com

207-350-5207



Request for Information from Interested Parties: Sunrise Review for Resolve c. 61

**“Resolve, To Require Professional Licensure for Home
Inspectors”**

**Department of Professional and Financial Regulation
Office of the Commissioner
August 12, 2019**

Sunrise Review Survey: Regulation of Home Inspectors in Maine Pursuant to 2019 Resolve c. 61

Please return the completed survey to Melissa Hinkley, Commissioner's Office, Department of Professional and Financial Regulation, 35 State House Station, Augusta, ME 04333-0035 or by email to Melissa.A.Hinkley@maine.gov by September 30, 2019.

General Information:

Completed by: Ray Mayo

Title or Occupation: Home Inspector

Organization Represented: (if applicable) Mayo Home Inspections, LLC

Evaluation Criteria (32 M.R.S.A. §60-J)

1. Please describe the minimum skill, knowledge and training that a home inspector should possess.

A home inspector needs to know a fair amount about structure types, building materials, heating and cooling systems, electrical and plumbing systems, insulation, landscaping, and historical and current building practices. Our job is to look at the components of a house, identify any problems, try to determine what is causing the problem, and recommend possible solutions. So understanding everything on its own, and how different components interact, is all very important. We are extremely knowledgeable generalists.

2. What standards should be used to measure the competency of a home inspector? Why?

There are two qualifications that most organizations use: tests and experience. Tests often include the National Home Inspectors Exam, which is a typical multiple choice exam that asks over 200 questions about all aspects of home inspections. The second component, experience, is often measured in the number of inspections an inspector has completed. This aspect relies on the mentality of "well, if they have seen a lot of houses, they have learned things. And if they haven't been sued or given up yet, they must have something correct going for them." That is to say, it is a less exact science.

In an ideal world, there would be a way to collect and measure feedback. It would be nice to know if consumers have legitimate complaints about home inspectors. That may be the best way to measure their competency.

3. In your opinion, what obligation(s) does a home inspector owe to consumers who hire that inspector?

People hiring a home inspector expect a knowledgeable professional. It is the responsibility of the home inspector to keep up with continuing education to keep learning about new and changing materials and practices. Inspectors owe consumers reports which clearly communicate information about the house. Inspectors should be thorough, and cover at least a minimum level of detail.

Home inspectors also need to be independent and unbiased. There should be no ulterior motives other than to give the customer an expert, accurate idea of what they are buying.

4. Is the public in jeopardy with the absence of state regulation of home inspectors? Why or why not?

I believe yes, because a lot of people perceive home inspectors in an official capacity, and sometimes assume we represent the government (like a codes enforcement officer). There is also a lot of law wrapped up in the real estate business, and home inspectors have a legally significant role to play in that process (there is standing to sue us for incompetence).

At the same time, uninformed buyers may not be made aware of potentially dangerous conditions with a house.

5. Are you aware of any instances of harm to a member of the public by an act of a home inspector? Please describe.

As the Secretary of the Maine Coalition of Home Inspection Professionals, there have been very few complaints to our organization. The few that I have seen have been seeking financial compensation without going to court.

6. How many home inspectors currently providing services in Maine lack the minimum skills, knowledge and experience that a home inspector should possess?

It is very difficult to tell. Of the 40-50 inspectors I am familiar with through the MeCHIPs organization, I would estimate 20 are very good inspectors, 20 are passable, and 10 should likely not be inspecting.

7. Has your company adopted private certifications as a mandatory standard for members or employed home inspectors? Why or why not? Which certifications?

Yes, passing the national home inspectors examination, being a member of the American Society of Home Inspectors (ASHI) and MeCHIPs and carrying general liability and error and omissions insurance

8. Has your company adopted voluntary certifications or training for members or employed home inspectors? Why or why not? Which certifications?

There are many opportunities, but nothing adopted through the company.

9. As an individual home inspector, what voluntary or mandatory certifications have you obtained? What specific home inspector training have you obtained? What certifications or training have you found to be most beneficial? Why?

Passing the National Home Inspectors Examination, being a Certified Inspector with the American Society of Home Inspectors (ASHI), being a Professional Member and Member of the Board of Directors with MeCHIPs. I was an apprentice with Len Westra Inspections for 3 years. I regularly obtain 45 hours of continuing education credits each year.

ASHI gives national recognition. Being a member of MeCHIPs is the MOST beneficial because of the access to other home inspectors, the monthly educational opportunities, and the local focus of the organization.

10. Does your organization require home inspectors to be members of state, national or international professional home inspector organizations? Why? Which organizations?

Yes, ASHI and MeCHIPs

11. Are you, as a practicing home inspector, a member of any state, national or international professional home inspector organizations?

Yes, ASHI and MeCHIPs

12. How would state regulation of home inspectors affect the cost of services to Maine consumers? Please provide examples or evidence supporting your response.

That would depend on what fees are associate with state regulation. Each year, I pay \$450 to ASHI and \$95 to MeCHIPs. If I was charged up to \$500 more for state regulation, it would not affect prices. More than that, and I may increase prices by \$25/ inspection, or about 7%

13. How would state regulation of home inspectors affect current service providers (individual home inspectors)? Please provide a rational for your response.

I imagine it would reduce the number of home inspectors, but increase the overall quality. If a Code of Ethics and a Standards of Practice was adopted, it would benefit everyone involved in the inspection process.

14. Please provide information about methods used by other states to regulate the home inspector occupation.

I have no direct knowledge.

Please provide any additional information that may be helpful to this study and forward the questionnaire to an individual or company that may wish to provide information.



DEPARTMENT OF

**Professional &
Financial Regulation**

STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
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- OFFICE OF LICENSING AND REGISTRAR

**Request for Information from Interested
Parties:
Sunrise Review for Resolve c. 61**

*“Resolve, To Require Professional Licensure for
Home Inspectors”*

**Department of Professional and Financial
Regulation
Office of the Commissioner
August 12, 2019**

Sunrise Review Survey: Regulation of Home Inspectors in Maine Pursuant to 2019 Resolve c. 61

Please return the completed survey to Melissa Hinkley, Commissioner's Office, Department of Professional and Financial Regulation, 35 State House Station, Augusta, ME 04333-0035 or by email to Melissa.A.Hinkley@maine.gov by September 30, 2019.

General Information:

Completed by:

Title or Occupation:

Organization Represented: (if applicable)

Evaluation Criteria (32 M.R.S.A. §60-J)

1. Please describe the minimum skill, knowledge and training that a home inspector should possess. Possess a certification from one of the three National Home Inspection Schools (AHIT- American Home Inspector Training, InterNACHI-International Association of Certified Home Inspectors, ASHI-American Association of Home Inspectors). Possess a passing score from the National Exam.
2. What standards should be used to measure the competency of a home inspector? Why? The Standard of "ASHI or InterNACHI Standard of Practice". Then every home inspector is using the same standard. This is a practice that is already being used by other State so we don't reinvent the wheel so to speak. Require a minimum insurance level (some inspectors operate without insurance)
3. In your opinion, what obligation(s) does a home inspector owe to consumers who hire that inspector? A detailed outline of the condition of the home for safety and so that the home owner can make a good financial decision.
4. Is the public in jeopardy with the absence of state regulation of home inspectors? Why or why not? It can be in

jeopardy if an inspector does not perform his duties to the standard which result in personal harm if structural issues are over looked but more likely that items missed create a financial burden on the consumer.

5. Are you aware of any instances of harm to a member of the public by an act of a home inspector? Please describe. NO
6. How many home inspectors currently providing services in Maine lack the minimum skills, knowledge and experience that a home inspector should possess?
I would estimate less than 10%
7. Has your company adopted private certifications as a mandatory standard for members or employed home inspectors? Why or why not? Which certifications? No, I currently do not have employees.
8. Has your company adopted voluntary certifications or training for members or employed home inspectors? Why or why not? Which certifications? No, I currently do not have employees.
9. As an individual home inspector, what voluntary or mandatory certifications have you obtained? What specific home inspector training have you obtained? What certifications or training have you found to be most beneficial? Why?
AHIT certified, InterNACHI certified, National Exam, National Radon Testing, Private Water and Well Testing Certification, Septic Training and State Certified, Chimney, Deck & Porches, Roofs, How to inspect private drinking Water Wells Course, InterNACHI Standards of Practice, InterNACHI code of ethics, How to inspect Manufactured and Mobile Homes, Defect Recognition and Report Writing
10. Does your organization require home inspectors to be members of state, national or international professional home inspector organizations? Why? Which organizations? Require National Association Membership- they require minimum standards to

maintain membership and continued education. Require local Membership- for continued education and current shortfalls, issues and upcoming changes.

11. Are you, as a practicing home inspector, a member of any state, national or international professional home inspector organizations? InterNACHI, MeCHIPS (Maine Coalition of Home Inspectors Professionals, MBOIA (Maine Building Officials Inspector Association)

12. How would state regulation of home inspectors affect the cost of services to Maine consumers? Please provide examples or evidence supporting your response. It would depend on the cost of the state regulation but I do expect some increase to the consumer cover increased operating cost.

13. How would state regulation of home inspectors affect current service providers (individual home inspectors)? Please provide a rationale for your response. I believe it would be more of an informational source for the state than a regulatory tool.

14. Please provide information about methods used by other states to regulate the home inspector occupation. I really only have knowledge of New Hampshire and it set a minimum requirement, standards and insurance requirements. The State knows who and how many are operating in this capacity.

Please provide any additional information that may be helpful to this study and forward the questionnaire to an individual or company that may wish to provide information.



DEPARTMENT OF

**Professional &
Financial Regulation**

STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF LICENSING AND REGISTRATION

Request for Information from Interested Parties:

Sunrise Review for Resolve c. 61

*“Resolve, To Require Professional Licensure for
Home Inspectors”*

**Department of Professional and Financial
Regulation
Office of the Commissioner
August 12, 2019**

***Sunrise Review Survey: Regulation of Home Inspectors in
Maine
Pursuant to 2019 Resolve c. 61***

Please return the completed survey to Melissa Hinkley, Commissioner's Office, Department of Professional and Financial Regulation, 35 State House Station, Augusta, ME 04333-0035 or by email to Melissa.A.Hinkley@maine.gov by September 30, 2019.

General Information:

Completed by: Tana McNutt

Title or Occupation: :Self employed Home Inspector

Organization Represented: (if applicable) Northland Home Inspection Service, Inc,. Member of MeCHIPS and InterNACHI

Evaluation Criteria (32 M.R.S.A. §60-J)

- Please describe the minimum skill, knowledge and training that a home inspector should possess.
I think that they should take an accredited course in home inspection. The Arthur Gary School in Westbrook offers a very complete course.
- What standards should be used to measure the competency of a home inspector?
Why? Maine Coalition of Home Inspection Professionals (MeCHIPS) and InterNACHI have very strict standards that I follow. I follow them because I feel that we need an honest set of rules that all home inspectors should follow.
- In your opinion, what obligation(s) does a home inspector owe to consumers who hire that inspector?
A home inspector should offer a very thorough inspection. Honestly and integrity are very important.
- Is the public in jeopardy with the absence of state regulation of home inspectors? Why or why not?

- I think that the public is in jeopardy with home inspectors who have not received any training and do not take the continuing education courses offered by MeCHIPs and InterNACHI and ASHI.
- Are you aware of any instances of harm to a member of the public by an act of a home inspector? Please describe.
- My business is in Aroostook, Washington, Hancock and Northern Penobscot counties. Real estate agents have told me of inspectors from those areas who are not trained and have missed some very important concerns. The real estate agents are concerned about law suits that these inspectors may cause and that they, the agents, may become a part of said lawsuit.
- How many home inspectors currently providing services in Maine lack the minimum skills, knowledge and experience that a home inspector should possess? I don't know the number state wide, but in Northern Maine I do know of two.
- Has your company adopted private certifications as a mandatory standard for members or employed home inspectors? Why or why not? Which certifications?
Yes. I am a sole owner/operator. I belong to MeCHIPs and I travel to Augusta, which is 3.5 hours away, monthly when in session for continuing education. I also take online course through InterNACHI in the winter when business is slower.
- Has your company adopted voluntary certifications or training for members or employed home inspectors? Why or why not? Which certifications? It is just me and I do it all voluntarily.
- As an individual home inspector, what voluntary or mandatory certifications have you obtained? What specific home inspector training have you obtained? What certifications or training have you found to be most beneficial? Why?
I took the home inspection course at the Arthur Gary School and became certified by the Home Inspection Institute. I took the home inspection exam that InterNACHI requires to become certified and am certified through them. It is all very beneficial.
- Does your organization require home inspectors to be members of state, national or international professional home inspector organizations? Why? Which organizations? It is just me and I do it all voluntarily.
- Are you, as a practicing home inspector, a member of any state, national or international professional home inspector organizations?
Yes, MeCHIPs and InterNACHI.

- How would state regulation of home inspectors affect the cost of services to Maine consumers? Please provide examples or evidence supporting your response.
- We may have to charge more to cover state licenses and to pay for courses that the state may require.
- How would state regulation of home inspectors affect current service providers (individual home inspectors)? Please provide a rationale for your response.
- We may have to charge more to cover state licenses and to pay for courses that the state may require.
- Please provide information about methods used by other states to regulate the home inspector occupation.
I don't know what other states do to regulate home inspection. I am only concerned with my state.

Please provide any additional information that may be helpful to this study and forward the questionnaire to an individual or company that may wish to provide information.

I have been a home inspector for 15 years. I am very thorough and efficient. I have never been sued. I am highly recommended by previous clients. I don't advertise. Word of mouth has brought me a lot of business. I think that home inspectors who have been educated and continue to be educated should be grandfathered if state regulation is passed.



www.mechips.org

November 20, 2019

Anne L. Head
Commissioner
Department of Professional and Financial Regulation
35 State House Station
Augusta, Maine 04333

Dear Ms. Head:

The Maine Coalition of Home Inspection Professionals supports licensing home inspectors with the following guidelines:

A. Eligibility

To be eligible for licensing, a candidate must:

1. Demonstrate a minimum level of proficiency and qualification. For existing home inspectors, submission of a minimum number of completed, paid inspections that comply with the Board standards; for new inspectors, require completion of an accredited home inspection training program or a test.
2. Submit to a Criminal background check.

B. Standards of Practice

1. Follow national Standards of Practice and a Code of Ethics, such as ASHI or InterNACHI, as adapted for Maine.
2. Carry professional liability insurance.
3. Require a signed Pre-Inspection Agreement or Contract.
4. Provide a written report to the customer for a completed inspection.

C. Continuing education

Licensed home inspectors must get 10-12 hours of continuing education credits in programs authorized by the Board annually.

D. Fees

Licensing Fees must be reasonable for the inspector.

We hope that this clarifies our position. The Coalition wants to play an active part in developing the legislation as it moves forward.

Sincerely,

Chris Malliet, Treasurer
Maine Coalition of Home Inspection Professionals



DEPARTMENT OF

**Professional &
Financial Regulation**

STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF LICENSING AND REGISTRAR

Request for Information from Interested Parties:

Sunrise Review for Resolve c. 61

**“Resolve, To Require Professional Licensure for
Home Inspectors”**

**Department of Professional and Financial
Regulation**

Office of the Commissioner

August 12, 2019

Sunrise Review Survey: Regulation of Home Inspectors in Maine Pursuant to 2019 Resolve c. 61

Please return the completed survey to Melissa Hinkley, Commissioner's Office, Department of Professional and Financial Regulation, 35 State House Station, Augusta, ME 04333-0035 or by email to Melissa.A.Hinkley@maine.gov by September 30, 2019.

General Information:

Completed by: Hugh Savage, P.E.

Title or Occupation: Home Inspector, retired

Organization Represented: (if applicable) Up Country Building Inspectors, Inc. from 2003 to 2010.

Evaluation Criteria (32 M.R.S.A. §60-J)

1. Please describe the minimum skill, knowledge and training that a home inspector should possess.
A person entering the field should have attended a school that provides hands on instruction for at least 80 hours or, have ridden with a qualified home inspector for at least 50 inspections. For a portion of the ride along inspections, the person should have prepared the first draft of the inspection report.
2. What standards should be used to measure the competency of a home inspector? Why? The person should have taken and passed the National Home Inspector Exam. No other qualifying exam should be accepted. The National Exam has been adopted by many of the national home inspector organizations and is required for professional membership.

The inspection and written report should conform to a written Standards of Practice and Code of Ethics that are made available to the client.

The home inspector should have a written agreement with their client. The agreement should have been vetted and approved by a lawyer.

All home inspectors should have insurance to cover errors and omissions and liability.

Home inspectors should maintain continuing education credits in subjects relevant to home inspecting.

3. In your opinion, what obligation(s) does a home inspector owe to consumers who hire that inspector?
The individual should possess a minimum competency in the various systems that comprise a residential structure. They should be independent evaluators having no conflicts of interest in the outcome of the home inspection. Their only responsibility should be to their client. If they should lack familiarity with a component, they should say so and provide references to those that do.
4. Is the public in jeopardy with the absence of state regulation of home inspectors? Why or why not?
At present, there is no accountability for a home inspector, other than word of mouth reputation. There is no objective way for a potential client to evaluate the competency of a home inspector. As a result, unqualified individuals can enter the field and provide misleading or substandard evaluations that may miss or under evaluate important conditions. Overlooked or under-evaluated conditions may result in significant unforeseen costs or safety issues for the home buyer.
5. Are you aware of any instances of harm to a member of the public by an act of a home inspector? Please describe.
In my capacity as Secretary of the Maine Coalition of Home Inspector Professionals (MeCHIPs), I was aware of remarkably few problems. Because of confidentiality, I do not wish to elaborate.
6. How many home inspectors currently providing services in Maine lack the minimum skills, knowledge and experience that a home inspector

should possess? I would say that any member of MeCHIPs (about 60), American Society of Home Inspectors (ASHI, perhaps another 60), International Association of Certified Home

Inspectors (InterNACHI, maybe 100) or National Academy of Building Inspection Engineers (NABIE about 5 members) subscribes to a standard of practice and code of ethics. My guess this would add up to about 150 inspectors in the State. Demonstrated violation may result in loss of membership. The numbers do not add up because some are members of more than one home inspector organization. Hence, there is a degree of accountability.

There are certainly some additional home inspectors not affiliated with a home inspection organization that sets standards of practice or code of ethics and have no accountability. The number is hard to quantify, but probably represents a small minority.

7. Has your company adopted private certifications as a mandatory standard for members or employed home inspectors? Why or why not? Which certifications?

When I was with Up Country Building Inspectors, Inc, all our inspectors had to have passed the National Home Inspectors Exam. It demonstrated a tangible evidence of a minimum of competence.

8. Has your company adopted voluntary certifications or training for members or employed home inspectors? Why or why not? Which certifications?

All inspectors were expected to become Registered Radon Service Providers. In addition, other certifications included:

- Certification as a Building Performance Professional
- Certification as Residential Thermographer
- Licensed Structural Insect Inspector

9. As an individual home inspector, what voluntary or mandatory certifications have you obtained? What specific home inspector training have you obtained? What certifications or training have you found to be most beneficial? Why?

I was a Professional Engineer, an ASHI Certified Inspector, a MeCHIPS member, Certified Onsite Wastewater Disposal System Inspector, Building Performance Institute, Inc. Certified Building Analyst Professional, Lead Renovator, Certified Professional in Erosion and Sediment Control, Certified Residential Thermographer, Radon Air and Radon Water Tester.

In addition, I accumulated 20 to 40 credit hours of continuing education per year to maintain my ASHI Certification and MeCHIPs membership. Those were the most beneficial associations.

The various trainings and certifications improved my awareness of potential issues I encountered in the conduct of my inspections. Also, it kept me abreast of developments, new products. Practices in building and inspection changed in the 23 years I was in the field. Without ongoing education, I would not have kept up.

10. Does your organization require home inspectors to be members of state, national or international professional home inspector organizations? Why? Which organizations? As a rule, all home inspectors were members of ASHI and MeCHIPs.

11. Are you, as a practicing home inspector, a member of any state, national or international professional home inspector organizations?
I was a member of ASHI and MeCHIPs.

12. How would state regulation of home inspectors affect the cost of services to Maine consumers? Please provide examples or evidence supporting your response.
Assuming state regulation with require passing of the National Exam, written Standards of Practice and Code of Ethics, written agreement, written reports, insurance covering errors and omissions and liability, the cost will go up. Reports from home inspectors who practiced in New Hampshire, found the fees increased by about 50% when New Hampshire required home inspectors be licensed.

13. How would state regulation of home inspectors affect current service providers (individual home inspectors)? Please provide a rationale for your response.
For those that already have passed the National Exam, conform to written Standards of Practice and Code of Ethics, provide a written agreement and written reports, and have insurance covering errors and omissions and liability, state regulation will not affect their operations. These incur overhead expenses. Those that do not raise their fees to cover their expenses will not survive as home inspectors.

14. Please provide information about methods used by other states to regulate the home inspector occupation.

I do not have any personal experience with other states.

Please provide any additional information that may be helpful to this study and forward the questionnaire to an individual or company that may wish to provide information.

**Joint Standing Committee on Innovation, Development, Economic
Advancement and Business, 129th Maine Legislature**

Workgroup for LD 671, *An Act to Require Professional Licensure for Property Inspectors*

Background

LD 671, An Act to Require Professional Licensure for Property Inspectors, requires that all property inspectors in the State of Maine be licensed by the Department of Professional and Financial regulation. Because the bill seeks to regulate a currently unregulated profession, it triggers the Sunrise Review provisions, as described at 5 MRSA 512015.

The IDEA Committee held a public hearing on the bill on February 28, 2019. Following the public hearing, the Committee requested that the analyst convene a group of stakeholders to make recommendations to the Committee in advance of the Committee work session.

The work group was held on March 22, 2019. An agenda and memo describing the Sunrise Review process were emailed to work group participants in advance of the meeting (these documents are attached). This report summarizes the findings of the work group members for consideration by the Committee.

The final recommendation of the work group was that the Committee put forth an amendment directing the Department to conduct a Sunrise Review regarding licensing of home inspectors.

Work group participants

The work group participants were as follows:

1. Rep. Chris Kessler (bill sponsor)
2. Thomas Caron
3. John Howard
4. Gary "I BO" Boden
5. Michael McCray
6. Roy Mayo
7. Len Westra
8. Hank Henning
9. Darryl Chandler
10. Jeffrey Campbell
11. Andrew Cashman

The majority of participants are active or retired home inspectors, most of whom have been in the business for many years. Many participants are also members of the Maine Coalition of Home Inspection Professionals (MECHIPs), a professional trade organization for professional home inspectors in the state.

Work Group Goal

The stated goal of the work group was to elicit feedback regarding the need for the Department to conduct a Sunrise Review to study the regulation of home inspectors. There is no established standard to determine whether a Sunrise Review is necessary (beyond the requirement that a review is required should the state seek to license or otherwise regulate a profession). Therefore, the work group contemplated a number of questions the group believed would be useful to the Committee as it sought to determine whether to proceed with a Sunrise Review.

The work session commenced with a review of the Sunrise Review procedures and requirements and a discussion of potential next steps in the legislative process.

Summary of Findings

Initial thoughts

At the outset of the meeting, a poll was taken to determine how many participants believed that a Sunrise Review should be undertaken. The majority of participants were in favor of a Sunrise review, with three participants not in favor.

A number of participants recalled that the Legislature considered a bill to license home inspectors approximately twenty years ago, but that that bill died in the Second Session.¹ Participants noted that this bill was one of the drivers for the creation of MECHIPs.

Number of inspectors in Maine and potential impact of licensure

Because the state does not regulate home inspectors, there is no mechanism to track the number of active home inspectors in the state. MECHIPs currently has 35 members. However, the group estimated that there are over 200 active inspectors in the state (232 registered with either American Society of Home Inspectors (ASHI) or the International Association of Certified Home Inspectors (InterNACHI))

The group agreed that licensing would likely reduce the pool of inspectors, at least initially. There was disagreement over whether or not licensing would make it easier or harder to enter the profession. Currently, there is no single pathway to entry. Some participants believed that this was an incentive to entry into the profession and that creation of a clear pathway through licensure would encourage more young people to enter the profession. Others believed that licensing would create a barrier to entry, especially if licensure requires extensive education or apprenticeships. One participant stated that overly burdensome regulation in Massachusetts was

¹This was LD 168, *An Act to License Home Inspectors*, heard in the 119th Legislature. The Committee was carried over from the first to second session and ultimately reported out as ONTP.

keeping out competitors, Another participant suggested that there is a direct correlation to the appraisal field. The requirements for becoming an appraiser keep some potential appraisers out of the field. The participant suggested that home inspectors likely have a greater knowledge base than appraisers.

Participants expressed concern over the state implementing licensing requirements that some current experienced inspectors could not meet (for example, the requirement for a college degree) and expressed support for a mechanism to grandfather in current inspectors should licensing proceed. One participant expressed that Maine inspectors should not have to take a national exam, as the exam usually used (the NHIE exam) drives membership in the American Society of Home Inspectors (ASHI). The exam tests individuals on topics irrelevant to Maine and is expensive and unnecessary.

New Hampshire licensing

New Hampshire commenced licensing of home inspectors in 2010, Two participants noted that they hold licenses in New Hampshire. One participant suggested that Bob Gray, who was very involved in the New Hampshire licensing process, be involved in any Sunrise Review conducted by Maine.

There was disagreement as to whether licensing in New Hampshire has driven up the costs of home inspections in that state. Some participants expressed concern that licensing could lead to price gouging by inspectors should the pool of inspectors shrink.

Potential harm to public of unregulated practice

The most essential question a Sunrise review seeks to answer is whether or not the health and safety of the public is at risk absent regulation of a profession or occupation, There was some disagreement on this point within the group.

It was noted that home inspections are not required in order to purchase a home. There was disagreement over the percentage of purchases in Maine that involve an inspection, with estimates ranging from 60 to above 90 percent of purchases. Because an inspection is not required, there are two potential harms. The first harm could arise in a situation where no inspection took place and a defect went unnoticed by the purchaser. The second harm could arise in a situation where an inspection did take place but the inspector missed or misrepresented a defect. Regulation of the profession, absent a required inspection (which some group members greatly oppose) would address only the later situation.

Some group members stated that absent any sort of regulation, there was no way for a lay person to know if the home inspector they hired had the requisite knowledge and experience to do the job in an adequate manner. One participant stated that he has come across inspectors who only intermittently inspected properties and did not have enough experience to perform a

competent inspection. Other group members noted that it was the responsibility of the home buyer to seek out a competent inspector through reviews or recommendations,

The group discussed both physical and financial harms, the latter being the much more common scenario. There was some disagreement over how much financial harm a consumer experienced, on average, due to a poor home inspection. One participant stated that the average harm suffered was about \$1,500. Another participant stated that he has seen harm in excess of \$50,000, although it was agreed that this was extremely rare. A participant notes that the number of egregious "misses" is likely very small.

One participant noted that very few complaints against home inspectors have been filed with the Office of the Attorney General. The participant stated that this suggested that there were few people experiencing harm in the state due to poor inspections. The participant also noted that most lawsuits filed against inspectors were rooted in unrealistic expectations and a basic misunderstanding of the role of the home inspector, and that licensing would not solve that problem. The participant analogized home inspectors to primary care providers; just as a primary care provider would refer a patient to a specialist should the provider find or suspect a major problem, so would a home inspector recommend the property buyer retain the services of another professional, such as an electrician or asbestos removal professional, should they find or suspect problems in these areas.

Another participant disagreed, noting that there is no real pathway to filing a complaint, and that there was little confidence that any complaint filed with the attorney general's office would result in a satisfactory outcome. As a result, many people feel it is a waste of time to pursue a complaint. The participant states that if licensing required a signed inspection outlining what is and is not part of the inspection, the number of potential lawsuits would be reduced as clients' expectations would be established prior to the inspection. A second participant stated that complaints to the attorney general's office are likely not representative of the universe of consumers who have experienced harm due to inadequate home inspections.

Consistency of practice/ standards of practice

The group agreed that different inspectors' inspection protocols and subsequent reports can vary significantly. MECHIPs does publish a Standards of Practice, which its members must follow, However, inspectors who are not part of MECHIPs are not bound to follow a specific standard in their inspections. Many participants noted that this is a significant problem, in that consumers typically had no way of knowing whether or not the inspection of their home was sufficiently thorough. However, it was noted that even when a standard of practice was followed, there needed to be room for professional judgment, as each property is different, That stated, most participants believed that the public would benefit from a regulatory body establishing a clear standard of practice and minimum requirements for inspections, which would result in more consistent reports by inspectors.

One participant notes that almost every inspector already abides by Standards of Practice and often prominently displays these on their websites.

Education, training and required examinations

Participants reported various pathways to entry into the profession. Many had been in related trades and professions and gained related experience, eventually moving into the field of home inspection. Others trained under experienced inspectors.

A number of participants expressed concern over requiring significant education, and in particular over requiring a college degree or college experience. There was no consensus over the type of training that should be required. While some participants favored an apprenticeship as a reasonable licensing requirement, others expressed concern that such a requirement, which could involve working for a significant period of time for low pay, could be a disincentive to entering the profession. Other worried that apprenticeships could foster an exclusive environment in which only those who knew the "right people" would gain apprenticeships.

Participants reported that there are two major examinations taken by many, but not all, home inspectors. These exams are the National Home Inspector Examination (NHIE), which is the required exam for membership in the American Society of Home Inspectors (ASHI), and the International

Association of Certified Home Inspectors (InterNACHI) examination. States that license home inspectors generally require that the applicant pass an examination, usually the NHIE.

The group agreed that as regards continuing education, there are sufficient resources available for individuals to access in person and online continuing education.

Insurance

The group discussed the issue of insurance for property inspectors. Absent any regulatory oversight by the state, there is no mechanism to require inspectors to maintain insurance. It was stated that while it is a very good idea for inspectors to carry insurance, not all do. It was noted that insurance protects both the inspector and the customer. Participants stated that there were certainly situations where a consumer experienced financial harm, purportedly as the result of a poor inspection, but had no realistic recourse, as the inspector lacked insurance. Participants noted that some inspection contracts limit liability to the cost of the inspection; other contracts have no such limit.

One participant noted that insurance can be very expensive and will sometimes drop inspectors after receiving a single claim. Others don't defend the inspector well and opt to settle. The deductibles can be \$5,000 or more. Some inspectors decide to go without insurance, as most claims are small (no more than \$1500). Requiring insurance could drive up the costs of inspections.

It was noted that New Hampshire requires that all licensees file proof of insurance every two years, at the time of license renewal. Arizona requires that licensees hold insurance, obtain a bond, or prove that they have sufficient assets to cover damages.

Cost

Some participants expressed concern over the potential cost of licensing fees. It was noted that while New Hampshire's fee is relatively low (\$100 every two years), some other states charge significantly more. One participant stated that the average national licensing fee costs \$460. Additionally, there are fees for examination. It was noted that the fee to take the NHIE exam is \$240.

Professional association memberships also can be costly. It was noted that the annual MECHIPs membership fee is \$95, while InterNACHI membership costs \$499 per year and ASH's costs \$474 per year.

Other forms of regulation

The group discussed forms of regulation other than licensing, including voluntary or mandatory registration. Some participants felt that registration would be insufficient, in that it lacked a mechanism to discipline and suspend or revoke licenses. It was stated that licensing was the preferred pathway because it provided a clear mechanism for the state to remove bad actors from the profession, rather than relying on the market and reputation. Also, any licensee against whom a complaint was filed would have a forum to defend him or herself before a professional licensing board,

While many participants felt that voluntary registration would provide little benefit over the work currently being performed by MECHIPs, other were in favor of voluntary registration over licensing as a less burdensome, expensive, and intrusive regulatory mechanism as compared to licensing. It was noted that at the very least, voluntary registration would provide consumers with a list of qualified professionals. Others felt that voluntary registration would amount to little more than a marketing tool for those who chose to register,

Recommendations for licensing requirements

A majority of participants agreed that, should licensing go forward, the following should be included in any licensing rule:

- 1) Minimum standards of practice;
- 2) A code of ethics;
- 3) Examination and/or training requirements;
- 4) A requirement for the licensee to carry insurance;
- 5) A requirement that licensees disclose the scope of an inspection to consumers and a requirement for written pre-inspection agreements;

- 6) A background check;
- 7) Provisions for reciprocity with other states;
- 8) Continuing education requirements;
- 9) Provisions for industry oversight and discipline of licensees; and
- 10) A provision to grandfather in current inspectors or to provide them additional time to meet requirements

Conclusions

At the end of the work session, the group took another poll. The group was unanimous in its recommendation that a Sunrise Review be conducted, though there were reservations (at least one participant stated that he was in favor of a Sunrise Review only if the bill did not die in Committee). Participants expressed strong interest in being closely involved in the Sunrise Review Process and in the subsequent drafting of any rules regulating the industry.

Appendix E
New Hampshire Statute and Program Rules for Home Inspectors

TITLE XXX
OCCUPATIONS AND PROFESSIONS

CHAPTER 310-A
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION

Home Inspectors

Section 310-A:182

310-A:182 Purpose; Scope of Practice. –

I. The purpose of this subdivision is to assure that a home inspector performs professional services only when the home inspector is qualified by education and training in the specific technical areas involved.

II. The scope of practice of home inspectors shall consist of knowledge and skill in the following areas of residential construction: heating systems, cooling systems, plumbing systems, electrical systems, structural components, foundations, roofs, exterior and interior components, and site aspects as they affect buildings.

Source. 2008, 339:1, eff. July 1, 2008.

Section 310-A:183

310-A:183 Definitions. –

In this subdivision:

I. "Auxiliary services" means any fee paid services provided by the home inspector to the client in addition to a home inspection.

II. "Board" means the board of home inspectors.

III. "Client" means an individual who signs a home inspection agreement in order to have a home inspection performed.

IV. "Code of ethics" means the code of ethics followed by home inspectors who are licensed as home inspectors by the board.

V. "Home inspection" means the process by which a home inspector visually examines the readily accessible systems and components of a home and which describes those systems and components in accordance with the board-approved standards of practice and code of ethics.

VI. "Home inspector" means a person who, by reason of professional education or practical experience, or both, is qualified to engage in the practice of home inspections as attested by licensing as a home inspector.

Source. 2008, 339:1, eff. July 1, 2008.

Section 310-A:184

310-A:184 Standards of Practice. – The board shall adopt, under RSA 541-A, minimum and uniform standards of practice which shall apply to New Hampshire home inspectors and be enforced by the board.

Source. 2008, 339:1, eff. July 1, 2008.

Section 310-A:185

310-A:185 Code of Ethics for New Hampshire Home Inspectors. –

I. The code of ethics details the core guidelines of home inspection professionalism and home inspection ethics, covering crucial issues such as conflicts of interest, good faith, and public perception. Integrity, honesty, and objectivity are fundamental principles embodied by this code, which sets forth obligations of ethical conduct for the home inspection profession.

II. Inspectors shall comply with this code, avoid association with any enterprise whose practices violate this code, and strive to uphold, maintain, and improve the integrity, reputation, and practice of the home inspection profession.

III. Inspectors shall avoid conflicts of interest or activities that compromise, or appear to compromise, professional independence, objectivity, or inspection integrity. Inspectors shall not:

(a) Inspect properties for compensation in which they have, or expect to have, a financial interest.

(b) Inspect properties under contingent arrangements whereby any compensation or future referrals are dependent on reported findings or on the sale of a property.

(c) Directly or indirectly compensate realty agents, or other parties having a financial interest in closing or settlement of real estate transactions, for the referral of inspections or for inclusion on a list of recommended inspectors, preferred providers, or similar arrangements.

(d) Receive compensation for an inspection from more than one party unless agreed to by the client.

(e) Accept compensation, directly or indirectly, for recommending contractors, services, or products to inspection clients or other parties having an interest in inspected properties.

(f) Repair, replace, or upgrade, for compensation, systems or components covered by the standards of practice, for one year after the inspection.

IV. Inspectors shall act in good faith toward each client and other interested parties.

(a) Inspectors shall perform services and express opinions based on genuine conviction and only within their areas of education, training, or experience.

(b) Inspectors shall be objective in their reporting and not knowingly understate or overstate the significance of reported conditions.

(c) Inspectors shall not disclose inspection results or client information without client approval. Inspectors, at their discretion, may disclose observed immediate safety hazards to occupants exposed to such hazards, when feasible.

V. Inspectors shall avoid activities that may harm the public, discredit themselves, or reduce public confidence in the profession.

(a) Advertising, marketing, and promotion of inspectors' services or qualifications shall not be fraudulent, false, deceptive, or misleading.

(b) Inspectors shall report substantive and willful violations of this code to the board.

Source. 2008, 339:1, eff. July 1, 2008.

Section 310-A:186

310-A:186 Board of Home Inspectors. –

I. A board of home inspectors is established to administer the provisions of this subdivision. The board shall consist of 7 persons as follows:

(a) Five members shall be home inspectors, appointed by the governor and council. Each home inspector member shall hold a current and valid New Hampshire home inspector license and shall have actively practiced home inspections for a minimum of 5 years as a means of his or her livelihood prior to appointment.

(b) Two shall be public members, each to be appointed by the governor and council. Each public member of the board shall be a person who is not, and never was, a home inspector or the spouse of any such person, and who does not have, and never has had, a material financial interest in either the provision of home inspector services or an activity directly related to the home inspection trade. In addition, the public members shall not have held a real estate broker or salesperson license or represented the board or the trade for a fee at any time during the 5 years preceding appointment.

II. Initial home inspector appointees to the board shall not be required to hold a current and valid New Hampshire home inspector's license but shall have been actively practicing home inspections for a minimum of 5 years as a means of his or her livelihood prior to appointment.

III. Each member of the board shall be a citizen of the United States and a resident of this state.

IV. Members shall be appointed for 5-year terms. Appointments for terms of less than 5 years may be made in order to stagger the appointments. No appointed member shall be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 5-year term shall be deemed a full term. Upon expiration of a member's term, the member shall serve until a successor is qualified and appointed. Vacancies occurring prior to the expiration of a specific term shall be filled by appointment for the unexpired term. Appointees to the unexpired portion of a full term shall become members of the board on the day following such appointment. A board member may be removed for cause by the governor and council under RSA 4:1.

V. Members of the board shall receive \$25 for each day actually engaged in the duties of their office and shall be reimbursed for all actual travel, incidental, and clerical expenses necessarily incurred in carrying out the provisions of this subdivision.

VI. The board shall hold at least 3 regular meetings each year and special meetings at such times as it may deem necessary. Notice of all meetings shall be given in such a manner as rules adopted by the board may provide. The board shall biennially elect or appoint a chairperson, vice-chairperson, and secretary. Four members shall constitute a quorum.

VII. (a) The board shall keep a record of its proceedings and a register of all applications for licensure, which shall show:

- (1) The name, age, and residence of each applicant.
- (2) The date of application.
- (3) The place of business of such applicant.
- (4) The applicant's educational and other qualifications.
- (5) Proof of passing home inspection exam.

- (6) Whether the applicant was rejected and the reasons for such rejection.
 - (7) Whether a license was granted.
 - (8) The date of the action of the board.
 - (9) Such other information as may be deemed necessary by the board.
- (b) The records of the board shall be prima facie evidence of the proceedings of the board, and a transcript of such records certified by the secretary of the board under seal shall be admissible in evidence with the same force and effect as if the original were produced. Biennially, as of December 31, the board shall submit to the governor a report of the transactions of the preceding biennium, and a complete statement of the receipts and expenditures of the board.
- VIII. The secretary of the board shall publish a roster listing the names and addresses of all home inspectors licensed under this subdivision by the board during February of each even-numbered year. Copies of this roster shall be sent to each person so licensed, placed on file with the secretary of state, and furnished to the public upon request at a fee to be established by the board. The board may include in such roster any other information it deems appropriate.
- IX. The board, its members, and its agents shall be immune from personal liability for actions taken in good faith in the discharge of the board's responsibilities, and the state shall hold the board, its members, and its agents harmless from all costs, damages, and attorneys' fees arising from claims and suits against them with respect to matters to which such immunity applies.
- Source. 2008, 339:1. 2010, 315:1, eff. July 13, 2010.

Section 310-A:187

310-A:187 Rulemaking Authority. –

- I. The board shall adopt rules, pursuant to RSA 541-A, relative to:
- (a) The application procedure for a license to practice under this subdivision.
 - (b) The qualifications of applicants in addition to requirements of this subdivision, and including the qualifications for satisfactory evidence of good professional character.
 - (c) Procedures for auditing applicants and licensees.
 - (d) How a license to practice under this subdivision shall be renewed or reinstated, including late fees and any requirements for continuing education.
 - (e) The establishment of all fees required under this subdivision.
 - (f) Disciplinary actions by the board that shall be implemented for violations of the standards of practice, code of ethics, and rules adopted by the board.
 - (g) Procedures for the conduct of hearings consistent with the requirements of due process.
 - (h) Procedures for approving education courses for eligibility for licensure and for a continuing education program
 - (i) How an applicant shall be examined, including the form of the examination.
 - (j) The design of an official seal.
 - (k) The establishment of administrative fines which may be levied in the administration of this subdivision.
- II. The board shall adopt one eligibility examination required for licensure that is an independent nationally recognized proctored examination.
- III. At least 40 days prior to any hearing to be held pursuant to RSA 541-A:11, the board shall furnish a copy of any proposed rules of or amendments thereto, to all affected professionals licensed by the board.

Source. 2008, 339:1. 2014, 174:16, eff. Sept. 9, 2014.

Section 310-A:188

310-A:188 Fees. –

The board shall adopt rules, under RSA 541-A, which shall establish fees required under this subdivision, which shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board budgeted for the biennium in which they will apply, including the following:

- I. Application for licensure.
- II. Renewal for licensed home inspectors.
- III. Late fees for a late renewal of license.
- IV. Replacement of a lost or mutilated license.
- V. Transcribing and transferring records and other services.
- VI. Reinstatement fees.
- VII. Other fees or fines deemed necessary by the board.

Source. 2008, 339:1. 2014, 269:11, eff. July 1, 2014.

Section 310-A:190

310-A:190 Eligibility Requirements for Licensure as a Home Inspector. –

I. Each applicant for licensure as a home inspector shall meet the following minimum requirements:

(a) Completion of no less than 80 hours of board-approved education covering all of the following core components of a residential building of 4 units or less:

- (1) Heating system.
- (2) Cooling system.
- (3) Plumbing system.
- (4) Electrical system.
- (5) Structural components.
- (6) Foundation.
- (7) Roof covering.
- (8) Exterior and interior components.
- (9) Site aspects as they affect the building.

- (b) Have successfully completed high school or its equivalent.
- (c) Proof of passing the board-adopted examination required for licensure.
- (d) Be at least 18 years of age.

(e) Submit to the board a public criminal history record information authorization form as provided by the New Hampshire state police, which authorizes the release of the applicant's public criminal history record information, if any. The applicant shall bear the cost of the public criminal history record information check.

II. A person who was actively engaged in the business of home inspection in this state as a means of his or her livelihood for at least 12 months preceding the effective date of this subdivision shall be eligible for licensure by the board without completion of the requirements of subparagraph I(a). An applicant under this paragraph shall be issued a license by providing

evidence satisfactory to the board of the knowledge and experience equivalent to the requirements of subparagraph I(a). All applicants shall meet the requirements of subparagraphs I(b) through (e), pay an initial fee, and fulfill all other license application requirements.

III. The board shall approve all education programs under subparagraph I(a) of organizations or education institutions providing acceptable education and training.

IV. The board shall have the discretion to reject an applicant who is not of good professional character, as evidenced by:

- (a) Conviction for commission of a felony;
- (b) Misstatement of facts by the applicant in connection with the application;
- (c) Violation of any of the standards of practice or code of ethics as they are set forth in this subdivision or in rules adopted by the board; or
- (d) Practicing home inspections without being licensed in violation of laws of the jurisdiction in which the practice took place.

Source. 2008, 339:1, eff. July 1, 2008. 2019, 297:6, eff. July 1, 2019.

Section 310-A:191

310-A:191 License Applications. –

I. Applications for licensure shall be on forms prescribed and furnished by the board.

II. Applicants shall include the following:

- (a) Proof of required education.
- (b) Proof of passing the eligibility testing requirements.
- (c) Payment of applicable fees.
- (d) Proof of liability insurance.
- (e) Any other attachments as required by the board.

III. If the board denies the issuance of a license to any applicant, any fee paid shall be retained as an application fee.

Source. 2008, 339:1, eff. July 1, 2008.

Section 310-A:192

310-A:192 Continuing Education. – Evidence satisfactory to the board of the completion in each 2-year renewal period of a minimum of 20 hours of continuing education shall be required for license renewal, provided that one hour of the 20 required hours shall be from a board-approved course on appropriate building regulations including any recent revisions to regulations. The board shall approve educational courses and activities that would further the professional competence of licensees. The continuing education credits shall be determined on the basis of one credit for each contact hour of course instruction or professional development activity actually attended by a licensee.

Source. 2008, 339:1, eff. July 1, 2008.

Section 310-A:194

310-A:194 Reciprocity. – If, in the determination of the board, another state grants reciprocity to residents of this state and is deemed to have state licensure requirements equal to or exceeding

those of this state, the board may enter into a reciprocity agreement allowing applicants who are licensed under the laws of such other state to obtain a license as a home inspector in this state upon such terms and conditions as may be determined by the board.

Source. 2008, 339:1, eff. July 1, 2008.

Section 310-A:196

310-A:196 Disciplinary Action. –

I. The board may undertake disciplinary proceedings:

- (a) Upon its own initiative; or
- (b) Upon written complaint of any person which charges that a person licensed by the board has committed misconduct under paragraph II and which specifies the grounds therefor.

II. Misconduct sufficient to support disciplinary proceedings under this section shall include:

- (a) The practice of fraud or deceit in procuring or attempting to procure a license to practice under this subdivision.
- (b) Conviction of a felony or any offense involving moral turpitude.
- (c) Any unprofessional conduct, or dishonorable conduct unworthy of, and affecting the practice of, the profession.
- (d) Unfitness or incompetence by reason of negligence or other causes; or negligent or willful acts performed in a manner inconsistent with the interests of persons relying on the expertise of the licensee.
- (e) Addiction to the use of alcohol or other habit-forming drugs to a degree which renders the licensee unfit to practice under this subdivision.
- (f) Mental or physical incompetence to practice under this subdivision.
- (g) Willful or repeated violation of the provisions of this subdivision.
- (h) Suspension or revocation of a license, similar to one issued under this subdivision, in another jurisdiction and not reinstated.
- (i) Violations of the code of ethics for home inspectors, or any other rule adopted by the board.
- (j) Providing false testimony before the board.
- (k) Failure to provide, within 30 calendar days of receipt of notice by certified mail, return receipt requested, information requested by the board as a result of any formal complaint to the board alleging a violation of this subdivision.
- (l) Knowingly making or signing any false statement, certificate, or affidavit in connection with the practice of home inspections.

Source. 2008, 339:1, eff. July 1, 2008.

CHAPTER Home 100 DEFINITIONS, ORGANIZATION AND PUBLIC INFORMATION

PART Home 101 PURPOSE AND SCOPE

Home 101.01 Purpose and Scope.

(a) The rules of this title implement the statutory responsibilities of the New Hampshire board of home inspectors created by RSA 310-A: 182. -

(b) These provisions regulate but are not limited to the licensing of home inspectors and the practice of home inspection in the state of New Hampshire.

Source. #9503, eff 7-8-09

PART Home 102 DEFINITIONS

Home 102.01 Terms Used. As used in these rules, the following terms shall have the meanings indicated:

(a) "Board" means the New Hampshire board of home inspectors created by RSA 310-A:183.

(b) "Executive director" means the board's staff director, a person with delegated authority to perform administrative and clerical functions for the board.

(c) "Home inspector" means, "home inspector" as defined in RSA 310-A:183, IV namely " a person who, by reason of professional education or practical experience, or both, is qualified to engage in the practice of home inspections as attested by licensing as a home inspector."

(d) "Home inspection" means "home inspection" as defined in RSA 310-A:183, V namely "the process by which a home inspector visually examines the readily accessible systems and components of a home and which describes those systems and components in accordance with the board-approved standards of practice and code of ethics."

Source. #9503, eff 7-8-09

PART Home 103 BOARD ORGANIZATION

Home 103.01 Duties and Responsibilities. The board shall administer the provisions of RSA 310-A:182-201 which include but are not limited to safeguarding property, to promoting public welfare and maintaining a high standard of integrity, skills and practice in the profession of home inspectors in this state.

Source. #9503, eff 7-8-09

Home 103.02 Composition of the Board. Pursuant to RSA 310-A:186, I the board shall consist of 7 members who meet the eligibility requirements of RSA 310-A:186 I-, III.

Source. #9503, eff 7-8-09

Home 103.03 The Chairperson and Vice Chairperson. The chairperson shall preside at all meetings. In the absence of the chairperson, the vice-chairperson shall preside.

Source. #9503, eff 7-8-09

Home 103.04 Staff. The board shall designate an executive director and such other staff members as are necessary to perform the record-keeping and other statutory functions of the board and to oversee the board's day-to-day operations.

Source. #9503, eff 7-8-09

Home 103.05 Organization. Every two years, the board shall elect or appoint a chairperson, vice-chairperson, and secretary at the first meeting of the board in a calendar year.

Source. #9503, eff 7-8-09

Home 103.06 Seal. The seal of the board shall be an embossed circular seal consisting of 2 concentric circles, the outer circle having a diameter of 1 7/8 inches and an inner circle having a diameter of 1 3/8 inches. In the space between the 2 circles at the top of the seal there shall be the words "Board of Home Inspectors." At the bottom of the seal, in the space between the 2 circles, there shall be the words "State of New Hampshire." In the center space there shall be a representation of the Old Man in the Mountain with a blue background.

Source. #9503, eff 7-8-09

Home 103.07 Office Hours, Office Location, Mailing Address and Telephone.

(a) The board's office shall be located at the New Hampshire Office of Professional Licensure & Certification, 121 South Fruit Street, Concord, N.H. and shall be open to the public weekdays, excluding holidays, from 8:00 a.m. to 4:00 p.m.

(b) Correspondence shall be addressed to the board's executive director at:

New Hampshire Office of Professional Licensure & Certification
121 South Fruit Street, Suite 201
Concord, N.H. 03301

(c) The board's telephone number shall be (603)-271-2219.

Source. #9503, eff 7-8-09; ss by #12462, eff 1-23-18

PART Home 104 PUBLIC INFORMATION

Home 104.01 Record of Board Actions. Minutes shall be kept of board meetings and of official actions taken by the board. Minutes of board actions which are not confidential under RSA 91-A:3, II or RSA 91-A:5 shall be a governmental record and shall be available for inspection during the board's ordinary office hours within 5 days from the close of the meeting or vote in questions unless the 72 hours availability requirement of RSA 91-A:3, III is applicable.

Source. #9503, eff 7-8-09

Home 104.02 Custodian of Records. Persons desiring copies of board records shall submit a request which identifies as particularly as possible the information being sought and agrees to pay the actual costs incurred by the board for the documents provided. If records are requested which contain both public and confidential information, the board shall delete the confidential information and provide the remaining information.

Source. #9503, eff 7-8-09

Home 104.03 Roster Distribution. Copies of a roster containing names, addresses, and assigned numbers of licensed home inspectors shall be furnished upon request. The fee shall be \$30.00.

Source. #9503, eff 7-8-09

PART Home 105 MEETINGS, DELIBERATIONS AND DECISIONS

Home 105.01 Meetings. Regular meetings shall be held at least 3 times each year. Special meetings shall be called by order of the chairperson or secretary. Each member of the board shall be notified in writing of each meeting and such notice shall contain the place, date, time, and subject of the meeting. Notice of meetings shall be posted at the board office and the state house.

Source. #9503, eff 7-8-09

Home 105.02 Quorum. A quorum of the board shall consist of not less than 4 members and a majority vote by the members present shall be necessary to pass a motion unless otherwise specified by law. In the absence of the chair, vice chair, or secretary, a quorum of the board shall designate a pro tempore officer for the officer or officers absent.

Source. #9503, eff 7-8-09

Home 105.03 Board Meeting Procedures. The board shall conduct its meetings in the following order:

- (a) Reading of the minutes;
- (b) Interviews/meetings;
- (c) Reading of communications;
- (d) Reading and consideration of applications;
- (e) Unfinished business;
- (f) New business; and
- (g) Adjournment.

Source. #9503, eff 7-8-09

Home 105.04 Procedures. Roberts Rules of Order, 10th edition dated 2000 shall govern the procedures of the board.

Source. #9503, eff 7-8-09

Home 105.05 Tentative Decisions.

(a) When necessary to conduct the board's business in a timely and efficient manner, the board shall instruct its staff or a committee of the board to prepare a draft document, subject to subsequent review and approval by the board. Such instructions shall be known as tentative decisions.

(b) Tentative decisions shall not be final actions, and shall not be binding upon the board. Changes in the form or the substance of a tentative decision shall be made as often as necessary to produce a final document, which satisfactorily sets forth the final result the board intends to reach. The board's final

decision shall be issued only when the necessary majority has voted in favor of the final form of the proposed action, allowing time for printing or servicing the document in question.

Source. #9503, eff 7-8-09

PART Home 106 APPOINTMENT OF COMMITTEES

Home 106.01 Committees.

(a) A committee shall consist of one or more of board members who have been directed by the board to investigate and make recommendations on matters which could be handled by the full board.

(b) When expressly authorized by the board, the authority of a committee shall include:

- (1) The retention of voluntary assistance from qualified non-board members; and
- (2) The retention of paid advisors or consultants pursuant to RSA 332-G:-3.

Source. #9503, eff 7-8-09

CHAPTER Home 200 PRACTICE AND PROCEDURE

PART Home 201 PURPOSE AND SCOPE

Home 201.01 Purpose and Scope. The board shall conduct various proceedings for the purpose of acquiring sufficient information to make fair and reasoned decisions on matters within its statutory jurisdiction, including decisions on applications for licensure and complaints filed against license holders and others in the practice of home inspection. These rules are intended to secure the just, efficient and accurate resolution of all board proceedings.

Source. #9504, eff 7-8-09

PART Home 202 DEFINITIONS

Home 202.01 Definitions.

(a) "Appearance" means a written notification to the board that a party or a party's representative intends to actively participate in a hearing.

(b) "Hearing" means "adjudicative proceeding" as defined by RSA 541-A:1, I, namely, "the procedure to be followed in contested cases, as set forth in RSA 541-A:31 through RSA 541-A:36."

(c) "Motion" means a request to the presiding officer for an order or ruling directing some act to be done in favor of the party making the motion, including a statement of justification or reasons for the request.

(d) "Natural person" means a human being.

(e) "Party" means "party" as defined by RSA 541-A:1, XII, namely, "each person or board named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party."

(f) "Person" means "person" as defined by RSA 541-A:1, XIII, namely, "any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than a board."

(g) “Presiding officer” means presiding officer as defined in RSA 541-A:1, XIV.

(h) “Proof by a preponderance of the evidence” means a demonstration by admissible evidence that a fact or legal conclusion is more probable than not to be true.

Source. #9504, eff 7-8-09

PART Home 203 PRESIDING OFFICER; WITHDRAWAL AND WAIVER OF RULES

Home 203.01 Presiding Officer; Appointment; Authority.

(a) All hearings shall be conducted for the board by a natural person appointed or authorized to serve as a presiding officer.

(b) A presiding officer shall as necessary:

- (1) Regulate and control the course of a hearing;
- (2) Facilitate an informal resolution acceptable to all parties;
- (3) Administer oaths and affirmations;
- (4) Receive relevant evidence at hearings and exclude irrelevant, immaterial or unduly repetitious evidence;
- (5) Rule on procedural requests, including adjournments or postponements, at the request of a party or on the presiding officer's own motion;
- (6) Question any witness to develop a complete record;
- (7) Cause a complete record of any hearing to be made, as specified in RSA 541-A:31, VI; and
- (8) Take any other action consistent with applicable statutes, rules and case law necessary to conduct the hearing and complete the record in a fair and timely manner.

Source. #9504, eff 7-8-09

Home 203.02 Withdrawal of Presiding Officer.

(a) Upon his or her own initiative or upon the motion of any party, a presiding officer or board official shall, for good cause, withdraw from any hearing.

(b) Good cause shall exist if a presiding officer or board official:

- (1) Has a direct interest in the outcome of a proceeding, including, but not limited to, a financial or family relationship; -
- (2) Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of a case;
- (3) Personally believes that he or she cannot fairly judge the facts of a case.

(c) Mere knowledge of the issues, the parties or any witness shall not constitute good cause for withdrawal.

Source. #9504, eff 7-8-09

Home 203.03 Waiver or Suspension of Rules by Presiding Officer. The presiding officer, upon his or her own initiative or upon the motion of any party, shall suspend or waive any requirement or limitation imposed by this chapter upon reasonable notice to affected persons when the proposed waiver or suspension appears to be lawful, and would be more likely to promote the fair, accurate and efficient resolution of issues pending before the board than would adherence to a particular rule or procedure.

Source. #9504, eff 7-8-09

PART Home 204 FILING, FORMAT AND DELIVERY OF DOCUMENTS

Home 204.01 Date of Issuance or Filing. All documents governed by these rules shall be rebuttably presumed to have been issued on the date noted on the document and to have been filed with the board on the actual date of receipt by the board, as evidenced by a date stamp placed on the document by the board in the normal course of business.

Source. #9504, eff 7-8-09

Home 204.02 Format of Documents.

(a) All correspondence, pleadings, motions or other documents filed under these rules shall:

- (1) Include the title and docket number of the proceeding, if known;
- (2) Be typewritten or clearly printed on durable paper 8 1/2 by 11 inches in size;
- (3) Be signed by the party or proponent of the document, or, if the party appears by a representative, by the representative; and
- (4) Include a statement certifying that a copy of the document has been delivered to all parties to the proceeding in compliance with Home 204.03.

(b) A party or representative's signature on a document filed with the board shall constitute certification that:

- (1) The signer has read the document;
- (2) The signer is authorized to file it;
- (3) To the best of the signer's knowledge, information and belief there are good and sufficient grounds to support it; and
- (4) The document has not been filed for purposes of delay.

Source. #9504, eff 7-8-09

Home 204.03 Delivery of Documents.

(a) Copies of all petitions, motions, exhibits, memoranda, or other documents filed by any party to a proceeding governed by these rules shall be delivered by that party to all other parties to the proceeding.

(b) All notices, orders, decisions or other documents issued by the presiding officer or board shall be delivered to all parties to the proceeding.

(c) Delivery of all documents relating to a proceeding shall be made by personal delivery or by depositing a copy of the document, by first class mail, postage prepaid, in the United States mail, addressed to the last address given to the board by the party or if represented to the party's representative.

(d) When a party appears by a representative, delivery of a document to the party's representative at the address stated on the appearance filed by the representative shall constitute delivery to the party.

Source. #9504, eff 7-8-09

PART Home 205 TIME PERIODS

Home 205.01 Computation of Time.

(a) Unless otherwise specified, all time periods referenced in this chapter shall be calendar days.

(b) Computation of any period of time referred to in these rules shall begin with the day after the action which sets the time period in motion, and shall include the last day of the period so computed.

(c) If the last day of the period so computed falls on a Saturday, Sunday or legal holiday, then the time period shall be extended to include the first business day following the Saturday, Sunday or legal holiday.

Source. #9504, eff 7-8-09

PART Home 206 MOTIONS AND PLEADINGS

Home 206.01 Motions; Objections.

(a) Motions shall be in written form and filed with the presiding officer, unless made in response to a matter asserted for the first time at a hearing or on the basis of information which was not received in time to prepare a written motion.

(b) Oral motions and any oral objection to such motions shall be recorded in full in the record of the hearing. If the presiding officer finds that the motion requires additional information in order to be fully and fairly considered, the presiding officer shall order the moving party to submit the motion in writing, with supporting information within 5 days of the order. Objections to such motions shall be filed within 5 days of the filing of the motion.

(c) Objections to written motions shall be filed within 30 days of the date of the motion;

(d) Failure by an opposing party to object to a motion shall not in and of itself constitute grounds for granting the motion.

(e) The presiding officer shall rule upon a motion after full consideration of all objections and other factors relevant to the motion.

Source. #9504, eff 7-8-09

Home 206.02 Pleadings.

(a) The only pleadings permitted shall be petitions, other than for rulemaking, and replies to petitions. Applications shall not be considered pleadings.

(b) All petitions shall contain:

- (1) The name and address of the petitioner;
 - (2) The name and address of the petitioner's representative, if any;
 - (3) A concise statement of the facts that caused the petitioner to request the board to act;
 - (4) The action that the petitioner wishes the board to take; and
 - (5) The identification of any statutes, rules, orders, or other authority that entitles the petitioner to request the board to act.
- (c) Board replies to petitions shall contain:
- (1) The name and address of the petitioner;
 - (2) The name and address of the representative of the petitioner, if any;
 - (3) A statement addressing each fact alleged in the petition;
 - (4) A statement addressing the authority identified by the petitioner;
 - (5) A concise response to each statement;
 - (6) The identification of any statutes, rules, orders, or other authority, not identified in the petition, having a bearing upon the subject matter of the petition; and
 - (7) The action the board took.
- (d) Replies shall be filed within 90 days from the date of the petition.

Source. #9504, eff 7-8-09

PART Home 207 NOTICE OF HEARING; APPEARANCES; PRE-HEARING CONFERENCES

Home 207.01 Commencement of Hearing. A hearing shall be commenced by an order of the board giving notice to the parties at least 30 days prior to the hearing as required by Home 207.03.

Source. #9504, eff 7-8-09

Home 207.02 Docket Numbers. A docket number shall be assigned to each matter to be heard which shall appear on the notice of hearing and all subsequent orders or decisions of the board.

Source. #9504, eff 7-8-09

Home 207.03 Notice of Hearing.

(a) A notice of a hearing issued by the board at least 30 days prior to the hearing shall contain the information required by RSA 541-A:31, III, namely:

- (1) A statement of the time, place and nature of any hearing;
- (2) A statement of the legal authority under which a hearing is to be held;
- (3) A reference to the particular statutes and rules involved including this chapter;
- (4) A short and plain statement of the issues presented;

(5) A statement that each party has the right to have an attorney represent them at their own expense; and

(6) A statement that each party has the right to have the board provide a licensed court reporter at the party's expense and that any such request shall be submitted in writing at least 10 days prior to the hearing.

Source. #9504, eff 7-8-09

Home 207.04 Appearances and Representation.

(a) A party or the party's representative shall file an appearance that includes the following information:

- (1) A brief identification of the matter;
- (2) A statement as to whether or not the representative is an attorney; and
- (3) The party or representative's daytime address and telephone number.

Source. #9504, eff 7-8-09

Home 207.05 Prehearing Conference. Any party may request, or the presiding officer shall schedule on his or her own initiative, a pre-hearing conference in accordance with RSA 541-A:31,V to consider:

- (a) Offers of settlement;
- (b) Simplification of the issues;
- (c) Stipulations or admissions as to issues of fact or proof by consent of the parties;
- (d) Limitations on the number of witnesses;
- (e) Changes to standard procedures desired during the hearing by consent of the parties;
- (f) Consolidation of examination of witnesses; and
- (g) Any other matters which aid in the disposition of the proceeding.

Source. #9504, eff 7-8-09

PART Home 208 ROLES OF BOARD STAFF AND COMPLAINANTS

Home 208.01 Role of Board Staff in Enforcement or Disciplinary Hearings. Unless called as witnesses, board staff as defined in Home 102.01 shall have no role in any enforcement or disciplinary hearing.

Source. #9504, eff 7-8-09

Home 208.02 Role of Complainants in Enforcement or Disciplinary Hearings. Unless called as a witness or granted party or intervenor status, a person who initiates an adjudicative proceeding by complaining to the board about the conduct of a person who becomes a party shall have no role in any enforcement or disciplinary hearing.

Source. #9504, eff 7-8-09

PART Home 209 INTERVENTION

Home 209.01 Intervention.

(a) A non-party may intervene in a matter pending before the board under the provisions of RSA 541-A:32, by filing a motion stating facts demonstrating that the non-party's rights or other substantial interests might be affected by the proceeding or that the non-party qualifies as an intervenor under any provision of law.

(b) If the presiding officer determines that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the hearing, the presiding officer shall grant the motion for intervention.

(c) Participation by intervenors shall be limited to that which is necessary to protect the interest identified in the petition for intervention.

(d) Petitions for intervention shall be filed any time after commencement of a proceeding, and state:

- (1) The petitioner's interest in the subject matter of the hearing;
- (2) Whether the petitioner appears in support of the complainant, or the respondent, as well as for his or her own interest;
- (3) Why the interests of the parties and the orderly and prompt conduct of the proceeding would not be impaired; and
- (4) Any other reasons why the petitioner should be permitted to intervene.

(e) A person filing a complaint that becomes the subject of a disciplinary hearing shall be served with the hearing notice and notified of the right to intervene in the proceeding.

(f) Once granted leave to intervene, an intervenor shall take the proceeding as he or she finds it and no portion of the proceeding shall be repeated because of the fact of intervention.

Source. #9504, eff 7-8-09

PART Home 210 POSTPONEMENT REQUESTS AND FAILURE TO ATTEND HEARING

Home 210.01 Postponements.

(a) Any party to a hearing may make an oral or written motion that a hearing be postponed to a later date or time.

(b) If a postponement is requested by a party to the hearing, it shall be granted if the presiding officer determines that good cause has been demonstrated. Good cause shall include the unavailability of parties, witnesses or attorneys necessary to conduct the hearing, the likelihood that a hearing will not be necessary because the parties have reached a settlement or any other circumstances that demonstrate that a postponement would assist in resolving the case fairly.

(c) If the later date, time and place are known at the time of the hearing that is being postponed, the date, time and place shall be stated on the record. If the later date, time and place are not known at the time of the hearing that is being postponed, the presiding officer shall issue a written scheduling order stating the date, time and place of the postponed hearing as soon as practicable.

Source. #9504, eff 7-8-09

Home 210.02 Failure to Attend Hearing.

(a) If any party to whom notice has been given in accordance with Home 207.03 fails to attend a hearing, the presiding officer shall declare that party to be in default unless failure to attend is justified by a showing of good cause.

(b) Good cause shall include accident, illness or other circumstances beyond the control of the licensee.

(c) In the absence of good cause for failure to attend the hearing, the presiding officer shall:

(1) Dismiss the case, if the party with the burden of proof fails to appear;

(2) Hear the testimony and receive the evidence offered by a party, if that party has the burden of proof in the case; or

(3) Grant a postponement of the hearing under the provisions of Home 210.01.

Source. #9504, eff 7-8-09

PART Home 211 REQUESTS FOR INFORMATION OR DOCUMENTS

Home 211.01 Voluntary Production of Information.

(a) Each party shall attempt in good faith to completely and timely respond to requests for the voluntary production of information or documents relevant to the hearing.

(b) When a dispute between parties arises concerning a request for the voluntary production of information or documents, any party may file a motion to compel the production of the requested information under Home 211.02.

Source. #9504, eff 7-8-09

Home 211.02 Motions to Compel Production of Information.

(a) Any party may make a motion requesting that the presiding officer order the parties to comply with information requests. The motion shall be filed at least 15 days before the date scheduled for the hearing, or as soon as possible after receiving the notice of hearing.

(b) The moving party's motion shall:

(1) Set forth in detail those factors which it believes justify its request for information; and

(2) List with specificity the information it is seeking to discover.

(c) When a party has demonstrated that such requests for information are necessary for a full and fair presentation of the evidence at the hearing, the presiding officer shall grant the motion.

Source. #9504, eff 7-8-09

Home 211.03 Mandatory Pre-Hearing Disclosure of Witnesses and Exhibits. At least 5 days before the hearing the parties shall exchange a list of all witnesses to be called at the hearing with a brief

summary of their testimony, a list of all documents or exhibits to be offered as evidence at the hearing, and a copy of each document or exhibit.

Source. #9504, eff 7-8-09

PART Home 212 RECORD, PROOF, EVIDENCE AND DECISIONS

Home 212.01 Record of the Hearing.

(a) The board shall record the hearing by tape recording or other method that will provide a verbatim record except for a proceeding on emergency action shall be governed by RSA 541-A:30, III.

(b) If any person requests a transcript of the taped record, the board shall cause a transcript to be prepared and, upon receipt of payment for the cost of the transcription, shall provide copies of the transcript to the requesting party.

(c) At the request of a party to any proceeding involving disciplinary action, the record of the proceeding shall be made by a licensed court reporter provided by the board at the requesting party's expense. A request for a licensed court reporter shall be filed at least 10 days prior to the hearing.

Source. #9504, eff 7-8-09

Home 212.02 Standard and Burden of Proof. The party asserting a proposition shall bear the burden of proving the truth of the proposition by a preponderance of the evidence.

Source. #9504, eff 7-8-09

Home 212.03 Testimony; Order of Proceeding.

(a) Any person offering testimony, evidence or arguments shall state for the record his or her name, and role in the proceeding. If the person is representing another person, the person being represented shall also be identified.

(b) Testimony shall be offered in the following order:

(1) The party or parties bearing the burden of proof and such witnesses as the party may call;

(2) The party or parties opposing the party who bears the overall burden of proof and such witnesses as the party may call.

Source. #9504, eff 7-8-09

Home 212.04 Evidence.

(a) Receipt of evidence shall be governed by the provisions of RSA 541-A:33.

(b) All documents, materials and objects offered as exhibits shall be admitted into evidence unless excluded by the presiding officer as irrelevant, immaterial, unduly repetitious or legally privileged.

(c) All objections to the admissibility of evidence shall be stated as early as possible in the hearing, but not later than the time when the evidence is offered.

(d) Transcripts of testimony and documents or other materials, admitted into evidence shall be public records unless the presiding officer determines that all or part of a transcript or document is exempt from disclosure under RSA 91-A:5 or applicable case law.

Source. #9504, eff 7-8-09

Home 212.05 Proposed Findings of Fact and Conclusions of Law.

(a) Any party may submit proposed findings of fact and conclusions of law to the presiding officer prior to or at the hearing.

(b) Upon request of any party, or if the presiding officer determines that proposed findings of fact and conclusions of law would serve to clarify the issues presented at the hearing, the presiding officer shall specify a date after the hearing for the submission of proposed findings of fact and conclusions of law.

(c) In any case where proposed findings of fact and conclusions of law are submitted, the decision shall include rulings on the proposals.

Source. #9504, eff 7-8-09

Home 212.06 Closing the Record.

(a) After the conclusion of the hearing, the record shall be closed and no other evidence shall be received into the record, except as allowed by (b) below and Home 212.08.

(b) Before the conclusion of the hearing, a party may request that the record be left open to allow the filing of specified evidence not available at the hearing. If the other parties to the hearing have no objection or if the presiding officer determines that such evidence is necessary to a full consideration of the issues raised at the hearing, the presiding officer shall keep the record open for the period of time necessary for the party to file the evidence and for cross examination on such evidence.

Source. #9504, eff 7-8-09

Home 212.07 Reopening the Record. At any time prior to the issuance of the decision on the merits, the presiding officer, on the presiding officer's own initiative or on the motion of any party, shall reopen the record to receive relevant, material and non-duplicative testimony, evidence or arguments not previously received, if the presiding officer determines that such testimony, evidence or arguments are necessary to a full and fair consideration of the issues to be decided.

Source. #9504, eff 7-8-09

Home 212.08 Decisions.

(a) A board member shall not participate in making a decision unless he or she personally heard the testimony in the case, unless the matter's disposition does not depend on the credibility of any witness and the record provides a reasonable basis for evaluating the testimony.

(b) If a presiding officer has been delegated the authority to conduct a hearing in the absence of a majority of the officials of the board who are to render a final decision, the presiding officer shall submit to the board a written proposal for decision, which shall contain a statement of the reasons for the decision and findings of fact and rulings of law necessary to the proposed decision.

(c) If a proposal for decision in a matter not personally heard by the board is adverse to a party to the proceeding other than the board itself, the board shall serve a copy of the proposal for decision on each party to the proceeding and provide an opportunity to file exceptions and present briefs and oral arguments to the board.

(d) A proposal for decision shall become a final decision upon its approval by the board.

(e) The board shall keep a decision on file in its records for at least 5 years following the date of the final decision or the date of the decision on any appeal, unless the director of the division of records management and archives of the department of state sets a different retention period pursuant to rules adopted under RSA 5:40.

Source. #9504, eff 7-8-09

PART Home 213 MOTION FOR REHEARING

Home 213.01 Purpose. The rules in this part are intended to supplement any statutory provisions, including RSA 541, that require or allow a person to request a rehearing of a decision of the board prior to appealing the decision.

Source. #9504, eff 7-8-09

Home 213.02 Applicability. The rules in this part shall apply whenever any person has a right under applicable law to request a rehearing of a decision prior to filing an appeal of the decision with the court having appellate jurisdiction.

Source. #9504, eff 7-8-09

Home 213.03 Filing and Content of Motion.

(a) The motion for rehearing shall be filed within 30 days of the date of the board decision or order.

(b) A motion for rehearing shall:

- (1) Identify each error of fact, error of reasoning, or error of law which the moving party wishes to have reconsidered;
- (2) Describe how each error causes the board's decision to be unlawful, unjust or unreasonable, or illegal in respect to jurisdiction, authority or observance of the law, an abuse of discretion, arbitrary, or capricious.
- (3) State concisely the factual findings, reasoning or legal conclusion proposed by the moving party; and
- (4) Include any argument or memorandum of law the moving party wishes to file.

Source. #9504, eff 7-8-09

Home 213.04 Standard for Granting Motion for Rehearing. A motion for rehearing in a case subject to appeal under RSA 541 shall be granted if it demonstrates that the board's decision is unlawful, unjust or unreasonable.

Source. #9504, eff 7-8-09

Home 213.05 Decision on Motion for Rehearing. The board shall grant or deny a motion for rehearing, or suspend the order or decision pending further consideration within 10 days of the filing of the motion for rehearing.

Source. #9504, eff 7-8-09

PART Home 214 RULEMAKING PUBLIC COMMENT HEARINGS

Home 214.01 Purpose. The purpose of this part is to provide a uniform procedure for the conduct of public hearings at which comment from the general public will be solicited for evaluation and consideration by the board relative to rulemaking.

Source. #9504, eff 7-8-09

Home 214.02 Scope.

(a) These rules shall apply to all hearings required by state law to be conducted by the board at which public comment shall be solicited, except that they shall not apply to adjudicative hearings.

(b) If any requirement set by these rules conflicts with an applicable statute such other authority shall control.

Source. #9504, eff 7-8-09

Home 214.03 Notice.

(a) A public comment hearing concerning rulemaking shall be commenced by placing notice of the hearing in the "Rulemaking Register" so that it shall appear at least 20 days prior to the hearing date.

(b) Notice for rulemaking public comment hearings shall comply with RSA 541-A:6, I.

(c) Nothing in these rules shall prohibit the board from giving greater notice than the minimums set out in this part.

Source. #9504, eff 7-8-09

Home 214.04 Media Access.

(a) Public comment hearings shall be open to the print and electronic media.

(b) The moderator shall place limits on the activities of the media to avoid disruption in the following ways:

(1) Limiting the placement of television cameras to certain locations in the hearing room;
and

(2) Prohibiting interviews from being conducted within the hearing room during the hearing.

Source. #9504, eff 7-8-09

Home 214.05 Moderator.

(a) The hearing shall be presided over by a moderator who shall be the board chairperson or a designee.

(b) The moderator shall:

(1) Call the hearing to order;

(2) Cause a recording of the hearing to be made;

- (3) Place limits on the media to avoid disruption as set out in Home 214.04(b);
- (4) Recognize those who wish to be heard and establish the order thereof;
- (5) Limit the time for each speaker, as set out in Home 214.06(b);
- (6) Remove or have removed any person who disrupts the hearing;
- (7) Adjourn the hearing; and
- (8) Provide opportunity for the submission of written comments.

Source. #9504, eff 7-8-09

Home 214.06 Public Participation.

(a) Any person who wishes to speak on the issue or issues which are the subject of the hearing shall place his or her name and address on a speakers' list before the last speaker on the list has finished speaking. All whose names appear on the speakers' list, as provided, shall be afforded reasonable time to speak at the hearing. Reasonable time shall be determined considering the number of people who wish to be heard, the time and the availability of the facility.

(b) The board, through the moderator, shall:

- (1) Refuse to recognize a person who refuses to give his or her full name and address;
- (2) When a group or organization wishes to comment, limit the group to no more than 3 spokespersons, provided that the members who are present shall be allowed to enter their names and addresses into the record as supporting the position by the group or organization;
- (3) Revoke recognition of a speaker who speaks or acts in an abusive or disruptive manner;
or
- (4) Revoke recognition of a speaker who refuses to keep his or her comments relevant to the issue or issues which are the subject of the hearing.

(c) Written comments may be submitted any time from the time notice has been published until the record has been closed by the moderator, which shall not be less than 7 calendar days after the hearing.

(d) In the event that the number of speakers who wish to give oral testimony relevant to the issue or issues involved exceed that number which can be heard within a reasonable period of time subject to facility availability and length of the hearing, the hearing shall be reconvened pursuant to RSA 541-A:11, III to afford such persons the opportunity to be heard. Speakers may elect to submit written testimony in lieu of additional oral hearing.

Source. #9504, eff 7-8-09

PART Home 215 PETITION FOR RULEMAKING

Home 215.01 Petition for Rulemaking.

(a) Any person may request the board to commence a proceeding for the purpose of adopting, amending, or repealing a rule by filing a written petition that contains:

- (1) The text of the proposed rule or a statement of the particular results intended by the petitioner to flow from the implementation of the proposed rule;
- (2) An identification of the particular rule sought to be amended or repealed;
- (3) Any data or argument the petitioner believes would be useful to the board in deciding whether to commence a rulemaking proceeding; and
- (4) Name, address, signature of petitioner and date signed.

Source. #9504, eff 7-8-09

Home 215.02 Disposition of Petition.

(a) The board shall consider all petitions for rulemaking and proceed pursuant to RSA 541-A:4. The board shall request additional data or argument from the petitioner or other interested persons to clarify the merits of the petition.

(b) The board shall grant the petition if the petition is consistent with statute and case law and will assist the board with the regulation of the profession.

Source. #9504, eff 7-8-09

PART Home 216 DECLARATORY RULINGS

Home 216.01 Petitions.

(a) Any person may request a declaratory ruling from the board on matters within its jurisdiction by filing an original and 5 copies of a petition pursuant to Home 206.02 (b).

(b) A petition for declaratory ruling shall set forth the following information:

- (1) The exact ruling being requested; and
- (2) The statutory and factual basis for ruling, including any supporting affidavits or memoranda of a law.

Source. #9504, eff 7-8-09

Home 216.02 Action on Petitions.

(a) The petitioner shall provide such further information or participate in such evidentiary or other proceedings as the board shall direct after reviewing the petition and any replies received.

(b) Upon review and consideration, the board shall within 90 days rule on the petition pursuant to Home 206.02 (d).

Source. #9504, eff 7-8-09

PART Home 217 EXPLANATION AFTER ADOPTION

Home 217.01 Explanation after Adoption.

(a) Any person may request an explanation regarding adoption of the rules pursuant to RSA 541-A:11, VII by submitting a request to the board.

(b) The request shall be considered at the next scheduled board meeting and the board shall issue a response within 45 days after consideration.

Source. #9505, eff 7-8-09; ss by #12462, eff 1-23-18

CHAPTER Home 300 LICENSURE REQUIREMENTS

PART Home 301 APPLICATION REQUIREMENTS

Home 301.01 Application Process.

(a) Persons wishing to become licensed as a home inspector in New Hampshire shall submit an application form provided by the board which contains the information specified in Home 301.02, 301.03 and the application fee specified in Home 301.04.

(b) An application, which is not signed by the applicant, or is not accompanied by cash, a valid check or a valid credit card number for the application fee, shall not be accepted for processing and shall be returned to the applicant.

(c) If the application is denied, the applicant shall be provided an opportunity to request a hearing for reconsideration pursuant to Home 206 on the deficiency issues identified by the board. Any such request shall be made in writing and received by the board within 30 days of the receipt of the notification of denial.

(d) Applications about which there has been no communication from the applicant to the board for one year shall be destroyed.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 301.02 Application for Licensure.

(a) Each applicant for licensure shall provide, or cause to be provided, the following on the “Application for Licensure as a Home Inspector Form”, effective January 2018 and supplied by the board:

- (1) The applicant’s name, including any names previously used;
- (2) The applicant’s residence and business addresses and telephone numbers;
- (3) The applicant’s date of birth and place of birth;
- (4) The applicant’s dates of employment, titles of positions, location and character of each position, and the number of home inspections performed per week;
- (5) Character of employment including types of work performed and degree of responsibility;
- (6) Highest grade attended including name of institution, years attended, and graduation date;
- (7) A listing of every state in which the applicant holds or has ever held registration, certification, or licensure as a home inspector with corresponding number and date of initial registration, certification, or licensure;
- (8) Whether the applicant has ever been denied registration, certification, or licensure as a home inspector or disciplined by this board or another home inspector licensing board in any other state and if so, an explanation of the circumstances;

(9) Whether the registration, certification, or licensure as a home inspector was issued by examination;

(10) Whether the applicant has ever been convicted of any felony, any misdemeanor, or a violation and if so, the name of the court, the details of the offense, and the date of conviction and the sentence imposed;

(11) The applicant's social security number required pursuant to RSA 161-B:11, VI-a; and

(12) A dated signature below the following statement:

“I have read the contents hereof and clearly understand that the correctness and truth of my statements as recorded in this application are material, not only to the issuance of the certificate of licensure, as applied for, but also to the retention of said certificate, if issued.”; and

(13) The application fee as specified in Home 301.04.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 301.03 Additional Requirements. Applicants for licensure shall provide the following:

(a) A completed department of safety, division of state police “Criminal Record Release Authorization Form”, revised 05/12, pursuant to RSA 310-A:190, I (e);

(b) Proof of liability insurance coverage consisting of at least the following:

(1) The name and address of the insurance company;

(2) The name and address of the certificate holder;

(3) Category of coverage and minimum amounts of coverage; and

(4) Cancellation policy of the insurance policy;

(c) Evidence of successful completion of the National Home Inspectors licensing examination; and

(d) Evidence of successful completion of 80 hours of board approved education pursuant to RSA 310-A:190, I (a).

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 301.04 Application/Licensure Fees.

(a) The application for licensure shall be \$200.00.

(b) The wall display certificate fee for licensees shall be \$50.00.

(c) The biennial renewal fee shall be \$200.00.

(d) If the renewal is not received by the date of expiration, there shall be a late fee of 20 percent per month.

(e) The reinstatement fee after 12 months shall be the renewal fee plus 20 percent per month late fee totaling \$680.00.

- (f) The fee for verification of licensure shall be \$30.00.
- (g) The fee for replacement of a lost or mutilated certificate of licensure shall be \$50.00.
- (h) Course providers shall pay an evaluation fee of \$30.00 each time a course is submitted to the board to be evaluated for pre-licensing education credit.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 301.05 Fees.

(a) All fees shall be paid in the form of cash, money order, bank draft, check or credit card number payable to “Treasurer, State of New Hampshire” and are non-refundable.

(b) Applicants paying with credit card shall do so by completing a “Credit Card Sheet”, effective January 2018 and included with the application.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

PART Home 302 QUALIFICATION OF APPLICANTS

Home 302.01 Candidate Requirements.

(a) Candidates for licensure shall meet the requirements established by RSA 310-A:190, before a license shall be granted. The board shall require documentation of the applicant’s education and work experience to help determine competency if the application is unclear, contradictory or incomplete.

(b) The candidate shall have committed no misconduct as set forth in RSA 310-A:196. The board shall consider all available evidence for all candidates for licensure, prior to granting a license.

(c) Qualifications shall be as follows:

(1) Candidates shall successfully complete 80 hours of board approved pre-licensing education consisting of the following core areas:

- a. Heating systems;
- b. Cooling systems;
- c. Plumbing systems
- d. Electrical systems;
- e. Structural components;
- f. Foundations;
- g. Roof coverings;
- h. Exterior and interior components; and
- i. Site aspects as they affect the building;

(2) Candidates shall be at least 18 years of age;

- (3) Candidates shall possess a high school education or the equivalent;
- (4) Candidates shall be of good moral and professional character, as evidenced by:
 - a. The answers to questions Home 301.02 (a) (8) and (10) on the application form;
 - b. Verification information as described in Home 301.02 (9) and 304.01; and
 - c. Criminal record report as described in Home 301.03 (a).

(d) Standards of practice pursuant to RSA 310-A:184 and 310-A:185 shall be in accordance with the rules of ethical and professional conduct set forth in Home 600 and RSA 310-A:185.

(e) The board shall issue licenses to applicants who actively practiced home inspection as a means of his or her livelihood for a one-year period preceding July 1, 2008 provided the board determines that the person meets the qualification for applicants for licensure or the equivalent under RSA 310-A:190, I (b), (c), and (d) and who provide evidence satisfactory to the board of knowledge and experience equivalent to such requirements and fulfills all other license application requirements.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 302.02 Denial of Application. An application shall be denied if, after notice and an opportunity for hearing, there is a finding that:

- (a) The applicant, or someone acting on the applicant's behalf, has submitted false information to the board in connection with the application;
- (b) There is evidence of past disciplinary action taken by another licensing body or a professional society or association, which indicates the applicant cannot be relied upon to practice competently, and honestly, or adhere to the standards of conduct required by Home 500 and RSA 310-A:185;
- (c) There is evidence of conviction of a felony or misdemeanor in the criminal record report required by Home 301.03 (a) which indicates the applicant cannot be relied upon to practice competently, and honestly, or adhere to the ethical standards required by Home 500;
- (d) There is evidence of behavior that would violate the ethical and professional standards of Home 500, Home 600 and RSA 310-A:185, which indicates the applicant cannot be relied upon to practice competently, and honestly, or adhere to the ethical and professional standards required by Home 501.03, Home 600, and RSA 310-A:185;
- (e) The applicant failed to meet the educational and experience requirements of Home 302 and RSA 310-A:190;
- (f) The applicant failed to submit the documentation required per Home 301.03 and RSA 310-A:191;
- (g) The applicant failed to submit the fee required per Home 301.04; or
- (h) The applicant failed to successfully pass the examinations required per Home 303.01.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 302.03 Approval of Pre-Licensing Courses.

- (a) Applicants for approval of pre-licensing courses shall submit the following:

(1) A course outline describing content and course hours to be taught, at least 3 months prior to the implementation of the course on subject areas approved by the board, including:

- a. New Hampshire RSA 310-A;
- b. New Hampshire Code of Administrative Rules Home 100-600;
- c. Heating systems;
- d. Cooling systems;
- e. Plumbing systems;
- f. Electrical systems;
- g. Structural components;
- h. Foundations;
- i. Roof coverings;
- j. Exterior and interior components;
- k. Standards of practice; and
- l. Site aspects as they affect the building.

(b) Applicants for approval of a home inspection pre-licensing course shall submit documentation to the Board substantiating the following:

(1) How the program curriculum reflects current practice standards;

(2) The organization of the curriculum including:

- a. The content of each of the courses;
- b. The goals and objectives of each of the courses;
- c. The total number of hours of classroom instruction;
- d. Credentials of the instructor(s);
- e. Expected student outcomes;
- f. Curricular organization;
- g. Course and unit objectives; and
- h. The processes used to evaluate the progress of the students.

(c) Written permission for the board to visit the program site for the purpose of assessing the program's compliance with the requirements for board approval.

(d) If necessary to make effective the permission described in Home 302.03 (c), written permission shall be required from the program's sponsoring institution for the board to visit the program site for the purpose of assessing the program's compliance with the requirements for board approval.

(e) The fee required pursuant to Home 301.04 (g).

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

PART Home 303 EXAMINATIONS

Home 303.01 Examinations.

(a) Candidates for licensure shall have successfully passed the National Home Inspectors examination created and graded by the Examination Board of Professional Home Inspectors.

(b) The examination shall be administered on a computer at National Home Inspector Examination test centers on dates set by the Examination Board of Professional Home Inspectors.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

PART Home 304 RECIPROCITY

Home 304.01 Reciprocity. Candidates for licensure who are licensed or registered in another state, provided that the other state grants reciprocity to residents of this state and whose licensure or registration requirements are substantially equivalent to or higher than those of this state, shall apply to the board for licensure on a form provided by the board as specified in Home 301.02 and pay the fee per Home 301.04 (a) or (b) the verification of licensure or examination shall be obtained by the candidate for licensure and submitted to the board directly from the verifying state for approval.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

PART Home 305 CREDENTIALS

Home 305.01 License. An applicant for licensure as a home inspector, who has satisfactorily met all the requirements of RSA 310-A and who has paid all of the fees, shall be issued a license by the board. The licensee shall be issued a license authorizing the practice of home inspection that shall show the full name of the licensee, shall have a serial number, and shall be signed by members of the board.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 305.02 Pocket Cards. Biennially, the board shall issue a licensure card, numbered to correspond with the home inspector's assigned number to each licensed home inspector upon renewal of the license. The card shall certify that the home inspector holds a license in good standing and is authorized to practice as a home inspector to the date of expiration as shown on the card.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 305.03 Licensed Home Inspector Seal/Stamp/License Number.

(a) Upon issuance by the board of a license to an applicant as a licensed home inspector, the licensee shall acquire an impression type seal or rubber stamp of the design approved by these rules and submit the seal to the board for approval. This seal shall bear the licensee's name and number as shown on the license.

(b) The seal shall consist of 2 concentric circles with the outer circle having a diameter of 1- 9/16 inches and the inner circle diameter of 15/16 inches. In the space between the circles, the top shall be the words "Licensed Home Inspector" and at the bottom "State of New Hampshire." In the space inside the

inner circle shall be the full name of the licensee over an image of a house and the license number written horizontally.

(c) The stamping or sealing of any documents by the licensee with the licensee's seal after the license has expired, has been suspended, revoked, or surrendered voluntarily shall be a violation of these rules. The stamping or sealing of any documents by the licensee not prepared by the licensee personally or under the licensee's direct supervision shall be a violation of these rules.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

CHAPTER Home 400 CONTINUED STATUS

PART Home 401 RENEWAL OF LICENSE

Home 401.01 Expirations and Renewals. Pursuant to RSA 310-A:192, licenses shall be renewed by written application prior to the expiration date and by payment of the prescribed renewal fee. The board shall notify each home inspector one month prior to expiration of their license. If properly renewed, a license shall remain in effect continuously from the date of issuance, unless suspended or revoked by the board.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 401.02 Renewal of License.

(a) Any licensee wishing to renew a license shall submit:

- (1) The completed "NH Home Inspector Renewal Form" supplied by the board;
- (2) The fee specified in Home 301.04;
- (3) If the renewal is not received by the date of expiration, a late fee of 20 percent per month for a period of twelve months;
- (4) Proof of completion of the continuing education requirements of Home 403; and
- (5) A copy of the licensee's military orders calling them to active duty pursuant to Home 401.02 (b).

(b) Upon request of the licensee who is a member of the armed forces or the reserves or the national guard of the United States that is called to active duty, the board shall place the license in inactive status. The license may be reactivated within one year of the licensee's release from active status by payment of the renewal fee unless still within the renewal period.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 401.03 Renewal Application. The applicant shall supply the following information on or with the "NH Home Inspector Renewal Form" for license renewal:

- (a) The applicant's full name, license number, and license expiration date;
- (b) The applicant's business address and telephone number;
- (c) The applicant's home address and telephone number;
- (d) The applicant's email address;

(e) An attestation that the information provided by the applicant is true and correct to the best of the applicant's knowledge and belief and complies with the minimum of 20 continuing education hours required by RSA 310-A:192;

(f) A statement indicating any disciplinary action brought against the applicant;

(g) A statement indicating whether the applicant has ever been convicted of any felony, or any misdemeanor, and if so, the name of the court, the details of the offense and the date of conviction and the sentence imposed;

(h) A statement indicating that to his or her knowledge the applicant has adhered to the ethical and professional standards of RSA 310-A:185, Home 500, and Home 600;

(i) Acknowledgment that the provision of materially false information in the application known by the applicant to be untrue is a basis for denial;

(j) Acknowledgement that, if the applicant provided false information that is discovered after the license is renewed, it is a basis for disciplinary action by the board;

(k) Proof of liability insurance coverage consisting of at least the following:

(1) The name and address of the insurance company;

(2) The name and address of the certificate holder;

(3) Liability insurance coverage and minimum amounts of coverage; and

(4) Cancellation policy of the insurance policy;

(l) A "New Hampshire Board of Home Inspectors Continuing Education Activity Log", effective January 2018, which demonstrates successful completion of 20 hours of board approved education pursuant to RSA 310-A:190, I (a);

(m) The renewal fee as specified in Home 301.04; and

(n) The applicant's signature and date.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 401.04 Denial of Renewal. Renewal shall be denied if, after notice and an opportunity for hearing, the board finds:

(a) Noncompliance with the continuing education requirements of Home 403.01;

(b) Any unethical act for which discipline shall be imposed under RSA 310-A:185;

(c) Reasons for which an initial application could be denied;

(d) Failure to furnish complete or accurate information on an initial or renewal license application;

or

(e) Failure to file a renewal application within 12 months of license expiration.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 401.05 Reinstatement. A home inspector whose license to practice home inspection in this state has been allowed to lapse for a period of 12 months or more shall:

(a) File an “Application for Reinstatement”, effective January 2018, with the board that shall include at least the following:

- (1) The applicant’s full name;
- (2) The applicant’s business address and telephone number;
- (3) The applicant’s home address and telephone number;
- (4) Documentation that the applicant has complied with the continuing education requirements of Home 403;
- (5) A statement indicating any disciplinary action brought against the applicant;
- (6) A statement indicating whether the applicant has ever been convicted of any felony, any misdemeanor, or a violation and if so, the name of the court, the details of the offense and the date of conviction and the sentence imposed;
- (7) A statement indicating that to their knowledge the applicant has adhered to the ethical and professional standards of RSA 310-A:185 and Home 600;
- (8) A representation that the applicant acknowledges that the provision of false information in the application is a basis for disciplinary action by the board;
- (9) The names, complete addresses, occupation and business relationship with applicant of one reference from home inspectors as defined by RSA 310-A:183 VI;
- (10) Proof of liability insurance coverage consisting of at least the following:
 - a. The name and address of the insurance company;
 - b. The name and address of the certificate holder;
 - c. Liability insurance coverage and minimum amounts of coverage; and
 - d. Cancellation policy of the insurance policy;
- (11) Evidence of successful completion of the National Home Inspectors licensing examination; and
- (12) The applicant’s signature and date.

(b) Applicants for reinstatement shall provide the reference identified in (a)(9) above with a confidential reference form and cover letter, included in the application for reinstatement. Such reference form shall be returned directly to the board by the home inspector making the reference.

(c) Applicants shall submit the application and reinstatement fees as specified in Home 301.04.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 401.06 Denial of Reinstatement. Reinstatement shall be denied if, after notice and an opportunity for hearing, the board finds:

- (a) Noncompliance with the continuing education requirements of Home 403.01;
- (b) Any unethical act for which discipline shall be imposed under RSA 310-A:185;
- (c) Reasons for which an initial application could be denied; or
- (d) Failure to furnish complete or accurate information on an initial or renewal license application.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

PART Home 402 DISCIPLINARY MATTERS

Home 402.01 Initiation of Disciplinary Action. The board shall undertake misconduct investigations, settlements of misconduct allegations, or disciplinary hearings, in response to any information which reasonably suggests that a licensee has engaged in professional misconduct.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 402.02 Disciplinary Sanctions.

(a) Other than immediate license suspensions authorized by RSA 541-A:30, III the board shall impose disciplinary sanctions only:

- (1) After prior notice and an opportunity to be heard; or
- (2) Pursuant to a mutually agreed upon settlement or consent decree.

(b) When the board receives notice that a licensee has been subjected to disciplinary action related to professional conduct by the licensing authority of another jurisdiction, where the license was not reinstated, the board shall issue an order directing the licensee to demonstrate why reciprocal discipline should not be imposed in New Hampshire.

(c) In a disciplinary proceeding brought on the basis of discipline imposed in another jurisdiction the licensee shall be subject to any disciplinary sanction authorized by RSA 310-A:196, V after considering the presence of aggravating or mitigating circumstances.

(d) After a finding that misconduct has occurred, the board shall impose one or more of the disciplinary sanctions authorized by RSA 310-A:197, V after considering the presence of aggravating or mitigating circumstances.

(e) The following shall be considered aggravating circumstances:

- (1) The seriousness of the offense;
- (2) Prior disciplinary record;
- (3) Lack of willingness to cooperate with the board; and
- (4) Potential harm to public health and safety.

(f) The following shall be considered mitigating circumstances:

- (1) Absence of a prior disciplinary record;
- (2) Willingness to cooperate with the board;

- (3) Acknowledgment of his or her wrongdoing; and
- (4) The purpose of the rule or statute violated.

(g) No hearing date established in a proceeding conducted under Home 402.02 shall be postponed at the request of the licensee unless the licensee also agrees to continue the suspension period, if any, pending issuance of the board's final decision.

(h) Copies of board orders imposing disciplinary sanctions and copies of all settlement agreements or consent decrees shall be sent to the licensing body of each state in which the licensee is licensed and to such other entities, organizations, associations, or boards as are required to be notified under applicable state or federal law.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 402.03 Administrative Fines.

(a) Adjudicative procedures seeking the assessment of an administrative fine shall be commenced against any person subject to such fines under any provision of RSA 310-A when the board possesses evidence indicating that a violation has occurred.

(b) When persons subject to the board's disciplinary authority are directed to pay fines pursuant to Home 402.02, such fines shall be assessed in accordance with the factors stated in Home 402.02 (e) and (f) and the following additional considerations:

- (1) In addition to the circumstances outlined in Home 402.02(e), the board shall consider the aggravating factor of the cost of any investigation or hearing conducted by the board, as demonstrated by the cost of any third party investigators, prosecutors, or expert witnesses retained by the board; and
- (2) In addition to the circumstances outlined in Home 402.02(f), the board shall consider the mitigating factor of the licensee's ability to pay a fine assessed by the board.

(c) Administrative fines shall not exceed the following amounts:

- (1) When no violation of the same type has occurred during a period of licensure within the 5 years preceding the board's notice to the respondent, the fine assessed shall not exceed \$200.00 per day or \$1,000.00 per offense, whichever is greater;
- (2) When a single disciplinary infraction of the same type has occurred during a period of licensure within the 5 years preceding the board's notice to the respondent, the fine assessed shall not exceed \$200.00 per day or \$1,500.00 per offense whichever is greater;
- (3) When more than one disciplinary infraction of the same type has occurred during a period of licensure within the 5 years preceding the board's notice to the respondent, the fine assessed shall not exceed \$200.00 per day or \$2,000.00 per offense whichever is greater;
- (4) In the case of continuing violations, a separate fine shall be assessed for each day the violation continues; and
- (5) A single course of continuing conduct shall be treated as a single violation for purposes of Home 402.03 (c), (1), (2), and (3).

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 402.04 Procedures for Assessing and Collecting Fines.

(a) Payment of a fine shall be included among the options available for settling disciplinary allegations, and shall be included among the types of disciplinary sanctions imposed after notice and hearing.

(b) In cases where the board initially intends to limit disciplinary sanctions to an administrative fine, the board shall issue a “notice of apparent liability” describing the alleged offense, stating the amount of the assessed fine, and notifying the alleged offender that he or she shall pay or compromise the fine by a certain date or request that an administrative hearing be held. If a hearing is requested, the notice of apparent liability shall be withdrawn and a notice of hearing shall be issued. In such hearings, the board’s disciplinary options shall not be limited to the assessment of an administrative fine.

(c) Nonpayment of a fine by a licensee or respondent in contravention of an order, agreement, or promise to pay, shall be a separate ground for discipline by the board and a basis for denying a subsequent license and renewal application and a basis for judicial action seeking to collect the fine.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

PART Home 403 CONTINUING EDUCATION

Home 403.01 Renewal Requirements.

(a) Continuing education hours shall be earned pursuant to RSA 310-A:192.

(b) A renewal application shall not be accepted for filing unless the licensee indicates on the renewal application, and under penalty of unsworn falsification, that he or she has completed the minimum required hours of approved continuing education hours required pursuant to RSA 310-A:192.

(c) Each licensee shall obtain at least 20 continuing education hours of approved continuing education courses during the biennial renewal period as a condition of license renewal.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 403.02 Continuing Education Hour Requirements. Continuing education hours shall meet the following criteria:

(a) Continuing education activities shall be relevant to the practice of home inspection or no credit shall be awarded. Such continuing education activities may include technical, ethical, or managerial content;

(b) The content of each presentation shall be well organized and presented in a sequential manner; and

(c) There shall be a provision for individual participant course or program registration including information required for record keeping and reporting.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 403.03 Continuing Education Hour Credits. Continuing education hours shall be credited as follows:

(a) A maximum of 6 continuing education hours shall apply to activity on a state or national board of licensure;

(b) Courses or programs awarded one college semester hour of credit shall equal 45 continuing education hours based on course credit established by the college or university;

(c) Courses or programs awarded one college quarter hour shall equal 30 continuing education hours;

(d) Courses or programs awarded one continuing education unit shall equal 10 continuing education hours;

(e) Credit shall be awarded for one hour of continuing education in course work, seminars, or professional technical presentations made at meetings, conventions, or conferences for each hour of attendance. Attendance at qualifying programs presented at professional or technical society meetings shall earn continuing education hour units for the actual time of each program;

(f) Teaching or instructing qualifying courses or seminars or making presentations at technical meetings shall earn continuing education hours credit at twice that of participants. Teaching credit shall be valid for teaching a course or seminar for the first time only. Teaching credit shall not apply to full-time faculty;

(g) Active participation in professional or technical societies shall equal 2 continuing education hours and shall require that a registrant serve as an officer or actively participate in a committee of the organization. Continuing education hour credits shall not be earned until each year service is completed and shall be limited to 2 continuing education hours per organization per year; and

(h) Continuing education credits shall not be recognized for any repeat program attended or completed.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 403.04 Record Keeping.

(a) The responsibility of maintaining records to be used to support credits claimed shall be the responsibility of the licensee.

(b) Records shall contain at least the following documentation:

(1) A log showing the type of activity claimed, sponsoring organization, location, instructor's or speaker's name, and continuing education hours credits earned; and

(2) Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance such as:

a. Signed attendance receipts;

b. Paid receipts; or

c. A copy of a listing of attendees signed by a person sponsoring the course or program or the course or program provider.

(c) The licensee shall retain attendance verification records for a period of at least 4 years. Such documentation shall be made available to the board for random audit and verification purposes. Documentation shall support continuing education hours claimed. Failure to provide documentation for audit verification shall result in disciplinary action.

(d) Not less than 5% of the licensees shall be randomly selected each year by the board for compliance with Home. 403.01.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 403.05 Exemptions.

(a) A licensee shall be exempt from the continuing education requirements for any of the following reasons:

(1) A licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a year shall be exempt from obtaining the continuing education hours required during that year; or

(2) Licensees experiencing disability, illness, or other extenuating circumstances which would prevent the licensee from completing the required continuing education hours shall apply in writing to the board for specific exemption.

(b) Relevant supporting documentation shall be furnished to the board when necessary for a fair and informed determination by the board.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 403.06 Waiver of Continuing Education Deadline. A waiver of continuing education deadlines shall be granted provided that a petition to that effect is filed at least 30 days before the expiration of the biennial renewal period in question or that late filing is justified by a showing of good cause. Good cause shall include accident, illness, or other circumstances beyond the control of the licensee. No waiver petition shall be granted which does not propose a specific timetable for completing specific courses which will meet the petitioner's continuing education deficiency.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

CHAPTER Home 500 ETHICAL STANDARDS AND PROFESSIONAL CONDUCT

PART Home 501 ETHICAL STANDARDS/PROFESSIONAL CONDUCT

Home 501.01 Purpose and Scope.

(a) To establish and maintain a high standard of integrity, skills, and practice in the practice of home inspection, the following rules of professional conduct are adopted in accordance with RSA 310-A.

(b) The rules shall be binding upon every person holding a license issued by the board.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 501.02 Obligation To Obey.

(a) The professional standards set forth in this part and Home 600 shall bind all licensees, and violation of any such standard shall result in disciplinary sanctions. Conduct proscribed by these ethical standards, when performed by a candidate for licensure as a home inspector in this state, or during a prior period of licensure, shall result in denying a license application.

(b) All persons licensed under RSA 310-A shall be considered to have knowledge of the existence of the code of ethics pursuant to RSA 310-A:185 and shall be deemed to be familiar with its provisions. Such knowledge shall encompass the understanding that the practice of home inspection is a

privilege, as opposed to a right, and the licensee shall be forthright and candid in the licensee's statements or written response to the board or its representatives on matters pertaining to professional conduct.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 501.03 Code of Ethics. The ethical standards binding licensees shall be the code of ethics pursuant to RSA 310-A:185.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

CHAPTER Home 600 STANDARDS OF PRACTICE

PART Home 601 PURPOSE AND SCOPE

Home 601.01 Purpose and Scope.

(a) The purpose of these standards of practice is to establish a minimum and uniform standard for home inspectors. These standards of practice are intended to provide the public with objective information regarding the condition of the systems and components of the home as inspected at the time of the home inspection.

(b) The rules shall be binding upon every person holding a license issued by the board.

(c) These standards of practice shall be applicable to buildings with 4 or fewer dwelling units, individual residential condominium units, and their attached garages or attached carports.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

PART Home 602 DEFINITIONS

Home 602.01 Definitions:

(a) "Alarm systems" means warning devices installed or free-standing including but not limited to smoke detectors, carbon monoxide detectors, flue gas, and other spillage detectors, and security equipment.

(b) "Architectural services" means any practice involving the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structures or the design for construction, including but not specifically limited to, schematic design, design development, preparation of construction contract documents, and administration of the construction contract.

(c) "Automatic safety controls" means devices designed and installed to protect systems and components from unsafe conditions.

(d) "Component" means a part of a system.

(e) "Decorative" means ornamental, not required for the operation of the essential systems and components of a home.

(f) "Describe" means to identify, in writing, a system or component by its type or other distinguishing characteristics.

(g) “Dismantle” means to take apart or remove any component, device, or piece of equipment that would not be taken apart or removed by a homeowner in the course of normal and routine home owner maintenance.

(h) “Engineering” means the application of scientific knowledge for the design, control, or use of building structures, equipment, or apparatus building structures, equipment, or apparatus.

(i) “Further evaluation” means examination and analysis by a qualified professional, tradesman, or service technician beyond that provided by the home inspection.

(j) “Home inspection” means the process by which an inspector visually examines the readily accessible systems and components of a home and which describes those systems and components in accordance with these standards of practice.

(k) “Household appliances” means kitchen, laundry, and similar appliances, whether installed or free-standing.

(l) “Inspect” means to examine any system or component of a building in accordance with Home 600, using normal operating controls and opening readily accessible covers.

(m) “Inspector” means a person hired to examine any system or component of a building in accordance with these standards of practice.

(n) “Installed” means attached such that removal requires tools.

(o) “Normal operating controls” means devices such as thermostats, switches, or valves intended to be operated by the homeowner.

(p) “Readily accessible” means available for visual inspection without requiring moving of personal property, dismantling, destructive measures, use of a ladder, or any action which will likely involve risk to persons or property.

(q) “Readily accessible panel” means a panel provided for homeowner inspection and maintenance that is readily accessible, within normal reach, can be removed by one person, and is not sealed in place.

(r) “Recreational facilities” means spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground or other similar equipment, and associated accessories.

(s) “Report” means communicate in writing.

(t) “Representative number” means one component per room for multiple similar interior components such as windows and electric receptacles and one component on each side of the building for multiple similar exterior components

(u) “Roof drainage systems” means components used to carry water off a roof and away from a building.

(v) “Siding” means exterior wall covering and cladding; such as: aluminum, asphalt, brick, cement or asbestos, exterior insulation finishing system, stone, stucco, veneer, vinyl, or wood.

(w) “Significantly deficient” means unsafe or not functioning.

(x) “Shut down” means a state in which a system or component cannot be operated by normal operating controls.

(y) “Solid fuel burning appliances” means a hearth and fire chamber or similar prepared place in which a fire may be built and that is built in conjunction with a chimney, or a listed assembly of a fire chamber, its chimney, and related factory-made parts designed for unit assembly without requiring field construction.

(z) “Structural component” means a component that supports non-variable forces or weights, dead loads and variable forces or weights, live loads.

(aa) “System” means a combination of interacting or interdependent components, assembled to carry out one or more functions.

(ab) “Technically exhaustive” means an investigation that involves dismantling, the extensive use of advanced techniques, measurements, instruments, testing, calculations, or other means.

(ac) “Under floor crawl space” means the area within the confines of the foundation and between the ground and the underside of the floor.

(ad) “Unsafe” means a condition in a readily accessible, installed system or component that is judged to be a significant risk of bodily injury during normal, day-to-day use caused by damage, deterioration, improper installation, or a change in accepted residential construction standards.

(ae) “Wiring methods” means identification of electrical conductors or wires by their general type, such as non-metallic sheathed cable, armored cable, or knob and tube.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

PART Home 603 REPORT REQUIREMENTS

Home 603.01 Report Requirements.

(a) The home inspector shall inspect readily accessible, observable, installed systems and components.

(b) The home inspector shall report those systems and components inspected that, in the professional opinion of the inspector, are not functioning properly, significantly deficient, unsafe, or near the end of their service lives.

(c) The home inspector shall make recommendations to correct, or monitor for future correction, the deficiencies reported in Home 603.01 (b) or items needing further evaluation.

(d) The home inspector shall report systems and components designated for inspection pursuant to the standards of practice that were present at the time of the home inspection but were not inspected and the reason or reasons they were not inspected.

(e) These standards of practice shall not limit inspectors from including other inspection services or systems and components in addition to those required in Home 603.01 (a).

(f) The home inspector shall exclude systems and components from the inspection if requested by the client.

(g) Home inspectors shall not have to determine methods or materials necessary for corrections.

(h) Home inspectors shall not project costs of repairs.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 603.02 Home Inspection Standards.

(a) When inspecting structural systems the home inspector shall:

- (1) Inspect the structural components including the foundation, framing, floor structure, wall structure, ceiling structure, and roof structure;
- (2) Inspect a representative number of structural components where deterioration is suspected or where clear indications of possible deterioration exist;
- (3) Not conduct probing when probing would damage any finished surface or where no deterioration is visible or presumed to exist; and
- (4) Report the methods used to inspect under-floor crawl spaces and attics.

(b) When inspecting the structural systems the home inspector shall describe:

- (1) The foundation;
- (2) The floor structure;
- (3) The wall structure;
- (4) The ceiling structure; and
- (5) The roof structure.

(c) The home inspector shall not provide any engineering or architectural service or analysis unless qualified pursuant to RSA 310-A:201, IV.

(d) When inspecting the exterior the home inspector shall inspect:

- (1) Siding, flashing, and trim;
- (2) All exterior doors;
- (3) Attached decks, balconies, stoops, steps, porches, and their associated railings;
- (4) Eaves, soffits, and fascias where accessible from the ground level; and
- (5) Entryway walkways, patios, driveways, vegetation, grading, surface drainage, and retaining walls which are likely to adversely affect the building.

(e) When inspecting the exterior the home inspector shall describe the type of siding.

(f) The home inspector shall not have to inspect:

- (1) Screening, shutters, awnings, and similar seasonal accessories;
- (2) Fences;
- (3) Geological and soil conditions;

- (4) Recreational facilities;
 - (5) Outbuildings or detached structures;
 - (6) Seawalls, break-walls, and docks; and
 - (7) Erosion control and earth stabilization measures.
- (g) When inspecting roof systems the home inspector shall inspect:
- (1) Roofing materials;
 - (2) Roof drainage systems;
 - (3) Flashing; and
 - (4) Skylights, chimney exteriors, and roof penetrations.
- (h) When inspecting the roof systems the home inspector shall describe:
- (1) Roofing materials;
 - (2) Roof drainage systems; and
 - (3) Chimney exteriors.
- (i) When inspecting the roof system the home inspector shall report the methods used to inspect the roofing.
- (j) The home inspector shall not have to inspect:
- (1) Antennae;
 - (2) Interiors of flues or chimneys on or attached to the roof; and
 - (3) Other installed accessories.
- (k) When inspecting the plumbing system the home inspector shall inspect:
- (1) Interior water supply and distribution systems including all fixtures and faucets;
 - (2) Drain, waste, and vent systems including all fixtures;
 - (3) Water heating equipment and hot water supply system;
 - (4) Vent systems;
 - (5) Fuel storage and fuel distribution systems within the structure; and
 - (6) Drainage sumps, sump pumps, and related piping.
- (l) When inspecting the plumbing system the home inspector shall describe:
- (1) Interior water supply and distribution systems;
 - (2) Drain, waste and vent systems;

- (3) Water heating equipment and hot water supply system; and
 - (4) Fuel storage and distribution systems.
- (m) When inspecting the plumbing system the home inspector shall report the location of main water and main fuel shut-off valves.
- (n) The home inspector shall not have to inspect:
- (1) Clothes washing machine connections;
 - (2) Interiors of plumbing appliance flues or chimneys;
 - (3) Wells, well pumps, or water storage related equipment;
 - (4) Water conditioning systems;
 - (5) Solar water heating systems;
 - (6) Fire and lawn sprinkler systems;
 - (7) Private waste disposal and sewer ejector systems; and
 - (8) Automatic safety controls or manual stop valves.
- (o) The home inspector shall not have to determine:
- (1) Whether water supply and waste disposal systems are public or private; and
 - (2) Water supply quantity or quality.
- (p) When inspecting the electrical system the home inspector shall inspect:
- (1) Service drop;
 - (2) Service entrance conductors, cables, and raceways;
 - (3) Service equipment and main disconnects;
 - (4) Service grounding;
 - (5) Interior components of service panels and sub panels;
 - (6) Conductors;
 - (7) Overcurrent protection devices; and
 - (8) A representative number of installed lighting fixtures, switches, and receptacles.
- (q) When inspecting the electrical system the home inspector shall describe:
- (1) The amperage and voltage rating of the service;
 - (2) The location of main disconnects and sub panels;
 - (3) Wiring methods;

- (4) Service grounding; and
 - (5) Over current protection devices.
- (r) When inspecting the electrical system the home inspector shall report:
- (1) Presence of solid conductor aluminum branch circuit wiring; and
 - (2) Absence of smoke detectors and ground fault circuit interrupters.
- (s) The home inspector shall not have to inspect:
- (1) Remote control devices;
 - (2) Alarm systems and components;
 - (3) Low voltage wiring systems and components;
 - (4) Ancillary wiring systems and components not a part of the primary electrical power distribution system within the house structure;
 - (5) Generators and their control and distribution systems;
 - (6) The operation of smoke detectors; and
 - (7) Solar equipment and components.
- (t) The home inspector shall not measure amperage, voltage, or impedance.
- (u) When inspecting the heating system the home inspector shall open readily accessible panels and inspect:
- (1) Installed central heating system;
 - (2) Distribution system;
 - (3) Vent systems and chimney exteriors; and
 - (4) Fuel storage and distribution systems excluding propane tanks.
- (v) When inspecting the heating system the home inspector shall describe:
- (1) Installed central heating system;
 - (2) Distribution system; and
 - (3) Vent systems.
- (w) When inspecting the heating system the home inspector shall report energy source or sources.
- (x) The home inspector shall not have to inspect:
- (1) Interiors of heat source flues or chimneys;
 - (2) Heat exchangers;
 - (3) Humidifiers or dehumidifiers;

- (4) Electronic air filters;
 - (5) Solar space heating systems;
 - (6) Mechanical dampers; and
 - (7) Propane tanks.
- (y) The home inspector shall not have to determine heat supply adequacy or distribution balance.
- (z) When inspecting the air conditioning system the home inspector shall open readily accessible panels to inspect:
- (1) Permanently installed central systems; and
 - (2) Distribution systems.
- (aa) When inspecting the air conditioning system the home inspector shall describe permanently installed central systems.
- (ab) The home inspector shall not have to:
- (1) Inspect electronic air filters;
 - (2) Determine cooling supply adequacy or distribution balance;
 - (3) Inspect window or wall mounted air conditioning units; and
 - (4) Operate air conditioning systems when the conditions adversely affect the operation of the equipment.
- (ac) When inspecting the interior the home inspector shall inspect:
- (1) Walls, ceilings, and floors;
 - (2) Steps, stairways, and railings;
 - (3) Countertops and a representative number of installed cabinets;
 - (4) Garage doors and garage door operators; and
 - (5) A representative number of windows and doors.
- (ad) The home inspector shall not have to inspect:
- (1) Paint, wallpaper, and other finish treatments;
 - (2) Finished floor coverings;
 - (3) Window treatments;
 - (4) Central vacuum systems;
 - (5) Household appliances; and
 - (6) Recreational facilities.

- (ae) When inspecting the insulation and ventilation the home inspector shall inspect:
 - (1) Insulation in unfinished spaces;
 - (2) Ventilation of attics and foundation areas; and
 - (3) Mechanical ventilation systems.
- (af) When inspecting insulation and ventilation the home inspector shall describe:
 - (1) Insulation in unfinished spaces; and
 - (2) Ventilation of attics and foundation areas.
- (ag) When inspecting insulation and ventilation the home inspector shall report the absence of insulation in unfinished spaces at conditioned surfaces.
- (ah) The home inspector shall not have to:
 - (1) Disturb insulation;
 - (2) Identify types of insulation; and
 - (3) Inspect air-to-air exchangers or other similar systems.
- (ai) When inspecting fireplaces the home inspector shall inspect:
 - (1) Built-in fireplaces; and
 - (2) Chimney exterior and vents.
- (aj) When inspecting fireplaces the home inspector shall describe built-in fireplaces.
- (ak) The home inspector shall not have to inspect:
 - (1) Interiors of fireplace flues or chimneys;
 - (2) Fire screens and doors;
 - (3) Seals and gaskets;
 - (4) Automatic fuel feed devices;
 - (5) Mantles and fireplace surrounds;
 - (6) Combustion make-up air devices;
 - (7) Heat distribution assists, gravity fed and fan assisted;
 - (8) Solid fuel burning appliances; and
 - (9) Gas appliances.
- (al) The home inspector shall not have to:
 - (1) Determine draft characteristics; and

- (2) Move fireplace inserts and stoves or firebox contents.
- (am) The home inspector shall not have to determine:
- (1) Conditions of systems or components which are not readily accessible;
 - (2) Remaining life expectancy of any system or component;
 - (3) Strength, adequacy, effectiveness, or efficiency of any system or component;
 - (4) The causes of any condition or deficiency;
 - (5) Methods or materials necessary for corrections;
 - (6) The suitability of the property for any specialized use;
 - (7) Compliance with regulatory requirements including codes, regulations, laws, ordinances, manufacturers installation specifications, and utility company requirements;
 - (8) The presence of potentially hazardous plants or animals including, but not limited to wood destroying organisms or diseases harmful to humans including molds or mold-like substances;
 - (9) The presence of any environmental hazards including, but not limited to toxins, carcinogens, noise, and contaminants in soil, water, and air;
 - (10) The effectiveness of any system installed or method utilized to control or remove suspected hazardous substances; and
 - (11) Soil conditions relating to geotechnical or hydrologic specialties.
- (an) Home inspectors shall not have to enter:
- (1) Any area that will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or damage the property or its systems or components; and
 - (2) Attics and under-floor crawl spaces which are not readily accessible.
- (ao) Home inspectors shall not have to inspect:
- (1) Underground items including, but not limited to underground storage tanks or other underground indications of their presence, whether abandoned or active;
 - (2) Items that are not installed;
 - (3) Installed decorative items;
 - (4) Items in areas that are not entered in accordance with Home 603.02 (ao) (1);
 - (5) Detached structures;
 - (6) Common elements or common areas in multi-unit housing, such as condominium properties or cooperative housing; and
 - (7) Interiors of multi-unit housing flues, vents, or chimneys.

(ap) Home inspectors shall not be required to:

- (1) Perform any procedure or operation that will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or damage the property or its systems or components;
- (2) Use a ladder;
- (3) Describe or report on any system or component that is not included in these standards and was not inspected;
- (4) Move personal property, furniture, equipment, plants, soil, snow, ice, or debris;
- (5) Dismantle any system or component, except as explicitly required by Home 600;
- (6) Walk on roofs; and
- (7) Operate sump pumps.

(aq) Home inspectors shall not:

- (1) Report on market value of property or its marketability;
- (2) Report on the advisability or inadvisability of the purchase of the property;
- (3) Offer or perform additional inspectional services such as engineering, architectural, surveying, plumbing, electrical, pest control, or any other inspectional service requiring an occupational license and or registration in New Hampshire unless the inspector holds a valid registration and or occupational license, in which case he or she may inform the client that he or she is so registered or licensed, and is therefore qualified to go beyond this subdivision;
- (4) Estimate or project the cost of repairs or exclude any defects from the report based on their cost of repair;
- (5) Determine or verify property lines;
- (6) Operate any system or component that is shut down or otherwise inoperable;
- (7) Operate any system or component, which does not respond to normal operating controls;
- (8) Predict future conditions and failure of systems or components;
- (9) Project operating costs of systems or components;
- (10) Evaluate acoustical characteristics of any system or component;
- (11) Determine any basement or crawlspace water tightness; and
- (12) Ignite or turn off any solid or liquid gas fuel burning device.

(ar) The home inspector shall not have to perform any action or make any determination not specifically stated in these standards of practice.

(as) Inspections performed in accordance with these standards of practice shall not have to identify concealed conditions, latent defects, or consequential damage or damages.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

CHAPTER Home 700 VOLUNTARY LICENSE SURRENDER

PART Home 701 PROCEDURE AND EFFECT

Home 701.01 Procedure for Surrendering a License. Any person holding a license may voluntarily surrender that license by returning it to the board accompanied by a signed letter stating that he or she intends to surrender his or her license.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 701.02 Effect of Voluntary License Surrender.

(a) A licensee who voluntarily surrenders a license shall retain no right or privilege of a New Hampshire license unless such a right or privilege is expressly preserved in the board order or settlement agreement authorizing the voluntary surrender. Subject to such possible preservations, a person who reapplies for licensure in New Hampshire after a voluntary surrender shall have the burden of proving compliance with all of the requirements then in effect for new applicants and professional character requirements.

(b) Non-renewal of a license shall not preclude the board from investigating or completing a disciplinary proceeding based upon the licensee's professional conduct while the license was still in effect. Nor shall surrender of a license preclude the board from investigating disciplinary proceedings not expressly referenced in the voluntary surrender order or settlement agreement. Such investigations and proceedings shall be handled in the same manner as other disciplinary investigations and proceedings.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

Home 701.03 Voluntary Surrender When Misconduct Allegations are Pending.

(a) A licensee who wishes to surrender his or her license as part of a settlement of pending misconduct allegations shall make a written settlement offer to the board before the close of the record in a disciplinary hearing.

(b) Any settlement agreement reached under (a), above, shall include the following concessions:

- (1) That the license surrender has occurred in settlement of pending disciplinary charges; and
- (2) That the pending disciplinary allegations shall be fully resolved in any future application filed by the licensee in New Hampshire.

(c) The board shall decline to accept a settlement agreement under (a), above, if the board believes the licensee has declined to disclose material information concerning the alleged misconduct or has refused to stipulate to the truth of specific material facts concerning the alleged misconduct which would be necessary to protect the public interest in the event the licensee subsequently reapplies for a license.

(d) A licensee's stipulation of facts shall be exempt from public disclosure to the extent permitted by RSA 91-A and if the public portion of the settlement agreement or surrender document expressly states that a separate, confidential stipulation of facts is on file with the board.

(e) The fact of license surrender and the terms of any settlement agreement pertaining thereto shall be distributed to all relevant licensing authorities and professional societies in the same manner as a final decision containing specific finding of professional misconduct.

Source. #9506, eff 7-8-09; ss by #12463, eff 1-23-18

APPENDIX

Rule	Specific State Statute the Rule Implements
Home 101	RSA 310-A:182
Home 102	RSA 310-A:183
Home 103-106	RSA 541-A:16, I(a)
Home 103.07	RSA 541-A:16, I(a)
Home 201-213	RSA 310-A:187, I(f) (g); RSA 310-A:196, 197 RSA 541-A:16, I(b)(2)
Home 214	RSA 541-A:16, I(b)(3)
Home 215	RSA 541-A:16, I(c)
Home 216	RSA 541-A:16, I(d)
Home 217	RSA 310-A:187; RSA 541-A:11, VII
Home 301-304	RSA 310-A:197, I (a)(b); RSA 310-A:190 RSA 310-A:191
Home 301.04-301.05	RSA 310-A:187, I(e); RSA 310-A:188
Home 302.01-302.03	RSA 310-A:187, I(a)(b); RSA 310-A:190 I-IV
Home 303.01	RSA 310-A:187, I(i)
Home 304	RSA 310-A:194
Home 305	RSA 310-A:187, I(j); RSA 310-A:193
Home 401	RSA 310-A:187, I(d); RSA 310-A:195
Home 402	RSA 310-A:187, I(f); RSA 310-A:196, I-II; RSA 310-A:197, I-VIII
Home 403	RSA 310-A:187, I(d); RSA 310-A:195
Home 500	RSA 310-A:187 I(b); RSA 310-A:185
Home 600	RSA 310-A:184
Home 700	RSA 541-A:16, I(b) intro.

Appendix F
List of States That Regulate Home Inspectors

Alabama	New York
Alaska	North Carolina
Arkansas	North Dakota
Connecticut	Oklahoma
Delaware	Oregon
Florida	Rhode Island
Illinois	South Carolina
Indiana	South Dakota
Kentucky	Tennessee
Louisiana	Texas
Maryland	Vermont
Massachusetts	Virginia
Mississippi	Washington
Nevada	West Virginia
New Hampshire	Wisconsin
New Jersey	