

## **CHAPTER 17-A. LOUISIANA HOME INSPECTOR LICENSING LAW**

### **§1471. Short title**

This Chapter shall be known and may be cited as the "Louisiana Home Inspectors Licensing Law".

Acts 1999, No. 61, §2.

### **§1472. Purpose; legislative findings**

The legislature hereby declares that it is in the best interest of the citizens of the state to require the licensure and regulation of home inspectors. The purpose of this Chapter is to require qualifying criteria in a professional field in which unqualified individuals may injure or mislead the public. The provisions of this Chapter shall contribute to the safety, health, and welfare of the people of this state.

Acts 1999, No. 61, §2.

### **§1473. Definitions**

As used in this Chapter, the following words shall have the following meanings unless the context clearly indicates otherwise:

(1) "Applicant" means a person who seeks to be examined for licensure by the board.

(2) "Board" means the Louisiana State Board of Home Inspectors.

(3) "Component" means a readily accessible and observable aspect of a system, such as a floor or wall, but not individual pieces such as boards or nails where many similar pieces make up a component.

(4) "Home inspection" means a written evaluation of two or more of the following component systems of a resale residential building:

(a) Electrical system.

(b) Exterior system.

(c) Insulation/ventilation system.

(d) Heating and cooling systems.

(e) Plumbing system.

(f) Roofing system.

(g) Structural system.

(h) Appliance system.

(i) Interior system.

(j) Any other related residential housing system as defined in the standards of practice prescribed by the board.

(5) "Home inspector" means any person who, in accordance with the provisions of this Chapter, holds himself out as a home inspector to the general public or engages in the business of performing home inspections on resale residential buildings for compensation or who examines any component of a building, through visual means and through normal user controls, without the use of mathematical sciences.

(6) "Licensee" means any person who has been issued a license by the board in accordance with the provisions of this Chapter.

(7) "Residential resale building" means a structure intended to be or that is used as a residence and consists of four or less living units, excluding commercial use space or units, and is not for sale for the first time.

(8) "System" means a combination of interactive or interdependent components assembled to carry out one or more functions.

Acts 1999, No. 61, §2; Acts 2003, No. 568, §1.

**§1474. Louisiana State Board of Home Inspectors; creation; qualifications; domicile; terms of office; confirmation; oath of office; compensation**

A. The Louisiana State Board of Home Inspectors is hereby created within the office of the governor. The board shall be a body corporate and may sue and be sued.

B. The board shall be composed of one member from each congressional district appointed by the governor from a list of names submitted by the board of directors of the Louisiana Chapter of the American Society of Home Inspectors, the Louisiana Realtors Association, the Louisiana Homebuilders Association, and the Louisiana Mortgage Lenders Association. Each member of the board shall be a United States citizen and a resident of the state, and shall have been actively engaged in the home inspection business on a full-time basis for one year preceding the appointment. The initial board members shall be required to obtain a license in accordance with the provisions of this Chapter. Thereafter, each member of the board shall be a licensed home inspector.

C. Each member appointed by the governor shall be confirmed by the Senate.

D. Initially, one member of the board shall be appointed for a two-year term, three members for four-year terms, and three members for six-year terms. No person shall be appointed for more than one full six-year term. Thereafter, all members shall be appointed for six years. Any vacancy on the board caused by death, resignation, or disability of a member shall be filled for the unexpired term by appointment by the governor from the congressional district where the vacancy occurred.

E. The board shall be domiciled in Baton Rouge and may meet at such other locations in the state as may be determined by the board.

F. A majority of the voting members shall constitute a quorum of the board for all purposes, including the granting or issuance of licenses and the rulemaking and adjudicative functions of the board.

G. Each member of the board shall receive a certificate or commission from the governor and before beginning his term of office shall file with the secretary of state a written oath or affirmation of faithful discharge of his official duties.

H. No member of the board shall receive a per diem but shall be reimbursed for actual expenses incurred when attending a meeting of the board or any of its committees and for the time spent on behalf of the board on official business, not to exceed ten days in any one month. Each member shall be reimbursed, upon approval of the board as evidenced by voucher, for all necessary travel and incidental expenses incurred in carrying out the provisions of this Chapter.

Acts 1999, No. 61, §2; Acts 2001, No. 8, §12, eff. July 1, 2001; Acts 2009, No. 61, §1.

**§1475. Powers and duties of the board**

The board shall:

(1) Elect a chairman and a vice chairman, each to serve a term of one year, who may be reelected for subsequent terms.

(2) Employ a secretary-treasurer who shall serve as the chief operating officer of the board, who shall serve at the pleasure of the board, and who shall employ such other staff as approved by the board.

(3) Hold quarterly meetings each year, provided special meetings may be held at such time and place as specified or called by the chairman. The secretary-treasurer shall provide written notice of all meetings to the members of the board and to the interested public.

(4) Adopt rules and regulations, in accordance with the Administrative Procedure Act, as the board deems necessary to administer and implement the provisions of this Chapter or to govern the practice of home inspectors in the state.

(5) Issue, suspend, modify, or revoke licenses to practice as a home inspector in the state.

(6) Report to the attorney general all persons who violate the provisions of this Chapter.

(7) Maintain an up-to-date list of licensed home inspectors.

(8) Adopt and approve a licensing examination, which may be administered by a nationally accepted testing service as determined by the board.

(9) Adopt an official seal.

(10) Adopt minimum standards of practice for home inspectors.

(11) Have the authority to impose fines.

(12) Adopt rules and regulations governing the manner and conditions under which credit shall be given by the board for participation in continuing professional education as the board may consider necessary.

(13) Authorize any affidavit necessary for the issuance of any injunction or other legal process authorized under this Chapter or under the rules and regulations of the board.

(14) Issue subpoenas to require attendance and testimony or the production of documents for the purpose of enforcing the provisions of this Chapter and the rules and regulations adopted pursuant to this Chapter and securing evidence of violations.

(15) Have the authority to incur debt.

Acts 1999, No. 61, §2; Acts 2003, No. 568, §1.

#### **§1476. Licensing required**

A. Beginning January 1, 2001, no person shall engage in or conduct, or advertise or hold himself out as engaging in or conducting the business of, or acting in the capacity of a home inspector within the state without first obtaining a license as provided for in this Chapter, unless as exempted in R.S. 37:1483.

B. However, on January 1, 2000, any person who has been actively engaged in the business of conducting home inspections for at least one year may apply to the board for initial licensure without meeting the examination or instruction requirements.

Acts 1999, No. 61, §2; Acts 2003, No. 568, §1.

**§1477. Qualifications for licensure; application; fees**

A. The board shall, by rule, establish minimum qualifications for licensing. Applications for licenses and for renewal licenses shall be made in writing to the board on forms provided by the board.

B. The board may charge and collect fees not in excess of the following:

(1) Application for license

\$200.00

(2) License renewal

\$100.00

(3) Delinquent renewal

\$100.00

(4) Initial qualifying/continuing education provider

\$200.00

(5) Annual renewal for education provider

\$200.00

(6) Filing for additional course offerings

\$50.00

(7) Inspection report

\$5.00

C. An applicant for licensure as a home inspector shall meet the following requirements:

(1) Attainment of eighteen years of age.

(2) Successful completion of high school or its equivalent.

(3) Passage of the required examination.

(4) Payment of the appropriate fees.

(5) Submission of a license application as prescribed by the board.

D. Beginning July 1, 2001, any person filing an initial application for licensure shall present evidence to the board that he has satisfactorily completed at least one hundred twenty hours of instruction. At least thirty, but not more than forty, of the required hours shall be obtained in course work containing actual practical home inspections. The remainder of the instruction must be classroom hours in home inspection classwork approved by the board. Satisfactory completion includes attendance of specified hours and passage of an examination on course contents.

Acts 1999, No. 61, §2.

**§1478. Written reports; solicitation prohibited**

A. A licensed home inspector shall provide a written report of the home inspection to each person for whom the inspector performs a home inspection for compensation within five calendar days from the date of the inspection.

B. No licensed home inspector shall, from the time of the inspection until the date of the act of sale on the home inspected, advertise or solicit to perform repair services on any

item listed in the inspection report or any other type of service on the home upon which he has performed a home inspection.

Acts 1999, No. 61, §2; Acts 2003, No. 568, §1.

**§1479. License issuance and renewal; appearance on documents**

A. Licenses shall be issued for a period of one year and shall expire on the last day of the month of issuance in the preceding year. Licenses which are not timely renewed shall be considered to be expired, and any home inspections performed after expiration of the license shall be deemed a violation of this Chapter.

B. Any licensee who fails to timely renew his license may thereafter renew by paying the appropriate renewal and delinquent fees, filing a renewal application, and completing all continuing education requirements accruing during the period of delinquency. The period for delinquent renewal of an expired license shall be limited to the twelve-month period immediately following the expiration date of the active license. Failure to renew an expired license during such twelve-month period shall require the licensee to pass the board approved licensing examination in addition to paying the appropriate renewal and delinquent fees, filing a renewal application, and completing all continuing education requirements accruing during the period of delinquency. Failure to renew an expired license within the thirty-six-month period immediately following the expiration date of the active license shall, in addition to the above requirements, require the licensee to retake and pass ninety hours of classroom education as set forth in the rules and regulations of the board and to take a standards of practice and code of ethics report writing seminar offered by the board or an education provider approved by the board.

C. Licenses shall be in a form prescribed by the board.

D. The term "licensed home inspector" along with the license number of the inspector shall appear on all advertising, correspondence, and documents incidental to a home inspection.

Acts 1999, No. 61, §2; Acts 2008, No. 130, §1; Acts 2010, No. 751, §1.

**§1480. Continuing education requirements**

A. As a condition of renewal of a license, a licensed home inspector shall present satisfactory evidence to the board of having completed the continuing education requirements provided for in this Section.

B. Each applicant for renewal of a license shall annually complete at least twenty hours of instruction in courses approved by the board.

C. An applicant for renewal of a license may satisfy all or part of the continuing education requirements provided for in Subsection B of this Section by presenting satisfactory evidence to the board of participation, other than as a student, in educational processes and programs in home inspection practices or techniques including but not limited to teaching, program development, and preparation of textbooks, monographs, articles, or other instructional material subject to approval of the board.

Acts 1999, No. 61, §2.

**§1481. Insurance requirements**

A.(1) All active practicing licensed home inspectors shall carry errors and omissions insurance to cover all activities contemplated under this Chapter.

(2) The board shall, by rule, establish or approve an association or associations for the purposes of availing licensees to the benefits of group insurance rates. The board shall establish the terms and conditions of coverage, including but not limited to the permissible deductible and permissible exemptions. However, licensees shall have the option of obtaining errors and omissions insurance independently that complies with the coverage requirements established by the board.

(3) Each licensee shall be notified of the required terms and conditions of coverage for the annual policy at least thirty days prior to the annual renewal date. Each licensee who chooses not to participate in the group insurance program administered by the board shall file with the board a certificate of coverage showing compliance with the required terms and conditions of coverage by the annual license renewal date.

B. In addition to general errors and omissions insurance, all active licensees shall carry general liability insurance to cover all activities contemplated under this Chapter.

Acts 1999, No. 61, §2; Acts 2003, No. 568, §1.

#### **§1482. Home inspectors as corporations prohibited**

No license as a home inspector shall be issued to a corporation, limited liability company, partnership, firm, or group. However, this Section shall not preclude a licensed home inspector from rendering home inspections for or on behalf of a corporation, limited liability company, partnership, firm, or group, provided that the home inspection report is performed by, is prepared by, and is signed by a licensed home inspector.

Acts 1999, No. 61, §2.

#### **§1483. Exemptions from licensure**

The following persons shall be exempt from the licensing requirements of R.S. 37:1476:

(1) Persons licensed by the state as professional engineers when acting within the scope of their license.

(2) Persons licensed by the state as architects when acting within the scope of their license.

(3) Persons licensed by the state or any political subdivision as electricians when acting within the scope of their license.

(4) Persons licensed by the state or any political subdivision as plumbers when acting within the scope of their license.

(5) Persons licensed by the state or any political subdivision as heating and air conditioning technicians when acting within the scope of their license.

(6) Persons licensed by the state as real estate brokers or real estate sales persons when acting within the scope of their license.

(7) Persons licensed by the state as real estate appraisers, certified general appraisers, or residential real estate appraisers when acting within the scope of their license.

(8) Persons licensed by the state as pest control operators when acting within the scope of their license.

(9) Persons regulated by the state as insurance adjusters when acting within the scope of their profession.

(10) Persons who are employed as code enforcement officials by the state or any political subdivision when acting within the scope of their employment by such governmental entity.

(11) Persons licensed by the state or any political subdivision as contractors when acting within the scope of their license.

(12) Persons who perform warranty evaluations of components, systems, or appliances within resale residential buildings for the purpose of issuance of a home warranty agreement, provided that the warranty evaluation report includes a statement that the warranty evaluation performed is not a home inspection and does not meet the standards of a home inspection under Louisiana law. No home warranty company shall refer to a warranty evaluation as a home inspection in any written materials provided by the home warranty company.

Acts 1999, No. 61, §2; Acts 2003, No. 568, §1; Acts 2004, No. 437, §2.

#### **§1484. Reciprocal licenses**

The board may enter into reciprocal agreements with other states regarding home inspector licensing.

Acts 1999, No. 61, §2.

#### **§1485. Prohibited acts; penalties**

A. The board may suspend or revoke any license, or censure, fine, or impose probationary or other restrictions on any licensee for good cause shown which shall include but not be limited to the following:

(1) Conviction of a felony or the entering of a plea of guilty or nolo contendere to a felony charge under the laws of the United States or any other state.

(2) Deceit or misrepresentation in obtaining a license.

(3) Providing false testimony before the board.

(4) Efforts to deceive or defraud the public.

(5) Professional incompetence or gross negligence.

(6) Rendering, submitting, subscribing, or verifying false, deceptive, misleading, or unfounded opinions or reports.

(7) Violating any rule or regulation adopted by the board or any provision of this Chapter.

(8) Aiding or abetting a person to evade the provisions of this Chapter or knowingly combining or conspiring with an unlicensed person with the intent to evade the provisions of this Chapter.

(9) Violating any standard of conduct adopted by the board.

(10), (11) Repealed by Acts 2003, No. 568, §2.

B. The board may fine any applicant, any other person holding himself out as a home inspector, or any member of the public for good cause shown, which shall include but not be limited to the following:

(1) Aiding or abetting a person to evade the provisions of this Chapter or knowingly combining or conspiring with an unlicensed person with the intent to evade the provisions of this Chapter.

(2) Engaging in conduct or advertising or holding oneself out as engaging in or conducting the business or acting in the capacity of a home inspector without possessing a valid license.

(3) Falsely representing oneself as being the holder of a valid license by using the title "licensed home inspector" or any title, designation, or abbreviation deceptively similar or likely to create the impression that such person is licensed.

C. Violators of any of the provisions of this Section may be fined by the board in an amount not to exceed one thousand dollars per each separate violation.

Acts 1999, No. 61, §2; Acts 2003, No. 568, §§1 and 2.

#### **§1486. Revocation or suspension; payment of costs of proceedings**

A. Revocation of a license as a result of disciplinary action by the board may prohibit the reissuance of a license to such licensee for a period of up to one year from the date of revocation. The license of an applicant whose license has been revoked may be reissued by the board upon the successful completion by the applicant of the required examination and upon the presentment of evidence of completion of twenty hours of continuing education as prescribed by the board.

B. The board, as a probationary condition or as a condition of a revocation or suspension, may require a licensee to pay all costs of the board proceedings, including but not limited to investigators', stenographers', and attorney fees, and costs.

Acts 1999, No. 61, §2.

#### **§1487. Penalties**

Whoever willfully violates any of the provisions of this Chapter or any rule or regulation adopted pursuant to this Chapter may be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

Acts 1999, No. 61, §2.

#### **§1488. Cease and desist orders; injunctive relief**

A. In addition to or in lieu of the criminal penalties and administrative sanctions provided for in this Chapter, the board may issue an order to any person engaged in any activity, conduct, or practice constituting a violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter directing such person to cease and desist from such activity, conduct, or practice. Such order shall be issued in the name of the state under the official seal of the board.

B. If the person to whom the board directs a cease and desist order does not cease and desist the prohibited activity, conduct, or practice within two days of service of such order by certified mail, the board may seek a writ of injunction in any court of competent jurisdiction and proper venue enjoining such person from engaging in the activity, conduct, or practice.

C. Upon proper showing of the board that such person or firm has engaged in any activity, conduct, or practice prohibited by this Chapter, the court shall issue a temporary restraining order restraining the person or firm from engaging in the unlawful activity, conduct, or practice, pending hearing on a preliminary injunction. A permanent injunction shall issue after hearing commanding the cessation of the unlawful activity, conduct, or practice complained of, all without the necessity of the board having to give bond as usually

required in such cases. A temporary restraining order, preliminary injunction, or permanent injunction issued enjoining such person or firm shall not be subject to being released upon bond.

Acts 1999, No. 61, §2; Acts 2003, No. 568, §1.

**§1489. Louisiana State Board of Home Inspectors funds**

A. All fees received by the board under this Chapter and all monies otherwise received by the board shall be paid to the board through the secretary-treasurer. Disbursements made by the board shall be signed by the chairman and the secretary-treasurer. In absence of the chairman or the secretary-treasurer, the vice chairman may sign all documents with the remaining authorized signatory.

B. All fees and monies received by the board shall be used solely to effectuate the provisions of this Chapter including but not limited to expenditures necessary for office fixtures, equipment and supplies, and all other expenses necessary to conduct the business of the board.

Acts 1999, No. 61, §2.

**§1490. Home inspection and professional services as a real estate licensee prohibited in the same transaction**

No person licensed pursuant to the Louisiana Home Inspectors Licensing Law, R.S. 37:1471 et seq., shall engage in or be financially compensated for any home inspection in a transaction in which that person received a fee, commission, or other valuable consideration while acting as a licensee under the Louisiana Real Estate License Law, R.S. 37:1430 et seq., in connection with the same transaction.

Acts 2010, No. 195, §1.