

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____



Arkansas Department of Labor and Licensing
Arkansas Home Inspector Registration Board
900 West Capitol, Suite 400
Little Rock, Arkansas 72201
(501) 682-4500

Asa Hutchinson
Governor

Daryl Bassett
Secretary

Summary and Statement of Purpose
Proposed Rules of the Arkansas Home Inspector Registration Board
February 10, 2021

Purpose

The Arkansas Home Inspector Registration Board is seeking Governor Hutchinson's review and approval of proposed amendments to the board's rules. These amendments are primarily the result of legislative enactments in 2019 and 2021. There are a few amendments addressing stylistic and grammatical changes, as well as repealing obsolete language. There is one amendment requiring completion of three (3) home inspections as part of the pre-registration education process.

Background

The Home Inspector Registration Board has authority to establish administrative procedures pursuant to Arkansas Code §17-52-306.

The 2019 acts necessitating rulemaking are: Acts 426 and 1011; Act 820 and Act 990. The 2021 acts which require rulemaking by the board are: Act 135; Act 725; Act 746 and Act 748.

Key Points

The proposed amendments to the rules:

- Section 300-Registration and Renewal Requirements & Procedures
 - Delete reference to "good moral character;"
 - Amends rule to provide for pre-licensure criminal background determination of qualification per Act 990 of 2019 and Act 748 of 2021;
 - Changes "GED" requirement to "high school equivalency diploma;"
 - Explicitly provide for registration eligibility for individuals with a federal work permit per Act 746 of 2021;
 - Requires an applicant to complete three (3) on-site inspections under the supervision of a registered home inspector as part of the pre-registration education process;
 - Adds provision regarding reciprocity in conformity with Act 426 and 1011 of 2019;
 - Provides for automatic licensure for uniformed service members, veterans and spouses per Act 820 of 2019 and Act 135 of 2021.
 - Provides for an initial fee waiver for certain individuals pursuant to Act 725 of 2021;
- Sections 401, 610 and 710
 - Makes stylistic and grammatical changes; and
- Section 401

- Eliminates obsolete language.

Discussion

Most of the rule changes are mandated by legislative enactments in 2019 and 2021. In these instances, the board has utilized model language from the Office of the Attorney General.

Act 725 of 2021 and the proposed amended rule regarding the fee waiver for certain individuals will have a negative impact on revenues although it will operate as a cost-savings provision for applicants. The extent or amount is unknown. The board has no historical data concerning the economic status of its applicants.

The proposed rule requiring an applicant to conduct three (3) home inspections under the supervision of a registered home inspector as part of the pre-registration education process is not mandated by statute.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Labor and Licensing

DIVISION Arkansas Home Inspector Registration Board

PERSON COMPLETING THIS STATEMENT Denise Oxley, General Counsel

TELEPHONE NO. (501) 682-4502 FAX NO. (501) 682-4535 EMAIL: denise.oxley@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rules and Procedures of the Arkansas Home Inspector Registration Board

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☒ No ☐
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;

- b) The reason for adoption of the more costly rule;

- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____

Federal Funds

Cash Funds

Special Revenue

Other (Identify) _____

Total	\$ 0.00
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General Revenue

Federal Funds

Cash Funds

Special Revenue

Other (Identify) _____

Total	\$ 0.00
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b) What is the additional cost of the state rule?

Current Fiscal Year**Next Fiscal Year**

General Revenue

Federal Funds

Cash Funds

Special Revenue

Other (Identify) _____

Total	\$ 0.00
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General Revenue

Federal Funds

Cash Funds

Special Revenue _____

Other (Identify) _____

Total	\$ 0.00
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5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

§ _____

§ _____

The proposed amendment providing a fee waiver for certain low income individuals pursuant to Act 725 of 2021 will have a negative impact on board revenues, although it will be a cost savings to qualified applicants. The extent or amount is unknown, as the board has no historical data concerning the economic status of its applicants.

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ -0-

\$ -0-

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?
Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

300 Registration and Renewal Requirements and Procedures

301 General Requirements:

A. Who Must Register: All persons who advertise as a home inspector, ~~and/or~~ perform or attempt to perform a home inspection for a fee, in the State of Arkansas, shall first register with the Board and comply with the Arkansas Home Inspector Registration Act and the provisions of these Rules and Procedures.

B. Who is Exempt from Registering:

1. A person who by virtue of his or her employment by a public entity does home inspection work for that agency shall not be required to be registered under this subchapter if the inspections are conducted:
 - a. Solely for the benefit of that entity; and
 - b. For no compensation other than the employee's salary.
2. These rules and procedures shall not apply to:
 - a. Any person holding a valid registration, certificate, or license issued by the State if the person's activity is limited to the activity authorized by his or her registration, certificate, or license;
 - b. A person who inspects his or her own home: or
 - c. A public entity that inspects its residential units with its own personal specifically trained for the inspection.

C. Reputation & Competency: The applicant shall ~~be of good moral character,~~ have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a registered Home Inspector in such a manner as to safeguard the interests of the public.

D. Disciplinary History: An applicant shall be in good standing as a Home Inspector in every jurisdiction where licensed or registered. The applicant shall not currently have a registration or license which is suspended, revoked, or surrendered in connection with a disciplinary action or which is the unresolved subject of discipline in any jurisdiction prior to applying for registration in Arkansas.

E. Criminal Background Check

1. Pre-Licensure Criminal Background Check: Pursuant to Ark. Code Ann. § 17-3-101, *et seq.*, an individual may petition for a pre-licensure determination of whether his/her criminal record will disqualify him/her from licensure and whether he/she may obtain a waiver to be licensed.

- a. The individual must obtain the pre-licensure criminal background check petition form from the Board.
- b. The Board will respond with a decision in writing to a completed petition within a reasonable time.

- c. The Board's response will state the reason(s) for its decision.
- d. All decisions of the Board in response to the petition will be determined by the information provided by the individual.
- e. Any decision made by the Board in response to a pre-licensure criminal background check petition is not subject to appeal.
- f. The Board will retain a copy of the petition and response, and it will be reviewed during the formal application process.

2. Criminal Record: ~~An application for registration or renewal may be denied if the applicant has been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude, or any felony, or is currently adjudicated as being insane. Any plea of nolo contendere shall be considered a conviction for the purposes of this paragraph. The record of a conviction, authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction.~~

An applicant for registration or renewal is not eligible to receive or hold a license issued by the Board if that person has pleaded guilty or nolo contendere to, or has been found guilty of, any of the offenses listed in Ark. Code Ann. §17-3-102 (a) or (e), by any court in the State of Arkansas, or of any similar offense by a court in another state, or of any similar offense by a federal court, unless the conviction was lawfully sealed under the Comprehensive Criminal Record Sealing Act of 2013, Ark. Code Ann. §16-90-140, et seq., or otherwise previously sealed, pardoned or expunged under prior law.

3. Nothing in this section precludes the Board from taking emergency action against a licensee as authorized under §25-15-211 for the sake of public health, safety, or welfare.

F. Age: The applicant shall be at least 18 years old at the time he or she submits his or her application.

G. Identification: The Board may require each applicant for registration to furnish, at his or her expense, a recent passport-type photograph of him/herself, as well as any other information or form of identification deemed necessary by the Board.

H. Education: Any new applicant shall have graduated from a State-accredited school or shall have earned a State-accredited ~~Graduate Equivalent Diploma (GED)~~high school equivalency diploma. The Board may require proof of same.

I. Board Discretion: Applicants who do not meet all of the requirements and qualifications of this Section may nevertheless be approved for initial registration or registration renewal by resolution of the Board. However, detailed records and an

explanation of that action must be made part of that person's registration records. The Board reserves the right to hold for a reasonable length of time for investigation the application of any applicant before approving an initial or renewal registration.

1. If an applicant has been convicted of a crime listed in Ark. Code Ann. §17-3-102(a) or (e) the Board may waive disqualification or revocation of a license based on the conviction if a request for a waiver is made:

- a. By an affected applicant for license; or
- b. By the individual holding a license subject to revocation.

2. The Board may grant a waiver upon consideration of the following, without limitation:

- a. The age at which the offense was committed;
- b. The circumstances surrounding the offense;
- c. The length of time since the offense was committed;
- d. Subsequent work history since the offense was committed;
- e. Employment references since the offense was committed;
- f. Character references since the offense was committed;
- g. Relevance of the offense to the occupational license; and
- h. Other evidence demonstrating that license of the applicant does not pose a threat to the health or safety of the public.

3. If an individual has a valid criminal conviction for an offense that could disqualify him/her from receiving license, the disqualification shall not be considered for more than five (5) years from the date of the conviction or incarceration or on which probation ends, whichever date is the latest, if the individual:

- a. Was not convicted of a offense in Ark. Code Ann. §17-3-102(e)
- b. Was not convicted for committing a violent or sexual in nature offense; and
- c. Has not been convicted of any other offense during the five-year disqualification period.

4. The Board shall not, as a basis upon which license may be granted or denied:

- a. Use vague or generic terms, including without limitation the phrase "moral turpitude" and "good character"; or
- b. Consider arrests without a subsequent conviction.

5. A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees.

6. The Board will respond with a decision in writing and will state the reasons for the decision.

7. An appeal of a determination under this section will be subject to the Administrative Procedures Act, Ark. Code Ann. § 25-15-201, et seq.

J. The Board shall grant a license to an applicant who fulfills the Arkansas requirements for licensure and is a person who holds a Federal Form I-766 United States Citizenship and Immigration Services-issued Employment Authorization Document, known popularly as a “work permit.”

302 Initial Registration Procedures

A. Items Required from the Initial Applicant (See Section 304):

1. Initial Application Form
2. Initial Application Fee
3. Liability Insurance Certificate
4. Pre-Registration Education Certificate (See 304D2)
5. Competency Application Certificates
6. Proof of Completion of Apprenticeship (unless waived by the Board)

B. Effective Dates and Deadlines: Initial home inspector registrations are issued on a calendar year basis extending from the date of approval by the Board through December 31st of each year. Applications for initial registration must be submitted no less than 5 (five) State business days prior to the next scheduled meeting of the Board in order to be considered at that meeting. Applicants are encouraged to contact the Board office to determine that date.

~~**C. Reciprocal Agreements With Other Political Entities:** After investigation of home inspector licensure requirements of other States, the Board may elect to waive the Arkansas licensure requirement for pre-registration education for an Arkansas applicant who is licensed as a home inspector (not apprentice) in another State if the requirements of the other State met or exceeded those of this Board at the applicant's time of licensure in the other State. Documentation of current licensure from the other State's home inspection licensing authority is required as well as a statement declaring that the home inspector is not suspended or currently under any kind of disciplinary action by the other State.~~

C. Reciprocity

1. It is the intent of the General Assembly to ensure that an individual may be credentialed to work in Arkansas if he or she generally demonstrates the skills and ethics required by state law based on the individual's experience and credentials in another state.

2. It is not the intent of the General Assembly to cause the Board to engage in simple comparisons of the required hours of training and other personal qualifications under Arkansas's occupational licensing statutes with those qualifications required in the state where the individual is credentialed.

3. **Required qualifications:** An applicant applying for reciprocal licensure shall meet the following requirements:

- a. Shall hold a substantially similar license in another United States jurisdiction. A license from another state is substantially similar to an Arkansas Home Inspector registration if the other state's licensure qualifications require:
 - i. at least eighty (80) hours of pre-registration home inspector education; and
 - ii. proof of successful passage of the *National Home Inspector Examination* (NHIE) and the current version of the *Standards and Ethics Examination* of the American Society of Home Inspectors (ASHI).
- b. Shall hold his/her home inspector license in good standing and shall provide a letter from the licensing authority attesting the disciplinary status of the home inspector and show that he/she has not had a license revoked for:
 - i. an act of bad faith; or
 - ii. a violation of law, rule, or ethics.
- c. Shall not hold a suspended or probationary license in a United States jurisdiction.

4. Required documentation: an applicant shall submit a fully-executed application, with the required fee, and the documentation described below:

- a. As evidence that the applicant's license from another jurisdiction is substantially-similar to Arkansas's, the applicant shall submit the following information:
 - i. Evidence of current and active licensure in that state. The Board may verify this information online, if the jurisdiction at issue provides primary source verification on its website, or by telephone to the other state's licensing board; and
 - ii. Evidence that the other state's licensing requirements match those listed in Sec. 3(a)(i)-(ii). The Board may verify this information online or by telephone to the other state's licensing board.
- b. To demonstrate that he/she meets to requirement in Sec. 3(b)-(c), the applicant shall provide the Board with:
 - i. The names of all states in which the applicant is currently or has been previously licensed;
 - ii. Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that he/she has not had his/her license revoked for the reasons listed in Sec. 3(b)(i)-(ii), and does not hold a license on suspended or probationary status as described in Sec. 3(c). The Board may verify this information online or by telephone with the other state's licensing board.
- c. As evidence that the applicant is sufficiently competent in home inspections, he/she shall:
 - i. Provide proof that he/she has passed the *National Home Inspector Examination* (NHIE) and the current version of the *Standards and Ethics Examination* of the American Society of Home Inspectors (ASHI).
 - ii. Submit letters of recommendation (or home inspection reports)????

5. Temporary and Provisional License:

- a. The Board shall issue a temporary and provisional license immediately upon receipt of the application, the required fee, and the documentation required under Sec. 4(a)-(b).

b. A temporary and provisional license shall be effective for at least 90 days or until the Board makes a decision on the application., unless the Board determines that the applicant does not meet the requirements in Sec. C(3)(a)-(c), in which case the temporary and provisional license shall be revoked immediately.

c. An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may provide only the information necessary for the issuance of a temporary and provisional license.

6. License for a Person From a State that Does Not License Home Inspectors:

a. **Required qualifications:** An applicant from a state that does not license home inspectors shall meet the following requirements:

- i. The applicant shall be sufficiently competent in the profession of home inspections; and
- ii. List Least Restrictive Requirements

b. **Required documentation:** an applicant shall submit a fully-executed application, the required fee, and the documentation described below to show the applicant is sufficiently competent in the profession of home inspections:

- i. proof that he/she has passed the *National Home Inspector Examination (NHIE)* and the current version of the *Standards and Ethics Examination* of the American Society of Home Inspectors (ASHI).
- ii. Submit letters of recommendation (or home inspection reports)

D. Automatic Licensure for Uniformed Service Members:

1. Ark. Code Ann. §17-4-101, et seq. provides for the automatic licensing of uniformed service veterans. As used in this section, a “uniformed service veteran,” means a former member of the United States Uniformed Services discharged under circumstances other than dishonorable.

2. The Board shall grant automatic licensure to an individual who is the holder in good standing of a license with a similar scope of practice issued by another state, territory or district of the U.S. and is:

- a. A uniformed service member stationed in the State of Arkansas;
- b. A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or
- c. The spouse of:
 - i. A person under (2)(a) or (b) above;
 - ii. A uniformed service member who is assigned a tour of duty that excludes the uniformed service member’s spouse from accompanying the uniformed service member and the spouse relocates to this state; or
 - iii. A uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.

3. The Board shall grant such automatic licensure upon receipt of all of the below:

- a. Payment of the initial licensure fee;

- b. Evidence that the individual holds a license with a similar scope of practice in another state; and
- c. Evidence that the individual is qualified under (a).

4. The expiration date of a license for a deployed uniform service member or spouse will be extended for one hundred and eighty (180) days following the date of the uniformed service member's return from deployment.

5. A full exemption from continuing education requirements will be allowed for a deployed uniform service member or spouse until one hundred and eighty (180) days following the date of the uniformed service member's return from deployment.

304 Definitions – Items Required for Registration or Renewal

- A. Application Forms:** A properly and fully completed application for initial registration or renewal must be submitted to the Board office on a form prescribed by the Board.
1. No person who is registered under one (1) name as provided in these regulations shall engage in business as a home inspector under any other name unless the other name(s) is also included on the most recent application and is also registered.
 2. A person applying for registration for the first time shall have their signature on their application witnessed by a notary public and attested to thereon.
 3. The application shall include by not be limited to a listing of:
 - a. All current licenses held that are issued by an agency of the State of Arkansas; and
 - b. All current and past home inspector licenses issued by an agency of any State government.
- B. Application fees:**
1. The required registration or registration renewal fee as specified in Section 204 above shall accompany the application in the form of a check or money order. Applications received without the appropriate fee may be returned without action.
 2. The Board shall waive the initial application fee if the applicant:
 - a. Is receiving assistance through the Arkansas Medicaid Program; the Supplemental Nutrition Assistance Program; the Special Supplemental Nutrition Program for Women, Infants, and Children; the Temporary Assistance for Needy Families Program; or the Lifeline Assistance Program;
 - b. Was approved for unemployment within the last twelve (12) months; or
 - c. Has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.
- C. Liability Insurance Requirements**
1. **Coverage:** All registered home inspectors must maintain current general liability coverage insurance in the amount of at least one hundred thousand dollars (\$100,000.00) issued by an insurance company licensed, or surplus lines approved, to do business in the State of Arkansas.

2. **Reporting:** It is the responsibility of the home inspector to make sure that a certificate of active general liability insurance coverage, as specified below, and proving coverage of the home inspector, as defined above, has been physically received by the Board office on or before the date of expiration of the coverage of the previous certificate/policy. If the latest certificate of general liability insurance on file with the Board reflects that the policy has expired, the Board shall notify the home inspector by certified U.S. Mail upon such expiration and concurrently the registration of that home inspector shall be placed in Suspended Status, as required under A.C.A. § 17-52-318(d)(1) until the home inspector complies with Section 304C herein. Until such time, it shall be unlawful for the home inspector to conduct home inspections for a fee in the state of Arkansas. If such certificate is not received by the Board by the date of expiration of the previous certificate/policy on file with the Board, a delinquent renewal fee shall apply as specified in Section 204D2, and the home inspector shall be listed on the Board website as Suspended as required under A.C.A. § 17-52-318(d)(2).
3. **Specifications:** An original certificate of insurance must be delivered or mailed to the Board office (fax or electronic copies are not permitted) which reflects that the applicant, or registered home inspector, has procured the required general liability insurance. The certificate must include the following information:
 - a. Name and address of the insured individual home inspector (not just his or her company or employer).
 - b. Name of the insured's agent, agency, business address, and telephone number.
 - c. Name of the firm providing the insurance (the carrier).
 - d. Amount of each type of coverage being provided.
 - e. The insurance policy number.
 - f. The "Arkansas Home Inspector Registration Board, P.O. Box 251911, Little Rock, AR 72225" must be named as the certificate holder.
 - g. The beginning and ending dates of the coverage.
 - h. Signature of the issuing agent.

D. Pre-Registration Education:

1. **Requirements:** The first-time applicant shall submit documents with the application attesting to the successful passage of a Board approved comprehensive pre-registration home inspector education curriculum consisting of no less than eighty (80) hours of classroom/on-site instruction taken within the 12 months preceding the date of receipt of their completed application for registration, as well as proof of completion of an apprenticeship, unless waived by the Board, where all course modules or topics are taken during one continuous period.
 - a. An apprenticeship shall include three on-site inspections, at least one that includes an accessible attic, and one that includes an accessible crawl space;
 - b. The apprenticeship shall not exceed a total of ten (10) hours;
 - c. The ratio shall be one apprentice home inspector applicant per one licensed, experienced, home inspector;
 - d. The apprenticeship requirement may be waived by the Board on its own motion or upon written request of the applicant; and

- e. A request of the Board to waive the apprenticeship requirement shall not be an administrative hearing as contemplated by the Arkansas Administrative Procedure Act. A.C.A. § 25-15-201, et seq.
2. **Exemptions:** The following persons shall be exempt from the pre-registration education requirements for initial registration, but not from the requirements concerning the competency examinations. Appropriate verifiable documentation of all exemption criteria is required.
- a. City inspectors currently certified by the International Code Council; and
 - b. Applicants who hold a current Residential Contractor's license and have been licensed as a contractor for ten (10) years prior to their date of application to become registered as a home inspector.
 - ~~c. Applicants who are currently licensed to independently perform home inspections in another state and are in good standing in that state where:~~
 - ~~1) A comprehensive course in home inspection of no less than eighty (80) hours of classroom/on-site instruction was required and completed at the time of licensure.~~
 - ~~2) The licensing entity from the other state provides a letter attesting to the licensing level and disciplinary status of the home inspector.~~
- E. **Competency Examinations:** The first-time applicant shall submit documents with the application attesting to the successful passage of the following examinations, which must be taken in person at a facility designated by each of the organizations providing the examinations:
- 1. The current version of the *National Home Inspector Examination* (NIHE) as provided by the Examination Board of Professional Home Inspectors, Inc., (<http://homeinspectionexam.org>); and
 - 2. The current version of the *Standards and Ethics Examination* as provided by the American Society of Home Inspectors (<http://ashi.com>).
- F. **Continuing Education Credit Reporting Form:** The Board Continuing Education Credit Reporting Form shall be completed in its entirety to list Board-approved completed courses and that are being submitted for continuing education credit. It shall be submitted along with certificates of completion from the provider(s) of the education along with the inspector's registration renewal application each year. Copies of the CEC Form, certificates, and other documents which substantiate the continuing education hours submitted to the Board shall be retained by the inspector for at least 2 years after submission.
- G. **Inspection Reports:** As stated in A.C.A. § 17-52-307, as part of an investigation or as a condition of renewal, the Board may require an inspector to submit inspection reports and other documents to be reviewed by the Board. Further, requests by the Board for copies of inspection reports shall supersede any contract of client privacy of confidentiality, whether written or oral.

305 Continuing Education

A. General Requirements:

1. As a condition of annual registration renewal, each home inspector who will have been registered for twelve (12) months or more upon expiration of their current registration shall have completed continuing education coursework as specified herein.
2. The Board must approve all courses prior to presentation in order for each to qualify for submission for continuing education credit. It is the sole responsibility of the home inspector to verify that any course is currently approved for credit by the Board at the time it is taken. This can be accomplished by referencing the web site of the Board at www.ahib.org or by telephoning the Board office at (501) 683-3710.
3. Each course must be completed in its entirety by the registrant in order for any of the course credit hours to be eligible for home inspector continuing education credit.
4. An inspector can claim continuing education credits for a given course only once within two consecutive training years, even if he or she has successfully completed the course multiple times.
5. Upon appropriate showing of a bona fide health or other hardship, the Board may consider and grant an individual exception to the continuing education requirements.
 - a. Loss of income resulting from cancellation of a license is not a bona fide hardship.
 - b. Requests for exceptions shall be submitted in writing not less than sixty days prior to the date of license renewal and shall include an explanation and verifiable documentation of the hardship.
6. Submission of a Continuing Education Credit Claim Form whose content cannot be substantiated may be the basis for denial of the requested credit, denial of registration renewal, or other disciplinary action by the Board.

B. Annual Hours Required: Fourteen (14) hours of continuing education coursework shall be completed to fulfill annual registration renewal requirements as follows:

1. Classroom Courses:

- a. At least eight (8) hours of coursework must be completed in person by the home inspector with a Board approved instructor teaching the course face-to-face.
- b. Classroom coursework must be completed during the 24 months preceding the first day of the home inspector's next Board-approved registration period.
- c. Continuing education classroom course credit may also be achieved by completing individual modules of a Board-approved comprehensive pre-registration classroom curriculum if allowed/offered by the provider of such curriculum.
- d. Continuing education classroom course credit may also be achieved by the home inspector if he/she is in an instructional setting that permits live real-time communication and interaction with an instructor who is not face-to-face with the inspector, provided however that the Board has approved the specific

method whereby student attendance ~~and~~/or testing at the specific offering can be verified.

2. Distance Learning Courses:

- a. No more than six (6) hours of completed coursework may be submitted for registration renewal credit that is completed by written correspondence or through any means where the home inspector does not have the ability to communicate/interact with the instructor in a live real-time setting.
- b. This coursework must be completed during the 12 months preceding the first day of the home inspector's next Board-approved registration period.

C. Course Content Required:

1. Effective December 1, 2018, all home inspectors who will have been registered for at least sixty (60) months preceding their next effective date of renewal shall have completed at least two (2) hours of Board-approved continuing education in each of the following core subject areas during the preceding forty-eight (48) months:
 - a. Structural Systems
 - b. Exterior
 - c. Roofing
 - d. Plumbing
 - e. Electrical
 - f. Heating
 - g. Air Conditioning
 - h. Interiors
 - i. Insulation and Ventilation
 - j. Fireplaces and Solid Fuel Burning Appliances
 - k. The Standards of Practice and Code of Ethics
 - l. Report Writing
2. Effective with those continuing education courses approved by the Board to be offered beginning January 1, 2015, the Board shall designate which core subject area that each course fulfills, and shall list the same with each approved course on the Board website.
3. Effective with the renewal of home inspector registrations for the 2016 calendar year, the Board staff shall provide the Board with a report of each home inspector's continuing education record reflecting fulfillment of course content requirements whenever an individual home inspector's registration is being reviewed by the Board for any reason. Such report shall be transmitted to the home inspector annually with their notice of renewal.

309 Certificates of Registration

- A. General Registration Reactivation:** All registered home inspectors whose registration is not in Good Standing Status and who desire to reactivate their home inspector registration to Good Standing Status shall submit the items enumerated below to the Board. However, those individuals whose registration has been suspended for failure to submit proof of current general liability insurance shall follow procedures as enumerated in Section 309E below. All items must be submitted to the Board at least 30 days prior to

the next regularly scheduled meeting of the Board in order to be considered at that meeting.

1. A properly completed application for renewal of registration.
 2. The Registration Renewal fee, as defined in Section 204.
 3. The Delinquent Renewal Application Fee, as defined in Section 204, unless reactivating a registration on Inactive Status.
 4. The Board Attestation of Abstinence Form, whereupon the individual swears that he or she has not conducted home inspections from the date their registration was no longer in Good Standing until the date of receipt of the application for renewal.
 5. Complete and exact printed copies of the last three home inspection reports which were delivered to clients while in Good Standing. Upon receipt of the these fully completed items, designated members of the Board shall review the inspection reports submitted to determine if the reports are in substantial compliance with the Standards of Practice. If the reports do not comply with the Standards of Practice, the Board may take appropriate action in accordance with 601 below.
 6. Proof of having completed continuing education which has been approved by the Board during the period when his or her registration was not in Good Standing as follows:
 - a. 14 hours for the calendar year for which the reactivation is requested, and
 - b. 7 hours for each calendar year (or portion thereof) prior to the calendar year for which reactivation is requested.
 - c. Continuing education credit submitted to reactivate a registration may be earned in one lump sum immediately prior to reactivation, or may be earned over the entire time period while not in Good Standing. Regardless, all such credit requested shall conform to the same proportions of classroom vs distance learning credit for Annual Hours Required, and shall also fulfill all requirements for Course Content Required. For the purpose of registration reactivation, and in the event of a reasonable hardship, the Board may grant minor variance in the proportions of classroom vs. distance learning credit, and the Course Content Required.
- B. Chronology:** Upon receipt of all items required above, the Board staff shall prepare a concise summary in chronological order of the history of the events whereby the applicant's Good Standing Status was discontinued. Said summary shall be available for review by the Board at the meeting where the reactivation shall be considered.
- C. Burden of Proof:** The applicant shall bear the burden of proof that they are rehabilitated following the suspension, surrender, or revocation of their registration, that they can engage in the conduct authorized by the registration without undue risk to the public health, safety and welfare, and that they are otherwise qualified for the license pursuant to A.C.A. § 17-52-301 et seq.
- D. Conditions of Reinstatement:** The Board may impose any appropriate conditions or limitations on a reinstatement to protect the public health, safety and welfare, and ~~or~~ may require that the person seeking reinstatement sit for and successfully complete the competency examination.
- E. Registration Reactivation Following Suspension for Failure to Submit Proof of Insurance:**

1. All individuals whose registration has been placed on Suspended Status due to failure to submit proof of current general liability insurance to the Board office in accordance with these regulations shall cause such proof to be delivered to the Board office. The Board staff shall notify the registrant of receipt of such proof by no later than the end of the business day following receipt. Upon such notification, the registrant shall submit an original Board Attestation of Abstinence Form whereupon the individual swears that he or she has not conducted home inspections from the day after expiration of their previous general liability insurance policy until the date of receipt of the new certificate of current general liability insurance coverage. Such form shall be accompanied by the appropriate Delinquent Certificate of Insurance Fee as specified in Section 204D2. Upon receipt of the original Attestation of Abstinence Form and Delinquent Certificate of Insurance Fee, the Board staff shall concurrently notify the registrant by telephone and standard mail that his or her registration has been returned to Good Standing Status.\

401 Standards of Practice

401.4 Exterior

1. The inspector shall:
 - A. Inspect:
 - 1.siding, flashing and trim.
 2. all exterior doors.
 3. attached or adjacent decks, balconies, stoops, steps, porches, and their associated railings.
 4. eaves, soffits, and fascias where accessible from the ground level.
 5. vegetation, grading, surface drainage, and retaining walls that are likely to adversely affect the building.
 6. adjacent or entryway walkways, patios, and driveways.
 - B. Describe:
 - 1.siding.
 2. The inspector is NOT required to inspect:
 - A. screening, shutters, awnings, and similar seasonal accessories.
 - B. fences.
 - C. geological ~~and~~ or soil conditions.
 - D. recreational facilities.
 - E. outbuildings other than garages and carports.
 - F. seawalls, break-walls, and docks.
 - G. erosion control and earth stabilization measures.

401.13 General Limitations & Exclusions

1. General limitations:
 - A. The inspector is NOT required to perform any action or make any determination not specifically stated in these Standards of Practice
 - B. Inspections performed in accordance with these Standards of Practice
 - 1.are not technically exhaustive.
 2. are not required to identify concealed conditions, latent defects, or consequential damage(s)

- C. These Standards of Practice are applicable to buildings with four or fewer dwelling units and their garages or carports.
- 2. General exclusions:
 - A. Inspectors are NOT required 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, materials, or costs of corrections
 - 6. future conditions including, but not limited to, failure of systems and components
 - 7. the suitability of the property for any specialized use
 - 8. compliance with regulatory requirements (codes, regulations, laws, ordinances, etc.)
 - 9. market value of the property or its marketability
 - 10. the advisability of purchase of the property
 - 11. 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
 - 12. the presence of any environmental hazards including, but not limited to, toxins, carcinogens, noise, and contaminants in soil, water, and air.
 - 13. the effectiveness of any system installed or method utilized to control or remove suspected hazardous substances
 - 14. operating costs of systems or components
 - 15. acoustical properties of any system or component
 - 16. soil conditions relating to geotechnical or hydrologic specialties
 - B. Inspectors are NOT required to offer:
 - 1.or perform any act or service contrary to law
 - 2.or perform engineering services
 - 3.or perform any trade or any professional service other than home inspection
 - 4. warranties or guarantees of any kind
 - C. Inspectors are NOT required to operate:
 - 1.any system or component which is shut down or otherwise inoperable
 - 2.any system or component which does not respond to normal operating controls
 - 3.shut-off valves or manual stop valves
 - D. Inspectors are NOT required to enter:
 - 1.any area which 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. under-floor crawl spaces or attics which are not readily accessible
 - E. Inspectors are NOT required 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 which are not installed
 3. installed decorative items
 4. items in areas which are not entered in accordance with 401.13.2.D
 5. detached structures other than garages and carports
 6. common elements or common areas in multi-unit housing, such as condominium properties or cooperative housing
- F. Inspectors are NOT required to:
1. perform any procedure or operation which 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. describe or report on any system or component which is not included in these standards and was not inspected.
 3. move personal property, furniture, equipment, plants, soil, snow, ice, or debris.
 4. dismantle any system or component, except as explicitly required by these Standards of Practice.

401.14 Standards of Practice Glossary

Siding

Exterior wall covering and cladding; such as: Aluminum, Asphalt, Brick, Cement/Asbestos, ~~EIFS~~ Exterior Insulation & Finish system, Stone, Stucco, Veneer, Vinyl, Wood, etc.

403 Home Inspection Reports:

- A. **Identification:** All written or electronic home inspection reports presented to clients shall prominently contain:
1. The printed name, registration number, mailing address, and phone number of the home inspector;
 2. The date of the inspection;
 3. The full physical address of the inspected property; and
 4. The name of the client.
- B. **Content:** All written or electronic home inspection reports presented to clients shall, at a minimum, list each and every item required to be inspected by the Standards of Practice. Each such item shall be displayed in the report in a manner which indicates that the item has or has not been inspected, along with any reason for not having been inspected. Any other item listed in the report which is not required to be inspected by the Standards of Practice shall also be displayed in a manner which indicates that the item has or has not been inspected, or that the item is not present in the home. ~~The requirements of this Section (403B) shall become effective 90 days after the effective date of the first version of these Rules and Procedures implemented after March 19, 2014, after which this sentence shall be removed.~~
- C. **Retention:** The home inspector shall retain an exact copy of all home inspection reports presented to clients for a period of at least one (1) year following the date of the inspection.

601 Grounds for Disciplinary Action: The Board may, upon its own motion or upon written complaint of any person, and after notice and hearing as prescribed by the Administrative Procedures Act, suspend or revoke the registration of any registered home inspector, place the inspector on probation contingent upon specified acts or conditions and ~~or~~ issue a fine up to the amount of \$1,000 per occurrence for:

- A. Violation of any provision of A.C.A. § 17-52-301 *et seq.* or any of these rules.
- B. Falsifying any application for registration or otherwise providing any false information to the Board.
- C. Conviction in any jurisdiction of any misdemeanor involving moral turpitude or of any felony. A plea of nolo contendere or no contest shall be considered a conviction for the purposes of this section.
- D. Any actions demonstrating un-trustworthiness, incompetence, dishonesty, gross negligence, material misrepresentation, fraud or unethical conduct in any dealings subject to A.C.A. § 17-52-301 *et seq.*;
- E. Adjudication of insanity;
- F. Use of advertising or solicitation which is false, misleading, or is otherwise deemed unprofessional by the Board;
- G. Employing directly or indirectly any unregistered person to perform any actions subject to regulation unless under the direct supervision of a properly registered home inspector.
- H. Habitual or excessive use of intoxicants or illegal drugs;
- I. Failure to meet continuing education requirements within the proper time period.
- J. Failure to complete inspection reports which are in substantial compliance with the Standards of Practice or failure to comply with the Code of Ethics.

710 Course Audits:

- A. The Board or its Chairman may appoint appropriately qualified persons to audit educational courses. Letters of appointment will be provided to the auditors for auditor identification ~~and~~ authorization purposes and to provide instructions for the audit(s.)
- B. Any educational course ~~or~~ offering which has been approved or is pending approval by the Board may be audited. Such audits may be announced or unannounced to the course provider. The provider will waive all fees for the course and any texts or hand out materials. Upon completion of the audit, the auditor will prepare a Results Of Audit report and submit it to the Board as directed in his appointment letter. The Board will notify course providers of the outcome of such audits.
- C. Failure of a provider to substantially follow the course outline submitted with the approval request may result in denial or revocation of Board approval. Likewise, the Board may assign a probationary status to a course and request that specific corrections be made. Follow-up audits may be made to evaluate whether appropriate corrections have been made and whether further action is warranted.
- D. Auditors who personally pay the attendance fees for a course which is approved may choose to take continuing education credits and apply it to their annual requirement. Otherwise, they may not claim the credits.

NOTICE OF RULEMAKING

Pursuant to Arkansas Code Annotated §25-15-201 et seq., notice is hereby given that the Arkansas Home Inspector Registration Board (Board) is considering proposed revisions to its Rules and Regulations.

The proposed revisions and modifications to the Rules include, but are not limited to, the following subjects and issues: automatic licensure for uniformed service members, veterans, and spouses; pre-licensure criminal background checks; fee waivers for certain qualified applicants; licensure eligibility for certain classes of applicants; apprenticeships; reciprocal licensure; and general language updates/clarifications.

The proposed amendments are posted on the Secretary of State's website at <https://www.sos.arkansas.gov/rules-regulations/>, the Board's website <https://www.ahirb.org/> or you may contact the Board to obtain a written copy by email at ahib@arkansas.gov or by phone at (501) 683-3710.

Written comments from the public should be emailed to ahib@arkansas.gov or mailed to the Board Office at 900 W. Capitol Ave, Suite 400 Little Rock, AR 72201-3108. The Board will discuss any comments received at their Board meeting on June 8, 2022, at 9:30 a.m. at the Board Office. Comments must be received in advance of the meeting in order to be considered by the Board. If you wish to sign up for meeting notifications, please contact the Board via email at ahib@arkansas.gov or by phone at 501-683-3710.