

## PART XV

### HOME INSPECTORS

468.83 Home inspection services licensing program; purpose.

468.831 Exemptions.

468.8311 Definitions.

468.8312 Fees.

468.8313 Examinations.

468.8314 Licensure.

468.8315 Renewal of license.

468.8316 Continuing education.

468.8317 Inactive license.

468.8318 Certification of corporations and partnerships.

468.8319 Prohibitions; penalties.

468.832 Disciplinary proceedings.

468.8321 Disclosures.

468.8322 Insurance.

468.8323 Home inspection report.

468.8324 Grandfather clause.

468.8325 Rulemaking authority.

#### **468.83 Home inspection services licensing program; purpose.—**

(1) There is created within the department the home inspection services licensing program.

(2) The Legislature recognizes that there is a need to require the licensing of home inspectors and to ensure that consumers of home inspection services can rely on the competence of home inspectors, as determined by educational and experience requirements and testing. Therefore, the Legislature deems it necessary in the interest of the public welfare to regulate home inspectors in this state.

**History.**—s. 2, ch. 2007-235; s. 15, ch. 2010-106; s. 7, ch. 2010-176.

**468.831 Exemptions.**—The following persons are not required to comply with any provision of this part:

(1) An authorized government employee of the United States, this state, or any municipality, county, or other political subdivision who is conducting home inspection services within the scope of that employment, as long as the employee does not hold out for hire to the general public or otherwise engage in home inspection services.

(2) A person acting within his or her authorized scope of practice as licensed

under federal, state, or local codes or statutes, except when such person holds himself or herself out for hire to the public as a “certified home inspector,” “registered home inspector,” “licensed home inspector,” “home inspector,” “professional home inspector,” or any combination thereof stating or implying licensure under this part.

(3) An officer appointed by the court.

(4) A person performing safety inspections of utility equipment in or on a home or building or other duties conducted by or for a utility under chapter 366 or rules adopted by the Public Service Commission.

(5) A certified energy auditor performing an energy audit of any home or building or other duties conducted by or for a utility under chapter 366 or rules adopted by the Public Service Commission.

**History.**—s. 2, ch. 2007-235.

**468.8311 Definitions.**—As used in this part, the term:

(1) “Department” means the Department of Business and Professional Regulation.

(2) “Home” means any residential real property, or manufactured or modular home, which is a single-family dwelling, duplex, triplex, quadruplex, condominium unit, or cooperative unit. The term does not include the common areas of condominiums or cooperatives.

(3) “Home inspector” means any person who provides or offers to provide home inspection services for a fee or other compensation.

(4) “Home inspection services” means a limited visual examination of the following readily accessible installed systems and components of a home: the structure, electrical system, HVAC system, roof covering, plumbing system, interior components, exterior components, and site conditions that affect the structure, for the purposes of providing a written professional opinion of the condition of the home.

**History.**—s. 2, ch. 2007-235; s. 16, ch. 2010-106; s. 8, ch. 2010-176.

**468.8312 Fees.**—

(1) The department, by rule, may establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, recordkeeping, and

applications for providers of continuing education. The department may also establish by rule a delinquency fee. Fees shall be based on department estimates of the revenue required to implement the provisions of this part. All fees shall be remitted with the appropriate application, examination, or license.

(2) The initial application and examination fee shall not exceed \$125 plus the actual per applicant cost to the department to purchase an examination, if the department chooses to purchase the examination. The examination fee shall be in an amount that covers the cost of obtaining and administering the examination and shall be refunded if the applicant is found ineligible to sit for the examination. The application fee shall be nonrefundable.

(3) The initial license fee shall not exceed \$200.

(4) The biennial renewal fee shall not exceed \$200.

(5) The fee for licensure by endorsement shall not exceed \$200.

(6) The fee for application for inactive status or for reactivation of an inactive license shall not exceed \$200.

(7) The fee for applications from providers of continuing education may not exceed \$500.

**History.**—s. 2, ch. 2007-235; s. 17, ch. 2010-106; s. 9, ch. 2010-176.

#### **468.8313 Examinations.—**

(1) A person desiring to be licensed as a home inspector must apply to the department after he or she satisfies the examination requirements of this part.

(2) An applicant may practice in this state as a home inspector if he or she passes the required examination, is of good moral character, and completes a course of study of at least 120 hours that covers all of the following components of a home: structure, electrical system, HVAC system, roof covering, plumbing system, interior components, exterior components, and site conditions that affect the structure.

(3) The department shall review and approve courses of study in home inspection.

(4) The department may review and approve examinations by a nationally recognized entity that offers programs or sets standards

that ensure competence as a home inspector.

(5)(a) “Good moral character” means a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation.

(b) The department may refuse to certify an applicant for failure to satisfy this requirement only if:

1. There is a substantial connection between the lack of good moral character of the applicant and the professional responsibilities of a licensed home inspector; and

2. The finding by the department of lack of good moral character is supported by clear and convincing evidence.

(c) When an applicant is found to be unqualified for a license because of lack of good moral character, the department shall furnish the applicant a statement containing the findings of the department, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a rehearing and appeal.

(6) An applicant for a license shall submit, together with the application, a complete set of electronic fingerprints to the department. The department shall submit the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward them to the Federal Bureau of Investigation for national processing, to determine whether the applicant has a criminal history record. The department shall review the background results to determine if an applicant meets licensure requirements. The applicant is responsible for the costs associated with processing the fingerprints. The authorized agencies or vendors shall collect such fees and pay for the processing costs due to the Department of Law Enforcement.

(7) The department may adopt rules to implement this section.

**History.**—s. 2, ch. 2007-235; s. 18, ch. 2010-106; s. 10, ch. 2010-176.

#### **468.8314 Licensure.—**

(1) The department shall license any applicant who the department certifies is qualified to practice home inspection services.

(2) The department shall certify for licensure any applicant who satisfies the requirements

of s. 468.8313 and who has passed the licensing examination. The department may refuse to certify any applicant who has violated any of the provisions of s. 468.832.

(3) The department shall certify as qualified for a license by endorsement an applicant who is of good moral character as determined in s. 468.8313; holds a valid license to practice home inspection services in another state or territory of the United States, whose educational requirements are substantially equivalent to those required by this part; and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by this part.

(4) The department shall not issue a license by endorsement to any applicant who is under investigation in another state for any act that would constitute a violation of this part or chapter 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.

**History.**—s. 2, ch. 2007-235; s. 53, ch. 2010-106.

#### **468.8315 Renewal of license.—**

(1) The department shall renew a license upon receipt of the renewal application and upon certification by the department that the licensee has satisfactorily completed the continuing education requirements of s. 468.8316.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses.

**History.**—s. 2, ch. 2007-235.

#### **468.8316 Continuing education.—**

(1) The department may not renew a license until the licensee submits proof satisfactory to the department that during the 2 years before application for renewal the licensee completed at least 14 hours of continuing education. Of the 14 hours, at least 2 hours must be in hurricane mitigation training that includes hurricane mitigation techniques and compliance with the uniform mitigation verification inspection form developed under s. 627.711(2). The department shall adopt rules establishing criteria for approving continuing education providers and courses.

(2) The department may prescribe by rule additional continuing professional education hours, not to exceed 25 percent of the total

hours required, for failure to complete the hours required for renewal by the end of the reestablishment period.

**History.**—s. 2, ch. 2007-235; s. 7, ch. 2011-222.

#### **468.8317 Inactive license.—**

(1) A licensee may request that his or her license be placed in an inactive status by making application to the department.

(2) A license that has become inactive may be reactivated upon application to the department. The department may prescribe by rule continuing education requirements as a condition of reactivating a license.

The continuing education requirements for reactivating a license may not exceed 14 hours for each year the license was inactive.

(3) The department shall adopt rules relating to licenses which have become inactive and for the renewal of inactive licenses. The department shall prescribe by rule a fee not to exceed \$200 for the reactivation of an inactive license and a fee not to exceed \$200 for the renewal of an inactive license.

**History.**—s. 2, ch. 2007-235.

#### **468.8318 Certification of corporations and partnerships.—**

The practice of or the offer to practice home inspection services by licensees through a corporation or partnership offering home inspection services to the public, or by a corporation or partnership offering such services to the public through licensees under this part as agents, employees, officers, or partners, is permitted subject to the provisions of this part, provided that all personnel of the corporation or partnership who act in its behalf as home inspectors in this state are licensed as provided by this part. Nothing in this section shall be construed to allow a corporation to hold a license to practice home inspection services. No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing home inspection services be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a corporation or partnership.

**History.**—s. 2, ch. 2007-235; s. 19, ch. 2010-106; s. 11, ch. 2010-176.

**468.8319 Prohibitions; penalties.—**

- (1) A person may not:
- (a) Effective July 1, 2011, practice or offer to practice home inspection services unless the person has complied with the provisions of this part.
  - (b) Effective July 1, 2011, use the name or title “certified home inspector,” “registered home inspector,” “licensed home inspector,” “home inspector,” “professional home inspector,” or any combination thereof unless the person has complied with the provisions of this part.
  - (c) Present as his or her own the license of another.
  - (d) Knowingly give false or forged evidence to the department or an employee thereof.
  - (e) Use or attempt to use a license that has been suspended or revoked.
  - (f) Perform or offer to perform any repairs to a home on which the inspector or the inspector’s company has prepared a home inspection report. This paragraph does not apply to a home warranty company that is affiliated with or retains a home inspector to perform repairs pursuant to a claim made under a home warranty contract.
  - (g) Inspect any property in which the inspector or the inspector’s company has any financial or transfer interest.
  - (h) Offer or deliver any compensation, inducement, or reward to any broker or agent therefore for the referral of the owner of the inspected property to the inspector or the inspection company.
  - (i) Accept an engagement to make an omission or prepare a report in which the inspection itself, or the fee payable for the inspection, is contingent upon either the conclusions in the report, preestablished findings, or the close of escrow.
- (2) Any person who is found to be in violation of any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—s. 2, ch. 2007-235; s. 20, ch. 2010-106; s. 12, ch. 2010-176; s. 8, ch. 2011-222.

**468.832 Disciplinary proceedings.—**

(1) The following acts constitute grounds for which the disciplinary actions in subsection (2) may be taken:

(a) Violation of any provision of this part or s. 455.227(1).

(b) Attempting to procure a license to practice home inspection services by bribery or fraudulent misrepresentation.

(c) Having a license to practice home inspection services revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that directly relates to the practice of home inspection services or the ability to practice home inspection services.

(e) Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those that are signed in the capacity of a licensed home inspector.

(f) Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content.

(g) Engaging in fraud or deceit, or negligence, incompetency, or misconduct, in the practice of home inspection services.

(h) Failing to perform any statutory or legal obligation placed upon a licensed home inspector; violating any provision of this chapter, a rule of the department, or a lawful order of the department previously entered in a disciplinary hearing; or failing to comply with a lawfully issued subpoena of the department.

(i) Practicing on a revoked, suspended, inactive, or delinquent license.

(j) Failing to meet any standard of practice adopted by rule of the department.

(2) When the department finds any home inspector guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed \$5,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the home inspector on probation for a period of time and subject to such conditions as the department may specify.

(f) Restriction of the authorized scope of practice by the home inspector.

(3) In addition to any other sanction imposed under this part, in any final order that imposes sanctions, the department may assess costs related to the investigation and prosecution of the case.

**History.**—s. 2, ch. 2007-235; s. 123, ch. 2008-4; s. 51, ch. 2009-195; ss. 21, 43, ch. 2010-106; s. 13, ch. 2010-176.

**468.8321 Disclosures.**—Prior to contracting for or commencing a home inspection, a home inspector shall provide to the consumer a copy of his or her license to practice home inspection services in this state and a written disclosure that contains the scope and any exclusions of the home inspection.

**History.**—s. 2, ch. 2007-235.

**468.8322 Insurance.**—A home inspector shall maintain a commercial general liability insurance policy in an amount of not less than \$300,000.

**History.**—s. 2, ch. 2007-235.

**468.8323 Home inspection report.**—Upon completion of each home inspection for compensation, the home inspector shall provide a written report prepared for the client.

(1) The home inspector shall report:

(a) On those systems and components inspected that, in the professional opinion of the inspector, are significantly deficient or are near the end of their service lives.

(b) If not self-evident, a reason why the system or component reported under paragraph (a) is significantly deficient or near the end of its service life.

(c) Any systems and components that were present at the time of the inspection but were not inspected, and a reason they were not inspected.

(2) A home inspector is not required to provide estimates related to the cost of repair of an inspected property.

**History.**—s. 2, ch. 2007-235; s. 9, ch. 2011-222.

**468.8324 Grandfather clause.**—

(1) A person who performs home inspection services may qualify for licensure as a home inspector under this part if the person submits an application to the department postmarked on or before July 1, 2012, which shows that the applicant:

(a) Possesses certification as a one- and two-family dwelling inspector issued by the International Code Council or the Southern Building Code Congress International;

(b) Has been certified as a one- and two-family dwelling inspector by the Florida Building Code Administrators and Inspectors Board under part XII of this chapter; or

(c) Possesses a Division I contractor license under part I of chapter 489.

(2) An applicant may not qualify for licensure under this section if he or she has had a home inspector license or a license in any related field revoked at any time or suspended within the previous 5 years or has been assessed a fine that exceeds \$500 within the previous 5 years. For purposes of this subsection, a license in a related field includes, but is not limited to, licensure in real estate, construction, mold-related services, or building code administration or inspection.

(3) An applicant for licensure under this section must comply with the criminal history, good moral character, and insurance requirements of this part.

**History.**—s. 2, ch. 2007-235; s. 22, ch. 2010-106; s. 14, ch. 2010-176; s. 10, ch. 2011-222.

**468.8325 Rulemaking authority.**—The department shall adopt rules to administer this part.

**History.**—s. 23, ch. 2010-106; s. 15, ch. 2010-176.