

FROM :GVHI

FAX NO. :6032798619

Nov. 11 2005 12:06AM P1

Facsimile Transmittal

Grand View Home Inspections

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Date: November 10, 2005

Attention: Army

From:Carla

Number of pages (including this cover): 8

Comment(s):

Hi Army,

Will you email this to Gerry B.

I only have a hard copy and do not have a scanner. Thanks!!

Carla

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Rep. Gale, Sull. 3
Sen. Odell, Dist. 8
Rep. Dowd, Rock. 5
Rep. Gillick, Rock. 15
Rep. Osborne, Merr. 12
Rep. Theberge, Coos 4
November 7, 2005
2006-0141h
10/01

Amendment to HB 642-FN-LOCAL

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Chapter; Home Inspectors. Amend RSA by inserting after chapter 329-A the following
4 new chapter:

5

CHAPTER 329-B

6

HOME INSPECTORS

7

8 329-B:1 Purpose. The purpose of this chapter is to protect the people of the state of New
9 Hampshire by requiring the licensing of home inspectors to assure that consumers of home
10 inspection services can rely on the competence of a home inspector.

11 329-B:2 Definitions. In this chapter:

12 I. "Apprentice" means any person who is engaged in learning and assisting in home
13 inspection under an apprenticeship program acceptable to the board.

14 II. "Board" means the board of home inspectors, established by RSA 329-B:3.

15 III. "Home inspection" means a visual analysis for the purposes of providing a professional
16 opinion of the condition of a residential building and its related structures, any reasonably accessible
17 installed components and the operation of the building systems, including the controls normally
18 operated by the owner, for the following components of a residential building of 4 units or less:
19 heating system, electrical system, cooling system, plumbing system, structural components,
20 foundation, roof covering, exterior and interior components and site aspects as they affect the
21 building. Home inspection shall not require identifying concealed conditions or latent defects.

22 IV. "Home inspector" means any person who is licensed by the board as a home inspector
23 and who engages in the business of performing home inspections and writing home inspection
24 reports.

25 V. "Home inspection" report means a written report prepared by a home inspector for
26 compensation and issued after a home inspection. The inspector shall report:

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

(b) A reason why, if not self-evident, the system or component is significantly deficient or

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1 near the end of its service life.

2 (c) The inspector's recommendations to correct or monitor the reported deficiency.

3 (d) Any systems and components designated for inspection which were present at the
4 time of the inspection but were not inspected, and a reason they were not inspected.

5 VI. "Residential building" means a structure consisting of from one to 4 family dwelling
6 units, and including a single-family home, a multifamily dwelling, manufactured housing as defined
7 in RSA 384:16-d, II, and any single family condominium unit, wholly or partly used or occupied, or
8 intended to be used or occupied, as the home or residence of one or more persons.

9 329-B:3 Board.

10 I. There shall be a board of home inspectors, consisting of 5 members, including 2 home
11 inspectors, one real estate broker licensed under RSA 331-A, one attorney licensed to practice in this
12 state, and one public member, each to be appointed by the governor, with the approval of the council,
13 to a term of 4 years. No member of the board shall be appointed to more than 2 terms.

14 II. The public member of the board of home inspectors shall be a person who is not, and
15 never has been, a home inspector or the spouse of a home inspector, and who does not have, and
16 never has had, a material financial interest in either the provision of home inspection services or an
17 activity directly related to the home inspection profession at any time during the 5 years preceding
18 appointment.

19 III. The board shall be an administratively attached agency, under RSA 21-G:10, to the
20 department of state.

21 329-B:4 Compensation and Expenses. Members of the board shall each be allowed the sum of
22 \$30 per day and their necessary traveling expenses incurred in carrying out their official duties.

23 329-B:5 Organization and Meetings. The board shall hold at least 4 regular meetings each year,
24 and special meetings may be held at such times as the business of the board may require. Notice of
25 all meetings shall be given in such manner as the rules of the board may provide. The board shall
26 annually elect a chairperson and a vice-chairperson from among its members. A quorum of the
27 board shall consist of not less than 3 members, at least one of whom shall be a public member.

28 329-B:6 Fees. The board shall establish fees for examination of applicants, for licensure and for
29 renewal of licensure to practice under this chapter, and for transcribing and transferring records
30 and other services. The fees established by the board shall be sufficient to produce estimated
31 revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal
32 year.

33 329-B:7 Receipts and Disbursements. The board shall receive and account at least monthly for
34 all moneys derived under the provisions of this chapter, and shall pay the same to the state
35 treasurer. The board may employ such clerical or other assistants as are necessary for the proper
36 performance of its work, and may make expenditures from this fund for any purpose which, in the
37 opinion of the board, is reasonably necessary for the proper performance of its duties under this

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1 chapter. Under no circumstances shall the total amount of payments made hereunder exceed the
2 amount of the fees collected hereunder. Any balance in the account shall lapse at the end of each
3 fiscal year.

4 329-B:8 Examinations. The board shall have authority to examine and license home inspectors.
5 When issued, such license shall be valid throughout the state, and the licensee shall be entitled to
6 perform the work of a home inspector anywhere within the state without any payment or additional
7 fee. Each applicant for a license shall present to the board on a blank furnished by the board a
8 written application for license, containing such information as the board may require, accompanied
9 by the required fee. Such examinations shall be held at such times and places as the board shall
10 determine. The scope of such examinations and the methods of procedure shall be prescribed by the
11 board.

12 329-B:9 Rulemaking. The board shall adopt rules, pursuant to RSA 541-A, relative to:

- 13 I. The design and content of all forms and applications required under this chapter.
- 14 II. The application procedure for a license to practice under this chapter.
- 15 III. The qualifications of applicants in addition to those requirements set under this chapter.
- 16 IV. How an applicant shall be examined, including the time, place, type and form of the
17 examination.
- 18 V. The disposition of examinations, including provision of test results to examinees.
- 19 VI. How a license to practice under this chapter shall be renewed, including the
20 requirements for continuing education.
- 21 VII. The establishment of all fees required under this chapter.
- 22 VIII. Ethical and professional standards required to be met by each holder of a license to
23 practice under this chapter and how disciplinary actions by the board shall be implemented for
24 violations of these standards.
- 25 IX. The training and experience requirements of home inspectors, and of apprentices.
- 26 X. Procedures for the conduct of hearings consistent with the requirements of due process.

27 329-B:10 License Criteria.

28 I. No person shall provide, nor present, call or represent himself or herself as able to provide
29 a home inspection for compensation unless licensed in accordance with the provisions of this chapter.
30 No business entity may provide home inspection services unless each of the home inspectors
31 employed by the business entity is licensed in accordance with the provisions of this chapter. No
32 business entity may use, in connection with the name or signature of the business entity, the title
33 "home inspectors" to describe the business entity's services, unless each of the home inspectors
34 employed by the business entity is licensed in accordance with the provisions of this chapter.

35 II. To be eligible for a license as a home inspector, an applicant shall fulfill the following
36 requirements:

- 37 (a) Be of good moral character.

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17 inspections completed
and 40 hrs course*

- 1 (b) Have successfully completed high school or its equivalent.
- 2 (c) Have completed a course of study of no less than 80 hours that covers all of the
- 3 following components of a residential building of 4 units or less: heating system,
- 4 cooling system, plumbing system, electrical system, structural components, foundation, roof
- 5 covering, exterior and interior components and site aspects as they affect the building.
- 6 (d) Have acquired the required training and experience requirements as established by
- 7 the board.

8 329-B:11 Expiration and Renewal. Notwithstanding any outstanding license to the contrary, all

9 licenses issued by the board shall expire on the last day of the month of the licensee's birth, but may

10 be renewed during the following month, retroactive to the first day of the month. The fee for renewal

11 of all licenses issued under this chapter shall be established by the board. Upon failure to pay the

12 renewal fee within the required period, a licensee may renew his or her license by submitting the

13 required fee plus \$10 before the last day of the second month following the month of his or her birth.

14 Any application received thereafter shall be rejected, unless accompanied by proof of successful

15 completion of the examination required under RSA 329-B:8. A licensed home inspector shall

16 complete at least 20 hours of board approved continuing education during each calendar year in

17 order to maintain his or her license.

18 329-B:12 Exclusions. A licensed home inspector shall not be required to perform any action or

19 make any determination unless specifically required by lawful authority. Inspectors are not

20 required to determine:

- 21 I. The condition of systems or components which are not readily accessible.
- 22 II. The remaining life of any system or component.
- 23 III. The strength, adequacy, effectiveness or efficiency of any system or component.
- 24 IV. The causes of any condition or deficiency.
- 25 V. The methods, materials, or costs of corrections.
- 26 VI. Future conditions including, but not limited to, failure of systems and components.
- 27 VII. The suitability of the property for any specialized use.
- 28 VIII. Compliance with regulatory requirements (codes, regulations, laws, ordinances, etc.).
- 29 IX. The market value of the property or its marketability.
- 30 X. The advisability of the purchase of the property.
- 31 XI. The presence of potentially hazardous plants or animals including, but not limited to,
- 32 wood destroying organisms or diseases harmful to humans.
- 33 XII. The presence of any environmental hazards including, but not limited to, toxins,
- 34 carcinogens, noise, and contaminants in soil, water and air.
- 35 XIII. The effectiveness of any system installed or methods utilized to control or remove
- 36 suspected hazardous substances.
- 37 XIV. The operating costs of systems or components.

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1 **XV. The acoustical properties of any system or component.**

2 **329-B:13 Reciprocity. Upon payment to the board of a fee and the submission of a written**
3 **application form provided by the board, the board shall issue a home inspector license to any person**
4 **who holds a valid license, certificate, or registration issued by another state or possession of the**
5 **United States or the District of Columbia that has standards substantially equivalent to, or**
6 **exceeding, those of this state, as determined by the board.**

7 **329-B:14 Persons Not Required to be Licensed. Nothing in this chapter prevents:**

8 **I. A person who is employed by a governmental entity from inspecting residential buildings**
9 **if the inspection is within official duties and responsibilities.**

10 **II. A person from performing a home inspection if the inspection will be used solely by a**
11 **bank, savings and loan association or credit union to monitor progress on the construction of a**
12 **residential structure.**

13 **III. A person who is employed as a property manager for a residential structure and whose**
14 **official duties and responsibilities include inspecting the residential structure from performing an**
15 **inspection on the structure if the person does not receive separate compensation for the inspection**
16 **work.**

17 **IV. A person who is regulated in another profession from acting within the scope of that**
18 **person's license, registration or certification.**

19 **329-B:15 Disciplinary Action.**

20 **I. The board may undertake disciplinary proceedings:**

21 **(a) Upon its own initiative; or**

22 **(b) Upon written complaint of any person which charges that a person licensed by the**
23 **board has committed misconduct under paragraph II and which specifies the grounds therefor.**

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

25 **(a) The practice of fraud or deceit in procuring or attempting to procure a license to**
26 **practice under this chapter;**

27 **(b) Conviction of a felony or any offense involving moral turpitude;**

28 **(c) Any unprofessional conduct, or dishonorable conduct unworthy of, and affecting the**
29 **practice of, the profession;**

30 **(d) Unfitness or incompetency by reason of negligent habits or other causes; or negligent**
31 **or willful acts performed in a manner inconsistent with the health or safety of persons under the**
32 **care of the licensee;**

33 **(e) Addiction to the use of alcohol or other habit-forming drugs to a degree which renders**
34 **him or her unfit to practice under this chapter;**

35 **(f) Mental or physical incompetency to practice under this chapter;**

36 **(g) Willful or repeated violation of the provisions of this chapter; or**

37 **(h) Suspension or revocation of a license, similar to one issued under this chapter, in**

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1 another jurisdiction and not reinstated.

2 III. The board may take disciplinary action in any one or more of the following ways:

3 (a) By reprimand;

4 (b) By suspension, limitation or restriction of license or certification for a period of up to
5 5 years;

6 (c) By revocation of license or certification;

7 (d) By requiring the person to participate in a program of continuing education in the
8 area or areas in which he or she has been found deficient;

9 (e) By requiring the home inspector to obtain insurance against loss, expense and
10 liability resulting from errors and omissions or neglect in the performance of services as a home
11 inspector; or

12 (f) By requiring the home inspector to file with the board a bond that is furnished by a
13 company authorized to do business in this state and is in the amount approved by the board.

14 329-B:16 Prohibited Acts. A licensed home inspector shall be prohibited from the following:

15 I. Performing or offering to perform, for an additional fee, any repairs to a structure on
16 which the inspector, or the inspector's company, has prepared a home inspection report in the past
17 12 months, except that a home protection company that is affiliated with or that retains a home
18 inspector does not violate this section if it performs repairs pursuant to a claim made under a home
19 protection contract.

20 II. Inspecting for a fee any property in which the inspector, or the inspector's company, has
21 any financial interest or any interest in the transfer of the property.

22 III. Offering or delivering any compensation, inducement or reward to the owner of the
23 inspected property, the broker or agent, for the referral of any business to the inspector or the
24 inspection company.

25 IV. Accepting an engagement to make an inspection or to prepare a report in which the
26 inspection itself, or the fee payable for the inspection, is contingent upon either the conclusions in
27 the report, preestablished findings, or the close of escrow.

28 329-B:17 Liability of Home Inspectors.

29 I. An action to recover damages for any act or omission of a home inspector relating to a
30 home inspection that he or she conducts may only be commenced within 1 year after the date that a
31 home inspection is completed.

32 II. Only a client and no other party shall have an action to recover damages arising from a
33 home inspection or a home inspection report.

34 329-B:18 Appeals. Any person affected by a final decision of the board may appeal such final
35 decision pursuant to RSA 541.

36 2 Effective Date. This act shall take effect January 1, 2007.

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AMENDED ANALYSIS

This bill establishes the licensure of persons providing home inspection services and the regulation of such persons by a board of home inspectors.